



**TOWN COUNCIL REGULAR MEETING**  
**TOWN HALL COUNCIL CHAMBERS**  
**TUESDAY, JULY 11, 2023 AT 6:30 PM**

<https://us02web.zoom.us/j/86737379508>

## **AGENDA**

### **CALL TO ORDER**

**Pledge Allegiance to the Flag (LG)**

**Moment of Silence**

### **ADOPTION OF AGENDA**

### **APPROVAL OF THE MINUTES**

- [1.](#) Approval of the Minutes:  
Budget meetings #1, 2, 3, 4, 5 and 6
- [2.](#) Minutes of June 13, 2023 Town Council Meeting
- [3.](#) Minutes of the June 26, 2023 Work Session

### **AWARDS AND RECOGNITION**

4. Swearing in of new Police Officer Michael Soto (*Chief Hudgins*)

### **PUBLIC COMMENT**

5. Pineville Library Update (*Garrette Smith*)

### **CONSENT AGENDA**

- [6.](#) Resolution 2023-08 for updating Charlotte Regional Transportation Organization Voting Structure
- [7.](#) Resolution 2023-07 for Surplus Items
- [8.](#) Proclamation for Parks and Recreation Month (*Lisa Snyder*)
- [9.](#) Proclamation of the Town's 150th Anniversary

### **PUBLIC HEARING**

### **OLD BUSINESS**

- [10.](#) Downtown LIV Development (*Ryan Spitzer*)

## NEW BUSINESS

- [11.](#) Vote for exemption for Mini Brooks Act for inspection of the Greenway - ***ACTION ITEM***
- [12.](#) Vote for exemption for Mini Brooks Act for construction administration of the Greenway - ***ACTION ITEM***
- [13.](#) Contract for CMaR services with Edifice for utility facility at 313 N Polk Street - ***ACTION ITEM***
- [14.](#) Vote for exemption of Mini-Brooks Act for engineering services for the temporary relocation of PCS and Electric departments to Cone Mill - ***ACTION ITEM***
- [15.](#) Vote for exemption from the Mini-Brooks Act for the construction, administration, and inspection for the Cone Mill Memorial - ***ACTION ITEM***
- [16.](#) Contract for architectural services for utility facility at 313 N Polk Street (*David Lucore*) - ***ACTION ITEM***
- [17.](#) Contract with Greg Icenhour Mid Atlantic Associates for REC program - ***ACTION ITEM***

## MONTHLY STAFF REPORTS

- [18.](#) Public Works
  - Police Dept.
  - PCS
  - Human Resources
  - Parks and Recreation
  - Planning & Zoning

## MANAGER'S REPORT

## CALENDARS FOR COUNCIL

- [19.](#) August Calendar

## CLOSED SESSION - none

## ADJOURN

If you require any type of reasonable accommodation as a result of physical, sensory, or mental disability in order to participate in this meeting, please contact Lisa Snyder, Clerk of Council, at 704-889-2291 or [lsnyder@pinevillenc.gov](mailto:lsnyder@pinevillenc.gov). Three days' notice is required.

**Mayor**  
Jack Edwards

**Mayor Pro Tem**  
Ed Samaha

**Town Manager**  
Ryan Spitzer



**Town Council**  
Les Gladden  
Amelia Stinson-Wesley  
Chris McDonough

**Town Clerk**  
Lisa Snyder

## BUDGET MEETING #1 MARCH 28, 2023

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Tuesday, March 28, 2022 @ 6:00 p.m. The meeting was held at the Town Hall Council Chambers.

### ATTENDANCE

Mayor: Jack Edwards  
 Mayor Pro-Tem: Ed Samaha  
 Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough  
 Town Manager: Ryan Spitzer  
 Town Clerk: Lisa Snyder  
 Finance Director: Chris Tucker

Mayor Jack Edwards called the meeting to order at 6:00 pm. and introduced Chris Tucker, Finance Director, who will be conducting the meeting. Mr. Tucker shared a little bit about himself, including that he began almost a year ago with the Town, April 12<sup>th</sup>. He is in his 18<sup>th</sup> year working in local government and this will be his 19<sup>th</sup> budget.

