

The Madison County Board of Commissioners met in special session on Tuesday, June 29, 2021 at 3:00 p.m. at the North Carolina Cooperative Extension-Madison County Center located at 258 Carolina Lane, Marshall, North Carolina.

In attendance were Chairman Mark Snelson, Vice-Chairman Craig Goforth, Commissioner and Interim County Manager Norris Gentry, Commissioner Matt Wechtel, County Attorney Donny Laws, and Clerk Mandy Bradley.

The meeting was called to order at 3:00 p.m. by Chairman Snelson.

Item 1: Public Hearing and Consideration of Technical Amendment to the Madison County Land Use Ordinance, Madison County Watershed Ordinance, Madison County Subdivision Ordinance, Madison County Mountain Ridge Protection Ordinance

Forrest Gilliam, Consultant discussed the recommendation from the Madison County Planning Board regarding proposed amendments to the Madison County Land Use, Watershed, Subdivision, and Mountain Ridge Protection Ordinances to comply with Chapter 160D of the North Carolina General Statutes and presented the amended Ordinances to the Board, a copy of which is attached in the Madison County Ordinance Book.

Mr. Gilliam reviewed the information to reflect the statutory updates as well as the proposed technical changes to the Ordinances and answered questions from Board members. He noted the changes that are included in each Ordinance and discussed the Impacts of the changes.

Chairman Snelson opened the public hearing for public comment with no public comment being available to be heard by the Board.

Upon motion by Commissioner Gentry and second by Chairman Snelson, the Board voted unanimously to accept the report as presented by Forrest and move forward with the Ordinances. (Attachment 1.1)

Item 2: Public Hearing for Consideration of FY 2021-2022 Budget

Commissioner Gentry presented and discussed the proposed FY 2021-2022 Budget as well as re-read the Budget Message that was previously presented to the Board.

Commissioner Gentry opened the hearing for public comment with no public comment being available to be heard by the Board.

Commissioner Wechtel discussed information regarding the proposed budget with the Board. Discussion was had by the Board.

Upon motion by Commissioner Gentry and second by Vice-Chairman Goforth, the Board voted unanimously to close the public hearing. Upon motion by Commissioner Gentry with second by Vice-Chairman Goforth, the Board voted 3-1 in favor to approve the budget as proposed for FY 2021-2022 with Commissioner Wechtel voting opposed. (Attachment 2.1)

**Madison County, North Carolina
2021-2022 Budget Ordinance**

BE IT ORDAINED by the Governing Body of the County of Madison, North Carolina:

Section 1: The following amounts are hereby appropriated in the General Fund for the operation of the county government and its activities for the fiscal year beginning July 01, 2021 and ending June 30, 2022, in accordance with the chart of accounts heretofore established for this County:

General Government	\$	3,229,639.00
Public Safety	\$	7,728,315.00
Transportation	\$	638,253.00
Health and Human Services	\$	3,483,489.00
Community Services	\$	756,540.00
Social Services	\$	4,778,467.00
Economic and Physical Development	\$	1,221,737.00
Education	\$	4,643,937.00
Culture and Recreation	\$	696,857.00
Contingency	\$	85,000.00
Capital Outlay	\$	150,000.00
Debt Service Principal	\$	909,667.00
Debt Service Interest	\$	127,008.00
Transfer to Revaluation Fund	\$	85,000.00
	\$	28,533,909.00

Section 2: It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Current Year's Real Property Taxes	\$	11,871,720.00
Current Year's Motor Vehicle Taxes	\$	1,000,000.00
Prior Year's Real Property Taxes	\$	435,000.00
Interest and Late Listing Fees on Taxes	\$	145,000.00
Other Tax Fees	\$	200.00
Franchise Taxes	\$	10,000.00
Local Option Sales Tax	\$	5,212,211.00
Intergovernmental Revenues	\$	7,277,617.00
Fees	\$	1,693,225.00
Other Revenues	\$	134,433.00
Interest on Banking Account	\$	2,800.00
Transfer From Fund Balance	\$	751,703.00

\$ 28,533,909.00

Section 3: The following amounts are hereby appropriated in the Fire District Fund for the operation of fire protection services for the fiscal year beginning July 01, 2021 and ending June 30, 2022, in accordance with the chart of accounts heretofore established for this County:

Smokey Mountain Fire Department	\$	165,000.00
Ebbs Chapel Fire Department	\$	272,500.00
Mars Hill Fire Department	\$	638,000.00
Country Fire Department	\$	26,810.00
Walnut Fire Department	\$	123,000.00
Big Pine Fire Department	\$	30,000.00
Jupiter Fire Department	\$	40,000.00
Leicester Fire Department	\$	95,000.00
Spring Creek Fire Department	\$	67,000.00
Laurel Fire Department	\$	55,000.00
Total Appropriation	\$	1,512,310.00

Section 4: It is estimated that the following revenues will be available in the Fire District Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Smokey Mountain Fire Department	\$	165,000.00
Ebbs Chapel Fire Department	\$	272,500.00
Mars Hill Fire Department	\$	638,000.00
Country Fire Department	\$	26,810.00
Walnut Fire Department	\$	123,000.00
Big Pine Fire Department	\$	30,000.00
Jupiter Fire Department	\$	40,000.00
Leicester Fire Department	\$	95,000.00
Spring Creek Fire Department	\$	67,000.00
Laurel Fire Department	\$	55,000.00

Total Estimated Revenues	\$	1,512,310.00
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Section 5: The following amounts are hereby appropriated in the Vehicle Tax Fund for the three towns located in Madison County for the fiscal year beginning July 01, 2021 and ending June 30, 2022, in accordance with

the chart of accounts heretofore established for this County:

Town of Hot Springs	\$	40,000.00
Town of Marshall	\$	25,000.00
Town of Mars Hill	\$	50,000.00
Total Appropriation	\$	115,000.00

Section 6: It is estimated that the following revenues will be available in the Vehicle Tax Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Town of Hot Springs	\$	40,000.00
Town of Marshall	\$	25,000.00
Town of Mars Hill	\$	50,000.00
Total Estimated Revenues	\$	115,000.00

Section 7: The following amounts are hereby appropriated in the Occupancy Tax Fund for the development of tourism in Madison County during the fiscal year beginning July 01, 2021 and ending June 30, 2022, in accordance with the chart of accounts heretofore established for this County:

Tourism and Development	\$	490,500.00
Total Appropriation	\$	490,500.00

Section 8: It is estimated that the following revenues will be available in the Occupancy Tax Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Occupancy Tax	\$	494,900.00
Total Estimated Revenues	\$	494,900.00

Total Estimated Revenues	\$	494,900.00
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Section 9:

The following amounts are hereby appropriated in the E-911 Fund for the operation of the Emergency 911 System for the fiscal year beginning July 01, 2021 and ending June 30, 2022 in accordance with the chart of accounts heretofore established for this County:

911 Emergency Telephone System	\$	250,734.00
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Total Appropriation	\$	250,734.00
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Section 10:

It is estimated that the following revenues will be available in the E-911 Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

911 Telephone Surcharges	\$	250,734.00
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Total Estimated Revenues	\$	250,734.00
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Section 11:

The following amounts are hereby appropriated in the Landfill Fund for the operation of the County Landfill for the fiscal year beginning July 01, 2021 And ending June 30, 2022 in accordance with the chart of accounts heretofore Established for this County:

