

Macon County



**MACON COUNTY BOARD OF COMMISSIONERS
NOVEMBER 8, 2022
6 P.M.
AGENDA**

1. Call to order and welcome by Chairman Tate
2. Announcements
 - (A) Chairman Tate Farewell Message
3. Moment of Silence
4. Pledge of Allegiance
5. Public Hearing(s) – None
6. Public Comment Period
7. Additions to agenda
8. Adjustments to and approval of the agenda
9. Reports/Presentations
10. Old Business
 - (A) Discussion regarding the contract for architectural services for Highlands Pre-K – County Manager Derek Roland
11. New Business
 - (A) Resolution for Operation Green Light honoring veterans – Veteran Services Director Leigh Tabor-Holbrooks
 - (B) Consideration for release of performance guarantee for Phase I development for Gemstone Village Subdivision – Planning Director Joe Allen

- (C) Consideration for release of performance guarantee for Phase II development for Gemstone Village Subdivision – Planning Director Joe Allen
- (D) Discussion on Sutton Broadcasting and Blue Ridge Broadcasting subleases for Cowee Bald – Emergency Services Director Warren Cabe
- (E) Resolution to apply for public transportation program funds – Macon Transit Director Darlene Asher
- (F) Site approval for pickleball courts at Macon County Recreation Park – Parks and Recreation Director Seth Adams
- (G) Resolution to exempt engineering services for groundwater monitoring and reporting for the Solid Waste Department from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes – Solid Waste Environmental Field Specialist Jamie Picou
- (H) Resolution to exempt engineering services associated with the proposed turn lane required by NCDOT for the future Carson Convenience Center from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes – Solid Waste Environmental Field Specialist Jamie Picou
- (I) Results and recommendation regarding the Request for Proposal for engineering services for the Solid Waste Department – Solid Waste Environmental Field Specialist Jamie Picou

12.Consent Agenda – Attachment #12

All items below are considered routine and will be enacted by one motion. No separate discussion will be held except on request of a member of the Board of Commissioners.

- (A) Minutes of the October 11, 2022 regular meeting and the October 18, 2022 joint meeting with the Macon County Board of Education
- (B) Budget Amendments #86-98
- (C) Macon County Transit Driver Handbook
- (D) Scaly Mountain Recreation Agreement FY 22-23
- (E) Tax releases for the month of October in the amount of \$682.34
- (F) Delinquent Tax Relief in the amount of \$35,775.46
- (G) Monthly ad valorem tax collection report – no action necessary

13.Appointments

- (A) Planning Board – 2 seats

14.Closed session as allowed under NCGS

15.Adjourn

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – OLD BUSINESS

MEETING DATE: November 8, 2022

10(A). Mr. Roland will provide an update on the contract for architectural services for the Highlands Pre-K project (Derek Roland). A copy of the draft contract and an email from Mr. Roland with requested changes is attached.

Tammy Keezer

From: Derek Roland <droland@maconnc.org>
Sent: Friday, November 04, 2022 2:36 PM
To: 'Emily Kite'; 'Lori Hall'
Cc: 'Paul Boney'; 'Eric Ridenour'; tkeezer@maconnc.org
Subject: RE: Macon County Schools Highlands K-12

Emily,

I hope you are doing well. Macon County is requesting the following changes to the agreement prior to presenting the same to the Board of County Commissioners on November 8th:

- **Section 1.1.1.** Add the following after "see Exhibit A." ***All phases in the Scope of Services attached hereto as Exhibit A shall be approved separately by the Macon County Board of Commissioners.***
- **Exhibit A**, under fee. delete "Approved Phases by BOCC:" and instead have that say: ***Each phase of this contract shall be separately voted upon and approved by Resolution of the Macon County Board of Commissioners. After payment in full of any previously approved and completed phase, Macon County may elect to terminate this contract at any time and upon such election, no further compensation shall be due Architect.***
- Include School Board as a party to the agreement
- Section 11.8.2. Change NTE acronym to state "Not to exceed"

Please contact me with any questions.

Regards,

[Derek C. Roland](#)
[Macon County Manager](#)
5 W. Main St.
Franklin, NC 28734
(828)-349-2022

DRAFT AIA® Document B101™ - 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the «Twenty-Seventh» day of «October» in the year «Two Thousand Twenty-Two»
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

«Macon County Board of Commissioners »« »
«5 West Main Street »
«Franklin, NC 28734»« »

and the Architect:
(Name, legal status, address and other information)

«LS3P ASSOCIATES LTD. »« »
«2 West Washington Street, Suite 600
Greenville, SC 29601»

for the following Project:
(Name, location and detailed description)

«Macon County Schools – Highlands School»
«545 Pierson Drive
Highlands, NC 28741 »
«LS3P Project: 3201-221600 »

The Owner and Architect agree as follows:

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

«See Exhibit A. »

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

«The project will be located on the existing Highlands School Campus. »

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

See Exhibit A. »

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any: See Exhibit A.

« »

.2 Construction commencement date:

« »

.3 Substantial Completion date or dates:

« »

.4 Other milestone dates:

« »

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«Design-Bid-Build or CM at Risk. To be determined by the Owner. »

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

«Follow the Codes and Laws of the State of North Carolina. »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

«Derek Roland »
«Macon County Manager »
5 West Main Street
Franklin, NC 28734«
Tel: 828.349.2025

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

«Owner will address »

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

« To be determined as authorized by the Owner. » « »

.2 Civil Engineer:

«To be retained by LS3P. »

- .3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

« »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

«Paul Davis Boney, FAIA, Senior Vice President »
LS3P ASSOCIATES LTD. »« »
«227 West Trade Street, Suite 700 »
«Charlotte, NC 28202 Tel: 910.520.0812
«Email: paulboney@ls3p.com »

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural Engineer:

«ARP Engineering »« »
«P.O. Box 587 »
«Monroe, NC 28111« »

- .2 Mechanical, Electrical and Plumbing Engineer:

«CMTA of Kentucky, Inc. »« »
«8801 J M Keynes Drive, Suite 240 »
«Charlotte, NC 28262« »

- .3 Civil Engineer:

«WGLA Engineering, PLLC »« »
«724 5th Avenue West »
«Hendersonville, NC 28739»

- .4 Cost Consultant:

«McDonough Bolyard Peck, Inc. d/b/a MBP »« »
«301 McCullough Drive »
«Charlotte, NC 28262« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

«None unless authorized in writing by Owner. »

§ 1.1.12 Other Initial Information on which the Agreement is based:

« »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than «ONE MILLION and NO /100 DOLLARS» (\$ «1,000,000.00») for each occurrence and «TWO MILLION and NO/100 DOLLARS» (\$ «2,000,000.00 ») in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00 ») combined single limit for per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00») each accident, «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00») each employee, and «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00») policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00 ») per claim and «ONE MILLION and NO/100 DOLLARS» (\$ «1,000,000.00») in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of

subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect’s knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Owner
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Architect
§ 4.1.1.7 Development of Building Information Models for post construction use	Architect
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.11 Value analysis	Architect
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Owner
§ 4.1.1.13 On-site project representation	One (1) visit per week
§ 4.1.1.14 Conformed documents for construction	Contractor
§ 4.1.1.15 As-designed record drawings	Contractor
§ 4.1.1.16 As-constructed record drawings	Contractor
§ 4.1.1.17 Post-occupancy evaluation	Architect
§ 4.1.1.18 Facility support services	Owner
§ 4.1.1.19 Tenant-related services	N/A
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect / Owner
§ 4.1.1.21 Telecommunications/data design	Architect – conduit only
§ 4.1.1.22 Security evaluation and planning	Architect – conduit only
§ 4.1.1.23 Commissioning	Third Party
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	N/A
§ 4.1.1.25 Fast-track design services	Architect – additional services
§ 4.1.1.26 Multiple bid packages	Architect
§ 4.1.1.27 Historic preservation	Owner
§ 4.1.1.28 Furniture, furnishings, and equipment design	Owner
§ 4.1.1.29 Other services provided by specialty Consultants	Owner
§ 4.1.1.30 Other Supplemental Services	Owner

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

«None unless authorized in writing by Owner. »

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

«None unless authorized in writing by Owner. »

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .8 Evaluation of the qualifications of entities providing bids or proposals;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 «two» («2») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 «one» («1») site visit per week to the site by the Architect during construction
- .3 «one» («1») inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 «one» («1») inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and

Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within «forty-eight» («48») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

.1 give written approval of an increase in the budget for the Cost of the Work;

- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered under the NC Rules for Mediated Settlement Conference and other Settlement Procedures in Superior Court. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation in section 8.2.2 above, the method of binding dispute resolution shall be Litigation in Macon County, North Carolina, Superior Court.
(Check the appropriate box.)

[] Litigation in a court of competent jurisdiction

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

«\$0.00 »

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

«By Owner »

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include

the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
(Insert amount)
«\$329,255.00»
- .2 Percentage Basis
(Insert percentage value)
« »
- .3 Other
(Describe the method of compensation)
« »

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

« »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « » percent (« »%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

« »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Phase I and Phase III

Schematic Design Phase	«ten »	percent («10 »	%)
Design Development Phase	«fifteen »	percent («15 »	%)
Construction Documents Phase	«thirty-five »	percent («35 »	%)
Procurement Phase	«five »	percent (« 5 »	%)
Construction Phase	«thirty »	percent («30 »	%)
Close-out	«five »	percent (« 5 »	%)
Total Basic Compensation	one hundred	percent (100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Exhibit C. »

Employee or Category	Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Printing, reproductions, plots, and standard form documents;
- .2 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «zero» percent («0» %) of the expenses incurred.

NTE \$10,000.00

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

<< >>

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of <<zero>> (\$ <<0 >>) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of <<N/A>> (\$ <<N/A>>) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid <<forty-five>> (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

<<1.5 >> % << per month >>

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

<< >>

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- 1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- 2 Exhibits:
 - Exhibit A – Scope of Services
 - Exhibit B - Project Schedule
 - Exhibit C - Hourly Rates >>
- 3 Other documents:
(List other documents, if any, forming part of the Agreement.)

<<>>

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

James P. Tate
Chairman
Macon County Board of Commissioners »« »

(Printed name and title)

ARCHITECT *(Signature)*

«Paul Davis Boney, FAIA
Vice Chair | Senior Vice President | K12 Practice
Leader | Principal»

(Printed name, title, and license number, if required)



EXHIBIT A
SCOPE OF SERVICES
Highlands School Project
October 27, 2022

Design two (2) pre-k classrooms along the elementary wing of the school. Approximately 1,200 square foot each classroom.

Provide a minimum of 2,700 square foot playground directly adjacent to the two (2) new pre-k classrooms.

Expansion of the Media Center.

Outdoor learning/reading area off the Media Center.

Renovation for maker's spaces in Home Economics as well as the Wood Shop wing.

Addition of a minimum of four (4) new classrooms to the Middle School building.

Projected Budget = \$ 4,703,641

Fee

\$329,255.00

Approved Phases by BOCC:

Schematic Design Phase:	10% (per pg. 21 of AIA contract)
Design Development Phase:	15% (per pg. 21 of AIA contract)
Construction Documents Phase:	35% (per pg. 21 of AIA contract)
Procurement Phase:	5% (per pg. 21 of AIA contract)
Construction Phase:	30% (per pg. 21 of AIA contract)
Close-Out:	5% (per pg. 21 of AIA contract)

EXHIBIT B
PROJECT SCHEDULE
Highlands School Project
October 27, 2022

Classroom Addition & Cafeteria/Kitchen Renovations

- Begin Design
15 November 2022

- Schematic Design Submittal
20 December 2022

- Design Development Submittal
1 February 2023

- Construction Documents Submittal
15 April 2023

- Bids Received
25 May 2023

- Award Contracts and Groundbreaking
1 July 2023

- Complete Construction
1 July 2024

EXHIBIT C
HOURLY RATES and OWNER RESPONSIBILITIES
Highlands School Project
October 27, 2022

Hourly Rates: Any LS3P hourly rates for additional services must be authorized in advance by Owner.

2022 LS3P Architects Hourly Bill-Out Rates (Subject to Change on an Annual Basis):

Principal in Charge	\$180.00/hr.
Project Architect	\$140.00/hr.
Design Staff	\$115.00/hr.
Interior Designer	\$105.00/hr.
Administrative Staff	\$100.00/hr.

Owner Responsibilities. The following are necessary services that must be completed and shall be the responsibility of Owner:

- Topographical Survey
- Geotechnical Engineering and Special Inspections

Optional Additional Services and Special Consultants not included in Basic Services but may be provided for additional fee if completed by Architect upon approval by the Owner

- Additional services shall be billed as a factor of 1.0.
- Outsourced Professional Renderings or highly rendered images, models, or mockups (Basic renderings for use in study and development of the project design are included in basic services fee, but finish quality renderings for use in special presentations, outreach, fundraising, etc., are not included.)
- Special Consultants outside of the services consultants listed in this proposal.
- Interior Design other than Architectural Finishes. (FF&E)
- Third Party Acoustical Consulting, Acoustical Modeling, Acoustical Testing
- Daylighting Modeling or Energy Modeling
- Audio Visual Equipment
- Environmental Assessments / Environmental Impact Statements
- Permitting and review fees
- Life Cycle Cost Analyses
- Multiple designs documented in construction documents (Minor bid alternates for budget control to be included)
- LEED or other green building certification
- Specialty envelope consultants
- Commissioning Services
- Coordination with additional owner third-party consultants.

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – NEW BUSINESS

MEETING DATE: November 8, 2022

11(A). Veteran Services Director Leigh Tabor-Holbrooks will present a resolution designating Macon County as a Green Light for Veterans County and declaring November 7 through November 11, 2022 (Veterans Day) as time to salute and honor the service and sacrifice of our men and women in uniform transitioning from Active Service.

11(B). Planning Director Joe Allen will be requesting approval for release of the remaining performance guarantee being held by Macon County in conjunction with Phase I development at Gemstone Village Subdivision. The original performance guarantee was in the amount of \$617,119, which was 125% of estimated cost to install utilities and roads. On July 22, 2022, Macon County released \$373,117 of the performance guarantee, and Snobar LLC is requesting release of the remaining balance of \$244,002. A letter is attached indicating completion of the work as well as other supporting documentation. Mr. Allen will be present to answer any questions.

11(C). Mr. Allen will be also requesting approval for release of a performance guarantee being held by Macon County in conjunction with Phase II development at Gemstone Village Subdivision. The original performance guarantee was in the amount of \$735,922.50, which was 125% of estimated cost to install utilities and roads. On October 26, 2022, Joanne Snider with Snobar, LLC stated she was going to put Phase II on hold and requested release of the cash bond. See attached supporting documentation. Mr. Allen will be present to answer any questions.

11(D). Emergency Services Director Warren Cabe will discuss agreements approved in December 2021 for Sutton Broadcasting and Blue Ridge Broadcasting to occupy space at the Cowee Bald communications site. These agreements had a term of one year. Both agencies have been

requested to appear and present their proposals for renewal or extensions for year 2022 forward. Copies of the existing subleases without term dates are attached. Mr. Cabe will be present to answer any questions.

11(E). Transit Director Darlene Asher will present a Resolution to apply for public transportation program funds (Section 5311 including ADTAP, 5310, 5339, 5307, and applicable State funding, or combination thereof) for the FY 24 budget year. A public hearing was held at the board's regular meeting on September 13, 2022 and approval to submit applications and apply for funding was granted, leaving the resolution to be approved. A copy of the resolution is attached. Ms. Asher will be present to answer any questions.

11(F). Parks and Recreations Director Seth Adams is requesting approval of the proposed site for the location of pickleball courts at the Macon County Recreation Park softball field. A copy of the proposed site plan is attached and has been approved by the Recreation Commission. Mr. Adams will be present to answer any questions.

11(G). In the absence of Solid Waste Director Chris Stahl, Environmental Field Specialist Jamie Picou will present a Resolution to exempt engineering services for groundwater monitoring and reporting for the Solid Waste Department from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes. As the Board may recall, Bunnell-Lammons Engineering (BLE) was previously approved for consulting services related to the semi-annual groundwater monitoring program at all of the Macon County landfills. The County previously used REI Consultants for these services, but that company was acquired by Pace Labs in 2018. Pace Labs provides sample collection and analytical services, but not evaluation and reporting services. While our primary contact with REIC remained with Pace, and intended to continue to provide these services, he was unable to do so. As BLE has been bringing our groundwater reporting into compliance, they also discovered that it is time to update the status of our Corrective Action Plan due to exceedances of certain Volatile Organic Compounds (VOCs) present in compliance wells down gradient of Phase I, Cell I. The original Corrective Action Plan was approved by NCDEQ in 2010, and implemented in 2012. An updated report of the status of corrective actions taken was submitted in 2017, and is once again due in 2022. Additional information on this project is available upon request.

Therefore, Mr. Stahl is requesting that the Macon County Board of Commissioners adopt the attached Resolution and authorize the County Manager to execute the attached contract with BLE to produce and submit a Corrective Action Evaluation Report to NCDEQ on behalf of Macon County. Ms. Picou will be present to answer any questions.

11(H). Ms. Picou will present a Resolution to exempt engineering services associated with the proposed turn lane required by NCDOT for the future Carson Convenience Center from the provisions of Article 3D of Chapter 143 of the NCGS. According to Mr. Stahl, the Solid Waste Department has finally come to agreement with NCDOT regarding ingress/egress requirements at the future Carson Convenience Center (Old Cartoogechaye School) site, and has asked McGill Associates to provide a scope of services and contract for the permitting and construction of the required turn lane on eastbound Hwy 64 into the site. Mr. Stahl is requesting that the Macon County Board of Commissioners adopt the attached resolution exempting the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes; and, authorize the County Manager to execute the attached contract with McGill Associates so that we may complete this phase of the Center relocation project. Ms. Picou will be present to answer any questions.

11(I). Ms. Picou will present the results and recommendation regarding the Request for Proposal for Engineering Services for the Solid Waste Department. The Macon County Solid Waste Department has issued a Request for Proposal from engineering firms for services at the Macon County MSW Landfill. The purpose of this request is in regard to the remaining capacity (or lack thereof) at the landfill. The Board has been briefed previously on the drastic increase in disposal rate since the beginning of the Covid-19 pandemic and subsequent housing boom in Macon County. Per regulation, the Macon County landfill has to provide an annual update on the remaining landfill capacity each year to NCDEQ. In 2021, the survey and evaluation determined five (5) years of remaining capacity in Phase III, Cell I. However, the capacity analysis conducted in May of 2022 determined a remaining capacity of just over two (2) years. There are several factors that contributed to the consumption of airspace; none of which are result of operational deficiencies of landfill staff; and Mr. Stahl will be happy to discuss those with the Board at your pleasure. However, the impact of the current capacity status is such that the Department does not have time to develop the next Cell in Phase III before capacity is exceeded. In seeking options for Macon County to provide uninterrupted landfill

services to our residents, Mr. Stahl spoke with Allen Gaither; Regional Engineer, NCDEQ SWS; regarding the feasibility of retracting the notice of closure letter submitted for Phases I & II of the Macon County MSW Landfill. As a result, a RFQ was developed for Engineering services to assist Macon County in obtaining a major modification to our landfill permit, which includes re-opening of Phase II, and applying for a vertical expansion based on 3:1 outer slopes rather than the existing 4:1 outer slopes. Additionally, a vertical expansion will be requested in Phase III, Cell I. This expansion will basically allow us to overfill the slopes in the Cell that will eventually be tied to future landfill cells, essentially borrowing space that would eventually be filled after additional cell development. It is estimated that these actions; once permitted; will increase the existing capacity life from 2-years, to approximately 6-years. This not only grants us needed time for additional Cell development, but also allows us to repay the current landfill debt service in full before any need to borrow funds for cell construction. Finally, and if we can complete this process quickly enough, we may be able to re-enter closure of Phases I & II and the same time we contract for construction of Phase III, Cell II. This could potentially save several hundred thousand dollars by transferring soil excavated from cell construction directly to the closed Phases for cap construction. It is anticipated that these services will cost approximately \$100,000.00 - \$150,000.00, which is about 5-8% the cost of constructing four years of airspace in the landfill. Therefore, Mr. Stahl requests that the board approve the recommendation of the Review Committee and authorize the County Manager and Solid Waste Director to negotiate and execute a contract with the recommended consulting firm to begin the permitting process as soon as possible; and, with the understanding that the Finance Director will pre-audit the contract verifying sufficient funds are available for the project.

Supporting Operation Green Light for Veterans

WHEREAS, the residents of Macon County have great respect, admiration, and the utmost gratitude for all of the men and women who have selflessly served our country and this community in the Armed Forces; and

WHEREAS, the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, Macon County seeks to honor these individuals who have paid the high price for freedom by placing themselves in harm's way for the good of all; and

WHEREAS, Veterans continue to serve our community in the American Legion, Veterans of Foreign Wars, religious groups, civil service, and by functioning as County Veteran Service Officers in 29 states to help fellow former service members access more than \$52 billion in federal health, disability and compensation benefits each year; and

WHEREAS, approximately 200,000 service members transition to civilian communities annually; and

WHEREAS, an estimated 20 percent increase of service members will transition to civilian life in the near future; and

WHEREAS, studies indicate that 44-72 percent of service members experience high levels of stress during transition from military to civilian life; and

WHEREAS, Active Military Service Members transitioning from military service are at a high risk for suicide during their first year after military service; and

WHEREAS, the National Association of Counties encourages all counties, parishes and boroughs to recognize Operation Green Light for Veterans; and

WHEREAS, the Macon County appreciates the sacrifices of our United State Military Personnel and believes specific recognition should be granted; therefore be it

RESOLVED, with designation as a Green Light for Veterans County, Macon County hereby declares from November 7th through Veterans Day, November 11th 2022 a time to salute and honor the service and sacrifice of our men and women in uniform transitioning from Active Service; therefore, be it further

RESOLVED, that in observance of Operation Green Light, Macon County encourages its citizens in patriotic tradition to recognize the importance of honoring all those who made immeasurable sacrifices to preserve freedom by displaying a green light in a window of their place of business or residence.



October 25, 2022

Joe Allen
Director of Planning
Macon County Dept. of Planning, Permitting, and Development
1834 Lakeside Drive
Franklin, NC 28734

RE: Gemstone Village
Franklin, NC

SUBJECT: REQUEST RELEASE OF PERFORMANCE GUARANTEES –PHASE 1 ROAD CONSTRUCTION

Mr. Allen:

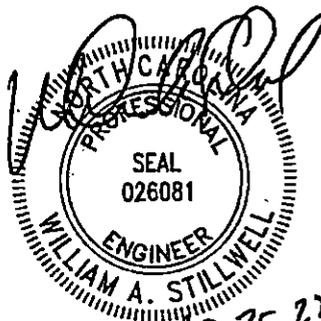
On behalf of Snobar, LLC I am writing to confirm the construction of roads and the remainder of utilities as shown for Phase 1 of the approved plans performed by Snobar, LLC and am requesting the release of remaining moneys provided by Snobar, LLC to Macon County for performance guarantees for Phase 1 by and between Macon County and Snobar, LLC both dated January 11, 2022.

If you have any questions, please contact me at your earliest convenience.

Sincerely,

W. Alec Stillwell, P.E.

Cc: Ms. Joanne Snider - Snobar, LLC



10-25-22

STATE OF NORTH CAROLINA
COUNTY OF MACON

AGREEMENT

This Agreement is made and entered into this the 11th day January, 2022, by and between Macon County, a North Carolina Body Politic and Corporate, and **SnoBar, LLC**, hereinafter "Developer".

WITNESSETH:

THAT WHEREAS, Macon County has an Ordinance known as the "Macon County Subdivision Ordinance" and the same was originally adopted on or about June 2, 2008, effective September 1, 2008, and the same has been amended and restated on October 12, 2021 (herein "Ordinance"); and

WHEREAS § 159.24 of said Ordinance and G.S. 160D-804.1 provides for performance guarantees at the time the plat is recorded to assure successful completion of required improvements to a subdivision; and

WHEREAS in accordance with Macon County Subdivision Ordinance § 159.24 and G.S. 160D-804.1(1) does require a Subdivider to obtain a performance guarantee which means any of the following: a) surety bond issued by a company authorized to do business in this State; b) letter of credit issued by any financial institution licensed to do business in this State; and c) other form of guarantee that provides equivalent security to a surety bond or letter of credit; and

WHEREAS, in accordance with Macon County Subdivision Ordinance § 159.24 and G.S. 160D-804.1(3), the performance guarantee shall be in the amount of 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued; and

WHEREAS, Developer, in compliance with § 159.24 of the Macon County Subdivision Ordinance and G.S. 160D-804.1, desires to enter into such an agreement with Macon County to complete all required improvements for **Phase I of Gemstone Village** Subdivision in Macon County, North Carolina, and does specifically agree to fully complete the following improvements to such subdivision as shown on attached Exhibit A, the same being incorporated herein by reference as if more fully set forth herein; and

WHEREAS, Developer agrees to cause a performance guarantee in the amount of \$ 617,119.00, as set forth in attached Exhibit B and in favor of Macon County in accordance with the provisions of the Macon County Subdivision Ordinance at the time the plat is recorded; and

WHEREAS, the parties hereto desire to enter into this Agreement in order to

memorialize their agreement and to comply with the Ordinance above-referenced.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE COVENANTS CONTAINED HEREIN, THE PARTIES HERETO DO AGREE AS FOLLOWS:

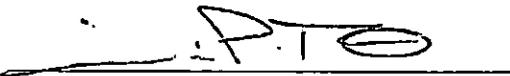
1. That in order to comply with the Macon County Subdivision Ordinance, Developer does hereby agree with Macon County to fully complete all of the improvements shown on attached Exhibit A, the same being incorporated herein by reference as if more fully set forth herein to the reasonable satisfaction of Macon County in connection with and to **Phase I of Gemstone Village** Subdivision in Macon County, North Carolina, and in accordance with the terms of the Macon County Subdivision Ordinance referenced hereinabove.
2. That in order to comply with the Macon County Subdivision Ordinance, Developer does hereby agree to secure a performance bond in the form as set forth in attached Exhibit B, the same being incorporated herein by reference, in the amount of \$ 617,119.00 in connection with **Phase I of Gemstone Village** Subdivision in Macon County, North Carolina, in order to insure the completion of the improvements as shown on attached Exhibit A, the same being incorporated herein by reference, to the reasonable satisfaction of Macon County and in accordance with the terms of the Macon County Subdivision Ordinance referenced hereinabove.
3. That the parties agree to and confirm the recitals set forth hereinabove.

This Agreement is made and entered into the day and year first above written.

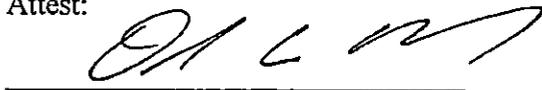
Macon County

By:

Chairman, Macon County
Board of County Commissioners



Attest:



Clerk to the Board

(County Seal)

MISCELLANEOUS PAYMENT RECPT#: 179833
MACON COUNTY
5 WEST MAIN STREET
FRANKLIN NC 28734

DATE: 01/13/22 TIME: 15:57
CLERK: twiggins DEPT: REGS/CODES
CUSTOMER#: 0

COMMENT:

CHG: SBONDS SURETY BONDS 617119.00

AMOUNT PAID: 617119.00

PAID BY: SNOBAR, LLC
PAYMENT METH: CHECK
 023166

REFERENCE:

AMT TENDERED: 617119.00
AMT APPLIED: 617119.00
CHANGE: .00

DO NOT ACCEPT UNLESS THIS CHECK IS PRINTED WITH A COLOR BACKGROUND, CONTAINS A VOID PANTOGRAPH, MICROPRINTING FACE AND BACK, UV FIBERS AND A WATERMARK ON THE REVERSE SIDE



Macon County
5 West Main Street
Franklin, NC 28734

Wells Fargo Bank, N.A.

This disbursement has been approved as required
by the Local Government Budget and Fiscal Control Act.

Vendor
Number
23040

Check
Date
07/22/2022

Check
Number
00819406

VOID 60 DAYS FROM DATE OF ISSUE

\$487,500.00

Pay Four Hundred Eighty Seven Thousand Five Hundred Dollars and 00 cents *****

To The
Order Of

SNOBAR, LLC
P.O. BOX 61
FRANKLIN NC 28744

00819406

[Signature]
Authorized Signature
[Signature]
Authorized Signature

⑈00819406⑈ ⑆121000248⑆ 2000024902920⑈

Macon County, 5 West Main Street, Franklin, NC 28734

Check Number: 00819406

Invoice Date	Invoice Number	Description	Invoice Amount
07/19/2022	07122022-A	REFUND SURETY BOND PHASE 111	\$114,383.00
07/19/2022	07122022	REFUND SURETY BOND PHASE 1	\$373,117.00

Vendor No. Vendor Name Check No. Check Date Check Amount

Macon County Board of Commissioners,

On June 14th 2022 Snobar, LLC entered into a performance guarantee agreement with Macon County for Phase II of Gemstone Village subdivision. This performance guarantee (cash bond) was in the amount of \$735,922.50. Which was the estimated cost plus 125% to install required utilities and complete roads per the standards set by Macon County's Subdivision Ordinance. At this time no work has begun in Phase II.

I am going to put Phase II of Gemstone Village on hold for the time being and would like to request the \$735,922.50 bond being held by Macon County in conjunction with Phase II be released.

I am aware that if or when I decide to develop Phase II of Gemstone Village I will need to request re-approval of the Phase II plat as well as enter into a new performance guarantee agreement with Macon County.

Thank You,

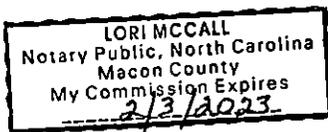
Joanne Snider
Joanne Snider

Managing Partner Snobar, LLC

North Carolina, Macon County

I Lori McCall, a Notary Public for Macon County, North Carolina, do hereby certify that Joanne P. Snider personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 26th day of October, 2022.



Lori McCall
Notary Public

My Commission Expires February 3 2023.

STATE OF NORTH CAROLINA
COUNTY OF MACON

**USE OF SPACE ON COMMUNICATIONS TOWER AND USE OF
ASSOCIATED TRANSMITTER BUILDING SUBLEASE AGREEMENT
AMENDMENT**

This Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement Amendment is made and entered into this the ___ day of _____, 20__, by and between Macon County, North Carolina, a North Carolina County and Body Politic (hereinafter referred to as the “Sublessor”), and Sutton Radiocasting Corporation, a South Carolina Business Corporation (hereinafter referred to as the “Sublessee”).

