

**TENTATIVE AGENDA & MEETING NOTICE  
BOARD OF COUNTY COMMISSIONERS**

**TUESDAY, NOVEMBER 21, 2023  
5:30 P.M.**

**WATAUGA COUNTY ADMINISTRATION BUILDING  
COMMISSIONERS' BOARD ROOM**

TIME	#	TOPIC	PRESENTER	PAGE
5:30	1	CALL REGULAR MEETING TO ORDER		
	2	APPROVAL OF MINUTES: October 17, 2023, Regular Meeting October 17, 2023, Closed Session		1
	3	APPROVAL OF THE NOVEMBER 21, 2023, AGENDA		11
5:35	4	PUBLIC COMMENT – Will last up to 1-hour dependent on number of speakers	CHAIRMAN TURNBOW	13
5:40	5	PUBLIC HEARING TO ALLOW PUBLIC COMMENT ON THE PROPOSED CONSTRUCTION OF A HIGH COUNTRY KILL AND CHILL SLAUGHTER PLANT	MR. JIM HAMILTON	15
5:45	6	KILL/CHILL MATTERS	MR. JIM HAMILTON	
		A. Update on Project		39
		B. Proposed Contract with McGill & Associates for Permit Modification		45
		C. Proposed Contract with Mattern & Craig for Water/Sewer System Engineering, Design, & Permitting		51
5:50	7	PROPOSED RESOLUTION TO DIRECT THE EXPENDITURE OF OPIOID SETTLEMENT FUNDS	MS. JENNIFER GREENE MS. LINDSEY SULLIVAN	141
5:55	8	VAYA UPDATE	MR. DUSTIN BURLESON	145
6:00	9	PROJECT UPDATES FROM NEW RIVER CONSERVANCY	MS. KATIE KROGMEIER	159
6:05	10	EMS FACILITY UPDATE	MR. CHAD ROBERSON MR. XANDER ELLENBOGEN	169
6:10	11	MIDDLE FORK GREENWAY TWEETSIE UNDERPASS PROJECT CHANGE ORDER REQUEST	MS. CARRIE CAVINESS	175
6:15	12	UNC SOG – DFI REPORT	MS. SARAH ODIO	179
6:25	13	TAX MATTERS	MR. LARRY WARREN	
		A. Monthly Collections Report		195
		B. Refunds and Releases		197

TIME	#	TOPIC	PRESENTER	PAGE
6:35	14	MISCELLANEOUS ADMINISTRATIVE MATTERS	MR. DERON GEOUQUE	
		A. Appointment of the Watauga County Finance Director		203
		B. Proposed Utility Easement & Agreement for Installation of Underground Service for the EMS Facility Project		205
		C. Proposed Town of Boone Easement for the Parking Deck Project		211
		D. Proposed Inmate Catastrophic Insurance Contract		217
		E. Request for Proposal (RFP) Recommendation for Position Classification and Pay Plan Study		221
		F. Announcements		223
6:40	15	BREAK		224
6:45	16	CLOSED SESSION Attorney/Client Matters – G. S. 143-318.11(a)(3)		224
7:00	17	POSSIBLE ACTION AFTER CLOSED SESSION		224
	18	ADJOURN		

**AGENDA ITEM 2:**

**APPROVAL OF MINUTES:**

October 17, 2023, Regular Meeting

October 17, 2023, Closed Session

**DRAFT****MINUTES****WATAUGA COUNTY BOARD OF COMMISSIONERS  
TUESDAY, OCTOBER 17, 2023**

The Watauga County Board of Commissioners held a regular meeting, as scheduled, on Tuesday, October 17, 2023, at 5:30 P.M. in the Commissioners' Board Room located in the Watauga County Administration Building, Boone, North Carolina.

Chairman Turnbow called the meeting to order at 5:32 P.M. The following were present:

**PRESENT:** Larry Turnbow, Chairman  
 Charlie Wallin, Vice-Chairman  
 Todd Castle, Commissioner  
 Braxton Eggers, Commissioner  
 Ray Russell, Commissioner  
 Andrea Capua, County Attorney  
 Deron Geouque, County Manager  
 Anita J. Fogle, Clerk to the Board

Commissioner Eggers opened with a prayer and Vice-Chairman Wallin led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Chairman Turnbow called for additions and/or corrections to the October 3, 2023, regular minutes and closed session minutes.

Commissioner Eggers, seconded by Vice-Chairman Wallin, moved to approve the October 3, 2023, regular meeting minutes as presented.

VOTE: Aye-5  
 Nay-0

Commissioner Eggers, seconded by Vice-Chairman Wallin, moved to approve the October 3, 2023, regular meeting minutes as presented.

VOTE: Aye-5  
 Nay-0

**APPROVAL OF AGENDA**

Chairman Turnbow called for additions and/or corrections to the October 3, 2023, agenda.

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to approve the October 17, 2023, agenda as presented.

VOTE: Aye-5  
 Nay-0

**PUBLIC COMMENT**

Mr. Edward Baton shared concerns regarding the re-establishment of a senior discount for his property taxes.

Chairman Turnbow directed the County Manager and Tax Director to meet with Mr. Baton.

**WAMY'S RENTAL REPAIR PROGRAM PROPOSAL**

Ms. Brittany Luxton, Executive Director, and Ms. Allison Jennings, Director of Development, presented a proposed rental repair program. The program would be a pilot program and, if successful, would be considered for funding during the FY 2025 budget cycle. Total cost of the program would be \$86,250 with \$75,000 for repairs and \$11,250 for WAMY administrative fees. Funds would come from the administrative contingency fund to cover the cost of the program.

After discussion, Commissioner Russell, seconded by Vice-Chairman Wallin, moved to approve funding in the total amount of \$86,250 for WAMY's pilot Rental Repair Program with funds to be allocated from the administrative contingency fund.

VOTE: Aye-5  
Nay-0

Chairman Turnbow directed the County Manager to place WAMY on the agenda for the second Board of Commissioners meeting in January 2024 for an update on the progress of the program.

**PROPOSED RESOLUTION TO DIRECT THE EXPENDITURE OF OPIOID SETTLEMENT FUNDS**

Ms. Linsey Sullivan with AppHealthCare stated that per the opioid settlement agreement, a resolution was required to be adopted by the Board. Ms. Sullivan presented the proposed resolution and Chairman Turnbow read the resolution.

Commissioner Russell, seconded by Commissioner Eggers, moved to adopt the resolution to allow for the expenditures of opioid funds consistent with the MOU as presented by Ms. Sullivan.

VOTE: Aye-5  
Nay-0

**BLUE RIDGE CONSERVANCY LAND DONATION AND CONSERVATION EASEMENT REQUEST**

Mr. Eric Hiegl with Blue Ridge Conservancy shared plans to place a new access to the Watauga River Paddle Trail in Valle Crucis that would create eight acres of publicly accessible land and provide access to the river. Mr. Hiegl requested this property be donated to the County and the Blue Ridge Conservancy then be given a conservation easement to the property. The land was originally acquired through funds from the TVA, TDA, and private donors. Mr. Hiegl shared

photos of the river access and parking area which would be paved, with funding from the TDA, next year. As the County would be the land owners, if the donation was accepted, the paving project would require County approval. Commissioner Castle suggested a smaller strip be compact pressed for handicapped parking in the meantime keeping water runoff in mind. Mr. Hiegl stated that the parking area was tilted away from the river. Commissioner Turnbow encouraged the County Manager speak to the TDA about using permeable pavement when it is time to pave the parking area.

County Attorney Capua questioned having two separate documents as the easement could be conveyed in the Deed. Mr. Hiegl stated that two documents were preferred as the easement would show up in a document search more clearly. Ms. Capua said she was good with the two documents; however, the easement could not be done prior to the Deed being filed but they could be done on the same day.

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to accept the land donation from the Blue Ridge Conservancy and agree to issue a conservation easement upon the acceptance of the donation with the Deed and Easement to be recorded on the same day.

VOTE: Aye-5  
Nay-0

### **PROJECT ON AGING ANNUAL REPORT**

Ms. Angie Boitnotte, Project on Aging Director, submitted the Agency's Fiscal Year 2023 annual comprehensive evaluation of the agency's operations and policies as required by the NC Division of Health Service Regulation.

Commissioner Eggers, seconded by Commissioner Castle, moved to accept the Project on Aging's Annual Report as presented by Ms. Boitnotte.

VOTE: Aye-5  
Nay-0

### **TAX MATTERS**

#### ***A. Monthly Collections Report***

Mr. Larry Warren, Tax Administrator, presented the Tax Collections Report for the month of September 2023. The report was presented for information only and, therefore, no action was required.

#### ***B. Refunds and Releases***

Mr. Larry Warren, Tax Administrator, presented the Refunds and Releases Report for September 2023 for Board approval:

TO BE TYPED IN MINUTE BOOK

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to approve the Refunds and Releases Report for September 2023 as presented.

VOTE: Aye-5  
Nay-0

## **MISCELLANEOUS ADMINISTRATIVE MATTERS**

### ***A. Recommended Contract Award for Employee Medical, Dental, and Life Insurance***

County Manager Geouque stated that renewal rates were received for medical and dental insurance benefits. The initial renewal rate received from CIGNA for medical insurance was a 19.76% increase. Further negotiations and analysis of additional claims reduced the increase to 5.04%.

The initial renewal rate received from Ameritas for dental insurance was a 12.5% increase, which was negotiated down to a 9.5% increase with a one (1) year rate lock. After further negotiations and discussions with other dental insurance carriers, Delta Dental came back with a renewal of our current plan with a 6.2% increase and a two (2) year rate lock.

The County Manager stated that benefits and premiums would remain unchanged with Community Eye Care for vision insurance and the Standard Insurance Company for life insurance.

Staff recommends CIGNA's Level Funding plan for the County's medical insurance with a 5.04% increase and for the County to fund \$1,000 into each eligible employee's HSA account. Staff further recommends Delta Dental with a 6.2% increase and two (2) year rate lock for dental insurance. The Standard for life insurance benefits and Community Eye Care for vision insurance are proposed to continue as carriers with no change in plan benefits or premiums.

Adequate funds were budgeted to cover the renewal rates.

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to approve the following:

- CIGNA's level funding plan, with a 5.04% increase, for employee's medical insurance
- The County to fund \$1,000 into each eligible employee's HSA account
- Delta Dental, with a 6.2% increase and a two (2) year rate lock, for dental insurance
- The Standard for life insurance with no changes
- Community Eye Care for vision insurance with no changes

VOTE: Aye-5  
Nay-0

### ***B. Proposed Request for Proposal (RFP) for the High Country Kill and Chill Slaughter Plant Management***

County Manager Geouque stated that at the previous Board meeting, Dr. Jim Hamilton updated the Board on the progress of the Kill/Chill project and now requested authorization to release a Request for Proposals (RFP). The RFP would be for the management and operation of the facility.

The County Manager stated that the Board may also wish to schedule a public hearing to seek public comment regarding the project; however, the date of the November meeting would need to be set as well.

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to:

- Schedule the November meeting for Tuesday, November 21, 2023
- Schedule a public hearing to allow citizen comment on the Kill/Chill project
- Approve and authorize the advertisement of the Request for Proposals (RFP)

VOTE: Aye-5  
Nay-0

### ***C. Soccer Turf Bid Award Request***

County Manager Geouque stated that the High Country Soccer Association recently solicited bids for the re-turfing of Field 2 at the Ted Mackorell Soccer Complex. The Complex was operated through a partnership with Appalachian State University, High Country Soccer Association, and Watauga County. Approximately four years ago the stadium field was re-turfed in which the partners split 1/3 of the cost of the replacement per the agreement.

Following are the bids received for Field 2:

Bidder	AstroTurf Corporation	Shaw Integrated & Turf Solutions, Inc.	GeoSurfaces Southeast, Inc.
Base Bid	\$510,853.00	\$501,866.00	\$559,549.00
Product	Astro Turf Rhino SF 46oz 2"	Momentum Pro 2.0 (45 oz)	GeoGreens' XPS 2" 45oz
Alternate			
1. Blended Turf	\$528,081.11	\$506,766.00	\$554,064.00
2. Annual Service Contract (per visit)	\$3,300.00	\$4,695.00	\$3,900.00
Annual Service for 8 years	\$26,400.00	\$37,560.00	\$31,200.00
3. Performance Pad	\$140,075.00	\$118,399.00	\$138,078.00
3A. Pad Infill	\$2,588.00	\$13,282.00	\$0
Unit Price			
1. Treated Nailer Removal & Replacement (PLF)	\$8.00	\$13.00	\$7.00
2. Infiltration Test (Lump Sum)	\$1,600.00	\$2,800.00	\$1,550.00
3. Add Clean Stone/Grade (PCV)	\$80.52	\$75.00	\$125.00
5% Bid Bond			
Alternates Selected			
Total Bid (Base Bid + Alt #2 Infiltration Test)	\$538,853.00	\$542,226.00	\$592,299.00
1/3 Partners Share	\$179,617.67	\$180,742.00	\$197,433.00
Bid Rank	1	2	3



The committee recommended awarding the contract to AstroTurf in the amount of \$538,853 which included the base bid, alternate 2, and the infiltration test. The County's share would be in the amount of \$179,617.67.

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to award the contract to AstroTurf Corporation (in the total amount of \$538,853.00 including the base bid, alternate 2, and the infiltration test) and approve the allocation of the County's share in the amount of \$179,617.67 as presented by the County Manager.

VOTE: Aye-5  
Nay-0

***D. Proposed Lease Renewal for Probation and Parole***

County Manager Geouque presented a proposed lease agreement from the North Carolina Department of Public Safety regarding the Probation and Parole space. DPS-Probation and Parole have occupied the space for several years with a \$1 fee as per North Carolina General Statutes.

County Attorney Capua stated that she would like to see the terms defined. County Manager Geouque stated that the County did not have an option as the State dictated that the County had to provide the space for Probation and Parole. County Attorney Capua stated that the contract was good.

Due to wording in the proposed agreement, Commissioner Eggers, seconded by Commissioner Russell recused Vice-Chairman Wallin and Commissioner Castle from this item.

VOTE: Aye-5  
Nay-0

Commissioner Eggers, seconded by Commissioner Russell, moved to approve the lease as presented and reviewed by the County Attorney.

VOTE: Aye-3(Turnbow, Russell, Eggers)  
Nay-0  
Recused-2(Wallin, Castle)

After action was taken, Commissioner Eggers, seconded by Commissioner Russell, moved to reinstate Vice-Chairman Wallin and Commissioner Castle.

VOTE: Aye-3(Turnbow, Russell, Eggers)  
Nay-0  
Recused-2(Wallin, Castle)

***E. Budget Amendments***

County Manager Geouque presented the following budget amendments:

Account #	Description	Debit	Credit
103991-399100	Fund Balance		\$5,500,071
109800-498021	Transfer to Capital Projects Fund	\$5,500,071	
213980-398100	Transfer from General Fund		\$5,500,071
219930-442611	County Parking Deck	\$2,500,000	
219930-461100	Emergency Communications	\$500,071	
219930-449211	Future County Buildings	\$2,500,000	

The amendment transferred funds to Capital Reserve from unassigned fund balance from the FY 2022 audit as approved at the December 20, 2022, Board meeting.

213991-399101	Fund Balance Appropriation		\$6,763,998
219800-498050	Transfer to VC School Fund	\$6,763,998	
503980-398121	Transfer from Capital Projects Fund		\$6,763,998
506120-458000	Capital Outlay	\$6,763,998	

The amendment transferred funds from CIP Valle Crucis School to the Valle Crucis School Fund for construction.

284340-469907	Pay to Fire District – Cove Creek	\$5,000	
283102-312107	Current Year Taxes – Cove Creek		\$5,000

The amendment recognized additional projected fire tax distribution above original budget.

Commissioner Castle, seconded by Vice-Chairman Wallin, moved to approve the budget amendments as presented by the County Manager.

VOTE: Aye-5  
Nay-0

#### ***F. November Meeting Schedule***

County Manager Geouque stated that due to the Commissioners' Board Room being used as a polling site for Election Day on November 7, 2023, the November 7, 2023, Board meeting was canceled. At the last meeting, the only meeting in November was rescheduled for the 14<sup>th</sup>. Due to a clerical error, the meeting scheduled for November 14, 2023, needed to be rescheduled due to the room being previously reserved for that date.

*[Clerk's Note: The Board meeting date needed to be chosen prior to scheduling a public hearing for an above matter; therefore, the meeting was scheduled in an above motion to be held on Tuesday, November 21, 2023. The meeting will begin at 5:30 P.M.]*

#### ***G. Boards and Commissions***

County Manager Geouque presented the following:

Board of Adjustment

The terms of Alyson Browett (Valle Crucis Historic District) and Emily Bish (Alternate), would expire in November. Neither Ms. Browett nor Ms. Bish wished to be reappointed. A volunteer application was received from Mr. Shelton Wilder who expressed interest in serving on this Board. This is a second reading. Also, since the agenda packet was prepared, an additional volunteer application was received from Ms. Virginia “Ginny” Nilles.

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to appoint Mr. Shelton Wilder to the Watauga County Board of Adjustment for a three-year term.

VOTE: Aye-5  
Nay-0

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to waive the second reading and appoint Ms. Virginia “Ginny” Nilles to the Watauga County Board of Adjustment for a three-year term.

VOTE: Aye-5  
Nay-0

***H. Announcements***

County Manager Geouque announced that the Watauga County Parks and Recreation Department has scheduled a Trunk or Treat event at the Community Recreation Center (CRC) on Sunday, October 29, 2023, from 5:00 to 7:00 P.M. Contact Parks and Recreation to register your trunk for the event.

**CLOSED SESSION**

At 7:24 P.M., Vice-Chairman Wallin, seconded by Commissioner Castle, moved to enter Closed Session to discuss Attorney/Client Matters, per G. S. 143-318.11(a)(3).

VOTE: Aye-5  
Nay-0

Vice-Chairman Wallin, seconded by Commissioner Eggers, moved to resume the open meeting at 8:00 P.M.

VOTE: Aye-5  
Nay-0

**ADJOURN**

Vice-Chairman Wallin, seconded by Commissioner Castle, moved to adjourn the meeting at 8:00 P.M.

VOTE: Aye-5  
Nay-0

Larry Turnbow, Chairman

ATTEST: Anita J. Fogle, Clerk to the Board

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**AGENDA ITEM 3:**

**APPROVAL OF THE NOVEMBER 21, 2023, AGENDA**

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**AGENDA ITEM 4:**

**PUBLIC COMMENT**

**MANAGER'S COMMENTS:**

Public Comment will last up to 1-hour dependent upon the number of speakers.

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**AGENDA ITEM 5:**

**PUBLIC HEARING TO ALLOW PUBLIC COMMENT ON THE PROPOSED  
CONSTRUCTION OF A HIGH COUNTRY KILL AND CHILL SLAUGHTER PLANT**

**MANAGER'S COMMENTS:**

A public hearing has been scheduled to allow public comment on the proposed High Country Kill and Chill slaughter facility. At the conclusion of the public hearing, Jim Hamilton will be present to answer any questions regarding the facility. The hearing is for information only; therefore, no action is required regarding this matter.

# Watauga County Meat Slaughter Facility 112123 BCC Meeting

**Goal: provide a local solution to meet needs of livestock producers to enhance ag economy & food security.**

**\$4.2 million in committed funding from:**

**Golden LEAF Foundation**

**NC Tobacco Trust Fund**

**Appalachian Regional Commission**

**NC Ag Development Trust Fund**

**American Rescue Plan**

**Economic Development Administration**

**Opportunity Appalachia**

**Appropriation from state legislature**

**(\$500k pending from Appalachian Regional Commission)**

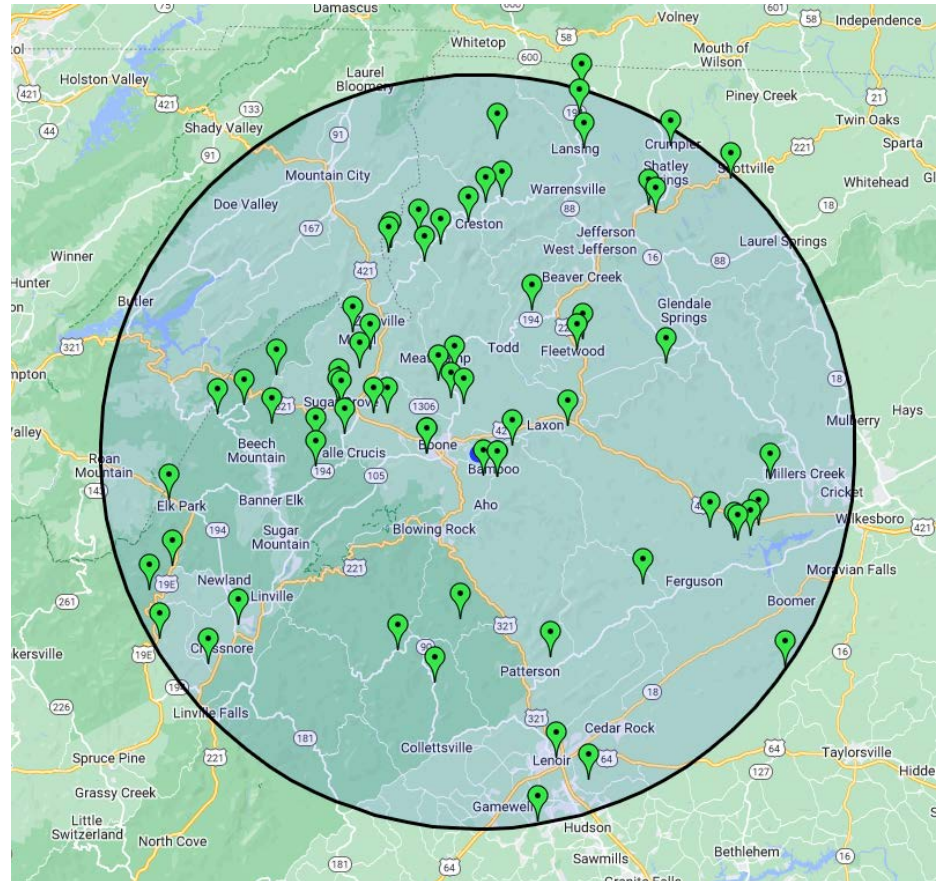
# Who will it serve?

112123 BCC Meeting

## 67 Commercial Meat Handlers in 25 mile radius of Boone & beyond

**Over 49,000 acres are currently utilized for beef cattle production, with over 24,000 head across Watauga, Ashe, Alleghany, Caldwell, Avery, and Mitchell counties. (USDA Farm Service Agency)**

**85-90% of farms in the High Country by value of sales make less than \$25,000/year; 70% of those sales are livestock, poultry and livestock products; Each steer retained for local meat sales can net \$500-\$1000/hd over market prices for feeders (cattle that are auction-sold); 90% of farms are less than 180 acres. (NC Choices)**



**Plus non-commercial meat producers. Home/family meat production**

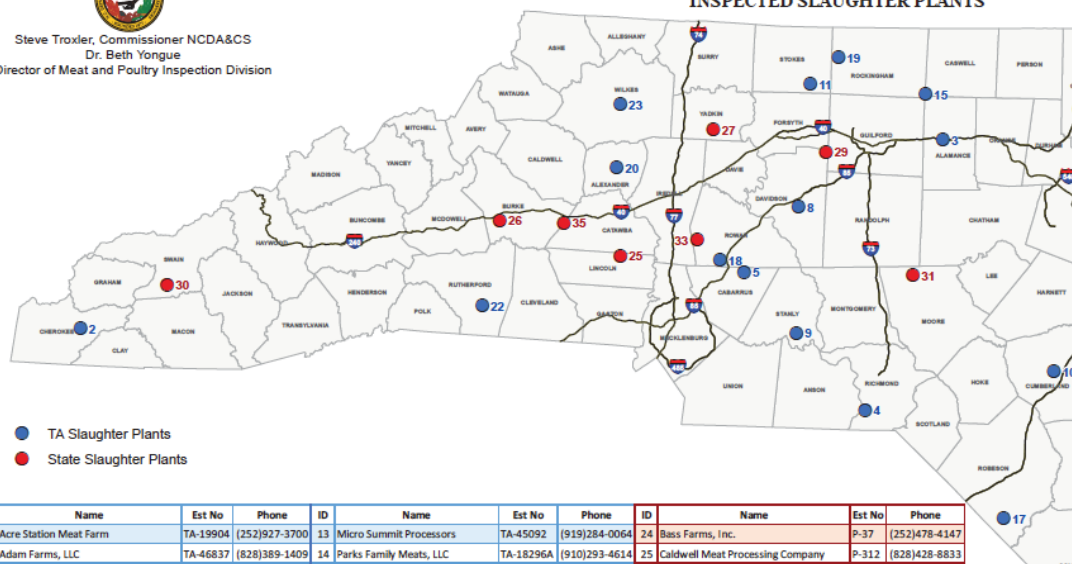
# Who will it serve?

To date, Watauga Butchery has processed animals from ~430 customers from multiple counties, transporting animals up to 3 hours away for slaughter.



Steve Troxler, Commissioner NCDA&CS  
Dr. Beth Yongue  
Director of Meat and Poultry Inspection Division

## MEAT & POULTRY INSPECTION DIVISION INSPECTED SLAUGHTER PLANTS



ID	Name	Est No	Phone	ID	Name	Est No	Phone	ID	Name	Est No	Phone
1	Acre Station Meat Farm	TA-19904	(252)927-3700	13	Micro Summit Processors	TA-45092	(919)284-0064	24	Bass Farms, Inc.	P-37	(252)478-4147
2	Adam Farms, LLC	TA-46837	(828)389-1409	14	Parks Family Meats, LLC	TA-18296A	(910)293-4614	25	Caldwell Meat Processing Company	P-312	(828)428-8833
3	City Packing Company	TA-08341	(336)227-0211	15	Piedmont Custom Meats, Inc.	TA-07975	(336)584-8247	26	Crawley's Abattoir	P-101	(828)584-6356
4	Country Slaughter & Meat Processing	TA-32012	(910)895-0838	16	Riverside Meats	TA-20981	(252)448-4047	27	Disher's Packing Company	P-152	(336)463-5548
5	Cruse Meat Processing	TA-46354	(704)786-8616	17	SCR International Corp.	TA-09199	(910)628-8267	28	Gale McLamb Meats	P-221	(910)892-7279
6	Custom Quality Packers, LLC	TA-20129	(252)235-3558	18	Select Meats, Inc.	TA-10757	(704)933-7550	29	High Point Halal Meats	P-318	(336)802-0620
7	Flowers Slaughter House	TA-21747	(252)237-2982	19	Stevens Abattoir, Inc	TA-46085	(336)949-9696	30	K & B Meat Processing	P-55	(828)488-2533
8	Fresh Halal Meat, Inc.	TA-46824	(336)259-0742	20	Wayne Mays Meat Processing #1	TA-21848	(828)632-2034	31	Key Packing Company, Inc.	P-48	(910)464-3507
9	Halal Meat Slaughter House	TA-31795	(704)474-4420	21	Wells Pork & Beef Slaughter	TA-39876	(910)259-2523	32	McLamb's Abattoir and Meats, Inc.	P-247	(919)894-2587
10	Larry's Sausage Company, Inc.	TA-08305	(910)483-5148	22	Wells, Jenkins & Wells Abattoir	TA-00881	(828)245-5544	33	McLaughlin's	P-85	(704)677-5147
11	M. L. Mitchell & Son	TA-46822	(336)591-7420	23	Wilkes Abattoir, LLC	TA-19511	(336)667-1346	34	Nahunta Slaughter House, Inc.	P-80A	(919)242-4735
12	Martin's Pork Products	TA-06720	(910)980-1501					35	Price's Custom Meat Cutting & Abattoir	P-307	(828)397-5150

Non-commercial meat producers. Home/family meat production

# Meat Sales Snapshot: High Country Food Hub

**30 livestock producers sold their red meat products through the Food Hub online market from 9/2020 thru 9/2023**

**The average sales per producer is \$14,142.77 and the median is \$9,374.90 during the 3 year period.**

**39,565 total packages of meats. Total sales = \$424,283**

## Sales by Category

Monday, September 11, 2023

Filter: Distribution Start: 2020-09-01 Distribution End: 2023-08-31 - Product Categories: Beef, Lamb, Pork, Specialty Meats

### Meats

Sub-Category	Qty		Total Sales
Beef	21,829		\$233,917.87
Lamb	803		\$15,839.40
Pork	15,781		\$162,042.91
Specialty Meats	1,152		\$12,483.02
<b>Meats Sub Totals:</b>			<b>\$424,283.20</b>
<b>Total</b>			<b>\$424,283.20</b>

# Who will operate it?

Parties with capabilities and expertise in operating USDA-inspected meat slaughter and/or processing who are interested in a competing bid will be considered. RFP posted at county website.