Landfill	\$	2,032,485.00
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Recycling	\$	243,083.00
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Scrap Tire Disposal	\$	26,500.00
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Total Appropriation	\$	2,302,068.00
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Section 12: It is estimated that the following revenues will be available in the Landfill Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Disposal Fees	\$	2,263,068.00
Other Operating Income	\$	39,000.00
Total Estimated Revenues	\$	2,302,068.00

Section 13: The following amounts are hereby appropriated in the Soil and Water Conservation Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022 in accordance with the chart of accounts heretofore established for this County:

Grant Expenses	\$	12,060.00
General Fund	\$	16,000.00
Total Appropriation	\$	28,060.00

Section 14: It is estimated that the following revenues will be available in the Soil and Water Conservation Fund for the fiscal year beginning July 01, 2021 and ending June 30, 2022:

Other Operating Income	\$	28,060.00
Total Estimated Revenues	\$	28,060.00

Section 15: There is hereby levied a tax rate of fifty (\$.50) cents per one hundred dollars (\$100.00) valuation of property tax listed as of January 01, 2021, for the purpose of raising revenue included in "2021 Ad Valorem Taxes" in The General Fund in Section 2 of this ordinance.

This rate is based on an estimated total valuation of property for the purpose of taxation of \$2,527,461,650 at an estimated collection rate of 95.0% and on an estimated total valuation of vehicles of \$201,006,500 at an estimated collection rate of 99.50%.

Section 16: For the fiscal year beginning July 1, 2021 and ending June 30, 2022 the compensation for the Chairman of the Board of Commissioners is \$7,702 per year and a monthly travel allowance of \$685. The compensation of all other members of the Board of Commissioners is \$5,269 per year and a monthly travel allowance of \$400.

Section 17: The County Manager shall serve as Budget Officer and is hereby authorized to transfer appropriations as contained herein under the following conditions:

- A. The County Manager shall be authorized to transfer amounts between line item expenditures within a department without limitation and without report being required. These changes should not result in increases in recurring obligations such as salaries.
- B. The County Manager shall be authorized to effect inter-department transfers, in the same fund, not to exceed 10% of the appropriated monies for the department whose allocation is reduced, notation of all such transfers shall be made to the Board during their next regular session.
- C. Interfund transfers established in the budget may be accomplished without Board approval.

Section 18: The County Manager is hereby restricted from transferring appropriations as contained herein under the following conditions:

- A. The utilization of any contingency appropriation shall be accomplished only with Board approval.
- B. No salary increases may be made without Board approval, except when granted in accordance with an official pay plan adopted by the Board of Commissioners.
- C. The interfund transfer of monies, except as noted in Section 17 (Paragraph C) shall be accomplished by Board authorization only.

D. No travel advances may be made without written permission of the County Manager.

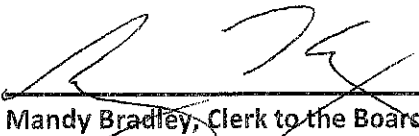
Section 19: This ordinance shall be the basis of the financial plan of Madison County during the 2021-2022 Fiscal Year. The County Manager shall administer the budget and shall insure that the operating officials are provided guidance and sufficient details to implement their appropriate portion of the budget. The accounting section shall establish records which are in consonance with the budget and this ordinance and the appropriate statutes of the State of North Carolina.

Adopted this the 29th day of June, 2021.



Mark Snelson, Chairman
Madison County Board of Commissioners

ATTEST:



Mandy Bradley, Clerk to the Board

SEAL

Item 3: Solid Waste Availability Fee Schedule Consideration

Chairman Snelson discussed the current Availability Fees assessed to residential and business accounts in the County by Solid Waste. Information included a proposed fee schedule that would allow for businesses to be charged accordingly based on the current residential fee and how the fees compare to surrounding Counties.

Discussion was had by the Board and Solid Waste Director Sam Lunsford with recommendations being given from Board members regarding information including the setting of fees for each type of business entity. Information discussed included assessment of fees, the amount of each fee, classifications for the schedule, tipping fees and other fees collected by Solid Waste as well as the effective date for the change in fees and how additional public education could be provided.

Upon motion by Vice-Chairman Goforth with discussion being had by the Board with clarification by Commissioner Gentry that the fee change will go into effect on January 1, 2022 and second by Chairman Snelson, the Board voted unanimously to approve as amended. (Attachment 3.1)

Item 4: Budget Amendment #14

Interim Finance Officer Kary Ledford presented and discussed Budget Amendment #14 with the Board as well as answered questions from Board members.

Upon motion by Commissioner Gentry with discussion being had by the Board and Ms. Ledford and second by Commissioner Wechtel, the Board voted unanimously to approve Budget Amendment #14 as presented. (Attachment 4.1)

Item 5: Emergency Management Communication Towers and Equipment Consultation Consideration

Commissioner Gentry presented and discussed with the Board, a proposed contract with Mission Critical Partners which would allow for consultation and recommendations regarding Emergency Management communication equipment.

Discussion was had by the Board with counsel being provided by County Attorney Donny Laws.

Upon motion by Commissioner Gentry and second by Vice-Chairman Goforth, the Board voted unanimously to approve the contract with Mission Critical Partners. (Attachment 5.1)

Item 6: Local Salary Plan Consideration

Human Resources Director Brooke Ledford presented and discussed information as well as took questions from Board members regarding the Local Salary Plan which would allow for the adopted salary plan to be amended to include state personnel positions.

Upon motion by Vice-Chairman Goforth and second by Commissioner Gentry, the Board voted unanimously to approve.

Item 7: County Owned Surplus Property, Item 8: Consideration of Grant of Right of Way Easement Across County Property to Capitola Mill Redevelopment, LLC

Commissioner Gentry presented and discussed with the Board, a new bid for an offer to purchase County owned surplus property located in Marshall.

Discussion was had by Board members with counsel being provided by County Attorney Donny Laws who noted that the Board had previously voted to sell the property for the assessed tax value and that the current bid was more than that value. He also noted that the bidder has requested a right of way easement across said property to allow access to his existing property after realizing that he does not have an easement for the property and that both issues would be up to the discretion of the Board.

Upon motion by Chairman Snelson and second by Commissioner Gentry, the Board voted unanimously to accept the bid of \$30,000.00.

Upon motion by Commissioner Gentry and second by Chairman Snelson, the Board voted unanimously to grant the access easement as presented and discussed by our attorney. (Attachment 8.1)

Item 9: Project Johnny 5-0, Item 10: Personnel, Item 11: Madison County vs. Tai-Fried 19-CvD-51 Update, Item 12: Attorney-Client Privilege

Upon motion by Commissioner Gentry and second by Vice-Chairman Goforth, the Board voted unanimously to enter into closed session to discuss economic development, personnel, legal, and attorney-client privilege pursuant to NCGS 143.318.11 (a) (4) and NCGS 143.318.11 (a) (6) at 4:39 p.m.

Upon motion by Commissioner Gentry and second by Chairman Snelson, the Board voted unanimously to return to open session at 5:20 p.m.

Upon motion by Vice-Chairman Goforth and second by Commissioner Gentry, the Board voted unanimously to hire Shelby Jenkins to fill the Part Time Animal Shelter position for ten (10) hours per week, working weekends.