THAT WHEREAS, Sublessee presently holds the Federal Communication Commission (FCC) licenses for Class A FM Station WNCC-FM (FCC Facility Identification Number 14551) assigned to the community of Franklin, North Carolina, FM Translator Station W285FD (FCC Facility Identification Number 155806) assigned to the community of Franklin, North Carolina (hereinafter referred to as the “Stations”); and

WHEREAS, Sublessor presently has a Lease with the United States of America, acting through the Forest Service, Department of Agriculture, for the Cowee Bald Communications site as shown therein, a copy of said Lease is attached hereto and incorporated herein by reference as if more fully set forth herein; and

WHEREAS, Sublessee desires to obtain from Sublessor, a use of space on communications tower and use of associated transmitter building sublease agreement from the Sublessor which will permit the location of the antenna and the use of the associated transmitter building for the Stations at Cowee Bald Communications site as referenced in the Lease above referenced; and

WHEREAS, Sublessor is willing to enter this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement with Sublessee, subject to the terms and conditions set forth hereinbelow.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties hereto do agree as follows:

1. SUBLEASEHOLD INTEREST. Sublessor sublets to Sublessee, and the Sublessee subleases from Sublessor the following:
 - A. Those sections of the Tower (which Tower is colored in yellow on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above) which are not being used by either Macon County or Jackson County and which are necessary for operation by Lessee's Stations and such related equipment as is required for the efficient and effective operation of the Stations, and which are specifically approved of by Sublessor and, to the extent necessary, which are specifically approved of in writing by the United State of America, acting through the Forest Service, Department of Agriculture. Such rights of use by Sublessee shall be non- exclusive and shall in no way interfere with the broadcast signals or other rights of existing users of the Cowee Bald Communications Site;
 - B. The non-exclusive right-of-way space on said Tower and non-exclusive right-of-way space to and from the Transmitter Building (which Building is numbered "1" and is colored in orange on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above) for the connection, and passage by cables, wires and transmission lines and any transmission equipment required for the operation of the Stations. Such rights of use by Sublessee shall be non-exclusive and shall inno way interfere with the broadcast signal or rights of existing users of the Cowee Bald Communications Site;
 - C. The non-exclusive access to said Tower and said Transmitter Building for the purpose of operating broadcast equipment owned or operated by Lessee located there. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signal or other rights of existing users of the Cowee Bald Communications Site;
 - D. Sublessor and Sublessee recognize and agree that the Cowee Bald Communication Site is primarily an emergency communication site and as such, Sublessor specifically reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement, without liability, should it hereafter determine within its discretion the need to do so in order to maintain and use the Cowee Bald Communication Site as an emergency communications site. Sublessor reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement without liability should it determine within its discretion that the use made or to be made by Sublessee interferes or will interfere with the rights of existing users of the Cowee Bald Communications Site;
 - E. If Sublessee does cause inference with the broadcast signal of existing users of the Cowee Bald Communications Site, then Sublessor Lessee shall have the right to immediately terminate this Use of Space on Communications Tower and Use

of Associated Transmitter Building Sublease Agreement;

- F. Sublessee shall operate its Station in full compliance with all FCC Rules and Regulations;
- G. It is agreed and understood that Sublessee shall, at its sole cost, undertake a tower study/engineering study prior making any significant changes to the site equipment such as new antennae, new transmitters, etc., hereunder to determine if the same will interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. The same must show that all planned use by Sublessee hereunder will not interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. A copy of the same shall be delivered unto Sublessor upon completion. All use by Sublessee hereunder must be in full compliance with FCC Rules and Regulations, all other State and Federal Regulations, and approved by the United States Forestry Service if such approval is necessary;
2. TERM OF SUBLEASE. Upon all the terms and conditions of this Sublease, Sublessee shall have and hold the non-exclusive rights provided for herein for the period extending from the date hereof to and including midnight, on _____, 20__, unless this Sublease is sooner terminated as specifically hereinafter provided. Prior to the end of the Term of this Sublease, Sublessee shall cause all of its fixtures and property to be removed from the subleased premises at its sole expense and shall cause any and all repairs that are necessary to retore the subleased premises to the conditions which existed immediately preceding the beginning of this sublease, reasonable wear and tear excepted;
3. RENT. Sublessee will continue to pay the Sublessor rent in the amount of \$500.00 per month on the first date of each month, during the term of this lease. The parties hereto do understand and agree that the United States Forest Service reserves the right to change what it charges unto Macon County in connection with its Lease with the United States of America as above-referenced. As a consequence, the parties hereto agree that the monthly rent of \$500.00 per month provided for herein may be and shall be adjusted upward during the term hereof in the event that the United States Forest Service or other agent of the United States of America assesses a fee to Macon County for the use by Sublessee hereunder which exceeds the sum of \$6,000.00 per year. In this event, the monthly rental to be paid by Sublessee hereunder shall be increased by 1/12 of the amount that the annual sum assessed to Macon County for the use of the Sublessee hereunder which exceeds \$6,000.00 per year.
4. ASSIGNMENT. The Sublessee shall have no right to assign this Sublease and its rights under the Sublease to any affiliate or subsidiary of the Sublessee or subsequent owner of Lessee's Stations, without the consent of Sublessor and the United States of America, acting through the Forest Service, Department of Agriculture;
5. REPAIRS AND MAINTENANCE. Sublessee shall be responsible for all maintenance

and repair of the Tower and the Tower supporting structures and the Transmitter Building to be used hereunder by the Sublessee;

6. PAYMENT OF TAXES. Sublessee shall be responsible for the payment of any personal property taxes imposed against the fixtures or equipment on the subleased premises which are owned by Sublessee;
7. UTILITIES. Sublessor shall pay when due all electric and other utility charges made against the subleased premises during the term of this sublease;
8. INSURANCE. Sublessor shall maintain adequate insurance coverage against fire, storm or other casualty loss or damage to Sublessor's property, as well as liability insurance against personal injury or property damage. Such insurance shall specifically provide for coverage for the repair and replacement of all structures, machinery and equipment owned by Sublessor located on or adjacent to, the Tower.

Sublessee shall maintain adequate insurance coverage against fire, storm or other casualty loss or damage to Sublessee's property, as well as general liability insurance against personal injury of not less than One Million Dollars (\$1,000,000.00). Evidence of said insurance shall be provided to Sublessor upon request of Sublessor. Failure to maintain said general liability policy by Sublessee shall result in the immediate termination of this Lease;

9. DAMAGE TO OR DESTRUCTION OF THE TOWER. If the Tower subject to this Sublease or any part thereof, or any equipment thereon shall be wholly or materially damaged or destroyed, at the sole option of the Sublessor, the Sublessor may repair, restore and/or replace the same, at the expense of Sublessor, to the condition which existed immediately prior to the occurrence of such casualty.

However, in the event the damage to the Tower subject to this Sublease or any part thereof, or any equipment thereon, cannot be repaired within sixty (60) days (as reasonably estimated by Sublessor as soon as practicable after the occurrence of such damage) Sublessor may terminate this Lease as of the date of such damage;

10. EMINENT DOMAIN. If the Tower subject to this Sublease and/or the Transmitter Building Parcel subleased hereunder shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Sublease shall be terminated as of the date of such taking and Sublessee shall thereupon be released from any further liability hereunder. The date of such taking shall be the date on which legal title shall vest in the condemning authority;
11. ACCESS TO LEASED PREMISES. It is mutually understood and agreed between the parties that Macon County, Jackson County and Sublessee may maintain broadcast apparatus on the Tower subject to this Sublease. Sublessor, Sublessee and all others

having the right to use such Tower shall have the right to non-exclusive access to such Tower for the purpose of operating, maintaining, inspecting and repairing such broadcast apparatus;

12. **USE OF TOWER.** Sublessee shall not take any action which will cause or permit electrical interference to the broadcast signal of any existing electronic communications apparatus on the Tower subject to this Sublease or otherwise interfere with the broadcast signal or rights of any of the existing users of the Cowee Bald Communications Site. Sublessee shall be liable to Sublessor and shall indemnify Sublessor for any loss or damage to Sublessor's equipment, or for destructive electrical interference to the communications signals of Sublessor, consequential or otherwise, occasioned by, growing out of, or arising from any act or failure to act by Sublessee, its agents or employees, including such acts or failures to act which Lessee shall suffer to exist or continue to exist on the real property of Sublessor or such Tower.

Any breach by Sublessee of Sublessor's right of use of the Tower as defined herein, shall confer upon the Sublessor the right to immediately terminate this Sublease without liability. Such rights shall be in addition to, and exclusive of such other rights contained in this Sublease or such rights at law or equity which Sublessor may possess.

13. **INDEMNIFICATION OF PARTIES.** Sublessor shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference, caused by Sublessee its agents, or employees, and Sublessee will indemnify and save Sublessor harmless from any loss, damage or liability, consequential or otherwise occasioned by, growing out of, or arising, or resulting in connection with, Sublessee or any act or failure to act by Sublessee, its agents, or employees. Sublessee shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference caused by Sublessor;
14. **AUTHORIZATION.** Sublessor and Sublessee respectively represent and warrant to the other that all necessary approvals and/or corporate action has been duly taken to authorize the execution and delivery of this Sublease and the performance or observance of the provisions of this Sublease. Additionally, Sublessor represents and warrants to the Sublessee that the necessary consent and/or approval of this Sublease have been obtained from the United States of America, acting through the Forest Service, Department of Agriculture, owner of the real property in which such tower and transmitter building parcel are situate. Absence of the landowner's consent and/or approval at any time during the Term shall grant the Sublessor and the Sublessee the right to immediately terminate the Lease without further liability;
15. **NO WAIVER.** Failure or delay on the part of either Sublessor or Sublessee to exercise any right, power, or privilege hereunder shall not operate as a waiver thereof;
16. **NOTICE.** Any and all notices, demands or other communications required by this Lease or by law, or desired to be given hereunder, by any party shall be in writing and shall be validly given or made to another party if served either personally or if deposited in the United States mail, certified, postage prepaid, return receipt requested. If such notice, demand or other communication be given by mail, such shall be conclusively deemed

given as of the date shown on the return receipt if the same is deposited in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as hereinafter set forth:

If to Lessor:

Macon County

Attention: County Manager

5 West Main Street Franklin, North Carolina 28734

If to Lessee:

Georgia-Carolina Radiocasting Companies

Attention: Douglas M. Sutton, Jr.

Post Office Drawer E

Toccoa, Georgia 30577

Any party hereto may change its address for the purpose of receiving notice, demands and other communications as herein provided by a written notice given in the manner aforesaid to the other party or parties hereto;

17. AGENTS AND PARTIES. From time to time Lessor or Lessee by notice as aforesaid may appoint one or more agents to act for them;
18. ATTACHMENTS, SCHEDULES AND EXHIBITS. All Exhibits, Appendices and Schedules attached to this Lease shall be deemed part of this Lease and incorporated herein, where applicable, as if fully set forth herein.
19. THAT THE LEASE BETWEEN THE UNITED STATES OF AMERICA, ACTING THROUGH THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AND MACON COUNTY, AND THE TERMS AND CONDITIONS THEREOF, A COPY OF SAID LEASE BEING ATTACHED HERETO ARE INCORPORATED HEREIN BY REFERENCE AS IF MORE FULLY SET FORTH HEREIN. TO THE EXTENT THAT ANY OF THE FOREGOING TERMS AND CONDITIONS OF THIS USE OF SPACE ON COMMUNICATIONS TOWER AND USE OF ASSOCIATED TRANSMITTER BUILDING SUBLEASE AGREEMENT CONFLICT WITH OR ARE INCONSISTENT WITH SAID LEASE AGREEMENT, THEN THE TERMS OF SAID LEASE AGREEMENT SHALL PREVAIL, IT BEING THE SPECIFIC INTENT OF BOTH PARTIES HERETO NOT TO SUBLEASE INCONSISTENTLY WITH SAID LEASE.
20. ADDITIONAL RESPONSIBILITIES OF THE SUBLESSEE.
 - a. All development, operation and maintenance by Sublessee of the authorized facility, improvements, and equipment located on the property shall be in accordance with stipulations in the communications site plan approved by the Authorized Officer of the United States Forest Service. If required by Authorized Officer of the United States Forest Service, all plans for development, layout, construction, or alteration of

- improvements on the property, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect. Such plans must be approved in writing by the Authorized Officer of the United States Forest Service before commencement of any work. After completion, as-built plans, maps, surveys, or other similar information will be provided to the Authorized Officer of the United States Forest Service and appended to the communications site plan;
- b. The Sublessee will comply with applicable Federal, State, county, and municipal laws, regulations and standards for public health and safety, environmental protection, siting, construction, operation, and maintenance in exercising the rights granted by this Sublease. The obligations of the Sublessee under this lease are not contingent upon any duty of the Authorized Officer of the United States Forest Service, or other agent of the United States, to inspect the premises. A failure by the United States, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms or conditions of this lease. Sublessee waives all defenses of laches or estoppel against the United States. The Sublessee shall at all times keep the title of the United States to the property free and clear of all liens and encumbrances;
 - c. Use of communications equipment is contingent upon the possession of a valid Federal Communication Commission (FCC) or Director of Telecommunications Management/Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization, and the operation of the equipment is in strict compliance with applicable requirements of FCC or IRAC. A copy of each applicable license or authorization shall at all times be maintained by the Sublessee for each transmitter being operated. The Sublessee shall provide the Authorized Officer of the United States Forest Service, and the Sublessor, when requested, with current copies of all licenses for equipment in or on facilities covered by this lease;
 - d. The Sublessee shall ensure that equipment within its facility operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer of the United States Forest Service or authorized official of the Federal Communication Commission (FCC) determines that the Sublessee's use interferes with existing equipment, the Sublessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer of the United States Forest Service or FCC official;
 - e. When requested by the Authorized Officer of the United States Forest Service, the Sublessee will furnish technical information concerning the equipment located on the property;

21. OTHER PROVISIONS.

The provisions of Paragraph "V. OTHER PROVISIONS" as contained in the Lease

between Macon County and the United States of America, acting through the Forest Service, Department of Agriculture, a copy of which is attached hereto and incorporated herein by reference, shall apply to the Sublessee named herein and Sublessee shall at all times be bound by, subject to and comply with the same.

22. LIABILITIES.

- a. The Sublessee assumes all risk of loss to the authorized improvements by Sublessee;
- b. The Sublessee shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment on the property made by Lessee or its agents hereunder;
- c. The Lessee shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Sublessee's use or occupancy of the property. The Sublessee's indemnification of the United States shall include any loss of personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this Sublease. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this lease, regardless of cause;
- d. The United States Forest Service has no duty, either before or during this Sublease term, to inspect the property or to warn of hazards and, if the United States Forest Service inspects the property, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph shall survive the termination or revocation of this lease, regardless of cause;
- e. The Sublessee has an affirmative duty to protect from damage the land, property, and interests of the United States;
- f. In the event of any breach of the sublease by the Sublessee, the Authorized Officer of the United States Forest Service may, on reasonable notice cure the breach for the account at the expense of the Sublessee. If the United States Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights

hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Sublessee to the United States Forest Service on the first day of the month following such election;

- 23. COUNTERPARTS. This Sublease may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.
- 24. HEADINGS. The headings of the paragraphs of this Sublease are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Sublease or the intent of any paragraph hereof.
- 25. ENTIRE AGREEMENT. This Sublease is the only Agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof.
- 26. MODIFICATION OR AMENDMENT. No amendment, change or modification of this Sublease shall be effective unless in writing stating that it amends this document and signed by each of the parties hereto.
- 27. GOVERNING LAW. This Sublease shall be construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the parties have executed this Sublease as of the day and year first above written.

SUBLESSOR: Macon County

By: _____
Derek Roland, Manager

SUBLESSEE: Sutton Radiocasting Corporation

By: _____

STATE OF NORTH CAROLINA
COUNTY OF MACON

**USE OF SPACE ON COMMUNICATIONS TOWER AND USE OF
ASSOCIATED TRANSMITTER BUILDING SUBLEASE AGREEMENT
AMENDMENT**

This Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement Amendment is made and entered into this the ___ day of _____, 20__, by and between Macon County, North Carolina, a North Carolina County and Body Politic (hereinafter referred to as the “Sublessor”), and Blue Ridge Broadcasting Corporation, a North Carolina non-profit corporation (hereinafter referred to as the “Sublessee”).

THAT WHEREAS, Sublessee presently holds the Federal Communication Commission (FCC) license for FM Translator Station W267AD (FCC Facility Identification Number 30442) assigned to the community of Cherokee, North Carolina (hereinafter referred to as the “Station”); and

WHEREAS, Sublessor presently has a Lease with the United States of America, acting through the Forest Service, Department of Agriculture, for the Cowee Bald Communications site as shown therein, a copy of said Lease is attached hereto and incorporated herein by reference as if more fully set forth herein; and

WHEREAS, Sublessee desires to obtain from Sublessor, a use of space on communications tower and use of associated transmitter building sublease agreement from the Sublessor which will permit the location of the antenna and the use of the associated transmitter building for the Station at Cowee Bald Communications site as referenced in the Lease above referenced; and

WHEREAS, Sublessor is willing to enter this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement with Sublessee, subject to the terms and conditions set forth hereinbelow.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties hereto do agree as follows:

1. SUBLEASEHOLD INTEREST. Sublessor sublets to Sublessee, and the Sublessee subleases from Sublessor the following:
 - A. Those sections of the Tower (which Tower is colored in yellow on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above) which are not being used by either Macon County or Jackson County and which are necessary for operation by Lessee's Station and such related equipment as is required for the efficient and effective operation of the Station, and which are specifically approved of by Sublessor and, to the extent necessary, which are specifically approved of in writing by the United State of America, acting through the Forest Service, Department of Agriculture. Such rights of use by Sublessee shall be non- exclusive and shall in no way interfere with the broadcast signals or other rights of existing users of the Cowee Bald Communications Site;
 - B. The non-exclusive right-of-way space on said Tower and non-exclusive right-of-way space to and from the Transmitter Building (which Building is numbered "1" and is colored in orange on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above) for the connection, and passage by cables, wires and transmission lines and any transmission equipment required for the operation of the Station. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signal or rights of existing users of the Cowee Bald Communications Site;
 - C. The non-exclusive access to said Tower and said Transmitter Building for the purpose of operating broadcast equipment owned or operated by Lessee located there. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signal or other rights of existing users of the Cowee Bald Communications Site;
 - D. Sublessor and Sublessee recognize and agree that the Cowee Bald Communication Site is primarily an emergency communication site and as such, Sublessor specifically reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement, without liability, should it hereafter determine within its discretion the need to do so in order to maintain and use the Cowee Bald Communication Site as an emergency communications site. Sublessor reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement without liability should it determine within its discretion that the use made or to be made by Sublessee interferes or will interfere with the rights of existing users of the Cowee Bald Communications Site;
 - E. If Sublessee does cause inference with the broadcast signal of existing users of the Cowee Bald Communications Site, then Sublessor Lessee shall have the right to immediately terminate this Use of Space on Communications Tower and Use

of Associated Transmitter Building Sublease Agreement;

- F. Sublessee shall operate its Station in full compliance with all FCC Rules and Regulations;
- G. It is agreed and understood that Sublessee shall, at its sole cost, undertake a tower study/engineering study prior making any significant changes to the site equipment such as new antennae, new transmitters, etc. hereunder to determine if the same will interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. The same must show that all planned use by Sublessee hereunder will not interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. A copy of the same shall be delivered unto Sublessor upon completion. All use by Sublessee hereunder must be in full compliance with FCC Rules and Regulations, all other State and Federal Regulations, and approved by the United States Forestry Service if such approval is necessary;
2. **TERM OF SUBLEASE.** Upon all the terms and conditions of this Sublease, Sublessee shall have and hold the non-exclusive rights provided for herein for the period extending from the date hereof to and including midnight, on _____, 20__, unless this Sublease is sooner terminated as specifically hereinafter provided. Prior to the end of the Term of this Sublease, Sublessee shall cause all of its fixtures and property to be removed from the subleased premises at its sole expense and shall cause any and all repairs that are necessary to restore the subleased premises to the conditions which existed immediately preceding the beginning of this sublease, reasonable wear and tear excepted;
3. **RENT.** Sublessee will continue to pay the Sublessor rent in the amount of \$250.00 per month on the first date of each month, during the term of this lease. The parties hereto do understand and agree that the United States Forest Service reserves the right to change what it charges unto Macon County in connection with its Lease with the United States of America as above-referenced. As a consequence, the parties hereto agree that the monthly rent of \$250.00 per month provided for herein may be and shall be adjusted upward during the term hereof in the event that the United States Forest Service or other agent of the United States of America assesses a fee to Macon County for the use by Sublessee hereunder which exceeds the sum of \$6,000.00 per year. In this event, the monthly rental to be paid by Sublessee hereunder shall be increased by 1/12 of the amount that the annual sum assessed to Macon County for the use of the Sublessee hereunder which exceeds \$6,000.00 per year.
4. **ASSIGNMENT.** The Sublessee shall have no right to assign this Sublease and its rights under the Sublease to any affiliate or subsidiary of the Sublessee or subsequent owner of Lessee's Station, without the consent of Sublessor and the United States of America, acting through the Forest Service, Department of Agriculture;
5. **REPAIRS AND MAINTENANCE.** Sublessee shall be responsible for all maintenance and repair of the Tower and the Tower supporting structures and the Transmitter Building

to be used hereunder by the Sublessee;

6. **PAYMENT OF TAXES.** Sublessee shall be responsible for the payment of any personal property taxes imposed against the fixtures or equipment on the subleased premises which are owned by Sublessee;
7. **UTILITIES.** Sublessor shall pay when due all electric and other utility charges made against the subleased premises during the term of this sublease;
8. **INSURANCE.** Sublessor shall maintain adequate insurance coverage against fire, storm or other casualty loss or damage to Sublessor's property, as well as liability insurance against personal injury or property damage. Such insurance shall specifically provide for coverage for the repair and replacement of all structures, machinery and equipment owned by Sublessor located on or adjacent to, the Tower.

Sublessee shall maintain adequate insurance coverage against fire, storm or other casualty loss or damage to Sublessee's property, as well as general liability insurance against personal injury of not less than One Million Dollars (\$1,000,000.00). Evidence of said insurance shall be provided to Sublessor upon request of Sublessor. Failure to maintain said general liability policy by Sublessee shall result in the immediate termination of this Lease;

9. **DAMAGE TO OR DESTRUCTION OF THE TOWER.** If the Tower subject to this Sublease or any part thereof, or any equipment thereon shall be wholly or materially damaged or destroyed, at the sole option of the Sublessor, the Sublessor may repair, restore and/or replace the same, at the expense of Sublessor, to the condition which existed immediately prior to the occurrence of such casualty.

However, in the event the damage to the Tower subject to this Sublease or any part thereof, or any equipment thereon, cannot be repaired within sixty (60) days (as reasonably estimated by Sublessor as soon as practicable after the occurrence of such damage) Sublessor may terminate this Lease as of the date of such damage;

10. **EMINENT DOMAIN.** If the Tower subject to this Sublease and/or the Transmitter Building Parcel subleased hereunder shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Sublease shall be terminated as of the date of such taking and Sublessee shall thereupon be released from any further liability hereunder. The date of such taking shall be the date on which legal title shall vest in the condemning authority;
11. **ACCESS TO LEASED PREMISES.** It is mutually understood and agreed between the parties that Macon County, Jackson County and Sublessee may maintain broadcast apparatus on the Tower subject to this Sublease. Sublessor, Sublessee and all others having the right to use such Tower shall have the right to non-exclusive access to such

Tower for the purpose of operating, maintaining, inspecting and repairing such broadcast apparatus;

12. **USE OF TOWER.** Sublessee shall not take any action which will cause or permit electrical interference to the broadcast signal of any existing electronic communications apparatus on the Tower subject to this Sublease or otherwise interfere with the broadcast signal or rights of any of the existing users of the Cowee Bald Communications Site. Sublessee shall be liable to Sublessor and shall indemnify Sublessor for any loss or damage to Sublessor's equipment, or for destructive electrical interference to the communications signals of Sublessor, consequential or otherwise, occasioned by, growing out of, or arising from any act or failure to act by Sublessee, its agents or employees, including such acts or failures to act which Lessee shall suffer to exist or continue to exist on the real property of Sublessor or such Tower.

Any breach by Sublessee of Sublessor's right of use of the Tower as defined herein, shall confer upon the Sublessor the right to immediately terminate this Sublease without liability. Such rights shall be in addition to, and exclusive of such other rights contained in this Sublease or such rights at law or equity which Sublessor may possess.

13. **INDEMNIFICATION OF PARTIES.** Sublessor shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference, caused by Sublessee its agents, or employees, and Sublessee will indemnify and save Sublessor harmless from any loss, damage or liability, consequential or otherwise occasioned by, growing out of, or arising, or resulting in connection with, Sublessee or any act or failure to act by Sublessee, its agents, or employees. Sublessee shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference caused by Sublessor;
14. **AUTHORIZATION.** Sublessor and Sublessee respectively represent and warrant to the other that all necessary approvals and/or corporate action has been duly taken to authorize the execution and delivery of this Sublease and the performance or observance of the provisions of this Sublease. Additionally, Sublessor represents and warrants to the Sublessee that the necessary consent and/or approval of this Sublease have been obtained from the United States of America, acting through the Forest Service, Department of Agriculture, owner of the real property in which such tower and transmitter building parcel are situate. Absence of the landowner's consent and/or approval at any time during the Term shall grant the Sublessor and the Sublessee the right to immediately terminate the Lease without further liability;
15. **NO WAIVER.** Failure or delay on the part of either Sublessor or Sublessee to exercise any right, power, or privilege hereunder shall not operate as a waiver thereof;
16. **NOTICE.** Any and all notices, demands or other communications required by this Lease or by law, or desired to be given hereunder, by any party shall be in writing and shall be validly given or made to another party if served either personally or if deposited in the United States mail, certified, postage prepaid, return receipt requested. If such notice, demand or other communication be given by mail, such shall be conclusively deemed given as of the date shown on the return receipt if the same is deposited in the United

States mail addressed to the party to whom such notice, demand or other communication is to be given as hereinafter set forth:

If to Lessor:

Macon County

Attention: County Manager

5 West Main Street Franklin, North Carolina 28734

If to Lessee:

Billy Graham Evangelistic Association

Attention: Justin T. Arnot, General Counsel

1 Billy Graham Parkway

Charlotte, NC 28201

Any party hereto may change its address for the purpose of receiving notice, demands and other communications as herein provided by a written notice given in the manner aforesaid to the other party or parties hereto;

17. AGENTS AND PARTIES. From time to time Lessor or Lessee by notice as aforesaid may appoint one or more agents to act for them;
18. ATTACHMENTS, SCHEDULES AND EXHIBITS. All Exhibits, Appendices and Schedules attached to this Lease shall be deemed part of this Lease and incorporated herein, where applicable, as if fully set forth herein.
19. THAT THE LEASE BETWEEN THE UNITED STATES OF AMERICA, ACTING THROUGH THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AND MACON COUNTY, AND THE TERMS AND CONDITIONS THEREOF, A COPY OF SAID LEASE BEING ATTACHED HERETO ARE INCORPORATED HEREIN BY REFERENCE AS IF MORE FULLY SET FORTH HEREIN. TO THE EXTENT THAT ANY OF THE FOREGOING TERMS AND CONDITIONS OF THIS USE OF SPACE ON COMMUNICATIONS TOWER AND USE OF ASSOCIATED TRANSMITTER BUILDING SUBLEASE AGREEMENT CONFLICT WITH OR ARE INCONSISTENT WITH SAID LEASE AGREEMENT, THEN THE TERMS OF SAID LEASE AGREEMENT SHALL PREVAIL, IT BEING THE SPECIFIC INTENT OF BOTH PARTIES HERETO NOT TO SUBLEASE INCONSISTENTLY WITH SAID LEASE.
20. ADDITIONAL RESPONSIBILITIES OF THE SUBLESSEE.
 - a. All development, operation and maintenance by Sublessee of the authorized facility, improvements, and equipment located on the property shall be in accordance with stipulations in the communications site plan approved by the Authorized Officer of the United States Forest Service. If required by Authorized Officer of the United States Forest Service, all plans for development, layout, construction, or alteration of improvements on the property, as well as revisions of such plans, must be prepared by

- a licensed engineer, architect, and/or landscape architect. Such plans must be approved in writing by the Authorized Officer of the United States Forest Service before commencement of any work. After completion, as-built plans, maps, surveys, or other similar information will be provided to the Authorized Officer of the United States Forest Service and appended to the communications site plan;
- b. The Sublessee will comply with applicable Federal, State, county, and municipal laws, regulations and standards for public health and safety, environmental protection, siting, construction, operation, and maintenance in exercising the rights granted by this Sublease. The obligations of the Sublessee under this lease are not contingent upon any duty of the Authorized Officer of the United States Forest Service, or other agent of the United States, to inspect the premises. A failure by the United States, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms or conditions of this lease. Sublessee waives all defenses of laches or estoppel against the United States. The Sublessee shall at all times keep the title of the United States to the property free and clear of all liens and encumbrances;
 - c. Use of communications equipment is contingent upon the possession of a valid Federal Communication Commission (FCC) or Director of Telecommunications Management/Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization, and the operation of the equipment is in strict compliance with applicable requirements of FCC or IRAC. A copy of each applicable license or authorization shall at all times be maintained by the Sublessee for each transmitter being operated. The Sublessee shall provide the Authorized Officer of the United States Forest Service, and the Sublessor, when requested, with current copies of all licenses for equipment in or on facilities covered by this lease;
 - d. The Sublessee shall ensure that equipment within its facility operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer of the United States Forest Service or authorized official of the Federal Communication Commission (FCC) determines that the Sublessee's use interferes with existing equipment, the Sublessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer of the United States Forest Service or FCC official;
 - e. When requested by the Authorized Officer of the United States Forest Service, the Sublessee will furnish technical information concerning the equipment located on the property;

21. OTHER PROVISIONS.

The provisions of Paragraph "V. OTHER PROVISIONS" as contained in the Lease between Macon County and the United States of America, acting through the Forest

Service, Department of Agriculture, a copy of which is attached hereto and incorporated herein by reference, shall apply to the Sublessee named herein and Sublessee shall at all times be bound by, subject to and comply with the same.

22. LIABILITIES.

- a. The Sublessee assumes all risk of loss to the authorized improvements by Sublessee;
- b. The Sublessee shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment on the property made by Lessee or its agents hereunder;
- c. The Lessee shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Sublessee's use or occupancy of the property. The Sublessee's indemnification of the United States shall include any loss of personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this Sublease. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this lease, regardless of cause;
- d. The United States Forest Service has no duty, either before or during this Sublease term, to inspect the property or to warn of hazards and, if the United States Forest Service inspects the property, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph shall survive the termination or revocation of this lease, regardless of cause;
- e. The Sublessee has an affirmative duty to protect from damage the land, property, and interests of the United States;
- f. In the event of any breach of the sublease by the Sublessee, the Authorized Officer of the United States Forest Service may, on reasonable notice cure the breach for the account at the expense of the Sublessee. If the United States Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and

damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Sublessee to the United States Forest Service on the first day of the month following such election;

- 23. COUNTERPARTS. This Sublease may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.
- 24. HEADINGS. The headings of the paragraphs of this Sublease are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Sublease or the intent of any paragraph hereof.
- 25. ENTIRE AGREEMENT. This Sublease is the only Agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof.
- 26. MODIFICATION OR AMENDMENT. No amendment, change or modification of this Sublease shall be effective unless in writing stating that it amends this document and signed by each of the parties hereto.
- 27. GOVERNING LAW. This Sublease shall be construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the parties have executed this Sublease as of the day and year first above written.

SUBLESSOR: Macon County

By: _____

Derek Roland, Manager

SUBLESSEE: Blue Ridge Broadcasting Corporation

By: _____

PUBLIC TRANSPORTATION PROGRAM RESOLUTION

FY 2024 RESOLUTION

Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof.

Applicant seeking permission to apply for Public Transportation Program funding, enter into agreement with the North Carolina Department of Transportation, provide the necessary assurances and the required local match.

A motion was made by (*Board Member's Name*) _____ and seconded by (*Board Member's Name or N/A, if not required*) _____ for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, non-Community Transportation applicants may apply for funding for “purchase-of-service” projects under the Capital Purchase of Service budget, Section 5310 program.

WHEREAS, (*Legal Name of Applicant*) _____ hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

NOW, THEREFORE, be it resolved that the (*Authorized Official's Title*)* _____ of (*Name of Applicant's Governing Body*) _____ is hereby authorized to submit grant application (s) for federal and state funding in response to NCDOT's calls for projects, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.

I (*Certifying Official's Name*)* _____ (*Certifying Official's Title*) _____ do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (*Name of Applicant's Governing Board*) _____ duly held on the _____ day of _____, _____.

Signature of Certifying Official

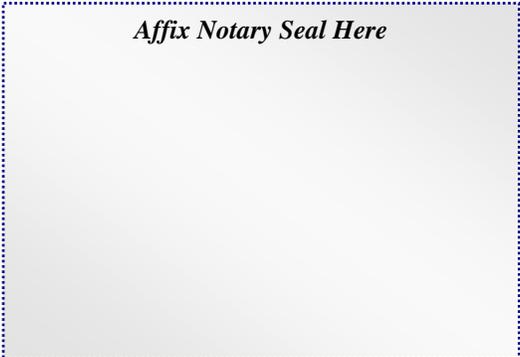
****Note that the authorized official, certifying official, and notary public should be three separate individuals.***

Seal Subscribed and sworn to me
(*date*) _____

*Notary Public **

Printed Name and Address

My commission expires
(*date*) _____







1 inch = 20 feet

**RESOLUTION EXEMPTING ENGINEERING SERVICES FOR GROUNDWATER
MONITORING AND REPORTING FOR THE SOLID WASTE
DEPARTMENT, MACON COUNTY, NORTH CAROLINA, FROM THE PROVISIONS
OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL
STATUTES**

WHEREAS, Article 3D of Chapter 143 of the North Carolina General Statutes establishes a general public policy regarding procurement of engineering services; and

WHEREAS, North Carolina General Statutes Section 143-64.32 provides:

"Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000)"; and

WHEREAS, Macon County is now in need of engineering services for the groundwater monitoring program in Macon County, North Carolina; and

WHEREAS, the estimated professional engineering fee for these services in Macon County, North Carolina is in an amount less than fifty thousand (\$50,000) dollars.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF MACON that the proposed engineering services for the Solid Waste Department Convenience Center site development is hereby exempted in writing from the provisions of Article 3D of Chapter 143 of North Carolina General Statutes pursuant to the provisions of N.C. Gen. Stat. §143-64.32.