Home Your Government I Want To Departments Related Agencies Directory More

## POPULAR

GO

ga County Parks & Recreation  
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& Commission Volunteer  
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xes Online  
x Mapping  
Protection  
s Property Sales

## PUBLIC NOTICES

Preparation for the 2027 Revaluation

RFP - Position Classification and Pay Plan Study

Proclamation Supporting National Fair Housing Month

Fair Housing Complaint Procedure

StRAP Bid Request for Stone Mountain Branch

RFP - Rich Mt. Building Upgrade

Meeting Cancellation

**RFP for High Country Kill and Chill Slaughter Plant Management and Operation**

Read More>>

## CALENDAR

<< OCT 2023

SUN	MON	TUE	WED
1	2	3	4
8	9	10	11
15	16	17	18
22	23	24	25 today
29	30	31	1

October 3  
5:30 PM Board of Commission

October 17  
5:30 PM Board of Commission

October 19

# Watauga County Meat Slaughter Facility

Public/Private partnership: property & facility owned by county and leased to private entity to operate

- Located at the Watauga County Landfill/Transfer Station Property
- USDA Inspected Facility (inspector on site)
- Construction & operation permitted & regulated by federal, state, and county regulations & permits.
- A REGULATED FACILITY



# How big is the facility?

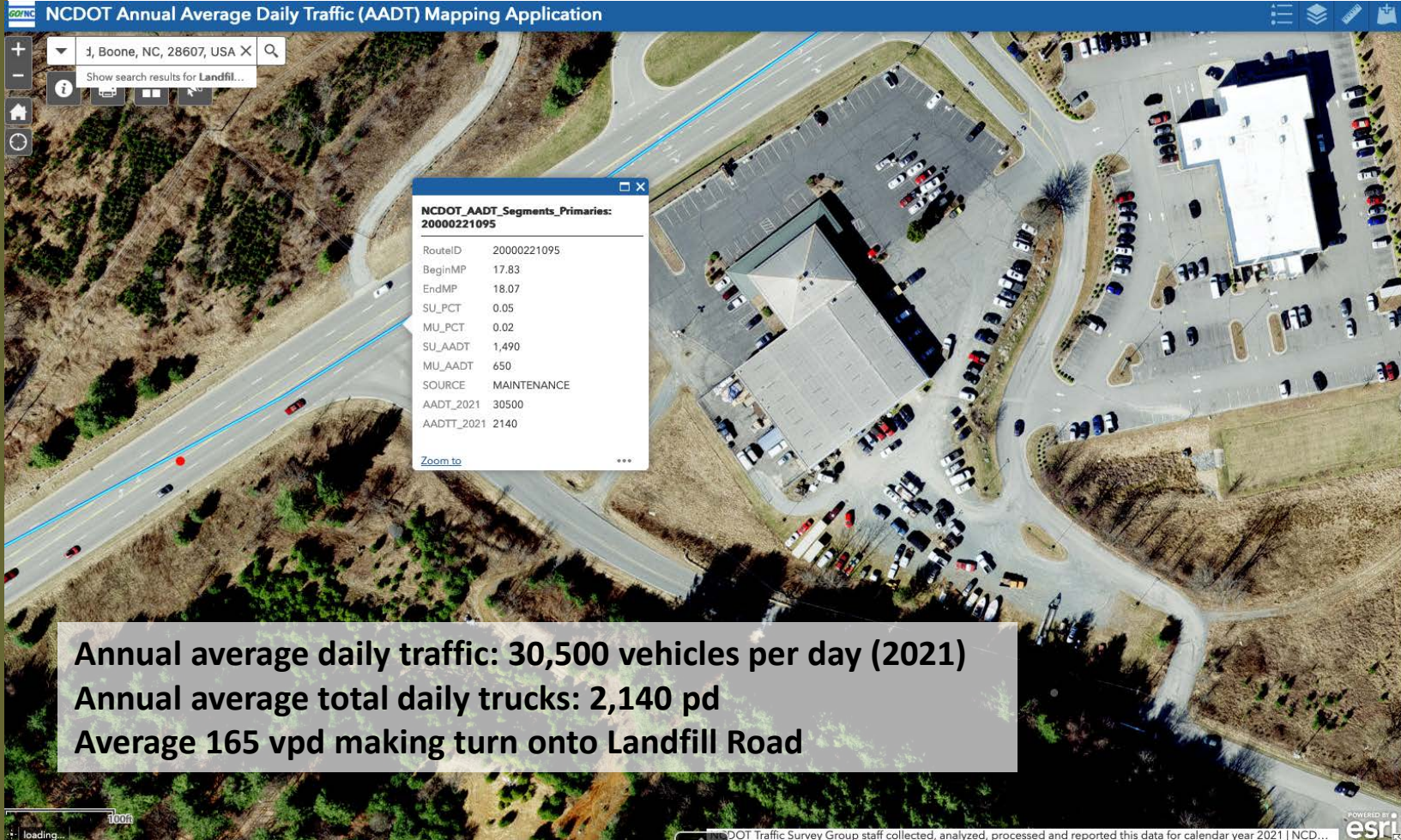


**3,900 sq foot facility plus 630 sq feet of pen space. Electric heating/cooling (no smoke!). Potential for solar & working on composting facility**



# What are the Traffic Considerations?

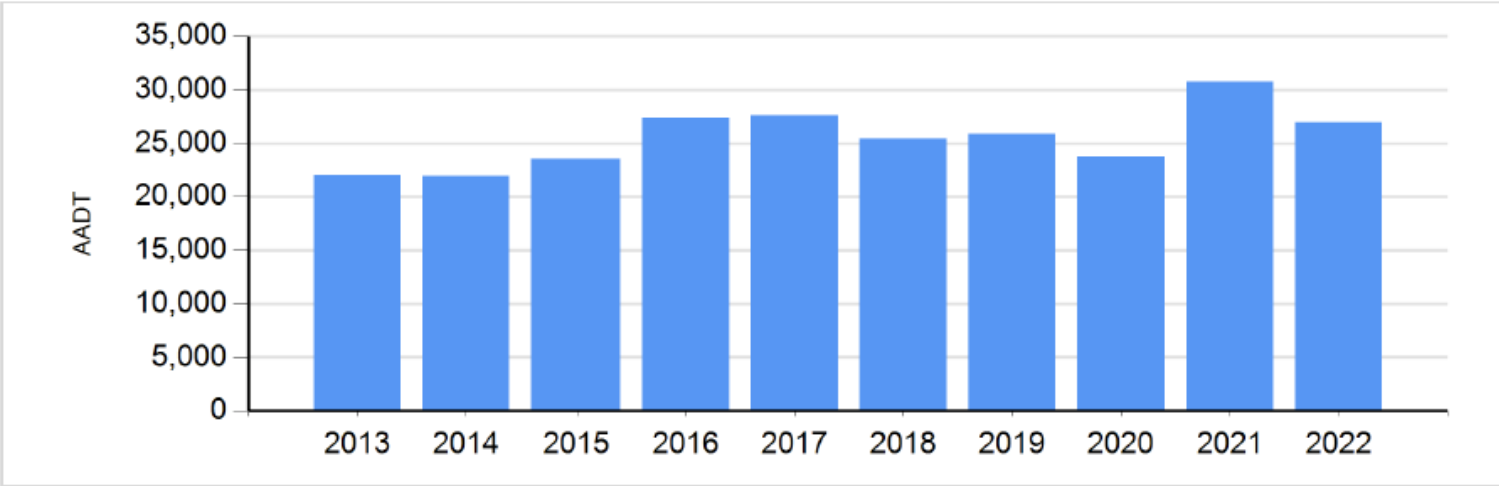
112123 BCC Meeting



**Data provided by: Steve Piotrowski**  
spiotrowski@ncdot.gov  
**Data Management Engineer**  
**NC DOT Traffic Survey Group**

**AADT by Year Comparison for 1/1/2013 - 12/31/2022**  
**Criteria: Location ID = 0950000058, From 1/1/1900 To 12/30/2032 12:00:00 AM**

**District:** 11                                    **Location ID:** 0950000058  
**County:** Watauga                            **Located On:** US 221                                    **LRS ID:** 20000221095  
**Community:** -                                    **At:** SR 1655 (Landfill Rd)                                    **LRS Point:** 17.9097300



Year	AADT	% Change YOY
2013	21,998	18.3%
2014	21,897	-0.5%
2015	23,567	7.6%
2016	27,335	16.0%
2017	27,613	1.0%
2018	25,477	-7.7%
2019	25,863	1.5%
2020	23,764	-8.1%
2021	30,732	29.3%
2022	26,959	-12.3%

**Max of 20-24 new vehicle  
turns per day into  
Landfill Road**

NOTE: Red text means percent change is >20%

# What are water/sewer needs?

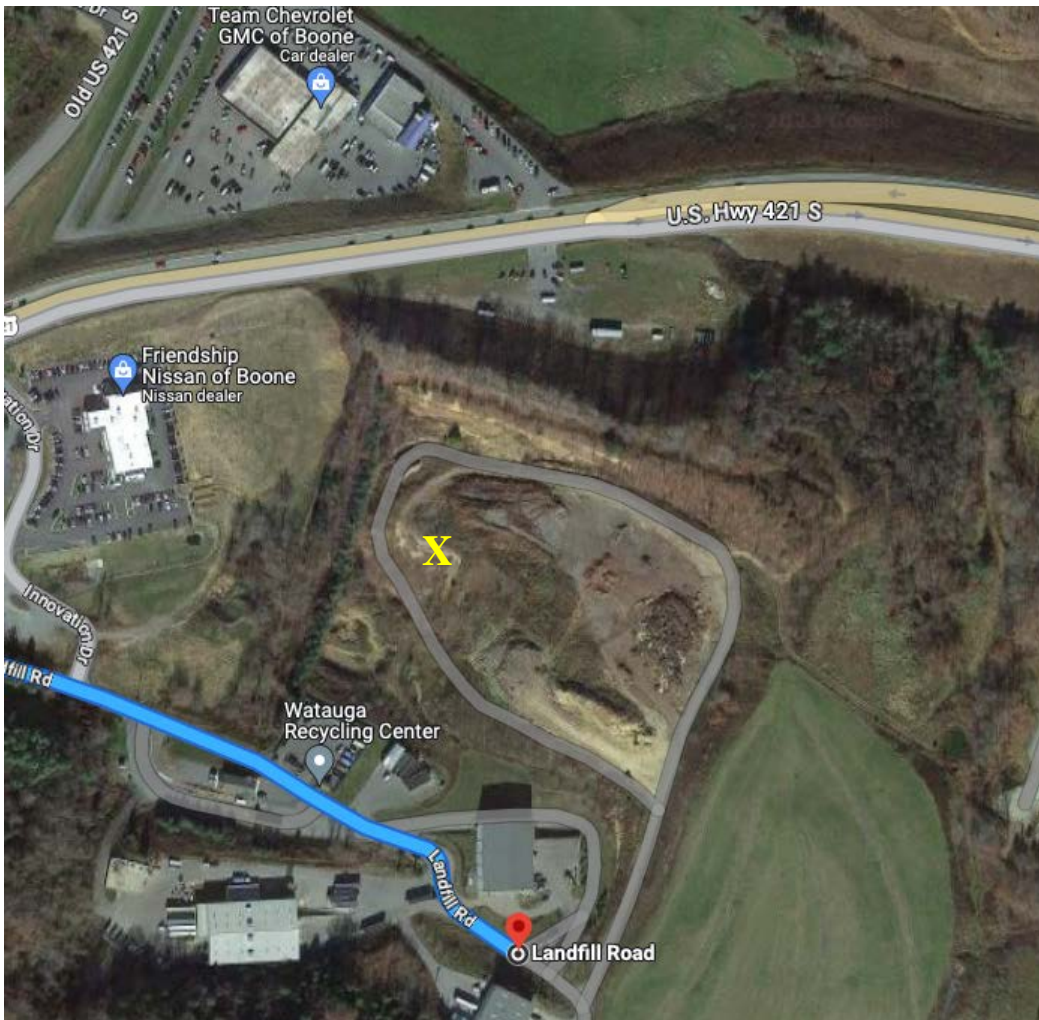
- **Average 300 gallons of water per animal (Iowa St) = ~7,500 gpd at capacity (25 animals per day)**
- **Current Town of Boone Water Capacity: 4.5 million gallons per day (mgpd)**  
**Current draw: 1.8 mgpd**  
**Treatment capacity: 4.5 mgpd**  
**Current treatment: 2.5 mgpd**  
(TOB Public Works)

## **For comparison, apartment complexes in Boone:**

- 15 unit apartment complex 23,000 gallons per month.**
- 15 unit apartment complex 38,000 gallons per month**
- 10 unit apartment complex 16,000 gallons per month**
- 11 unit apartment complex 14,000 gallons per month**  
(TOB Public Works)

# For Comparison...

## Proposed High Country Facility



**Nearest residence:  
2,049 feet away**

**Nearest Commercial:  
600 feet**

# For Comparison...

## Apple Brandy Prime Cuts, Wilkesboro.



**200-300 feet  
from public  
park/recreation  
areas**

# For Comparison...

## Mays Meats, Taylorsville



**200 feet  
from S & S  
Family  
Restaurant**

## Allen Dunlavy, Dunlavy Contracting

**Additional Q & A provided in handout for council and public.**

## Project Q & A (for Town Council Packets/Public Information)

### What is the current demand for the facility? Why was it proposed?

The idea for this project stemmed from capacity restrictions that directly & immediately impacted our local meat producers/farmers during 2020. Since March 2020, bottlenecks at meat slaughter & processing plants (state and regionwide) have reduced capacity and caused delays for area cattle producers. Many processors where local producers take their animals for processing had lag time/backlogs of over 1 year. Watauga Butchery is the High Country's only USDA-certified facility which opened and received its first carcasses for processing in July 2020. While the facility has a current processing capacity of over 100 animals per month, there is extremely limited USDA-certified *slaughter* capacity and therefore the current facility is limited to processing only 24 animals per month. While capacity restrictions have eased somewhat since COVID, animals from our local producers still have to be transported to existing plants up to 2 hours away for USDA inspected slaughter. However, limited kill-capacity at these plants limits the number of animals that can be serviced across the region. Additionally, there is expense (and risk) when transporting animals and carcasses this distance. In Watauga County alone, there are between 100-150+ cattlemen and small-scale producers who rely on slaughter/processing capacity to feed their families, produce income for their farms, and to provide local meat to restaurants and for direct-sale to consumers. There are over 67 licensed meat handlers (commercial producers) in the core area and 166 licensed meat handlers in the other counties in NC that the facility would serve. From Sept 2020 through July 2023, from just the High Country Food Hub, local meat producers sold over \$424,000 in meat products. This does not include private commercial beef sales from individual farms, farmers market sales, direct-to-restaurant sales, etc.

The 'bigger picture' for this need for this plant is based on data from The American Farmland Trust, which recently ranked Watauga County as 39<sup>th</sup> nationally out of 3,144 counties in the US with the highest projected % of agricultural land loss by 2040. Our meat producers grow their beef on open pasture & farmland which contributes to the overall aesthetic of our county. Farmland preservation is an overarching goal of the project.

### How large will the plant be?

The total footprint/design includes a 3,900 sq foot facility (plus 630 sq feet of pen space). Phase one includes capacity for slaughter and primary carcass breakdown and cooler storage. Phase 2 (pending future growth/funding) is the addition of an additional carcass cooler and a fabrication area. Phase three would include the addition of a grinding and further processing area. The layout of the plant has been designed to include these phases without having to change any of the proposed Phase 1 building.



### **What is current traffic situation and how will presence of a slaughter facility impact traffic?**

Per NCDOT's traffic mapping studies (see [AADT website](#)), DOT reported an average of 30,500 cars per day in 2021, the most recent study, at Location 0950000058, the nearest applicable traffic measurement, which is on Highway 421 East between Bamboo Road and Landfill Road. To the East, at location 0950000185 between Innovation Drive and Mountain Bike Way, DOT reported 24,000 cars per day.

The Institute of Transportation Engineers' (ITE) Trip Generation Manual (2021 edition) specifies 4.5 vehicle trips per day per employee for Meat Packing Plants (Land Use Code 112). At a projected 5 FTE employees at full capacity, we would be adding an average of 23 trips per day to the traffic on 421, an increase of 0.15% over current average traffic at the nearest measured location. This exceeds our internal estimate of an average of 5 employee trips, 2 company truck visits, 1 inspector visit, 1 vendor trip, and 4 to 6 customer trips for animal deliveries, for a total of 13 to 15 trips per day. Rex Buck, Sanitation Operations Services Director, reports an average of 165 vpd to landfill/transfer station.

### **How much water is needed to process animals & how many animals will be processed at the facility?**

300 gallons of water per animal (per research from University of Nebraska Lincoln, confirmed by Dunlavy Contracting). Projecting a maximum of 100 animals per week. The facility design can accommodate up to 200 but our model is not projected to reach that level. Water usage estimated to be a maximum of 30,000 gallons per week at full capacity, with an average of 27,000 gallons per week, projecting operating at 90% capacity.

Current Town of Boone Water Capacity: 4.5 million gallons per day (mgpd) (31.5 million per week)

Current draw: 1.8 mgpd

Treatment capacity: 4.5 mgpd

Current treatment: 2.5 mgpd

(from TOB Public Works)

We are projecting around 100 animals per week

Ziara, Rami. 2015. Water and Energy Use and Wastewater Production in a Beef Packing Plant. University of Nebraska Lincoln <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1084&context=civilengdiss>

### **Who will build and manage the plant?**

The plant needs to be built by people who have experience in this industry. Dunlavy Contracting, with over 30 years of experience, will build this facility and also assist in the USDA program development and training. They will also assist in the startup and operations of the plant until the plant management team is in place and successful. Local contractors will be used where practical and matches the skillset required to perform the tasks at hand.

The county has an obligation to ensure the project serves all farmers and other stakeholders, and is open to considering proposals from any qualified parties who wish to have access to use or operate the facility. At the same time, we are intent on seeing the facility is operated by a capable and responsible management team, as we do not have county resources with the bandwidth nor the expertise to manage or oversee such a facility.

There are very few parties in the area who have the expertise, reputation, and track record necessary to manage a food production facility to the necessary standards. At the moment, the county has an agreement in principle to lease the plant to Watauga Meats and Butchery, LLC, a local business established by a local farm family in 2020 to serve local farmers who had been displaced and left unserved by other processors in the midst of COVID shutdowns - including their own farm. The business currently operates in Vilas, using inspected slaughter services up to 3 hours away, and serves any farmers needing inspected or exempt processing for beef, pork, lamb, or goat. The business is 100% family and employee owned, and the owners' own animals generally occupy between 10 and 20% of total capacity. The business has a membership program available to all farmers of any size which provides priority on booking reservations and waitlists and other preferential pricing and services. Any customer can participate or not participate in the membership program, and discounted memberships are offered to Watauga County residents as well as small scale farmers. The model for the program was built with small and local farmers in mind and will continue to operate with serving local farmers as a priority.

Any other parties who have capabilities and expertise in operating USDA-inspected meat slaughter and/or processing, who wish to provide input or feedback, and who wish to make a proposal to be considered for management of or access to part or all of the planned facility or otherwise offer input or assistance to advance the success of the project for the benefit of the community, should contact the County Manager's office or submit a proposal to operate the plant. The RFP for interested parties can be found at: <http://watgov.org/public-notices.aspx#p9145>

### **Who are current and future beneficiaries of slaughter facility?**

Total numbers of customers served at Watauga Butchery (for processing):  
430 producers have been served since 2020, with customers concentrated in and around Watauga County but stretching across Western North Carolina and as far East as Sampson County. A 'membership program' offered by the butchery allows for priority services and discounted rates for Watauga County producers, but the facility is open to ANY commercial or exempt (processing for home use) producers. The program is built to ensure that local farmers who want to have priority on bookings will not be shut out from processing the next time there is a capacity crunch across the industry. Currently there are 67 meat handlers licenses (commercial) within a 25 mile radius of Boone.

The local jobs market and local economy will also benefit, as the project will directly create at least 5 full-time positions, and further enable an additional 10+ jobs within the business. Local customers, groceries, farmers markets, restaurants, schools, and others will have increased access to locally raised farm products, with that revenue remaining here in the High Country.

### **What are cost-savings ?**

Most local processors do not publish their pricing, however other processors are known to be at or above the retail rates offered by Watauga Butchery. One that does, Piedmont Custom Meats, charges \$89/head for slaughter and \$1.25 per pound for processing, with additional added fees for other services. Combined, their fees total \$964 to process a 700 pound carcass, compared to \$885 for Watauga Butchery retail customers, or \$850 for customers participating in the Membership Program.

Mays Meats in Taylorsville is probably the plant with the nearest available capacity, located approximately 50 miles from Boone. Assuming a truck pulling a loaded trailer gets 10 miles per gallon, that round trip costs \$42.80 at the current price of diesel, plus 2 hours of travel time for the farmer and the mileage on his/her truck and trailer, translates to a value saved of over \$100 per trip. For transport to other plants, costs exceed \$300 based on mileage & labor (Eddy Labus, Watauga County Livestock Agent). This does not consider emissions reductions due to shorter travel time/distance, which would be significant.

Growers who choose to have animals processed off the mountain is a choice. There WILL be capacity at the proposed plant.

### **How much opportunity will there be for home/exempt slaughter?**

Exempt slaughter (slaughter for home consumption—beef that is slaughtered/processed but not sold commercially) will be accommodated the same way as inspected slaughter - the only difference being that exempt slaughter may occur on days when the USDA inspector is not required to be present, but would occur in exactly the same way. With possible exceptions, our intention is to operate the plant with all animals harvested under inspection, as there would be little or no additional cost for farmers, and coordination, storage, and handling of carcasses is made easier if everything in the plant is USDA inspected, even if being processed for exempt purposes.

The NCDA is currently implementing new restrictions and regulations that will significantly limit, though not totally eliminate, on-farm exempt slaughter. For farmers who want to bring on-farm exempt slaughtered animals to us for processing, those animals will need to meet certain standards for cleanliness and food safety, and would generally be received directly at the Vilas or Zionville processing facility, with no need to enter the slaughter plant, but we will be positioned to accommodate all local farmers who can be processed to the extent permitted by NCDA and USDA regulations and restrictions. We do not foresee any circumstance where a local farmer would be turned away for processing due to capacity constraints. Of course, as

with all processing plants, scheduling and booking in advance is a factor, as most independent slaughterhouses are still holding appointments up to a year out.

### **How many employees will the plant employ? Full time vs part time**

A crew of 3 to 5 required to slaughter up to 25 head per day. At full capacity, we expect to operate two beef slaughter days per week, with one additional day to be used for pork, lamb, and goat. Total of 5 to 6 full-time equivalent employees working at the plant with wages from \$15-17 per hour and up. Staffing will include a combination of full-time and part-time, depending on labor availability and employee interests, as well as labor demands at other facility(ies). The plant will receive applications and hire the most qualified applicants that are diverse in nature and can do a variety of jobs as this will be a very small plant and employees will need to perform a variety of jobs.

### **How is the plant regulated?**

Daily oversight and inspection by USDA's Meat & Poultry Inspection Division, operating within all USDA regulations, as well as according to Watauga Butchery's Hazard Analysis and Critical Control Points (HACCP) Plan. The construction of the plant will fall under county building permitting and state environmental and other Federal regulations as the proposed facility is to be constructed on existing landfill property.

### **Will the facility produce smoke or steam? What are the actual emissions if any?**

Very few pieces of equipment in a slaughterhouse are be capable of producing smoke or steam - some plants may use incinerators, but ours will not. Refrigeration equipment will run on 3-phase power from the electrical grid, and we've invited the town to collaborate on implementing solar and other renewable and energy efficient technology - currently, there are no plans for onsite power generation. Hogs will typically be scalded for hair removal, with water temperatures at 150 degrees. High temp wash down water for clean-up and sanitation is typically maintained at 180 degrees, which will produce some moist air, but not steam. The plant will use Freon, which when released by accident to the environment has not been found to be a risk, unlike ammonia refrigerant which is dangerous.

### **Will there be odor from the animals and the rendering products?**

The pens will be made to accommodate smaller loads of cattle and or lots from smaller producers. There should not be more than 15 to 20 head on the site at any one time with proper scheduling of arrival of the animals. The pen area will have an easy air access design and yet animals will not be visible from outside of the plant. Animals will be moved and held in compliance with the USDA Humane Handling Regulations.

The animals stored and handled on site will not be exposed to the outside environment or be on site long enough to produce enough waste to become a smell issue, the barn will be washed

down between uses each day and be kept fresh. The rendered material will also be fresh and hauled off daily. This will eliminate the risk of smell as nothing smells in this process unless it starts to decay or rot. This will not be the case as it will maintain in a fresh state of condition and hauled off daily. The nearest residential property to the plant is 2,050 feet away and the nearest commercial businesses are over 600 feet away.

**What materials go into sewer system and what type of mitigation exists in the water/sewer infrastructure to mitigate?**

Wastewater will be received from the production areas; water will be sent through a rotor screen that will remove heavy solids and any particles of meat and fat. From there the water will go through a small equalization tank with an air infusion to keep all particles mixed with the water along with any chemical addition at this phase. From there the water will be sent through a daff that will have air injected into it with the application of chemicals to bind the solids together and use a skimming method to remove the solids from the top of the tank with the cleaned water being released at the bottom of this daff equipment, this water released will then be sent to the city wastewater stream.

The blood will be captured and added to the rendering product for shipment off site at this time.

**What are other materials produced/disposed of via transfer station?**

Byproducts from processing include bones, blood, hides, fat, paunch, viscera, and manure. We are working to implement as many processes for repurposing byproduct as possible, as doing so increases value-added products and reduces the cost of waste (see details below). Any waste that isn't repurposed into bone meal, blood meal, animal feed, or related byproducts, and that doesn't go into the county's compostable program, will be disposed of as is currently happening, into the waste stream at the landfill transfer station.

Our capacity for repurposing byproduct will be determined in part by availability of funding and the success of ongoing grant requests and research projects. We are also working with the county on a program for making our byproduct available as nitrogenous waste inputs into the county's planned composting program to reduce the volume of wood and plant debris being hauled away. When other outlets are not available, there is one rendering company in the Southeast, Valley Protein (now owned by Texas-based Darling Ingredients (DAR)), that will collect bone, fat, and viscera for a fee from the slaughter plant (which they currently will not do from Watauga Butchery because of location and scale), to be rendered and further processed for pet food, grease, oil, and other purposes. We are also exploring collaboration with other NC processors for post-processing of some materials as an alternative to having to work with the rendering firm. Finally, remaining byproducts are disposed of at the landfill, as is currently being done.

- Outlets for specific byproducts:

- Bones - Some bones are packaged and sold for bone marrow, bone broth, and dog bones (or to zoos for large animal consumption). There is an ongoing research project being led in ASU's Sustainable Development program to investigate methods of processing bones into bone meal on a small to medium scale. Bones can also be collected by Valley Protein.
- Hides - The facility design includes a hide room where hides can be salted and preserved, and collected for bulk sale by truck load to brokers, concentrated in Boston, who export hides to tanneries, many of them located in Italy, China, or Mexico. Years ago hides were once a key source of revenue for slaughterhouses, but ironically the trend toward replacing leather with synthetic fabrics have reduced the market for animal hides in favor of plastic and petroleum-based materials, to the detriment of farmers and environmental concerns.
- Fat - Animal fats are useful and valuable - nutrient dense and preferable for cooking and frying oils over highly processed vegetable seed oils. Most of our animal fat is processed into sausage, ground meats, and other primary food products. We also have existing demand for suet (the higher quality fat surrounding some internal organs) being used by local artisans who produce balms, lotions, candles, soaps, and other products from our fats. Other fats will be rendered into lard and tallow in our Zionville processing facility to serve restaurant customers and food distribution companies who have inquired about these products to use for cooking. Valley Protein will collect any fat that goes unused.
- Viscera - Organs including heart, kidney, and liver are packaged and sold, and some other organs (spleen, pancreas) are requested on occasion by customers for pet feed. Other organs, referred to as "viscera", are usable for animal feed and other applications and can be hauled away by Valley Proteins, but are also suitable for composting, so our first preference will be to direct these items to the county composting system once operational.
- Blood - Blood that can be captured in a food-safe method is marketable to ethnic food markets. Otherwise, blood can be dried and powdered to create blood meal, a valuable organic fertilizer rich in nitrogen that can be very useful to gardeners and farmers. Feasibility of processing blood into blood meal is an ongoing conversation we are working on with Cooperative Extension, and could be funded by further grant requests and/or done in collaboration with other NC slaughterhouses. Valley Protein is also an immediate outlet for blood. A minority of blood that cannot be captured will make its way into the discharged wastewater as part of the daily cleanup and washdown process.
- Paunch and manure - "paunch" is partially digested forage, grain and feed from the animal's digestive system. Paunch and manure are both highly valuable materials for compost - either added to the county composting system, or allowed to dry and cure on its own for spreading on pasture. Manure can also be bagged and sold to home gardeners, although we do not anticipate having sufficient volume for commercial manure distribution.

**Is there a composting facility associated with the project?**

While the project has not launched, the county remains highly interested in creating a composting facility adjacent to this project, which would facilitate a reduction in the volume of woody waste the county has to haul away, and create nutrient rich compost for local farmers and gardeners. With pending changes in leadership in Sanitation services, the county is continuing to evaluate feasibility and plans, possibly including a pilot project using existing technology in a prefab modular composting system as a proof of concept. This project is in the process of requesting partial funding for the composting project from a pending USDA grant program for processing projects.

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**AGENDA ITEM 6:**

**KILL/CHILL MATTERS**

*A. Update on Project*

**MANAGER'S COMMENTS:**

Mr. Jim Hamilton, Cooperative Extension Director, will provide an update and answer questions regarding the Kill/Chill facility. The update is for information only; therefore, no action is required at his time.

## Slaughter Facility Brief Updates and Approval Requests—Memo from Jim Hamilton, Extension Director

(Hamilton to present slides/information regarding facility during/after Public Comment Period)

On October 25<sup>th</sup>, the Town of Boone voted to approve water & sewer access to the proposed facility (without annexation).

Received estimates/contract info from McGill & Associates for permit modification work (\$35,000) and from Mattern & Craig for water/sewer system engineering, design, & permitting (\$137,510)—These both need board approval to proceed.

Kelly Coffey with HC Council of Governments has been working on an additional USDA grant for the Meat & Poultry Processing Enhancement Program (MPPEP) for \$2.3 million to add additional capacity to the facility (additional cooling/hanging space, boning room, & shipping dock... green & orange sections in costing document below, which correspond to yellow and blue areas of facility pre-design).