Upon motion by Commissioner Wechtel and second by Chairman Snelson, the Board voted unanimously to hire Richard Gustafson to fill the open position at the Soil and Water Conservation with a salary of \$40,000.00 per year with permission to give a pay increase of up to \$44,000.00 based on training completed.

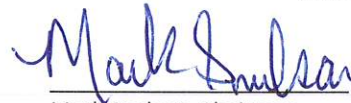
Upon motion by Chairman Snelson and second by Vice-Chairman Goforth, the Board voted unanimously to hire Amy Ponder to fill the position of Part Time Custodian at the Transportation and Operations Department.

Item 13: Adjournment

Upon motion by Commissioner Gentry and second by Chairman Snelson, the Board voted unanimously to adjourn the meeting at 5:23 p.m.

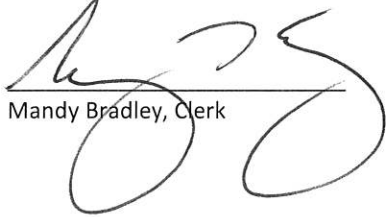
This the 29th day of June, 2021.

MADISON COUNTY



Mark Snelson, Chairman
Board of Commissioners

ATTEST:



Mandy Bradley, Clerk

CITIZEN-TIME

PART OF THE USA TODAY NETWORK

AFFIDAVIT OF PUBLICATION

BUNCOMBE COUNTY

NORTH CAROLINA

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing will be held by the Board of Commissioners of Madison County on June 29, 2021 at 3:00 p.m. at the North Carolina Cooperative Extension Office-Madison County Center located at 258 Carolina Lane, Marshall, North Carolina.

In 2019, the North Carolina General Assembly adopted a reorganization of the state's Planning and Development Regulation Statutes. To conform to this new statutory framework, the county development regulations require updates.

As a result, the Madison County Board of Commissioners will conduct a public hearing to consider comments regarding a series of mandated text amendments to the County Land Use

Ordinance, the Madison County Watershed Ordinance, the Madison County Subdivision Ordinance, and the Madison County Mountain Ridge Protection Ordinance to comply with G.S. Chapter 160D. The proposed updated ordinance can be reviewed at the Madison County Planning Department located at 5707 U.S. Highway 25/70, Suite 5, Room 19, Marshall, NC during regular-business hours, 7:00 a.m.- 4:00 p.m., Monday thru Friday.

All inquiries prior to the Public Hearing regarding the item mentioned above should be directed to the Madison County Planning Department at (828) 649-0750.

Mandy Bradley, Clerk
Madison County Board of Commissioners
June 9, 16, 2021
4771037

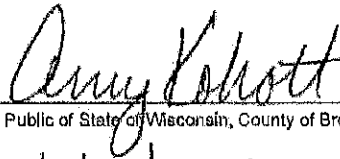
Before the undersigned, a Notary Public, duly commissioned, qualified and authorized by law to administer oaths, personally appeared said legal clerk, who, being first duly sworn, deposes and says: that he/she is the Legal Clerk of The Asheville Citizen-Times; engaged in publication of a newspaper known as The Asheville Citizen-Times, published, issued, and entered as first class mail in the City of Asheville, in Buncombe County and State of North Carolina; that he/she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached here to, was published in The Asheville Citizen-Times on the following date(s) 06/09/21, 06/16/21. And that the said newspaper in which said notice, paper, document or legal advertisement was published was, at the time of each and every publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

Signed this 8th of July, 2021,



Legal Clerk

Sworn to and subscribed before the 8th of July, 2021



Notary Public of State of Wisconsin, County of Brown

6/30/2025

My Commission expires.

AMY KOKOTT
Notary Public
State of Wisconsin

CITIZEN-TIMES

Attachment 2.1

PART OF THE USA TODAY NETWORK

AFFIDAVIT OF PUBLICATION

BUNCOMBE COUNTY

NORTH CAROLINA

NOTICE OF PUBLIC HEARING

The County Manager's proposed budget for Fiscal Year beginning July 1, 2021 and ending June 30, 2022 ("FY2022") was presented to the Madison County Board of Commissioners on June 8, 2021; pursuant to the North Carolina Local Government Fiscal Control and Budget Act, Article 3 of Chapter 159 of the General Statutes. A copy of the budget is available for inspection at the office of the Clerk of the Board of Commissioners located in the Madison County Finance Office and can also be found on the Madison County website.

The Board of Commissioners will hold a public hearing on the budget pursuant to the N.C. General Stat §159-12 on June 29, 2021 at 3:00 p.m. at the North Carolina Cooperative Extension Office-Madison County Center located at 258 Carolina Lane, Marshall, NC.
This the 9th day of June, 2021.
Mandy Bradley, Clerk
Madison County Board of Commissioners
June 9, 2021
4770316

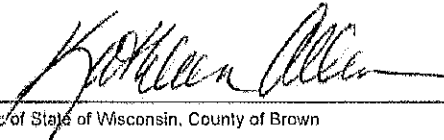
Before the undersigned, a Notary Public, duly commissioned, qualified and authorized by law to administer oaths, personally appeared said legal clerk, who, being first duly sworn, deposes and says: that he/she is the Legal Clerk of The Asheville Citizen-Times, engaged in publication of a newspaper known as The Asheville Citizen-Times, published, issued, and entered as first class mail in the City of Asheville, in Buncombe County and State of North Carolina; that he/she is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached here to, was published in The Asheville Citizen-Times on the following date(s) 06/09/21. And that the said newspaper in which said notice, paper, document or legal advertisement was published was, at the time of each and every publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

Signed this 2nd of July, 2021,



Legal Clerk

Sworn to and subscribed before the 2nd of July, 2021



Notary Public of State of Wisconsin, County of Brown

1-7-25

My Commission expires.

(828) 232-5830 | (828) 253-5092 FAX
14 O. HENRY AVE. | P.O. BOX 2090 | ASHEVILLE, NC 28802 | (800) 800-4204

KATHLEEN ALLE
Notary Public
State of Wisconsin



Madison County, North Carolina
Solid Waste Availability Fee Schedule January 1, 2022-December 31, 2022

User Category	Fee
All residential dwelling units; including houses, apartment units, and manufactured homes within the County	\$180 At a rate as determined by the County Board of Commissioners
Hotels, Motels, Cottages, Inns, Bed & Breakfast, Retreat Centers, Campgrounds/Camp Space/or Equivalent	At a rate of \$15.00 per rentable room or camp space OR Two (2) times the Residential Fee, whichever is greater.
Storage Units Per Business Entity	One (1) Times the Residential Fee
Restaurants	
Seating Capacity of 101 and greater	Seven (7) Times the Residential Fee
Seating Capacity of 26 to 100	Four (4) Times the Residential Fee
Seating Capacity of 1 to 25	Two (2) Times the Residential Fee
Hospitals, Nursing Homes, and Rehabilitation Centers	At a Rate of \$15.00 per Patient Room
Businesses and/or Manufacturing Facilities	
0-5,000 Square Feet	Two (2) Times the Residential Fee
5,000-15,000 Square Feet	Four (4) Times the Residential Fee
15,000 and Above Square Feet	Six (6) Times the Residential Fee
Elderly Exemption	\$29 At a rate as Determined by the County Board of Commissioners
Tires	
Passenger without rim	.75 cents each
Passenger with rim	\$2.00 each
Semi with or without rim	\$5.00 each
Off Road with or without rim	\$11.00 each
Permitted Haulers	\$55 per ton tipping fee At a rate as determined by the County Board of Commissioners, with the addition of the Solid Waste permit fee per hauler
Animal Carcasses	\$47 per ton-as a rate as determined by the County Board of Commissioners
Construction and Demolition	\$45 per ton-at a rate as determined by the County Board of Commissioners
Standard Tipping Fee	\$55 per ton-at a rate as determined by the County Board of Commissioners

*Any business that meets the standards of classification for more than one fee category shall be billed in accordance with the highest fee level assessed.