Adopted this 8th day of November, 2022.

James Tate, Chairman
Macon County Board of Commissioners

ATTEST:

Clerk to the Board

(COUNTY SEAL)



**BUNNELL
LAMMONS
ENGINEERING**

October 31, 2022

Macon County Solid Waste Management Department
109 Sierra Drive
Franklin, NC 28734

Attention: Mr. M. Chris Stahl
Director

Subject: **Contract for a Corrective Action Evaluation Report (CAER)**
Macon County Landfill
Permit #5703-MSWLF-1992
Franklin, North Carolina
BLE Contract No. J22-1101-29

Dear Mr. Stahl:

Bunnell-Lammons Engineering, Inc. (BLE) is pleased to submit this contract to Macon County to provide consulting services associated with the Macon County MSW Landfill. This contract addresses the requirement for corrective action evaluation reporting as set forth by the North Carolina Department of Environmental Quality (NCDEQ), Division of Waste Management (DWM), Solid Waste Section (SWS). Included herein is a brief description of the background project information, a general description of our contract scope of services with related fee estimate, and authorization information.

BACKGROUND INFORMATION

Macon County owns and operates a recycling center and solid waste disposal facility at 1448 Lakeside Drive in Franklin, North Carolina. The facility includes a Subtitle D municipal solid waste (MSW) landfill, convenience center, waste treatment and processing facility, material recycling facility, and an environmental education center.

The MSW facility includes a Phase 1 waste unit (6.6 acres), a Phase 2 waste unit (14.2 acres), and a Phase 3 waste unit (22 acres). Phase 1 and Phase 2 are currently inactive waste units. Phase 3 is an active waste unit with Cell 1 receiving waste.

Based on the historical detections of volatile organic compounds (VOCs) in two monitoring wells (MW-1A and MW-1B) which exceeded North Carolina groundwater standards promulgated under NCAC Title 15A 02L .0202 (2L Standards), the SWS required the facility to initiate an assessment monitoring program. The county was notified of the requirement in a SWS letter dated August 24, 2007.



A limited CAP dated August 25, 2010 was prepared by BLE and approved by the SWS on November 10, 2010. The corrective action remedies approved in the CAP included:

- 1) Alterations to the grading of the Phase 1 Cell to prohibit or reduce the impoundment and infiltration of stormwater,
- 2) Installation of a supplemental landfill gas cut-off trench and passive landfill gas vents within the limits of the Phase 1 Cell to reduce groundwater impact from VOCs which may be present in the landfill gas,
- 3) Continued semi-annual monitoring of selected sentinel monitoring wells for VOCs to determine fate and transport of contaminants.

The existing groundwater monitoring network for the Macon County Landfill consists of three (3) upgradient (background) wells (MW-10, MW-17, and MW-18) and eighteen (18) downgradient (compliance) wells (MW-1A, MW-1B, MW-1D, MW-2, MW-3A, MW-5D, MW-14, MW-19, MW-19A, MW-20, MW-21, MW-22, MW-22A, MW-23, MW-24, MW-25, MW-26, and MW-27). The impacted wells/ assessment wells outlined in the CAP are MW-1A, MW-1B, MW-1D, MW-5D, and MW-23. These wells are located west/ northwest of the Phase 1 and Phase 2 overlap area.

The CAP specifies that a CAER will be submitted to evaluate the site's remedial progress on a 5-year schedule. The CAER will contain an evaluation of the effectiveness of the approved remedies on a periodic basis after the selected remedies are complete. The CAER will consist of a groundwater contaminant trend evaluation report which will include site maps, plots of the contaminant trend data, tables of results, a description of the evaluative process, and conclusions and recommendations.

The corrective action remedies were implemented in 2011 and the first CAER was submitted by REIC, Inc. on February 17, 2017. Macon County has requested that BLE prepare this contract to evaluate the remedial actions for data collected through October 2022 at the site and to prepare a CAER for submittal to the SWS.

SCOPE OF SERVICES

The objective of this project is to evaluate the remedial progress at the facility and to prepare a CAER as specified in the CAP and as required by the SWS. Please note that the general requirements for the CAER are included in the SWS *Guidelines for Corrective Action Evaluation Reports* (undated whitepaper). [Appendix A].

Current monitoring for corrective action includes semi-annual monitoring of selected sentinel monitoring wells for VOCs to determine fate and transport of contaminants. The selected wells are MW-1A, MW-1B, MW-1D, MW-5D, and MW-23. The CAER proposed herein will evaluate VOC data through the October 2022 sampling event.



Contaminant Trend Evaluation

Historical trends in VOC concentration will be evaluated after a statistically significant sample set is acquired. Typically, four data points (sampling events) are performed and a baseline report is issued which documents the contaminants present, the range of detected concentrations, and establishes general contaminant concentration trends. A minimum of 5 to 9 sampling events (statistical method dependent) must be conducted for valid statistical analyses to be performed. A linear regression or other approved statistical technique will be used to evaluate trends for each contaminant which has an observed measurable concentration trend.

Petroleum Hydrocarbon Trend Evaluation

The degradation of petroleum hydrocarbons is a biologically mediated oxidation/reduction (redox) reaction. This process involves the transfer of electrons from a contaminant to an electron acceptor. The net result of the process is the degradation of the contaminants to harmless end products such as water, carbon dioxide, and metabolic byproducts. Since this process does not produce a measurable daughter product (see the following section on chlorinated solvents) we propose that the degradation of the hydrocarbon compounds should be evaluated by measuring the contaminant concentration trends directly. A linear regression or other approved statistical technique will be used to evaluate trends for each contaminant which has an observed measurable concentration trend.

Chlorinated Solvent Trend Evaluation

Degradation of chlorinated compounds is typically reflected in the historical trends where the concentrations of parent compounds decrease while the concentrations of daughter products increase. The two major transformation pathways are shown below:

1. PCE → TCE → (isomers) DCE → Vinyl Chloride → Ethene → Ethane
2. 1,1,1-TCA → 1,1-DCA → Chloroethane → Ethane

We propose to prepare summary tables of the historical concentration data from each well and to prepare plots of the historical VOC concentrations data for analysis. Where a significant VOC detection history has been observed, we will prepare text to describe PCE and PCE daughter products in the first paragraph followed by 1,1,1-TCA and 1,1,1-TCA daughter products in the second paragraph. If a significant VOC detection history has not been observed, we will prepare only one paragraph for brevity. The detection history of ethene and ethane will be included if these compounds are present in the site database.

Reporting

We will prepare a report which summarizes the data and provides our conclusions and recommendations in accordance with the approved CAP. The report will be prepared in general compliance with the CAER guidance in **Appendix A** but will be limited as described herein.



QUALITY ASSURANCE/QUALITY CONTROL MEASURES

As part of BLE's quality assurance/quality control (QA/QC) measures, documents are reviewed prior to submittal to a client. Our QA/QC review is designed to provide accurate and concise reports, which are in compliance with SWS. A Senior Hydrogeologist will perform the above scope of services. Signatures of two professional geologists and/or engineers on submittals from BLE will indicate that appropriate QA/QC has been performed for data reduction, analysis, and reporting.

FEE ESTIMATE

BLE will complete the scope of services outlined in this proposal for a lump sum fee of **\$10,800**. Invoices will be submitted on a monthly frequency or less and on a percent complete basis. The fee estimate is effective for a period of six months from the date of this proposal.

SCHEDULE

Based on our present schedule, we can begin work on this project one week after we receive the October 2022 data and Macon County's authorization to proceed. Our anticipated implementation schedule is shown below:

Trend Analyses	4 weeks
Draft CAER	2 weeks
Review of Draft CAER by Macon County	2 weeks
Preparation and Submittal of Final CAER	<u>1 week</u>
Project completion	9 weeks

The final project deliverables can be prepared and submitted within approximately 9 weeks after receipt of the data and signed authorization.



Contract for CAER
Macon County MSW Landfill, Franklin, NC

October 31, 2022
BLE Contract Number J22-1101-29

AUTHORIZATION

As our written authorization for the above scope of services, please execute the attached acceptance sheet and return the acceptance copy of this contract to BLE.

Any exceptions to this contract or special requirements not covered in the contract should be attached to the returned acceptance copy for the mutual consideration of both parties. Any Purchase Order issued to authorize this project should reference this document (J22-1101-29).

We appreciate the opportunity to serve as your hydrogeological consultant at this site. If you have any questions, please do not hesitate to contact us at (864) 288-1265.

Sincerely,
BUNNELL-LAMMONS ENGINEERING, INC.



Riley L. Blais, G.I.T.
Staff Hydrogeologist



Andrew W. Alexander, P.G., RSM
Consulting Hydrogeologist

Attachments: Appendix A - Guidelines for Corrective Action Evaluation Reports
 Appendix B - Proposal Acceptance Sheet with Contract Terms and Conditions

APPENDIX A

GUIDELINES FOR CORRECTIVE ACTION EVALUATION REPORTS

Solid Waste Section Guidelines for Corrective Action Evaluation Reports

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
SOLID WASTE SECTION
Environmental Compliance Unit

The purpose of this document is to provide guidance as requested by the regulated community regarding the content for Corrective Action Evaluation Reports.

Requirements

Corrective Action Evaluation Reports (CAERs) should be submitted on a periodic basis as specified in the approved Corrective Action Plan and Solid Waste Section guidance. CAERs should contain the following information at a minimum:

1. Proof that a reduction in contaminant concentrations is occurring along specific transects
2. A demonstration that contaminant reduction is caused by chemical or biologic attenuation of the contaminant(s) of concern. Include historical data for reference
3. Proof that the plume has stabilized or is decreasing within the horizontal and vertical extent based upon the data

Report Format

The CAER should be submitted as a stand-alone technical document sealed by a North Carolina professional and licensed geologist. The CAER should also be submitted electronically in a pdf or tiff format. A paper copy is not required. There may be some site-specific instances where technical data may require additional information beyond that listed in these instructions as a means of more fully characterizing the technical data available and conclusions derived from that data. These instructions set no limit on the number or content of such additional report sections as long as the information included pertains to that required of a CAER.

The recommended format and content for a CAER is as follows:

Cover Page

- Facility Name
- Facility Location
- Permit #
- Consultant Name and Address
- Permittee Name and Address
- Report Date
- Signature and seal of the NC certified licensed geologist.

Completed Environmental Monitoring Reporting Form - This page should contain the signature and seal of the NC certified licensed geologist. Any work that would constitute the “public practice of geology” as defined by G.S. 89E shall be performed under the responsible charge of, and signed and sealed by, a geologist licensed in the state of North Carolina.

Table of Contents

Chapter 1 – Introduction (At a Minimum)

- Site Background
- Aquifer Characteristics
- Contaminant Distribution
- Description of Site Conceptual Model
- Regulatory Status

Chapter 2 - Correction Action Summary (At a Minimum)

- Physical Changes in Aquifer Conditions
- Chemical Changes in Aquifer Conditions
- Physical Changes in Plume Characteristics
- Chemical Changes in the Plume
- Refining the Site Conceptual Model
- Evaluation of impacts on contaminant levels, hydraulic gradients, recovery well capture zones, evaluation of the treatment train, contaminant removal efficiencies, total mass of contaminants removed, etc.
- Status of impacts at the relevant point of compliance (compliance boundary)
- Any off-site migration of contaminants of concern

Chapter 3 - Conclusion

- Any modifications needed to the selected remedy
- Any supplemental assessment or risk assessment activities to further characterize the issues
- Does the contingency plan(s) need to be implemented
- Imposition of land use restrictions on the facility property and/or on any buffer property acquired to ensure that the migration of groundwater (and landfill gas) from the sanitary landfill is confined to property owned and controlled by the responsible party.

References

Tables (At a Minimum)

- Groundwater elevation data
- Groundwater analytical data

Figures (At a Minimum)

- USGS 7 ½-minute topographic map - showing the site location
- Site Plan - to include topographic contours, permanent structures, surface water features, a bar scale, north arrow, facility boundary, waste management unit boundary, compliance boundary, and all relevant monitoring wells or sampling points
- Recent Potentiometric map
- Graphs/Charts
- Isoconcentration contour maps
- Biochlor results

- Cross sections

Appendices (At a Minimum)

- Boring logs for all Corrective Action monitoring program wells/borings
- Sample Field Sampling Sheets
- Sample Chain of Custody Records
- Inventory and map of all wells, springs, and surface water intakes used as sources of potable water within 1,500 feet from the edge of waste
- Copies of field logs and notes, and color copies of site photographs
- Laboratory reports for all samples collected and laboratory quality control samples, including results for bias and precision and control limits used. The following minimum laboratory quality control sample reporting is required: (a) at least one matrix spike and one matrix spike duplicate per sample delivery group or 14-day period, whichever is more frequent (control limits must be specified); (b) at least one method blank per sample delivery group or 12-hour period, whichever is less; and (c) system monitoring compounds, surrogate recovery required by the method and laboratory control sample analysis (acceptance criteria must be specified). All samples that exceed control limits/acceptance criteria must be flagged in the laboratory report.

APPENDIX B

PROPOSAL ACCEPTANCE SHEET WITH CONTRACT TERMS AND CONDITIONS



**BUNNELL
LAMMONS
ENGINEERING**

6004 Ponders Court
Greenville, South Carolina 29615

Phone (864) 288-1265
Fax (864) 288-4430

PROPOSAL ACCEPTANCE SHEET

The purpose of this sheet is to obtain your written authorization for the performance of services by Bunnell-Lammons Engineering, Inc. ("BLE") and confirm the terms and conditions under which these services are provided as shown below.

Compensation for services rendered will be based on the schedules and/or sums described in this Agreement. If BLE is requested to modify the scope of work at your request or if BLE personnel determine during the execution of the Work that a modification of scope is required, BLE will promptly seek and confirm in writing a mutually agreeable revision of the scope of work and associated charges. All services and testing will be performed in accordance with the standard of care set out below and applicable specifications, if any, unless otherwise noted. Test results apply only to the materials tested.

Project Name and Proposal Number: Contract for a Corrective Action Evaluation Report

BLE Project No. J22-1101-29

Project Location: Macon County Landfill

Franklin, North Carolina

WORK AUTHORIZED BY: _____

Signature

Date

Print Name and Title - If services and/or the provision of materials are to be performed for a corporation or company (hereinafter "company") in which I/we are an officer, employee, director, member or shareholder, I/we do hereby warrant that I/we have the authority to bind the company.

Company Name

Address

City

State

Zip Code

PARTY RESPONSIBLE FOR SCHEDULING BLE'S SERVICES: _____ Phone Number: _____

FOR PAYMENT OF CHARGES: (BLE should send invoices to)

Email Address: _____

Firm: _____ **Attention:** _____

Address: _____ **City, State:** _____

Zip Code: _____ **Phone Number:** _____ **Fax Number:** _____

SPECIAL INSTRUCTIONS: _____



TERMS AND CONDITIONS

WHEREAS, Client is seeking engineering, consulting, testing and/or environmental or other services in regard to services associated with a property or properties (the "project site") and/or services associated with a specific activity or activities (the "services and/or the "Work"). Therefore, in consideration of the mutual covenants and agreements contained and the payments to be made as herein provided, Bunnell-Lammons Engineering, Inc., (hereinafter "BLE") and Client (collectively, the "Parties") agree as follows (the "Agreement").

1. **SERVICES TO BE PROVIDED.** BLE, through and by its officers, employees and subcontractors, is an independent contractor and agrees to provide Client, for its sole benefit and exclusive use, the services set forth in BLE's proposal, which is a part of this Agreement. No third-party beneficiaries are intended by this Agreement.

2. **PAYMENT TERMS.** Client agrees to pay BLE's invoice upon receipt. If payment is not received within 30 days from the Client's receipt of invoice, Client agrees to pay a service charge on the past due amount at 1.5% per month, including attorney's fees and expenses if BLE's fee is collected through an attorney. No deductions shall be made from BLE's invoice on account of liquidated damages unless expressly included in this Agreement. BLE may suspend services until paid on any project where payment of invoiced amounts not reasonably in dispute is not received by BLE within 60 days of Client's receipt of BLE's invoice. BLE will issue invoices monthly or more frequently as reasonably required.

3. **STANDARD OF CARE AND CERTIFICATIONS.** BLE will perform its services using that degree of care and skill ordinarily exercised under similar conditions by reputable members of BLE's profession practicing in the same or similar locality at the time of service. NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE OR INTENDED BY BLE'S PROPOSAL OR BY BLE'S ORAL OR WRITTEN REPORTS. Nothing in this Agreement or in the services provided by BLE is intended to create, nor shall it be construed to create, a fiduciary relationship owed by either party to one another. BLE shall not be required to sign any documents, no matter by whom requested, that would result in BLE having to certify, guarantee or warrant the existence of conditions whose existence BLE cannot reasonably ascertain. Client shall not make resolution of any dispute with BLE or payment of any amount due to BLE in any way contingent upon signing any such certification, guarantee, or warranty.

4. **INSURANCE.** BLE maintains insurance coverage as follows:
a. Worker's Compensation Insurance.
b. Employers Liability Insurance.
c. Commercial General Liability Insurance.
d. Professional Errors and Omissions Insurance.

Certificates of Insurance can be provided upon acceptance of this Agreement and upon request.

5. **LIMITATION OF LIABILITY.** CLIENT AND BLE HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING BLE'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, FOR ADDITIONAL CONSIDERATION FROM BLE OF \$10.00, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, CLIENT AGREES THAT BLE'S LIABILITY, AND THAT OF ITS OFFICERS, SHAREHOLDERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONTRACTORS TO CLIENT OR ANY ASSIGNEE SHALL BE LIMITED TO AN AGGREGATE OF \$50,000 OR BLE'S FEE, WHICHEVER IS GREATER. IF CLIENT PREFERS TO HAVE HIGHER LIMITS OF LIABILITY, BLE AGREES TO INCREASE THE AGGREGATE LIMIT UP TO A MAXIMUM OF \$1,000,000. (THE ADDITIONAL CHARGE FOR THE HIGHER LIABILITY LIMIT IS BECAUSE OF THE GREATER RISK ASSUMED BY BLE AND IS NOT A CHARGE FOR ADDITIONAL INSURANCE.) UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTING BLE'S PROPOSAL, PROVIDED CLIENT AGREES TO PAY AN ADDITIONAL CONSIDERATION OF 5% OF BLE'S TOTAL CHARGES, OR \$500, WHICHEVER IS GREATER. THIS LIMITATION OF LIABILITY APPLIES TO ALL LAWSUITS, CLAIMS OR ACTIONS, WHETHER IDENTIFIED AS ARISING IN: (I) TORT, INCLUDING, BUT, NOT NECESSARILY LIMITED TO, NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERRORS OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED) AND/OR NEGLIGENT MISREPRESENTATION, (II) STRICT LIABILITY, (III) CONTRACT, OR (IV) ANY OTHER LEGAL THEORY, INCLUDING WITHOUT LIMITATION, BLE'S INDEMNITY OBLIGATIONS TO CLIENT RELATED TO THE SERVICES PROVIDED IN THIS AGREEMENT AND ANY CONTINUATION OR EXTENSION OF BLE'S SERVICES. IN ADDITION, NEITHER CLIENT NOR BLE OR THEIR SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONTRACTORS SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR OTHERWISE.

6. **SITE OPERATIONS, APPROVALS, PERMITS AND FEES.** BLE shall obtain and pay for all permits, licenses, fees, and governmental approvals which may be generally necessary for BLE to perform the type of services set out herein on a non-site-specific basis. However, Client shall be responsible for acquiring all rights-of-entry to the

property and, if reasonably necessary, across the property of third parties so that BLE can perform the services. Client shall be solely responsible for acquiring required building permits, land disturbance permits or any other permit specific to the site and necessary for BLE to perform its services.

BLE's field personnel are trained to initiate field testing, drilling and/or sampling within a reasonable distance of each designated location. BLE's field personnel will avoid hazards or utilities which are visible to them at the site. If BLE is advised in writing of the presence or potential presence of underground or above ground obstructions, such as utilities, BLE will give special instructions to BLE's field personnel. BLE is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions owned by Client or third parties, except to the extent such damage or loss is caused by BLE's negligence. Otherwise, for the additional consideration of \$10.00, the receipt and sufficiency being hereby acknowledged, Client agrees to defend, indemnify, and hold BLE and its shareholders, directors, officers, employees, agents and subcontractors harmless from any such claims, suits or losses, (collectively "Claims") including related reasonable attorney's fees except to the extent such Claims are caused by BLE's negligence or willful misconduct.

BLE will take reasonable precautions to minimize damage to the project site or other property caused by its operations. Unless otherwise stated in BLE's proposal, BLE's charges do not include cost of restoration due to any related damage which may result. If Client requests BLE to repair such damage, BLE will do so for an additional fee.

Field tests or boring locations described in BLE's report or shown on sketches are based on specific information furnished by others or estimates made in the field by BLE personnel. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in BLE's proposal or report. BLE's observations and sampling, inspection, and testing procedures indicate conditions of materials and construction activities only at the precise location where and precise time when BLE performed the services. Client acknowledges that conditions of materials and construction activities at other locations may vary from those measured, observed, or inspected, and that conditions at one location and time cannot be relied on to indicate the conditions at other locations and times, even when the materials involved appear to be identical. The observations and tests performed by BLE's by field representative are valid only for the time and location the test is performed. Client acknowledges that outside factors such as construction activity, weather and the passage of time can alter the condition of the material tested or observed. Notwithstanding the foregoing, BLE may make inferences based upon the information derived from performed procedures to formulate professional opinions about conditions in other areas. BLE is responsible only for those data, interpretations, and recommendations about the actual materials and construction activities it observes, inspects, samples, or tests. Even if performed on a continuous basis, services do not and should not be interpreted to mean that BLE observes, inspects, samples, or tests all materials on or at the project site. BLE is not responsible for other parties' interpretations or use of the information BLE develops.

7. **FIELD REPRESENTATIVE.** The presence of BLE or its subcontractor's field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation, field testing of specific aspects of the project and/or other services as authorized by Client. Should any party not retained by BLE be involved in the project, Client will advise such party that BLE's services do not include supervision or direction of the means, methods or actual work of the other party, its employees or agents. Client will also inform the other party that the presence of BLE's field representative at the project site will not relieve the other party of its responsibilities for performing their work safely and lawfully and in accordance with the standard of care set out herein and any applicable plans and specifications.

If a contractor (not a subcontractor of BLE) is involved in the project, Client agrees, in accordance with generally accepted construction practices, that the contractor will be solely and completely responsible for working conditions on the job site /project site, including security and safety of all persons and property during the performance of the work, and compliance with all Client safety requirements and state and OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours.

It is agreed that BLE will not be responsible for job or site safety or site security on or at the project site, other than for BLE's employees and subcontractors, and that BLE does not have the duty or right to stop the work of the Client, its contractors or any third parties.

8. **UNFORESEEN CONDITIONS OR OCCURRENCES.** It is possible that unforeseen conditions or occurrences may be encountered at the site which could substantially alter the necessary services or the risks involved in completing BLE's services. If this occurs, BLE will promptly notify and consult with Client, but will act based on BLE's sole judgment where risk to BLE personnel is involved. Possible actions could include:

- Complete the original Scope of Services in accordance with the procedures originally intended in BLE's proposal,
- Agree with Client to modify the Scope of Services and the estimate of charges to include study of the unforeseen conditions or occurrences, with such revision agreed to in writing; or,
- Terminate the services effective on the date specified by BLE in writing.



9. **SAMPLES, INVESTIGATION DERIVED WASTE, DISPOSAL, RETENTION.** Test specimens or samples generally are consumed or substantially altered during testing and any remnants are disposed of immediately upon completion of tests. Non-hazardous investigation derived waste, including but not limited to, samples, drill cuttings, purge water and other wastes ("IDW") may be left or used on-site or disposed of by BLE for an additional charge at an appropriately licensed facility. With regard to IDW that contains asbestos, petroleum products, regulated substances and/or toxic or hazardous substances or constituents ("hazardous IDW"), Client will provide a secure temporary storage location at or near the project site to prevent tampering with such containerized hazardous IDW and BLE, in BLE's sole discretion, either: 1) return the hazardous IDW to Client for proper disposal or 2) using a manifest signed by Client or Client's client as generator and for an additional fee, have the hazardous IDW transported to an appropriate location selected by Client for final disposal, or, (3) otherwise safely dispose of the hazardous IDW. Client agrees to pay all costs associated with the storage, transporting and disposal of hazardous IDW. Client recognizes and agrees that BLE is acting as a bailee and at no time assumes title, constructive or expressed, to any hazardous or non-hazardous IDW. If Client wishes BLE to retain any non-hazardous IDW, then, at Client's written request, BLE will use reasonable efforts to retain preservable IDW or the residue therefrom but only for a mutually acceptable time and for an additional charge. BLE reserves the right to refuse storage of any IDW. Client agrees that BLE is not responsible or liable for loss of hazardous or non-hazardous IDW retained in storage.

10. ***CLIENT DISCLOSURE.** Client agrees to advise BLE upon execution of this Agreement of any hazardous substance or any condition, known or that reasonably should be known by Client, existing in, on, or near the site that presents a potential danger to human health, the environment, or BLE's equipment. Client agrees to provide BLE continuing related information as it becomes available to the Client. By virtue of entering into this Agreement or providing services hereunder, BLE does not assume control of or responsibility as an operator or otherwise for the site or the person(s) in charge of the site, or undertake responsibility for reporting to any federal, state or local public agencies any conditions at the site that may present a potential danger to public health, safety or the environment. Client agrees under advice of its counsel to notify the appropriate federal, state or local public agencies as required by law; or otherwise to disclose, in a timely manner, any information that may be necessary to prevent damage to human health, safety, or the environment.

11. ***ENVIRONMENTAL INDEMNITY.** In connection with asbestos, petroleum products, regulated substances and/or toxic or hazardous substances or constituents (collectively "toxic or hazardous substances or constituents") and to the maximum extent permitted by law and for separate and valuable consideration of \$10.00, the receipt and sufficiency being hereby acknowledged, Client agrees to defend, hold harmless and indemnify BLE from and against any and all claims, liabilities, or judgments, except to the extent finally determined as being caused by BLE's negligence or willful misconduct, resulting from:

a. Client's violation of any federal, state, or local statute, regulation or ordinance relating to the management or disposal of toxic or hazardous substances or constituents;

b. Client's undertaking of or arrangement for the handling, removal, treatment, storage, transportation or disposal of toxic or hazardous substances or constituents found or identified at the site;

c. Toxic or hazardous substances or constituents introduced at the site by Client or third persons before, during or after the completion of BLE's services;

d. Allegations that BLE is a handler, generator, operator, treater, storer, transporter, or disposer under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law due to the BLE's services unless expressly retained by Client for such services; or,

e. Any third-party suit or claim for damages against BLE alleging strict liability, personal injury (including death) or property damage from exposure to or release of toxic or hazardous substances or constituents at or from the project site before, during or after completion of BLE's services under this Agreement.

12. ***EQUIPMENT CONTAMINATION.** BLE will endeavor to clean its laboratory and field equipment which may become contaminated in the conduct of BLE's services. Occasionally, such equipment cannot be completely decontaminated because of the type of hazards encountered. If this occurs, it will be necessary to dispose of the equipment in a manner similar to that indicated for hazardous samples or waste and to charge Client for the loss. Client agrees to pay the fair market value of any such equipment and reasonable disposal costs.

13. **DOCUMENTS.** BLE will furnish Client the agreed upon number of written reports and supporting documents. These instruments of services are furnished for Client's exclusive internal use and reliance, use of Client's counsel, use of Client's qualified bidders (design services only) and for regulatory submittal in connection with the project or services provided for in this Agreement, but not for advertising or other type of distribution, and are subject to the following:

a. All documents generated by BLE under this Agreement shall remain the sole property of BLE. Any unauthorized use or distribution of BLE's work product shall be at Client's and recipient's sole risk and without liability to BLE. BLE may retain confidential file copies of its work product and documents or information it receives or relies upon so BLE can support and/or defend its work.

b. If Client desires to release, or for BLE to provide, BLE's report(s) to a third party not described above for that party's reliance, BLE will agree to such release provided

BLE receives a written request from Client and a written acceptance from such third party to be bound by acceptable terms and conditions similar to this Agreement (e.g. Secondary Client Agreement). Reports provided for disclosure of information only will not require separate agreement. Client acknowledges and agrees to inform such third party that BLE's report(s) reflects conditions only at the time of the study and may not reflect conditions at a later time. Client further acknowledges that such request for release creates a potential conflict of interest for BLE and by making such a request, Client waives any such claim if BLE complies with the request.

c. Client agrees that all documents furnished to Client or Client's agents or designees, if not paid for, will be returned upon demand and will not be used by Client or any other entity for any purpose whatsoever. Client further agrees that documents produced by BLE pursuant to this Agreement will not be used for any project not expressly provided for in this Agreement without BLE's prior written approval. BLE shall have no liability for, and Client shall indemnify, defend and hold BLE harmless for, any claim, liability, damages or costs arising out of any unauthorized reuse or modification of BLE's documents or other instruments of its service.

d. Client shall furnish documents or information reasonably within Client's control and deemed necessary by BLE for proper performance of BLE's services. BLE may rely upon Client-provided documents in performing the services required under this Agreement; however, BLE assumes no responsibility or liability for their accuracy. Client-provided documents will remain the property of Client, but BLE may retain confidential file copies to support its report.

e. Unless directed otherwise by Client, BLE shall provide its reports and other required documentation via digital work product. Client agrees that the written or digital copy retained by BLE in its files shall be the official base document. BLE makes no warranty or representation to Client that the digital copy is accurate or complete but will correct in good faith any omissions or errors brought to BLE's attention by Client. Any modifications of such digital work product by Client shall be at Client's risk and without liability to BLE. Such digital work product is subject to all other conditions of this Agreement.

14. **SCHEDULING.** Client acknowledges that Client, directly or indirectly through its designee, has the sole right and sole responsibility to determine the extent, frequency, and scheduling of observations, inspections, and/or testing performed by BLE. Client acknowledges that BLE bears no responsibility for damages that may accrue because BLE did not perform such observations, inspections, and/or testing that Client or its designee failed to request or schedule. BLE shall have no duty to inform Client, its designee, or any other party of any failure to schedule BLE's services.

15. **OPINIONS OF COST.** If requested, BLE will exercise reasonable efforts and its experience on similar projects to provide realistic opinions or estimates of costs for remediation or construction as appropriate based on reasonably available data, BLE's designs or BLE's recommendations. However, such opinions are intended primarily to provide information on the order of magnitude or scale of such costs and are not intended for use in firm budgeting or negotiation unless specifically agreed otherwise, in writing with BLE. Client understands actual costs of such work depend heavily on regional economics, local construction practices, material availability, site conditions, weather conditions, contractor skills, and many other factors beyond BLE's control.

16. **TESTIMONY.** Should BLE or any BLE employee be compelled by law to provide testimony or other evidence by any party, whether at deposition, hearing, or trial, in relation to services provided under this Agreement, and BLE is not a party in the dispute, then BLE shall be compensated by Client for the associated reasonable expenses and labor for BLE's preparations and testimony at appropriate unit rates. To the extent the party compelling the testimony ultimately provides BLE such compensation, Client will receive a credit or refund on any related double payments to BLE.

17. **GOVERNING LAW.** This Agreement shall be governed in all respects by the laws of the State of South Carolina without regard to its conflicts of laws provisions. Causes of action arising out of BLE's Services or this Agreement, regardless of cause(s) or the theory of liability, including, but not limited to, negligence, indemnity or other theory of recovery shall be deemed to have accrued, and the applicable statute of limitations shall commence to run, not later than the date of BLE's substantial completion of the Work. Each party hereby submits to the jurisdiction and venue of any court sitting in Greenville County, South Carolina, for the adjudication of any dispute relating to or arising out of this Agreement or the performance or nonperformance of a party's obligations under this Agreement. The parties hereto irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding brought in any such court and waive any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

18. **PRIORITY OVER FORM AGREEMENT/PURCHASE ORDERS.** The Parties agree that the provisions of these terms and conditions shall control over and not be superseded by any provisions of any other documents or writings and may be amended only by written instrument signed by both Client and BLE. Client may issue purchase orders to BLE to satisfy Client's purchasing requirements. It is agreed that the terms and conditions included in such purchase orders shall be considered deleted in their entirety and such terms and conditions shall be void. Unless otherwise specifically stated by Client in writing, Client's request that BLE initiate services will constitute Client's acceptance of this Agreement and all of its terms and conditions. Any additional or different terms that Client provides in any subsequent acknowledgment, purchase order, task order, or other document that vary from any of the terms herein are hereby objected to and rejected. Any



such terms proposed by Client, whether by offer or acceptance, shall be void unless BLE expressly agrees to them in writing.