Mr. Tucker continued to outline GFOA (Government Finance Officer Association) and his role in the budget process. The goal is to create options, create revenue, and manage expenditures. He distributed a packet to Council containing his slides with space to make notes.

There are three types of government funds that the Town utilizes: the General Fund, the Special Revenue Funds, and the Capital Project Funds. The last two do not intermingle with the General Fund. Additionally, the Town has major funds: General, Electric, ILEC, CLEC, and ARPA SRF/Town Hall/Library SPF (the last two will drop off when they're complete).

He added that the Fund Balance is a major indicator for the fund's near-term financial position. For the close of FY22, the Town of Pineville closed with \$23 million in the General Fund, of which \$19.3 million was unassigned. This amount represents more than twelve months of expenditures. Pineville's enterprise funds are carrying \$6 million in unrestricted net position in the enterprise fund balance.

Property taxes make up 42% of our current total budget. Our current tax rate is 33 cents per one dollar valuation. Pineville's assessed valuation grew 4.71% this fiscal year. The FY24 projection is about 40.74%.

Council Member Les Gladden asked if we will see several budget amendments after the budget is set. Mr. Tucker answered that is possible after the end of every budget, including some refunds. Vehicle taxes didn't go up that much, but property taxes did.

The core activity, or the decision is, what tax rate is Council comfortable with, how much growth on the expenditure side are they willing to tolerate that's probably going to take some value above 24.5 to accomplish?

Town Manager Spitzer said that Cornelius is currently the only town that may go to revenue neutral. It's because their revenue valuation is based on five million dollars houses. When you look at our housing, it has gone up 51%; commercial went up 41% and everything is running about a year behind.

Town Manager Spitzer reminded Council that he will have to state what the tax rate is at the budget public hearing.

Mr. Tucker presented the FY23 General Fund Expenses by function (by departments) pie chart. He noted that for every dollar, 44 cents are assigned to Public Safety.

Mr. Spitzer explained that sales tax is collected from the Towns, then sent to the State, then back to the county. The state keeps 3% off the top, then send money back to Mecklenburg County for our use, then the towns will receive money based upon their population or valuation.

Council Member Amelia Stinson-Wesley asked how ARPA funds fall into the budget years? Mr. Tucker replied that ARPA funds sit in its own special fund, until he brings it out. He can't pull it out until it becomes an expenditure.

Mr. Tucker then presented the FY23 General Fund Expenses by category pie chart. This includes salaries, benefits, operations, debt service, capital outlay, contingency and transfers out). Mr. Tucker noted that transfers out is not something we normally do.

He and Ryan have had weekly conversations with the department heads. The department heads were passionate about their requests, they were certainly knowledgeable about their departments. He continued that the most pressures are on salary and benefits. If we say, less money for employees, fewer things to get there, does our service level drop or do we pay more to keep up with our neighbors, peers, and competitions.

IT in the past, every department has had some money in there. There is an accounting thing coming down the line where Mr. Tucker has to start reporting our IT contracts in a certain way. The departments were getting allocated technology based on the percentage of expenditures, not necessarily a direct allocation.

The manager will present the recommended budget on May 9<sup>th</sup>, then June 13<sup>th</sup> we will approve the budget ordinance and fee schedule. Mr. Spitzer added that whatever tax rate they decide on May 9<sup>th</sup>, they cannot go above that after that night. They can only go below after that meeting.

At the May 2<sup>nd</sup> meeting, Council may want to discuss the tax rate that they want to do and probably have a conversation about salaries and what he's proposing.

Mr. Spitzer does not see any risk and we will probably add put money in the fund balance and may be over in revenues. We will probably go ahead and take money out and pay for the fire truck.

Mr. Tucker continued the budget conversation and said that raising taxes 4.5 % will bring us up to revenue of about \$10.5 million. He added that we are pretty conservative in the revenues. What we propose is going to give us the revenues that we need to support the expenditures, particularly Ryan's vision for salaries. What it does not give, is a lot of opportunity for natural growth. Mr. Spitzer added that our operating budget has not grown at all.