**Madison County
Board of Commissioners**

**Budget Amendment #14
June 29, 2021**

Description	Line Item	Debit	Credit
Ad Valorem			
2008 Taxes	10.3100.2008		\$268.00
2012 Taxes	10.3100.2012	\$ 3,660.00	
2016 Taxes	10.3100.2016		\$374.00
2017 Taxes	10.3100.2017		\$989.00
2018 Taxes	10.3100.2018		\$1,145.00
2020 Taxes	10.3100.2020		\$2,641.00
2021 Taxes	10.3100.2021		\$2,836.00
Interest	10.3100.1700		\$4,030.30
Adust to actual			
Nutrition/In-Home Aides			
Janitorial Supplies	10.5551.2110	\$ 5,800.00	
Raw Food	10.5551.2220	\$ 55,500.00	
Salaries	10.5500.1210		\$55,000.00
FICA	10.5500.1810		\$3,300.00
Retirement	10.5500.1820		\$3,000.00
Taking money from lapsed salary to cover increase of cost			
Soil and Water			
Hurricane Mathew Relief Funds	33.4965.5000	\$ 500.00	
Hurricane Mathew Relief Funds	33.3495.6500		\$500.00
MCSW-General Fund	10.3496.3000		\$5,000.00
Salaries	10.4961.1210	\$ 4,198.60	
FICA	10.4961.1810	\$ 321.15	
Retirement	10.4961.1820	\$ 480.25	
MCSWD Board approved one-time bonus			
Clerk of Court			
Facility Fees	10.3323.3300		\$9,246.00
Officer Fees	10.3323.3310		\$13,810.00
Jail Fees	10.3323.3320		\$2,312.00
Adjust to actual revenues			

E-911

Professional Services	10.4331.1990	\$ 39,813.00	
Radio Assessment Consulting Services			

Misc. Income

Beech Glen Property	10.5208.3000	\$ 43,000.00	
Beech Glen GICCA	10.3511.5500		\$43,000.00
Recording purchase of Beech Glen Property			

Health Department

MAT Grant	10.5110.7020	\$ 56,183.94	
MAT/ARC Grant	10.5110.7021	\$ 70,000.00	
MAT/ARC Grant	10.3513.7021		\$ 69,000.00

These grants amounts were not carried over at beginning of FY21.

They both end at June 30, 2021

Register of Deeds

Fees	10.3418.4100		\$ 79,470.00
Marriage License	10.3418.4110		\$ 1,000.00
NC State Treasurer	10.3418.4140		\$ 2,250.00
Adjust to actual			

Board of Elections

Hava Cares Funds	10.3417.8980		\$ 24,071.00
Hava Cares Funds	10.4170.8940	\$ 24,071.00	
Salaries	10.4170.1210	\$ 6,733.67	
FICA	10.4170.1810	\$ 546.99	
Retirement	10.4170.1820	\$ 655.50	
Grant for Express Vote Terminals/ Past Director's payout			

Maintenance

Jail Expenses	10.4261.4100	\$ 5,000.00	
Building Maintenance	10.4261.3510	\$ 5,540.00	
Purchase of new A/C unit for the sally port/Library testing and UV			

Land Records

Telephone	10.4142.3210	\$ 100.00	
Office Supplies	10.4142.2610	\$ 100.00	
Employee Education	10.4142.3950	\$ 285.00	
Dues	10.4142.4910	\$ 110.00	
Travel Subsistence	10.4142.3120	\$ 600.00	
Life Insurance	10.4142.1890	\$ 43.20	

Add funds to finish out FY21

Sales Tax

1/4 cent sales tax	10.3232.3115		\$54,575.30
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Education/Schools

1/4 cent sales tax	10.5911.7200	\$54,575.30	
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Contingency	10.7000.0000		
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		\$ 377,817.60	\$377,817.60
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CONTRACT FOR PROFESSIONAL SERVICES

BETWEEN

MADISON COUNTY, NORTH CAROLINA

AND

MISSION CRITICAL PARTNERS, LLC

THIS AGREEMENT made as of the date written below by and between Madison County, North Carolina, a government entity, hereinafter referred to as CLIENT, doing business at 107 Elizabeth Lane, Marshal, NC 28753, and Mission Critical Partners, LLC, a Delaware limited liability company, hereinafter referred to as "PROVIDER", both hereinafter also referred to individually and collectively as "Party" or "Parties."

RECITALS

Whereas, the CLIENT desires to employ PROVIDER to provide professional consulting services for the evaluation/assessment of its public safety land mobile radio (LMR) communications system; and

Whereas, PROVIDER represents and acknowledges that they are fully qualified and capable of performing the services called for in this Agreement, and they are willing to perform these services; and

NOW, THEREFORE, CLIENT AND PROVIDER, in consideration of the mutual promises and covenants contained herein, the parties hereto do mutually agree as follows:

SECTION ONE—GENERAL

1.1. Definitions.

Agreement or Contract. Agreement or contract means this Agreement between CLIENT and PROVIDER for professional services, including those exhibits, schedules and attachments listed in this Agreement. To the extent there are any conflicts between this Agreement and any exhibits, schedules and attachments, the provisions of this Agreement shall control.



Services. Services shall mean all services, work, deliverables, and all related professional, technical and administrative activities that are necessary to perform and complete the services required pursuant to the terms and provisions of this Agreement as set forth in Schedule A.

Additional Services. Additional services are those services not set forth in Schedule A of this Agreement.

Deliverables. Deliverables are those items of work product that are to be delivered to CLIENT as listed in Schedule A of this Agreement.

Direct Expenses. Expenses specifically incurred as the result of providing Services (e.g. travel and per diem costs, materials used).

1.2. Purpose.

The purpose(s) of this Agreement is to obtain consultant assistance for the evaluation/assessment of CLIENT's public safety land mobile radio (LMR) communications system. The scope of service is as defined in Schedule A attached hereto and by this reference made a part hereof.

SECTION TWO—OBLIGATIONS OF THE PROVIDER AND CLIENT

2.1. Provider Responsibilities.

PROVIDER shall have and perform the following duties, obligations and responsibilities to the CLIENT as outlined in Schedule A.

- a. PROVIDER shall provide and perform all Services pursuant to this Agreement in accordance with generally accepted standards of professional practice, and in accordance with laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies that regulate or have jurisdiction over the Services to be provided and/or performed by the PROVIDER.
- b. PROVIDER shall maintain all necessary licenses, permits or other authorizations necessary to perform the Services of this Agreement until the duties hereunder have been fully satisfied.
- c. PROVIDER shall prepare all Deliverables required by this Agreement including, but not limited to, all specifications and reports, in such a manner that they shall be accurate, coordinated, and adequate for the purposes intended and shall be in conformity and comply with all applicable law, codes and regulations.