19. CLAIMS. Except for claims for payment, prior to filing of any suit or arbitration, the parties agree to attempt to resolve any dispute without resort to litigation or arbitration, including using mediation. However, in the event any claim, including but not limited to claims for payment, results in litigation or arbitration, then the prevailing party shall be entitled to recover from the non-prevailing party the prevailing party's reasonable legal fees and expenses associated with such litigation or arbitration. However, if the prevailing party has had only a partial victory, then the court or arbitrator(s) shall make an allocation based on the extent to which the court views the prevailing party as having prevailed. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

20. SURVIVAL. All provisions of this Agreement for payment, indemnity or allocation of responsibility or liability between Client and BLE shall survive the completion of the services and the termination of this Agreement.

21. SEVERABILITY. In the event any provision of this Agreement is found to be void or unenforceable under law, the court shall instead reform or replace any void or unenforceable provision with a valid and enforceable provision that gives meaning to the intention of the provision or shall strike the provision from this Agreement. The remaining provisions shall continue in full force and effect.

22. ASSIGNMENT. This Agreement may not be assigned by either party WITHOUT the prior written approval of the other.

23. CONSIDERATION. The parties agree that the charges for BLE's services are sufficiently adjusted to include any specific consideration payable to Client under these terms and conditions.

24. INTEGRATION. This Agreement, the attached documents and those incorporated herein constitute the entire Agreement between the parties and cannot be changed except by a written instrument signed by both parties.

25. FORCE MAJEURE. Any failure of performance under this Agreement shall not constitute breach if said failure of performance is due to an event or events beyond the reasonable control of the Parties or either of them; such events of force majeure shall include, but not be limited to, acts of God, natural disasters, war and strikes, or governmental orders including, but not limited to, orders affecting the work site or regarding COVID-19 or any other epidemic, pandemic, or other declaration of public health emergency.

If an event of force majeure occurs, BLE shall notify Client, identify the event of force majeure and specify the anticipated time when the Work can be continued. Timely notification of an event of force majeure shall extend the completion date of this Agreement for a time equal to the continuation of the force majeure plus any reasonable time necessary to resume Work. Client agrees to pay BLE for all reasonable costs incurred associated with labor and equipment, including subcontractor services, necessary to resume Work.

26. CONFIDENTIALITY. BLE and Client recognize that each of them may encounter written or unwritten confidential information regarding the other Party during the course of the services set forth in the Proposal. Confidential information means all technical, economic, financial, pricing, marketing or other information that has not been published and/or is not otherwise available to members of the public and includes, without limitation, trade secrets, proprietary information, customer lists, scientific, technical and business studies, analyses, processes, methods, procedures, policies and information. The Party receiving such confidential information agrees to hold as confidential and not to disclose such information.

All drawings, specifications, technical documents of any nature, and copies thereof, prepared pursuant to this Agreement shall be the property of BLE and are to be treated as confidential. They are not to be disclosed to others without BLE's prior written approval. BLE shall treat as confidential all documents and records (the "Documents") belonging to Client or a third party that BLE reviews during the performance of services set forth in the Proposal. BLE shall not disclose the Documents to any third party without the prior written consent of the Documents' owner or owners. No articles, papers or treatises related to or in any way associated with the services set forth in the Proposal shall be submitted for publication without BLE's prior written consent. BLE may retain copies of all such documents for archival purposes and to support or defend its work.

The confidentiality restrictions herein shall not apply to information that: (1) the Parties had in their possession prior to disclosure; (2) becomes public knowledge through no act or fault of the receiving Party; (3) the receiving Party lawfully acquires from a third party which does not have a confidentiality obligation to the Party to which the information pertains; (4) is independently developed by the receiving Party; or (5) is required to be disclosed by law. Without the express written consent of BLE, this Agreement creates no duties or liabilities of BLE to third parties who may rely on the Work provided or the documents delivered hereunder. The Parties agree that although Client may provide copies of BLE's reports to prospective property purchasers and their agents, no party other than

Client, its counsel or appropriate regulatory bodies may rely on the contents of BLE's reports.

27. INDEMNITY. If Client or any of its directors, officers, shareholders, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "Client Affiliates") become subject to any claims, losses, damages, penalties, actions, judgments, suits, costs and reasonable expenses (including, without limitation, reasonable fees and disbursements of attorneys and consultants) (collectively, "Claims"), caused by:

- a. the negligence, gross negligence or willful misconduct of BLE or its directors, officers, employees, subcontractors, agents and affiliates (collectively, the "Representatives");
- b. a violation of an applicable statute or regulation by BLE or its Representatives; and/or
- c. a breach of this Agreement by BLE or its Representatives;

then BLE shall, subject to the limitation set out in Article 5 above, indemnify and hold harmless Client and its Affiliates from and against such Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions. This indemnification shall only extend to the proportional extent of BLE's violation of law, breach of this Agreement, negligence or willful misconduct and shall not extend to the proportional extent of Client's violation of law, breach of this Agreement, negligence or willful misconduct.

If BLE or any of its shareholders, directors, officers, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "BLE Affiliates") become subject to any claims, losses, damages, penalties, actions, judgments, suits, costs and reasonable expenses (including, without limitation, reasonable fees and disbursements of attorneys and consultants) (collectively, "Claims") caused by:

- a. the negligence, gross negligence or willful misconduct of Client or its directors, officers, shareholders, employees, subcontractors, agents and affiliates (collectively, the "Representatives");
- b. a violation of an applicable statute or regulation by Client or its Representatives; and/or
- c. a breach of this Agreement by Client or its Representatives;

then Client shall indemnify and hold harmless BLE and its Affiliates from and against such Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions. This indemnification shall only extend to the proportional extent of Client's violation of law, breach of this Agreement, negligence or willful misconduct and shall not extend to the proportional extent of BLE's violation of law, breach of this Agreement, negligence, or willful misconduct.

It is agreed that all reasonably incurred costs of litigation incurred by the Indemnitees including, but not necessarily limited to reasonable attorneys' fees, court costs, consultant costs, expert witness fees, and legal expenses, shall be deemed to be "damages" payable by Indemnitor but only to the proportional extent finally determined as being caused by the willful misconduct, breach of contract, violation of law or the negligence of the Indemnitor.

28. NON-EXCLUSIVITY. The parties recognize and agree that BLE's services hereunder are to be provided on a non-exclusive basis.

29. WAIVER/INTEGRATION. Waiver by either Party of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement. This Agreement constitutes the entire agreement between Client and BLE and there are no other agreements, oral or written, by and between the parties hereto, with regard to the particular services/work set forth in the Proposal/Scope of Work/Scope of Services.

30. TERMINATION. This Agreement terminates automatically when all services have been performed and when BLE is properly paid for the services set forth in the Proposal. Either Party may terminate this Agreement without cause upon 30 days written notice to the other Party. In the event Client requests termination prior to completion, Client agrees to pay BLE for all reasonable costs incurred to date and reasonable charges associated with such termination.

31. SIGNAGE. BLE shall be entitled to place a placard or other stand-alone or attached signage on the project site identifying BLE as a future, present or past service provider. Within a reasonable time after BLE's Work is completed or in the event this Agreement is terminated, BLE shall be responsible for removing such signage.

NOTES: *Applies only if toxic or hazardous substances or constituents are anticipated or encountered.

----- END OF DOCUMENT PAS revision: 03-30-22

RESOLUTION EXEMPTING ENGINEERING SERVICES FOR THE SOLID WASTE DEPARTMENT, DESIGN AND NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PERMITTING AND CONSTRUCTION MAINTENANCE, MACON COUNTY, NORTH CAROLINA, FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

WHEREAS, Article 3D of Chapter 143 of the North Carolina General Statutes establishes a general public policy regarding procurement of engineering services; and

WHEREAS, North Carolina General Statutes Section 143-64.32 provides:

"Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000)"; and

WHEREAS, Macon County is now in need of engineering services for the design and permitting of a deceleration lane at the future Carson Convenience Center; and

WHEREAS, the estimated professional engineering fee for these services in Macon County, North Carolina is in an amount less than fifty thousand (\$50,000) dollars.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF MACON that the proposed engineering services for the Solid Waste Department Convenience Center site development is hereby exempted in writing from the provisions of Article 3D of Chapter 143 of North Carolina General Statutes pursuant to the provisions of N.C. Gen. Stat. §143-64.32.

Adopted this 8th day of November, 2022.

James Tate, Chairman
Macon County Board of Commissioners

ATTEST:

Clerk to the Board

(COUNTY SEAL)



October 5, 2022

Mr. Chris Stahl, Director
Solid Waste Department
Macon County
109 Sierra Drive
Franklin, North Carolina 28734

RE: Proposal for Engineering Services
Carson Convenience Center Turn Lane
Macon County, North Carolina

Dear Mr. Stahl,

McGill Associates is pleased to present this proposal to Macon County to provide engineering services associated with the proposed turn lane required by NCDOT for the Carson Convenience Center Site off US 64 near Fred Slagle Road.

We propose to perform this work as outlined in the proposed scope of services below:

SCOPE OF SERVICES

Turn Lane Design and NCDOT Permitting

1. See attached proposal from Traffic Planning and Design, Inc. dated September 23, 2022.

Bidding and Award

1. Prepare bid documents for review and approval by Macon County.
2. Assist with advertisement for bid in local publication and utilizing McGill Quest bid line.
3. Address questions during the bidding process.
4. Attend Bid Opening on behalf of Macon County.
5. Assist the County in evaluating construction bids.
6. Consult with and advise the County, as to the acceptability of contractors and subcontractors, and make recommendations as to the lowest responsible bidder.
7. Assist the County in the final preparation and execution of the Construction Contract and in verification of Performance and Payment Bonds and Insurance Certificates for proper limits and compliance.

Construction Administration

1. Schedule and conduct a Pre-Construction meeting with the County, contractor, and CMT firm.
2. Provide on-site construction observation (averaging approximately 16 hours per week) to observe the overall progress and quality of the executed work to determine if the work is proceeding in accordance with the plans and specifications. Construction contract duration is anticipated to be 8 weeks.
3. Review and approve shop drawings, diagrams, illustration, brochures, catalog data schedules and samples, the results of tests and inspections and other data that the site contractor is required to submit.
4. Address questions from the contractor during the construction process.
5. Review monthly pay requests and any proposed change orders. Make recommendation of payment to County.

BASIS OF COMPENSATION

We propose to perform the above outlined scope of work for the following fees:

Turn Lane Design and NCDOT Permitting (lump sum)	\$12,650.00
Bidding and Award (lump sum)	\$11,000.00
Construction Administration (hourly, estimated)	\$20,000.00

ASSUMPTIONS

Our fees above are based on the following assumptions:

1. See assumptions listed in TPD proposal dated September 23, 2022.
2. Our fees do not include geotechnical borings or evaluation.
3. All permit and advertising fees will be paid directly by the County.
4. Value engineering or re-bidding is not included in the above scope of services and will be billed on an hourly basis in accordance with the attached Basic Fee Schedule.
5. Detailed civil design, permitting, bidding, and construction of the convenience center is not included.
6. Surveying information provided by Macon County is sufficient for design. If additional surveying is required, we will notify the County.

7. Fee for testing services (i.e., soils, concrete, etc.) during construction will be paid for directly by the Owner.
8. Attendance at meetings not listed in the above scope of services shall be billed in accordance with the attached Basic Fee Schedule.
9. Services for tasks other than those specifically detailed above shall be considered additional services and billed in accordance with the attached Basic Fee Schedule.

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.



SCOTT BURWELL, PE
Senior Project Manager

Attachments: Traffic Planning and Design, Inc. Proposal Dated September 23, 2022
Consulting Services Agreement
Basic Fee Schedule

CC: Mark Cathey, PE, McGill Associates, P.A. (via email)

CONSULTING SERVICES AGREEMENT

This contract entered into this 5th day of October, 2022 by and between Macon County Solid Waste Department, 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: Macon County Solid Waste Department

Authorized Signature:

Print Name: Chris Stahl

Title: Director

Address: 109 Sierra Drive
Franklin, North Carolina 28734

McGill Associates, P.A.



Print Name: Scott Burwell, PE

Title: Senior Project Manager

Address: 55 Broad Street
Asheville, North Carolina 28801

BASIC FEE SCHEDULE
August 2022

PROFESSIONAL FEES	I	II	III	IV
Senior Principal	\$245			
Principal – Regional Manager – Director	\$210	\$215	\$230	\$235
Practice Area Lead	\$180	\$195	\$210	\$220
Senior Project Manager	\$195	\$205	\$210	\$215
Project Manager	\$165	\$175	\$180	\$185
Project Engineer	\$125	\$135	\$150	\$160
Engineering Associate	\$110	\$115	\$120	\$125
Planner- Consultant – Designer	\$110	\$120	\$145	\$160
Engineering Technician	\$100	\$115	\$120	\$130
CAD Operator – GIS Analyst	\$80	\$90	\$100	\$105
Construction Services Manager	\$130	\$150	\$170	\$180
Construction Administrator	\$105	\$120	\$130	\$135
Financial Services Manager	\$125	\$135	\$145	\$155
Grant Administrator	\$110	\$120	\$135	\$145
Construction Field Representative	\$85	\$100	\$105	\$115
Environmental Specialist	\$85	\$95	\$100	\$105
Administrative Assistant	\$75	\$80	\$90	\$105

1. EXPENSES

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

2. ASSOCIATED SERVICES -

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



TRAFFIC PLANNING AND DESIGN, INC.

WWW.TRAFFICPD.COM

Professional Services Agreement

Date: September 23, 2022 Client: McGill Associates, P.A.

Client Address: 55 Broad Street
Asheville, NC 28801

Client Contact: Scott Burwell, PE (scott.burwell@mcgillassociates.com)

Project Name: Carson Convenience Center – Turn Lane Evaluation

Municipality/County/State: Macon County, NC

TPD Project Manager: Colin Kinton, PE

TPD Project No.: MCGI.00008

Traffic Planning and Design, Inc. (TPD) is pleased to submit this Professional Services Agreement ("Agreement") regarding the above-referenced project ("Project"). Included in this Agreement are sections regarding **Assumptions, Scope of Services, Project Schedule, Fees and Expenses, Data Collection, and Standard Terms and Conditions.**

This Agreement will be between TPD and McGill Associates, P.A. ("Client").

In order for TPD to begin our services, we request that Client review this Agreement and return a signed authorization and retainer fee to our office. We appreciate the opportunity to be of service on this Project.

ASSUMPTIONS

This Agreement has been prepared under the following assumptions, which reflect TPD's current understanding of the project:

Improvements to be Designed

This proposal assumes that this project will be designed and approved through NCDOT's *Policy On Street and Driveway Access to North Carolina Highways*, and will be constructed with local funds. This project will not comply with all federal project delivery standards for publicly funded projects.

The designated roadway improvements to be designed for this Street and Driveway Access Permit Application are defined by the following:

- » One new driveway access (Fred Slagle Road) from Murphy Road (US-64) including a 200 ft storage right-turn lane with appropriate taper. The driveway will include a single lane entering and a single lane exiting.

This proposal does not include the cost of modifications to the plans due to design changes by the site engineer, other site consultants, or Client. These items will be billed on an out-of-scope basis. TPD is not responsible for time delays due to these changes.

Information Provided to TPD

Topographic survey per TPD's survey requirements is to be provided by the surveyor in either .DWG or .DGN format. A signed and sealed paper copy of the survey will also be provided to TPD. The cost of this survey is **not** included in TPD's estimated design cost. The estimated design cost assumes that TPD will have to coordinate with only the client for any site work. The engineered site plan, including driveway locations, is required to be submitted to TPD in either .DWG or .DGN format. Both survey and site plan information must be provided prior to the commencement of the roadway/driveway design. **TPD is not responsible for coordination with NCDOT or local municipalities for cleanout of stormwater facilities/structures to obtain information not provided in the survey. Please note that any requested coordination will be handled as a supplement to this agreement and may cause delays to the project schedule.**

All Stormwater Management Calculations affecting the State highway will be provided in the Rational Method.

Right of Way

It is assumed that Right of Way dedication and associated plan/deed preparation is not required for this project. It is assumed that NCDOT will provide documentation indicating sufficient Right of Way is available. TPD will not be responsible for negotiating or obtaining right-of-way, easements, or releases from nearby property owners, as applicable. Design will be within available Right of Way or easements provided by Client.

Schedule

TPD's price proposal assumes a normal schedule of approximately eight to ten (8 to 10) weeks for design and review, which does not include the time it takes to acquire right-of-way, easements, or releases. NCDOT will not issue a Street and Driveway Access Permit until these property rights are acquired to the Department's satisfaction.

Submissions

This proposal covers two submissions of the Street and Driveway Access Permit Application package to NCDOT with a copy to Macon County. TPD will provide design documents related to the improvements to McGill for submission of the Driveway Permit Application, per NCDOT requirements. Since it is extremely difficult to predict the scope and intensity of comments from state review agencies, there are no provisions for response letters or subsequent submissions. TPD will correct any mathematical, analytical, drafting, or typographical errors in the design without further cost to the client and provide a second and final submission to NCDOT. Any changes due to enlarged or changed scope, reviewer preference, or client preference will be performed on an out-of-scope basis.

Utilities

Regarding underground utilities, TPD will contact the NC 811 system to request information regarding underground utilities within the project limits. However, TPD is not responsible for the field verification of underground utilities including the depth, location, type, or size of existing pipes, manholes, laterals, valves, or other facilities. TPD is not responsible for any errors or omissions by the surveyor or utility companies including, but not limited to, the depth, location, type, or size of existing pipes, manholes, laterals, valves, or other facilities. In order to field-locate existing utility facilities, there are firms that provide subsurface utility engineering (SUE) services which we can refer to you upon request. Please note, the costs of SUE services and related TPD services are **not** included in this proposal.

Opinions of Probable Construction Cost

Evaluation of Client's or owner's Project budget, and/or estimates of construction cost, if included in TPD's Scope of Services, represent TPD's best judgment as a design professional familiar with the construction industry. It is recognized, however, that TPD does not have control over the cost of labor, materials, or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. Accordingly, TPD cannot and does not warrant or represent that bids or negotiated prices will not vary from the project budget proposed, established or approved by the Client or owner, if any, or from any statement of probable construction cost or other cost estimate or evaluation prepared by TPD.

Excluded Services

This proposal does not include Pavement Design or data collection relevant to such design. It is assumed that TPD will match the existing pavement section, which is the typical NCDOT requirement for a project of this magnitude.

The proposal does not include Erosion and Sedimentation Control Plans and NPDES Permitting. It is assumed that the site engineer will cover all requirements in this regard.

All tasks not included in the Scope of Work of this Proposal are specifically excluded. For example, this proposal does not include the following:

- » Topographic survey (to be completed by McGill or others).
- » Environmental, historic, or archaeological studies.
- » Noise studies, noise mitigation analysis/design.
- » Air quality analyses.
- » Environmental permitting with DEQ or Army Corps (e.g., NPDES Permit, Joint Permit, General Permit).
- » Traffic Impact Studies.

- » Traffic counts.
- » Traffic signal design, traffic signal coordination design, traffic signal interconnect plans.
- » Maintenance and Protection of Traffic/Traffic Control Plans (it is assumed traffic can be maintained during construction based on NCDOT Roadway Standard Drawings).
- » Pedestrian facilities such as pedestrian signals, crosswalks, sidewalks, or curb ramps.
- » Structural design (e.g., bridges, culverts, retaining walls, sound barriers, joint details, sheeting and shoring, sign structures), or structural inspection.
- » Geotechnical design.
- » Pavement Design (it is assumed TPD will match existing pavement depths).
- » Soil borings, roadway borings, or related permits.
- » Post Construction Stormwater Management Plans/Narrative.
- » Infiltration Testing, Analysis, or Design.
- » Right-of-Way or Property/Deed Research - TPD will assume that the right-of-way shown on the signed and sealed survey provided by the surveyor is correct.
- » Right-of-Way Plans, or any services related to right-of-way acquisition, such as coordination with neighboring property owners, metes-and-bounds descriptions, preparation of exhibits, etc.
- » Design of new or relocated utility facilities (above-ground or underground).
- » Obtaining permits for utility relocations, utility installations, or subsurface utility engineering.
- » Subsurface Utility Engineering (SUE), underground facility location, subsurface investigation of any type, or TPD coordination efforts related to such services.
- » Preparation of construction quantities, tabulation sheets, summary sheets, construction cost estimates, or specifications/special provisions.
- » Design services during construction including, but not limited to, contractor submittal review.
- » Construction bid services, such as bid package preparation or contract preparation.
- » Construction management/monitoring services, or consultation during construction.
- » Construction inspection services.

Note: TPD is fully capable of providing or subcontracting all services listed above and will do so as the need arises after proper authorization from the Client.

Out of Scope or Additional Services

Any service requested that is not described in the above Scope of Services section will be billed on an hourly basis according to the current fee schedule, plus expenses. Before proceeding with such services, TPD will inform Client of the need for additional services.

If Client disagrees with any of these assumptions, please notify TPD at your earliest convenience, so that revisions to this Agreement document can be made accordingly. Otherwise, upon authorization, we will proceed using the assumptions listed above.

SCOPE OF SERVICES

TPD's Scope of Services under this Agreement shall include the following tasks:

TASK I. INITIAL EVALUATION

1. Coordinate project scope, design tasks, and schedule with the project team and internal design team.
2. Once the survey is provided to TPD in electronic format, review the survey for compliance with the TPD requirements and prepare to utilize for design plans.
3. Request pavement design history, construction plans, and right-of-way plans from NCDOT Division 14 for Murphy Road (US-64), if available.
4. Conduct a site visit to obtain field measurements, determine existing drainage patterns, evaluate the constructability of the proposed layout, and obtain digital photos necessary for the preparation of the Street and Driveway Access Permit Application.

TASK II. HIGHWAY PLANS

1. Prepare Title Sheet, Existing Conditions sheet, and Proposed Conditions (Site Plan) sheet.
2. Prepare Typical Sections, and Roadway Construction Details.
3. Prepare the Construction Plans per NCDOT requirements.
4. Prepare the required Profile Plans per NCDOT requirements; it is assumed profiles for the site driveway will be necessary.
5. Prepare Guardrail Plans to include MASH terminal end crash protection.
6. Prepare Drainage and Elevation Plans, including top and bottom of curb elevations, drainage facilities, and proposed contours, as required by NCDOT.

TASK III. DRAINAGE DESIGN/REPORT

The drainage design and hydraulic report includes evaluating the existing drainage patterns and comparing to the post-construction drainage areas to determine the extent of the drainage improvements. NCDOT criteria will be applied when determining the distance between inlets, pipe sizing, and the acceptable amount of shoulder/lane encroachment. A Hydraulic Report will be prepared for submission with the Street and Driveway Access Permit Application, which will be submitted, as required, to NCDOT.

TASK IV. SIGNING AND PAVEMENT MARKING PLAN

It is assumed that all signing for the proposed design will be incorporated into the Construction Plan Sheet. This task also includes the development of a pavement marking legend and all notes regarding signing and pavement markings.

TASK V. EROSION AND SEDIMENTATION CONTROL PLAN

Prepare an erosion and sedimentation control plan for construction of the auxiliary turn lane and driveway. It is assumed that there will be no wetland impacts in preparation of the design plans.

TASK VI. OPINION OF PROBABLE CONSTRUCTION COST

Prepare an opinion of probable construction cost based on the design prepared in Tasks I-V.

TASK VII. UTILITY COORDINATION

TPD will coordinate with the NC 811 system, which identifies the existing utilities in the project area. TPD will list the utility contact information from NC 811 on the construction plan. This will assist the contractor in the event of an unforeseen conflict. Please see the Assumptions section for further discussion of underground utilities.

If requested by Client, TPD will send copies of the relevant plans to the affected major utilities (e.g., electric, communications, water, gas, and sewer). It is assumed that the electric company will coordinate with companies whose facilities are "riding" on its poles; TPD will not coordinate directly with all minor utilities.

TPD anticipates coordination with NCDOT, Macon County, and Client through the course of this design. We have provided an initial budget of eight (8) hours for this task.

TASK VIII. STREET AND DRIVEWAY ACCESS PERMIT APPLICATION SUBMISSION

TPD will prepare the designated improvement design plans and conduct an internal Quality Control/Quality Assurance check. Upon approval of the plans by Client and provision of the necessary documents (including signed Street and Driveway Access Permit application, permitting fees, and property deed as necessary), TPD will submit the Street and Driveway Access Permit Application package to NCDOT and Macon County. TPD will perform a final review of the designated improvement design plans and the site development plans to ensure consistency of the design.

PROJECT SCHEDULE

TPD's proposed schedule for our services included in the Scope of Services is as follows:

It is estimated that the design will be ready for review by the project team eight (8) weeks after TPD receives the following necessary items:

- » Signed authorization to proceed.
- » Acceptable survey in electronic format.
- » Current site plan in electronic format, including grading.

In the event that TPD is delayed in the performance of the Services, through no fault of its own, then TPD shall be entitled to an equitable adjustment of the schedule.

FEES AND EXPENSES

Policy Regarding Fee Estimates

As a general policy, TPD will not provide a not-to-exceed ("NTE") price regarding the estimated fee for project approvals, because the scope of services may change, or increase, based on changes by the project team or based on reviewer preference. Also, the complexity of the project may not be fully apparent at the outset when the Agreement is prepared. In the same way, the degree to which the reviewing agencies, the municipality, and local stakeholders will facilitate the project, or fight it, has a definite impact on the project cost. If the Client requests TPD to prepare a budgetary estimate of the necessary transportation engineering fees for a project, then any such budgetary estimate provided by TPD shall be based upon past experiences with similar projects, and shall, by no means whatsoever, be interpreted as a firm fee quotation for the subject project.

Professional Services

The flat fee for TPD's performance of the tasks listed in the Scope of Services is **\$11,500.00**.

TPD will not proceed with services beyond this fee without additional authorization from Client.

Expenses

Expenses such as copies, prints, postage, mileage, next-day mail, and hand-delivery of materials are included in the estimated fee for professional services.

Meetings

The costs for attending meetings are **not** included in the fee estimate for professional services, unless such meetings are specifically included in the Scope of Services. All meetings not specifically covered in the Scope of Services will be attended at Client's request (or at Client's attorney's request) and will be billed hourly using TPD's applicable fee schedule at the time of the meeting.

Special Cost Provision

If, as part of any legal proceeding associated with this project, any TPD employee is subpoenaed for deposition or testimony purposes, Client will be billed at TPD's hourly rate (in effect at the time of deposition) for those services plus any related expenses.

{Continue to next Page for TPD Standard Terms and Conditions}

TERMS AND CONDITIONS

1. *Payment Terms*

- a. *Invoices:* TPD shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Client on a monthly basis. Invoices are due and payable within 30 days of receipt. If Client fails to make full payment on any undisputed amount due to TPD within 30 days after receipt of TPD's invoice, then (1) the amounts due to TPD will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less), and (2) in addition TPD may, after giving seven days written notice to Client, suspend services under this Agreement until TPD has been paid in full all amounts due. Client waives any and all claims against TPD for any such suspension.
- b. *Payment:* As compensation for TPD providing or furnishing services, Client shall pay TPD as set forth in TPD's Professional Services Agreement. If Client disputes an invoice, either as to amount or entitlement, then Client shall promptly advise TPD in writing of the specific basis for doing so, and may withhold only that portion so disputed, and must pay the undisputed portion.

2. *Instruments of Service*

- a. All Documents are Instruments of Service. TPD shall retain the copyright thereto, and an ownership and property interest therein whether or not the project is completed.
- b. TPD grants Client a non-exclusive license to use the Instruments of Service solely and exclusively for the purpose of constructing, using, maintaining, altering and adding to the Project, provided that the Client substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. Client may make and retain copies of documents for information and reference in connection with use on the project by Client. Such documents are not intended or represented to be suitable for reuse by Client or others on extensions of the specific project for which they were prepared or on any other project. Any such reuse or modification without written verification or adaptation by TPD, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to TPD or to TPD's Consultants. Client shall defend, indemnify and hold harmless TPD and TPD's Consultants from all claims, damages, losses, economic damages and expenses, including attorneys' fees arising out of or resulting from such reuse or modification.

3. *Standard of Care*

TPD will strive to perform services under this Agreement in a manner consistent with that level of care and skill ordinarily used by members of the subject profession currently practicing in the same locality under similar conditions. No other representation and no warranty or guarantee, express or implied, is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

4. *Limitation of Liability*

- a. To the fullest extent permitted by law, the total liability in the aggregate, of TPD and TPD's officers, directors, employees, agents, and independent professional associates, and any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to TPD's services, the project, or this Agreement, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of this Agreement, misrepresentation, or breach of warranty of TPD or TPD's officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the total compensation received by TPD under this Agreement or \$50,000 whichever is greater.
- b. Client and TPD agree to a mutual waiver of special, incidental, indirect, or consequential damages including but not limited to defense costs, attorney's fees, loss of profits, loss of use arising out of, resulting from, or in any way related to the project or this Agreement.

- c. TPD shall not be responsible for any acts or omissions, or accuracy of data and or information supplied upon which TPD may rely, of any Client, contractor, subcontractor, or supplier, or any agents or employees or any other persons acting on behalf of Client, contractor, subcontractor, or supplier; or for any decision made on interpretations or clarifications of information supplied by Client, contractor, subcontractor, or supplier without consultation and advice of TPD.

5. *Termination*

- a. The obligation to continue performance under this Agreement may be terminated:
 - 1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay TPD for its services is a substantial failure to perform and a basis for termination.
 - b. By TPD:
 - 1) upon written notice if Client demands that TPD furnish or perform services contrary to TPD's responsibilities as a licensed professional; or
 - 2) upon written notice if TPD's services are delayed for more than 60 days for reasons beyond TPD's control.
 - c. TPD shall not be obligated to resume services under the Agreement until Client has paid all sums previously due and owed by Client.
 - d. TPD shall have no liability to Client on account of a termination for cause by TPD.
 - e. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 5.A.1.a if the party receiving such notice begins, within seven 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 of notice.
 - 2. For convenience, by Client effective upon TPD's receipt of written notice from Client.
- B. In the event of any termination under Paragraph 5, TPD will be entitled to invoice Client and to receive full payment for all services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the services, and TPD's consultants' charges, if any.

6. *Successors and Beneficiaries*

- a. TPD and Client each is hereby bound and the successors, executors, administrators, and legal representatives of TPD and Client 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. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or TPD to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client named in TPD's Professional Services Agreement and TPD and not for the benefit of any other party.

7. *Dispute Resolution*

Prior to the initiation of any legal proceedings, Client and TPD agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

8. *General Conditions*

- a. TPD shall complete its services in accordance with the schedule identified in the Professional Services Agreement or if no time period is specified, within a reasonable period of time.
- b. If, through no fault of TPD, such periods of time or dates are changed, or the orderly and continuous progress of TPD's services is impaired, or TPD's services are delayed or suspended, then the time for completion of TPD's services, and the rates and amounts of TPD's compensation, shall be adjusted equitably.
- c. TPD shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall TPD 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 Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. TPD shall not be responsible for the acts or omissions of any Constructor. TPD neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- d. TPD's opinions (if any) of probable construction cost are to be made on the basis of TPD's experience, qualifications, and general familiarity with the construction industry. However, because TPD 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, TPD cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by TPD. If Client requires greater assurance as to probable construction cost, then Client agrees to obtain an independent cost estimate.
- e. If any term or provision of this Agreement shall be held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.
- f. This Agreement is to be governed by the law of the state in which the project is located.