Mr. Tucker explained that 70% of the revenue comes from two sources (property and vehicle taxes). He then displayed a master sheet. He and Mr. Spitzer are proposing a 2.5% merit and an 8% COLA. All positions are fully funded, or allocated, whether they are vacant or not. Mr. Spitzer said that Pineville is looking at 8% COLA, and a

2.5% merit and it is comparable to surrounding towns and Mecklenburg County. There are ways we can do the COLA; we can do 4% in July and then the other 4% in January.

Mr. Spitzer added that about one-quarter of our people are the police force and Mr. Tucker also added that this includes the ETJ officers that were not there last year. Council Member Les Gladden asked if all this information was presented, and going forward, is based on a 4.5% tax base and Mr. Tucker replied, "yes." We have significant fund balance. Everything up until July 15<sup>th</sup> can be booked. Mr. Tucker said that we control 7% of our revenue.

Mr. Tucker displayed a budget and projected spreadsheet, with different values in expenditures and revenues, up to the year 2025. This is as of today. If we take on significant debt, we will have to adjust the tax rate in the future.

The hardest part of this model is forecast out the expenditures. He reiterated that we have significant fund balance. We have the reasonable resources to hop on opportunities. Mr. Spitzer said that from the sale of Cone Mill, College & Church, it doesn't show in this budget. Mayor Pro Tem Samaha estimated that there is still \$5 to \$7 million still to execute.

Town Manager Spitzer went over a few pressures. If they look at a parking deck, each space is about \$70,000. There are several ways to fund it. The revenues from the parking deck can pay off the loan, for example. If you take Cone Mill, Church & College and downtown and put it in a TIF and whatever developer increases the value of that land after they start building, and you want to start doing it now, you can take the money and put into infrastructure. Mayor Pro Tem Samaha said that we have to do it.

He continued to share with Council there are a few capital projects: a new radio system, with financing, roughly \$600,000 a year for five years and maintenance is about \$200,000. We are at the 5-year term with that. The PD A/C unit is a possibility and he's on the fence about that one. A/C for the PD would be at about \$370,000. Then the fire department is the other pressure.

**ADJOURNMENT:** At 8:15 p.m. the meeting adjourned.

\_\_\_\_\_  
Jack Edwards, Mayor

**ATTEST:**

\_\_\_\_\_  
Lisa Snyder, Town Clerk

**Mayor**

Jack Edwards

**Mayor Pro Tem**

Ed Samaha

**Town Manager**

Ryan Spitzer

**Town Council**

Les Gladden  
 Amelia Stinson-Wesley  
 Chris McDonough

**Town Clerk**

Lisa Snyder

## BUDGET MEETING #2 MARCH 30, 2023

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Thursday, March 30, 2022 @ 5:55 p.m. The meeting was held at the Town Hall Council Chambers.

**ATTENDANCE**

Mayor: Jack Edwards

Mayor Pro-Tem: Ed Samaha

Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough

Town Manager: Ryan Spitzer

Town Clerk: Lisa Snyder

Finance Director: Chris Tucker

HR Director: Linda Gaddy

Parks &amp; Rec Director: Matt Jakubowski

Mayor Jack Edwards called the meeting to order at 5:55 pm. to cover General Government, Administration, IT, HR, and Parks and Recreation.

Mr. Tucker welcomed everyone to Budget Session #2. There are two major functions of the General Fund, being General Government and Parks & Recreation. Technically the function is called Cultural and Tourism, but fundamentally it is Parks & Recreation. It's not going to be as much about numbers, as it is about what is this function doing and Council will have a good sense of which slice of the pie is going to this particular function.

Under General Government, it includes Administration, Human Resources, Finance, technically Planning is in this function, but Travis will have his own presentation next week as he has a lot of things that connect to those larger capital projects. These are the positions in General Government, Administration: we have a Town Manager, Town Clerk Lisa Snyder, Administrative Assistant, Sissy Eaton, the vacant Business and Marketing Analyst, Finance Director, Accountant, and Accounting Tech, Budget & Procurement Analyst, Human Resources Director, Human Resources Admin., Planning Director, and Code Enforcement. There are exempt and hourly employees.