MissionCriticalPartners

2.2. Client Responsibilities.

CLIENT shall have and perform the following duties, obligations, and responsibilities to PROVIDER:

- a. Provide access to information, sites, personnel, agencies and other sources necessary for PROVIDER to complete the Services.
- b. Designate in writing a person to act as CLIENT's representative with respect to the Services to be performed or furnished by PROVIDER under this Agreement. Such person shall have complete authority to transmit instructions, receive information and interpret and define CLIENT's policies and decisions with respect to the Services. Designated person is Norris Gentry, Interim County Manager.

- c. CLIENT shall be responsible for, and PROVIDER may rely upon, the accuracy and completeness of all reports, data, and other information furnished by the CLIENT to carry out the Services provided under this Agreement.
- d. Should any agency charge PROVIDER a fee for any required information or data, CLIENT will reimburse PROVIDER for the cost of any fees incurred.

SECTION THREE—BASIC SERVICES

3.1. Basic Services.

The CLIENT will pay PROVIDER for the Services in accordance with Section 6—Compensation.

SECTION FOUR—ADDITIONAL SERVICES

4.1. Additional Services.

Should the CLIENT request PROVIDER provide and perform professional services under this Agreement not set forth in Schedule A, PROVIDER agrees to provide and perform those Additional Services as may be agreed to in writing by both parties to the Agreement.

4.1.1 Additional Services shall be administered and executed as Change Orders or Supplemental Task Authorizations under this Agreement. PROVIDER shall not provide or perform, nor shall CLIENT incur or accept any obligation to compensate PROVIDER for any Additional Services, unless a written Change Order or Supplemental Task Authorization shall be executed by the Parties.

4.1.2 Additional Services not set forth in Schedule A will be performed based on PROVIDER's then current Hourly Rates.

4.1.3 Each such Change Order or Supplemental Task Authorization shall set forth a description of (1) the scope of the Additional Services requested; (2) the basis and amount of compensation; (3) the applicable Hourly Rate Schedule and (4) the period of time and/or schedule for performing and completing the Additional Services.

SECTION FIVE—TIME OF PERFORMANCE

5.1. **Notice to Proceed.** Upon execution of this Agreement by the CLIENT, the CLIENT will issue a formal Notice to Proceed to PROVIDER. The PROVIDER shall commence work by attending a project kickoff meeting within ten business days of issuance of the Notice to Proceed, or at a mutually acceptable date.

5.2. **Time of Performance.** The PROVIDER agrees to complete the Services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the Services set forth and described in Schedule A of this Agreement.

5.3. **Timeline.** If Schedule A does not set forth a timeline for the completion of the Services, the Parties mutually agree to develop a schedule that will be made part of this Agreement by amendment signed by both parties. It is expected that both parties will carry out their respective responsibilities diligently and expeditiously so as not to delay each other in completing the mutually agreeable schedule.

5.4. **Times for Rendering Services.** If, in Schedule A, specific periods of time for rendering Services, specific deadlines for Services to be completed are established, and if such periods of times or dates are changed through no fault of PROVIDER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment as provided below. If CLIENT has requested changes in scope, extent or character of the Services, the time of performance of PROVIDER's services shall be adjusted equitably as provided below.

If there are changes in the time periods or due dates for a given Deliverable or Service, or there is a change to the scope, extent or character of the Services, PROVIDER shall declare in writing its intent to request an equitable adjustment for any increase in cost or fee and disclose in writing the extent of the increase prior to beginning the work or service. No work will commence under such circumstances until the parties come to a mutual agreement on a dollar value for the equitable adjustment.

5.5. Excusable Delays. PROVIDER shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of PROVIDER, or its subcontractor(s), and without their fault or negligence. Such causes include, but are not limited to, acts of God; force majeure; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon PROVIDER's request, the CLIENT shall consider the facts and extent of any failure to perform the work, and if the failure to perform of PROVIDER was without it or its subcontractors' fault or negligence, the contract schedule and/or any other affected provision of this Agreement shall be revised accordingly.

SECTION SIX—COMPENSATION

6.1. For and in consideration of the Services described in Schedule A of this Agreement, CLIENT agrees to pay PROVIDER a **fixed sum of \$39,813**, including expenses.

6.2. Payment Provisions.

6.2.1. Invoices. At the close of each month during this Agreement, PROVIDER shall submit to CLIENT, a properly executed invoice showing Services rendered hereunder for the closed month. Each statement shall include the percentage of work completed relevant to the contracted amount defined in Section 6.1. CLIENT shall review such statement and pay it within 30 days of receipt. Invoices shall be mailed to:

Client Name: Madison County
c/o Norris Gentry, Interim County Manager
Address: 107 Elizabeth Lane
City, State, Zip: Marshall, NC 28753
Email: ngentry@madsioncountync.gov

6.2.2. Unpaid invoices. If CLIENT fails to make payment due to PROVIDER for Services and expenses within thirty days after receipt of invoice, the amounts due to PROVIDER shall be increased at the rate of 1% per month from said thirtieth day. In addition, PROVIDER may suspend Services under this Agreement until PROVIDER has been paid in full for all amounts due. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion shall be paid.

SECTION SEVEN—GENERAL CONSIDERATIONS

7.1. Direction and Control. PROVIDER agrees that PROVIDER will perform the Services under this Agreement as an independent contractor and not as an agent, employee, or servant of the CLIENT. The parties agree that PROVIDER is not entitled to any benefits or rights enjoyed by employees of the CLIENT. PROVIDER specifically has the right to direct and control PROVIDER's own activities in providing the agreed upon Services in accordance with the specifications set out in this Agreement. The CLIENT shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint ventures.

7.2. Ownership. Unless otherwise provided for in this Agreement, all deliverables, reports, plans, specifications, data and documents produced in the performance of the Services shall become the property of the CLIENT.

7.2.1 Pre-Existing Intellectual Property. Unless otherwise provided in writing, the PROVIDER shall be deemed the author of and shall retain all common law, statutory and other reserve rights, to all pre-existing intellectual property including the copyright of any drawings, specifications, proprietary programming, data solutions and other documents prepared or otherwise obtained by PROVIDER or its affiliates independent of this contract.

7.3. Successors and Assigns. The CLIENT and PROVIDER each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of this Agreement.

7.4. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties and reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7.5. Compliance and Standards. PROVIDER agrees to perform the Services hereunder in accordance with generally accepted standards applicable thereto and shall comply with all applicable state, federal and local laws, ordinances, rules and regulations relating to the Services performed hereunder. PROVIDER shall not access any information which they are not authorized to receive, and under no circumstances shall PROVIDER at any time, during the term of this Agreement or thereafter, release or divulge any confidential material, information or documents received during the performance of the Services hereunder without express written consent of CLIENT, nor shall PROVIDER copy, recreate or use any such confidential information or documents other than for the performance of this Agreement. PROVIDER shall not divulge or otherwise make use of trade secrets or other confidential information, procedures or policies under this Agreement. Neither shall PROVIDER copy, recreate or use any proprietary information of any third party in the performance of this Agreement except to the extent authorized by such third parties.

7.6. Conflict of Interest. PROVIDER represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or Services required hereunder.