*Requesting approval on permit modification work & contract w/McGill and engineering contract with Mattern & Craig.*

Phase 1		
Item	Description	Cost
Engineering (Estimate)	Stamp plans, Pole Barn, IMP liner, Steel work	\$75,000.00
Civil Work (Estimate)	Estimate	\$100,000.00
Buidling Phase 1 3461 Square Ft	Slaughter and office / Cooler 25 head	\$519,000.00
Interior Wall Panels	4 inch IMP	\$70,000.00
Interior Ceiling Panels	4 inch IMP	\$35,000.00
Electrical	Estimate	\$550,000.00
Refrigeration	Estimate	\$350,000.00
Waste Water	Rotor Screen for removal heavy Solids 150 gallons per head - just slaughter	\$125,000.00
Correls and Chute	Powder River Equipment	\$65,000.00
Knock Box	Purchase plus Hydraulics / pump	\$75,000.00
Shackles	10 shackles / \$340	\$3,400.00
Trolleys	100 trolleys - 35 per trolley	\$3,500.00
Shackle Hoist	Drive, V-Cone, Positioner, landing device, chain and Starter	\$52,000.00
Shackle Drop	Lowers shackle after first leg	\$9,000.00
Leg Hoist	Raises trollys to rail	\$9,000.00
Rails and hangers	rails and hangers for attaching to beams	\$8,000.00

Corner rail	bent for corners	\$1,300.00
Rail Beams	8 inch x 6 inch rail beam	\$25,000.00
Support Beams	8x8 support Beams 600 foot x \$75	\$45,000.00
Cross Beams	12x8 beams for cross supports	\$25,000.00
Additional Hangers for bleed rail	Spacing for carcass hanging 25 extra hangers	\$550.00
Rail Switches	Cooler and slaughter floor rails	\$500.00
Working Stands for legging	3 -4 workers for first legging, cut off, hanging, second legging, cut off, hanging, udder removal, bung marking and tail marking, high flanking.	\$15,000.00
Low Flanking Stand	1 -2 workers remove hide from brisket / mark front legs	\$4,500.00
Rumping stand / bunging Stand	skin round and high back, bunger 2 people	\$6,000.00
Brisket Saw Stand	1 worker	\$4,000.00
Brisket Saw and Hydraulic Pump	Brisket Saw, pump and balancer and pipe and Electrical connection	\$25,000.00
Air Knives	4 Air knives	\$12,000.00
Hide Puller	Cable Puller, Hoist, Chains, Stands	\$30,000.00
Head drop stand	Cart for holding 5-10 heads for USDA	\$3,500.00
Gut Table	Stationary Gut Table for USDA	\$10,000.00
Evisceration Drop Track	Used to lower cattle to the gut table	\$16,000.00
Head boning table	used to take meat off head and tongues to box	\$3,500.00
Split Saw	Jarvis split saw / balancer / Electrical Connections	\$17,500.00
Trim Stands	3 trim stands / Air cylinders / used for Usda and two plant personnel	\$25,000.00
Misc Equipment	Tubs, totes, carts	\$10,000.00
Scale	Carcass Scale (hand write tags)	\$4,500.00
Spray cabinet	Hand spray carcasses / and intervention spray	\$25,000.00
Hot Water Equipment	Hot Shot Equipment for hot water	\$150,000.00
Cold Water set up / Piping	Piping through out floor and nozzels, hoses, small tank, attachments, elbows etc.	\$25,000.00
Air Compressor	Air compressors for air cylinders and equipment	\$75,000.00
Air Lines	Air Lines to feed knock box to final area	\$25,000.00
Maintenance Shop	Set up for shop	\$5,000.00
Locker Rooms	Employee Lockers, sinks, toilets, Bathroom set	\$10,000.00
Labor Estimate	Install of all Beams, steel and equipment listed	\$350,000.00
Semi Tractor and Trailer	Older Truck and Refer	\$45,000.00
Carcass Hoist	Loading Hoist	\$2,500.00
Rib Saw	Break Carcass quarters	\$13,000.00
Cooler Dock Door	Door to load carcasses out of	\$10,000.00
<b>Total Phase 1</b>		<b>\$2,883,250.00</b>

Phase 2		
Building 10x33- 330 Squ Ft	Building for additional Carcass Cooler, Civil, Engineering	\$82,500.00
Wall Panels		\$12,125.00
Ceiling Panels		\$3,500.00
Refrigeration	Freon Units and Compressors	\$350,000.00
Electrical		\$75,000.00
Carcass Rails and hangers		\$4,000.00
Beams and Steel	8 inch beams, 12 inch beams and 8x8 Steel tube	\$25,000.00
Switches	Switchs	\$350.00
Labor		\$60,000.00
<b>Total Phase 2</b>		<b>\$612,475.00</b>
Phase 3		
Building 1128 Square Feet	Boning Room, Box Cooler and Shipping Dock Engineering, Civil	\$282,000.00
Insulated Wall Panels		\$25,000.00
Insulate Ceiling Panels		\$10,000.00
Insulated Roll Up Doors	Doors between fab, box Cooler and Doc	\$45,000.00
Dock Doors	2 Dock Doors and Plates	\$20,000.00
Refrigeration	For Boning Room, Box Cooler and Dock	\$750,000.00
Electrical	For All plant services	\$850,000.00
Cooler Ribbing Saw		\$13,000.00
Brisket Break Saw		\$25,000.00
Boning Room Front Saw		\$30,000.00
Front Stand to Match Saw		\$10,000.00
Table Conveyor	Live belt, product conveyor	\$80,000.00
Product Conveyor	Product to packaging machine	\$15,000.00
Combo Conveyor	Combo fill conveyor	\$20,000.00
Carts and Misc. Equipment	Carts and buggies to move product around	\$5,000.00
Rib Saw	Table Saw	\$22,000.00
Combo Scale	Weigh Combos of Meat	\$15,000.00
Box Scale	Weigh product cases and produce label	\$7,500.00
Vacuum Machine	Package all primal product	\$150,000.00
Pallet Racking	32 Pallet Spaces	\$4,500.00
<b>Total Phase 3</b>		<b>\$2,379,000.00</b>



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**AGENDA ITEM 6:**

**KILL/CHILL MATTERS**

***B. Proposed Contract with McGill & Associates for Permit Modification***

**MANAGER'S COMMENTS:**

Mr. Hamilton will present a proposal from McGill & Associates for the permit modification required to allow for the placement and construction of the Kill/Chill facility at the landfill location. The proposal is in the amount of \$35,000 and per Mr. Hamilton, will be paid from grant monies received for the Kill/Chill project.

Board action is required, contingent upon County Attorney review, to accept McGill & Associates proposal to modify the existing landfill permit in the amount of \$35,000.



October 25, 2023

Mr. Rex Buck  
Operation Services Manager  
Watauga County Solid Waste and Recycling  
336 Landfill Road  
Boone, North Carolina 28607

RE: Proposal for Engineering Services  
Kill Chill Facility Permitting at Solid Waste Facility  
Watauga County, North Carolina

Dear Rex,

McGill Associates is pleased to provide this proposal to assist Watauga County with the permitting requirements of constructing a meat slaughter and cooling facility (Kill-Chill) on site at the Solid Waste Facility on Landfill Road in Boone per our previous meeting on September 12, 2023. The proposed Kill-Chill has been brought to the County through the local NC State Extension Office. The Kill-Chill would connect to services on site at the Solid Waste Facility and use the existing access roads for entrance and egress. The location of the Kill-Chill is currently planned to be within the limits of future cells for the existing Land Clearing and Inert Debris Landfill (9502-LCID-2016). Therefore, it is McGill's understanding that the LCID permit will need to be modified to reflect a change in the footprint and potential capacity of this landfill. The capacity of the LCID may be impacted to such a degree that the facility will need to be closed. Finally the Operations Manual will need to be updated to reflect the change in facility operations and use as it relates to the addition of the Kill-Chill.

Please see below the proposed scope of services.

### **Solid Waste Permitting**

1. Meet with County staff and all appropriate parties to initiate communications, define schedules, gather and/or confirm data and information, and determine the specific technical requirements for the project.
2. Coordinate with North Carolina Department of Environmental Quality (NCDEQ) through permit approval to ensure compliance with site-specific requirements.
3. Coordinate with the NC State Extension Office and their chosen design consultant on site layout and details for construction and operation. Coordination to include a single meeting in-person or virtually to define the project and impacts and necessary follow up communication.



Rex Buck, Operation Services Manager  
October 25, 2023  
Page 2 of 3

4. Prepare a topographical survey of the existing LCID and Treatment & Processing area including the area proposed for the Kill-Chill facility. Survey to encompass approximately 6.9 acres.
5. Perform an analysis of the existing airspace and the impact the construction of the kill chill facility will have on the LCID. McGill will present the findings of this analysis to the County and NCDEQ for determination on how to proceed.
6. If closure of the LCID will be required, McGill will conduct additional coordination with NCDEQ and will update the documentation to reflect closure of the site. McGill will aid the County in pursuing closure of the site in accordance with 15A NCAC 13B .0567 and will prepare and submit the permit application package requesting closure to NCDEQ.
7. Update documentation for the modification of the permit. Documentation to be updated and revised shall include the Operations Manual and the Overall Site Plan.
8. Prepare drawings as necessary to support the modifications to the Operations Manual.
9. On behalf of Watauga County, submit the Permit Modification package to the Solid Waste Section of NCDEQ for review and concurrence.

### **BASIS OF COMPENSATION**

We anticipate providing the above efforts for an hourly estimated fee of **\$35,000**. Time and expenses will be billed on a monthly basis in accordance with the attached Basic Fee Schedule.

### **ASSUMPTIONS**

1. Drawings will be prepared in 24-inches by 36-inches size on McGill Associates title block, unless otherwise requested. For other formats, title block and appropriate fonts will be provided in AutoCAD format to our office.
2. Detailed design, bidding, construction administration/observation, and closeout services are not included in the above scope of services.
3. Our attendance at public meetings, or additional meetings not listed in the above scope, is not included in the above fees and will be billed on an hourly basis in accordance with the attached Basic Fee Schedule.
4. Services for tasks other than those specifically detailed above are not included in the above fees.

Rex Buck, Operation Services Manager  
October 25, 2023  
Page 3 of 3

We appreciate your consideration for our services and look forward to working with you. If the above is acceptable to you, please sign and return one (1) copy of the attached Consulting Services Agreement to us. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,  
**McGILL ASSOCIATES, P.A.**



**MARK D. CATHEY, PE**  
Asheville Office Manager

Attachments: Consulting Services Agreement  
Basic Fee Schedule

CC: Scott Burwell, PE, McGill Associates, P.A. (via email)

## CONSULTING SERVICES AGREEMENT

This contract entered into this 25<sup>th</sup> day of October 2023, by and between Watauga County, hereinafter called the Client, and McGill Associates, PA;

Witnesseth that:                   Whereas, the Client desires to engage McGill Associates to provide consulting services; and,  
   Whereas, the Client finds that the attached Scope of Services and terms of this agreement are acceptable; and,  
   Whereas, McGill Associates desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth. Now, therefore, the parties hereto do mutually agree as follows:

**1. Scope of Services:** McGill Associates shall provide the services attached hereto in the Contract Proposal "Scope of Services" of this Agreement, hereinafter called services. Fees for additional services will be negotiated with the Client prior to proceeding with the work.

**2. Standard of Care:** McGill Associates will perform its services using that degree of skill and diligence normally employed by professional engineers or consultants performing the same services at the time these services are rendered.

**3. Authorization to Proceed:** Execution of this Consulting Services Agreement will be considered authorization for McGill Associates to proceed unless otherwise provided for in this Agreement.

**4. Changes in Scope:** The Client may request changes in the Scope of Services provided in this Agreement. If such changes affect McGill Associates cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this Agreement.

**5. Compensation:** The Client shall pay the compensation to McGill Associates set forth in the Contract Proposal "Basis of Compensation" attached hereto. Unless otherwise provided in the Basis for Compensation, McGill Associates shall submit invoices to the Client monthly for work accomplished under this agreement and the Client agrees to make payment to McGill Associates within thirty (30) days of receipt of the invoices. It is also mutually agreed that should the Client fail to make prompt payments as described herein, McGill Associates reserves the right to immediately stop all work under this agreement until disputed amounts are resolved.

**6. Personnel:** McGill Associates represents that it has, or will secure at their own expense, all personnel required to perform the services under this agreement and that such personnel will be fully qualified and adequately supervised to perform such services. It is mutually understood that should the scope of services require outside subcontracted expertise McGill Associates may employ such services at their discretion.

**7. Opinions or Estimates of Cost:** Any costs estimates provided by McGill Associates shall be considered opinions of probable costs. These along with project economic evaluations provided by McGill Associates will be on a basis of experience and judgment, but, since McGill Associates has no control over market conditions or bidding procedures, McGill Associates cannot warrant that bids, ultimate construction cost, or project economics will not vary from these opinions.

**8. Termination:** This Agreement may be terminated for convenience by either the Client or McGill Associates with fifteen (15) days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such non-performance within five (5) days of written notice and diligently complete the correction thereafter. On termination, McGill Associates will be paid for all authorized work performed up to the termination date plus reasonable project closeout costs.

**9. Limitation of Liability:** McGill Associates liability for Client's damages will, in aggregate, not exceed the total fees paid by the Client for the Scope of Services referenced herein or \$50,000 whichever is greater. This provision takes precedence over any conflicting provision of this Agreement or any

documents incorporated into it or referenced by it. This limitation of liability will apply whether McGill Associates liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include McGill Associates' directors, officers, employees and subcontractors. At additional cost, Client may obtain a higher limit prior to commencement of services.

**10. Assignability:** This agreement shall not be assigned or otherwise transferred by either McGill Associates or the Client without the prior written consent of the other.

**11. Severability:** The provisions of this Consulting Services Agreement shall be deemed severable, and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this consulting services agreement is deemed unenforceable for any reason whatsoever, such provision shall be appropriately limited, and given effect to the extent that it may be enforceable.

**12. Ownership of Documents:** All documents, calculations, drawings, maps and other items generated during the performance of services shall be considered intellectual property and remain the property of McGill Associates. Client agrees that the deliverables are intended for the exclusive use and benefit of and may be relied upon for this project only by the Client and will not be used otherwise. Client agrees that any prospective lender, buyer, seller or third party who wishes to rely on any deliverable must first sign McGill Associates' Secondary Client Agreement.

**13. Excusable Delay:** If performance of service is affected by causes beyond McGill Associates control, project schedule and compensation shall be equitably adjusted.

**14. Indemnification:** Client agrees to indemnify, defend and hold McGill Associates, its agents, employees, officers, directors and subcontractors harmless from any and all claims, and costs brought against McGill Associates which arise in whole or in part out of the failure by the Client to promptly and completely perform its obligations under this agreement, and as assigned in the Contract Proposal "Scope of Services" or from the inaccuracy or incompleteness of information supplied by the Client and reasonably relied upon by McGill Associates in performing its duties or for unauthorized use of the deliverables generated by McGill Associates. Furthermore, McGill agrees to indemnify, defend and hold the Client harmless from any claims brought against the Client as a result of McGill's work.

**15. Choice of Law:** This Agreement shall be governed by the internal laws of the State of North Carolina.

**16. Entire Agreement:** This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements, whether oral or written, and may only be modified or amended as herein provided; and as mutually agreed.

**17. Attachments to this document:**  
 1. Contract Proposal including Scope of Services and Basis of Compensation.

Client: Watauga County

Authorized Signature:

Print Name: Deron Geouque

Title: County Manager

Address: 814 West King Street, Suite 205  
 Boone, North Carolina 28607

McGill Associates, P.A.



Print Name: Scott Burwell, PE

Title: Senior Project Manager

Address: 55 Broad Street  
 Asheville, North Carolina 28801

## BASIC FEE SCHEDULE

July 2023

<b>PROFESSIONAL FEES</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>
Senior Principal	\$250			
Principal – Regional Manager – Director	\$220	\$225	\$240	\$245
Practice Area Lead	\$195	\$210	\$220	\$235
Senior Project Manager	\$200	\$210	\$215	\$220
Senior Engineer	\$200	\$210	\$215	\$220
Project Manager	\$170	\$180	\$185	\$190
Senior Project Engineer	\$170	\$180	\$185	\$190
Project Engineer	\$135	\$145	\$155	\$165
Engineering Associate	\$120	\$125	\$130	\$135
Planner- Consultant – Designer	\$120	\$130	\$155	\$165
Engineering Technician	\$110	\$120	\$125	\$135
CAD Operator - GIS Analyst	\$90	\$100	\$110	\$115
Construction Services Manager	\$140	\$150	\$170	\$185
Construction Administrator	\$110	\$125	\$135	\$145
Financial Services Manager	\$125	\$135	\$145	\$155
Grant Administrator	\$115	\$125	\$135	\$145
Construction Field Representative	\$90	\$105	\$115	\$125
Environmental Specialist	\$90	\$100	\$105	\$110
Administrative Assistant	\$75	\$80	\$90	\$105
Survey Party Chief	\$90	\$105	\$120	\$140
Survey Field Technician	\$75	\$80	\$85	\$90

### **EXPENSES**

- a. Mileage - \$0.70/mile
- b. Flow Monitoring Equipment: Pressure Flow Meter- \$400/wk.; Gravity Flow Meter - \$1,000/deployment
- c. Robotics/GPS Equipment: \$30/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

### **ASSOCIATED SERVICES**

- a. Associated services required by the project such as soil analysis, materials testing, etc., shall be at cost plus ten (10) percent.

**AGENDA ITEM 6:**

**KILL/CHILL MATTERS**

***C. Proposed Contract with Mattern & Craig for Water/Sewer System Engineering, Design, & Permitting***

**MANAGER'S COMMENTS:**

Mr. Hamilton will request the Board contract with Mattern & Craig for design, engineering, permitting, and construction administration for the water and sewer system for the Kill/Chill facility. The contract is in the amount of \$137,500 and per Mr. Hamilton, will be paid from grant monies received for the Kill/Chill project.

Board action is required, contingent upon County Attorney review, to accept Mattern & Craig's proposal for design, engineering, permitting, and construction administration for the water and sewer system for the Kill/Chill facility.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

EJCDC® E-500, Agreement between Owner and Engineer for Professional Services, is published in two parts: (1) this part, the E-500 Agreement form, and (2) the Exhibits to Agreement between Engineer and Subconsultant for Professional Services. This first part contains a Guidelines for Use section that pertains to both the Agreement form and the Exhibits.

## AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by



# ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES

# ASCE

AMERICAN SOCIETY OF CIVIL ENGINEERS

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# AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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## AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

This is an Agreement between **Watauga County, NC** (Owner) and **Mattern & Craig** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as **the Watauga County Kill-Chill Project** (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as **civil site design, permitting, construction administration and limited resident project representation**.

Owner and Engineer further agree as follows:

### ARTICLE 1—SERVICES OF ENGINEER

#### 1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

### ARTICLE 2—OWNER'S RESPONSIBILITIES

#### 2.01 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
  1. design objectives and constraints;
  2. space, capacity, and performance requirements;
  3. flexibility and expandability needs;
  4. design and construction standards;
  5. budgetary limitations; and
  6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
  1. Property descriptions.
  2. Zoning, deed, and other land use restrictions.
  3. Surveys, topographic mapping, and utility documentation.
  4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretation of such information or data.
  6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
  7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
  - D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
  - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
  - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
  - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
    1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;
    2. insurance and bonding requirements;
    3. protocols for electronic transmittals during bidding and construction;

4. Owner's safety and security programs applicable to Contractor and other Constructors;
  5. diversity and other social responsibility requirements;
  6. bidding and contract requirements of funding, financing, or regulatory entities;
  7. other specific conditions applicable to the procurement of construction or contract documents;
  8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

### 2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
  2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
  3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.
- D. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:

1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
  2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

#### 2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
  1. any development that affects the scope or time of performance of Engineer's services;
  2. the presence at the Site of any Constituent of Concern; or
  3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of

authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

J. Owner shall:

1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
2. Primarily communicate with Engineer’s Subcontractors and Subconsultants through the Engineer.
  - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer’s Subcontractors or Subconsultants.
  - b. Refrain from directing the services of Engineer’s Subcontractors or Subconsultants.
3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.
4. Perform or provide the following:
  - a. **A completed boundary and topographic survey in AutoCAD format.**
  - b. **Preliminary/final plans for the adjacent development of the Enterprise Drive area as pertains to possible impacts to the water and sewer services to this facility.**
  - c. **Any available plans and ACAD drawings for the transfer station and trailer parking site expansion currently under way.**

2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer’s compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Basic Services (Article 1 of Exhibit A)	\$117,510	Lump Sum
2.	Resident Project Representative Services	\$ 20,000	Hourly
4.	Additional Services (Article 2 of Exhibit A)		Hourly

Based on a **12-month** continuous construction period.

1. Compensation items and totals based in whole or in part on Hourly Rates, Direct Labor, or Percentage of Construction Cost are estimates only.
2. Lump sum amounts incorporate Engineer’s labor, overhead, profit, and Engineer’s Subcontractor and Subconsultants’ charges.

**ARTICLE 3—SCHEDULE FOR RENDERING SERVICES**

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

### 3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

## ARTICLE 4—INVOICES AND PAYMENTS

### 4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

### 4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
  - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
  - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or

use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

## **ARTICLE 5—OPINIONS OF COST**

### 5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### 5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## **ARTICLE 6—GENERAL CONSIDERATIONS**

### 6.01 Standards of Performance

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. **Technical Accuracy:** Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Reliance on Others:** Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. **Compliance with Laws and Regulations, and Policies and Procedures**
  - 1. Engineer and Owner shall comply with applicable Laws and Regulations.



2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
  - a. changes after the Effective Date to Laws and Regulations,
  - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
  - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer, subject to the following provisions:
  1. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents and subject to the express exclusions that follow, Engineer and any Subconsultants will grant to Owner the ownership of the Documents, including all associated copyrights and the right of reuse.
  2. When requested by Owner, Engineer will perform any clerical or administrative acts reasonably necessary to confirm or record the transfer of Engineer's interests in the Documents to the Owner, and Owner will reimburse the Engineer for its costs to comply with the transfer request.
  3. Engineer shall have and retain the ownership, title, and property rights, including copyright, patent, intellectual property, and common law rights, in any design elements (including but not limited to standard details, drawings, plans, specifications, methodologies, and engineering computations) used in the Documents, but developed by Engineer or its Subconsultants previous to or independent of this Agreement ("Previously/Independently Created Works"). Engineer shall provide appropriate verification of such previous or independent development upon Owner's request.
  4. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, Engineer will issue to Owner a royalty-free, nonexclusive and irrevocable license to use such Previously/Independently Created Works on the Project or on any extension of the Project.
  5. Owner acknowledges that the Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer.
  6. Any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants.

7. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer.
  8. Such limited license to Owner shall not create any rights in third parties.
  9. Nothing herein limits the Engineer's right of use or reuse of Previously/Independently Created Works or any of Engineer's non-Document work product.
- B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
  - C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
  - D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

### 6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
  1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
  2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations

as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.

- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

#### 6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
  1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
  2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
  3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
  4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
  1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.

- G. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

#### 6.05 Suspension and Termination

##### A. Suspension

- 1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
  - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
  - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
  - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

##### B. Termination for Cause

- 1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.

- a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
    - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
    - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
    - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
  3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.
- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
  2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating

contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

#### 6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
  1. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
  3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

#### 6.07 Dispute Resolution

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
  1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
  2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
  3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
    - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
    - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

#### 6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of the Project; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the Project is located.

#### 6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
  - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
  - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
  - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.



- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
  2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that:
1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
  2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

#### 6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

#### 6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

## ARTICLE 7—DEFINITIONS

### 7.01 Defined Terms

- A. Wherever used in this Agreement (including the exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
1. **Addenda**—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
  2. **Additional Services**—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of this Agreement.
  3. **Agreement**—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
  4. **Application for Payment**—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
  5. **Basic Services**—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
  6. **Bidding/Proposal Documents**—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
  7. **Change Order**—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
  8. **Change Proposal**—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
  9. **Constituents of Concern**—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. Electronic Means—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or

communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. Engineer—The individual or entity named as such in this Agreement.
23. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. Owner—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
28. Project—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
29. Record Drawings—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
30. Resident Project Representative—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR.
31. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

32. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. Site—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
34. Specifications—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
37. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
38. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
39. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs,

allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

## ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

### 8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. – **Not Used**
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form).
- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.

- H. Exhibit H, Dispute Resolution. – **Not Used**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.

#### 8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

#### 8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that the individual represents.

#### 8.04 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
  3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

#### 8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
  1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.



2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Agreement's Effective Date is \_\_\_\_\_.

Owner:

Watauga County, NC

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone:

Email:

Engineer:

Mattern & Craig, Inc.

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

Randy W. Beckner, P.E.

(typed or printed)

Title:

Chairman of the Board

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

Linda Bookhardt

(typed or printed)

Address for giving notices:

Mattern & Craig

403 E. Market Street

Johnson City, TN 37601

Designated Representative:

Name:

Randy W. Beckner, P.E.

(typed or printed)

Title:

Chairman of the Board

(typed or printed)

Address:

Mattern & Craig

403 E. Market Street

Johnson City, TN 37601

Phone:

(423) 979-2220

Email:

[rwbeckner@matternandcraig.com](mailto:rwbeckner@matternandcraig.com)

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

EJCDC® E-500, Agreement between Owner and Engineer for Professional Services, is published in two parts: (1) the E-500 Agreement form, and (2) this Exhibits document, consisting of the standard exhibits used with E-500. The first of the two parts contains a Guidelines for Use section that pertains to both the Agreement form and the Exhibits.

## EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared By



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# EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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**EXHIBIT A—ENGINEER’S SERVICES**

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Article 1 of the Agreement, Services of Engineer, is supplemented to include the following provisions:

Baseline Information: Owner has furnished the following Project information to Engineer as of the Effective Date. Engineer’s scope of services has been developed based on this information. As the Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

- Project Title: Watauga County Kill-Chill Civil Site Design
- Description of Improvements: Access roadways; parking and truck areas; building site; water and sewer services to the building; and regulatory approvals.
- Prior Studies, Reports, Plans: Memorandum – Proposed Meat Processing Facility Water and Wastewater Connections dated January 18, 2022 as prepared by McGill Associates.
- Facility Location: Property at the Watauga County Transfer Station
- Funding Sources: Multiple including Federal

Engineer shall provide Basic and Additional Services as set forth below.

**ARTICLE 1—BASIC SERVICES**

- 1.01 Management of Engineering Services
  - A. All phases of Engineer’s services will include management of Engineer’s Project-specific responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.

1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
    - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B.
    - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
    - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
  2. Develop and submit detailed work plans from Exhibit A tasks.
  3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
  4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Project that may affect, or be affected by, Engineer's services or resulting construction.
  5. Prepare and submit **monthly** engineering services progress reports to the Owner. Include summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
  6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, provide the specified additional information or documentation, following the invoicing procedures indicated: **Not Applicable**
  7. Conduct ongoing management tasks, including:
    - a. Maintaining communications records and files pertaining to or arising from Engineer's services;
    - b. With respect to Engineer's services and other directly relevant parts of the Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
    - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. In all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with **Engineer's CAD standards**.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be **Engineer's standard specifications**, unless otherwise mutually agreed upon by the parties.
- 1.02 Study and Report Phase – **Previously completed**.
- 1.03 Preliminary Design Phase
- A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables (if Engineer's services under this Agreement included Study and Report Phase services); selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable



features in the design, or enhanced resiliency of the design; indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document in writing any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design and resiliency instructions, specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.

- B. Upon written authorization from Owner, Engineer shall:
1. Review and assess all available Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
  2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of a Preliminary Design Phase Report.
  3. Prepare a Preliminary Design Phase Report which will consist of final design criteria, preliminary drawings, a preliminary list of expected specifications, and written descriptions of the Project. The Preliminary Design Phase Report will consider the following matters to the extent applicable to the Project and as necessary to establish the basis of design for proceeding to final design and construction:
    - a. The Project concept, intent, performance criteria, desired outcomes, Owner's standards and Owner directed improvements and facility elements as established in the Study and Report Phase and as expressly set forth in the Baseline Information section of this Exhibit A (collectively the "Project Goals").
    - b. Recommended appropriate design criteria for each primary portion and significant discipline of the design necessary to address the Project Goals.
    - c. Site conditions and characterization as known at the time of, or to be determined during, the Preliminary Design Phase, including topography; subsurface information; Constituents of Concern; cultural, historical, and archaeological resources at the Site; wetlands information; and evaluations of flora and fauna that may be affected by the Project.
    - d. The time schedule for completion of the Project in accordance with Project Goals, including any recommended changes to the time required to complete the Final Design Phase (as set forth in Exhibit B, Deliverables Schedule) and estimated schedule(s) for construction.
    - e. Identification of major items of materials and equipment, rationale for selection with consideration of quality, suitability, pricing, sourcing, regulatory, and bidding issues affecting recommended selection.
    - f. Revised opinions of probable Construction Cost.

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**Exhibit A—Engineer's Services.**

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- g. The impact of Project Strategies, Technologies, and Techniques, sustainable features, and enhanced resiliency selected by Owner for inclusion in the Project on the Project Goals, schedule and probable Construction Cost, including impact of multiple prime construction contracts, separate procurement of materials or equipment, and other alternate project delivery methods when the Project Goals necessitate and Owner authorizes;
  - h. Construction Phase quality assurance and quality control needs affecting development of Drawings and Specifications and other Final Design and Bidding Phase documents.
  - i. The effect of permits and authorizations by other entities and utility coordination needs on the Project.
  - j. Other matters and information pertinent to addressing the Project Goals.
4. In preparing the Preliminary Design Phase Report, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.
  5. Visit the Site as needed to prepare the Preliminary Design Phase Report.
  6. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.
  7. Above-Ground Utilities
    - a. Review above-ground utilities information obtained from Owner and from observations at the Site.
    - b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
    - c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.
  8. Underground Facilities
    - a. Review Underground Facilities data furnished by Owner. Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to jointly establish a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site, using ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing such Underground Facilities Procedure.
    - b. Such Underground Facilities Procedure must take into account the Site and the nature of the Project.

- c. Use the Underground Facilities Procedure to aid in the performance of design services:
    - 1) Account for Underground Facilities, based on available information, when advancing the design during the Preliminary Design Phase.
    - 2) The Underground Facilities Procedure will include a plan to keep Underground Facilities information current as Engineer proceeds with the provision of design services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.
    - 3) To manage the potential impact of design changes on Underground Facilities, Engineer shall work together with Owner to modify or reapply the Underground Facilities Procedure as the design progresses and changes.
9. Mitigation of Utilities Conflicts
- a. Identify potential conflicts between the Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
  - b. Update the Underground Facilities Procedure as necessary for any Underground Utilities conflicts and relocations.
  - c. Working together with Owner, jointly identify which specific parties or other entities will be responsible for implementation of the various specific parts of the Underground Facilities Procedure (including those parts that address resolution of Underground Facilities conflicts), and for resolution of above-ground utilities conflicts. Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to Underground Facilities and above-ground utilities.
    - 1) To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also implement any non-design part of the Underground Facilities Procedure (including resolution of Underground Facilities conflicts), or undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.
10. Surveys, Topographic Mapping, and Utility Documentation
- a. Coordinate with Owner's utility engineer, utility consultant, or land surveyor for the necessary field surveys, topographic mapping, and utility documentation required for Engineer's design purposes, or by the Underground Facilities Procedure.
  - b. If no scope of work and procedure for utility documentation has been established, selected, or authorized, then at a minimum Engineer will contact utility owners and obtain available information. Except as otherwise provided in this Agreement, Owner acknowledges that the information gathered from utility owners may be

incorrect, incomplete, outdated, or otherwise flawed, and as to Engineer, bidders, and Contractor, the Owner accepts all associated risks. Owner reserves all associated rights as to recourse against the sources of such flawed information and against third parties.

11. Prepare initial draft of a comprehensive permit document that identifies Owner's permit duties, Engineer's permit duties, and Contractor's permit duties, and the schedule for permitting activities.
12. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement in Exhibit A Paragraph 1.03.A.
13. Obtain Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's Bidding/Proposal Documents and Front-End Construction Contract Documents.
  - a. Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents (if other than the EJCDC 2018 Construction Series documents), and any other related documents or content for Engineer to include in drafts of the Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.
  - b. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
14. Prepare the Preliminary Design Phase Report. This Report will consist of, as appropriate, separate or combined submittals in whole or summary, the Preliminary Design Phase documents listed in Exhibit A Paragraph 1.03.B.4, and Engineer's findings and recommendations for advancing the Project to the Final Design Phase (including Engineer's findings and recommendations, if any, regarding permitting, utilities, and Underground Facilities). The submittal will be in the format of a report, or otherwise organized and assembled for ease and practicality of use.
  - a. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and on the basis of information furnished by Owner, assist Owner in tabulating the various cost categories which comprise Total Project Costs.
  - b. Engineer will meet with Owner to discuss the draft Preliminary Design Phase submittal and receive Owner's comments.
15. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
  - a. **None.**
16. Furnish the Preliminary Design Phase Report, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.

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Exhibit A—Engineer's Services.