In talking about hours, typically he added that most employees are classified as "20/80." In his experience people usually end up working 20/96. The Budget & Procurement position is shown but has not been filled yet.

Over those five departments, salaries went up 20%, operations went up a lot and then contingencies went up an extra \$100,000. There are no new positions, but there are the two that have not been filled yet.

Mayor Edwards asked why contingencies doubled? Mr. Tucker replied that it's a Finance Director budgeting move. He always puts a little at the front side of it, and then between now and the final budget, something will come up and this is where I can get it real fast. He added that they have not used the contingency in the last year. It's a common move. He doesn't have a physical need for it at this time.

General Government comments. He is bringing all the insurance line items under Administration. He doesn't have a compelling reason to allocate to the departments. Bringing all technology supplies/contracts are under one division under General Government, a new accounting standard where he has to start keeping track of these items. Mr. Spitzer added that it's about \$650,000. Mr. Tucker continued that he increased utility and maintenance costs for the new Town Hall will be under one line item and he will invoice the library for their share.

Mayor asked about putting central purchasing, for all of Pineville, under one roof. Right now, everybody has their own buying discrepancies, and he thinks this is something that is costing us money. Mr. Tucker said we can talk about that, and he'd like to hear a little bit more about that.

Mr. Tucker continued and discussed Finance. The audit contract did go up a little bit, about 3.6%, due to a single audit of the ARPA fund and a grant fund, usually requires additional audits. He has Debt Book subscription software; it was designed for larger cities to track their debt. It tracks debt contracts and IT lease agreements. Then they have two actuarials: the LEO separation allowance and other post-employment benefits. We pay police officers upon their retirement. Mr. Tucker summarized that those are the finance pressures.

He further went on to discuss IT. We have three line items to include supplies, contracts, and capital outlay projects, instead of being individual to departments.

Human Resources Director, Linda Gaddy, reported that there are no major changes in her budget. One of her biggest goals is contracts. She feels that we need to support the retention, as it's cheaper than having to rehire/refill positions. She thinks that increasing recognition for things the employees do, rewarding them, and as we set new vision and core values, we need to be able to reinforce those and reward those. We will be moving in this direction. This is the only line item that may have increased. They are working on proposals for that right now.

Mayor Pro Tem Samaha asked Ms. Gaddy if she needs to do another salary survey. She replied that they are discussing that possibility. Overall, increases didn't look that significant, but they will be coming.

Council Member Stinson-Wesley added that the last one was really helpful as she didn't know what other municipalities were doing. She asked if hiring an administrative assistant was working? Ms. Gaddy replied that "yes" and that it took a little while to catch up from before she started. They are starting to look at things strategically. She broke out \$40,000 from line-item contract services and placed it under advertising/recruitment.

Council Member McDonough asked why the Wellness Program went up from \$20,000 to \$66,000? Town Manager Spitzer answered that it's about \$50 per month, per employee, and includes mental health wellness, and also childcare, which averages \$1,300 per month in the Charlotte area. She further added that the awards program encourages all kinds of wellness.

Council Member Gladden asked where the pool of money for reimbursement of deductibles comes out? Manager Spitzer replied that it comes out of contract services, and we still have the program.

Council Member Stinson-Wesley said at one point Ms. Gaddy was explaining to employees what the different benefits were, has she finished telling all the employees about that? Ms. Gaddy replied that open enrollment is coming up at the end of May and they are wanting to schedule one on retirement. There are lots of fringe benefits that employees may not know about, for example, EAP. There is so much this program can do for them at no cost to them.

Mr. Spitzer said that overall, the governing board went down \$90,000 because of some of the contracts that they took out of there.

Council Member Gladden asked where the Cone Memorial falls under the budget. Mr. Spitzer replied that funds for the memorial will come out of the ARPA funds spending, under Parks & Rec spending. The \$248,000 amount is allocated for that.