7.7. Termination. Either Party may unilaterally terminate this Agreement for any of the following reasons, so long as the terminating Party has notified the other Party of its intent to terminate, the reason for such termination, and allowed the other Party no less than 30 business days prior to the effective termination date in which to cure the stated reasons:

- a. Actual failure of the other Party to fulfill its obligations hereunder;
- b. Anticipated failure of the other Party to fulfill its obligations hereunder, or anticipated inability of the other Party to perform the work, due to: (1) inadequate financial capability or (ii) loss or material degradation of corporate capabilities which are essential to the other program requirements, including without limitation loss or unavailability of the other Party's key employees;
- c. The insolvency of the other Party or the filing by or against the other Party of a petition, arrangement, or proceeding seeking an order for relief under the bankruptcy laws of the United States, a receivership for any of the assets of the other Party, a composition with or assignment for the benefit of creditors, a readjustment of debt, or the dissolution or liquidation of the other Party.

Upon termination of this Agreement, CLIENT shall pay PROVIDER for services rendered and expenses incurred hereunder which have not been previously paid or disputed by CLIENT for the period up to the date of termination.

7.8. Notices. All notices required in this Agreement shall be in writing and shall be sent by certified mail (return receipt requested), hand delivered, or sent by courier service requiring signed acceptance.

If to CLIENT:

Madison County
c/o Norris Gentry, Interim County Manager
107 Elizabeth Lane
Marshall, NC 28753

If to PROVIDER:

Darrin J. Reilly, President and Chief Executive Officer
Mission Critical Partners, LLC
690 Gray's Woods Boulevard
Port Matilda, PA 16870

7.9. Confidentiality. CLIENT and PROVIDER agree other shall not disclose, transfer, sell or otherwise release confidential information gained by reason of performance under this Agreement to any party. Such information shall be used solely for the purposes necessary to meet the requirements under this Agreement.

7.10. Non-assignment. PROVIDER shall not subcontract or assign any of the rights, duties or obligations covered by this Agreement without the prior express written consent of the CLIENT.

7.11. Governing Laws and Venue. This Agreement shall be governed by the laws of the state in which the Services are provided.

7.12. Signatory. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of CLIENT or PROVIDER, as the case may be, and that upon execution of this Agreement, it shall constitute a binding obligation of the CLIENT and PROVIDER.

7.13. Counterparts. This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

7.14. Severability. Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

7.15. Non-waiver. The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right.

7.16. Attachments. All exhibits attached to this Agreement are incorporated into and made part of this Agreement by reference.

7.17. Amendments. The parties may amend this Agreement only by mutual written agreement of the parties.

7.18. Captions and Section Headings. Captions and section headings included in this Agreement are intended for convenience only and shall not be used to construe, explain or modify this Agreement in any manner whatsoever.

7.19. Project Records. For a period of two years after completion of all work to be performed, PROVIDER shall keep and make available to CLIENT for inspection and copying, upon written request by CLIENT, all records in PROVIDER's possession relating to this Agreement.

7.20. Entire Agreement. This Agreement and all schedules constitutes the entire Agreement between the Parties and supersedes all prior written or oral agreements, understandings or representations. No change, modification, alteration or addition to the terms and conditions of this Agreement shall be binding unless in writing and signed by authorized representatives of both Parties.

7.21. Nondiscrimination. PROVIDER warrants and represents that all of its employees are treated **equally** during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

7.22. Affirmative Action and Equal Opportunity Employer. PROVIDER is an Affirmative Action Employer and an Equal Opportunity Employer of Protected Veterans.
EOE/AA - Minorities/Females/Disabled/Veterans

The Contractor or Subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

7.23. Indemnification. CLIENT and PROVIDER shall mutually indemnify, defend and hold the other harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable attorney's fees) arising out of or relating to claims, causes of actions, lawsuits or other proceedings, regardless of legal theory, that result in whole or in part, of each other's officials, officers, directors, agents, employees and contractors/subcontractors: (1) negligence; (2) substantial breach of representation, warrant or covenant made herein, or (3) any claims that products or services provided infringe any other proprietary right of any third party. In a similar manner, the parties shall mutually indemnify, defend and hold harmless from and against damages, etc., that result in whole or in part from each other's officials and officers intentional misconduct or fraud.

Notwithstanding any provision in this Agreement to the contrary, neither party, nor its officials, officers, directors, agents, employees and contractors/subcontractors, shall be liable hereunder for any consequential or indirect loss or damage or any other special or incidental damages incurred or suffered hereunder by the other party or its officials, officers, directors, agents, employees or contractors/subcontractors, unless such damages are based upon the gross negligence or willful misconduct of CLIENT or PROVIDER.

7.24. Nonsolicitation of Employees. During and for one (1) year after the term of this Agreement, CLIENT will not solicit the employment of, or employ the PROVIDER's personnel, without the PROVIDER's prior written consent.

7.25. Arbitration. All disputes arising between the parties in connection with this Agreement, which cannot first be settled amicably and satisfactorily between the parties, shall be finally settled under the rules of arbitration of the American Arbitration Association by a mutually agreeable arbitrator selected by the parties. If the parties cannot agree upon a single arbitrator, the matter shall be submitted to a board of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so selected shall appoint a third arbitrator. The award of the arbitrator shall be final and binding. No party shall be entitled to, and the arbitrator is not authorized to, award legal fees, expert witness fees, or related costs of a party. The arbitration shall be held in Centre County, Pennsylvania.

7.26. Proprietary Information. The Parties anticipate that performance of this Agreement may require them to disclose to each other information of a proprietary nature. Therefore, as an integral part of this transaction, the Parties agree to the following:

- a. Proprietary information disclosed by either Party may only be used by the other Party in performing its obligations under this Agreement.
- b. This Agreement is confidential and proprietary, and neither Party may disclose its contents without the prior written consent of other Party.

7.27. General Announcement. Notwithstanding any other provision of this Agreement, the Parties agree that PROVIDER may issue a press release or similar public announcement related to the overall Purpose of this Agreement subsequent to notification of CLIENT.

7.28. Insurance. The PROVIDER shall obtain and maintain adequate insurance, including professional liability insurance and any other insurance which CLIENT reasonably may require. Upon CLIENT's request, PROVIDER will promptly furnish CLIENT with certificates of insurance showing such coverage and naming CLIENT as an additional insured for the duration of this Agreement.

7.29. Acceptance. Acceptance of this Agreement shall be indicated by the signature of the duly authorized representative of the Parties in the space below.

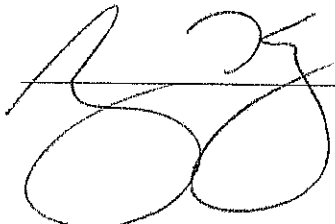
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MissionCriticalPartners

IN WITNESS WHEREOF, the Parties have executed this Agreement effective the day and year below written.