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17. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Preliminary Design Phase Report (as revised) and associated documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

#### 1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase Report and any other Preliminary Design Phase deliverables; issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.
1. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **one (1)**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
  2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
  3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon written authorization from Owner, Engineer shall prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Report (as revised) and other Preliminary Design Phase deliverables. As part of the preparation of the Drawings and Specifications, Engineer shall prepare interim drafts and final Drawings and Specifications as follows, pursuant to the Deliverables Schedule in Exhibit B:

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Exhibit A—Engineer's Services.

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1. First Final Design Phase draft of all Drawings and Specifications.
  2. Final Drawings and Specifications that address Owner comments; complete the design; are suitable for estimating and pricing by prospective Contractors; and are complete and ready for construction.
- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
1. Such documents will be based on the 2018 EJCDC Construction Documents, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.
  2. When Engineer is required to use other than the 2018 EJCDC Construction Documents, then as required in the Preliminary Design Phase Owner will furnish to Engineer a copy of the required documents to be used for the Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Project.
  3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
- E. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
  2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- F. Engineer shall perform or furnish the following other Final Design Phase services:
1. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
  2. Assist with or prepare applications for permits and approvals, as follows:
    - a. Update comprehensive permit document created in Preliminary Design Phase for Final Design detail.

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- b. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Project:
    - 1) **NCDEQ submittals for water and sanitary sewer**
    - 2) **SWPPP and NPDES Stormwater submittals**
    - 3) **Site Development review submittals**
  - c. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction.
  - d. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
  - e. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.
  - f. Unless expressly indicated otherwise, Engineer's scope and budget includes attending one meeting or conference call with each permit and approval-issuing agency to discuss the Project and receive the agency's comments on the application.
  - g. Engineer does not guarantee issuance of any required permit or approval.
  - h. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
3. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost. Furnish to Owner an updated opinion of probable Construction Cost with the interim and final deliverables of the Drawings and Specifications.
  4. After consultation with Owner, include in the Front-End Construction Contract Documents any Electronic Document Protocol addressing specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website.
  5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
  6. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.

7. Engineer's project manager and other appropriate staff will participate in the following meetings and conference calls:
    - a. First draft design review meeting at Owner's office.
    - b. Engineer will prepare and distribute minutes of each such meeting and conference call, indicating attendees, topics discussed, decisions made, and action items for follow-up.
  8. Perform or provide the following other Final Design Phase activities or deliverables:
    - a. **None.**
- G. Engineer shall complete the Final Design Phase as follows:
1. Pursuant to the requirements of the Deliverables Schedule in Exhibit B, furnish for review by Owner, its legal counsel, and other advisors, the final Drawings and Specifications (as set forth in Exhibit A Paragraph 1.04.B.3 above); assembled drafts of other Construction Contract Documents including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost; and any other Final Design Phase deliverables, and review the deliverables with Owner.
  2. Revise the final Design Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
  3. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications; assembled drafts of the Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; and any other Final Design Phase deliverables, as revised.

#### 1.05 Bidding/Proposal Phase

- A. After acceptance by Owner of the final Drawings and Specifications; assembled drafts of other Construction Contract Documents, including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and any other Final Design Phase deliverables, and upon written authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work; assist Owner in issuing assembled Bidding/Proposal Documents and proposed Construction Contract Documents to prospective contractors; if applicable, maintain a record of prospective contractors to which documents have been issued; attend pre-bid conferences, if any; and receive and process contractor deposits or charges, if any, for the issued documents.
    - a. **Owner's procurement website; commercial plan rooms or web services; and distribution by Engineer will be use for distributing Bidding Documents**
  2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents.
  3. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by



prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Exhibit A Paragraph 2.01.A.2.

4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
6. Consult with Owner as to the qualifications of prospective contractors.
7. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
9. Perform or provide the following other Bidding/Proposal Phase tasks or deliverables:
  - a. **None.**
10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

#### 1.06 Construction Phase

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Project.
  1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.
  2. Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A. Notwithstanding the foregoing waiver, Engineer shall be responsible for any

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professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post-Construction Phase, including interpretations or clarifications of the Construction Contract Documents.

- B. Upon successful completion of the Bidding/Proposal Phase, and upon written authorization from Owner, Engineer shall provide the following services:
1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), the extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
    - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than Engineer) responsible for the additional responsibilities in the Construction Contract.
    - b. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.
    - c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
  2. Resident Project Representative (RPR): Provide the services of an RPR at the Site to assist Engineer and to provide more extensive observation of Contractor's Work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
  3. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform required testing services.
  4. Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.

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5. Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
6. Original Documents: If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values. Advise Contractor in writing of Engineer's comments or acceptance of schedules.
  - a. Schedules will be acceptable to Engineer as to form and substance:
    - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
    - 2) Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.
    - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
8. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
10. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
  - a. Make up to six (6) visits to the Site at intervals appropriate to the various stages of the Work, as Engineer deems necessary, to observe as an experienced and qualified design professional, the progress of Contractor's executed Work. Such visits and observations by Engineer, including its RPR, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of

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general observation of the Work based on Engineer's exercise of professional judgment, as assisted by its RPR, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. Engineer will make a report of Engineer's visit, summarizing Engineer's general observations and any significant findings.

- b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to by this Agreement and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer will not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
11. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
    - a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.
    - b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility

for Contractors' or Subcontractors' safety precautions and programs incident to the Work.

12. **Compatibility with Design Concept:** If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
13. **Clarifications and Interpretations:** Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
14. **Non-reviewable Matters:** If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
15. **Field Orders:** Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
16. **Change Orders and Work Change Directives:** Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
17. **Change Proposals and Claims**
  - a. **Review and respond to Change Proposals.** Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.
  - b. **Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.**
18. **Differing Site Conditions:** Respond to any notice from Contractor of differing site conditions, including conditions relating to Underground Facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use subject to limitations of Engineer's obligations under this Agreement.

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19. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's Submittal schedule that Engineer has accepted.
20. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.
21. Inspections and Tests
  - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining whether the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
  - b. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
  - c. Issue written requests to Contractor that specific portions of the Work remain uncovered.
  - d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
  - e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
22. Contractor's Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
  - a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set offs) based on the provisions for set offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the

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recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).

- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
23. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Exhibit A Paragraph 1.06.B.20. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.
24. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
25. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:

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- a. **None.**
26. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:
- a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;
  - b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
  - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and
  - d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
27. Standards for Certain Construction-Phase Decisions: Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- C. Duration of Construction Phase: The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor. If the Project involves more than one prime contract as indicated in Exhibit A Paragraph 1.04.A.1, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.
- 1.07 Post-Construction Phase
- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
    - 1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.



2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
  3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
    - a. **None.**
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate 12 months after the commencement of the Construction Contract's correction period.

## ARTICLE 2—ADDITIONAL SERVICES

### 2.01 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
  2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
    - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
    - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project;
    - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
    - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
  3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
  4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during

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construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

5. Implement coordination of Engineer's services with other parts of the Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.
6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

## 2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
  1. Obtain or provide specified additional Project-related information and data to enable Engineer to complete its Basic and Additional Services.
  2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
  3. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in

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Exhibit A—Engineer's Services.

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connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

4. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
5. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1.
7. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
9. Undertaking investigations and studies including, but not limited to:
  - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
  - b. detailed consideration of operations, maintenance, and overhead expenses;
  - c. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
  - d. preparation of appraisals;
  - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
  - f. detailed quantity surveys of materials, equipment, and labor; and
  - g. audits or inventories required in connection with construction performed or furnished by Owner.
10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.

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11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
12. Providing the following services:
  - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.
  - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
13. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Article 1 of Exhibit A).
14. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor.
18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Project or implementing other Electronic Documents protocols among Project participants.
19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.
20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total

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quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.

21. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
22. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
23. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
24. Preparation of operation, maintenance, and staffing manuals.
25. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
27. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Exhibit A Paragraph 1.06.B.9; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points or property monuments lost or destroyed during construction; and providing other special field surveys.
31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
33. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

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**EXHIBIT B—DELIVERABLES SCHEDULE**

Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Agreement are supplemented by the following paragraph and table.

Engineer shall furnish Documents to Owner as required in Column 2 of the following table (and as further described in Exhibit A), according to the schedule in Column 4. Owner shall comment or take other identified actions with respect to the Documents as indicated in Column 2 (and as further described in Exhibit A), according to the schedule in Column 4.

<b>Party</b>	<b>Action</b>	<b>Exhibit A Reference</b>	<b>Schedule</b>
Engineer	Submit <b>electronic</b> review copies of the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.17	Within <b>45</b> days of Owner's authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	1.03.B.18	Within <b>15</b> days of the receipt from Engineer of Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit <b>electronic</b> copies of the revised Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.18	Within <b>15</b> days of the receipt of Owner's comments regarding the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit <b>electronic</b> copies of the first Final Design Phase draft of Drawings and Specifications to Owner.	1.04.B.1	Within <b>90</b> days of Owner's authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the first Final Design Phase draft of Drawings and Specifications to Engineer.	1.04.B.1	Within <b>15</b> days of the receipt of the first final Design Phase drafts of Drawings and Specifications from Engineer.
Engineer	Submit <b>electronic</b> copies of the final, completed, pricing-ready and construction-ready Drawings and Specifications to Owner.	1.04.B.3 and 1.04.G.1	Within <b>30</b> days of the receipt of Owner's comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications to Engineer.	1.04.G.2	Within <b>15</b> days of the receipt from Engineer of the final, completed, pricing-ready and construction-ready Drawings and Specifications.

**Exhibit B—Deliverables Schedule.**

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Party	Action	Exhibit A Reference	Schedule
Owner	Submit comments and instructions regarding drafts of Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Engineer.	1.04.D.3; 1.04.F.8	Concurrent with Owner's submittal of comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Engineer	Submit to Owner: <b>electronic</b> copies of the revised final, completed, pricing-ready and construction-ready Drawings and Specifications; and <b>two (2)</b> of copies of assembled Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.	1.04.G.2  1.04.G.3	Within <b>15</b> days of receipt of Owner's final comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications, the Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.

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Exhibit B—Deliverables Schedule.

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**EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT**

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**AMENDMENT TO OWNER-ENGINEER AGREEMENT**

Amendment No. **[Enter Amendment Number]**

Owner: **Watauga County, NC**  
 Engineer: **Mattern & Craig, Inc.**  
 Project: **Watauga County Kill-Chill Site Design**  
 Effective Date of Owner-Engineer Agreement: **[Effective Date of Agreement]**

Nature of Amendment: (Check those that apply)

- Additional Services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications of payment to Engineer
- Modifications to time(s) for rendering services
- Modifications to other terms and conditions of the Agreement

Description of Modifications:

**[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]**

Agreement Summary:

Original agreement amount: \$  
 Net change for prior amendments: \$  
 This amendment amount: \$  
 Adjusted Agreement amount: \$  
 Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is **[Enter Effective Date of Amendment]**.

Owner	Engineer
(typed or printed name of organization)	(typed or printed name of organization)
By: _____ (individual's signature)	By: _____ (individual's signature)
(Attach evidence of authority to sign.)	(Attach evidence of authority to sign.)
Date: _____ (date signed)	Date: _____ (date signed)
Name: _____ (typed or printed)	Name: _____ (typed or printed)
Title: _____ (typed or printed)	Title: _____ (typed or printed)



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## EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

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### ARTICLE 1—RESIDENT PROJECT REPRESENTATIVE SERVICES

Article 1 of the Agreement, Services of Engineer, and Exhibit A, Engineer's Services, are supplemented to include Exhibit D Paragraphs 1.01, 1.02, and 1.03, as follows:

#### 1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to observe progress and quality of the Work. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. **The RPR will provide full-time representation during utility construction and as required by any of the various funding agencies, or as directed by the Owner.**
- C. Subject to the scope of RPR's observations of the Work, which may include field checks of materials and installed equipment, Engineer shall endeavor to identify defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, inspect, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A Paragraph 1.06 are applicable.

#### 1.02 Duties and Responsibilities of RPR

- A. The duties and responsibilities of the RPR are as follows:
  1. General: RPR's dealings in matters pertaining to the Work in general will be with Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
  3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. Safety Compliance: Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. Liaison
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. Clarifications and Interpretations: Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
7. Shop Drawings, Samples, and other Submittals
  - a. Receive Samples that are furnished at the Site by Contractor.
  - b. Receive Contractor-approved Shop Drawings.
  - c. Receive other Submittals from Contractor.
  - d. Record date of receipt of Samples, Contractor-approved Shop Drawings, and other Submittals.
  - e. Notify Engineer of availability of Samples for examination, and forward Contractor-approved Shop Drawings and other Submittals to Engineer. When appropriate recommend distribution of Submittal to specified Subconsultants.
  - f. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. Proposed Modifications: Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. Review of Work; Defective Work
  - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work.
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

#### 10. Inspections, Tests, and System Start-ups

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.
- f. Nothing in this Agreement will be construed to require RPR to conduct inspections.

#### 11. Records

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Proposals, Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Proposals, Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the company names and points of contact for Contractors, Subcontractors, and major Suppliers of materials and equipment.
  - e. Maintain records for use in preparing Project documentation.
  - f. Upon completion of the Work, furnish original set of all RPR Project documentation to designated recipients.
12. Reports
- a. Furnish periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
  - b. Draft responses to or make recommends on Change Proposals, Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
  - c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
  - d. Immediately inform appropriate parties of the occurrence of any Site accidents, emergencies, natural catastrophes endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.
13. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
14. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
15. Completion
- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
  - b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
  - c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

### 1.03 Limitations of Authority

- A. Resident Project Representative shall not:
1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
  2. Exceed limitations of Engineer's authority as set forth in this Agreement.
  3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
  4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
  5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
  6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
  7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
  8. Authorize Owner to occupy the Project in whole or in part.

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**EXHIBIT E—EJCDC® C-626, NOTICE OF ACCEPTABILITY OF WORK**

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**NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)**

Owner:	Owner’s Project No.:
Engineer:	Engineer’s Project No.:
Contractor:	Contractor’s Project No.:
Project:	
Contract Name:	
Notice Date:	Effective Date of the Construction Contract:

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract’s Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated **[date of professional services agreement]** ("Owner Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): \_\_\_\_\_  
 Name (printed): \_\_\_\_\_  
 Title: \_\_\_\_\_



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## EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

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### ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

Paragraph 6.03 of the Main Agreement is supplemented by the following Exhibit F Paragraph 1.01 and Exhibit F—Attachment 1: Software Requirements for Electronic Document Exchange:

#### 1.01 Electronic Documents Protocol

A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals. References to "Project" will mean the Specific Project, or the facilities program or other combination of projects undertaken with Engineer's involvement, as the case may be.

##### 1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and Engineer and any third party for any portion of the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with Owner, Engineer, or any Contractor or other entity directly contracted with the Owner to furnish Project-related services. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications between and among the individual third parties and their respective subcontractors and consultants, except to the extent that any respective subcontractor or consultant exchanges Electronic Documents with the Owner or Engineer.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation (1) in the Agreement to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; (2) to comply with any

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Exhibit E—Notice of Acceptability of Work.

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applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or (3) to comply with any notice requirements limiting or otherwise modifying the acceptance of Electronic Documents for such notice.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
  - 1) The maximum size of an e-mail attachment for exchange of Electronic Documents under this EDP is **10 MB**. Attachments larger than that may be exchanged using large file transfer functions or physical media.
  - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Engineer, not reasonably anticipated under the original EDP, Engineer shall be entitled to compensation as Additional Services for its costs associated with the revisions to the EDP, delayed adoption of this exhibit, or implementation of other Electronic Documents protocols.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP, unless

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Exhibit E—Notice of Acceptability of Work.

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this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the Parties may rely for document archiving during the specified term of operation of such project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract, or termination of the project document archive, if one is established.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

#### B. Software Requirements for Electronic Document Exchange; Limitations

1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
  - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

#### C. Format and Distribution of Deliverables

1. By definition, "Documents" as used in this Agreement are documents expressly identified as deliverables from Engineer to Owner. Exhibit A of each specific Task Order identifies various Documents that Engineer is required to deliver to Owner as part of Engineer's services; Exhibit B of each specific Task Order is a schedule of such Documents. Engineer will transmit such Documents to Owner in the formats identified in Attachment 1 to this Protocol. If no specific format is identified for a deliverable Document, the format will be Portable Document Format (PDF).
2. If a Document will be distributed to third parties, such as prospective bidders and contractors, reviewing agencies, or lenders, the transmittal format for distribution will

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Exhibit E—Notice of Acceptability of Work.

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be as identified in Attachment 1 to this Protocol; provided, however, that if a format for distribution of a specific Document is expressly stated in a specific Exhibit A, then the Exhibit A format will take precedence. If no specific format is identified for distribution of a deliverable Document to third parties, the format will be Portable Document Format (PDF).

- a. If a format for Document distribution other than Portable Document Format (PDF) is specified, Owner shall first obtain a written, signed release from each third party to which the deliverable Document is distributed, establishing agreement to the following conditions:
  - 1) The content included in the Electronic Documents prepared by or for Engineer and covered by the request was prepared as an internal working document for Engineer's purposes solely and is being provided to the third party on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, the third party is advised and acknowledges that the content may not be suitable for the third party's application or may require substantial modification and independent verification by the third party. The content may include limited resolution of models; not-to-scale schematic representations and symbols; use of notes to convey design concepts in lieu of accurate graphics; approximations; graphical simplifications; undocumented intermediate revisions; and other devices that may affect subsequent reuse.
  - 2) Electronic Documents containing text, graphics, metadata, or other types of data that are provided to the Requesting Party are only for the convenience of the third party. Any conclusion or information obtained or derived from such data will be at the third party's sole risk and the third party waives any and all claims against Engineer or Owner arising from the use of the Electronic Documents covered by the request, or of any data contained in such Electronic Documents.
  - 3) The third party shall indemnify and hold harmless Owner, Engineer, and Engineer's Subcontractors and Subconsultants, from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from the third party's use, adaptation, or distribution of any Electronic Documents provided under the request.
  - 4) The third party agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the request and is limited to the third party's subcontractors and consultants. The third-party warrants that subsequent use by the third party's subcontractors and subconsultants will comply with all terms of the Construction Contract Documents and any specific instructions or conditions established by Owner.
- b. If Engineer is required to assist or participate in obtaining such releases from third parties, such services will be categorized as Additional Services.

- D. Requests by Project-Related Parties for Electronic Documents in Other Formats
1. Owner may release (or direct Engineer to release) an Electronic Document version of a Document prepared by or for Engineer, including but not limited to a deliverable Document as set forth in Exhibit F Paragraph 1.01.C, in a format other than those identified in Exhibit F Paragraph 1.01.B or 1.01.C of the Electronic Documents Protocol, or elsewhere in the Agreement, only if (a) a Contractor or other Project-related party (Requesting Party) makes a good faith request for such release, (b) Owner determines in its sole discretion that such release is prudent and will be beneficial to the Project, and (c) Owner obtains Requesting Party's written consent to the four conditions set forth in Exhibit F Paragraph 1.01.C.2.a.1-4 above.
  2. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under this Exhibit F Paragraph 1.01.D are Additional Services. Such services may include but are not limited to preparing the data in a manner deemed appropriate by Engineer. Owner may require reimbursement from the Requesting Party for the cost of such Additional Services, but compensation by Owner to Engineer for the Additional Services is not contingent upon Owner obtaining reimbursement from the Requesting Party.

**EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE**

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and Engineer; and, Owner's and Engineer's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by Engineer for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by Engineer to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner by Engineer for future data processing use and modification	Email w/ Attach or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification	Email w/ Attach or LFE	DB	
<b>Notes</b>				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
<b>Key</b>				
EMAIL	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version <b>10</b> or later.			
DWG	Autodesk® AutoCAD. dwg format Version <b>2018</b> or later.			
DOC	Microsoft® Word. docx format Version <b>10</b> or later.			
EXC	Microsoft® Excel .xlsx or .xml			
DB	Microsoft® Access .mdb			

**EXHIBIT G—INSURANCE****ARTICLE 2—INSURANCE**

Paragraph 6.04 of the Main Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

## 2.01 Insurance Policies and Limits

- A. In accordance with Paragraph 6.04.A of the Main Agreement, the insurance that Engineer must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
<b>Workers' Compensation</b>	
State	Statutory
<b>Employer's Liability</b>	
Each accident	\$1,000,000
Each employee	\$1,000,000
Policy limit	\$1,000,000
<b>Commercial General Liability</b>	
General Aggregate	\$3,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
<b>Automobile Liability</b>	
Bodily Injury	
Each Person	\$
Each Accident	
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$1,000,000
<b>Excess or Umbrella Liability</b>	
Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000
<b>Professional Liability</b>	
Each Claim	\$4,000,000
Annual Aggregate	\$
<b>Unmanned Aerial Vehicle Liability Insurance</b>	
Each Claim	\$1,000,000
General Aggregate	\$
<b>Other Insurance [Specify]</b>	
Each Claim	\$
General Aggregate	\$

## Exhibit G—Insurance.

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- B. In accordance with Paragraph 6.04.C of the Main Agreement, the insurance that Owner must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
<b>Workers' Compensation</b>	
State	Statutory
<b>Employer's Liability</b>	
Each accident	\$
Each employee\$	\$
Policy limit	\$
<b>Commercial General Liability</b>	
General Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
<b>Automobile Liability</b>	
Bodily Injury	
Each Person	\$
Each Accident	\$
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$1,000,000
<b>Excess or Umbrella Liability</b>	
Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000
<b>Unmanned Aerial Vehicle Liability Insurance</b>	
Each Claim	\$
General Aggregate	\$
<b>Other Insurance [Specify]</b>	
Each Claim	\$
General Aggregate	\$

2.02 Additional Insureds

- A. Owner shall cause Engineer, its Subconsultants, and its Engineer's Subcontractors to be listed as additional insureds on any of Owner's general liability policies that are applicable to the Project. The following individuals or entities are to be listed on Owner's general liability policies of insurance (and on Contractor's policies required under Paragraph 6.04.D of the Main Agreement) as additional insureds:

Name of Additional Insured	Address
<b>Mattern &amp; Craig</b>	<b>701 1<sup>st</sup> Street SW, Roanoke, VA 24016</b>

- B. During the term of this Main Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.

- C. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.
- D. For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- E. For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds.

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Exhibit G—Insurance.

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## EXHIBIT I—LIMITATIONS OF LIABILITY

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### ARTICLE 3—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s) **Mutual Indemnification and 1.02, Limitation of Engineer's Liability:**

#### 3.01 Mutual Indemnification

- A. Indemnification by Owner: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

#### 3.02 Limitation of Engineer's Liability

- A. Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's Subcontractors, officers, directors, members, partners, agents, employees, and Subconsultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project, to Engineer's or its Subconsultants' or Engineer's Subcontractor's services, or to this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Subconsultants, or Engineer's Subcontractors, will not exceed the total amount of \$100,000 or the total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.

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**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES: INTRODUCTION**


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**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**
**COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM**


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**ARTICLE 1—COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 1.01:

1.01 Compensation for Basic Services (other than Resident Project Representative)—Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services, if any) as follows:

1. A Lump Sum amount of **\$117,510** based on the following estimated distribution of compensation:

a. Study and Report Phase	Complete
b. Planning & Preliminary Design Phase	\$ 17,800
c. Final Design Phase	\$ 64,360
d. Bidding and Negotiating Phase	\$ 7,680
e. Construction Phase	\$ 27,670
f. Post-Construction Phase	\$ 0

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but compensation will not exceed the total Lump Sum amount unless approved in writing by the Owner.

3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses).

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): **None**.

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

B. Period of Service: The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding **18** months. If such period of service is extended, the compensation amount for Engineer's services will be appropriately adjusted.

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**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES****COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES**

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**ARTICLE 2—COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 2.01:

2.01 Compensation for Resident Project Representative Services—Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Resident Project Representative Services as follows:
1. Resident Project Representative Services: For services of Engineer's Resident Project Representative (RPR), if any, under Exhibits A and D, an amount equal to the cumulative hours charged by each class of Engineer's personnel providing RPR services times Standard Hourly Rates for each applicable billing class, plus RPR-related Reimbursable Expenses and RPR-related Engineer's Subcontractors' and Subconsultants' charges, if any. Standard Hourly Rates are set forth in Appendix 2, Standard Hourly Rates Schedule.
  2. The total compensation under this paragraph is estimated to be **\$20,000** based upon full-time RPR services on a ten-hour workday (including travel time), Monday through Friday, over an estimated 60-day construction schedule.
- B. Compensation for Reimbursable Expenses
1. For those Reimbursable Expenses that are directly related to the provision of RPR services and are not already accounted for in the compensation for Basic Services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1, Reimbursable Expense Schedule, to this Exhibit J when applicable.
  2. Such Reimbursable Expenses include, to the extent RPR-related, the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to RPR services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of **1.1**.
- C. Other Provisions Concerning Payment
1. Whenever Engineer is entitled to compensation for the RPR-related charges of Engineer's Subcontractors and Subconsultants, that compensation will be the amounts



billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **1.15**.

2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. Estimated Compensation Amounts
  - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
  - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of **June 1**) to reflect equitable changes in the compensation payable to Engineer for RPR-related services and expenses.
5. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**  
**COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

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**ARTICLE 3—COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES**

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 3.01:

**3.01 Compensation for Additional Services—Standard Hourly Rates Method of Payment**

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. For services of Engineer's personnel engaged directly on the Project pursuant to Exhibit A Paragraph 2.01 or 2.02, except for services as a consultant or witness under Exhibit A Paragraph 2.02.A.28 (which if needed will be separately negotiated based on the nature of the required consultation or testimony), an amount equal to the cumulative hours charged by each class of Engineer's personnel providing such Additional Services times Standard Hourly Rates for each applicable billing class, plus Additional Services-related Reimbursable Expenses and Additional Services-related Engineer's Subcontractors' and Subconsultants' charges, if any.
- B. Compensation for Reimbursable Expenses
1. For those Reimbursable Expenses that are directly related to the provision of Additional Services, and are not already accounted for in the compensation for Basic Services or RPR-related services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
  2. Such Reimbursable Expenses include, to the extent Additional Services-related, the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **1.1**.
- C. Other Provisions Concerning Payment for Additional Services
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **1.15**.
  2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of **June 1**) to reflect equitable changes in the compensation payable to Engineer for Additional Services-related services and expenses.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES****APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE**

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Reimbursable Expenses are subject to review and adjustment per Exhibit J. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

8"x11" Copies/Impressions	\$ 0.10/page
Copies of Drawings	\$ 0.50/sq. ft.
Mileage (auto)	\$ 0.655/mile
Air Transportation	at cost
Laboratory Testing	at cost
Meals and Lodging	at cost

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Exhibit J—Payments to Engineer for Services and Reimbursable Expenses.

Appendix 1: Reimbursable Expenses Schedule.

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**EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES****APPENDIX 2: STANDARD HOURLY RATES SCHEDULE****A. Standard Hourly Rates**

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit J and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Exhibit J.

**B. Schedule: Hourly rates for services performed on or after the date of the Agreement are:**

<b>Employee Types</b>	<b>Employee Type (Category) Billing Rate (\$/Hr.)</b>
Sr. Principal	\$ 245.00
Principal	\$ 215.00
Sr. Division Manager	\$ 230.00
Sr. Engineering Specialist	\$ 190.00
Sr. Project Manager	\$ 190.00
Project Manager	\$ 145.00
Engineering Specialist	\$ 140.00
Sr. Construction Manager	\$ 130.00
Lead Project Engineer	\$ 135.00
Sr. Survey Manager	\$ 125.00
Construction Manager	\$ 120.00
Survey Manager	\$ 120.00
Survey Supervisor	\$ 115.00
Project Engineer	\$ 125.00
Associate Engineer	\$ 105.00
Sr. Design Technician	\$ 105.00
Sr. Engineering Technician	\$ 100.00
Sr. Resident Project Representative (Sr. RPR)	\$ 90.00
Graduate Engineer	\$ 100.00
Design Technician	\$ 85.00
Survey Crew Chief	\$ 85.00
Sr. Administrative Assistant	\$ 80.00
Administrative Assistant	\$ 75.00
Resident Project Representative (RPR)	\$ 75.00
Survey Field Technician II	\$ 70.00
Assistant RPR	\$ 60.00
Survey CAD Technician	\$ 60.00
Survey Field Technician I	\$ 55.00
Intern	\$ 45.00

Exhibit J—Payments to Engineer for Services and Reimbursable Expenses.

Appendix 2: Standard Hourly Rates Schedule.

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**AGENDA ITEM 7:****PROPOSED RESOLUTION TO DIRECT THE EXPENDITURE OF OPIOID SETTLEMENT FUNDS****MANAGER'S COMMENTS:**

The Board previously adopted a resolution per the opioid settlement agreement. However, the County was recently notified that further action was required to comply with the Memorandum of Agreement (MOA) governing opioid settlement funds. Ms. Sullivan has provided a new resolution that states in a more specific way the amount of opioid settlement funds dedicated to each funded strategy. Once adopted, the resolution will be forwarded to CORE-NC.

Board action is required to adopt the new resolution as attached

**A RESOLUTION BY THE COUNTY OF WATAUGA  
TO DIRECT THE EXPENDITURE OF OPIOID SETTLEMENT FUNDS**

**WHEREAS** Watauga County has joined national settlement agreements with companies engaged in the manufacturing, distribution, and dispensing of opioids, including settlements with drug distributors Cardinal, McKesson, and AmerisourceBergen, and the drug maker Johnson & Johnson and its subsidiary Janssen Pharmaceuticals;

**WHEREAS** the allocation, use, and reporting of funds stemming from these national settlement agreements and certain bankruptcy resolutions (“Opioid Settlement Funds”) are governed by the Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation (“MOA”);

**WHEREAS** Watauga County has received Opioid Settlement Funds pursuant to these national settlement agreements and deposited the Opioid Settlement Funds in a separate special revenue fund as required by section D of the MOA;

**WHEREAS** section E.6 of the MOA states:

E.6. Process for drawing from special revenue funds.

- a. Budget item or resolution required. Opioid Settlement Funds can be used for a purpose when the Governing Body includes in its budget or passes a separate resolution authorizing the expenditure of a stated amount of Opioid Settlement Funds for that purpose or those purposes during a specified period of time.
- b. Budget item or resolution details. The budget or resolution should (i) indicate that it is an authorization for expenditure of opioid settlement funds; (ii) state the specific strategy or strategies the county or municipality intends to fund pursuant to Option A or Option B, using the item letter and/or number in Exhibit A or Exhibit B to identify each funded strategy, and (iii) state the amount dedicated to each strategy for a stated period of time.