9. *Total Agreement*

- a. This Agreement (together with any expressly incorporated attachments), constitutes the entire agreement between TPD and Client and supersedes all prior written or oral understandings. This Agreement may only be amended or modified by a TPD representative.
- b. Signatures transmitted via facsimile or in PDF format by electronic mail shall be binding upon the parties hereto with the same force and effect as original signatures.
- c. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, but all counterparts together shall constitute one and the same instrument and may be transmitted electronically with the same legal effect as if manually signed originals had been delivered.

{Continue to next page for Authorization Page}

AUTHORIZATION PAGE

Confidentiality

Client agrees that the Scope of Services and related provisions included in this Agreement represent a valuable and unique work product developed by TPD specifically for this project, which may not be used or disclosed by Client for any purpose without TPD's express consent in writing. This specifically precludes Client from utilizing the enclosed Scope of Services for the purpose of soliciting competitive bids from other engineering companies, unless TPD has been compensated for our services in developing the Scope of Services and related provisions. Client also agrees to keep the terms of this Agreement confidential, and that any unauthorized use or disclosure of TPD's Agreement, Standard Terms and Conditions, or related rate schedule constitutes a violation of applicable state laws, regarding, without limitation, unfair competition, misappropriation, and trade secrets.

Client Acceptance of Services Agreement

TPD's offer of services under this Agreement shall remain valid for thirty (30) calendar days from the date of this Agreement. Acceptance of the Agreement after the end of the thirty (30) day period shall be valid only if TPD elects, in writing, to reaffirm the Agreement, and waives its right to re-evaluate and resubmit the Agreement. In order for TPD to begin our services, we request that Client review this Agreement and return the signed authorization and retainer fee to our office.

This Services Agreement prepared by:
Traffic Planning and Design, Inc. (TPD)



S. Colin Kinton, PE, Senior Project Manager
ckinton@trafficpd.com

Client Authorization (MCGI.00008 – Carson Convenience Center Driveway Design)

Client authorizes TPD to proceed with the services as described within this Agreement:

Signature: _____

Name (Please Print): _____

Position: _____ Firm: _____

Date: _____ E-mail Address: _____

Phone Number: _____

Please retain one copy for your file and forward an executed copy to TPD (emailed pdf preferred).

Traffic Planning and Design, Inc. (TPD)
80 Charlotte Street, Suite 40
Asheville, NC 28801
Phone 828.575.0133
www.trafficpd.com



Macon County Department of Solid Waste Management

109 Sierra Drive, Franklin, North Carolina 28734

Phone: (828) 349-2100; Fax: (828) 349-2185

Email: cstahl@maconnc.org

To: Macon County Board of Commissioners

From: Chris Stahl, Director of Solid Waste Management

RE: Solid Waste Agenda Item – Approval of Recommendation of RFQ #03-4712q

On October 10, 2022, Macon County posted a Request for Qualifications for engineering services related to a major modification to the Macon County MSW Landfill – Permit #57-03. This modification is required by NCDEQ when the owner increases the capacity in a landfill by more than 10 percent. The nature of the increase via vertical expansion is explained in the body of the Board Agenda Item submitted on November 1, 2022. The request period ended at 4:00pm on November 3, 2022.

Only one Statement of Qualifications was submitted by McGill Associates/Bunnell Lammons Engineering. After review, the submittal was found to be responsive to all requirements of the RFQ. Therefore, it is the recommendation of the Review Committee that the Macon County Board of Commissioners approve McGill Associates/BLE to provide engineering services for the re-permitting of the Macon County MSW Landfill based on a major modification of the Landfill; and, authorize the County Manager to negotiate and enter into a contract(s) with McGill Associates/BLE for the same.BOC



Macon County

Permitting and Design Services for the Vertical
Expansion to Phase 2 Waste Area at Macon County
MSW Landfill (RFQ No. 03-4712q)



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PREPARED FOR

Lindsay Leopard
Accountant / Purchasing Agent
Macon County Finance Department
5 West Main Street
Franklin, NC 28734

PREPARED BY

McGill Associates, PA
55 Broad Street
Asheville, NC 28801
828.252.0575
mcgillassociates.com

November 3, 2022

Lindsay Leopard
Accountant / Purchasing Agent
Macon County Finance Department
5 West Main Street
Franklin, NC 28734

RE: Statement of Qualifications
Permitting and Design Services for the Vertical Expansion to Phase 2 Waste Area at Macon County MSW Landfill (RFQ No. 03-4712q)

Dear Lindsay Leopard:

McGill is Macon County's partner for solid waste projects, and our team of professionals is uniquely qualified to provide outstanding assistance to the County. McGill, along with our team member — Bunnell Lammons Engineering (BLE) — have extensive experience in solid waste engineering design and permitting, as well as familiarity with Macon County and are in close proximity to the landfill site.

McGill was founded in 1984 on principles of service and client loyalty, which continue to drive our organization today. We develop strong working relationships with our clients, earning their confidence and respect by exhibiting professionalism, personal integrity, innovation, and character. We would be pleased to work with Macon County to provide the services outlined in the Request for Qualifications (RFQ). For this SOQ, we have compiled our solid waste team to provide the services requested, as outlined herein, including these unique qualifications:

- McGill has been associated with the Macon County MSW Landfill since 1995 and was involved in the original permitting and design of phase 2.
- McGill has over 38 years of professional engineering services experience. We have completed numerous solid waste projects that include landfill closure design, permitting, bidding and award, and construction phase assistance for both MSW and construction and demolition waste landfills.
- To supplement our team of experts, we have chosen to team with BLE for geotechnical services and Ed Holmes & Associates Land Surveyors for surveying, utilizing staff that have previously worked with Macon County on this project. BLE was founded in 1996 and provides quality environmental, geotechnical, geological soil testing, and construction materials engineering services to clients. BLE is dedicated to the pursuit of technical excellence with uncompromising commitment to business and personal ethics and will provide geotechnical and geological stability analysis expertise to our team.

- Our additional solid waste services include master planning, landfill gas-to-energy facilities, transfer stations, material recovery facilities and recycling centers, financial analysis, capital improvement planning, environmental assessments, preliminary engineering, cost estimating, permitting and regulatory compliance, constructability review, pre-bidding services, bidding and contracting services, and construction administration and observation.
- We have the knowledge, experience, and necessary resources needed to complete projects on time and within budget. We are confident that our qualifications, knowledge of North Carolina solid waste regulations, and overall approach are reflective of our ability to successfully perform the needed engineering services within the County's time frame and budget.
- Our team is well-rounded and comprehensive. Due to the complexity of solid waste initiatives, we recognize the importance of clear lines of communication and immediate access to the necessary resources. Mark Cathey, Solid Waste Practice Area Lead, who has more than 26 years of solid waste experience in North Carolina, will be the primary point of contact for communication with the County.

Finally, and perhaps the most important factor, is our sincere desire to continue our working relationship with Macon County. We pride ourselves on long-term client relationships that are maintained and upheld by our responsiveness and quality of work product provided. Our team will provide the specific expertise that you need for this project and will work seamlessly with your solid waste department. If you have any questions, please contact us at 828.252.0575. Thank you for your consideration.

Sincerely,
MCGILL ASSOCIATES, PA

A handwritten signature in blue ink, appearing to read "Andy C. Lovingood".

ANDY C. LOVINGOOD, PE
President

B | Experience of Firm and References

State Licenses



**NORTH CAROLINA BOARD OF EXAMINERS
FOR ENGINEERS AND SURVEYORS**
4601 Six Forks Rd Suite 310
Raleigh, North Carolina 27609

McGill Associates, P.A.
PO Box 2259
Asheville, NC 28802

This is to Certify that:

McGill Associates, P.A. is licensed with the North Carolina Board of Examiners for Engineers and Surveyors, and is authorized to practice **engineering and land surveying** under the provisions of Chapter 89C and 55B of the General Statutes of North Carolina.

This authorization must be renewed annually, and **expires on June 30, 2023**

License No. : C-0459



**THE NORTH CAROLINA BOARD OF
EXAMINERS FOR ENGINEERS
AND SURVEYORS**



Executive Director

POST IN PLACE OF BUSINESS

Issued 06/07/2022

Telephone (919) 791-2000	FAX (919) 791-2012	EMAIL Address ncbels@ncbels.org	WEB Site www.ncbels.org
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Note: McGill is no longer licensed to provide surveying services in North Carolina (a copy of the new license will be issued soon).





**NORTH CAROLINA BOARD OF EXAMINERS
FOR ENGINEERS AND SURVEYORS**
4601 Six Forks Rd. Suite 310
Raleigh, North Carolina 27609

Bunnell-Lammons Engineering, Inc.
Attn: Richard Hall
6004 Ponders Court
Greenville, SC 29615

This is to Certify that:

Bunnell-Lammons Engineering, Inc. is licensed with the North Carolina Board of Examiners for Engineers and Surveyors, and is authorized to practice **engineering** under the provisions of Chapter 89C and 55B of the General Statutes of North Carolina.

This authorization must be renewed annually, and **expires on June 30, 2023**

License No. : C-1538



**THE NORTH CAROLINA BOARD OF
EXAMINERS FOR ENGINEERS
AND SURVEYORS**

Ado Pitts
Executive Director

POST IN PLACE OF BUSINESS

Issued 06/13/2022

Telephone (919) 791-2000	FAX (919) 791-2012	EMAIL Address ncbels@ncbels.org	WEB Site www.ncbels.org
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**NORTH CAROLINA BOARD OF EXAMINERS
FOR ENGINEERS AND SURVEYORS**
4601 Six Forks Rd. Suite 310
Raleigh, North Carolina 27609

Ed Holmes and Associates Land Surveyors, PA
PO Box 17335
Asheville, NC 28816

This is to Certify that:

Ed Holmes and Associates Land Surveyors, PA is licensed with the North Carolina Board of Examiners for Engineers and Surveyors, and is authorized to practice **land surveying** under the provisions of Chapter 89C and 55B of the General Statutes of North Carolina.

This authorization must be renewed annually, and **expires on June 30, 2023**

License No. : C-2806



**THE NORTH CAROLINA BOARD OF
EXAMINERS FOR ENGINEERS
AND SURVEYORS**

Ado Pitts
Executive Director

POST IN PLACE OF BUSINESS

Issued 06/29/2022

Telephone (919) 791-2000	FAX (919) 791-2012	EMAIL Address ncbels@ncbels.org	WEB Site www.ncbels.org
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North Carolina Board for Licensing of Geologists
P.O. Box 41225 • Raleigh, North Carolina 27629-1225
Phone: (919) 850-9669 • Email: contact@ncblg.org

Bunnell-Lammons Engineering, Inc.

Holds license No C-284
Issued by the North Carolina Board
for Licensing of Geologists

Valid 02/01/1999 to 06/30/2023

Relevant Project Examples



Macon County

Design and Permitting: Phase 3 of MSW Landfill

McGill and BLE prepared plans to permit and construct an eight-acre Subtitle D waste area. The project consisted of preparing a master plan for the new area, detailed design, and permit modifications requiring expansion of the leachate collection system, environmental review and permitting, updating the site study, and preparing an alternative site analysis. Phase 3 of the MSW landfill was designed and permitted and construction was completed in 2018.

MSW Landfill Site Study

McGill and BLE prepared an updated site study to expand the existing Macon County MSW Landfill to add additional properties and expand the landfill footprint.

Landfill Master Plan

McGill prepared a long-term site plan for the Macon County MSW Landfill. The plan considered alternatives for the development of the site, recommended additional property acquisitions, and proposed the sequencing of Subtitle D cell development and the location of other facilities, including leachate collection, recycling, waste transfer facilities, and waste baling facilities.

Client Reference

Chris Stahl
Solid Waste Director
828.349.2100





Client Reference

David Francis
Program Administrator
828.356.2602

Francis Farm Landfill — Synthetic Closure Cap

Haywood County

The Francis Farm Landfill (FFLF) assessment of corrective measures (ACM) resulted in a corrective action plan (CAP) being prepared for the landfill. The selected corrective action was the installation of a synthetic cover over the closed, unlined landfill and purchase of neighboring properties to increase the waste area buffer and compliance boundaries. This CAP project was designed and permitted by McGill and BLE in 2017 and construction began in June 2020. The project included placement of a synthetic cover, relocation of access to a bus maintenance garage that supports the county school system, installation of a new gas collection system to replace the existing system — which will be abandoned during cap placement — refurbishment of landfill gas collection wells, leachate dewatering pumps, and leachate collection systems.



Client Reference

David Francis
Program Administrator
828.356.2602

Francis Farm Landfill — Gas-to-Energy System

Haywood County

McGill designed and provided permitting services to a landfill gas collection and combustion system at the closed FFLF. The project consisted of landfill gas collection piping and appurtenances, a skid-mounted landfill gas blower and flare package, and an engine and generator unit complete with utility compliant switchgear. The system allows Haywood County to capture methane gas and power the engine and generator unit to produce electricity for sale to the local Electric Membership Corporation. The project was funded in part by a \$1 million grant from the North Carolina State Energy Office as a part of its Energy Efficiency and Conservation Plan.



Client Reference

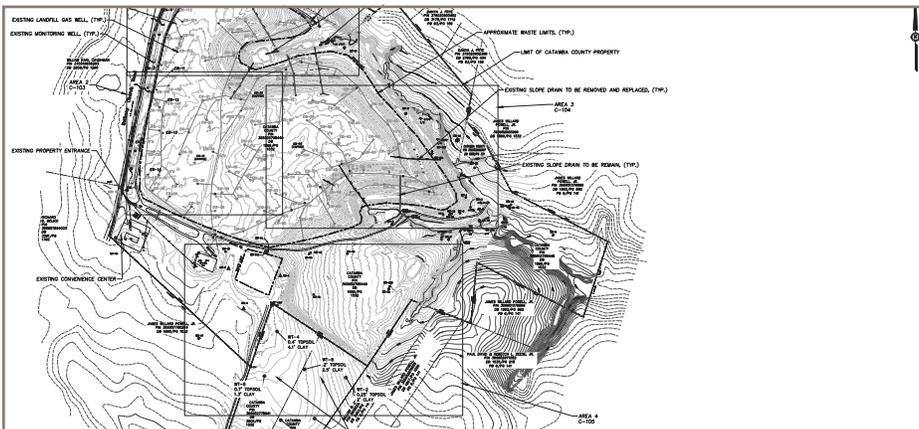
Jim Kilgo
 Director of Solid
 Waste Services
 Rutherford County
 828.287.6002

David Odom, PE
 President / Founder of
 Odom Engineering, PLLC
 828.247.4495

Construction and Demolition (C&D) Landfill Expansion

Rutherford County

McGill is working with the County on the development of a ten-year capacity construction and demolition waste landfill. Our services include all phases of development, including site study update; design and permitting; permit to construct application to North Carolina Department of Environmental Quality (NCDEQ); construction bid documents; construction advertising, bidding, and award assistance; construction administration and construction quality assurance; and permit to operate documentation. The project is located in a challenging topographic setting typical of landfill development in western North Carolina.



Client Reference

Rodney Hamby
 Landfill Supervisor
 704.462.1348

Bethany Church Road (Newton) Landfill – Closure Cap

Catawba County

McGill assisted Catawba County by developing conceptual plans and cost estimates to permit and construct repairs and reconstruction of the landfill cap on a 60-acre closed landfill. Our detailed preliminary analysis included topographic and property survey, a soil borrow study, and a detailed report to address cap improvements at the closed landfill.



Client Reference

Marcus Jones, PE
Director of Engineering
and Facility Services
828.694.6526

Stoney Mountain Road Landfill Convenience Center

Henderson County

McGill prepared the redesign of the entrance facilities and citizens' convenience center at the Stoney Mountain Road Landfill facility, including the addition of new entrance permitting with the North Carolina Department of Transportation (NCDOT). The new entrance included new inbound and outbound scales and a bypass lane for commercial tared customers, which greatly increased traffic efficiency and eliminated previous congestion on Stoney Mountain Road. The entrance also included a new scale house to serve the County's transfer station facility. The relocation of the citizens' convenience center away from the commercial waste collection vehicle traffic was of prime importance to the County for safety and access reasons. The new convenience center site was ultimately chosen on top of an adjacent closed landfill cell. The site includes a covered structure for the collection of such items as waste oil and oil filters, antifreeze, batteries, and electronics. The existing pre-fabricated household hazardous waste (HHW) collection facility was relocated to a designated location within the site.

Facility Stormwater Pond Improvements

Watauga County

The County utilized a single stormwater pond located at the lowest elevation of its utilized property to manage stormwater that flowed from its property. The pond was in desperate need of repair and was also showing signs of maintenance neglect, relative to the riser structure being non-existent and the emergency overflow not being properly constructed. We designed an expanded capacity pond inclusive of a new combined outlet / emergency overflow outlet structure. The pond also included a forebay for improved treatment and ease of maintenance, which will act as a temporary structure during rebuild of the primary pond. The

Client Reference

Rex Buck
Operations Services
Director
828.264.5305

Highway 209 Convenience Center

Haywood County

Client Reference: David Francis, Program Administrator; 828.356.2602

Our team developed a new convenience center on property owned by Haywood County Schools to replace the existing convenience center along Highway 209. McGill proposed a site with a new entrance to provide vehicle storage and avoid highway congestion, two MSW compactors, a recycling material compactor, an open-top roll-off container for bulky material, an oil drop-off station, attendant hut, site lighting, and a portable toilet — all within a paved fenced in area. For this project, McGill provided design, permitting, bidding and award, and construction administration and observation.

Blackburn Resource Recovery Facility — Landfill Design, Permitting, and Construction, Multiple Phases

Catawba County

Client Reference: Rodney Hamby, Landfill Supervisor; 704.462.1348

McGill prepared design and permitting documents for the first Subtitle D cell and the first piggy-back MSW cell in the County. This has included 4 separate landfill expansion projects for Units 2 and 3 from 1998 to 2009.

CoGeneration Facility General Services

Catawba County

Client Reference: Rodney Hamby, Landfill Supervisor; 704.462.1348

McGill developed the civil site plan for the addition of future gas generators. The site plan was developed to avoid area of gas condensate contamination in case future remedial action was required at the location of a leak.

MSW Transfer Station

Madison County

Client Reference: Sam Lunsford, Solid Waste Director; 828.649.2311

McGill designed a solid waste transfer station to permit the County to close its landfill and haul its waste to another disposal site. The project included site design, transfer station design, erosion control, stormwater, on-site utilities, bidding services, construction administration, and financial services.

MSW Landfill Closure: McGill designed, permitted, and provided construction administration services for Subtitle D landfill closure.

Construction / Demolition Design and Permitting:

McGill performed testing, field investigation, and developed design drawings for permitting a new landfill cell.

C&D Landfill Phase 5 and 6

Buncombe County

Client Reference: Dane Pedersen, Director of Solid Waste, 828.250.5460

McGill prepared permit drawings for modifying phase 5 and the development of phase 6 of the County's construction and demolition landfill, including design hydrogeological report for phase 6. The project also included updating the operations plan and the closure and post closure plan narratives, as well as updating the engineering drawings. Our services also included detailed design of vertical expansion, stormwater management system update, slope stability analysis, new access road, construction administration, and construction quality assurance.

References

Catawba County

Rodney Hamby, Landfill Supervisor

Post Office Box 389
Newton, NC 28658
rhamby@catawbacountync.gov
704.462.1348

Haywood County

David Francis, Program Administrator

215 North Main Street
Waynesville, NC 28786
david.francis@haywoodcountync.gov
828.356.2602

Watauga County

Rex Buck, Operations Services Director

336 Landfill Road
Boone, NC 28607
rex.buck@watgov.org
828.264.5305

Buncombe County

Dane Pedersen, Solid Waste Director

81 Panther Branch Road
Alexander, NC 28701
dane.pedersen@buncombecounty.org
828.250.5460

North Carolina Department of Environmental Quality

Allen W. Gaither, PE, Environmental Engineer

2090 US Highway 70
Swannanoa, NC 28778
allen.gaither@ncdenr.gov
828.296.4703

Henderson County

Marcus Jones, PE, Director of Engineering

1 Historic Courthouse Square, Suite C
Hendersonville, NC 28792
mjones@hendersoncountync.gov
828.694.6526

History of Litigation

We are a large and diversified consulting firm with multiple offices spread over three states, handling hundreds of projects throughout the Southeast. Although litigation is an increasing fact of life in the construction industry, McGill's claim to project ratio is extremely low. Over the past five years, McGill has been involved with six claims set forth below. Three claims have been resolved out of court, one is currently pending, and two are in negotiations of settlement without legal suits being filed. All claims resolved by mediation contain non-disclosure language that prevents us from releasing the actual terms of settlement.



C | Team Organization, Management, and General Qualifications

Contact



Mark Cathey, PE
Principal / Vice President /
Solid Waste Practice Area Lead
mark.cathey@mcgillassociates.com

How We're Different

McGill serves public and private clients throughout the Southeast. The range and depth of McGill's expertise includes a wide spectrum of engineering services, land planning and recreation, as well as consulting services.

Our foundation is built on creating comprehensive solutions in a personal way. Collaboration is the key to our success and clients are an integral part of every project at McGill. By building lasting relationships with communities, we understand our clients' visions and project goals. Our dedicated project team focuses on delivering a customized solution for each unique community.

We help our clients identify challenges, formulate responsive solutions, and manage successful project completion. Through partnership, we shape the best results for each client and community.

At a Glance

Legal Name: McGill Associates, PA
Incorporated / Year: 1984
Business Type: Corporation
Number of Offices: 7
Number of Employees: 144

Locations



Local Office:

55 Broad Street
Asheville, NC 28801
828.252.0575

What We Do

-  Solid Waste
-  Water and Wastewater
-  Civil Engineering
-  Water Resources
-  Electrical Engineering
-  Mechanical, Electrical, and Plumbing
-  Construction Administration
-  Land Planning and Recreation
-  Environmental
-  Consulting Services



Subconsultants



**BUNNELL
LAMMONS
ENGINEERING**

Contact

Andrew Alexander, PG, RSM

BLE Services Lead

andy.alexander@blecorp.com

Office Location

130 Oval Road, Suite 200, Arden, NC 28704

800.249.0176 | blecorp.com

BLE provides engineering and environmental solutions for projects in commercial, industrial, institutional, and infrastructure markets. The firm's services include environmental consulting and engineering, geotechnical engineering, construction engineering and inspections, and construction materials testing. Utilizing a team approach, BLE provides clients with the technical expertise required to successfully complete each project. Founded in 1996, the firm is headquartered in Greenville, South Carolina, with offices in Columbia, South Carolina, Charleston, South Carolina, and Arden, North Carolina.

BLE is staffed and equipped to provide trained, experienced, and courteous inspectors and engineering technicians to perform all required testing. The firm also provides prompt engineering consultation, when requested, and has technicians certified by AWS, ACI, ASNT, ICC, SC LLR, and NICET.



Macon County Landfill

Geotechnical Services

- Site exploration
- Soil and rock testing
- Shallow and deep foundation design
- Settlement evaluation of foundations and embankments
- Seismic evaluation
- Slope stability and seepage modeling
- Instrumentation and special testing
- Reinforced earth and mechanically-stabilized (MSE) wall design
- Construction engineering and inspection (CE/I)

Other Services

- Construction quality assurance
- Landfill gas monitoring and reporting
- Groundwater monitoring and reporting
- Hydrogeological engineering
- Environmental monitoring
- Environmental compliance
- Environmental corrective action

ED HOLMES & ASSOCIATES



LAND SURVEYORS, PA

Contact

Joshua Holmes, PLS

President

josh@edholmessurveying.com

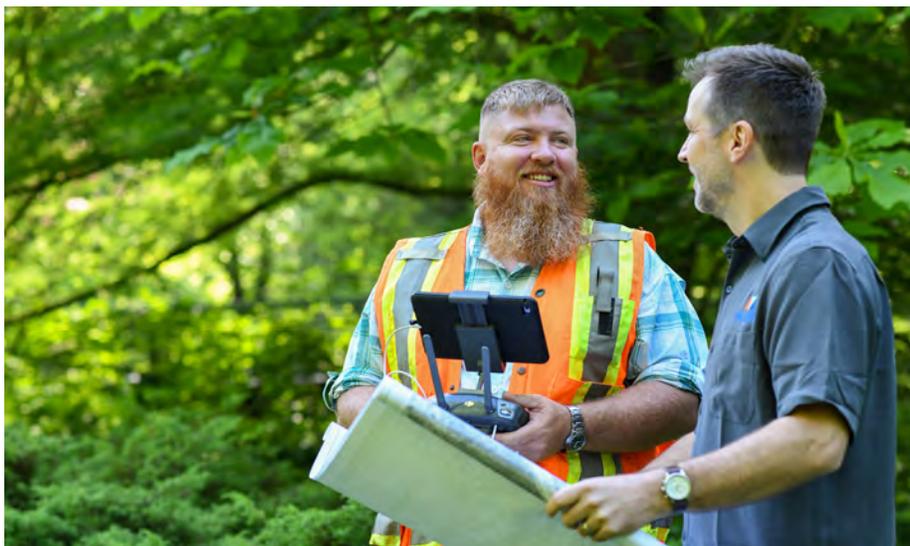
Office Location

200 Ridgefield Court, Suite 208, Asheville, NC 28806

828.225.6562 | edholmessurveying.com

Ed Holmes & Associates Land Surveyors, PA (Ed Holmes & Associate) was founded on principles of service and client loyalty in Asheville, North Carolina 17 years ago. Those principles continue to drive the company today with over 50 employees of which 14 are Licensed Professional Land Surveyors in 4 states with over 200 years of combined experience. We develop strong working relationships with our clients, earning their confidence and respect by exhibiting professionalism, personal integrity, innovation, and character.

In addition to the key personnel listed, Ed Holmes & Associates' resources include CAD operators, field technicians, and multiple licensed mapping professionals that all comprise the largest surveying firm in the region.



Survey team members Chris Jordan and Dallas Gordon

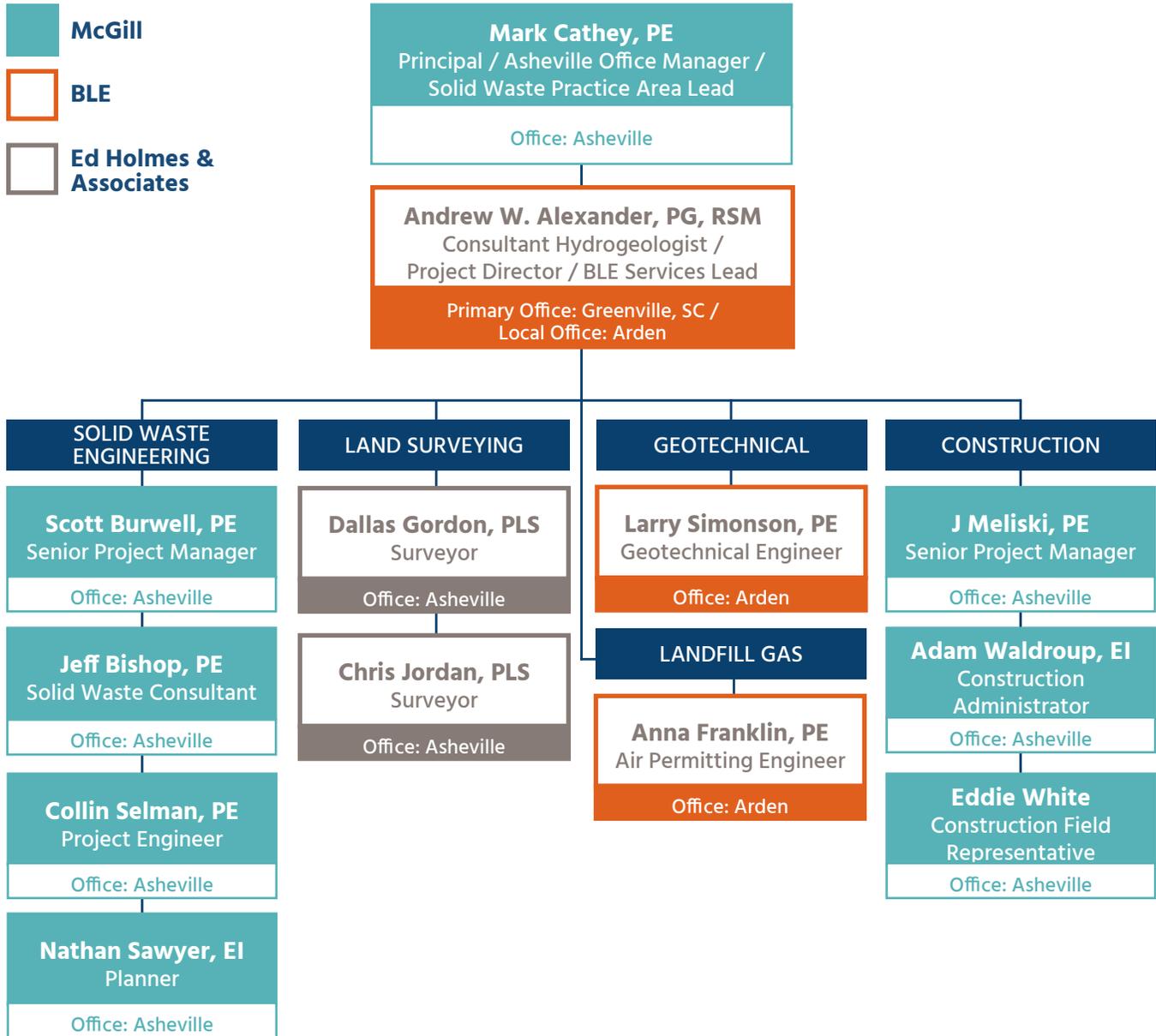
Services

- Boundary surveys
- Subdivision platting
- Condominium surveys
- High definition laser scanning
- Topographic location surveys
- ALTA surveys
- GPS services
- Construction surveying
- Elevation certificates
- Settlement monitoring
- As built surveys
- Utility easements
- Conservation easements
- Route surveying
- Right-of-way retracement
- Recombination surveys
- UAVs
- Photogrammetry
- Aerial mapping
- High-order geodetic survey control



Team Overview

Our goal in assembling the proposed team outlined below is matching the individual and team qualifications with the expertise and experience appropriate for this project. Our comprehensive project team approach is particularly appropriate for projects where coordination, scheduling, and efficiency are important considerations.



Availability

McGill works within strict schedules to meet project deadlines and objectives. We want to work on this important project and are prepared to adjust our work program to meet your project's scheduling needs. We understand how important it is to stay on schedule and on budget. This proposal is intended to demonstrate that:

- We have the qualifications and expertise to plan, design, permit, and execute this project.
- We have the capability and availability to achieve the tasks outlined in our proposal, within a prescribed time frame.
- We have a proven record of success for similar previous projects.
- Our personnel and resources are accessible and our proximity to the project can facilitate timely and efficient working conditions and communication.

Workload Chart

Project Name	Client	Expected Completion Date	Project Type
Bethany Church Road Landfill Cap Improvements	Catawba County	November 2022	Solid Waste
Madison County Solid Waste Permit Renewal	Madison County	November 2022	Solid Waste
Landfill Gas Phase 2 Corrective Action	Clay County	December 2022	Solid Waste
Dam Restoration and Reconstruction	City of Boiling Spring Lakes	December 2022	Public
C&D Landfill Lateral Expansion	Rutherford County	December 2022	Solid Waste
FY 2022 Landfill Gas Collection System Expansion	Catawba County	December 2022	Solid Waste
Hazelwood Convenience Center	Haywood County	June 2023	Solid Waste
Scale Improvements	Watauga County	July 2023	Solid Waste
Jonas Ridge Convenience Center and Park Phase 1	Burke County	October 2023	Solid Waste
Bobby N. Setzer State Fish Hatchery	North Carolina Wildlife Resource Commission	June 2024	Public
Cell 2 Closure	Macon County	December 2026	Solid Waste

D | Individual Qualifications



Mark Cathey, PE

Principal / Asheville Office Manager / Solid Waste Practice Area Lead

Mark Cathey is the lead for all solid waste projects completed by McGill and will be your primary contact for all solid waste projects and operational questions. He has over 25 years of design, permitting, planning, construction quality assurances (CQA), regulatory, and quality assurance and quality control (QA / QC) experience in the solid waste industry. Mark is actively involved in every solid waste project to confirm that the project objectives and approach are well defined and achieved.