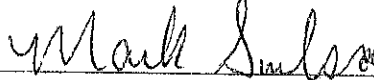
Witness:

Madison County, North Carolina

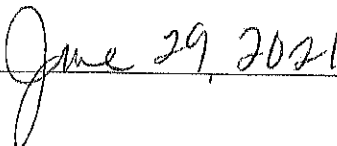
(CLIENT)



By:



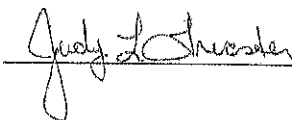
Date:



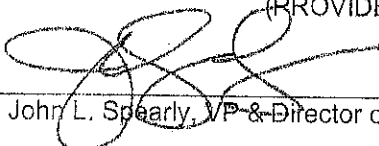
Witness:

Mission Critical Partners, LLC

(PROVIDER)



By:



John L. Spearly, VP & Director of Administrative Services

Date:

June 22, 2021

**CONTRACT ADDENDUM
FOR CONTRACTS WITH ANY DEPARTMENT OF
MADISON COUNTY GOVERNMENT**

CONTRACTOR: Mission Critical Partners
COUNTY DEPARTMENT: Emergency Management
SUBJECT OF CONTRACT: Communication tower consultation
DATE/TERM OF CONTRACT: 6/29/21

Notwithstanding any provision contained in the above-referenced Contract or Agreement which may be to the contrary, the following provisions are incorporated and shall apply, supplant and control:

Non-appropriation clause. Contractor acknowledges that Madison County is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Madison County's obligation under this contract, then this contract shall automatically expire without penalty to Madison County thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that Madison County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations. In the event of a change in the Madison County's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects Madison County's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to Madison County upon written notice to Contractor of such limitation or change in Madison County's legal authority.

Dispute Resolution/Jurisdiction/Venue. Any dispute arising under this Agreement may be settled by mediation in the State of North Carolina in accord with such procedures as may be available to units of local government under state law. No other dispute resolution procedures shall apply. Jurisdiction for any legal proceedings concerning this contract or agreement shall be state courts in the State of North Carolina. Venue for such proceedings shall be Madison County.

No pledge of taxing authority. No deficiency judgment may be rendered against Madison County or any agency of Madison County in any action for breach of a contractual obligation under this contract. The taxing power of the Madison County is not pledged directly or indirectly to secure any monies due under this contract.

No waiver of governmental immunity; Violation of law. Except for waiver of governmental immunity resulting from the execution of a valid contract, Madison County makes no other

waiver of governmental immunity. If any provision of the Contract or Agreement is in violation of any legal, statutory or state constitutional prohibition, then such provision(s) shall be unenforceable against Madison County.

Conflict of interest. If this is a contract for design, engineering, contract administration or similar services, the Contractor will not enter into contracts or agreements with third parties that may present a potential for conflict of interest between Madison County and third parties regarding the subject matter of this Contract or Agreement.

Acceleration Clause. To the extent that any provision of the contract contains any acceleration of clause provision, said clause is deemed void and unenforceable.

Assignment of Rights. Neither party shall sign its rights under this contract without the express written agreement of the other party.

Indemnity, Hold Harmless, Assumption of Risk. To the extent that any provision of the Contract allows for any limitations on the Contractors liability, any waiver in the limits of the County's liability, and/or any hold harmless or indemnification clauses in favor of the Contractor, those provisions are only effective and enforceable in the manner and to the extent provided by NC Law.

Default and Remedies. To the extent that any provision of the Contract addresses default and remedies, then those provisions are stricken in their entirety and are replaced with the following: "County and Contractor, in the event of default, shall have as remedies only those remedies provided by law relative to units of local government in the state of NC."

Compliance with E-Verify requirements. As a condition of payment for services rendered under this agreement, Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor provides the services to the County utilizing a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes as well. Contractor shall verify, by affidavit, compliance of the terms of this section upon request by the County.

For the CONTRACTOR:

Kay Leaford

Title: _____

For MADISON COUNTY

Mark Smith

Title: Chairman, Board of Comm

This instrument has been preaudited in the manner required by the local government budget and fiscal control act.

By: Kay Leaford
Madison County Finance Officer

Prepared by and After Recording Return to:

Todd C. Brockmann, Esq.
17250 Lancaster Highway, Suite 608
Charlotte, NC 28277

STATE OF NORTH CAROLINA

ACCESS EASEMENT

COUNTY OF MADISON

THIS ACCESS EASEMENT (the "Easement") is made effective as of this 29 day of June, 2021 (the "Effective Date"), by MADISON COUNTY, a Body Politic and Corporate of the State of North Carolina ("County"), in favor of CAPITOLA MILL REDEVELOPMENT, LLC, a North Carolina limited liability company ("Capitola").

RECITALS:

A. County is the owner of that certain property located in Madison County, North Carolina, as described on Exhibit A attached hereto and made a part hereof by this reference (the "County Property").

B. Capitola is the owner of that certain property located in Madison County, North Carolina, as described on Exhibit B attached hereto and made a part hereof by this reference (the "Capitola Property").

C. County has agreed to grant Capitola and Capitola's successors and assigns a nonexclusive, ingress and egress easement over and through a portion of County's property (the "Easement Area") to serve and benefit the Capitola Property, subject to the terms, conditions and provisions set forth herein.

D. The Easement Area is described on Exhibit C attached hereto and made a part hereof by this reference.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, County and Capitola agree as follows:

1. Access Easement to Capitola from County.
 - A. Grant of Access Easement to Capitola. County hereby gives, grants, and conveys to Capitola and Capitola's successors, assigns, tenants, subtenants and licensees, a perpetual, non-exclusive easement over and across the Easement Area for the purpose of providing vehicular and pedestrian ingress, egress, and regress to and from the Capitola Property, together with the right to access over and across the land adjacent to the Easement Area, as reasonably necessary to accomplish the purposes and exercise the rights herein granted (the "Easement").
 - B. Easement Appurtenant to the Capitola Property. The Easement and the rights contained herein are appurtenant to and run with the Capitola Property and are covenants running with the land for the benefit of Capitola and Capitola's successors, assigns, tenants, subtenants and licensees.
 - C. Easement Binds the County Property. The Easement shall run with the County Property, and shall bind County and County's successors and assigns, and all subsequent owners of the County Property.
 - D. Ownership. County covenants that it is seized of the County Property in fee simple and has the full right and authority to convey the easements described herein free and clear of any liens, encumbrances or restrictions that might otherwise interfere with or prohibit Capitola's enjoyment of the easements granted hereby.
 - E. Reservation of Rights. County reserves the right in County's reasonable discretion to use the Easement Area for any purposes not inconsistent with the rights of Capitola under this Easement. County shall not unreasonably interfere with or disturb Capitola's use of the Easement Area.
2. Maintenance of Easement Area. Capitola shall be required to maintain the Easement Area as necessary for its uses allowed herein; provided, however, that County agrees to repair any damage caused by County or its successors, assigns, tenants, subtenants and/or licensees to the Easement Area.
3. Applicable Law. This Easement shall be governed by and construed in accordance with the laws of the State of North Carolina.
4. Entire Agreement. This Easement contains the entire understanding between the parties and supersedes any prior understanding or oral agreement between them respecting the subject matter of this Easement. There are no representations, agreements or understandings relating to the subject matter hereof that are not fully expressed or incorporated herein.
5. Benefit. This Easement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns.

6. Recordation. The parties agree that this Easement shall be recorded in the Office of the Register of Deeds for Madison County, North Carolina.

7. Miscellaneous. This Easement shall not be amended or modified, except by written agreement signed by all the parties hereto. In the event that any provision of this Easement shall be held to be invalid, the same shall not affect in any respects the validity of the remainder of this Easement.