Parks & Recreation Director, Matt Jakubowski, explained why they are an asset to the Town. He outlined some of the events they do throughout the year. They are adding a new event, called "Music on Main" and it will be held on the Town Hall grounds.

Since he started working for the Town, he has seen the number of participants increase for their teams, for example, for youth soccer, the number increased from 81 to 253, for youth basketball, from 152 children to 214. They are looking at pickleball leagues on Saturday and softball this summer, and adult basketball. Everything is growing but they are running out of space.

Mr. Jakubowski continued saying that they are around 40% of Pineville residents right now, which includes kids and adults. He continued outlining his goals: to continue to grow Parks & Rec youth soccer/basketball, adult athletics and program new athletic programs; partner with pineville Elementary for afterschool programs and gym space, maintain/increase social media presence; pursue Mecklenburg County for land acquisition and greenways; pursue potential grant opportunities; promote performing arts; greenway construction/programming; and continue to follow master plan recommendations.

He went on to discuss the difficulty in filling the park-aide positions with 2,000 hours or less. He went on to say that he is very blessed to have Scott Futter and toot his horn for a bit. There was general discussion regarding the cutting of grass at Leitner Drive (Greenway entrance).

Council Member Gladden brought up the grass at Leitner Drive. He said that we shouldn't be doing it. They should be held accountable, like we would be held accountable. Mr. Spitzer said we could, but it doesn't foster a good relationship. Mr. Gladden reiterated that we shouldn't be doing it for them.

Parks & Recreation operations increases:

Utilities:	\$ 94,500
Maintenance/Vehicles	\$ 3,500
Auto supplies	\$ 8,000
New Town Hall grounds	\$ 82,100
Uniforms	\$ 4,000
Fall Fest	\$116,500

Mr. Jakubowski went on to discuss the Fall Fest vendors and outlined the costs associated with it:

Stage/lighting/sound	\$12,600 3 times per day
Thursday's band	\$ 3,850
Lighting/Town Hall, field 4/Entrance	\$ 3,200
Buses for 2 – 3 days	\$ 3,000
Kid Zone Entertainment	\$ 3,000.
Thursday rides	\$17,000
Fireworks deposit	\$ 6,000
Rides down payment	\$10,000



Rides	\$34,000
Deposit	\$10,000

He still pays a lot of overtime for his staff and for police.

Capital items being requested:

The Hut repaving of the lot	\$ 35,000
The Hut painting	\$ 6,000
Belle Johnston painting	\$ 11,000

Capital Improvements:

Jack Hughes cameras	\$106,000
Dog fencing/water line	\$ 19,000

Capital Outlay – building:

Repair Jack Hughes fencing	\$ 6,000
Maintenance fencing	\$ 16,000
Christmas Tree Star/height increase	\$ 12,000

Capital Outlay Improvements:

Jack Hughes Park Design	\$ 60,000
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Council Member Stinson-Wesley asked if summer camp has increased this year? Mr. Jakubowski replied that it has not and about 90% of the attendees are Pineville residents. It's a really successful program.

Sponsorships. Town Manager Spitzer led the discussion regarding sponsorships. Arts & Science Council has requested \$15,000. Communications have not been good. We struggle getting them to communicate with us and do things in the Town. Pineville Players contacted the mayor, and he advised them to submit a proposal, which has not been received yet, but they are requesting \$13,000.

Council Member Gladden discussed the Downtown Merchants and Council Member Stinson-Wesley asked if they still exist. Manager Spitzer said that there is a meeting planned in the next week.

Council Member Gladden asked if the Chamber is not-for-profit. He doesn't see the benefit of them anymore because they have about an 80% out of Pineville population rather than in Pineville. Our downtown merchants could benefit elsewhere. Some of the business owners in the town are not happy with them.

Mayor Pro Tem Samaha feels that PNP is the one that benefits the Town the most. The mayor concurred. Council Member Stinson-Wesley feels that Pineville Players doesn't need \$13,000 for something that we're not confident that she's going to be able to pull off. Town Manager Spitzer added that the Chamber has not requested any money this year. If he was going to take one out of there, he would move the Chamber's money to PNP. Council concurred.