**NOW, THEREFORE BE IT RESOLVED**, in alignment with the NC MOA, Watauga County authorizes the expenditure of opioid settlement funds as follows:

1. First strategy authorized
  - a. Name of strategy: Collaborative strategic planning
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 1: Collaborative strategic planning
  - d. Amounted authorized for this strategy: \$32,294.00
  - e. Period of time during which expenditure may take place:
 

Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Coordinate and/or contract with a professional consultant to lead strategic planning efforts for future opioid settlement projects in collaboration with the County, partner agencies, and community stakeholders.
  - g. Provider: AppHealthCare



2. Second strategy authorized
  - a. Name of strategy: Evidence-based addiction treatment
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 2: Evidence-based addiction treatment
  - d. Amounted authorized for this strategy: \$75,000.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Purchase a converted recreational vehicle to be outfitted for mobile health use.
  - g. Provider: AppHealthCare
3. Third strategy authorized
  - a. Name of strategy: Recovery support services
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 3: Recovery support services
  - d. Amounted authorized for this strategy: \$127,958.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Provide linkages to care for medication-assisted treatment, substance use treatment services, peer support, and harm reduction services for Family Connects clients impacted by substance use disorder; partner to increase access to medication-assisted treatment through ER/hospital; add peer support services to existing MAT team and distribute naloxone.
  - g. Provider: AppHealthCare, High Country Community Health
4. Fourth strategy authorized
  - a. Name of strategy: Recovery housing support
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 4: Recovery housing support
  - d. Amounted authorized for this strategy: \$97,352.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Establish a Recovery Housing Facility (RHF) as part of Homestead Recovery Center's (HRC) peer-led recovery services.
  - g. Provider: Mediation & Restorative Justice Center
5. Fifth strategy authorized
  - a. Name of strategy: Naloxone distribution
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 7: Naloxone distribution
  - d. Amounted authorized for this strategy: \$19,690.00.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Provide naloxone distribution, and training to prevent and/or reduce overdose deaths in alignment with the Vital Strategies matching funds grant.

- g. Provider: AppHealthCare
- 6. Sixth strategy authorized
  - a. Name of strategy: Post overdose response team
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 8: Post-overdose response team
  - d. Amounted authorized for this strategy: \$10,000.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Provide post overdose response to prevent and/or reduce overdose deaths in alignment with the Vital Strategies matching funds grant.
  - g. Provider: AppHealthCare
- 7. First strategy authorized
  - a. Name of strategy: Syringe service program
  - b. Strategy is included in [Exhibit A](#)
  - c. Item letter and/or number in Exhibit A,
    - i. Strategy 9: Syringe service program
  - d. Amounted authorized for this strategy: \$10,000.00
  - e. Period of time during which expenditure may take place:  
Start date March 1, 2023 through End date July 1, 2024
  - f. Description of the program, project, or activity: Provide syringe services to prevent and/or reduce overdose deaths in alignment with the Vital Strategies matching funds grant.
  - g. Provider: AppHealthCare

The total dollar amount of Opioid Settlement Funds appropriated across the above named and authorized strategy is \$372,294.00.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

---

Larry Turnbow, Chair  
Watauga County Board of Commissioners

ATTEST:

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Deron Geouque, County Manager

**COUNTY SEAL**

**AGENDA ITEM 8:**

**VAYA UPDATE**

**MANAGER'S COMMENTS:**

Mr. Dustin Burleson, Community Relations Regional Director, will update the Board on VAYA Health matters.

The report is for information only; therefore, no action is required.



# Watauga County Board of Commissioners

Dustin Burleson

Community Relations Regional Director

November 2023

# NCDHHS UPDATE

- 2023-2025 General Assembly Budget directed NCDHHS to reduce LME/MCOs to no more than 5 and no fewer than 4.
- Secretary Kody Kinsley directed the dissolution of Sandhills LME/MCO with Rockingham County being assigned to Vaya Health. Partners and Alliance will each be assigned a County.
- Secretary Kinsley assigned remaining Counties to Eastpointe and directed a consolidation of Eastpoint with Trillium LME/MCO.
- As the Secretary provides more information, Vaya Health will update partners on timing of this process.
- Tailored Plan “go live” no later than July 1, 2024

# NCDHHS UPDATE

- Consolidated Innovations Waiver waitlist dashboard released – based on county of residence not eligibility
  - <https://medicaid.ncdhhs.gov/reports/dashboards/innovations-waitlist-dashboard>
- Ongoing issues with Tailored Care Management roll-out
- Medicaid Expansion meetings have started- “Go Live” on December 1, 2023
- Medicaid Expansion Toolkit: [North Carolina Expands Medicaid | NC Medicaid \(ncdhhs.gov\)](#)
- 91 Anticipated TP members from Watauga County
- The Healthy Opportunities “Go Live is February 1, 2023
- Innovations Waiver amendment not submitted timely – App. K flexibilities were supposed to end Nov. 11, 2023

# I/DD & TBI Budget Provisions

Provision	FY24	FY25
350 new Innovations slots	\$29.33M	\$29.33M
Innovations Direct Support Professional Wage increases	\$176M	\$176M
Competitive Integrated Employment	\$5M	\$5M
Personal Care Service (PCS) Rate Increases	\$176M	\$176M
Authority to expand TBI waiver statewide		

# Behavioral Health Budget Provisions

Provision	FY24	FY25
Crisis System (mobile & respite)	\$30M	\$50M
Crisis Stabilization (short-term shelter)	~\$3M	~\$7M
Non-Law Enforcement Transportation Pilot Program	\$10M	\$10M
BH SCAN	\$10M	\$10M
Justice-Involved Programs (re-entry, diversion, and capacity restoration)	\$29M	\$70M
Behavioral Health Workforce Training	~\$8M	\$10M
NC Psychiatry Access Line (NC PAL)	~\$4M	~\$4M
Behavioral Health Rate Increases	\$165M	\$220M
State Facility Workforce Investment	\$20M	\$20M
Electronic Health Records for State Facilities		\$25M
Child Welfare and Family Well-Being	\$20M	\$60M



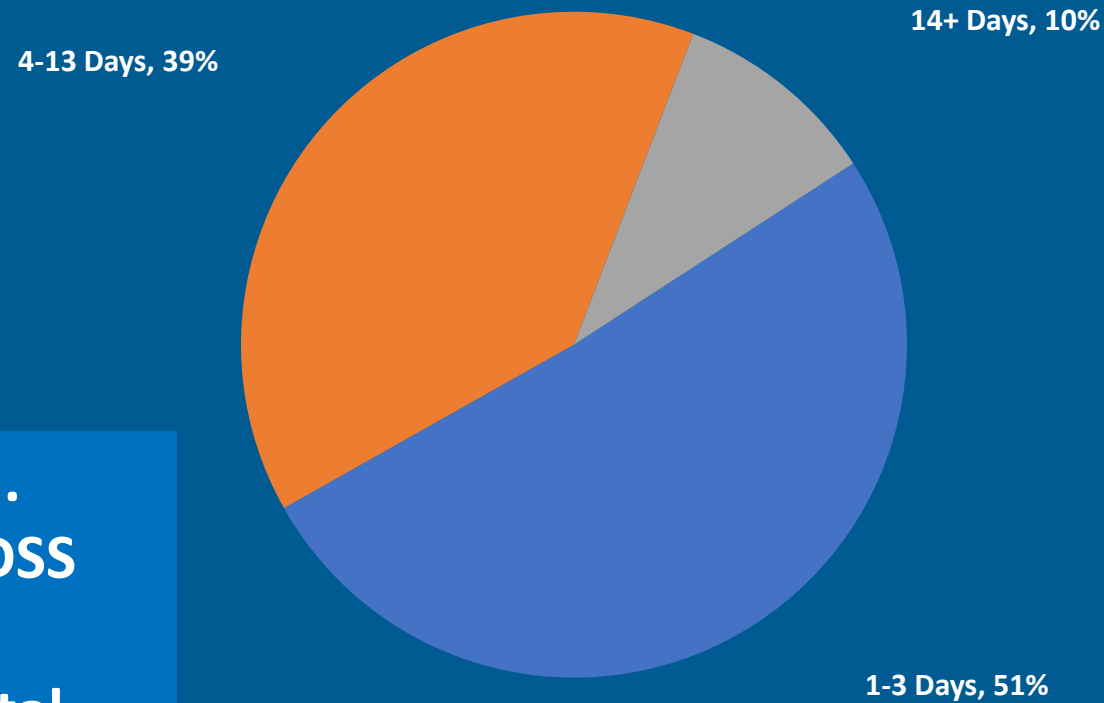
# **Child Welfare Continuum Update**

# CHILD WELFARE CONTINUUM

- Receiving daily report about known “kids on couches”, we also track youth admitted to EDs as best we can
- Discussion with Susan Osborne, NCDHHS Deputy Secretary – Vaya’s numbers are “high”
- NCDHHS relying on DSS Director Association survey that is problematic and does not receive data from all 100 counties
- Vaya has several strategic initiatives in place to address this crisis, but the trend continues to be challenging. We are exploring creative solutions for how we can better support our DSS partners.

# Care Management

Kids on DSS Couches: Length of Stay  
(2/1/23-9/30/23)



- We have the data.
- Tracking kids on DSS couches daily
- Cross-departmental effort to support kids


# **Benchmarks Pathways to Permanency Updates**

# Pathways to Permanency

Foster Care (therapeutic and family) recruitment campaign

Theme: Adventure Awaits

“ The only thing the kids should have to worry about is what color popsicle they are going to get ”



*Adventure Awaits*  
Become a Foster Parent Today

“ It has changed my mindset and my outlook in life ”



*Adventure Awaits*  
Become a Foster Parent Today

“ Es muy gratificante ”

It is very rewarding ”



*La Aventura Espera*  
*Adventure Awaits*  
Conviértete en padre de crianza hoy  
Become a Foster Parent Today

“ When the phone rings, that's when the adventure begins ”



*Adventure Awaits*  
Become a Foster Parent Today

# Pathways to Permanency Training Series

	DSS	Vaya	Foster Parents	BH Providers (Non TFC)	Child Placing Agency (CPA)	Months	Learning Lab (Y/N)	Department to House	Dissemination Plan
Child Treatment Continuum	X			X	X	2022-ongoing		Provider Network	Ongoing: Include as an option on the P2P resource page
Child Welfare 101		X	X	X	X	September 2023	Y	System of Care	Initial: Offered virtually 2x per year in each of the 4 Vaya regions. Ongoing: Recording available on website.
Health Plan 101	X		X	X	X	October 2023	Y	Community Relations	Initial: Offered virtually once per year in each of the 4 Vaya regions. Ongoing: Recording available on Vaya's website.
Behavioral Expectations	X	X	X-w/abridged notes	X	X	January 2024	N	Provider Network	Initial: Offered virtually in each of the 4 Vaya regions. Ongoing: Offered quarterly in each region.
Prudent Parenting	X	X		X	X	February 2024	N	Provider Network	Initial: Offered virtually in each of the 4 Vaya Ongoing: Offered 2x a year in each region.
Foster Parent Bill of Rights		X		X	X	August 2023	Y	Provider Network to manage and send reminders etc.	Initial: Two live virtual training sessions. Ongoing: Recording available on Vaya's website. Annual reminder of recording.
Train DSS on the CCA Pathway and Protocol	X	X		YV		August-January		Care Management	Initial: Each DSS will receive this training individually during their counties specified rollout month. Ongoing: County specific by Care management.
TTLG (Treat Them Like Gold) Licensing Staff	X				X	March-June	TBD	N/A	Initial: Virtual one-time learning collaborative. Ongoing: none
TTLG All Staff	X				X	August 2023	Y	Provider Network to manage and send reminders etc.	Initial: Offered virtually three times. Ongoing: Recording available on website. Annual reminder of recording.
Roles & Responsibilities of Securing Placements	X	X		X	X	September 2023	Y	Care Management	Initial: Offered virtually or face-to-face for each of the 14 DSS regions. Ongoing: Recording available on Vaya's website. Annual reminder of recording, FAQ, & reference guide.
FosteringNC Developmental Trauma Training Guide			X			November 2023	Y	Provider Network to manage and send reminders etc.	Initial: Email release Ongoing: Training guide available on P2P resource page. Annual reminder of training resource via email and DSS Quarterly meetings.



# CCAs for Youth in Foster Care

Did you know that a staggering 90% of children in foster care have experienced trauma? We believe it's time to revolutionize the way we approach the mental health needs of these vulnerable children.



Vaya Health's trauma-informed Comprehensive Clinical Assessment (CCA) is designed specifically for youth in foster care by adopting a holistic approach that considers overall well-being within the context of home, family, school, work, and community.

Partnering with Youth Villages and leveraging our strong collaboration with each DSS within the Vaya Health catchment, we're ensuring that youth in foster care receive timely access to the vital assessments they need.

## Why It Matters



Community-based services mean kids stay locally



Fewer moves is better for kids and reduces workload for staff



### Trauma-Informed

*Identifying the underlying causes of behaviors means that children get the right treatment at the right time*



### Pro-Active

*Early treatment ensures linkage to local community resources*



### Connected

*A great assessment isn't enough, youth are connected to treatment after the assessment*

What happens next...

Protocol & Child Welfare Training for Vaya, DSS staff, & clinicians

Phased Roll-out: Region 1 in October, Region 2 in January, Region 3 & Region 4 in February





**AGENDA ITEM 9:**

**PROJECT UPDATES FROM NEW RIVER CONSERVANCY**

**MANAGER'S COMMENTS:**

Ms. Katie Krogmeier, Restoration Director for the New River Conservancy, will update the Board regarding New River Conservancy matters.

Staff understands that the updates are for information only; therefore, no action is required.

# Project Updates From New River Conservancy

Watauga County  
11.21.2023

Katie Krogmeier  
Restoration Director, New River Conservancy



# Project Updates To Cover:

- Boone Creek at the Temple of the High Country
- Green Valley Park
- South Fork Confluence

## [NRC Restoration Project Story Map](#)

Also:

- Hardin Creek
- Middle Fork Section 1B

New River Conservancy Restoration Projects

Fully Funded... Partially Funded... Future Restoration...

New River Conservancy Fully Funded Restoration Projects

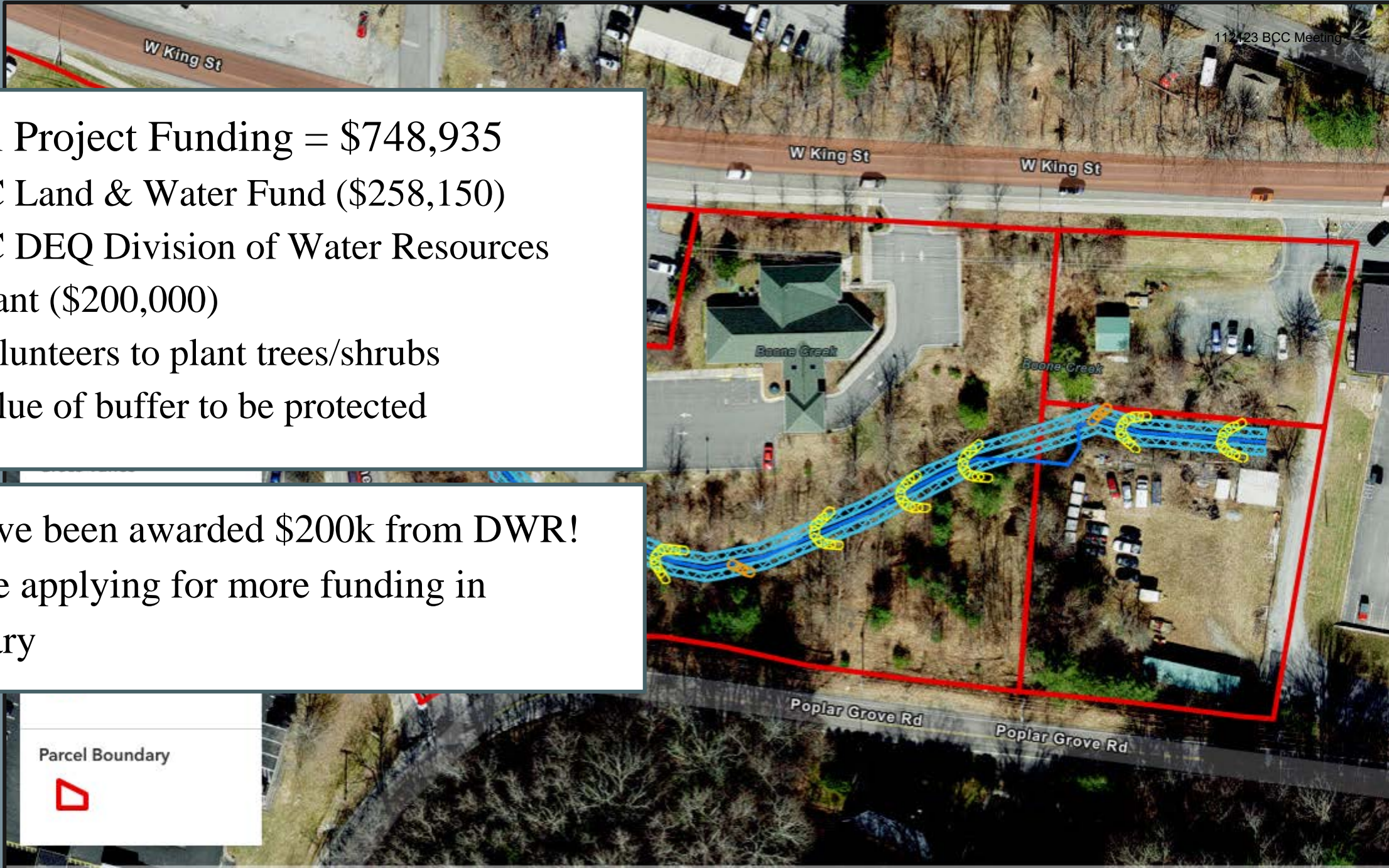
← Middle Fork New River Hardin Creek NRSP Wagoner Access S Fork Confluence Phase 1

S Fork Confluence Location Map

This project seeks to restore 1,620 linear feet of East, Middle, and South Fork New River to a stable dimension, pattern, and profile, while greatly enhancing the riparian buffer. Stormwater treatment, greenway realignment, and improved public recreational

# Boone Creek Temple Restoration





- Total Project Funding = \$748,935
  - NC Land & Water Fund (\$258,150)
  - NC DEQ Division of Water Resources Grant (\$200,000)
  - Volunteers to plant trees/shrubs
  - Value of buffer to be protected

- We have been awarded \$200k from DWR!
- Will be applying for more funding in February


# Green Valley Park



- Total Project Funding = \$202,700
  - NC Land & Water Fund (\$43,000)
  - NC DEQ Division of Water Resources Grant (\$61,550)
  - CCAP (\$50,000)
  - Other (\$48,150)

- We have been awarded \$61,500 from DWR!
- Will should be hearing from CCAP very soon
- We are still looking for other funding sources for the last \$48k

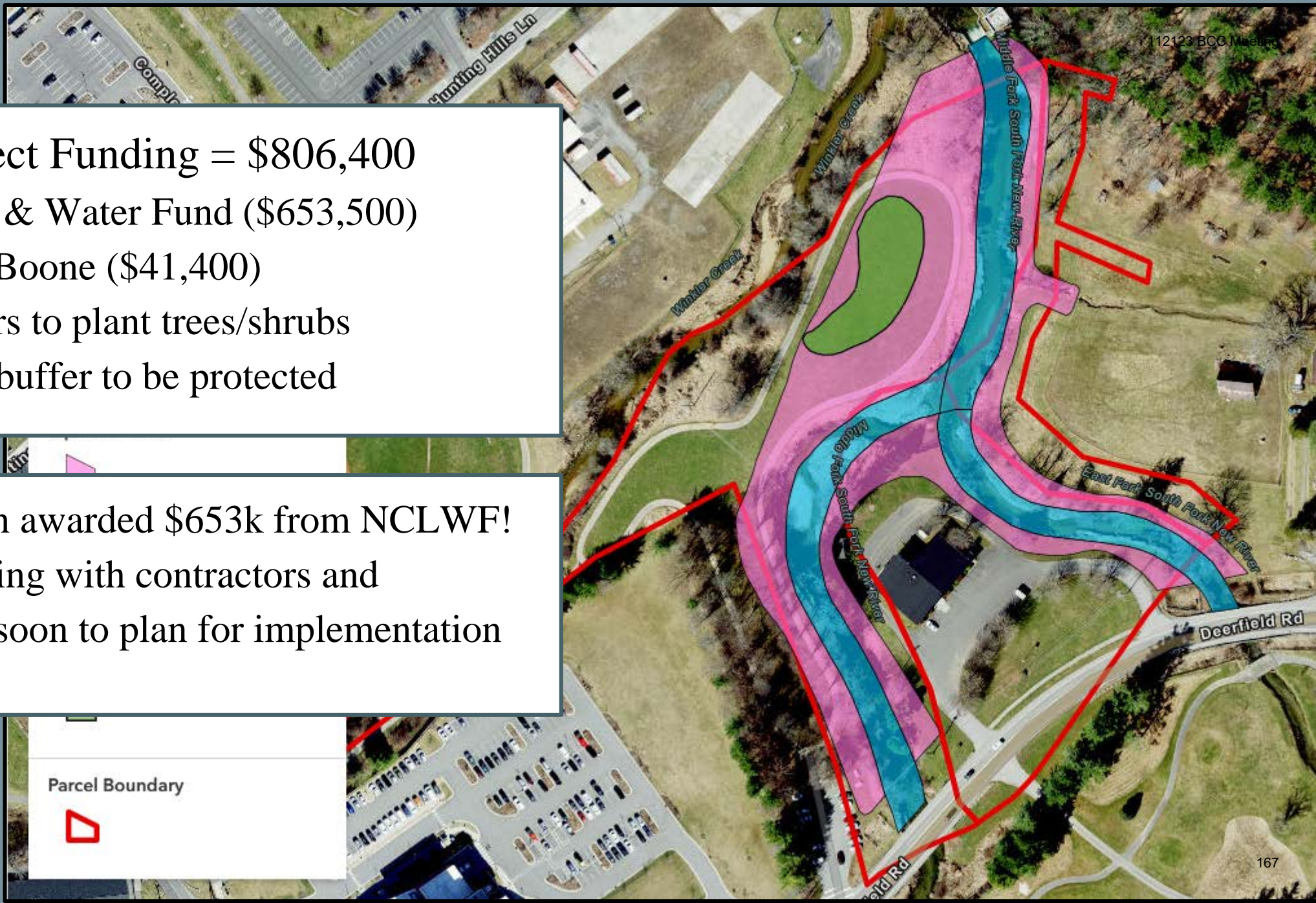
Floodplain Restoration



# South Fork Confluence







- Total Project Funding = \$806,400
  - NC Land & Water Fund (\$653,500)
  - Town of Boone (\$41,400)
  - Volunteers to plant trees/shrubs
  - Value of buffer to be protected

- We have been awarded \$653k from NCLWF!
- Will be working with contractors and stakeholders soon to plan for implementation

Parcel Boundary

Thank you for letting us present to you!

**Q&A**

**AGENDA ITEM 10:**

**EMS FACILITY UPDATE**

**MANAGER'S COMMENTS:**

Mr. Chad Roberson and Mr. Xander Ellenbogen, Architects with Clark Nexsen, will provide an update on the design development documents for the EMS facility.

Board action will be requested to proceed forward with construction documents.



Watauga County EMS FACILITY



- WATAUGA COUNTY EMERGENCY SERVICES OFFICES

- EMERGENCY OPERATIONS CENTER

- EMS STATION

- RECORDS STORAGE

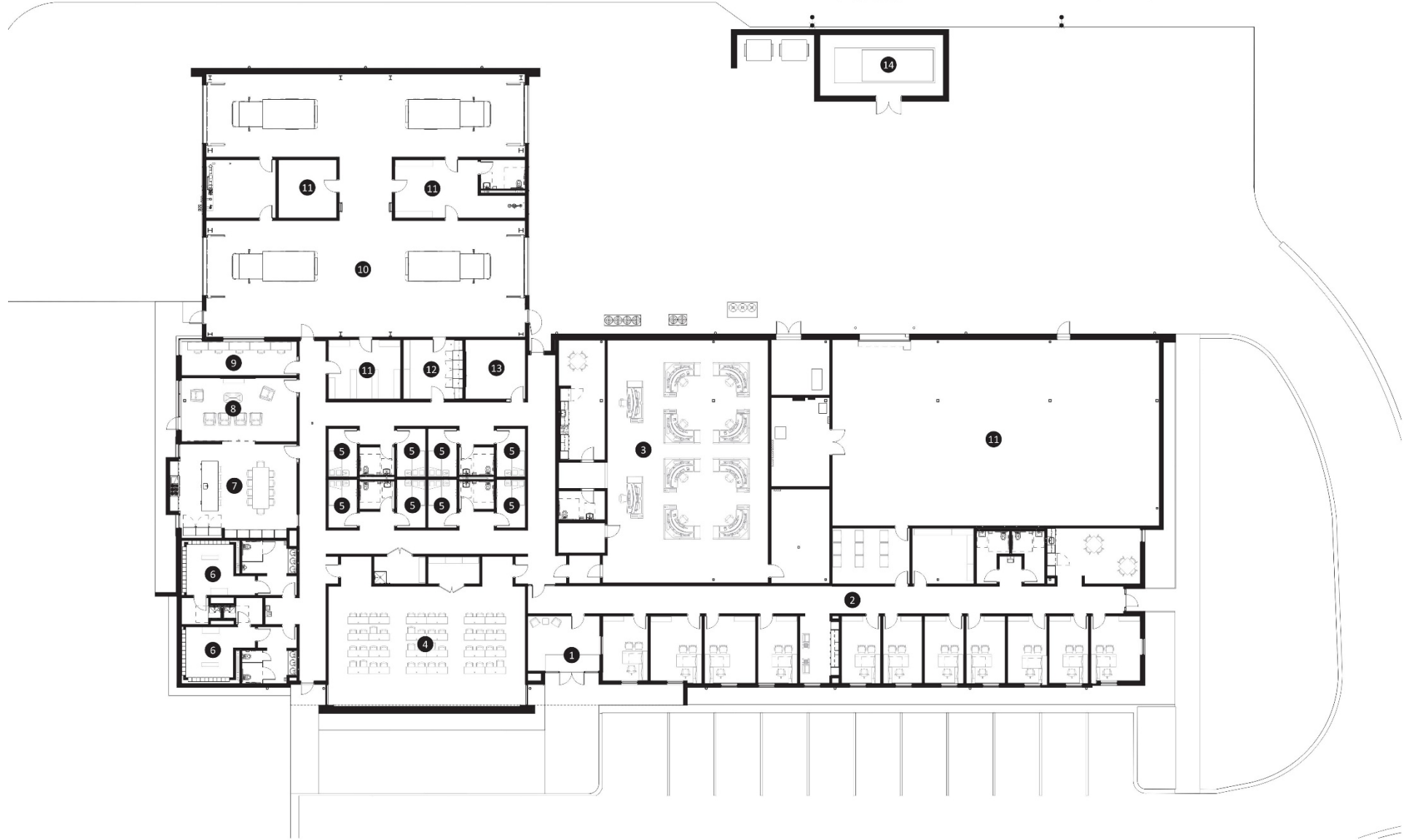
- STATE-OF-THE-ART EMERGENCY COMMUNICATION CENTER





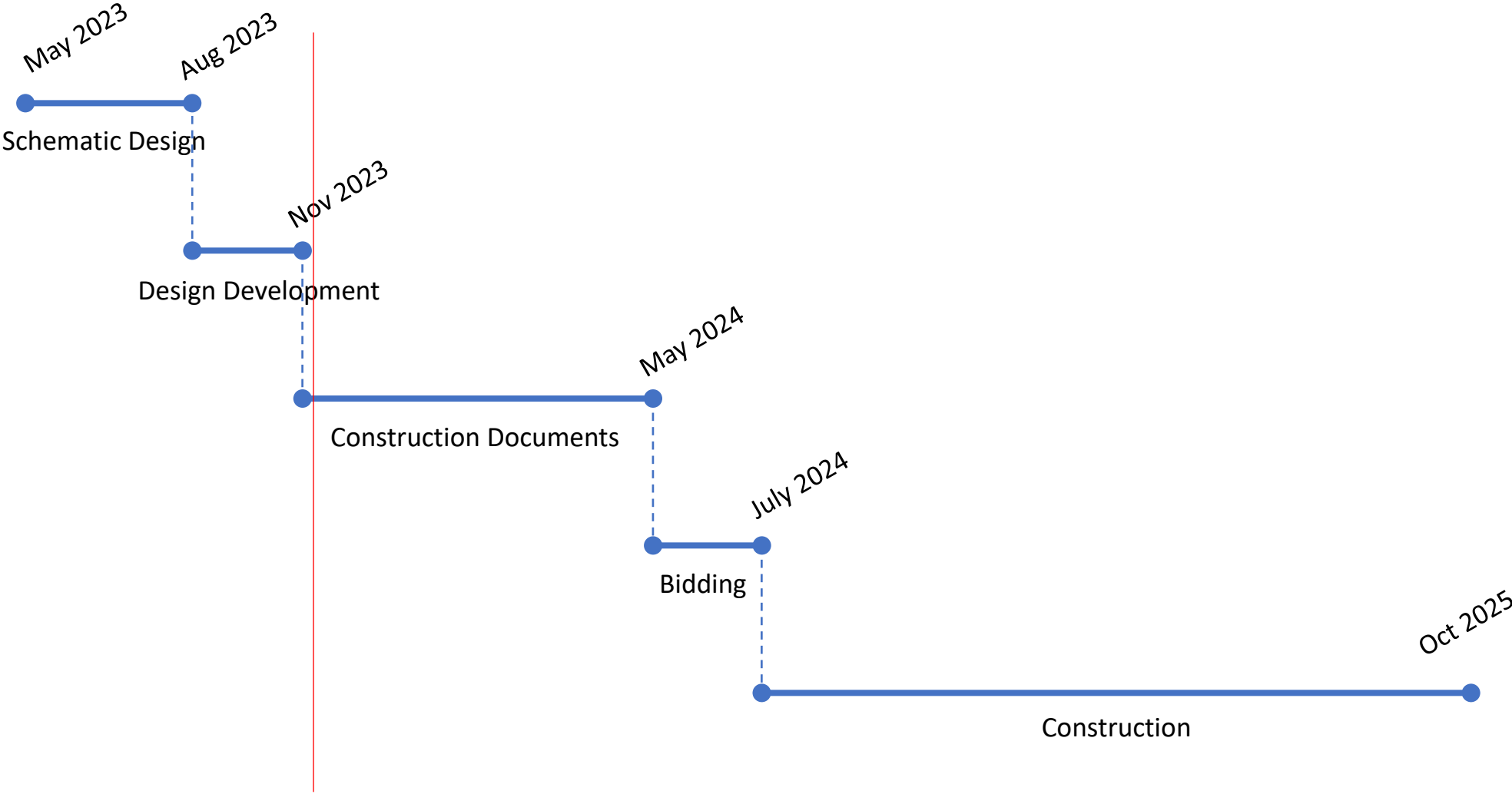


- 1 ENTRANCE AND LOBBY
- 2 ADMIN
- 3 COMM CENTER
- 4 EMERGENCY OPERATIONS CENTER
- 5 BUNK ROOMS
- 6 LOCKER ROOMS
- 7 KITCHEN
- 8 DAY ROOM
- 9 WORK ROOM
- 10 EMS VEHICLE BAY
- 11 STORAGE
- 12 LAUNDRY
- 13 FITNESS
- 14 GENERATOR





# Project Schedule





**AGENDA ITEM 11:**

**MIDDLE FORK GREENWAY TWEETSIE UNDERPASS PROJECT CHANGE ORDER REQUEST**

**MANAGER'S COMMENTS:**

Ms. Carrie Caviness, Middle Fork Greenway Project Engineer, will request the Board approve a change order in the amount of \$5,880. The change order is to install temporary erosion control measures. Funding for the project will come from Middle Fork Greenway and TDA.