IN WITNESS WHEREOF, County has caused this document to be executed as of the day and year first above written.

MADISON COUNTY, a Body Politic and Corporate of the State of North Carolina

By: Mark Snelson

Name: MARK SNELSON

Title: Chairman, Madison Co BOC

STATE OF North Carolina
COUNTY OF Madison

I, Kary A. Ledford, a Notary Public of the County and State aforesaid, certify that Mark Snelson, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that s/he is the Chairman of Board of Commissioners MADISON COUNTY, a Body Politic and Corporate of the State of North Carolina and being duly authorized to do so, voluntarily executed the foregoing instrument for the purposes stated therein.

Witness my hand and official stamp or seal, this 29 day of June, 2021.

Kary A. Ledford
Notary Public

My commission expires: Dec 17, 2024

EXHIBIT A

Legal Description of County Property

LYING AND BEING in the Town of Marshall, No. 1 Township, Madison County, North Carolina, and being more particularly described as follows:

BEGINNING at a 5/8 inch rebar with I.D. cap (found) [said rebar in the north margin of the 45 foot asphalt road [for right of way see Deed Book 92, Page 214 and Deed Book 145, Page 95 in the Office of the Register of Deeds, Madison County, North Carolina] and also being South 87° 12' 56" West 188.70 feet from the northwest corner of a brick building, said corner being the terminus of 12th call in Deed Book 223, Page 227 and the terminus of the 1st call in Deed Book 72, Page 518, in the aforesaid Registry], from the point of BEGINNING with the line of the County of Madison described in Deed Book 223, Page 227 in the aforesaid Registry and crossing over the existing 45' asphalt drive South 04° 42' 56" West 163.90 feet to a 5/8 inch rebar with I. D. cap (found), continuing 15.00 feet to a railroad spike (found) in the center of an existing 18 foot asphalt road, Rector Corner Road (NCSR 1116) for a total distance of 178.90 feet; thence with the center of Rector Corner Road (NCSR 1116) for the next eight calls and distances: South 80° 15' 22" West 44.42 feet to an unmarked point, South 70° 01' 42" West 32.95 feet to an unmarked point, South 62° 00' 25" West 27.43 feet to an unmarked point, South 53° 04' 47" West 25.68 feet to an unmarked point, South 41° 53' 38" West 37.13 feet to an unmarked point, South 29° 44' 28" West 49.88 feet to an unmarked point, South 21° 37' 23" West 66.21 feet to an unmarked point, South 26° 58' 06" West 51.48 feet to a railroad spike (found); thence leaving NCSR 1116 and with the line of the Charles E. Mashburn Estate [as described in Plat Book 4, Page 27 in the aforesaid Registry, North 11° 33' 35" West 292.40 feet to a 5/8 inch rebar with I.D. cap (set); thence North 22° 21' 43" West 97.62 feet under overhead utility lines and over 19 feet of asphalt of Bailey Branch Road (NCSR 1001) to a 5/8 inch rebar with I.D. cap (found) [said point being on the south bank of the French Broad River and west of a bridge]; thence crossing to the east side of Bailey Branch Road (NCSR 1001) and between the French Broad River between the river and a 45 foot asphalt drive, North 85° 17' 01" East 328.33 feet to the point and place of BEGINNING. Containing 1.55 acres, more or less, and being the property described in a survey entitled "Survey For Madison County" prepared by Bobby C. McMahan, R.L.S., L-2475, and dated July 27, 1998, Job No. 97-2307 H2, with basis of bearing North from Plat Book 4, Page 27, in the aforesaid Registry.

Being the same property described in Deed from Mattee B. Mashburn, Executrix of the Estate of Charles E. Mashburn and Mattee B. Mashburn, individually to County of Madison recorded in Book 250, Page 632, Madison County Registry

EXHIBIT B

Legal Description of Capitola Property

LYING AND BEING in the Town of Marshall, Township No. 1, Madison County , North Carolina, and being more particularly described as follows:

BEGINNING at a 5/8" Rebar set with Cap in the west margin of Cotton Mill Hill Road (AKA Upper Bridge Street).

Thence, with the west margin of said Cotton Mill Hill Road the following five (5) calls:

1. S 19°32'35" W a distance of 173.17' to a 5/8" Rebar with cap set;
2. Thence S 09°38'35" W a distance of 48.05' to a 5/8" Rebar with cap set;
3. Thence S 11°19'25" E a distance of 57.05' to a Magnetic Nail in the asphalt set;
4. Thence S 21°07'25" E a distance of 102.10' to a 5/8" Rebar with cap set;
5. Thence S 18°32'25" E a distance of 65.06' to a Magnetic Nail in the asphalt found, corner to the Daniel Benjamin Duffy property (Deed Book 665 Page 512);

Thence, leaving the west margin of cotton Mill Hill Road and running with said common line of Duffy S 76°35'47" W a distance of 99.94' to a ¾" Pipe found 0.4' high, corner to Beverly Smith (Deed Book 627 Page 102);

Thence, with common line of Smith N 38°37'07" W a distance of 235.09' to the center of Rector's Chapel Road (SR 1116), passing a 5/8" Rebar with cap set online @ 215.26';

Thence, with the center of Rector's Chapel Road the following two (2) calls:

1. N 10°02'49" W a distance of 61.68' to a point in the center of the said road;
2. Thence with a curve turning to the left, with a radius of 73.53', an arc length of 111.73', a chord bearing of N 53°34'40" W and a chord length of 101.29' to a point in the center of said road, corner to the County of Madison property (Deed Book 250 Page 632);

Thence, leaving the center of Rector's Chapel Road and going with the common line of the County of Madison N 04°42'56" E, passing a 5/8" Rebar found on line 0.7' high at a distance of 15.00' a total distance of 178.90' to a 5/8" Rebar found 0.4' deep, corner to French Broad Electric Membership Corporation property (Deed Book 70 Page 1 & Deed Book 51 Page 422);

Thence, with the common line of the French Broad Electric Membership Corporation the following two (2) calls:

1. N 87°12'56" E a distance of 188.70' to the northwest corner of the Building;
2. Thence S 70°47'04" E a distance of 138.00' to the POINT OF BEGINNING, containing 2.370 acres, more or less, as shown on a survey by Anthony R. Suttle, RLS #4798, P.O. Box 891, Johnson City, TN 37605, entitled "Survey for Capitola Mill Redevelopment, LLC" dated May 26, 2021, to which reference is here made.

EXHIBIT C

Description of the Easement Area

LYING AND BEING in the Town of Marshall, Township No. 1, Madison County, North Carolina, and being more particularly described as follows:

An easement thirty (30) feet in width on each side of the center line of said easement, which said center line is more particularly described as follows:

BEGINNING at a point in the East margin of the pavement of the road leading from end of Lower Bridge in the Town of Marshall to Sandy Mush, which said point is South $41^{\circ} 45'$ West 84.0 feet from the Southeast abutment of the new bridge crossing the French Broad River and runs thence North $83^{\circ} 32'$ East 100 feet; North $80^{\circ} 22'$ East 100 feet; North $87^{\circ} 51'$ East 100 feet to the Capitola property line.

Being a portion of the easements described in Book 92, Page 214, Book 145, Page 95, Book 174, Page 144 and Plat recorded in Plat Book 3, Page 541, Madison County Registry.