Mr. Spitzer will move Pineville Players money up to the Arts & Science Council and move the Chamber up to PNP. Council all concurred that Jane has done a great job with a good heart and will be hard to replace. Council thanked Mr. Jakubowski for doing such a good job.

Council said that they do like the highlights and said they are helpful vs viewing all of the line items.

Town Manager Spitzer concluded with a summary of totals. He commended Travis and his team for their handling of the plans along Main Street and noted that they come in on weekends to take care of them.

**ADJOURNMENT:** At 7:45 p.m. the meeting adjourned.

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Jack Edwards, Mayor

**ATTEST:**

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Lisa Snyder, Town Clerk

**Mayor**  
Jack Edwards

**Mayor Pro Tem**  
Ed Samaha

**Town Manager**  
Ryan Spitzer



**Town Council**  
Les Gladden  
Amelia Stinson-Wesley  
Chris McDonough

**Town Clerk**  
Lisa Snyder

## BUDGET MEETING #3 APRIL 4, 2023

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Thursday, April 4, 2022 @ 6:00 p.m. The meeting was held at the Town Hall Council Chambers.

### ATTENDANCE

Mayor: Jack Edwards  
 Mayor Pro-Tem: Ed Samaha  
 Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough  
 Town Manager: Ryan Spitzer  
 Town Clerk: Lisa Snyder  
 Finance Director: Chris Tucker  
 Public Works Director: Chip Hill  
 Planning & Zoning Director: Travis Morgan

Mayor Jack Edwards called the meeting to order at 6:00 pm. to cover Public Works, Planning & Zoning, Capital Projects.

Mr. Tucker welcomed everyone to Budget Session #3 and gave a brief recap of the meetings to date and the upcoming meetings. On the Public Works side, he explained that Chip Hill's salary is split between Stormwater and the Town. Under the Planning & Zoning side we have the Planning & Zoning Director and a Code Enforcement Officer.

In Public Works, there are two functions: Public Works transportation and Public Works environmental protection. Transportation includes streets and the Powell Bill. Environmental Protection includes our stormwater and the sanitation contract. Powell Bill, as its own division, has a revenue of \$260,000. The Powell Bill is state funded based on the mileage of the streets we have.

Council Member Stinson-Wesley said that they would like to see what was done last year vs this year and would like Mr. Tucker to give them a lot of verbiage or messaging as to the changes increasing or decreasing. Mr. Tucker replied with an example. Mr. Hill commented that they applied for storm drain replacement near the substation on Dover and on Charleston Drive, and Lynnwood/Lakeview, but they hadn't heard back from them yet.

Mr. Tucker wants to isolate the Powell Bill monies into its own division, so the money is available to use, when needed. There are current multi-year projects that may be moved through budget amendments. For example, Lowry, CDBG sidewalks, McCullough Greenway, and the Parks and Rec outdoor fitness gym. Council Member

Stinson-Wesley asked if the McCullough bridge will take multi years. Town Manager Spitzer replied that we've already spent some of the money and it won't get completed until after July 1<sup>st</sup>.

Travis Morgan, Planning & Zoning Director, began his budget presentation with two items to touch on, including branding and entry signs to the Town. One of them relates to the Hyundai dealership and a sign that was taken down. The other relates to the ongoing Beautification Grant program, for both qualifying residential and commercial. On the commercial side the amount is \$20,000. The residential part is more detailed and is, spend a dollar, get a dollar up to \$1,000 maximum. If would increase funds, that would allow them to do a bit more outreach for both residential and commercial. Traditionally, for residential, it's meant for older properties, thirty years or older and may be skirting on code enforcement issues. It is not meant for new construction or landscaping. He suggests it be used for porch columns, windows, driveways, something long-lasting and not landscaping.

Council Member Stinson-Wesley asked if there is any interest? Mr. Morgan replied that its in the quarterly newsletter and on the Town's website. There has been limited interest in the program. They have a variety of ranges that have applied, but many did not qualify. Mayor Pro Tem Samaha asked about putting a sign by the South Carolina line. We should have one since it's a main thoroughfare. Town Manager Spitzer said that we can look into putting one there.