Related Experience

- Design and Permitting: Phase 3 of MSW Landfill, Macon County
- MSW Landfill Site Study, Macon County
- Landfill Master Plan, Macon County
- Construction and Demolition (C&D) Landfill Expansion, Rutherford County
- Francis Farm Landfill — Synthetic Cover Cap, Haywood County
- Francis Farm Landfill — Gas-to-Energy System, Haywood County
- Bethany Church Road (Newton) Landfill, Catawba County
- Highway 209 Convenience Center, Haywood County
- Blackburn Resource Recovery Facility — Landfill Design, Permitting, and Construction, Multiple Phases, Catawba County
- MSW Transfer Station, Madison County
- 2021 Landfill Capacity Analysis, Catawba County
- Landfill Gas Remediation Plan, Clay County

Education

BS, Civil Engineering,
Clemson University

Professional Licensure

PE NC #24993
PE TN #00114634
PE SC #28749
PE VA #054639

Professional Associations

- Solid Waste Association of North America (SWANA)
- American Public Works Association (APWA)
- American Water Works Association (AWWA)

Years of Experience

28

Years with McGill

23

Specializations

- Solid waste engineering
- Solid waste planning
- QA / QC





Andrew W. Alexander, PG, RSM

Consultant Hydrogeologist / Project Director / BLE Services Lead

Andrew Alexander currently serves as a consultant hydrogeologist specializing in solid waste facility siting, environmental assessments, remediation and compliance. Projects include landfill siting and expansions, soil and groundwater contaminated with petroleum hydrocarbons, chlorinated solvents, and metals by landfill gas and landfill leachate, and also include numerous ACM and CAP projects.

In addition, Andrew has prepared permits and other regulatory documents including alternate source demonstrations (ASD), water quality monitoring plans (WQMP), landfill gas monitoring plans (LFGMP), alternate groundwater protection standards (AGWPS), storm water pollution prevention plans (SWPPP), and spill prevention, control, and countermeasure plans (SPCC) for a wide variety of industrial, private, and public-sector clients.

Related Experience

- Landfill Cap Borrow Study and CQA, Haywood County
- ACM, Haywood and Macon County
- CAP, Haywood and Macon County
- Water Quality Monitoring Plan, Macon and Buncombe County
- Landfill Gas Monitoring Plan, Macon and Buncombe County
- Site Hydrogeological Report, Macon County
- Design Hydrogeological Report, Macon County
- Design Hydrogeological Report, Rutherford County

Education

Graduate Studies, Geology and Hydrogeology, Texas A&M University

BS, Geology, University of South Carolina

Professional Licensure

PG NC #1475

PG SC #2028

PG TN #3726

PG GA #1485

PG IN #2131

PG AL #1431

PG LA #1101

PG MS #0924

PG FL #1934

Registered Site Manager: NC

Years of Experience

32

Years with BLE

26



Scott Burwell, PE

Senior Project Manager

Scott Burwell has experience providing engineering design and construction administration services for a wide range of projects, including solid waste and civil engineering. His construction engineering and management education and design experience enables him to fully understand the design aspects with the many construction coordinating and oversight issues related to projects. Scott understands the importance of protecting the client’s interest during design and construction, and he ensures that plans and specifications are developed that can be constructed.

Professional Licensure

PE: NC #039177

Related Experience

- Design and Permitting: Phase 3 of MSW Landfill, Macon County
- C&D Landfill Expansion, Rutherford County
- Francis Farm Landfill — Gas-to-Energy System, Haywood County
- Bethany Church Road (Newton) Landfill, Catawba County
- Highway 209 Convenience Center, Haywood County

Education

BS, Construction Engineering and Management, North Carolina State University

Professional Associations

- SESWA
- SWANA



Jeff Bishop, PE

Solid Waste Consultant

Jeff Bishop has extensive engineering experience with a wide range of solid waste projects. One of his greatest assets is his unique knowledge and experience in landfill planning and design. Jeff has a broad range of experience in water, wastewater, site planning and design, and stormwater management. He is a valued member of McGill’s professional management team. Jeff has demonstrated his innate capacity for effective client communication and responsive service. His extensive background with a multitude of civil engineering projects provides his clients with a unique blend of experience in both design and management of projects.

Professional Licensure

PE: NC #023574

Related Experience

- Design and Permitting: Phase 3 of MSW Landfill, Macon County
- C&D Landfill Expansion, Rutherford County
- Francis Farm Landfill — Synthetic Cover Cap, Haywood County
- Francis Farm Landfill – Gas-to-Energy System, Haywood County

Education

BS, Civil Engineering Technology, Southern College of Technology

Coursework, School of Architectural Engineering, University of Georgia

Professional Association

- SWANA



Collin Selman, PE
Project Engineer

Collin Selman has valuable experience in solid waste planning and enjoys working alongside consultants and local governments on the county and regional level. He is skilled in data management and geographic information systems (GIS).

Education

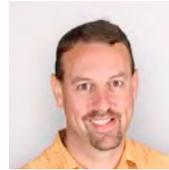
MBA, University of Arkansas
BS, Chemical Engineering, University of Arkansas

Professional Licensure

EI: MS #28045 (NC PE pending)

Related Experience

- C&D Landfill Expansion, Rutherford County
- Bethany Church Road (Newton) Landfill, Catawba County



Nathan Sawyer, EI
Planner

Nathan Sawyer has proven his value through his keen attention to detail and contribution to various significant projects.

Education

BS, Engineering Technology,
Western Carolina University
AAS, Engineering, Cuesta College

Professional Licensure

EI: CA #116992

Related Experience

- Design and Permitting: Phase 3 of MSW Landfill, Macon County
- C&D Landfill Expansion, Rutherford County
- Blackburn Resource Recovery Facility — Landfill Design, Permitting, and Construction, Multiple Phases, Catawba County



Dallas Gordon, PLS
Surveyor at Ed Holmes & Associates

Dallas Gordon oversees the daily administrative and technical activities within the survey division.

Education

BS, Building Construction, Auburn University

Professional Licensure

PLS: NC #L-4626, TN #1985, AL #24018

Professional Associations

ALSPLS, NCSOS, NSPS, TNAPS

Related Experience

- Design and Permitting: Phase 3 of MSW Landfill, Macon County
- Landfill Design, Permitting, and Construction: Blackburn Resource Recovery Facility (Multiple Phases), Catawba County



Chris Jordan, PLS, CFS
Surveyor at Ed Holmes & Associates

Chris Jordan has 18 years of experience in surveying and geographical mapping systems.

Education

AAS, Surveying Technology, Asheville-Buncombe Technical Community College
AAS, CAD Systems Management, Asheville-Buncombe Technical Community College

Professional Licensure

PLS: NC #L-4956, SC #29903; CFS #3930319

Professional Associations

NCSOS, NSPS

Related Experience

- C&D Landfill Expansion, Rutherford County
- Francis Farm Landfill — Synthetic Cover Cap, Haywood County



Larry Simonson, PE
Geotechnical Engineer at BLE

Larry Simonson has nine years of experience and specializes in geotechnical engineering and construction quality assurance.

Education

MS, Civil Engineering, Clemson University
BS, Civil Engineering, Clemson University

Professional Licensure

PE: NC #044736 (plus 7 other states)

Professional Associations

ASCE, INGSS, SWANA

Related Experience

- Francis Farm Landfill — Synthetic Closure Cap, Haywood County
- Landfill Geotechnical Analysis, Private Landfill, SC
- Landfill Slope Stability Analysis, Private Landfill, SC



Anna Franklin, PE
Air Permitting Engineer at BLE

Anna Franklin has over 19 years of regulatory and environmental consulting experience.

Education

MS, Environmental Engineering and Science, Clemson University

BS, Atmospheric Sciences, University of North Carolina at Asheville

Professional Licensure

PE: NC #046824 (plus 3 other states)

Professional Association

CAPCA

Related Experience

- Public Utility and Industrial Facility, Greenville, SC
- Concrete Batch Plants, Indian Land, SC
- Industrial Facilities, Greenville, SC



J Meliski, PE
Senior Project Manager

J. Meliski provides over 13 years of in-depth experience with municipal infrastructure design and construction projects.

Education

BS, Civil and Environmental Engineering, Georgia Institute of Technology

Professional Licensure

PE: NC #029887

Related Experience

- Francis Farm Landfill – Synthetic Closure Cap, Haywood County
- Bethany Church Road (Newton) Landfill, Catawba County
- Sediment Basin Improvements, Watauga County



Adam Waldroup, EI
Construction Administrator

Adam Waldroup is an effective communicator, exhibits a high degree of professionalism, and has a strong work ethic, which allows him to successfully complete the most difficult projects.

Education

BS, Civil Engineering Technology and Construction Management, University of North Carolina at Charlotte

Professional Licensure

EI: NC #A-29634

Professional Associations

NCAFP, SESWA

Related Experience

- Francis Farm Landfill — Synthetic Closure Cap, Haywood County



Eddie White
Construction Field Representative

Eddie White has more than 25 years of experience directly related to the design and construction of civil and solid waste projects, in addition to water and wastewater projects. His experience in this region has enabled him to fully understand the many construction issues related to municipal projects in western North Carolina.

Education

IMSA Work Zone Temporary Traffic Program, Charlotte, NC

High school Diploma, Clyde A. Erwin High School

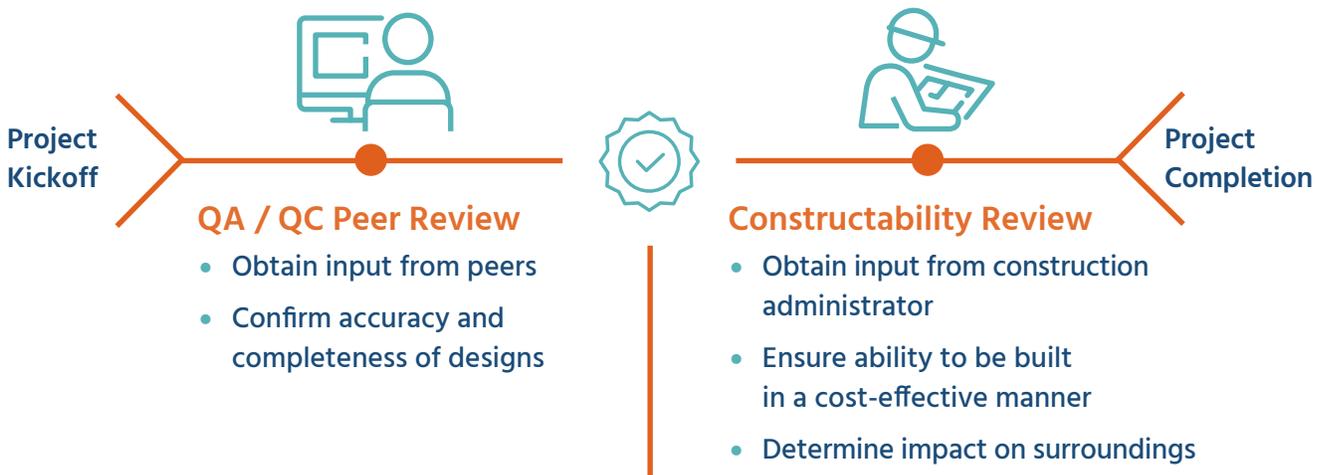
Related Experience

- Bethany Church Road (Newton) Landfill, Catawba County
- Francis Farm Landfill — Synthetic Closure Cap, Haywood County



We provide consistent and effective coordination throughout all steps of project development.

Quality Assurance / Quality Control



E | Insurance Requirements



Client#: 1170972 70MCGILASS
ACORD CERTIFICATE OF LIABILITY INSURANCE DATE (MM/DD/YYYY)
 04/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McGriff Insurance Services 4777 Sharon Rd., 4th Floor Charlotte, NC 28210 704 954-3000		CONTACT NAME: NC Cert Team PHONE (A/C, No, Ext): 704 954-3000 FAX (A/C, No): 888-751-3197 E-MAIL ADDRESS: NCCertificateTeam@mcgriff.com															
INSURED McGill Associates PA P.O. Box 2259 Asheville, NC 28802		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Pennsylvania National Mutual Cas Ins Co</td> <td>14990</td> </tr> <tr> <td>INSURER B : Travelers Indemnity Company</td> <td>25658</td> </tr> <tr> <td>INSURER C : Penn National Security Insurance Co</td> <td>32441</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Pennsylvania National Mutual Cas Ins Co	14990	INSURER B : Travelers Indemnity Company	25658	INSURER C : Penn National Security Insurance Co	32441	INSURER D :		INSURER E :		INSURER F :	
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INSURER D :																	
INSURER E :																	
INSURER F :																	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJ-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	x x	CX90652915	04/23/2022	04/23/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/PO/ AGG \$2,000,000
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	x x	AX90652915	04/23/2022	04/23/2023	COMBINED SINGLE LIMIT (Per accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000		UL90652915	04/23/2022	04/23/2023	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	UB9S348972247G	01/23/2022	01/23/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**** Supplemental Name ****
 McGill Associates PA
 McGill Associates PA INC
 McGill Associates PSC
 (See Attached Descriptions)

CERTIFICATE HOLDER McGill Associates PA 55 Broad Street P.O. Box 2259 Asheville, NC 28802	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

F | Proposed Schedule

Project Scheduling

McGill understands the critical nature of solid waste projects to maintain current operations. McGill will develop a project timeline with collaborative consideration of the County’s current milestone dates and will then appropriate the necessary resources to achieve that schedule. This schedule does not include environmental justice as part of the design and permitting process. If required by NCDEQ, a revised schedule will be provided.

Anticipated Project Schedule

		2022	2023									
Project Task		Dec	Jan	Feb	Mar	Apr	Jun	Jul	Aug	Sep	Oct	Nov
1	Kickoff meeting											
2	Topographic survey											
3	Global stability analysis											
4	Preparation of vertical expansion permit documents											
5	Permit review and issuance											

G | Non-Collusion Affidavit

NON-COLLUSION AFFIDAVIT

MACON COUNTY
RFQ 03-4712q

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ENGINEERING PERMITTING AND DESIGN SERVICES FOR THE VERTICAL EXPANSION TO PHASE 2 WASTE AREA AT MACON COUNTY MSW LANDFILL

The undersigned affirms that the proposal made herein is made without any connections with any other person, or persons, making any other proposal for the above item(s): that it is in all respects fair and without collusion or fraud:

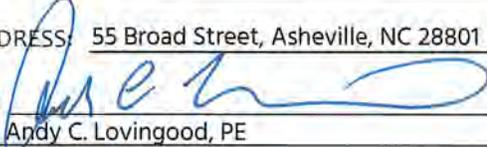
That McGill Associates, PA (Firm Name) is not connected in any official capacity with Macon County, and that no person, or persons, acting in such a capacity are directly, or indirectly, interested herein or in any of the profit arising or anticipated from this transaction.

In making this proposal, it is understood and agreed, that the conditions set forth in the advertisement for bids, instructions to bidders, terms and conditions and specifications together with the proposal shall form a part of and be construed with the contract under the same.

The acceptance of this proposal by Macon County, as evidenced by the issuance of a Macon County Purchase Order, will be held to be a mutual agreement as to each and every clause of this proposal and to constitute a contract between the parties hereto.

FIRM NAME: McGill Associates, PA

ADDRESS: 55 Broad Street, Asheville, NC 28801

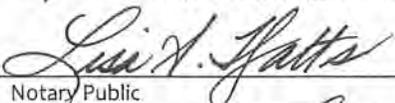
BY: 
Andy C. Lovingood, PE

TITLE: President



State of North Carolina
County of: Catawba

Sworn to and subscribed
before me, this
15th day of November 20 22.


Notary Public

My commission expires: September 2, 2026

NON-COLLUSION AFFIDAVIT

MACON COUNTY

RFQ 03-4712q

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ENGINEERING PERMITTING AND DESIGN SERVICES FOR THE VERTICAL EXPANSION TO PHASE 2 WASTE AREA AT MACON COUNTY MSW LANDFILL

The undersigned affirms that the proposal made herein is made without any connections with any other person, or persons, making any other proposal for the above item(s): that it is in all respects fair and without collusion or fraud:

That Bunnell-Lammons Engineering, Inc. (Firm Name) is not connected in any official capacity with Macon County, and that no person, or persons, acting in such a capacity are directly, or indirectly, interested herein or in any of the profit arising or anticipated from this transaction.

In making this proposal, it is understood and agreed, that the conditions set forth in the advertisement for bids, instructions to bidders, terms and conditions and specifications together with the proposal shall form a part of and be construed with the contract under the same.

The acceptance of this proposal by Macon County, as evidenced by the issuance of a Macon County Purchase Order, will be held to be a mutual agreement as to each and every clause of this proposal and to constitute a contract between the parties hereto.

FIRM NAME: Bunnell-Lammons Engineering, Inc.

ADDRESS: 130 Oval Road Suite 200, Arden, NC, 28704

BY: *A. W. Alexander*
Andrew W. Alexander, PG, RSM

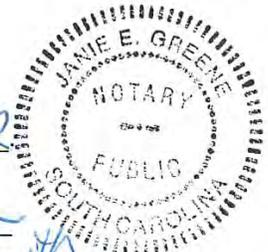
TITLE: Consultant

State of ~~North Carolina~~ South Carolina
County of: Greenville

Sworn to and subscribed
before me, this 31st day of October, 2022

Janie E. Greene
Notary Public

My commission expires: January 24th, 2030



NON-COLLUSION AFFIDAVIT

MACON COUNTY
RFQ 03-4712q

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ENGINEERING PERMITTING AND DESIGN SERVICES FOR THE VERTICAL EXPANSION TO PHASE 2 WASTE AREA AT MACON COUNTY MSW LANDFILL

The undersigned affirms that the proposal made herein is made without any connections with any other person, or persons, making any other proposal for the above item(s): that it is in all respects fair and without collusion or fraud:

That ED HOLMES & ASSOCIATES LAND SURVEYORS PA (Firm Name) is not connected in any official capacity with Macon County, and that no person, or persons, acting in such a capacity are directly, or indirectly, interested herein or in any of the profit arising or anticipated from this transaction.

In making this proposal, it is understood and agreed, that the conditions set forth in the advertisement for bids, instructions to bidders, terms and conditions and specifications together with the proposal shall form a part of and be construed with the contract under the same.

The acceptance of this proposal by Macon County, as evidenced by the issuance of a Macon County Purchase Order, will be held to be a mutual agreement as to each and every clause of this proposal and to constitute a contract between the parties hereto.

FIRM NAME: ED HOLMES & ASSOCIATES LAND SURVEYORS PA

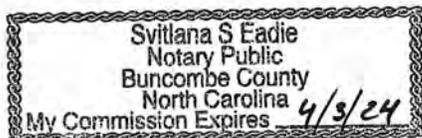
ADDRESS: 200 RIDGEFIELD COURT, SUITE 208, ASHEVILLE NC 28806

BY: JASON GASPERSON


TITLE: DIRECTOR OF BUSINESS DEVELOPMENT

State of North Carolina
County of: Buncombe

Sworn to and subscribed
before me, this
26th day of October, 2022.



Svitlana S. Eadie
Notary Public

My commission expires: 04/03/24

H | Proposed Hourly Rates

McGill's Hourly Rates

Professional Fees	I	II	III	IV
Senior Principal	\$245			
Principal – Regional Manager – Director	\$ 210	\$ 215	\$ 230	\$ 235
Practice Area Leader	\$ 180	\$ 195	\$ 210	\$220
Senior Project Manager	\$ 195	\$205	\$ 210	\$ 215
Project Manager	\$ 165	\$ 175	\$ 180	\$ 185
Project Engineer	\$ 125	\$ 135	\$ 150	\$ 160
Engineering Associate	\$ 110	\$ 115	\$ 120	\$ 125
Planner – Consultant – Designer	\$ 110	\$ 120	\$ 145	\$ 160
Engineering Technician	\$ 100	\$ 115	\$ 120	\$ 130
CAD Operator – GIS Analyst	\$ 80	\$ 90	\$ 100	\$ 105
Construction Services Manager	\$ 130	\$ 150	\$ 170	\$ 180
Construction Administrator	\$ 105	\$ 120	\$ 130	\$ 135
Financial Services Manager	\$ 125	\$ 135	\$ 145	\$ 155
Grant Administrator	\$ 110	\$ 120	\$ 135	\$ 145
Construction Field Representative	\$ 85	\$ 100	\$ 105	\$ 115
Environmental Specialist	\$ 85	\$ 95	\$ 100	\$ 105
Administrative Assistant	\$ 75	\$ 80	\$ 90	\$ 105

Expenses

- Mileage – \$0.70 /mile
- Flow Monitoring Equipment:
 - Pressure Flow Meter- \$400 /week
 - Gravity Flow Meter - \$1,000 /deployment
- Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

Associated Services

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



2022-2023 FEE SCHEDULE ENGINEERING, HYDROGEOLOGIC, & LABORATORY SERVICES

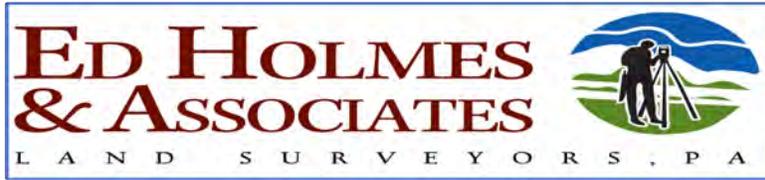
Engineering & Hydrogeologic Services

1. Staff Technician, per hour.....	\$63.00
2. Project Technician, per hour.....	\$79.00
3. Senior Technician, per hour.....	\$84.00
4. Chief Technician, per hour.....	\$104.00
5. Support Specialist, per hour.....	\$74.00
6. Draftsperson/CAD Operator, per hour.....	\$92.00
7. Staff Technologist, per hour.....	\$147.00
8. Senior Technologist, per hour.....	\$182.00
9. Chief Technologist, per hour.....	\$221.00
10. Staff Engineer/Geologist/Scientist, per hour.....	\$143.00
11. Project Engineer/Geologist/Scientist, per hour.....	\$170.00
12. Senior Engineer/Geologist/Scientist, per hour.....	\$193.00
13. Chief Engineer/Geologist/Scientist, per hour.....	\$227.00
14. Consultant Engineer/Geologist/Scientist, per hour.....	\$227.00
15. Principal Engineer/Geologist/Scientist, per hour.....	\$248.00

Mileage / Expenses

1. Mileage, per mile.....	\$0.90
2. Per Diem, per day.....	\$205.00
3. Expendable Materials & Supplies.....	Cost +20%
4. Subcontracts.....	Cost +20%

6004 Ponders Court, Greenville, SC 29615
 864.288.1255
 864.288.4430
 info@blecorp.com



W. Edwin Holmes, PLS (1950-2022)

C.M. Edgerton, PLS
 Christopher F. Jordan, PLS
 J. Dallas Gordon, PLS
 J. Daniel Henry, PLS
 Jason N. Gasperson, PLS
 Joseph Kane, PLS
 Josh Hodges, PLS

Lisa Simmons, PLS
 Martin A. Barnes, PLS
 Marvin E. Secrest, PLS
 Phillip B. White, PLS
 Robert C. Brown, PLS
 Robert J. Earley, PLS
 Ronnie L. Davis, PLS

Thursday, September 15, 2022

EXHIBIT A

2022 STANDARD HOURLY RATE SHEET AND FEE SCHEDULE

Principal	\$145
Project Manager	\$120
Office Staff	\$100
Administration/Clerical	\$60
Professional Licensed Surveyor, PLS	\$120
2 Person Survey Crew	\$150
3 Person Survey Crew	\$175
GPS Surveyor	\$150
Survey Crew – Robotic	\$150
1 Person Survey Crew	\$105
Survey Crew – Laser Scanner	\$170
UAS FAA Certified Drone Pilot	\$170
Underground Utility Investigator	\$155

P.O. Box 17335 – Asheville, NC 28816 – Telephone 828-225-6562 – Facsimile 828-225-6579



McGill Associates, PA

55 Broad Street, Asheville, NC 28801

828.252.0575 | mcgillassociates.com



MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – CONSENT AGENDA

MEETING DATE: November 8, 2022

Item 12A. Draft minutes from the October 11, 2022 regular meeting and the October 18, 2022 continued session are attached for the board's review and approval. (Mike Decker/Tammy Keezer)

Item 12B. Budget Amendments #86-98 are attached for your review and approval (Lori Carpenter).

Item 12C. Approval of the Macon County Transit Driver Handbook (Darlene Asher). The handbook is attached.

Item 12D. Approval of the Scaly Mountain Recreation Agreement for FY 22-23 (Lori Carpenter). The agreement is attached.

Item 12E. Approval of tax releases for the month of October 2022 in the amount of \$682.34 (Delena Raby). This list of releases is attached.

Item 12F. Approval of delinquent tax relief for 2011 (ten years delinquent) in the amount of \$35,775.46 (Delena Raby). See attached supporting documentation.

Item 12F. A copy of the ad valorem tax collection report, which shows an overall collection of 46.09% as of October 31, 2022. No action is necessary. (Delena Raby)

**MACON COUNTY BOARD OF COMMISSIONERS
OCTOBER 11, 2022
MINUTES**

Vice-Chairman Beale called the meeting to order at 6:00 p.m. All Board Members (with the exception of Chairman Tate), County Manager Derek Roland, Finance Director Lori Carpenter, County Attorney Eric Ridenour, Tammy Keezer (sitting in for Deputy Clerk Mike Decker), and members of the news media were present, as were a number of county employees and citizens.

ANNOUNCEMENTS:

- (A) Vice-Chairman Beale announced that a joint meeting with the Macon County Board of Education is scheduled for Tuesday, October 18, 2022 at 6 p.m. at the Fine Arts Center on the Franklin High School campus for an update and discussion on the Franklin High School project. Mr. Roland stated there are a few other items that will be discussed including the Highlands Pre-K renovation, Macon Middle School locker room project, and possible projects that can be funded with the Repair and Renovation Fund.
- (B) Discussion regarding the November 8, 2022 (Election Day) regular meeting – Mr. Roland stated a regular meeting is scheduled on this day and would be held as scheduled unless there was a need to reschedule. The board members agreed to meet as scheduled.

MOMENT OF SILENCE: Vice-Chairman Beale asked for remembrance of the family of Janet Anderson, who passed away and previously retired from the Town of Franklin, as well as several community members who lost their lives in tragic events in the past couple of weeks. Vice-Chairman Beale requested all in attendance rise and a moment of silence was observed.

PLEDGE OF ALLEGINANCE: Led by Commissioner Shields, the pledge to the flag was recited.

PUBLIC HEARING(S): None

PUBLIC COMMENT: **Narelle Kirkland** spoke about the Little Tennessee River Greenway and indicated she was pleased to hear that discussion regarding some repairs were on the agenda this evening.

ADDITIONS, ADJUSTMENTS TO AND APPROVAL OF THE AGENDA:

Upon a motion by Commissioner Shields, seconded by Commissioner Young, the board voted 4-0 to approve the agenda, as adjusted, as follows:

- To add Item 9C update on Cowee School Heritage Center, per Mr. Roland
- To add Item 10D amendment to J&B Franchise Agreement, per Mr. Roland

REPORTS/PRESENTATIONS:

(A) Vecinos, Inc. Community Health Hub – Executive Director Marianne Martinez shared a PowerPoint presentation about the new services that will be provided in Macon County. She indicated that Vecinos is a free clinic, which has served six Western North Carolina counties for 20 years providing primary and mental health care focused on agricultural workers. She stated that 38 percent of patients reside in Macon County. Ms. Martinez said that in 2021 Vecinos expanded their focus from farm workers to include adults only in family households at or below 200 percent of federal poverty level with no health insurance. She shared they operate both mobile and outpatient clinics, and provide lab and pharmacy services. Ms. Martinez said Dogwood Health Trust helped assist in purchasing the old Smoky Mountain Systems building, which is currently being renovated with plans to reopen as a community health hub providing integrated care (physical and behavioral health), free dental care, domestic violence services, health care enrollment, legal services, and community advocacy in 2024. She indicated the clinic would have unlimited hours, seven exam rooms, and four dental operatories.

(B) Barbara McRae Memorial Project – Rita St. Clair, representing Friends of the Greenway, Inc. stated she was requesting approval of the proposed site for the memorial. She shared that the chosen site at the wetlands at Big Bear Park is where Ms. McRae spent a lot of time. Ms. St. Clair provided a handout

Minutes

10.11.22

Page **2** of **8**

and referred to an approval letter and permits from the Town of Franklin, which were included in the handout. She said there are no utility issues and no Corps of Engineer issues. Ms. St. Clair indicated Friends of the Greenway has applied for a building permit with plans to start construction in February or March, but know this board has to approve the site. She said they are planning the opening for April. Upon a motion by Commissioner Shields, seconded by Commissioner Young, the board voted 4-0 to approve the site contingent upon a favorable review by Mr. Ridenour.

(C) Cowee School Heritage Center – Former Executive Director Stacey Guffey gave an overview of the history of the Heritage Center including having served approximately 22,000 people since opening which is approximately 7,500 people per year. He said approximately 2,500 people are outside the area with the remaining 5,000 as local residents. Mr. Guffey stated there has been a good private-public partnership, and the heritage center has been able to match and leverage county contributions to the maximum benefit. He introduced Laura Brooks as the new Executive Director and indicated she will continue working on ways to move further toward the center being self-sufficient and independent. Ms. Brooks shared an award received at Mountain Heritage Day for “Mountain Heritage Organization of the Year.”

OLD BUSINESS

(A) Schedule of Values, Standards, and Rules - Tax Administrator Abby Braswell requested approval of the Schedule of Values, Standards, and Rules as presented at the August 9, 2022 regular meeting followed by the public hearing conducted on September 13, 2022. She said the standards have been available in the office and on the website for public inspection since August and there has only been one change in the dates for publishing the Notice of Adoption to October 19, 2022 and November 2, 2022 in the Franklin Press, and October 27, 2022 and November 10, 2022 in the Highlander. Upon a motion by Commissioner Shields, seconded by Commissioner Young, the board voted 4-0 to approve the Schedule of Values, Standards, and Rules as presented. The Schedule of Values, Standards, and Rules is available for review in the Deputy Clerks office.

(B) Discussion Regarding the Nantahala Library and Community Center – Mr. Roland provided an update on the

Minutes

10.11.22

Page **3** of **8**

Nantahala Library and Community Center and said that at the last meeting Commissioner Higdon requested we look into the need for architectural services. Mr. Roland stated a bid in the amount of \$28,000 had been received in September from an architect, but they could not start work until at least January. He reminded the board members that in June, they approved to exempt architectural services and that exemption still stands even though that architect withdrew their proposal. Mr. Roland shared that Jack Morgan has looked at the requirements for architectural services and asked Mr. Morgan to explain his finding. Mr. Morgan referred to North Carolina General Statute (N.C.G.S.) § 83, which allows an exemption for commercial building projects of less than \$300,000 and under 3,000 square feet until December 31, 2024. Mr. Roland said the 2,400 square foot building can be divided into two separate areas with each area designed individually, but the work will have to be bid out. Mr. Morgan said it will be hard to get a general contractor to take the whole project as it is a smaller cost project, and feels we will need to bid out separately for electrical, plumbing, HVAC, etc. Mr. Roland stated he had a punch list he previously developed as a generic remodel that is up to code and can be used for the scope of work. He further reminded board members that one of the first issues was internet access, with an original estimated cost of \$300,000, but we now know there are more and less expensive options. He said the Broadband Committee has been looking at ways to bring internet service to the Nantahala community, and has a proposal in front of you tonight that will allow us to work with Little T Broadband for broadband expansion in Nantahala. Mr. Roland indicated that the money for the expansion is already in the budget, and once the building is renovated we can put out a Request For Qualifications (RFQ) for internet much like the south Macon area project where the County put up funds and told them what we wanted. He suggested mapping out all county facilities in Nantahala that need broadband access as well as residences and businesses in that area. Mr. Roland reminded board members that Nantahala is covered by the Rural Digital Opportunity Fund (RDOF) and is controlled by Charter Communications, who will not be in Macon County for three to four years from now. He said we have an opportunity to utilize the money that has been set aside and see if we can get a provider willing to do the work. Mr. Roland recommended we enter into agreement with Little T Broadband and let them put together a Request for Proposals (RFP) [Attachment 1]. Jeff Lee

with Little T Broadband said he feels there will be interest from two providers – Frontier and Balsam West. He estimates it will take a couple of months to get proposals back and once the Request For Proposals (RFP) is developed, the board will have to decide how much county money will be allocated. Mr. Roland said there is currently \$700,000 allocated to the building project and again stated he is suggesting we look at the proposal as a building renovation and community broadband expansion. He requested consensus to move forward with the \$6,400 agreement. Mr. Morgan said he would make sure both the Nantahala Community Club and the Macon County Library Board are both informed and included in the renovation decisions. He said the last estimate was \$200,000 for renovations, but will price again due to the length of time that has passed. Mr. Roland indicated he would have a project budget for review at the November 8, 2022 meeting.