Board action is required to approve the change order in the amount of \$5,880 for the MFG Tweetsie Underpass Project.



## COR – Change Order Request

<b>To:</b>	Interface Environmental Consulting, LLC. 476 Hidden Pond Rd. Boone, NC. 28607	<b>Date:</b>	11-02-2023
		<b>Job No:</b>	2023-17
		<b>Project:</b>	Tweetsie Railroad Underpass
<b>From:</b>	Cinderella Partners, Inc. 713 Brief Rd, W. Indian Trail, NC. 28079	<b>Date Required:</b>	11-06-2023
		<b>Drawing Ref.:</b>	
		<b>Spec Ref.:</b>	

Cost Impact Comments	Amount	Schedule Impact Comments	Extension Days
----------------------	--------	-----------------------------	----------------

<p><b>Temporary Erosion Control at Culvert:</b> Installing silt fencing &amp; sand bags at both ends of the culvert for temporary protection through the winter.</p>	<p><b>\$5,250.00</b></p>		
<p><b>Overhead &amp; Profit: 12%</b></p>	<p><b>\$630.00</b></p>		
<p><b>TOTAL:</b></p>	<p><b>\$5,880.00</b></p>		

<p><b>Subject:</b></p>	<p>Additional Erosion Control</p>
------------------------	-----------------------------------

**Summary:** Cinderella Partners is requesting a change order in the amount of \$5,880.00 for changes on the Tweetsie Railroad Underpass project.

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**AGENDA ITEM 12:****UNC SOG – DFI REPORT****MANAGER’S COMMENTS:**

Ms. Sarah Odio, Assistant Director (Housing and Revitalization) with the Development Finance Initiative (DFI) at the UNC School of Government (SOG), will request the Board approve a contract with Modulus, PLLC for preliminary geotechnical evaluation for the proposed workforce housing at the 16.3-acre Brookshire Site. The cost of the service is \$9,840. In addition, Ms. Odio will request the Board execute a contract in the amount of \$16,400 for architectural design and documentation with Tise–Kiestler Architects.

Board action is required to approve the contracts with Modulus, PLLC and Tise–Kiestler Architects for preliminary geotechnical evaluation and architectural services in the amounts of \$9,840 and \$16,400, respectively.

October 23, 2023

Sarah Odio  
 Assistant Director (Housing and Revitalization)  
 Development Finance Initiative | UNC School of Government  
 Knapp-Sanders Building  
 Campus Box 3330  
 UNC Chapel Hill  
 Chapel Hill, NC 27599-3330

RE: Proposal for Preliminary Geotechnical Evaluation  
 16.3-Acre Brookshire Site  
 Boone, Watauga County, North Carolina  
 Modulus Proposal No. P885

Dear Sarah:

Modulus, PLLC (Modulus) is pleased to provide you with this proposal to provide a Preliminary Geotechnical Evaluation for the above-referenced property. This proposal contains a summary of relevant information as Modulus understands it, a project schedule and the estimated costs for completion of the proposed work.

### **PROJECT UNDERSTANDING**

The project consists of the preliminary geotechnical evaluation on approximately 16.3-acres. The subject property consists of a 14.6-acre portion of PIN 2911925136000 and the 1.7-acre PIN 2911927366000, both owned by Watauga County.

It is our understanding that the site is being evaluated for use as a residential development. Based on our preliminary review of historical aerial photos, the property has historically been a mix of agricultural and undeveloped wooded property. In 2008, the northern portion of the site was utilized as a borrow pit for construction of the soccer complex to the east. The parcel is currently primarily undeveloped woodland. Based on our preliminary review of the site's slopes we have identified two areas of the site that have steep slopes. These areas total approximately 1.3-acres and are shown in the attached figures.

### **SCOPE OF SERVICES**

The purpose of this exploration is to explore the site subsurface conditions and provide preliminary geotechnical recommendations for soil characteristics, site grading procedures, and foundation systems for construction of the proposed development. To accomplish this, Modulus proposes to explore the site with soil test borings as described below.

#### **Field Exploration and Laboratory Services**

We propose to drill a total of 8 soil test borings to depths of 20 feet below existing site grades or auger refusal, whichever occurs first. Boring location plans are attached. This proposal assumes up to 160 feet of drilling. Standard Penetration Test (SPT) sampling will be performed in general accordance with ASTM D1586 at regular depth intervals in each soil test boring.

The boreholes will be checked for groundwater upon completion of drilling, and then backfilled by shoveling the soil cuttings into the holes. Upon completion of the field exploration, the soil samples will be returned to the laboratory and visually classified in general accordance with the Unified Soil Classification System. Selected samples will be tested for moisture content, and index testing.

**Engineering Report**

The conditions encountered by the borings and the results of the laboratory testing will be evaluated by a geotechnical engineer and preliminary recommendations will be developed. The engineering report will include the following items, as appropriate for this site:

- Project description;
- Site conditions, including geologic, and special site features;
- Field exploration and the laboratory testing procedures;
- Subsurface conditions
- Foundation recommendations and allowable bearing pressures;
- Estimated settlement (total and differential);
- Suitability of soils for use as fill material and compaction recommendations
- Discussion of groundwater impact and techniques to control shallow groundwater;
- Discussion of difficult excavation;
- Site Seismic classification
- Site vicinity map and boring location plan, and;
- Soil test boring logs with laboratory test results.

**FEE ESTIMATE**

Modulus proposes to perform the scope of services outlined above for the following fees:

**Geotechnical Evaluation**

Mobilization, Lump Sum.....	\$900.00
Clearing, 1 Day x \$2,500/Day .....	\$2,500.00
Drilling & Sampling, 160 ft x \$21.50/ft.....	\$3,440.00
Field Engineer, 8 hrs. x \$100.00/hr.....	\$800.00
Laboratory Services, Lump Sum.....	\$600.00
Report Preparation, Lump Sum .....	<u>\$1,600.00</u>
<b>Geotechnical Total: \$9,840.00</b>	

If unanticipated subsurface conditions are encountered that would require modification to the proposed scope of services, you will be contacted, as mentioned previously, for both your review and authorization. The above fees and our schedule assume we have full access to the site and are not required to encounter standby time or wait on others to gain access to our boring locations.

**SCHEDULE OF WORK**

We will begin the above Scope of Services immediately after receiving your written authorization to proceed. Our work starts with our contacting the public utility locator service, but we cannot begin work on-site until they have completed their location work, usually within 72 hours, excluding weekends and holidays.

Based on current availability and weather permitting, we anticipate that the fieldwork will begin within two weeks after receiving written authorization to proceed. We anticipate that the fieldwork will take about 2 business days to complete, and the reports will be provided in approximately 7 to 10 business days after completion of all field work. In order to maintain this schedule, it is critical that we receive your written authorization, special instructions and distribution list in a timely manner.

16.3-Acre Brookshire Site Preliminary Geotechnical Evaluation  
Modulus Proposal No. P885  
October 23, 2023

### AUTHORIZATION

If the above scope of work is acceptable to you, please sign the Proposal Acceptance Form and return one copy of the proposal acceptance form to us. Please note that the attached Standard Terms of Service are incorporated herein by reference and are an integral part of this agreement between us. By signing the Proposal Acceptance Form or referencing this proposal, you are also accepting the General Conditions of Service and this proposal in its entirety. Alternatively, you could issue a letter of acceptance or purchase order; but we would ask that you reference and include our proposal by reference showing proposal number and date. This proposal is valid for a period of sixty days beyond that date it may be necessary to revise our schedule or fee.

Using the Proposal Acceptance Form will provide formal authorization for us to perform the above work, enter the site, and provide proper invoicing instructions and distribution lists for reports and correspondence. Please provide any specific instructions or details not covered in this proposal on the attached Proposal Acceptance Form. In today's times with improved technology, and to provide you with the fastest response, we provide the reports by e-mail. If this is acceptable, then list those to whom the reports should be sent and provide their e-mail addresses, if appropriate, on the Proposal Acceptance Form.

### CLOSING

Thank you for the opportunity to submit this proposal to provide services and serve as your consultant. We look forward to the opportunity to work with you on this project and to hopefully serve as your consultant in the future. If you have any questions, or if we can be of any additional service, please contact us.

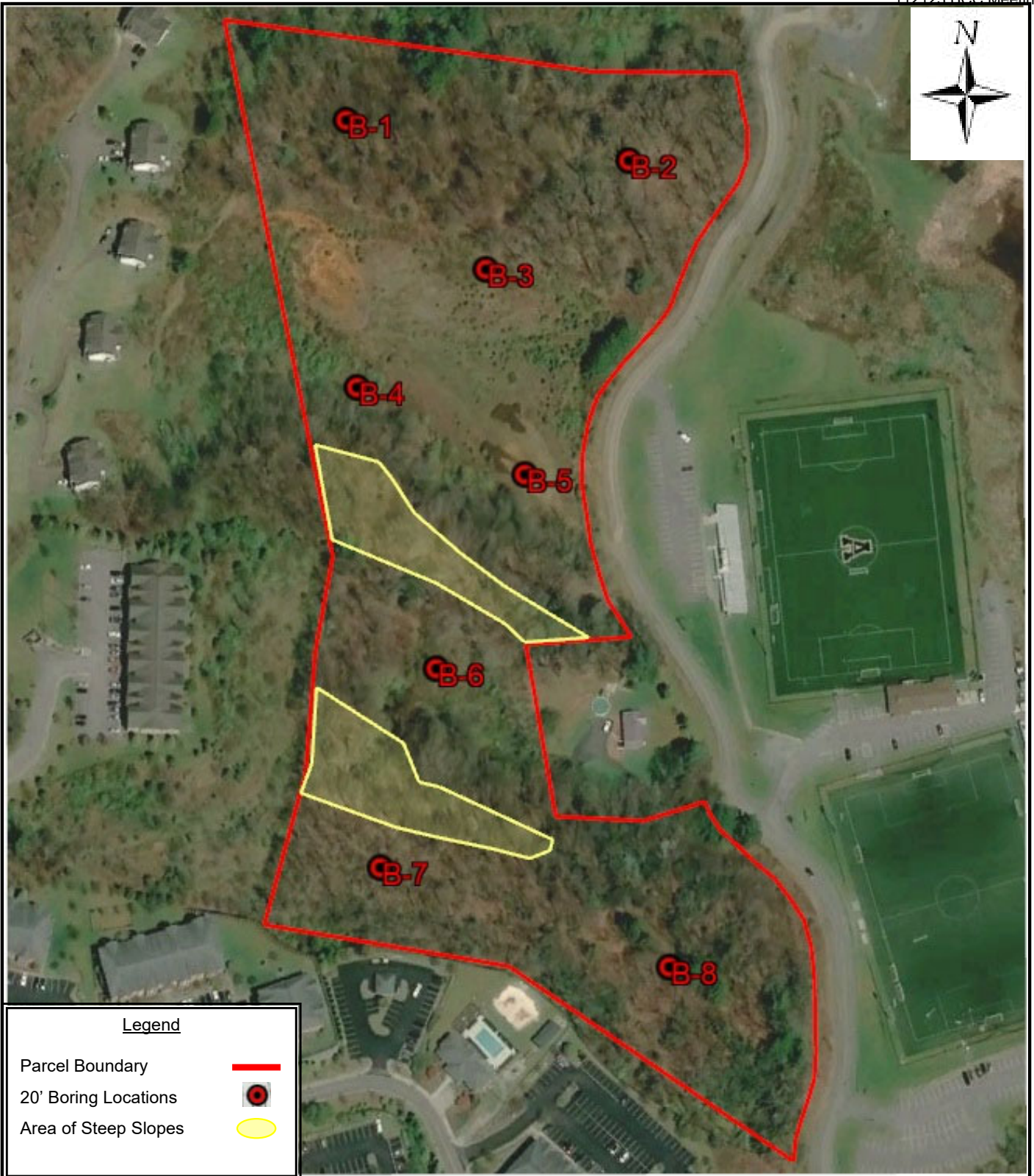
Sincerely,  
**Modulus, PLLC**



Aric V. Geda, P.E.  
Principal Engineer

Attachments: Boring Location Figures  
Proposal Acceptance Sheet  
Fee Schedule  
Terms and Conditions of Service





**Legend**

- Parcel Boundary
- 20' Boring Locations ●
- Area of Steep Slopes

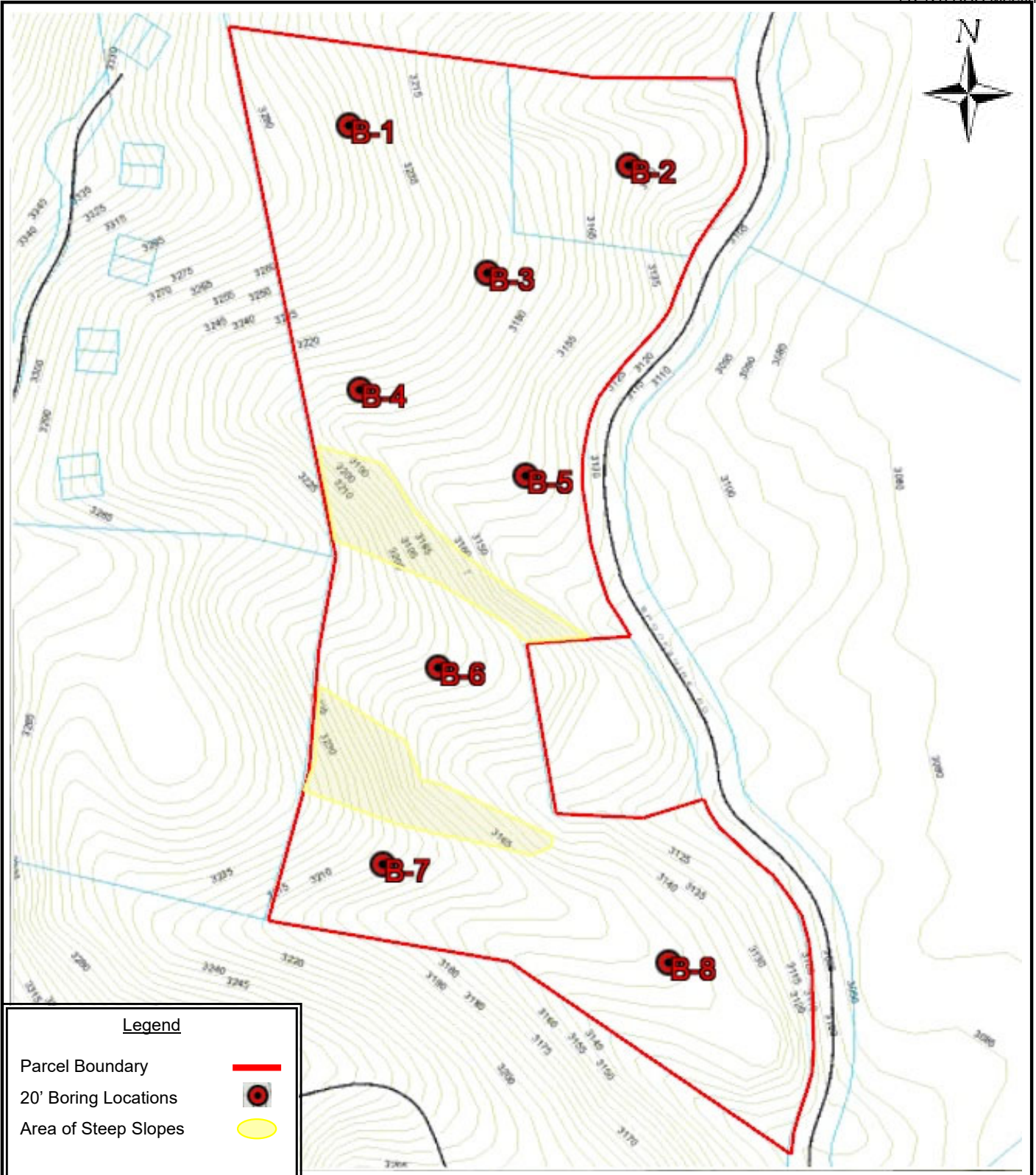
### BORING LOCATIONS ON AERIAL PHOTO

**Proposed Residential Development**  
 16.3-Acre Brookshire Site  
 Boone, NC

**Modulus, PLLC.**  
 Engineering · Due Diligence · Design  
 PO Box 935  
 Oak Ridge, North Carolina 27310  
 (919) 800-9093

Project No: P885

Map Not to Scale  
 October 2023



**Legend**

- Parcel Boundary
- 20' Boring Locations ●
- Area of Steep Slopes

### BORING LOCATIONS ON TOPOGRAPHIC MAP

**Proposed Residential Development**  
 16.3-Acre Brookshire Site  
 Boone, NC

**Modulus, PLLC.**  
 Engineering · Due Diligence · Design  
 PO Box 935  
 Oak Ridge, North Carolina 27310  
 (919) 800-9093

Project No: P885

Map Not to Scale  
 October 2023

16.3-Acre Brookshire Site Preliminary Geotechnical Evaluation  
Modulus Proposal No. P885  
October 23, 2023

**Modulus, PLLC  
Proposal Acceptance Sheet**

Modulus Proposal No.: P885

Project: 16.3-Acre Brookshire Site Preliminary Geotechnical Evaluation

Location: Boone, North Carolina

Client Signature \_\_\_\_\_ Date \_\_\_\_\_

Please sign above and complete the information requested below to indicate acceptance of this proposal and to authorize Modulus, PLLC to proceed with the above referenced project. By signing above Client indicates that he/she agrees to be bound by the scope of services of this proposal and the accompanying Terms and Conditions of Service.

**Invoicing Information**

Name of Client: \_\_\_\_\_

Client Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Telephone No: \_\_\_\_\_

Email Address: \_\_\_\_\_

Party Responsible for Payment: \_\_\_\_\_

Responsible Party Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Telephone No: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Modulus, PLLC  
2023 Fee Schedule**

Principal Engineer / Scientist / Designer .....	\$165.00/hour
Project Engineer .....	\$125.00/hour
Field Engineer .....	\$100.00/hour
Engineering Technician .....	\$80.00/hour
Draftsman .....	\$65.00/hour
Secretary .....	\$35.00/hour
Mileage, Portal to Portal, .....	\$0.60/mile
Laboratory Testing, Rental Equipment, Supplies, and Expenditures .....	Cost + 15%

Charges for personnel include time associated with field visits, travel to and from site, engineering analysis, design, and report preparation. Personnel provided beyond normal business operating hours (8:00 AM to 5:00 PM) or weekends will be invoiced as overtime at the above standard rates X 1.50. Personnel provided on holidays will be invoiced at the above standard rates X 2. Charges for personnel during deposition and/or testimony will be invoiced at the above standard rates X 2.

## Modulus, PLLC TERMS AND CONDITIONS OF SERVICE

These Terms and Conditions of Service, including any supplements that may be agreed to in a writing signed by both parties, the Proposal Acceptance Form, and Modulus, PLLC's Fee Schedule constitute the entire agreement ["AGREEMENT"] under which services are to be provided by Modulus, PLLC (including its employees, officers, successors and assigns) for "CLIENT".

### INDEPENDENT CONSULTANT STATUS

Except as may be otherwise noted herein, Modulus, PLLC shall serve as an independent professional consultant or contractor to CLIENT and shall have control over, and responsibility for, the means and methods for providing the services identified in this Agreement's Scope of Services ["Services"], including the retention of subcontractors and subconsultants. Unless expressly stated in Modulus, PLLC's Scope of Services, Modulus, PLLC shall not serve as CLIENT'S agent or representative.

### STANDARD OF CARE

Modulus, PLLC shall perform the Services in a manner consistent with that level of skill and care ordinarily exercised by competent members of the same profession providing similar services in the same region, under similar conditions during the same time period. Except for representations, warranties, and guarantees expressly made in this Agreement, no other representation, expressed or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any Modulus, PLLC report, opinion, plan or other Document of Service (as defined below), in connection with Modulus, PLLC's Services.

CLIENT understands and agrees that Modulus, PLLC's professional judgment must rely on facts learned during the performance of Services. CLIENT acknowledges that such data collection is limited to the immediate area that is sampled, tested and/or observed. Consequently, CLIENT agrees that it shall not bring a claim, based upon facts subsequently learned, regarding conditions between sampling/testing points, in areas not evaluated by Modulus, PLLC, or which were not part of the immediate area(s) evaluated by Modulus, PLLC, so long as Modulus, PLLC complied with the standard of care provided for in this Agreement.

Modulus, PLLC's professional Services shall be provided in a manner consistent with sound engineering and professional practices. If a situation arises that causes Modulus, PLLC to reasonably believe compliance with CLIENT'S wishes could result in Modulus, PLLC violating applicable laws or regulations ["Laws or Regulations"], or will expose Modulus, PLLC to claims or other charges, Modulus, PLLC shall so advise CLIENT. If CLIENT'S actions or inaction result in a violation of applicable Laws or Regulations, Modulus, PLLC shall have the right to terminate its Services in accordance with the TERMINATION provisions of this AGREEMENT.

If CLIENT decides to disregard Modulus, PLLC's recommendations with respect to complying with applicable Laws or Regulations, Modulus, PLLC shall determine if Modulus, PLLC is required to notify the appropriate public officials. CLIENT agrees that such determinations are Modulus, PLLC's sole right to make. CLIENT also agrees that Modulus, PLLC shall not bear liability for failing to report conditions to regulatory authorities that are CLIENT'S responsibility to report.

### CLIENT DISCLOSURES

As requested by Modulus, PLLC, CLIENT shall furnish and/or shall direct CLIENT'S consultant(s) or agent(s) to furnish Modulus, PLLC information identifying the type and location of utility lines and other man-made objects known, suspected, or assumed beneath the Site's (as defined below) surface, where the Scope of Services requires Modulus, PLLC to penetrate the Site surface.

CLIENT shall notify Modulus, PLLC of any known, assumed, or suspected Hazardous Materials that may exist at the Site prior to Modulus, PLLC mobilizing to the Site. Hazardous materials shall be defined as any substance, waste or material that is defined or regulated as hazardous or toxic or as a pollutant or contaminant under any federal or state law.

### INFORMATION PROVIDED BY OTHERS

CLIENT waives any claim of liability against Modulus, PLLC regarding any claim for injury or loss allegedly arising from errors, omissions, or inaccuracies in documents and other information in any form provided to Modulus, PLLC, including such information that becomes incorporated into Modulus, PLLC

Documents of Service, unless the errors, omissions, or inaccuracies were caused by Modulus, PLLC.

### CONCEALED RISKS

CLIENT acknowledges that special risks are associated with the identification of concealed conditions [i.e., subsurface conditions, conditions behind a wall, etc., that are hidden from view, are not readily apparent, or cannot be accessed for sampling/testing].

Conditions that Modulus, PLLC infers to exist between sampling/testing points may differ significantly from the conditions that exist at the sampling points. Since some conditions can change substantially over time, the CLIENT recognizes that, because of natural occurrences or human intervention at or near the Site, actual conditions discovered through sampling/testing may be subject to rapid or gradual change.

Modulus, PLLC will make reasonable efforts to anticipate and identify potential concealed conditions for exploration, sampling, or testing, however, CLIENT understands that such risks cannot be eliminated and agrees that the Scope of Services is that which CLIENT agrees suits CLIENT'S own risk tolerances. CLIENT may request Modulus, PLLC to evaluate the risks and provide a higher level of exploration to reduce such risks, if desired or appropriate.

### RIGHT OF ENTRY/DAMAGE RESULTING FROM SERVICES

CLIENT warrants that it possesses the authority to provide right of entry permission to the Site for the performance of Modulus, PLLC's Services. CLIENT hereby grants Modulus, PLLC and its subcontractors and/or agents, the right to enter from time to time onto the property owned by CLIENT in order for Modulus, PLLC to perform the Scope of Services.

Except where Modulus, PLLC's Scope of Services explicitly includes obtaining permits, licenses, and/or utility clearances for the performance of Modulus, PLLC's Services, CLIENT warrants that it possesses all necessary permits, licenses, and/or utility clearances for the Services to be provided by Modulus, PLLC.

Modulus, PLLC will take reasonable precautions to limit damage to the site where the Services are provided ["Site"] along with all improvements at the Site ["Improvements"] during the performance of Modulus, PLLC's Services. CLIENT understands that use of exploration, sampling, or testing equipment may cause some normal and customary damage, the correction and restoration of which is not part of this AGREEMENT, unless explicitly stated in Modulus, PLLC's Scope of Services, and reflected in the Professional Fees.

CLIENT agrees that it will not bring any claims for liability or for injury or loss allegedly arising from the discovery of Hazardous Materials, or suspected Hazardous Materials, or Modulus, PLLC's findings, conclusions, opinions, recommendations, plans, and/or specifications related to discovery of Hazardous Materials.

### UNDERGROUND UTILITIES

In addition to CLIENT-furnished information regarding underground utilities, Modulus, PLLC shall take reasonable and locally customary precautions, possibly including contacting local public and/or private utility locating services, and/or conducting research of publically available information, to identify underground utilities, as deemed appropriate in Modulus, PLLC's professional opinion.

CLIENT recognizes that despite due care, Modulus, PLLC may be unable to identify the locations of all subsurface utility lines and man-made features, and that information obtained by Modulus, PLLC and/or Modulus, PLLC's subcontractor(s) or provided to Modulus, PLLC from any entity may contain errors or be incomplete.

CLIENT agrees that Modulus, PLLC shall not be liable for damage or injury, consequential economic damages, and/or penalties resulting from damage to subterranean structures (pipes, tanks, cables, or other utilities, etc.) which are not called to Modulus, PLLC's attention in writing and correctly shown on the diagram(s) furnished by CLIENT or CLIENT'S consultants, or for underground features not marked, or improperly located by governmental or quasi-governmental locators, utility owners, or private utility locating services.

**SAMPLES**

Soil, rock, water, building materials and/or other samples and sampling by-products obtained from the Site are the property of CLIENT. Modulus, PLLC will store samples not consumed in laboratory testing for up to sixty (60) calendar days after the issuance of any document containing data obtained from those samples, unless other arrangements are mutually agreed upon in writing. Samples consumed by laboratory testing procedures will not be stored as outlined above.

Unless CLIENT directs otherwise, CLIENT authorizes Modulus, PLLC to dispose of CLIENT'S nonhazardous samples and sampling or testing process byproducts in accordance with applicable Laws and Regulations.

**ENVIRONMENTAL RISKS**

All substances on, in, or under CLIENT'S Site, or obtained from CLIENT'S Site as samples or as byproducts of the sampling process, are and will remain CLIENT'S property.

When Hazardous Materials are known, assumed, or suspected to exist at the Site, Modulus, PLLC shall take appropriate precautions deemed prudent in Modulus, PLLC's sole and professional opinion to comply with applicable laws and Regulations, and to reduce the risks to Modulus, PLLC's employees, public health, safety, and welfare, and to the environment. CLIENT agrees to compensate Modulus, PLLC for such reasonable precautions, but to obtain that compensation Modulus, PLLC must notify CLIENT and obtain CLIENT'S approval of those precautions before expense is incurred.

When Hazardous Materials are known, assumed, or suspected to exist at the Site, Modulus, PLLC will handle such materials as Hazardous Materials. Modulus, PLLC or Modulus, PLLC's subcontractors will containerize and label such Materials in accordance with applicable Laws and Regulations, and will leave the containers on Site. CLIENT is responsible for the retrieval and lawful removal, transport and disposal of such contaminated samples, and sampling process byproducts.

Unless explicitly state in Modulus, PLLC's Scope of Services, Modulus, PLLC shall not subcontract nor arrange for the transport, disposal, or treatment of Hazardous Materials. At CLIENT'S request, Modulus, PLLC may assist CLIENT in identifying appropriate alternatives for transport, off-site treatment, storage, or disposal of such substances, but CLIENT, not Modulus, PLLC, shall make final selection of methods and firms to provide such services. CLIENT shall sign all manifests for the disposal of substances affected by Hazardous Materials contaminants and shall otherwise exercise prudence in arranging for lawful disposal.

In those instances where Modulus, PLLC is expressly retained by CLIENT to assist CLIENT in the disposal of Hazardous Materials, samples, or wastes, Modulus, PLLC shall do so only as CLIENT'S agent (notwithstanding any other provision of this AGREEMENT to the contrary) so that Modulus, PLLC shall not assume the role of, nor be considered a generator, storer, transporter, or disposer of Hazardous Materials.

Subsurface sampling may result in unavoidable cross-contamination of certain subsurface areas, as when a probe or excavation/boring device moves through a contaminated zone and links it to an aquifer, underground stream, or other hydrous body not previously contaminated, or connects an uncontaminated zone with a contaminated zone. Because sampling is an essential element of Modulus, PLLC's services indicated herein, CLIENT agrees this risk cannot be eliminated. CLIENT will not hold Modulus, PLLC liable for such cross-contamination if Modulus, PLLC provides its Services in accordance with applicable industry standards and the Laws and Regulations.

CLIENT understands that a Phase I Environmental Site Assessment (ESA) is conducted solely to permit Modulus, PLLC to render a professional opinion about the likelihood of the site having Hazardous Materials on, in, beneath, or near the Site at the time the Services are conducted. No matter how thorough a Phase I ESA study may be, findings derived from its conduct are highly limited and Modulus, PLLC cannot know or state for an absolute fact that the Site is unaffected by Hazardous Materials. Given the foregoing, CLIENT'S acceptance of this AGREEMENT shall signify that CLIENT understands the limitations associated with Phase I ESAs.

**OWNERSHIP OF DOCUMENTS**

With the exception of the copies of the documents provided by Modulus, PLLC to the CLIENT ["Documents of Service"], all documents, technical reports, letters, photos, boring logs, field data, field notes, laboratory test data, calculations, designs, plans, specification, reports, or similar documents and estimates of any kind furnished by Modulus, PLLC maintained in any form deemed appropriate by Modulus, PLLC, are and remain, the property of Modulus, PLLC.

Any exploration, reconnaissance, data review, observations, testing, surveys or similar Services, analyses and recommendations associated with the Services shall be provided by Modulus, PLLC (including subcontracted Services) for the CLIENT'S sole use. CLIENT understands and agrees that any use of the Documents of Service by anyone other than the CLIENT or CLIENT'S contractors on this particular project is not permitted.

CLIENT agrees to not use Modulus, PLLC's Documents of Service for any other projects. Any reuse without Modulus, PLLC's written consent shall be at CLIENT'S sole risk and without liability to Modulus, PLLC or to Modulus, PLLC's subcontractor(s).