Mayor Pro Tem Samaha asked what's in contract services? Mr. Morgan answered that it includes legal matters, animal control, and GIS services, and for things that are not clear-cut. Mayor Edwards added that this is the biggest expenditure that he has. Mr. Tucker added that this gives him the ability to go out for contracts, prefunding if he needs to. Mr. Morgan continued in that there are many things that are coming up including some GIS projects and the signs, where we would have to do a budget amendment.

Council Member Gladden asked why animal control is in Travis' budget? Town Manager Spitzer answered that code enforcement make sure that the costs are associated with nuisances. Mr. Gladden continued that the cost is over \$200 per call. He asked if it needs to be turned over to the police now.

Mayor Pro Tem Samaha asked what Mr. Morgan thinks where he thinks he'll end up in his budget? Mr. Morgan replied that with the branding related to the Town of Pineville logo that we have and the entrance sign. Mr. Tucker added that he'll have to carry some appropriation that he may have to spend money on.

Mayor Pro Tem Samaha suggesting continuing information about the beautification grant in the newsletter. Council Member Stinson-Wesley asked if Pineville Neighbors Place could help find recipients? Mr. Moran answered that they mostly receive rentals. Council Member Stinson-Wesley reiterated that we should reach out to the new PNP Director, so she is informed.

Planning & Zoning Director Morgan gave a brief update on the Johnston Road project and advised that it will begin on April 10<sup>th</sup>, instead of in June.

Public Works. Finance Director Chris Tucked opened up the Public Works portion of the meeting and explained that this department has two slices of the function pie (Transportation and Stormwater). Public Works Director, Chip Hill, started out giving a project update and said that he has all of the easements for the Lowry project except the Yeager's. LaBella has reached out to them to try to see what they wanted for it and the actually easement is where the poles are going to be and signals for the crossing. For Lakeview, April 11<sup>th</sup> the contract will be awarded to a contractor and construction is estimated to be six months with construction starting in May. Cone Mill plans are finished. Ms. Brown agreed to move her fence and any structures, and the property will be surveyed this week. She has until June 30<sup>th</sup> to get that done. Mr. Hill added that it will be contracted out.

Mr. Hill added that Mr. Spitzer is going to meet with the NCDOT on the 14<sup>th</sup> for the pedestrian crossing at Cranford and we'll have the perimeters for that.

Mr. Hill continued by outlining the budget comparisons and highlighted in yellow the reasons for any changes. Under contract services, they constantly get calls regarding trees and pruning on Centrum Parkway. We are responsible for them and that's \$20,000. There are trees that are on our easement and we're responsible for that. For mobility connections, for sidewalks and ADA ramps in town, they're going to do the north side of Hwy 51 from the railroad to Little Sugar Creek and with any money left over, he'd like to do a crossing on Lakeview and Cone, Lakeview Drive at the intersection, Fisher and bike lanes painted on them. They're going to replace some sidewalks. NCDOT is responsible for the curbs.

Mr. Hill added that with any money left over, he'd like to a crossing at Lakeview and Cone, Lakeview Drive, Cone and Fisher and stripe Lakeview for some bike lanes. Mr. Spitzer also added that bike lanes will not prohibit the parking.

They applied for a grant for \$2,500 for their tire balancer. If they get it, it will replace the one they currently have. Mayor Pro Tem Samaha asked how many tire changes they do each year. Mr. Hill replied about 60 sets, but he has a statistic sheet at his office.

They also need to replace their 2007 Chevy pickup. It's a hand-me down from the Electric Company. It has 217,000 miles. It's got a knock.

For contract services, they do all the reviews for Travis, and it comes out of our budget. Regarding the capital outlay improvements, paving is at \$215,000 at the Stone Towne Centre Blvd., and \$10,000 for flooding at the Hilton. They are two separate items. He thinks he may have enough to pave the cemetery.