(C) Discussion Regarding Deed for Pine Grove School – Mr. Ridenour provided an update on the ownership and lease options of the property. He stated that in 2003, there was a deed transfer from the Macon County Preservation Society and in 2005, the property was again deeded to the same organization. Mr. Ridenour stated the Macon County Preservation Society would like to turn the property back over to the county. He said that with consensus, he will present a deed to the Macon County Preservation Society, and after ownership is transferred back to the county, the county can enter into a short-term lease (1 year) renewable annually. Mr. Ridenour clarified that if the county enters into a long-term lease it will have to put the lease out to bid. There was consensus for Mr. Ridenour to prepare the deed and present it to the Macon County Preservation Society.

(D) Amendment to J&B Disposal Agreement – Mr. Ridenour reminded the board that the resolutions to extend the term of the Franchise Agreement and the Service Center Haul Agreement had been passed at the May 10, 2022 and June 4, 2022 meetings. He stated the Extension of Modification agreement had some language changes, but no changes were made regarding the terms or costs. Upon a motion by Commissioner Higdon, seconded by Commissioner Young, the board voted 4-0 to approve the agreement as presented. Copies of the Ordinance Granting Exclusive Franchise Agreement to J&B Disposal, Inc., for the Collection and Disposal of Solid

Waste [Attachment 2], Extension and Modification of the Exclusive Franchise Agreement for the Collection and Disposal of Solid Waste Outside of the Incorporated Cities and Towns within Macon County, North Carolina [Attachment 3], and Extension and Modification of Agreement to Collect and Haul Solid Waste from County Convenience Center Sites and Highlands Transfer Station and to Maintain County Convenience Center Sites [Attachment 4] are attached and hereby made a part of these minutes.

NEW BUSINESS

(A) Foreclosed properties acquisition and budget amendment –

Tax Administrator Abby Braswell requested approval of a budget amendment related to the foreclosure and acquisition of three properties. She gave a summary of Lot O in Watauga Vista in the amount of \$1301.08 from 2009, lots 1 and 2 in Cartoogechaye Creek Campground in the amount of \$15,725 from 2019, and lot 307 in Wildflower subdivision in the amount of \$16,300, for a total of \$33,327. A copy of the budget amendment is included in the Consent Agenda. Ms. Braswell stated that this is an accounting matter to show taxes have been paid and then the properties become county property, after which the properties can be sold. Commissioner Young stated he did not feel the property in Wildflower was in the best interest due to the fees charged by the Home Owners Association. Mr. Ridenour said we do not have to pay those fees and can sell the properties once they are deeded to the county. Upon a motion by Commissioner Young, seconded by Commissioner Shields, the board voted 4-0 to approve the foreclosure and acquisition as well as the budget amendments as presented. Budget Amendment #79 is attached and made a part of these minutes [Attachment 5].

(B) Consideration for Partial Release of Performance Guarantee for Mountain Breeze Subdivision –

Planning Director Joe Allen requested approval of a partial release of the cash performance guarantee being held by Macon County in conjunction with Mountain Breeze Subdivision. The said the performance guarantee was in the amount of \$51,025, which was 125 percent of the estimated cost of improvements yet to be completed by the developer including paving of roads and installation of shared septic systems. Mr. Allen stated that Old Mud Creek, LLC is requesting that \$32,125 be released, which is the amount estimated to install the shared septic systems

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plus 125 percent. Mr. Allen provided supporting documentation including a letter from Macon County Environmental Health stating the shared systems have been installed and inspected, as well as an email from Scott Cole in the packet. Upon a motion by Commissioner Young, seconded by Commissioner Higdon the board voted 4-0 recommending the release of funds as requested.

(C) Consideration of Performance Guarantee for Munro Estates Subdivision – Planning Director Joe Allen requested consideration and approval of a cash performance guarantee with developer Tom Murdoch associated with Munro Estates Subdivision. The performance guarantee will be in cash, in the amount of \$37,500, which is 125 percent of the estimated cost to complete required paving of roads within the subdivision. The supporting documentation is included in the packet [Attachment 6]. Upon a motion by Commissioner Shields, seconded by Commissioner Young the board voted 4-0 to approve the performance guarantee as presented.

(D) Resolution Exempting Engineering Services for the Greenway Project – Finance Director Lori Carpenter presented a resolution exempting engineering services for bank stabilization on the Little Tennessee River Greenway. A copy of that resolution is included in the packet [Attachment 7]. Mrs. Carpenter shared that \$250,000 for greenway improvements was received a couple of months ago for use to stabilize banks in two sections of the greenway. She stated that Headwater Engineering has given a proposal not to exceed \$5,200 for which they will review the sites and submit a construction proposal, which can then be put out to bid. Ms. Carpenter said this will get the banks stabilized and then we can move forward with paving in spring. Upon a motion by Commissioner Shields, seconded by Commissioner Young the board voted 4-0 to approve the resolution to exempt engineering services under the \$50,000 threshold as presented.

(D) Approval of Agreement and Fund Appropriation for Courtroom Cabling Project – Mr. Roland requested approval of an agreement with CRAVE and an appropriation of \$20,000 from fund balance for the courtroom cabling project. A copy of the agreement to install cabling in two courtrooms so that audio

and video court transmissions can occur is included in the packet [Attachment 8]. Mr. Roland indicated that the estimated cost of approximately \$8,613 per courtroom could not be included in the agreement and has been rounded up for the appropriation request. He said the North Carolina Administrative Office of the Courts will install the equipment and the county will pay for the cable and the installation of the cable. Upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board voted 4-0 to approve the Memorandum of Agreement and budget amendment as requested.

CONSENT AGENDA: Upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted 4-0 to approve the Consent Agenda as presented which includes: (A) Minutes of the September 13, 2022 regular meeting and the September 22, 2022 continued session, (B) Budget Amendments #66-70, (C) 2023 County Holiday Schedule, (D) Service contract for Franklin Chamber of Commerce, (E) Service contract for Highlands Chamber of Commerce, (F) Tax releases for the month of September in the amount of \$10,287.24, and (G) Monthly ad valorem tax collection report for which no action necessary

APPOINTMENTS: None

CLOSED SESSION: None

ADJOURN: With no other business, at 7:42 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Young, the board voted 4-0 to recess until Tuesday, October 18, 2022 at 6 p.m. at the Fine Arts Center on the Franklin High School campus for the purpose of holding a joint meeting with the Macon County Board of Education.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chair

**MACON COUNTY BOARD OF COMMISSIONERS
JOINT MEETING WITH THE
MACON COUNTY BOARD OF EDUCATION
OCTOBER 18, 2022
MINUTES**

Chairman Tate called the meeting to order at 6:07 p.m. All Board Members, County Manager Derek Roland, Tammy Keezer (sitting in for Deputy Clerk Mike Decker), Finance Director Lori Carpenter, County Attorney Eric Ridenour, members of the Macon County Board of Education, and news media were present, as were a number of citizens.

INTRODUCTIONS: Chairman Tate welcomed everyone in attendance.

PUBLIC COMMENT PERIOD:

- (A) **Richard Lightner** spoke in favor of the new Franklin High School stating the current facility is inefficient and outdated. He said the county held the deed to the old drive-in and suggested the deed be transferred to the high school. Mr. Lightner also stated that there are other properties adjacent to the current high school that could be purchased to expand the area needed for the new school.
- (B) **Hazel Norris** spoke in favor of the new high school and encouraged support for the new facility needed to be for the kids and not to win elections. Ms. Norris also suggested inclusion of a trade school facility.

LS3P FRANKLIN HIGH SCHOOL PROJECT UPDATE – Architect Paul Boney gave a brief update on the presentation provided at the last joint meeting and the schematic design in a PowerPoint presentation. He stated that a new school of this magnitude would be a driver of economic development, safe and inviting for students and faculty, provide energy savings, and support community pride. Senior Project Manager Emily Kite reviewed the site design presented at the last meeting, and Architect Jaime Henderson reviewed the ADA, circulation, security, and location of functions for the design. Mr. Boney requested authorization for LS3P to present the schematic design package for Franklin High School, including the design development for the stadium, to the North Carolina Department of Public Instruction and other local and state agencies for review. Commissioner Shields informed those in attendance that an interactive version of the design could be found on the county website at www.maconnc.org, along

with a video about the ADA challenges at the current facility. After viewing the ADA video and a brief question and answer period, the board reached a unanimous consensus for LS3P to submit the plans for review as requested.

Macon Middle School Locker Room Bid Acceptance – County Manager Derek Roland gave a brief review of the project including bids for construction, which were received September 28, 2022, and requested approval to award the bid to Carolina Specialties Construction for the base bid plus alternatives 5 and 6 in the amount of \$2,519,250. He reminded the board that the project had been identified in the Capital Improvement Plan (CIP) for completion in FY '23, that funding appropriated in the FY '23 budget was in the amount of \$2,640,000, and that the liaison committee recommended awarding the bid to Carolina Specialties Construction. Motion by Commissioner Young, seconded by Commissioner Shields, to award the bid to Carolina Specialties Construction for the base bid plus alternates 5 & 6 in the amount of \$2,519,250, and to authorize the County Manager to enter into contract negotiations with Carolina Specialties Construction. Vote was unanimous.

Macon Middle School Track Discussion - Mr. Roland gave a review of the request for this project which was not identified in the CIP, but was identified in the FY '23 School System Capital Outlay Request. He reported that the liaison committee discussed issues with the Franklin High School track including numerous attempts to repair the track, inability to hold track meets at FHS, and the upcoming planned construction at FHS that would further delay holding track meets locally. Mr. Roland stated the school system has acquired a quote which is now over one year old. Board of Education Chair Jim Breedlove stated the track at MMS has been an issue for years as have the funding options. He indicated that the Board of Education will invest grant money they have received as well as contingency funds from the MMS locker room project to construct a regulation field. After discussion, it was decided that the Board of Education will submit a Request for Proposals (RFP) to receive a formal bid.

Highlands Soccer Field Liaison Report - Mr. Roland gave a review of the request for this project, which was not identified in the CIP nor in the FY '23 School System Capital Outlay Request. He indicated that the liaison committee discussed the project on October 13, 2022 after a quote for \$840,000 had been submitted to the Board of Education at its September 26, 2022 meeting. Mr. Breedlove said the project was not included in the Capital Outlay Request because they were not fully aware of the details of the issues. He said the board fully supports the request to resurface the field. Mr. Breedlove said the board was not aware until this meeting that the quote received in March 2022 included a warranty. Commissioner Higdon stated that from the agenda it appears there is a need to prioritize the track, soccer fields, Pre-K program, and the failing septic system at Nantahala School, and

that none of these items were included in the budget request for this fiscal year. Chairman Tate said he sees these items as emergencies for Macon County with students missing track and soccer season due to the condition of the facilities. After further discussion, motion by Commissioner Young, seconded by Commissioner Beale, to request bids for resurfacing the Highlands School soccer field. Vote 4-1 with Commissioner Higdon opposed.

Architect Recommendation – Highlands Pre-K Project – Mr. Roland reminded the board that the project was not identified in the county CIP, but that on March 8, 2022 Advance Highlands Education Committee presented a Novus Planning Study to the board and on May 10, 2022 the board voted unanimously to release a Request for Qualifications (RFQ) for architectural services. He said the liaison committee received the RFQ evaluation on October 13, 2022 and selected LS3P, and is requesting authorization and approval to move forward. Board of Education member Hilary Wilkes shared some details of the estimated costs of the project and included renovations to Highlands Middle School. Superintendent Dr. Chris Baldwin shared information about how staff can be funded through private pay students and eligible funding programs. Commissioner Young read the projects and concerns that the Board of Education had submitted with their Capital Outlay Requests which do not match up with the requests presented tonight. Commissioner Higdon said these requests were not in the CIP and are huge costs and that we must exhibit better planning. After additional discussion, motion by Chairman Tate, seconded by Commissioner Beale, to authorize the county manager to enter into contract negotiations with LS3P for the Highlands Pre-K project. Vote 3-2, with Commissioners Tate, Beale and Shields voting in favor of the project and Commissioners Young and Higdon opposed.

Repair and Renovation Fund application – Mr. Roland provided information on the fund that was established in 2021 by the North Carolina General Assembly as a way to distribute proceeds from the NC Education Lottery to all 100 counties in equal allotments. He said Macon County has received the Year 1 allotment of \$300,546.59 (amount includes interest) and that Year 2 is estimated to be approximately \$500,000. Mr. Roland stated that the funds must be used for repair, renovation, and expansion of classroom facilities and that the Board of Education has identified renovations to Highlands Middle School as the top priority for this funding in FY '23. He indicated that Highlands Middle School renovations have been identified in CIP for FY '27, and that some renovations were included in the Highlands Pre-K project, but did not include a new roof, windows, flooring and HVAC system. After discussion, motion by Commissioner Beale, seconded by Commissioner Shields to submit the Repair and Renovation Fund application to the North Carolina Department of Public Instruction (NCDPI) for Highlands Middle School renovations. Vote 4-1 with Commissioner Higdon opposed.

Other business as needed – None.

ADJOURN: With no other business, at 8:30 p.m., upon a motion Commissioner Higdon, seconded by Commissioner Young, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chair



OPERATOR'S HANDBOOK



Property of Macon County Transit (Macon County)

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PREFACE

Each Transit Operator is to become familiar with the rules and regulations that are addressed in this handbook. It is essential to become thoroughly familiar with its contents and with every policy issued. Instructions may be issued periodically in the form of memorandums, bulletins, or Handbook revisions.

Notification of such rules and instructions will, as a general rule, be placed in the Operator boxes, on the white board or by email. All Macon County Transit Policies and Procedures are saved on the desk top for all Operators to access. All employees must read all memorandums, email in order to stay aware of current policies and procedures. If any doubts exist regarding the exact meaning of any rules or regulation, the employee should prompt assistance from the Transit Asst. Director for interpretation and clarity.

Ignorance of any rule or regulation is not an excuse, and each employee is held accountable for knowing and adhering to all rules, regulations, and instructions.

HOW WE OPERATE

Macon County Transit operates by providing a high degree of motivation and efficiency in our transportation services. This is accomplished by:

- Having safety on our minds at all times.
- Providing on-time service to passengers
- Maintaining a good atmosphere and working together as a team-oriented service.
- Providing regular feedback on performance
- Providing the most efficient and safest transportation services to our most important resource “Our Passengers.”
- Following the Macon County Transit policies and procedures.
- Providing EXCELLENT customer satisfaction.

KEY GOALS

- To provide the safest and most efficient transportation service in the industry.
- To have the best trained employees in the transportation industry.
- To operate the most cost effective transportation service.
- To optimize a return on investment, that will adequately fund our commitment to employees and citizens of Macon County.
- To maintain flexibility to support growth.

GENERAL STANDARDS OF CONDUCT

For the benefit of Macon County Transit and our passengers, all employees shall follow these standards to promote a positive relationship with our passengers and to work together as a team to fulfill our commitment and goals.

All employees must promptly follow the instructions of their supervisor(s). If the employee feels the instructions given were in error, they are still to follow those instructions and seek clarification later.

Employees are required to:

- Obey all traffic laws.
- Use seatbelts.
- Be polite, respectful, and patient.
- Be honest at all times.
- Keep dispatch informed of location and situation at all times.
- Collect all fares, fare cards, and/or passes.
- Perform all required vehicle inspections.
- Be punctual for scheduled reporting time.
- Maintain a professional standard while in performance of duties.
- Make complete and truthful statements in all reports pertaining to duties.
- Be neat and clean in appearance and wear regulation uniform while on duty.
- Always be alert, careful and competent in terms of driving ability and habits and perform all work in a safe manner, adhering to the principal that safety is always our number one goal.
- Promptly report to supervisor any traffic citation received, any conviction, and any other legal action, including arrest, received on or off duty immediately.
- Assist in keeping vehicles, work areas and facility areas clean and free of litter.
- Attend training provided by Macon County Transit. Failure to attend required training may result in suspension from duty, without pay, until training is complete and/or disciplinary action, up to and including termination of employment.
- Complete pre-trip/post trip inspection form when using any vehicle. All defects must be promptly and properly reported to the Transit Asst. Director.

OPEN DOOR POLICY

You are encouraged to discuss concerns you may have with the Transit Asst. Director. This ensures proper communication and allows for an immediate resolution to any problems that may occur.

If you feel the Transit Asst. Director is not handling your situation satisfactorily, you then have the option to discuss the situation with the next level of management, the Transit Director.

Success relies on communication and is important. By following this chain of command,

you will have participated in the communication process. However, the Transit Director's door is always open.

DUTIES OF OFFICE PERSONNEL TO TRANSIT OPERATORS

All office personnel have the responsibility and duty to instruct any Transit Operator of Macon County Transit on operation of equipment and other procedures pertaining to his/her job. The office personnel have the responsibility to regulate the service and to issue instructions to Transit Operators of Macon County Transit to ensure that service operates in an orderly manner. The office personnel have the responsibility, when or if necessary, to relieve a Transit Operator from duty.

Admin Support Asst. I –

Acts as a receptionist; greets visitors; answers multi-line telephone; provides information regarding available transit services; forwards calls to appropriate party; assists the public with the completion of standardized records or documents; directs visitors to appropriate party.

Evaluates and determines eligibility of funding supplements for transit services for callers/visitors; registers new passengers and enters information into data system.

Notifies Transit Operators of trip cancellations using, automated scheduling software, two-way radios, and/or cell phones.

Receives and verifies passenger fares collected by Transit Operators on a daily basis; receives and documents payments from contracting agencies and/or the general public.

May occasionally be required to operate a transit vehicle on an assigned route and schedule; assist passengers entering and leaving the vehicle, when necessary; carries packages for passengers when necessary; operates wheel chair lift.

Admin Asst. II

Verifies driver manifests for month end billing; checks items for clerical accuracy and completeness; enters information into data system; reviews and verifies timesheets, prepares payroll documents and submits to Human Resources for payment.

Assists the Transit Scheduler/Dispatcher with schedules, answering phones, making appointments for passengers, and provides lunch coverage.

Performs a variety of support and administrative tasks such as ordering supplies and uniforms.

Assists with the implementation of the marketing plan for transit services.

Maintains drug and alcohol files and ensures random testing is conducted and reported.

Reviews and maintains personnel training records; prepares and submits quarterly and annual reports.

Enters and submits workers compensation claims; maintains records and files; notifies Transit Director and Human Resources of any changes.

Sells, invoices and collect of payment for the advertising program for MCT vehicles under the direction of the Asst. Director and Director

May be required to operate a transit vehicle on an assigned route and schedule; assists passengers entering and leaving the vehicle, when necessary; carries packages for passengers when necessary; operates wheel chair lift.

Transportation Coordinator

Oversees and provides scheduling and dispatching of vehicles and transit operators.
Develops daily routes and Transit Operator manifests using automated software.
Plans and projects routes based on passengers needs; monitors routes for efficiency and effectiveness; ensures coordination of trips.
Coordinates passenger pick-up and drop-off times within allowed timeframes.
Coordinates route and Transit Operator schedule changes with the Transit Operations Manager.
Maintains effective working relationships with Transit Operators and Administrative Support Assistant.
Answers multi-line telephone; provides information regarding available transit services; forwards calls to appropriate party.
Works with contracting agency representatives to schedule transportation for agency clients.
Notifies Transit Operators of changes and cancellations using automated software, two-way radios and/or cell phones.
Receives and verifies passenger fares collected by Transit Operators.
May be assigned to manage or coordinate with others on projects relating to Operations of the Transit Department.
Receives inquiries, complaints and service requests and resolves them according to established policies and procedures; changes or cancels passenger trips upon request.
May be required to operate a transit vehicle on an assigned route and schedule; assists passengers entering and leaving the vehicle, when necessary; carries packages for passengers when necessary; operates wheel chair lift.

Transit Assistant Director

Assists in the recruitment and selection of operating personnel; assigns, directs, trains and inspects the work of operations staff; disciplines, coaches, counsels and evaluates staff performance; assists with developing staff schedules; recommends reward, suspension, termination and demotion.
Responsible for training, orientation and instruction of all operations employees in safe practices and procedures.
Supervises all Transit Operators and Transportation Coordinator;
Reviews daily schedules for efficiency with Transportation Coordinator prior to distribution to Transit Operators.
Maintains effective working relationships with Transit Director, Transportation Coordinator, Administrative Assistant, and Administrative Support Assistant.
Maintains confidentiality of all information relating to customers and personnel.
Assists Transit Director in preparing annual Operating Budget for Transit Department. Recommends to Transit Director, number of Operators required to provide service effectively.
Assists the Transit Director in preparing and submitting grants, related invoices and tracking; enters monthly trips for Block Grant payment; prepares quarterly and/or yearly reports as required by the North Carolina Department of Transportation.
Ensures equipment is used properly to meet useful life and recommends replacement.
Prepares necessary reports, bids, and grants for projects relating to Operations of the Transit Department.
Performs daily review of trip inspection reports; reports and corrects safety issues; prepares work orders for and schedules vehicle maintenance and repair.
Uses web based software for recording and reporting of vehicle information as well as service, repair, and

warranty records.

Inspects transit vehicles, safety equipment, hatches, windows, doors, wheel chair lifts, etc. to ensure cleanliness of vehicles and safe operation of equipment; ensures all vehicles have correct notices required information available;

Investigates and documents incident and accident reports. Prepare documents and reports to be submitted for any reportable incident or accident.

Maintains first aid and fire suppression equipment on all vehicles.

Operates two-way radio and/or cell phone; informs Operators of unusual traffic conditions, bus condition, or other problems.

Acts as liaison between Transit Operators, Transportation Coordinator, and Transit Director.

Resolves passenger and citizen complaints regarding transit service.

May occasionally be required to operate a transit vehicle on an assigned route and schedule; assist passengers entering and leaving the vehicle, when necessary; carry packages for passengers when necessary; operate wheel chair lift.

Serves as the designated Transit Safety Officer and is responsible for planning and conducting safe operations for the Transit Department.

Periodically works extended hours, including weekends, early morning and/or late afternoon/evening.

Transit Director

Researches federal and state sources for available funding assistance; oversees and/or prepares grant applications; determines staffing and capital needs; prepares related financial and statistical reports and invoices.

Assigns, directs, trains and inspects the work of departmental personnel; disciplines, coaches, counsels and evaluates staff performance; develops staff schedules; recommends reward, promotion, suspension, termination and demotion.

Prepares and administers transit services budget; monitors grant and budget expenditures and revenues.

Develops and implements department policies and procedures; ensures compliance with government regulations; identifies short and long term goals for transit services

Prepares contracts for contracting agencies; monitors transit contractor performance; provides feedback and communication on performance with the contractor.

Oversees federal and state programs required for public transit including the Federal Transit Administration Drug and Alcohol testing, system safety and training requirements, etc.

Attends the quarterly Macon County Transportation Advisory Board meeting; reports on services and recommends grant applications, service changes, etc.

Develops and oversees the implementation of marketing plans including advertising and public outreach; analyzes data and evaluates transit services.

Serves on a variety of special boards and committees involving transportation issues.

Coordinates transit services with other transportation agencies.

Assists with incident and accident investigations, resolving passenger and citizen complaints regarding transit service and prepares appropriate reports.

Serves as Accountable Executive and is responsible for carrying out the Safety Management System of the Transit Department including carrying out transit asset management practices; and control or direction over the human and capital resources needed to develop and maintain both the Public Transportation Safety Plan, in accordance with 49 U.S.C. 5329(d), and the agency's Transit Asset Management Plan in accordance with 49 U.S.C. 5326.

ADDRESS/TELEPHONE NUMBER OF EMPLOYEES

Employees must keep Macon County Transit advised of their correct and current address and telephone number by promptly reporting any changes to the Transit Admin Asst. II.

EMERGENCIES OR DISASTERS

In case of a declared state of emergency or disaster situation in Macon County, all vehicles and Operators will be at the disposal of the Macon County Emergency Services. All routes will be subject to change depending on the nature and severity of the emergency. All Operators will report to the Macon County Transit office for appropriate dispatching from the Transit Director. In the event of an emergency, Macon County Transit is on call 24 hours a day, by request of the Emergency Management Department.

Macon County Transit will follow the Macon County Disaster Preparedness Plan and fully participate as specified in the County Plan. A copy of the plan can be obtained by asking the Transit Director or contacting Macon County EMS

It is a requirement that all employees maintain a telephone number for emergency response if needed.

All Transit vehicles are required to be parked at the end of the day with a fuel level no less than $\frac{3}{4}$ of a tank.

PERFORMANCE EVALUATIONS

Macon County Transit employees will have a job performance evaluation annually as required by the Macon County Personnel Policy- located on the Macon County website or in the drivers room. New employees will have an evaluation at months 3 and 6 from their hire date in addition to their annual evaluation. Periodic or special performance evaluations are subject to determination by the Transit Director.

Macon County Transit employees will receive a completed evaluation sheet at least annually, and the immediate supervisor and the employee will sign and date the evaluation sheet in the appropriate places after personally reviewing it with him or her. The employee may attach comments to explain or clarify any points made in the evaluation. It will then be filed in the employee's personnel record in a confidential manner.

Evaluation results may be used as the basis for promotion, salary actions, demotions, suspensions, dismissals, and other actions.

JOB OPPORTUNITIES

Macon County Transit is committed to filling positions with the best-qualified internal applicants whenever possible. All consideration for promotion or transfer to another department is based on skills, qualifications and abilities. Job openings will be posted by the Macon County Human Resources department.

OUTSIDE EMPLOYMENT

The subject of outside employment is addressed in Article V, Section 6 of the Macon County Personnel Policy located on the Macon County website.

CELL PHONE USAGE

Employees must adhere to all federal, state or local rules and regulations regarding the use of cell phones while driving. Transit Operators are not permitted to use cell phones while the Macon County Transit vehicle is in motion. Use of cell phones distracts your attention from driving safely. The use of a cell phone with an earpiece is also prohibited. Do not wear your earpiece while in the driver's seat.

You may use a cell phone if you are stopped during a period of down time. STOPPED does not mean at a red light while in service, stopped in a line behind other vehicles, stopped waiting to turn, or waiting behind a stopped school bus.

If the dispatcher requests that you call them, you should stop at an area that is out of the flow of traffic and call the office.

The only exception to this policy is the use of a cell phone in a Macon County Transit related emergency situation when the radio on the Macon County Transit vehicle is not working. Even in an emergency situation, you should make sure that your vehicle is stopped to avoid the possibility of an incident/accident. When the emergency situation has ended, Operators are expected to turn off their cell phones and put them away.

Anyone seen or suspected of using a cell phone while operating a Macon County Transit vehicle is in violation of this policy and may be suspended. Repeated incidents of cell phone use while the vehicle is in motion may result in termination of employment.

LUNCH PERIODS

All Transit Operators who are outside of Macon County while transporting passengers during lunch periods are considered “on-duty” 11 AM – 2 PM and are not required to show this time as a break on your time sheet. Every effort will be made for all full-time Operators or part-time Operators working more than seven hours per day to be given a lunch period. If necessary, an office staff may relieve the Operator for a lunch break

VEHICLE ASSIGNMENT

Vehicle assignments will be made by the Transportation Coordinator while he/she is preparing manifests for the next day’s trips. These assignments are made based on several factors which may include: vehicle capacity and/or configuration, specific needs dictated by the route, vehicle mileage, utilization, and other factors.

Vehicle assignment will be changed only if there is a mechanical or safety defect that dictates the vehicle be placed out of service. If an Operator requests a change in vehicle assignment based on a safety defect, the Transit Asst. Director should be notified immediately. A final decision on whether or not to change the assignment will then be made by the Transit Asst. Director. Making an intentional false, misleading, or inaccurate report of a safety defect in an effort to obtain a different vehicle will result in appropriate disciplinary action. The safety of our Transit Operators and passengers is of paramount importance to our success.

BOARDING AND DISCHARGING PASSENGERS

The following guidelines will be used when boarding and discharging passengers from all Macon County Transit vehicles:

- Always place vehicle in park, set parking brakes, and engage hazard lights when passengers are entering or exiting vehicle.
- Provide passenger assistance from door-to-door.
- Be patient and courteous.
- Be sure to collect the appropriate fare or tickets (if needed)
- Treat all passengers with respect.

- Assist the passenger into a seat and buckle them unless the passenger indicates the desire to buckle themselves.
- When leaving the vehicle to retrieve a passenger, turn off the vehicle and take the keys with you. (Never leave a vehicle running and exit the vehicle with passengers on board).
- Never allow passengers to get up and move when the vehicle is in motion.
- Never pull away from a passenger’s stop until you have insured every passenger and wheelchair is properly secured (all passengers must wear seatbelts, this is not an option, no seatbelt, no ride).

- Always check your mirrors and clearance around vehicles to ensure all passengers have cleared the vehicle before pulling away (at least five feet from vehicle).
- All passengers under the age of 8 years of age and/or less than 80 lbs will only be transported in a booster seat/car seat. This is the law; there are no exceptions to this policy. The seat will be provided by the parent/guardian or sponsoring agency.

PACKAGES AND BAGGAGE

Packages, articles, and baggage, which because of their size, would restrict free movement of passengers or become dangerous or offensive to other passengers are not permitted in the vehicle. All items that are permitted in the vehicle must be placed where it will not interfere with the operation of the vehicle or with other passengers.

Transit Operators should not allow passengers to bring more bags into the vehicle than they can carry themselves. Passengers should not expect the Operator to help them carry baggage on or off the vehicle (some consideration will go to those passengers that are Disabled or Elderly).

CITIZEN COMPLAINTS

Complaints received by Macon County Transit concerning employees unsafe driving habits (speeding, reckless driving, running a sign or light, etc) as well as complaints concerning inappropriate conduct or treatment toward citizens or passengers, will be handled using progressive disciplinary procedures on a case by case basis. All complaints will be investigated in accordance with Macon County policy.

APPEARANCE AND UNIFORM POLICY

Transit Operators are professionals, and must always present a professional appearance when in uniform. As uniforms are an important part of Macon County Transit image, uniforms shall always be neat, clean, and in good repair. Transit Operators are personally responsible for maintaining their uniforms in this condition.

All Transit Operators will be required to sign a detailed receipt for the uniform clothing which is issued to them.

Transit Operators are required to be in uniform when performing duties for Macon County Transit and/or anytime you are conducting business within the Macon County Transit offices. Proper uniform attire includes (but is not necessarily limited to) the following:

Shirts must be Macon County Transit issued uniform shirts. Undershirts, T-shirts, etc., may

be worn UNDER the Macon County Transit uniform shirt and should be white, tan, navy, or black in color. No writing, graphics, slogans, logos, etc., on the T-shirts should be visible through the uniform shirt.

Pants must be clean and free of any holes or tears, while being denim, navy, khaki or black in color. "Capri" style pants are acceptable but must be hole free and denim, navy, khaki or black in color.

Shorts may be worn but must be clean and hole free, denim, navy, khaki or black and no shorter in length than 3" above the knee.

Shoes should have slip-resistant soles. No open-toed shoes, shoes with heels over 1", boots, or house slippers will be worn with the Macon County Transit uniform. Shoes must be kept clean.

Jackets or other outerwear should be Macon County Transit issued apparel. If weather conditions dictate that you wear additional clothing for warmth, any non-issue clothing should be worn underneath the Macon County Transit issued jacket.

Hats/caps if worn should be free of political slogans or anything that the Transit Director would deem derogatory.

Hair shall be kept washed, neat, and trimmed. If hair is long, for safety reasons, it must be kept tied back or up and out of the eyes. Unclean hair may not be "hidden" under a cap or scarf.

Men with facial hair must report for duty each day neatly trimmed.

Jewelry must be kept to a minimum. No long chains or necklaces may be worn which could become entangled in the steering or lift.

Any Transit Operator who transfers to another department or upon his/her termination of his employment with Macon County Transit must return to the Transit Asst. Director, all uniform clothing purchased and issued by Macon County Transit.

Disciplinary Measures In Regard To Non-Compliance with Appearance Code and Uniform Policy

The Appearance and Uniform Policy is provided to all Transit Operators at the time of hire and/or when uniforms are issued. All Transit Operators are expected to understand the policy governing appearance and dress that is listed above.