CLIENT agrees that Modulus, PLLC Documents of Service may not under any circumstances be altered by any party except Modulus, PLLC. CLIENT warrants that Modulus, PLLC's Documents of Service shall be used only without alteration.

Except for daily field reports and concrete test reports sent electronically by Modulus, PLLC to CLIENT and CLIENT'S designees, the following shall apply to all electronic files: Files in electronic media format of text, data, graphics, or other types that are furnished by Modulus, PLLC, for which Modulus, PLLC also furnishes hard copies, are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk to the extent that those electronic files contain errors that cause them to differ from the hard copies of the same documents. If there is a discrepancy between the electronic files and the hard copies, the hard copies shall govern.

**SAFETY**

CLIENT agrees that Modulus, PLLC is responsible solely for the basic safety of Modulus, PLLC's employees on the site. These responsibilities shall not be inferred by any party to mean that Modulus, PLLC has responsibility for any portion of site safety for any reason. Unless otherwise expressly agreed to in writing, Modulus, PLLC's Scope of Services excludes responsibility for any aspect of site safety other than for Modulus, PLLC's own employees, and nothing herein shall be construed to relieve CLIENT and/or its other contractors, consultants, or other parties from their responsibility for the safety of their own employees. For active construction sites, CLIENT also agrees that the General Contractor is solely responsible for site safety, and that Modulus, PLLC personnel rely on the safety measures provided by the General contractor.

In the event Modulus, PLLC expressly assumes health and safety responsibilities for toxic and other concerns specified, the acceptance of such responsibility does not and shall not be deemed an acceptance of responsibility for any other health and safety requirements, such as those related to excavating, trenching, shoring, drilling, backfilling, blasting, or other construction activities.

**CONSTRUCTION TESTING AND REMEDIATION SERVICES**

CLIENT understands that construction testing and observation Services are conducted to reduce, not eliminate, the risk of problems arising during or after construction or remediation.

Monitoring and/or testing Services provided by Modulus, PLLC shall not in any way relieve the CLIENT'S contractor(s) from their responsibilities and obligations for the quality or completeness of construction, nor for complying with applicable Laws and Regulations.

The professional activities of Modulus, PLLC, or the presence of Modulus, PLLC employees and subcontractors, shall not be construed to imply that Modulus, PLLC has any responsibility for the means, methods, techniques, sequencing of construction, or procedures of construction selected, for safety precautions and programs incidental to the Contractor's Work. Furthermore, Modulus, PLLC does not and shall not have or accept authority to supervise, direct, control, or stop Contractor's Work.

**CERTIFICATIONS**

CLIENT may request, or governing jurisdictions may require, Modulus, PLLC to provide a "certification" regarding Service provided by Modulus, PLLC. Any "certification" required of Modulus, PLLC by the CLIENT, or jurisdiction(s) having authority over some or all aspects of the Project, shall consist of Modulus, PLLC's inferences and professional opinions based on limited sampling, observations, tests, and/or analyses performed by Modulus, PLLC at discrete locations and times. Modulus, PLLC's "certification" shall consist of Modulus, PLLC's professional opinion of a condition's existence, but Modulus, PLLC does not guarantee that such condition exists, nor does it relieve other parties of responsibilities or obligations such parties have. CLIENT agrees to not make resolution of any dispute with Modulus, PLLC or payment of any amount due to Modulus, PLLC in any way contingent upon Modulus, PLLC signing any such "certification" documents.

**BILLINGS AND PAYMENTS**

Billings will be based on the unit rates, travel costs, and other reimbursable expenses state in the proposal.

CLIENT recognizes that time is of the essence with respect to payment of Modulus, PLLC invoices, and that timely payment is a material part of the consideration of this AGREEMENT. Payment shall be in U.S. funds drawn upon U.S. banks and in accordance with the rates and charges set forth in the Professional Fees. Invoices shall be due and payable upon receipt.

If CLIENT disputes all or part of an invoice, CLIENT shall provide Modulus, PLLC with written notice stating in detail the facts of the dispute within twenty-one (21) calendar days of the date that CLIENT receives the invoice and agrees to pay the undisputed amount of such invoice promptly.

Modulus, PLLC reserves the right to charge CLIENT an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by Law, whichever is lower) of the invoiced amount per month for any payment received by Modulus, PLLC more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment will first be applied to accrued interest and then to the unpaid principal amount. Payment of invoices shall not be subject to unilateral discounting or set-offs by CLIENT.

CLIENT agrees that its obligation to pay for the Services is not contingent upon CLIENT'S ability to obtain financing, zoning, approval of governmental or regulatory agencies, permits, final adjudication of a lawsuit in which Modulus, PLLC is not involved, upon CLIENT'S successful completion of the Project, settlement of a real estate transaction, receipt of payment from CLIENT'S client, or any other event. Retainage shall not be withheld from any payment, nor shall any deduction be made from any invoice on account of penalty, liquidated damages, or other sums incurred by CLIENT.

**DEFECTS IN SERVICE**

CLIENT and CLIENT'S personnel and contractors shall promptly inform Modulus, PLLC of any actual or suspected defects in Modulus, PLLC's Services, to help Modulus, PLLC take those prompt, effective measures that will help reduce or eliminate the consequences of any such defect. Corrections of defects attributable to Modulus, PLLC's Services shall be provided at no cost to CLIENT, except in the case that the deficiency is directly attributable to CLIENT-furnished information that contained material errors. CLIENTS shall compensate Modulus, PLLC for the costs of correcting such defects.

Modifications to reports, documents and plans required by CLIENT shall not be considered to be defects in Services.

**INSURANCE**

Modulus, PLLC represents that it and its subcontractors and subconsultants are protected by Workers Compensation insurance as required by applicable law and that Modulus, PLLC at all times shall carry general liability, automobile liability, and other liability insurance covering the Services provided by Modulus, PLLC with limits as shown on the Certificate of Liability Insurance, which is incorporated by reference.

Modulus, PLLC shall furnish certificates of insurance upon request. The CLIENT is responsible for requesting specific inclusions or limits of coverage that are not present in Modulus, PLLC insurance, the cost of such inclusions or coverage increases, if available, will be at the expense of the CLIENT.

**LIMITATION OF LIABILITY**

CLIENT AGREES TO ALLOCATE CERTAIN OF THE RISKS ASSOCIATED WITH THE PROJECT BY LIMITING Modulus, PLLC'S TOTAL LIABILITY TO CLIENT, ARISING FROM Modulus, PLLC'S PROFESSIONAL ACTS, ERRORS, OR OMISSIONS AND FOR ANY AND ALL CAUSES INCLUDING NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY, INJURIES, DAMAGES, CLAIMS, LOSSES, EXPENSES, OR CLAIM EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) UNDER THIS AGREEMENT TO THE FULLEST EXTENT PERMITTED BY LAW AS FOLLOWS.

Modulus, PLLC's liability to CLIENT shall not exceed the dollar values identified as the Limits on the Certificate of Liability Insurance for Modulus, PLLC.

CLIENT agrees that Modulus, PLLC shall not be responsible for bodily injury and property damage or losses to the extent caused by acts or omissions by the CLIENT, its employees, agents, staff, consultants or subcontractors.

**INDEMNIFICATION**

To the fullest extent permitted by applicable Law, Modulus, PLLC agrees, subject to the Limitation of Liability provision of this AGREEMENT, to indemnify, defend, and hold harmless CLIENT from and against any and all liability, claims, damages, demands, fines, penalties, costs and expenditures (including reasonable attorneys' fees and costs of litigation defense and/or settlement) ["Damages"] to the extent caused by the negligent acts of the CLIENT.

It is specifically understood and agreed that in no case shall Modulus, PLLC or CLIENT be required to pay an amount of Damages disproportional to its respective culpability, or any share of any amount levied to recognize more than actual economic damages, subject to any limitations of liability and INDEMNIFICATION provisions contained in this AGREEMENT.

IF CLIENT IS A HOMEOWNER, HOMEOWNERS ASSOCIATION, CONDOMINIUM OWNER, CONDOMINIUM OWNER'S ASSOCIATION, OR SIMILAR RESIDENTIAL OWNER, Modulus, PLLC RECOMMENDS THAT LEGAL COUNSEL BE RETAINED BY CLIENT BEFORE ENTERING INTO THIS AGREEMENT TO EXPLAIN CLIENTS RIGHTS, AND THE LIMITATIONS, AND RESTRICTIONS IMPOSED BY THIS AGREEMENT. CLIENT AGREES THAT FAILURE OF CLIENT TO RETAIN SUCH COUNSEL SHALL BE A KNOWING WAIVER OF LEGAL COUNSEL AND SHALL NOT BE ALLOWED ON GROUNDS OF AVOIDING ANY PROVISION OF THIS AGREEMENT.

**CONSEQUENTIAL DAMAGES**

CLIENT shall not be liable to Modulus, PLLC and Modulus, PLLC shall not be liable to CLIENT for any consequential damages incurred by either due to the fault of the other, regardless of the nature of the fault, or wherever committed by the CLIENT or Modulus, PLLC, their employees, consultants, agents, contractors or subcontractors, or whether such liability arises in breach of contract or warranty, tort (including negligence), Statute, or any other cause of action. Consequential damages include, but are not limited to, loss of use and loss of profit.

Modulus, PLLC shall not be liable to CLIENT, or any entity engaged directly or indirectly by CLIENT, for any liquidated damages due to any fault, or failure to act, in part or in total by Modulus, PLLC, its employees, agents, or subcontractors.

**THIRD PARTY CLAIMS EXCLUSION**

This AGREEMENT shall not create any rights or benefits to parties other than CLIENT and Modulus, PLLC. No third-party shall have the right to rely on Modulus, PLLC's opinions rendered in connection with Modulus, PLLC Services without both CLIENTS'S and Modulus, PLLC's written consent and the third-party's agreement to be bound to the same terms and conditions contained in this AGREEMENT as CLIENT, and third-party's agreement that Modulus, PLLC's Scope of Services performed is adequate.

**DISPUTE RESOLUTION**

All claims, disputes or controversies ["Disputes"] arising out of, or in relation to the interpretation, application or enforcement of this AGREEMENT shall be decided as follows:

CLIENT and Modulus, PLLC agree to attend a dispute resolution meeting within fourteen (14) days of identification of a Dispute by either party. CLIENT and Modulus, PLLC agree to negotiate in good faith to resolve the Dispute.

Should negotiation fail to resolve the dispute, CLIENT and Modulus, PLLC agree to mediate their dispute via a mediator selected by either party, and acceptable

to both parties.

Should mediation fail to result in resolution of the Dispute, CLIENT AND Modulus, PLLC agree that litigation may be brought by either party.

This AGREEMENT including all matters related to performance and remediation shall be interpreted according to the substantive Laws of the state of North Carolina (but not including its choice of law rules).

#### CURING A BREACH

A party that believes the other has materially breached this AGREEMENT may issue a written termination notice to the other, identifying the cause for termination within five (5) business days of identifying such cause. Both parties shall then bargain promptly and in good faith to cure such cause. If an acceptable cure can be achieved with fourteen (14) calendar days from the date of the termination notice, the parties shall commit their understandings to writing and termination shall not occur.

Either party may waive any right provided by this AGREEMENT in curing an actual or alleged breach; however, such waiver shall not affect future application of such provision or any other provision.

#### TERMINATION

CLIENT or Modulus, PLLC may terminate this AGREEMENT for breach of this AGREEMENT, or for any other reasons which may arise. In the event of termination, the party effecting termination shall so notify the other party in writing, and termination shall become effective fourteen (14) calendar days after receipt of the termination notice.

Irrespective of which party shall effect termination, or the cause therefore, Modulus, PLLC shall promptly render to CLIENT a final invoice and CLIENT shall compensate Modulus, PLLC for Services rendered before termination in accordance with this AGREEMENT.

#### TIME TO BAR LEGAL ACTION

Unless prohibited by Law, and notwithstanding any Statute that may provide additional protection, CLIENT AND Modulus, PLLC agree that claims by either party arising out of this AGREEMENT or the Services provided hereunder shall not be initiated more than two (2) years from the time the party knew, or should have known, of the condition giving rise to its claim, and shall under no circumstances be initiated more than three (3) years from the date of substantial completion of Modulus, PLLC's Services.

#### ASSIGNMENT

Except for Services normally or customarily subcontracted by Modulus, PLLC in the performance of its Services including, but not limited to surveyors, specialized consultants, drilling and excavating subcontractors, and testing laboratories, neither the CLIENT nor Modulus, PLLC may delegate, assign, sublet or transfer its duties, responsibilities or interests in this AGREEMENT without the written consent of the other party.

#### SEVERABILITY

Any provision of this AGREEMENT later held to violate a Law or Regulation, shall be deemed void, and all remaining provisions shall continue in full force and effect. CLIENT and Modulus, PLLC shall endeavor to quickly replace a voided provision with a valid substitute that expresses the intent of, or at least addresses, the issues covered by the original provision.

#### TITLES

The titles used in this AGREEMENT are for general reference only and are not part of the AGREEMENT.

#### SURVIVAL

All obligations arising prior to the termination of this AGREEMENT and all provision of this AGREEMENT allocating responsibility or liability between the CLIENT and Modulus, PLLC shall survive the substantial completion of Services and the termination of this AGREEMENT.

#### ENTIRE AGREEMENT

This AGREEMENT shall constitute the entire AGREEMENT between CLIENT and Modulus, PLLC concerning the subject matter. CLIENT acknowledges that all prior understandings and negotiations concerning the subject matter are superseded by this AGREEMENT. CLIENT acknowledges acceptance of these terms by submitting a CLIENT work authorization to Modulus, PLLC.

CLIENT and Modulus, PLLC agree that subsequent modification to this AGREEMENT shall not be binding unless made in writing and signed by authorized representatives of both parties.

All preprinted Terms and Conditions on CLIENT'S purchase order or Work Authorization, or other service acknowledgement forms, are inapplicable and superseded by this AGREEMENT.

END OF TERMS AND CONDITIONS OF SERVICE.



**Proposal for Design Services**

November 11, 2023

TISE · KIESTER  
ARCHITECTS119 E. Franklin St, Suite 300  
Chapel Hill, NC 27514**To: Watauga County****Attn:** Sarah Odio  
DFI Senior Project Manager**Deron.Geouque** [Deron.Geouque@watgov.org](mailto:Deron.Geouque@watgov.org)  
**County Manager****Project: Housing Development – Watauga County, NC**

Mr. Geouque:

Tise-Kiester Architects (TKa) appreciates the opportunity to provide a proposal for the above referenced study. We look forward to working with you and your partners to develop quality housing in western NC. Please find below our proposal for Design Services.

**PROJECT DESCRIPTION**

The western portion of the site is roughly 16 acres located across from 574 Brookshire Road located in Boone, NC.

This proposal includes the following items:

- Initial visioning meeting with DFI and Watauga County representatives.
- Meet bi-weekly (or weekly as needed) virtually with DFI and County staff.
- Examine available physical information and site parameters and communicate constraints to DFI and County.
  - Initial site visit
- Determine site constraints and context including NCHFA's LIHTC requirements.
- Work with Town on the following items:
  - View shed issues
  - UDO and approval process
  - Water and sewer extension options
- Generate a 3D massing model for the site including adjacent context to represent volumes, major building, road, and site elements.
- Develop several residential concepts for the site:
  - Indicating residential program mix (by unit type), communal, core and circulation, surface parking, and stormwater (estimated locations)
  - Providing plan, section, and elevation diagrams as well as block and stack layouts to explain the overall massing concepts.
- Provide *preliminary* hardscape and landscape layouts (with consideration for LIHTC requirements)
- Support DFI in presentations to County staff, Board of Commissioners, as needed.
  - In person presentation

TKa will endeavor to find the most reliable base of information available. But these conceptual studies can be completed with just GIS and Deed information.

telephone 919-967-0158  
fax/data 919-967-0159  
www.tisekiester.com



# Proposal for Design Services

November 11, 2023

## SCOPE of WORK

Basic Services to be provided by TKa:

- Architectural design & documentation
- The deliverable will be PDF color rendered images of the site layouts
- We can provide images of similar past projects in order to give the client an idea of the potential finished product.
- Conceptual cost estimates are included in the hourly Not to Exceed

Services to be provided by the Owner:

- Site survey
- Provide existing topographic information, as possible
- Geo-technical borings
- Environmental survey
- Civil Engineering and Landscape documents

Additional Services:

- Civil services associated with off-site improvements
- Civil services associated with re-zoning
- Marketing materials

## COMPENSATION – Hourly Not to Exceed

*Brookshire Road - Western Site*

**\$16,400**

### Standard Hourly Rates

The fee for Basic Services includes all fees associated with the project, as outlined under "Scope of Work". If required, representation by Tise-Kiester Architects, in addition to the outlined services, will be billed at the following rates:

<i>Principal</i>	<i>\$255 per hour</i>
<i>Senior Architect</i>	<i>\$195 per hour</i>
<i>Staff Architect</i>	<i>\$155 per hour</i>
<i>Intern / Draftsman</i>	<i>\$95 per hour</i>
<i>Administrative</i>	<i>\$65 per hour</i>

### Reimbursable Expenses

Reimbursable expenses will be billed at the standard reimbursable rate of cost-plus ten percent. Mileage will be billed at standard IRS rates.

telephone 919-967-0158  
 fax/data 919-967-0159  
 www.tisekiester.com



# Proposal for Design Services

November 11, 2023

**BILLING**

Billing will be monthly according to estimated percentage of completion.

**CONTRACT**

Upon signature below, this Letter Agreement will serve as the contract for design services for the initial studies.

**CLOSING**

Tise-Kiester has appreciated our relationship with you and your organizations and we look forward to working with you and Watauga County on this project. Please advise if we may provide any additional information or service.

**PROPOSAL BY:**

Tise-Kiester Architects, PA

By: Donald O. Tise, Jr., AIA

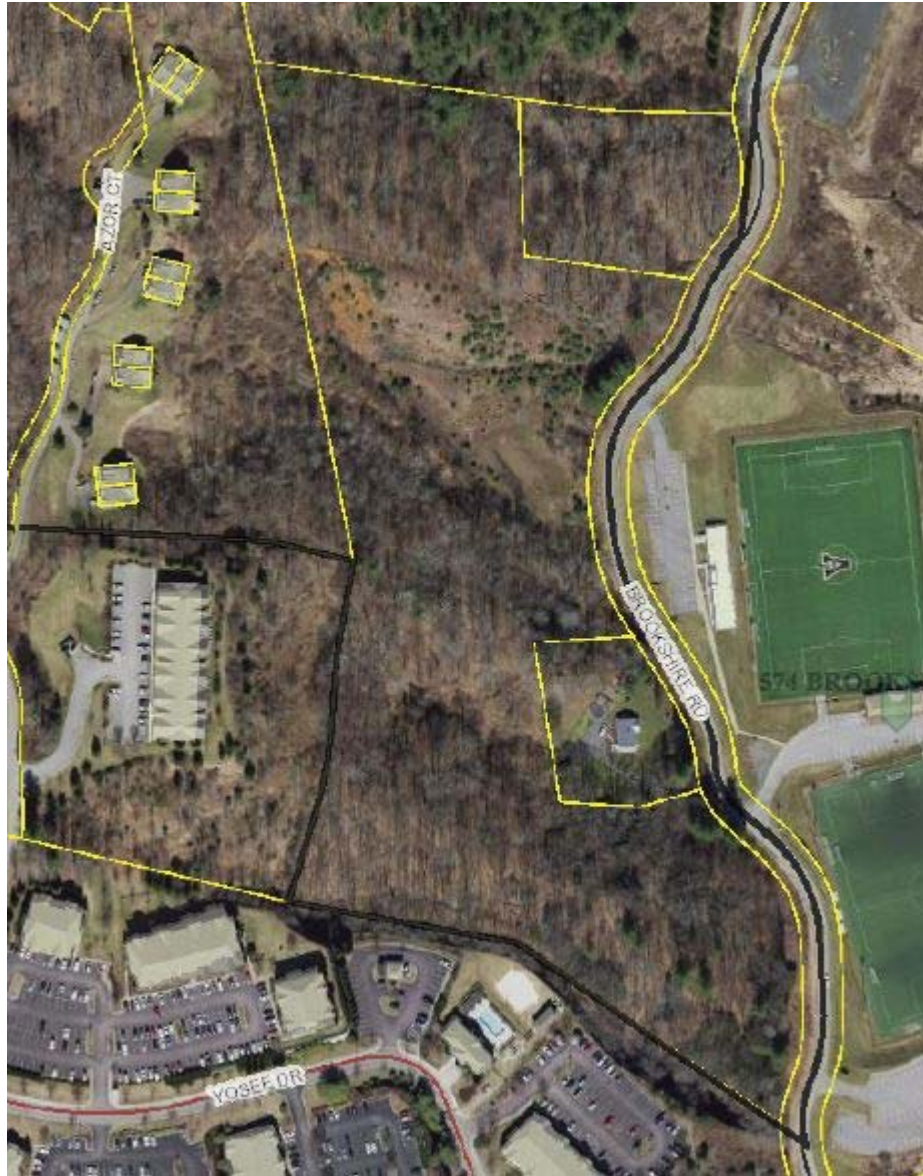
Date: 2023-1110

**ACCEPTED BY:**

Owner:

By: \_\_\_\_\_

Date: \_\_\_\_\_



574 Brookshire Road

**AGENDA ITEM 13:**

**TAX MATTERS**

*A. Monthly Collections Report*

**MANAGER'S COMMENTS:**

Mr. Larry Warren, Tax Administrator, will present the Monthly Collections Report and be available for questions and discussion.

The report is for information only; therefore, no action is required.


**Monthly Collections Report**

**Watauga County**

Bank deposits of the following amounts have been made and credited to the account of Watauga County. The reported totals do not include small shortages and overages reported to the Watauga County Finance Officer

Monthly Report October 2023

	<u>Current Month</u> <u>Collections</u>	<u>Current FY</u> <u>Collections</u>	<u>Current FY</u> <u>Percentage</u>	<u>Previous FY</u> <u>Percentage</u>
<b><u>General County</u></b>				
Taxes 2023	3,864,482.77	12,728,215.74	29.39%	20.07%
Prior Year Taxes	33,224.61	175,637.32		
Solid Waste User Fees	276,959.46	903,396.51	26.42%	17.12%
Green Box Fees	NA	NA	NA	NA
<b>Total County Funds</b>	<b>\$4,174,666.84</b>	<b>\$13,807,249.57</b>		
<b><u>Fire Districts</u></b>				
Foscoe Fire	57,005.64	217,560.89	31.91%	24.68%
Boone Fire	117,666.36	370,899.79	27.74%	19.10%
Fall Creek Service Dist.	1,183.48	3,099.85	22.73%	16.99%
Beaver Dam Fire	14,310.23	43,575.37	30.85%	19.50%
Stewart Simmons Fire	34,027.70	136,494.49	33.51%	24.61%
Zionville Fire	13,019.11	41,615.10	25.76%	17.88%
Cove Creek Fire	33,501.41	95,243.83	26.64%	21.20%
Shawneehaw Fire	16,680.32	56,188.67	35.14%	26.28%
Meat Camp Fire	29,912.95	82,167.20	25.25%	18.19%
Deep Gap Fire	21,826.57	71,060.21	26.03%	17.88%
Todd Fire	4,296.75	23,499.59	30.60%	25.93%
Blowing Rock Fire	69,412.15	242,048.59	34.64%	26.18%
M.C. Creston Fire	849.25	2,482.33	30.42%	22.44%
Foscoe Service District	6,344.70	28,403.41	25.51%	17.73%
Beech Mtn. Service Dist.	70.64	351.69	12.72%	18.46%
Cove Creek Service Dist.	0.00	36.45	10.83%	5.26%
Shawneehaw Service Dist	1,452.33	2,607.55	30.69%	14.74%
<b>Total Fire Districts</b>	<b>421,559.59</b>	<b>1,417,335.01</b>		
<b><u>Towns</u></b>				
Boone	779,129.92	2,323,804.77	26.54%	14.35%
Municipal Services	20,724.87	45,643.03	19.64%	13.97%
<b>Total Town Taxes</b>	<b>\$799,854.79</b>	<b>\$2,369,447.80</b>		
<b>Total Amount Collected</b>	<b>\$5,396,081.22</b>	<b>\$17,594,032.38</b>		

 Tax Collections Director

 Tax Administrator

**AGENDA ITEM 13:**

**TAX MATTERS**

*B. Refunds and Releases*

**MANAGER'S COMMENTS:**

Mr. Larry Warren will present the Refunds and Releases Reports. Board action is required to accept the Refunds and Releases Reports.

RELEASES - 10/01/2023 TO 10/31/2023

OWNER NAME AND ADDRESS	CAT YEAR PROPERTY REASON	BILL	EFF DATE	JUR	REF NO	VALUE CHARGE	AMOUNT
1843814 BATON, EDWARD LEE STEELE, SUE HOLLIS 11974 US HWY 421 N  ZIONVILLE, NC 28698	RE 2023 1994-26-8975-000 TAX RELEASES	22750	10/31/2023	F06	11802	124,600 F06 G01	62.30 396.23 ----- 458.53
1150705 BELLSOUTH TELECOMMUNICATIONS IN SOUTHERN BELL AT&T PROPERTY TAX GROUP 1010 PINE 9E-L-01 SAINT LOUIS, MO 63101	PP 2023 4378 TAX RELEASES	3489	10/05/2023	C02	11788	836,140 C02 G01	3,135.53 2,658.93 ----- 5,794.46
1209741 COOK, KENNETH AND LYNN 300 DIAMOND RANCH ROAD  BOONE, NC 28607-8360	RE 2022 2900-10-1206-000 REFUND RELEASE	34196	10/16/2023	F02	11795	36,200 F02 G01	21.72 115.11 ----- 136.83
1587504 CRUM, JAMES F 13500 SW 26TH ST  DAVIE, FL 33325-5108	RE 2022 1899-63-7623-000 REFUND RELEASE	7340	10/23/2023	F01	11798	11,200 F01 G01	5.60 35.62 ----- 41.22
1534109 DUFFY, WAYNE 7624 DORN CIRCLE  CHARLOTTE, NC 28212	RE 2023 2838-90-5909-000 TAX RELEASES	31474	10/26/2023	F12	11800	0 SWF	102.87
1774143 FORSTER, PATTY FORSTER, ROB 628 ELIZABETH AVENUE  WAKE FOREST, NC 27587	PP 2023 4178 TAX RELEASES	1433	10/27/2023	F09	11801	9,700 F09 G01 SWF	4.85 30.84 102.87 ----- 138.56
1619488 HECK, CHRISTOPHER B HECK, BRENDA J 3534 FOX RIDGE RD  CHARLOTTE, NC 28226	RE 2022 1940-76-1995-000 REFUND RELEASE	8698	10/20/2023	C05	11796	38,800 G01	123.38
1501521 HENDRICKS, ADELE (LIFE ESTATE) RHODES, REBECCA LANE 109 BIG JANE STREET  MARTINSVILLE, VA 24112-1303	RE 2023 2817-73-2055-000 TAX RELEASES	1000221	10/13/2023	F12	11791	0 F12 G01	514.40 3,271.58 ----- 3,785.98



RELEASES - 10/01/2023 TO 10/31/2023

OWNER NAME AND ADDRESS	CAT YEAR PROPERTY REASON	BILL	EFF DATE	JUR	REF NO	VALUE CHARGE	AMOUNT
1501521 HENDRICKS, ADELE (LIFE ESTATE) RHODES, REBECCA LANE 109 BIG JANE STREET  MARTINSVILLE, VA 24112-1303	RE 2023 2817-73-2055-000 TAX RELEASES	1000222	10/13/2023	F12	11792	0 F12 G01	529.45 3,367.30 ----- 3,896.75
1501521 HENDRICKS, ADELE (LIFE ESTATE) RHODES, REBECCA LANE 109 BIG JANE STREET  MARTINSVILLE, VA 24112-1303	RE 2023 2817-73-2055-000 TAX RELEASES	1000223	10/13/2023	F12	11793	0 F12 G01	624.30 5,031.86 ----- 5,656.16
1501521 HENDRICKS, ADELE (LIFE ESTATE) RHODES, REBECCA LANE 109 BIG JANE STREET  MARTINSVILLE, VA 24112-1303	RE 2023 2817-73-2055-000 TAX RELEASES	1000224	10/13/2023	F12	11794	0 F12 G01	624.30 5,031.86 ----- 5,656.16
1501172 OUR DAILY BREAD SAMAJEN, LLC D/B/A 627 W KING ST BOONE, NC 286073421	PP 2023 501172999 TAX RELEASES	2215	10/06/2023	MS1	11789	0 C02 G01 MS1	448.73 380.52 188.46 ----- 1,017.71
1585912 SHULLS MILL GRILL INC D/B/A GAMEKEEPER RESTAURANT 3005 SHULLS MILL ROAD  BOONE, NC 28607	PP 2023 585912999 TAX RELEASES	2872	10/20/2023	F12	11797	219,780 G01 F12	698.90 109.89 ----- 808.79
1799825 SOUTH END BREWERY LLC 117 B WEST LEWIS ST  GREENSBORO, NC 27406	PP 2022 3127 TAX RELEASES	1075	10/26/2023	MS1	11799	0 C02 G01 MS1	413.17 364.97 137.72 ----- 915.86
1810274 TEMPLE, E HOOD 170 COURTHOUSE SQ  FLORENCE, SC 29501	RE 2023 2848-77-2268-009 TAX RELEASES	32511	10/11/2023	F05	11790	0 F05 G01 SWF	399.33 1,493.96 102.87 ----- 1,996.16
1576044 TOWN OF BLOWING ROCK PO BOX 47  BLOWING ROCK, NC 28605-0047	RE 2023 2807-87-3876-000 TAX RELEASES	23780	10/04/2023	C03	11787	0 G01	241.36
DETAIL SUMMARY	COUNT: 16	RELEASES - TOTAL	1,276,420				30,770.78

RELEASES - 10/01/2023 TO 10/31/2023

RELEASES - CHARGE SUMMARY FOR ALL CLERKS

YEAR	CAT	CHARGE	AMOUNT	
2022	RE	F01	FOSCOE FIRE RE	5.60
2022	RE	F02	BOONE FIRE RE	21.72
2022	RE	G01	WATAUGA COUNTY RE	274.11
2022	PP	C02	BOONE PP	413.17
2022	PP	G01	WATAUGA COUNTY PP	364.97
2022	PP	MS1	BOONE MUNICIPAL SERV DIST PP	137.72
2022 TOTAL			1,217.29	
2023	RE	F05	STEWART SIMMONS FIRE RE	399.33
2023	RE	F06	ZIONVILLE FIRE RE	62.30
2023	RE	F12	BLOWING ROCK FIRE RE	2,292.45
2023	RE	G01	WATAUGA COUNTY RE	18,834.15
2023	RE	SWF	SANITATION USER FEE	205.74
2023	PP	C02	BOONE PP	3,584.26
2023	PP	F09	MEAT CAMP FIRE PP	4.85
2023	PP	F12	BLOWING ROCK FIRE PP	109.89
2023	PP	G01	WATAUGA COUNTY PP	3,769.19
2023	PP	MS1	BOONE MUNICIPAL SERV DIST PP	188.46
2023	PP	SWF	SANITATION USER FEE	102.87
2023 TOTAL			29,553.49	
SUMMARY TOTAL			30,770.78	

RELEASES - 10/01/2023 TO 10/31/2023

RELEASES - JURISDICTION SUMMARY FOR ALL CLERKS

JUR	YEAR	CHARGE	AMOUNT	
C02	2023	C02	BOONE PP	3,135.53
C02	2023	G01	WATAUGA COUNTY PP	2,658.93
		C02	TOTAL	5,794.46
C03	2023	G01	WATAUGA COUNTY RE	241.36
		C03	TOTAL	241.36
C05	2022	G01	WATAUGA COUNTY RE	123.38
		C05	TOTAL	123.38
F01	2022	F01	FOSCOE FIRE RE	5.60
F01	2022	G01	WATAUGA COUNTY RE	35.62
		F01	TOTAL	41.22
F02	2022	F02	BOONE FIRE RE	21.72
F02	2022	G01	WATAUGA COUNTY RE	115.11
		F02	TOTAL	136.83
F05	2023	F05	STEWART SIMMONS FIRE RE	399.33
F05	2023	G01	WATAUGA COUNTY RE	1,493.96
F05	2023	SWF	SANITATION USER FEE	102.87
		F05	TOTAL	1,996.16
F06	2023	F06	ZIONVILLE FIRE RE	62.30
F06	2023	G01	WATAUGA COUNTY RE	396.23
		F06	TOTAL	458.53
F09	2023	F09	MEAT CAMP FIRE PP	4.85
F09	2023	G01	WATAUGA COUNTY PP	30.84
F09	2023	SWF	SANITATION USER FEE	102.87
		F09	TOTAL	138.56
F12	2023	F12	BLOWING ROCK FIRE PP	2,402.34
F12	2023	G01	WATAUGA COUNTY PP	17,401.50
F12	2023	SWF	SANITATION USER FEE	102.87
		F12	TOTAL	19,906.71
MS1	2022	C02	BOONE PP	413.17
MS1	2022	G01	WATAUGA COUNTY PP	364.97
MS1	2022	MS1	BOONE MUNICIPAL SERV DIST PP	137.72
MS1	2023	C02	BOONE PP	448.73
MS1	2023	G01	WATAUGA COUNTY PP	380.52
MS1	2023	MS1	BOONE MUNICIPAL SERV DIST PP	188.46
		MS1	TOTAL	1,933.57
			SUMMARY TOTAL	30,770.78

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**AGENDA ITEM 14:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*A. Appointment of the Watauga County Finance Director*

**MANAGER’S COMMENTS:**

Per North Carolina General Statute 159-24 the County is required to appoint a Finance Director. Staff requests the Board appoint Ms. Lauren Taylor as the County’s new Finance Director. Ms. Taylor’s hire date is November 28, 2023.