A Transit Operator that is found to be in violation of any section of the Appearance and Uniform Policy will be informed to return home and not to report back to work until he/she is wearing a complete uniform. Repeated such incidents will result in disciplinary action

up to and including the Operator's termination.

PART-TIME TRANSIT OPERATORS AVAILABILITY FOR WORK

Macon County Transit's goal is to provide a consistently high level of safe service for our passengers and the citizens of Macon County. As a county department, we are also tasked with the burden of accomplishing this mission as efficiently and cost-effectively as possible. As a part-time Transit Operator, an integral part of our team, you will be required to supplement our full-time Operator staff, and provide vital support when demand for our service is greatest. For this reason, it is imperative that all part-time Transit Operators be available for work when needed

ATTENDANCE POLICY

Employee attendance directly impacts service quality, morale, and other areas of operating efficiency. If you are absent or late to work, others must become responsible to ensure that service to the Macon County community continues uninterrupted. It is the employee's responsibility to be on the job, on time, every scheduled workday. Each employee must be aware that failure to meet Macon County Transit standards for attendance will result in disciplinary action, up to and including termination.

Provisions for absences are addressed in the Macon County Personnel Policy located on the Macon County website and will be followed according to the established guidelines.

TIME OFF REQUEST

All employees wanting to request time off from work will be required to complete a Leave Request Form. The leave request form for annual leave should be filed at least 2 weeks advance. Any time off for annual leave requested less than 2 weeks will be considered as untimely and may be disapproved. The Transit Asst. Director will notify you of his/her decision regarding your request within 3 working days. The employee should not assume that his/her request is automatically approved when submitted. The employee must understand that the day-to-day demands of Macon County Transit may preclude Macon County Transit from approving all submitted time off requests.

TRANSIT OPERATOR CALL-IN FOR NEXT DAY ASSIGNMENT AFTER ABSENCE FROM WORK

Following absence from illness, Transit Operators will be required to notify the Transportation Coordinator by 12:00 NOON if they will be returning to duty the next day.

It is the Transit Operator's responsibility to contact the Asst. Director. If the Asst. Director has not heard from the Transit Operator by 12:00 NOON, the Operator will NOT be scheduled for the following day and will be required to use sick or annual leave for the day.

INCLEMENT WEATHER

The Transit Director will contact the Macon County Emergency Management Director (or designee) at 6:00 am for a recommendation on safe transportation operation for the day.

The Transit Director (or designee) will call the Franklin radio station (WFSC/WNCC) by 6:30 am with any inclement weather announcements, cancellations or closer will also be posted on Facebook. These announcements may involve complete cancellation of service, delay of the start of service, or cancellation of specific routes. A recording regarding the availability of transportation services will be available on the main Macon County Transit telephone line (828-349-2222) by 6:30 am. Transit Operators should listen to the Franklin radio station or call the Macon County Transit main telephone line for information regarding service availability.

If inclement weather occurs in midday, the same procedures will apply. Transportation take-home procedures may have to be modified and will be determined by Macon County Transit staff.

Since Macon County Transit is a department of Macon County, the administrative office opening/closing schedule will follow the Macon County schedule.

When operations are cancelled, Full-Time Transit Operators have the option to report to work in the administrative office on the regular County schedule, Part-time Transit Operators should not report to work. The Full-time Transit Operator will then be given alternate duties. If the Full-time Transit Operator chooses not to report to work, he/she will be required to use accrued compensatory time or annual leave as stated in the inclement weather policy of Macon County located on the Macon County website.

PRE-TRIP INSPECTIONS AND VEHICLE START-UP

Performing a pre-trip inspection before beginning a route is of the utmost importance in safety to Macon County Transit passengers and Transit Operators.

At the beginning of each workday or when transferring to a different vehicle during the workday, all Operators will perform a thorough pre-trip inspection of their assigned vehicle and note any defects or problems on the Pre-Trip Inspection Form. Transit Operators will notify the Transit Asst. Director of any safety and/or mechanical defect/problem that requires immediate attention before leaving Base. If the Transit Asst. Director is not available, the Operator must notify him/her as soon as possible. Pre-trip inspection forms that have no noted problems may be submitted at the end of the transit Operator's shift.

During cold weather, the vehicle should not require more than 10 minutes of "warm-up" time before beginning your trip. Obviously, if there is snow or ice on the van more time will be required for clearing the windshield, steps, lifts, mirrors and other windows.

Failure to conduct a pre-trip inspection, submit the pre-trip inspection form, may result in disciplinary action. Repeated failure to perform these tasks will result in disciplinary action up to and including termination of employment.

TRANSIT VEHICLE PARKING AND SHUTDOWN

All Operators will park transit vehicles in secure parking lot designated for Macon County Transit vehicles and will use proper vehicle shutdown procedures when ending their shift. All lights, radios, heaters, air conditioning switches, lift switches, and any other electrical systems will be turned off upon arrival back to the base, complete the post trip inspection form. All doors and windows will be closed and secured, all trash will be removed, the vehicle shall be swept and mopped.

The Transit Asst. Director (or designee) will randomly conduct an inspection of all vehicles to ensure that they are being properly shut down. Any vehicle found not properly shutdown or pre-trip inspections not conducted correctly will be written up, and the Operator will receive written warning/coaching for each violation. Repeated failure to perform these tasks will result in disciplinary action up to and including termination of employment.

TOBACCO USE ON VEHICLES

The use of tobacco products is prohibited on all Macon County Transit vehicles. This includes all forms of tobacco products as well as the use of “smokeless” products, for example, chewing tobacco, snuff, “dipping”, Vape etc. Failure to comply will result in disciplinary actions, up to and including termination of employment.

OPERATOR LICENSE REQUIREMENTS

All Macon County Transit Operators are required to have a valid North Carolina Class C Operator’s License. All Transit Operators are required to have their license in their possession while on duty. Macon County Transit reserves the right to randomly check for licenses at any time. It is the transit Operator’s responsibility to ensure that these required documents remain current and valid. When license are renewed, a copy of the new license must be given to the Transit Admin Asst. II or Transit Asst. Director.

Transit Operators must notify the Asst. Director/Director immediately if they receive a citation while driving a Macon County Transit vehicle or their personal vehicle. Periodically, a spot check of all Transit Operator’s driving records and licenses will be conducted. Any Transit Operator that does not show a valid Operator’s license will not be allowed to work until the appropriate documents are retrieved.

Loss of License:

Any Transit Operator that receives a revocation, cancellation, loss of privileges, suspension, or disqualification must report it to the Transit Director immediately. Any failure to make proper notification will result in disciplinary action, up to and including termination.

UNAUTHORIZED USE OF MACON COUNTY TRANSIT VEHICLES

All Macon County Transit vehicles are for official county business only. Employees are not to conduct any personal business while in a Macon County Transit vehicle. Unauthorized persons are not allowed to ride these vehicles at any time including relatives, personal friends, employees who are not on duty, and suspended employees.

FEDERAL COMMUNICATIONS COMMISSION (FCC) RULES

All radio communications are under the jurisdiction of the Federal Communication Commission therefore Macon County Transit falls under these guidelines. All Transit Operators are given training on proper radio communication at time of employment.

RADIO DISCIPLINE

A radio system is limited by the availability of airtime when it is needed. If the air waves are overloaded with unnecessary radio traffic to the point that vital/important information cannot be transmitted, the value of the radio communication system is greatly diminished.

RADIO FUNCTIONS AND ETIQUETTE:

- Transit Operators must answer the radio when called.
- Transit Operators must sign out (10-7) and in (10-8) when leaving the vehicle for longer than 5 minutes. 10-6 (Busy) may be used when leaving to vehicle to check on or assist a passenger.
- Transmissions should not interrupt another transmission.
- Professional language must be used at all times. Terms of endearment are inappropriate.
- No profanity will be tolerated/allowed on the radio.
- Personal or derogatory comments about the public, the system, or any other person or agency are strictly prohibited.
- Radios must be used only to transmit Macon County Transit business.
- Operators shall not transmit confidential passenger information by radio, including the use of first and last names of passengers. When referring to a specific passenger, LAST name only must be used.

STATEMENT OF SAFETY

Macon County Transit recognizes its responsibility to provide training, proper working conditions, and appropriate forums to identify and resolve any safety problems.

Meetings are periodically conducted for the purpose of reviewing safety data and to provide an open forum for employees to raise issues concerning safety and to inquire about policy.

Macon County Transit requires employees to work without causing injury to themselves, passengers, pedestrians, or occupants of other vehicles.

When an accident occurs, it is the responsibility of the employee to report it to their immediate supervisor as soon as possible, with all facts available.

ACCIDENTS/INCIDENTS

Employees involved in an accident or incident in a Macon County Transit vehicle must immediately check the condition of all passengers, if present, and then call dispatch. All Operators must make a written report by the close of the workday, unless injury prevents the Operator from doing so. Failure to make a report and or notify the Transit Asst. Director or Admin Asst. II, except due to injury, will result in disciplinary action, up to and

including termination of employment. All accident and/or incident reports must be turned in to the Transit Asst. Director or Transit Director.

For clarification purposes, the following should serve as a guideline in determining whether the occurrence is defined as an accident or incident.

Accident – an occurrence where there is physical property damage caused by or to a Macon County Transit Vehicle. Examples of an accident include but are not limited to: running over objects that cause damages to tires or undercarriage backing into vehicles, objects, or property or other occurrences which result in dollar value vehicle damage.

Incident – an occurrence that involves passenger behaviors. Examples of incidents include but are not limited to: passenger falls, passenger injuries, difficulties with passengers such as use of profanities, throwing objects, etc.

Accidents are evaluated based on the information in your accident report, police report, witnesses, and any other pertinent information.

A preventable accident is one in which the Transit Operator failed to do everything he/she reasonably could have done to prevent the accident.

A non-preventable accident is an accident where the Transit Operator has no control over the situation and any action taken by him/her could not prevent the accident from occurring.

When reporting an accident all Transit Operators will report it immediately by radio or nearest telephone, if physically able.

Transit Operators are required to report all incidents of passenger falls and injuries etc. as soon as possible.

ACCIDENT PROCEDURES:

Stop immediately after contact with any object, whether damage occurs or not, this will prevent any further damages and protect you against charges of hit and run. **You must notify dispatch immediately from the scene, by radio or call the Asst. Director by phone.**

Any Transit Operators that have an at-fault accident within the first (90) ninety days of hire will automatically be terminated from employment with Macon County Transit.

Where an accident involves a wheelchair securement, backing, or preventable accident, the Transit Operator may be suspended until an investigation is conducted by his/her supervisor. When the investigation is completed and if the Transit Operator is found to be at-fault, disciplinary action will be taken, up to and including termination of employment.

TO REQUEST POLICE

1. State that you want the police.
2. State the problem.
 - a. Number of people involved
 - b. Weapon present or not.
3. State exact location.

HANDLING CONFLICTS WITHIN THE VAN

Key Principles:

- Maintain self-control.
- Listen and respond with empathy.
- Offer suggestions in question form.
- Be respectful of others self-esteem.

Ways the Operator Can Modify Passenger Behavior:

- Stay Neutral.
- Don't make it personal.
- Respect the passenger.
- Try to understand what pushes peoples' buttons.
- Find something to agree on.
- Offer an explanation.
- Offer a solution.
- Divert attention.
- Try a compliment.
- Ask a question.
- Put the issue in the context of safety.
- Let it go and forget about it.

Dealing with Threats of violence:

- Stay calm and maintain self control.
- Try to diffuse the situation.
- Park the vehicle in a public place and remove the keys.
- Open vehicle doors.
- If a weapon is involved do not attempt to grab it.
- Make assailant feel you are cooperating.
- If violence is directed towards another passenger, do not intervene, but immediately contact Dispatcher.
- Provide Dispatcher with location and nature of incident, including description of assailant and/or any weapons involved.
- Complete Accident/Incident Report.
- Notify dispatch as soon as possible.

DRUG AND ALCOHOL TESTING POLICY

Macon County Transit has a Zero Tolerance Drug and Alcohol Testing Policy located in the Macon County Transit Policy and Procedures Manual which affects all Macon County Transit employees. The serious consequences of drugs and substance abuse are recognized by Macon County Transit and the impact it can have on the safety of employees and the public community. We are committed to maintaining a drug-free workplace.

The manufacture, use, sale, distribution, possession of prohibited drugs, alcohol, drugs not medically prescribed, or any other substance which impairs job performance, or poses a danger to safety is strictly prohibited and may result in termination.

Upon employment, each employee (full-time and part-time) receives a copy of the Macon County Transit Zero Tolerance Drug and Alcohol Testing Policy and is required to sign an acknowledgement of receipt. Employment as a Transit Operator for Macon County Transit requires a signed consent that you are aware that you can and will be tested for impairing substances.

Comments

The rules and regulations as set forth in this handbook are believed to be reasonable and necessary to provide the public with safe, efficient and high quality service. Each Macon County Transit Operator is expected to read the handbook and if he/she has any issues, he/she should contact the Transit Director.

From time to time, as changes occur in operating conditions and procedures and new needs arise, it will be necessary to clarify, update or expand various segments of this handbook. When changes in the handbook do become necessary, adequate notice will be provided to all employees and new revised pages to the handbook will be issued.

Appendices

The following items have been included in this handbook so that you can become more familiar with the forms used by Macon County Transit Operators. Please familiarize yourself with these forms.

- A. Leave Request Form
- B. Pre-Trip Inspection Form
- C. Accident Form
- D. Incident Form

APPENDIX A

LEAVE REQUEST FORM

LEAVE REQUEST FORM

NAME: _____

DEPARTMENT: Transit Services

TYPE OF LEAVE _____ Annual _____ Sick _____ Other

Month	Day	Year	Hours Taken	Comments

TOTAL HOURS TAKEN _____ Annual _____ Sick _____ Other

Employee's Signature

Date

_____ Approved _____ Disapproved

Department Head/Supervisor

Employees should submit leave request forms to Department Heads as far in advance as possible. Department Heads should submit to the Human Resources Office.
Approved forms must be attached to timesheets.

DUPLICATE AS NEEDED BUT DO NOT USE ANY OTHER FORM

(Revised January, 1998)

APPENDIX B

PRE-TRIP INSPECTION FORM

TRANSIT DRIVER'S VEHICLE POST-INSPECTION REPORT

Indicates OK

Ending Mileage _____

Lift Count _____

EXTERIOR

- _____ HEADLIGHTS
- _____ TURN SIGNALS
- _____ EMERGENCY FLASHERS
- _____ CLEANLINESS

FUEL

- RUNS ON PROPANE**
- _____ Gasoline Level
- _____ Propane level (use N/A if not applicable)

INTERIOR

- _____ CONDITION OF FLOOR
- _____ CLEANLINESS
- _____ SEAT BELTS

STEERING

- _____ HARD
- _____ SHIMMY
- _____ FREE PLAY

NEW DAMAGE

- _____ EXTERIOR
- _____ INTERIOR

BRAKES

- _____ SOFT (MUSHY)
- _____ SCRAPING
- _____ TOO SENSITIVE

TRANSMISSION

- _____ NOISY
- _____ SLOW SHIFT

ENGINE

- _____ KNOCKS
- _____ HARD TO START
- _____ MISSING

TIRES

- _____ FLATS
- _____ LEAKS
- _____ DAMAGED

NUMBER ITEM AND DESCRIBE DEFECT:

Driver Acknowledgment: I have personally inspected this vehicle and have indicated areas requiring attention and/or damage found by me. I understand failure to report an accident or vehicle damage is a violation of Macon County Transit Policy.

DRIVERS SIGNATURE: _____

OPERATIONS SUPERVISOR SIGNATURE: _____

TRANSIT OPERATOR'S VEHICLE POST-TRIP INSPECTION REPORT	
<input checked="" type="checkbox"/> Indicates OK	ODOMETER READING: _____
<input type="checkbox"/> EXTERIOR	<input type="checkbox"/> BRAKES
<input type="checkbox"/> HEADLIGHTS	SOFT (MUSHY)
<input type="checkbox"/> TURN SIGNALS	SCRAPING
<input type="checkbox"/> EMERGENCY FLASHERS	TOO SENSITIVE
<input type="checkbox"/> CLEANLINESS	
<input type="checkbox"/> INTERIOR	<input type="checkbox"/> TRANSMISSION
<input type="checkbox"/> CONDITION OF FLOOR	NOISY
<input type="checkbox"/> CLEANLINESS	SLOW SHIFT
<input type="checkbox"/> SEAT BELTS	
<input type="checkbox"/> STEERING	<input type="checkbox"/> ENGINE
<input type="checkbox"/> HARD	KNOCKS
<input type="checkbox"/> SHIMMY	HARD TO START
<input type="checkbox"/> FREE PLAY	MISSING
<input type="checkbox"/> NEW DAMAGE	<input type="checkbox"/> TIRES
<input type="checkbox"/> EXTERIOR	FLATS
<input type="checkbox"/> INTERIOR	LEAKS
	DAMAGED
NUMBER ITEM AND DESCRIBE DEFECT:	

<p>Acknowledgment: I have personally inspected this vehicle and have indicated areas requiring attention and/or damage found by me. I understand failure to report an accident or vehicle damage is a violation of Macon County Transit Policy.</p>	
OPERATOR'S SIGNATURE: _____	
OPERATIONS SUPERVISOR SIGNATURE: _____	

Commented ["G1]: In accurate pre trip form

Commented ["G2]: Inaccurate post trip form

APPENDIX C

ACCIDENT FORM

**MACON COUNTY
5 WEST MAIN STREET
FRANKLIN, NC 28734**

ACCIDENT REPORT FORM

1) Date of Accident: _____ Time: _____ am pm

2) Location of Accident: _____

3) Description of Accident: _____

4) Name, Address, and Phone Number of Individual(s) involved:

1) _____

2) _____

3) _____

5) Reported By: _____

6) Reported To: _____

Date: _____ Time: _____ am pm

7) Additional Comments: _____

**ALL ACCIDENTS MUST BE REPORTED TO THE COUNTY MANAGER'S
OFFICE ON THIS FORM WITHIN 24 HOURS**

APPENDIX D
INCIDENT FORM

INCIDENT REPORT FORM

Date of Incident: _____ **Time:** _____ am pm (circle one)

Individual Involved: (Use backside of form for additional information)

Name: _____

Address: _____

Phone Number: _____

Sponsoring Agency (funding source): _____

Was Medical Attention Required? _____ YES _____ NO

Complete Details of Incident :(Use backside of form for additional information)

Reported To: _____ **Date:** _____ **Time:** _____

Employee Signature

Date: _____

Assistant Transit Director

Transit Director



ACKNOWLEDGEMENT

I have received a copy of the Macon County Transit Operator's Handbook.

I have read this policy and understand its contents as they apply to my employment by the Transit Services Department of Macon County.

Employee's Signature

Date

STATE OF NORTH CAROLINA
COUNTY OF MACON

AGREEMENT TO PROVIDE RECREATION OPPORTUNITIES

THIS AGREEMENT made and entered into this the 8th day of November, 2022, by and between Macon County (hereinafter "County"), a North Carolina Body Politic and Corporate, and Scaly Mountain Historical Society, Inc., (hereinafter "Historical Society"), a North Carolina non-profit corporation.

WITNESSETH:

THAT WHEREAS the State of North Carolina by way of N.C. Gen. Stat. § 160A-351 has established the following as policy for the State of North Carolina concerning recreation:

"The lack of adequate recreational programs and facilities is a menace to the morals, happiness, and welfare of the people of this State. Making available recreational opportunities for citizens of all ages is a subject of general interest and concern, and a function requiring appropriate action by both State and local government. The General Assembly therefore declares that the public good and the general welfare of the citizens of this State require adequate recreation programs, the creation, establishment, and operation of parks and recreation programs is a proper governmental function, and that it is the policy of North Carolina to forever encourage, foster, and provide these facilities and programs for all of its citizens."; and

WHEREAS, N.C. Gen. Stat. § 160A-352 provides that "Recreation" means activities that are diversionary in character and aid in promoting entertainment, pleasure, relaxation, instruction, and other physical, mental and cultural development and leisure time experiences; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-444, the County is authorized to establish parks and provide recreational programs; and

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-449, the County is authorized to contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the County is authorized by law to engage in; and

WHEREAS, there is a need for recreation opportunities in the Scaly Mountain area of Macon County, North Carolina; and

WHEREAS, Scaly Mountain Historical Society, Inc., (Historical Society), does own a building known as the Old Scaly School House, located at 41 Buck Knob Road, Scaly Mountain, North Carolina 28775 (hereinafter referred to as the Old Scaly School House) and does agree with County as provided for hereinafter for such facility to be used in part for public "recreation" as that term is defined by N.C. Gen. Stat. § 160A-352 and provide recreational opportunities to

the general public at such location, and County does agree with Historical Society as provided for hereinafter to appropriate and provide funds to Historical Society in accordance with the provisions of N.C. Gen. Stat. § 153A-449 to carry out the public purpose of providing recreation opportunities to the general public at the Old Scaly School House.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS CONTAINED HEREINAFTER, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. That Historical Society shall make the Old Scaly School House, located at 41 Buck Knob Road, Scaly Mountain, North Carolina 28775, open and available to members of the general public during reasonable days and hours for recreation as that term is defined by N.C. Gen. Stat. § 160A-352 for the period between July 1, 2022, and the end of June 30, 2023, and it shall provide recreational opportunities to the general public at such location.
2. The Historical Society shall perform its obligations hereunder in a nondiscriminatory fashion appropriate for public activity and there shall be no discrimination by it on the basis of race, sex or religion in its performance of such obligation.
3. County shall pay Historical Society upon the execution of this Agreement the sum of \$5,000.00 for making the Old Scaly School House open and available to members of the general public during reasonable days and hours for recreation as that term is defined by N.C. Gen. Stat. § 160A-352 for the period between July 1, 2022, and the end of June 30, 2023, and for providing recreational opportunities to the general public.
4. Historical Society shall account to County for its expenditures and uses of the monies provided by County to Historical Society in accordance with paragraph number three above and Historical Society shall use such monies only for the public purpose of making the Old Scaly School House open and available to members of the general public during reasonable days and hours for recreation as that term is defined by N.C. Gen. Stat. § 160A-352 for the period between July 1, 2022, and the end of June 30, 2023, and for providing recreational opportunities to the general public.
5. Historical Society shall at all times properly maintain the Old Scaly School House in a condition for use as a safe place of public recreation.
6. This Agreement shall not be construed to be a lease.
7. Historical Society is an independent contractor.
8. Historical society shall maintain throughout the term of this Agreement property damage insurance and liability insurance in amounts as will protect it against any and all damages, liability, loss and claims to the Historical Society, Old Scaly School House, appurtenances and approaches thereto, in any manner caused directly or indirectly by, arising from, incident to, or in connection with its use or occupancy of the Old Scaly School House and its performance of its duties under this Agreement.

9. County may periodically inspect and monitor Historical Society's performance of its obligations hereunder.
10. The laws of the State of North Carolina shall control and govern this Agreement. Any controversy or claim arising out of this Agreement shall be settled by action instituted in the appropriate Division of the General Court of Justice in Macon County, North Carolina.
11. This Agreement may be modified only by written agreement executed by the parties hereto.
12. E-VERIFY. Each Party hereto shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if any party hereto utilizes a subcontractor, such party shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

IN WITNESS WHEREOF, the parties have made and executed this Agreement the day and year first above written.

Scaly Mountain Historical Society, Inc.

Macon County

By: _____
President

By: _____
County Manager

ATTEST: _____
Secretary

PRE-AUDIT CERTIFICATE

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

This the ____ day of _____, 2022

Macon County Finance Officer

**Macon County Tax Office
5 West Main Street
Franklin, NC 28734**



**Phone: (828) 349-2149
draby@maconnc.org**

TO: MACON COUNTY COMMISSIONERS

**FROM: Macon County Tax Collector's Office
 Delena Raby, Tax Collections Supervisor**

DATE: November 3, 2022

RE: Releases for October, 2022

Attached please find the report of property tax releases for real estate and personal property that require your approval in order to continue with the process of releasing these amounts from the tax accounts. Please feel free to contact me if you should have any questions. The report of releases in alphabetical order is attached.

AMOUNT OF RELEASES FOR OCTOBER 2022: \$ 682.34

RELEASES REPORT
Macon County

NAME	BILL NUMBER	OPER	DATE/TIME	DISTRICT	VALUE	AMOUNT
17130 CALLAHAN, NANCY	2022-243	DY:ORP:7516557791	ZAD	12/31/9999 2:48:48 PM		
		CLERICAL ERROR		F01 ADVL TAX	57,828.00	40.48
		CLERICAL ERROR		G01 ADVL TAX	57,828.00	231.31
		OA Did Not Applu onto the Bill		TOTAL RELEASES:		271.79
5574 CHURCH, JEANNETTE CROWDER	2022-84139	DY:ORP:7408827052	ZAD	12/31/9999 4:24:59 PM		
		CLERICAL ERROR		F06 ADVL TAX	3,840.00	2.25
		CLERICAL ERROR		G01 ADVL TAX	3,840.00	15.36
		New Survey Reflects Acreage Change		TOTAL RELEASES:		17.61
62444 HAMPTON, BENNY	2022-71122	DY:ORP:6582561191	ZAD	12/31/9999 9:00:47 AM		
		CLERICAL ERROR		L01 FFEEFEE	0.00	108.00
		LANDFILL FEE CAPTURED ON 6582551972		TOTAL RELEASES:		108.00
120526 MOSES, CLAUDE E JR	2022-64274	DY:ORP:6567230607	ZAD	12/31/9999 10:25:47 AM		
		CLERICAL ERROR		F07 ADVL TAX	4,000.00	4.62
		CLERICAL ERROR		G01 ADVL TAX	4,000.00	16.00
		CLERICAL ERROR		L01 FFEEFEE	4,000.00	108.00
		MH DEMO PRIOR TO JANUARY		TOTAL RELEASES:		128.62
150020 PARKER, DONNA	2022-68683	DY:ORP:6578644468	ZAD	12/31/9999 11:09:07 AM		
		CLERICAL ERROR		F08 ADVL TAX	30,400.00	34.72
		CLERICAL ERROR		G01 ADVL TAX	30,400.00	121.60
		DWELING LISTED INCORRECTLY		TOTAL RELEASES:		156.32
NET RELEASES PRINTED:	682.34					
TOTAL TAXES RELEASED						682.34

Macon County Tax Office
5 West Main Street
Franklin, NC 28734



Phone: (828) 349-2149
draby@maconnc.org

TO: MACON COUNTY COMMISSIONERS

FROM: Macon County Tax Collector's Office
Delena Raby, Tax Collections Supervisor

DATE: November 3, 2022

RE: Relief of the Taxing Unit for Collection of Real Estate Taxes that are Ten Years Past Due

Dear Commissioners:

It is the practice in North Carolina that the tax collections staff be relieved of collecting any tax accounts that are a minimum of ten (10) years old. This procedure is allowed under North Carolina General Statute §105-378.

Based on this statute, I am asking the Commissioners to only charge this office with the collection of taxes that are ten (10) years delinquent.

2011: \$35,775.46

Thank you and please contact my office if you should have any questions.

Respectfully,

A handwritten signature in cursive script that reads 'Delena Raby'.

Delena Raby
Tax Collections Supervisor

COLLECTIONS MONTHLY TOTALS REPORT
 Macon County - Year To Date October 2022 Tax Year 2022

Macon County
Advalorem Tax Collections Report
Year To Date October 2022 Tax Year 2022

TAX YEAR 2022 Month To Date October 2022 Tax Year 2022

Month to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance
General Tax	19,071,997.42	3,811.85	-8,601.10	0.00	-5.75	19,067,202.42	-1,979,246.62	17,087,955.80
Fire Districts	2,913,592.49	678.64	-1,255.06	0.00	-0.99	2,913,015.08	-281,688.25	2,631,326.83
Landfill User Fee	1,873,742.01	0.00	-324.00	0.00	-0.25	1,873,417.76	-181,350.19	1,692,067.57
TOTAL:	23,859,331.92	4,490.49	-10,180.16	0.00	-6.99	23,853,635.26	-2,442,285.06	21,411,350.20

TAX YEAR 2022 Year To Date October 2022 Tax Year 2022

Year to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance	This Year Collection Percentage Tax Year 2021 As of 10/31/2022	Last Year Collection Percentage Tax Year 2020 As of 10/31/2021
General Tax	37.74	32,165,398.47	-25,441.15	0.00	-1123.72	32,138,871.34	-15,050,877.80	17,087,955.80	46.83%	45.75
Fire Districts	7.57	4,643,635.05	-3,772.72	0.00	-179.30	4,639,690.60	-2,008,356.20	2,631,326.83	43.29%	42.97
Landfill User Fee	216.00	2,939,328.00	-1,385.18	0.00	-3.75	2,938,155.07	-1,245,871.50	1,692,067.57	42.41%	42.35
TOTAL:	261.31	39,748,361.52	-30,599.05	0.00	-1306.77	39,716,717.01	-18,305,105.50	21,411,350.20	46.09%	45.19

MACON COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

CATEGORY – APPOINTMENTS

MEETING DATE: November 8, 2022

13A. **Planning Board (2 seats)** – Please see the attached applications from Barry Breeden and Ben Laseter. Mr. Allen will be present to answer any questions.

Application for Appointment to Macon County Authorities, Boards, Commissions and Committees

The Macon County Board of Commissioners believes all citizens should have the opportunity to Participate in governmental decisions. The Board wants to appoint qualified, knowledgeable and dedicated people to serve on authorities, boards and committees. If you have an interest in being considered for an appointment to any advertised vacancy, please thoroughly complete the form below before the advertised deadline and choose from the following options.

Mail to: County Manager's Office
5 West Main Street or FAX to: 828-349-2400
Franklin, North Carolina 28734

Any Questions, please call the County Manager's Office at (828) 349-2025

Name of Authority, Board or Committee applying for: Planning Board

Name Barry Breeden

Address 32 Cowee School Dr City Franklin NC Zip NC 28734

Telephone: Home 828-342-6714 Work 828-369-9655

Occupation Entrepreneur

Business Address 461 Highlands Rd. Franklin NC, 28734

Email Address barry.breeden@outlook.com

Briefly explain any anticipated conflict of interest you may have if appointed:

No anticipated conflicts of interest.

Educational Background

Graduated from Franklin High School 1999, I went straight into the work force as a Financial Rep. with American General, eventually working my way to Branch Manager with American General and Lendmark. I have taken some college courses throughout the years, and completed Basic Law Enforcement Training through SCC in 2010.

Business and Civic Experiences/Skills:

I currently Own and operate Carolina Junction Power Equipment, Inc. as well as Breeden5 Properties, LLC. I am the Chairman of the Board of Directors for Heart for Families, and was recently nominated as the President of the FHS Booster Club.

Areas of Expertise and Interest/Skills:

I am an expert at nothing, but I do have the ability to think outside the box and be objective. My interest is to continue to support Macon County through volunteer work, and I would like to see our community thrive for years to come. I have been in leadership positions throughout my adult life, I believe that my leadership skills are an asset.

List any Authorities, Boards, Commissions or Committees presently serving on:

Heart For Families
Franklin High School Athletic Booster Club

SIGNATURE: Barry Breeden

DATE: 09/22/2021

Application for Appointment to Macon County Authorities, Boards, Commissions and Committees

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5 West Main Street or FAX to: 828-349-2400
Franklin, North Carolina 28734

Any Questions, please call the County Manager's Office at (828) 349-2025

Name of Authority, Board or Committee applying for: Macon County Planning Board

Name Ben Laseter

Address 557 East Main St. City Franklin NC Zip 28734

Telephone: Home _____ Work 828 524 2711

Occupation Deputy Director, Mainspring Conservation Trust

Business Address _____

Email Address blaseter@mainspringconserves.org

Briefly explain any anticipated conflict of interest you may have if appointed:

None anticipated

Educational Background

BS - Forest Resources, University of Georgia; MS Vertebrate Zoology, University of Memphis; PhD Forest Resources, University of Georgia

Business and Civic Experiences/Skills:

Formerly served on Macon County Planning Board and Macon County Watershed Review Board

Areas of Expertise and Interest/Skills:

Natural and Cultural Resources, Environmental Quality

List any Authorities, Boards, Commissions or Committees presently serving on:

Not currently serving on any governmental authorities, boards, commissions, or committees. Professionally, I serve as Deputy Director at Mainspring. I also serve on the Finance Committee at Franklin First United Methodist Church, and on the Board of Directors of the Nikwasi Initiative.

SIGNATURE: 

DATE: 8/25/2022