Board action is required to officially appoint Ms. Lauren Taylor as the Watauga County Finance Director effective November 28<sup>th</sup>, 2023.

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**AGENDA ITEM 14:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***B. Proposed Utility Easement & Agreement for Installation of Underground Service for EMS Facility Project***

**MANAGER'S COMMENTS:**

As part of the development of the new Watauga Emergency Services Facility, the attached utility easement for underground service is required to be approved. This is a standard request regarding development.

Board action is required to approve, contingent upon County Attorney review, the utility easement as attached.

BLUE RIDGE ELECTRIC MEMBERSHIP CORPORATION  
D/B/A BLUE RIDGE ENERGY  
OWNER'S AGREEMENT  
for  
INSTALLATION OF UNDERGROUND SERVICE

AGREEMENT

STATE OF NORTH CAROLINA

COUNTY OF Watauga

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between Blue Ridge Electric Membership Corporation d/b/a Blue Ridge Energy hereinafter called the Cooperative, and Watauga County, a body politic hereinafter called the Owner.

WITNESSETH

WHEREAS, the Owner has requested that the Cooperative install underground service on his premises located at TBD US Hwy 421 (PIN 2921303252000) and agrees to make any required contribution in aid of construction as defined in the Cooperative's Service Rules and Regulations;

NOW, THEREFORE, in consideration of the Cooperative's and the Owner's mutual promises, the parties hereto agree that the Cooperative will install, own and maintain the underground distribution facilities on the aforesaid premises under the following terms and conditions:

1. The underground distribution facilities covered by this agreement will provide electric service for the aforesaid premises.
2. The Owner will grant a satisfactory easement for the Cooperative's facilities without cost to the Cooperative.
3. Facilities associated with an underground distribution system, other than the conductors, may be installed above or below ground as determined solely by the Cooperative in accordance with the current construction design practices of the Cooperative.
4. The Cooperative will provide service to a single transformer using a loop system design at the request of the member who desires to have a loop system installed and makes a payment equal to the estimated cost of the additional facilities in excess of the radial extension facilities.
5. Existing overhead distribution facilities will remain installed overhead unless the member desires to have them installed underground. Distribution feeders necessary to serve a new underground subdivision will be installed overhead unless the owner agrees to pay for the cost of underground facilities.
6. Prior to the installation of the underground distribution system by the Cooperative, the final grade levels of the building sites shall be established by the member. The building construction program shall be coordinated with the installation of underground electrical facilities to permit unimpeded access to the Cooperative's equipment to the installation site; to allow installation of underground facilities at proper depth and before streets, curbs, or other obstructions are installed; and to eliminate digging into the underground electrical facilities after installation.

Should streets, curbs, or other obstructions be present prior to installation of underground facilities, resulting in additional expense to the Cooperative, payment for these additional expenses shall be made to the Cooperative by the member. Should established lots or final grade levels change after installation of underground electrical



Installation of Underground Service

facilities has begun, or if installation of electrical facilities are required by the owner before final grades are established, and either of these conditions results in additional expense to the Cooperative, payment for these additional expenses shall be made to the Cooperative by the member.

7. Should existing sidewalks, septic tank systems, fuel tanks, other utility lines, or other man-made obstructions result in additional expenses to the Cooperative, payment for the same will be made by the member.

8. Actual costs incurred to comply with special requirements, if any, of municipalities, state and federal highway agencies or departments regarding a breaking of pavement, ditching, backfilling, and other related conditions, will be paid by the member.

9. Member agrees to pay actual additional cost incurred by the Cooperative due to adverse conditions, such as: rock or the composition of the land where the underground facilities are to be installed is such that standard construction equipment cannot be used to complete the installation; or, special equipment and materials are needed for stream crossing structures or concrete structures; or, blasting is required; or, if abrupt changes in final grade levels exceed a slope ratio of one when measured within three feet of the trench.

10. The Cooperative's agreement to provide underground service is dependent upon the securing of all necessary rights, easements, rights-of-way, privileges, franchises, or permits for the installation of such service from those requesting the underground facilities. The Cooperative shall exercise care in the utilization of its underground equipment during construction, but the ultimate responsibility for the protection of shrubs, trees, grass sod and driveways will be that of the member. Reseeding of trench cover will be done by the member. Shrubs, trees, or any other obstacle shall not be placed within ten feet of the transformer cabinet or cabinet openings which would hinder the access of the Cooperative at any time.

11. Temporary service will not be available in the area served from underground facilities until the underground system is in place unless the member elects to pay the "in and out" cost of temporary facilities necessary to deliver the temporary service from overhead distribution lines. After the underground facilities are in place, temporary service may be provided for normal fees only at a transformer or pedestal location.

12. All underground facilities not owned by utilities are to be located and exposed by owner. Any damage to these facilities not located and exposed will be at the owner's expense to repair.

IN WITNESS WHEREOF, the parties have executed this agreement on the date first above written.

\_\_\_\_\_  
(Owner)

Blue Ridge Electric Membership Corporation  
d/b/a Blue Ridge Energy

\_\_\_\_\_  
(Authorized Agent)

**UTILITY EASEMENT**

Return to: Blue Ridge Electric Membership Corporation

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, **Watauga County, a body politic**, on behalf of [*himself/herself/itself*], and [*his/her/its*] heirs, executors, administrators, successors and assigns (collectively, "Grantor"), for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant unto BLUE RIDGE ELECTRIC MEMBERSHIP CORPORATION and its subsidiaries, and their successors, assigns, lessees and licensees (collectively, "Grantee"), a perpetual right-of-way and easement upon, over and across the lands of the Grantor situated in **Watauga County, North Carolina**, more particularly described as follows: Two tracts of land approximately **6.13 and 1.87** acres in size as described in that deed recorded at **Deed Book 2332, Page 925, Watauga County Registry**, currently known as Tax Parcel #'s **2921-30-3252-000 and 2920-29-5940-000**, (the "Premises").

**Underground Facilities** \_\_\_\_\_ (*Initial to grant underground facilities easement*)

By initialing above, Grantor grants to Grantee an easement extending perpendicularly ten (10) feet to either side of the centerline of said lines or system as installed, measuring twenty (20) feet in width in its entirety. By initialing above, Grantor further grants to Grantee, its agents, employees and contractors, the following rights: to erect, construct (by digging, trenching or other means), reconstruct, relocate, repair, operate, upgrade, alter and maintain underground electric distribution facilities, lines and conduits, as well as transformers, service connections, communications lines, fiber optics cables, cabinets, and other apparatus and appliances, either above ground or below ground, for the purpose of transporting electricity and for communications purposes (including but not limited to the transmission of data, sound and images); to enter upon and travel across, at any time now or in the future, the Premises, and all abutting streets, roads or highways, in order to access the easement and any easements on adjacent properties and to exercise all other rights granted herein; to clear the land within the easement, and to keep it clear of shrubbery, trees and other growth located within the easement, regardless of how long said vegetation has been permitted to grow, and to keep the easement clear of any and all other obstructions; to clear and keep clear from the easement all structures, buildings, wells, mobile homes, swimming pools, septic or storage tanks, flammable materials or other fire hazards, wrecked or disabled vehicles, and refuse of any type; and to clear land outside the easement within ten (10) feet of the service door of any transformer or cabinet, and to keep the area within ten (10) feet of said door clear of trees and shrubbery (regardless of how long said vegetation has been permitted to grow), structures and other obstructions.

**Overhead Facilities** \_\_\_\_\_ (*Initial to grant overhead facilities easement*)

By initialing above, Grantor grants to Grantee an easement extending perpendicularly fifteen (15) feet to either side of the centerline of said lines or system as installed, measuring thirty (30) feet in width in its entirety. By initialing above, Grantor further grants to Grantee, its agents, employees and contractors, the following rights: to erect, construct, reconstruct, relocate, repair, operate, upgrade, alter and maintain upon the easement, and upon all abutting streets, roads or highways, one or more lines or systems, including poles, cross-arms, wires, guys, anchors, cable, transformers, antennae, amplifiers, communications cabinets and other apparatus and appliances, for the purpose of transporting electricity and for communications purposes (including but not limited to the transmission of data, sound and images); to install, maintain and use anchors, stub poles and guy wires on land adjacent to the easement; to enter upon and travel across, at any time now or in the future, the Premises, and all abutting streets, roads or highways, in order to access the easement and any easements on adjacent properties and to exercise all other rights granted herein; to clear the

land within the easement, and to keep it clear of shrubbery, trees and other growth located within the easement, regardless of how long said vegetation has been permitted to grow, and to keep the easement clear of any and all other obstructions; to clear and keep clear from the easement all structures, buildings, wells, mobile homes, swimming pools, septic or storage tanks, flammable materials or other fire hazards, wrecked or disabled vehicles, and refuse of any type; to prohibit the construction of buildings or other facilities on the Premises within such proximity to any above-ground electric or communications facility that would endanger the operation or prevent the maintenance of the facility; to trim or remove and to keep trimmed or removed dead, diseased, weak or leaning trees or limbs outside of the easement which, in the opinion of Grantee, might interfere with or fall upon the electric or communication facilities within the easement, regardless of how long said vegetation has been permitted to grow.

#### **Additional Terms of All Easements**

Construction of new facilities on property outside the footprint of the easement and future extensions of facilities beyond the footprint of the easement are not permitted by this Agreement. In the event facilities outside the footprint of this easement are contemplated, additional easement rights may be acquired.

Once construction is complete, in the event Grantee exercises its rights of ingress and egress, Grantee shall repair any damage it shall do to Grantor's private lanes, roads, and/or crops that result from Grantee's ingress and egress.

Grantor further gives, grants and conveys to Grantee, its agents, employees and contractors, the right to relocate its facilities, and the corresponding easement, over the Premises to conform to any future highway or street relocation, widening or improvement.

Grantor shall retain all other rights to his lands not inconsistent with the rights and easements herein conveyed, but Grantor cannot interfere with or endanger the construction, operation, or maintenance of Grantee's facilities.

The failure of Grantee to exercise any of the rights herein acquired shall not be construed as a waiver or abandonment of the right hereafter at any time, and from time to time, to exercise any or all of them.

Grantor agrees that all poles, wires, structures, antennae, accessories and other facilities installed on the Premises by Grantee shall remain the property of Grantee, removable at the option of the Grantee.

Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, or any interest therein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, except as expressly hereinafter stated.

Exceptions: \_\_\_\_\_

It is further understood that, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read in the feminine.

TO HAVE AND TO HOLD, all and singular, the rights, privileges and easements aforesaid unto the said Grantee forever.

FOR OFFICE USE ONLY: \_\_\_\_\_.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officer, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Watauga County, a body politic**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title: Chair, Watauga County Board of Commissioners**

*CORPORATE SEAL*

**ATTEST:** \_\_\_\_\_

**Name: Anita J. Fogle**

**Title: Clerk to the Board**

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

I, \_\_\_\_\_, a Notary Public in and for the above named State and County, do hereby certify that **Anita J. Fogle** personally appeared before me this day and acknowledged that she is **Clerk of The Board of County Commissioners of Watauga County, a body politic**, and that authority duly given and as the act of the corporate body, the foregoing instrument was signed in its name by its **Chair of the Board of Commissioners** and attested by her as its **clerk**.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*SEAL*

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires:

\_\_\_\_\_

**AGENDA ITEM 14:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*C. Proposed Town of Boone Easement for the Parking Deck Project*

**MANAGER’S COMMENTS:**

As part of the development for the new County Parking Deck the attached easement with the Town of Boone is required to be approved. The County Attorney drafted the easement.

Board action is required to approve the easement with the Town of Boone for the County Parking Deck.

Prepared by and return to: **DI SANTI CAPUA & GARRETT, PLLC**  
**118 North Depot Street, PO Box 193**  
**Boone, NC 28607**

## **EASEMENT AGREEMENT**

**STATE OF NORTH CAROLINA**

**COUNTY OF WATAUGA**

**THIS EASEMENT AGREEMENT** (this “Agreement”) is made this the \_\_\_ day of November, 2023 by and between the Town of Boone, a North Carolina municipal corporation (hereinafter referred to as “Boone”) and Watauga County, a North Carolina Body Politic (hereinafter referred to as “Watauga”). Boone and Watauga are collectively referred to as the “Parties.” The designation Boone and Watauga, as used herein, shall include said Parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine, as required by context.

### **Recitals**

- A. Boone is the owner of Water Street, Queen Street and Cross Street as shown at Plat Book 2 at Page 58 and Plat Book 29 at Page 468, Office of the Register of Deeds of Watauga County.
- B. Watauga is the owner of a 0.718 acre lot (Watauga County tax parcel number 2900-79-9983-000) located adjacent to Water Street, Queen Street and Cross Street, Town of Boone, Watauga County, North Carolina (the “Property”), and conveyed to Watauga by that certain instrument recorded at Book of Records 2004, Page 52 and as shown at Plat Book 16 at Page 005 (0.717 acres) and Plat Book 29 at Page 468 (0.718 acres) Office of the Register of Deeds for Watauga County, North Carolina.
- C. Watauga has agreed to grant to Boone a perpetual non-exclusive easement to use, repair, improve, replace, and maintain a pedestrian sidewalk located or to be located on the Watauga’s Property as shown as Easement 1, 1,721 sq. ft., Plat Book 29 at Page 468 as well as for the use of the easement for pedestrian traffic by the public, pursuant to this Agreement.
- D. Boone has agreed to grant to Watauga a soil nail construction easement located or to be located on Boone’s property as shown as Easement 2, 3,828 sq. ft., Plat Book 29

**DI SANTI CAPUA & GARRETT, PLLC**  
**118 North Depot Street, PO Box 193**  
**Boone, NC 28607**

at Page 468 and as described on the Exhibits attached hereto.

- E. Boone has agreed to grant to Watauga a footing easement located or to be located on Boone's property as shown as Easement 3, 308 sq. ft., Plat Book 29 at Page 468.

**NOW, THEREFORE**, for and in consideration of \$10.00 and the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

1. **Recitals Incorporated Herein.** The above recitals are incorporated in and made a part of this Agreement as fully as if set forth verbatim herein.

## 2. Grant of Permanent Easements

- A. Watauga hereby grants, bargains, sells and conveys to Boone a perpetual, non-exclusive easement over Easement 1, 1,721 sq. ft. as a "Permanent Sidewalk Easement Area" for the purpose of operating, maintaining, improving, replacing, and repairing a pedestrian sidewalk in the Easement area for use by the public, as well as any necessary retaining walls or related infrastructure and appurtenances and drainage improvements (collectively, the "sidewalk improvements"). The Easement is hereby dedicated in perpetuity to Boone and to the common use of the public, and shall constitute a covenant running with the land in perpetuity for the benefit of Boone, its successors and assigns. By execution of this Agreement and acceptance of the Permanent Sidewalk Easement, Boone accepts such dedication on behalf of its citizens and the public.
- B. Boone hereby grants, bargains, sells and conveys to Watauga a soil nail construction easement located or to be located on the Boone's property as shown as Easement 2, 3,828 sq. ft., Plat Book 29 at Page 468 and as described on the Exhibits attached hereto. This Easement 2 is hereby dedicated to Watauga County for so long as the structure (parking deck) currently being constructed on the Property is in existence. Upon demolition of such structure, Easement 2 shall automatically expire and terminate. By execution of this Agreement and acceptance of the soil nail construction easement, Watauga accepts such dedication. *Provided, however*, that while Easement 2 shall terminate and expire at such time as the parking deck currently being constructed is demolished, neither Watauga nor its successors in interests shall be required to remove the soil nails located in the easement area.
- C. Boone hereby grants, bargains, sells and conveys to Watauga a footing easement located or to be located on Boone's property as shown as Easement 3, 308 sq. ft., Plat Book 29 at Page 468. This Easement 3 is hereby dedicated to Watauga County for so long as the structure (parking deck) currently being constructed on the Property is in existence. Upon demolition of such structure, Easement 3 shall automatically expire and terminate. By execution of this Agreement and acceptance of the footing easement, Watauga accepts such dedication. *Provided, however*, that

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**118 North Depot Street, PO Box 193**  
**Boone, NC 28607**

while Easement 3 shall terminate and expire at such time as the parking deck currently being constructed is demolished, neither Watauga nor its successors in interests shall be required to remove the footings located in the easement area.

**THIS DOCUMENT HAS BEEN PREPARED WITHOUT TITLE EXAMINATION**

**IN WITNESS WHEREOF**, the Parties have executed this Easement Agreement on the dates shown below.

**Town of Boone**

By: \_\_\_\_\_  
**Tim Futrelle, Mayor**

Attested By: \_\_\_\_\_(SEAL)  
**Nicole Harmon, Clerk, Town of Boone**

**STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA**

I, a Notary Public of the County and State aforesaid, certify that **Nicole Harmon** personally appeared before me this day and acknowledged that she is the Clerk for the Town of Boone, a North Carolina municipality, and that by authority duly given and as an act of the Town of Boone, the foregoing instrument was signed in its name by its Mayor, **Tim Futrelle**, and attested by her as the Town Clerk.

Witness my hand and official stamp or seal, this \_\_\_\_ day of November, 2023.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My Commission Expires: \_\_\_\_\_

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118 North Depot Street, PO Box 193  
Boone, NC 28607**



**Watauga County, A North Carolina Body Politic**

**By:** \_\_\_\_\_  
**Larry Turnbow, Chair, Watauga County Board of Commissioners**

**Attested By:** \_\_\_\_\_ (SEAL)  
**Anita Fogle, Clerk, Watauga County Board of Commissioners**

**STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA**

I, a Notary Public of the County and State aforesaid, certify that **Anita Fogle** personally appeared before me this day and acknowledged that she is the Clerk for the Town of Boone, a North Carolina municipality, and that by authority duly given and as an act of Watauga County, the foregoing instrument was signed in its name by its Chair, **Larry Turnbow**, and attested by her as the Clerk Watauga County Board of Commissioners

Witness my hand and official stamp or seal, this \_\_\_\_ day of November, 2023.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My Commission Expires: \_\_\_\_\_

**DI SANTI CAPUA & GARRETT, PLLC  
118 North Depot Street, PO Box 193  
Boone, NC 28607**

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**AGENDA ITEM 14:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

***D. Proposed Inmate Catastrophic Insurance Contract***

**MANAGER’S COMMENTS:**

The contract renewal is proposed with Sirius America Insurance for catastrophic insurance for inmates housed in the County Jail. The insurance shields the County from large medical claims that occur while inmates are being housed in the Watauga County Jail.

The current contract expiration date is December 1, 2023. Board action is required to approve the contract renewal with Sirius America Insurance for catastrophic insurance coverage for \$21,696.48 with a \$5,000 deductible. Adequate funds are available to cover the contracted cost.



Date of Proposal: October 27, 2023  
 Proposed Insured: Watauga County Sheriff's Office  
 City, State: Boone, NC  
 Facilities Include: Watauga County Detention Center  
 Issuing Company: Sirius America Insurance Company, A.M. Best Rating "A-" Excellent  
 Coverage Type: Limited Health Expense Benefits - provided outside the walls of the facility, or facilities, listed above and as outlined in the Insurance Policy.  
 Policy Form: Blanket Accident Medical  
 Effective Date: December 1, 2023  
 Number of Inmates: 52

Specific Coverage:	Option 1	Option 2
Per Inmate Deductible:	\$5,000	\$5,000
Per Inmate Coverage Limit:	\$250,000	\$250,000
Policy Maximum:	\$1,000,000	\$1,000,000
Rate Per Inmate Per Month:	\$34.77	\$52.15
<b>Covered Expenses:</b>	<b>Eligible Medical Services shall accumulate to satisfy the Per Inmate Deductible as outlined below and be reimbursed at the following:</b>	
In-Patient Hospital Services:	Lesser of the Amount Paid or 70% of the Amount Billed or 200% of Medicaid	Lesser of the Amount Paid or 70% of the Amount Billed or 200% of Medicaid
Outpatient Hospital Services:		
Physician Services:		
Outpatient Diagnostic and Lab Services:		
Ambulance Services:		
Medical Services and Supplies:		
Dialysis:	Limited to those provided and administered during a Hospital Stay	Limited to those provided and administered during a Hospital Stay
Prescription Drugs:		
<b>Benefits/Exclusions:</b>		
Prior-to-Booking/In-Pursuit:	Excluded	Included
Security & Guarding:	Excluded	Excluded
Dental:	Excluded	Excluded
HIV/AIDS:	Included	Included
Pregnancy:	Included (Inmate only)	Included (Inmate only)
Specialty Drugs:	Excluded	Excluded
Substance Abuse:	Excluded	Excluded
Mental and Nervous Disorders:	Excluded	Excluded
<b>Total Premium:</b>	<b>\$21,696.48</b>	<b>\$32,541.60</b>

**Terms and Conditions**

- This proposal is based on data submitted and other information furnished relevant to underwriting the risk, including all claims or possible claims, paid, pending, or denied pending additional information, or which the prospective insured or authorized representative should otherwise be aware of.
- Any inaccuracy in the data submitted or failure to disclose any such information can change the terms, conditions, rates, or factors of this offer or can void offer and coverage.
- Claim Provisions:
 

<b>From:</b>	<b>To:</b>
Claims Incurred: December 1, 2023	November 30, 2024
Claims Reported: December 1, 2023	May 31, 2025
Claims Submitted: December 1, 2023	May 31, 2025
- This proposal is valid for the stated effective date shown above provided the prospective insured or its authorized representative elects one of the above options by November 30, 2023, by submitting a signed application, which will be provided after your selection is made. Until we obtain the signed application, the rates and factors are subject to change as additional information is received.
- Acceptance of this quote is contingent upon and subject to the actual terms of the policy as issued, which occurs upon binding and premium payment. If there is any conflict between this quote and the policy, the policy will govern in all cases.

Desired Coverage:  Option 1  Option 2

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_



**Catastrophic Inmate Medical Insurance** Administered by Hunt Insurance Group

2075 Center Pointe Blvd, Ste. 101, Tallahassee, FL 32308 ☎ Toll Free: (800) 763-4868 ✉ huntbenefits@huntins.com 🌐 www.inmatemedicalinsurance.com

**Sirius America Insurance  
Company**  
140 Broadway  
New York, NY 10005

**APPLICATION FOR BLANKET LIMITED BENEFIT HEALTH INSURANCE**

**Part I Proposed Policyholder**

**a. Full Legal Name of Proposed Policyholder**

Watauga County Sheriff's Office

**b. Address**

814 West King Street, Room 216, Boone, NC 28607

- c. Proposed Policyholder is**  **A correctional facility or authority of a state, county or municipality, or**  **a management company providing health services to inmates**

- d. Requested Effective Date** December 1, 2023

*Policy will become effective on the Requested Effective Date only if (a) all required information is provided and (b) Sirius America has received the initial premium on or before that date.*

- e. Who will be insured?** *Please check each category that applies*

1. Eligible Persons during Pursuit
2. Eligible Persons in Custody of a correctional facility of a state, county or municipality
3. Eligible Persons Incarcerated in a correctional facility of a state, county or municipality

**Part II Plan of Insurance and Premium Calculation**

**a. Plan of Benefits**

1. Maximum Benefit per Covered Inmate Per Policy Year \$ \$250,000
2. Maximum Benefit for injuries sustained during Pursuit \$ Excluded
3. Policy Aggregate Maximum per Policy Year \$ 1,000,000
4. Deductible Per Covered Inmate Per Policy Year \$ 5,000

**b. Premium Calculation**

1. Rate Per Covered Inmate per month \$ 34.77
2. Number of Covered Inmates on the Policy Effective Date 52
3. Initial Premium \$ 21,696.48

SEM-16-5000NC

**Part III Acknowledgements and Signatures**

- a. **Fraud Warning** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto may be guilty of committing a fraudulent insurance act, which is a crime.
- b. **Applicant's Acknowledgement** I, the applicant, declare, to the best of my knowledge and belief, that all statements and answers in this application are true and complete. I understand and agree that (a) this application will form part of any policy issued, (b) no information given to or acquired by any representative of Sirius America will bind it, unless it is in writing on this application, (c) no waiver or modification will bind the Company unless it is in writing and is signed by an executive officer of Sirius America, and (d) only those persons eligible under the terms of an issued policy will be insured.

Dated at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
*Signed for the **Proposed Policyholder***

\_\_\_\_\_  
*Title*

**c. To be acknowledged and signed by the Agent**

I certify that I have truly and accurately recorded on the application the information provided by the Policyholder.

*Leon D. Lancaster*  
*Signed by Licensed **Agent***

16811317  
***Agent License #***

Leon D. Lancaster  
*Please Print Name*

November 1, 2023  
*Date Signed: mm/dd/yyyy*

Jacksonville, Florida  
*Signed at: City, State*

**AGENDA ITEM 14:****MISCELLANEOUS ADMINISTRATIVE MATTERS*****E. Request for Proposal (RFP) Recommendation for Position Classification and Pay Plan Study*****MANAGER'S COMMENTS:**

Requests were solicited to conduct a Position Classification and Pay Plan Study and were due October 27, 2023. The County received seven proposals which were reviewed by the County Manager and Human Resources Staff. The proposals received ranged in cost from \$38,500 to \$90,000.

After a thorough and extensive review, staff is recommending Piedmont Triad Regional Council with a cost of \$38,500 for the Position Classification and Pay Plan Study. Staff recommends a project budget not to exceed \$50,000 to include the stated fee of \$38,500 and fees for any additional professional services not specified in the scope of work, as may be required to successfully complete the Position Classification and Pay Plan Study for Watauga County. Adequate funds have been budgeted to cover the expense.

Board action is required to accept Piedmont Triad Regional Council's proposal of \$38,500 to conduct a Position Classification and Pay Plan Study with a project budget of \$50,000.



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# WATAUGA COUNTY

OFFICE OF THE  
COUNTY MANAGER

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Administration Building, Suite 205 – 814 West King Street – Boone, NC 28607 – (828) 265-8000  
TDD 1-800-735-2962 – Voice 1-800-735-8262 – FAX (828) 264-3230

**TO:** Watauga County Board of Commissioners

**FROM:** Deron Geouque, County Manager

**DATE:** November 14, 2023

**RE:** Request for Proposals for Position Classification and Pay Plan Study

Watauga County solicited Request for Proposals for a Position Classification and Pay Plan Study, due October 27, 2023. The County received seven proposals which were reviewed by the County Manager and Human Resources Staff. The proposals received ranged in cost from \$38,500 to \$90,000.

Staff reviewed each proposal and narrowed the options down to two companies; Evergreen Solutions, LLC and Piedmont Triad Regional Council, both with a proposed stated cost of \$38,500 for all services to be provided in regard to the Position Classification and Pay Plan Study. After checking references for both agencies, staff received much more favorable responses from other North Carolina counties who were previous clients of Piedmont Triad Regional Council.

After extensive review and vetting, staff recommends contracting with Piedmont Triad Regional Council to complete a Position Classification and Pay Plan Study for a stated fee of \$38,500; including professional services and fees, travel related expenses, supplies and associated costs. Staff recommends a complete project budget not to exceed \$50,000 to include the stated fee of \$38,500 and fees for any additional professional services not specified in the scope of work, as may be required to successfully complete the Position Classification and Pay Plan Study for Watauga County.



**AGENDA ITEM 14:**

**MISCELLANEOUS ADMINISTRATIVE MATTERS**

*F. Announcements*

**MANAGER'S COMMENTS:**

The Annual Employee Christmas Lunch will be held at Dan'l Boone Inn on Tuesday, December 12, 2023, from 11:30 A.M. to 2:00 P.M. The first lunch group will begin at 11:30 A.M. and the second lunch group will begin at 1:00 P.M.

**AGENDA ITEM 15:**

**BREAK**

**AGENDA ITEM 16:**

**CLOSED SESSION**

Attorney/Client Matters – G. S. 143-318.11(a)(3)

**AGENDA ITEM 17:**

**POSSIBLE ACTION AFTER CLOSED SESSION**

Attorney/Client Matters – G. S. 143-318.11(a)(3)