Mr. Hill would like to add a new position, a stormwater tech, who will cover more areas that are needed. He would like to train that person in-house and get them certified. This will increase response times and lessen demands on one single person. He added that stormwater, in general, requires some uniforms and that budget has not increased in two years. There is currently \$1.7 million in stormwater reserves.

In addition, his department is requesting \$65,000 for an enclosure for Public Works. This would protect their equipment and protect from erosion. This would be closer to the railroad tracks and will not interfere with the Electric company.

They are also requesting a new bucket truck for \$70,000. They currently have a 1984 Ford. It's used for a variety of things, including trim trees, roof inspections, building repairs, flagpoles, taking down and putting up Christmas decorations. Council Member Gladden asked if Electric that's one in good shape that he can get? Mr. Spitzer added that this would be a question for David Lucore.

The last item is the sanitation budget which went up about 6%. This was provided by finance.

Mr. Hill shared his CIP Project list, which was listed in his binder.

Council Member Stinson-Wesley complimented Chip and his guys on how beautiful Main Street is and its flowers. She gets unsolicited comments about how beautiful it is. It's appreciated. The Mayor concurred that we have good people.

Town Manager Spitzer reviewed the Sponsorship **requests** this year:

Polk Site	\$ 8,000	(they're requesting \$2,000 more than last year for an interpreter)
Pineville Neighbors Place	\$50,000	(\$20,00 utilities/\$10,000 food pantry)
Chamber	\$ 7,000	

Downtown Merchants	\$ 8,000	
PCAA	\$10,000	
Arts & Science	\$10,000	
Pineville Players	\$15,000 - \$21,000	(for three plays per year)

It was decided that Parks and Rec Director, Matt Jakubowski, will oversee the sponsorship of ASC and Pineville players.

Mr. Spitzer reiterated to Council that the Downtown Merchants have to submit receipts to the Town and will be reimbursed instead of giving them the entire amount at once. We will approve \$13,000 for the Pineville Players but it will be overseen by Mr. Jakubowski.

Council Member Stinson-Wesley and the other council members had a general discussion about having a symphony. She would like all of our people to have the opportunity to support it here. There used to be buckets set outside but now you have to pay for a ticket. She asked if we are precluded from putting out buckets. Mr. Spitzer answered that we are not.

Finance Director Chris Tucker discussed the upcoming Enterprise Funds, Electric and Telephone, that will be reviewed at the next budget meeting. Electricities Manager David Lucore will be there to present Electric projects, Electricities contract for one employee, who is our building coordinator, pressure on the electric fund, for example, system expansion, the substation and the moving of the Electric and the Telephone facility to one property (it has about \$5 million in fund balance).

Telephone funds are making money to pay for itself, but not making a lot of money. They did present a balanced budget.

Mr. Tucker continued saying that he wants the biggest takeaway to be that Electric is its own thing; it's independent of the general fund, independent of the tax rate, it is its own business.

At the next council session, there will be some budget amendments, including the upcoming land purchase, movement of some things from the capital fund and movement of the IT line items to pay one bill.

Council Member Gladden asked about rate stabilization monies. Town Manager Spitzer replied that we don't have that much money in rate stabilization. If the rates stay good, we'll still make profit there. As we pay down our debt, we should continue to be lower than Duke.

**ADJOURNMENT:** At 7:45 p.m. the meeting adjourned.

\_\_\_\_\_  
Jack Edwards, Mayor

**ATTEST:**

\_\_\_\_\_

Lisa Snyder, Town Clerk

**Mayor**  
Jack Edwards

**Mayor Pro Tem**  
Ed Samaha

**Town Manager**  
Ryan Spitzer



**Town Council**  
Les Gladden  
Amelia Stinson-Wesley  
Chris McDonough

**Town Clerk**  
Lisa Snyder

## BUDGET MEETING #4 APRIL 6, 2023

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Thursday, April 6, 2022 @ 5:55 p.m. The meeting was held at the Town Hall Council Chambers.

### ATTENDANCE

Mayor: Jack Edwards  
 Mayor Pro-Tem: Ed Samaha  
 Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough  
 Town Manager: Ryan Spitzer  
 Town Clerk: Lisa Snyder  
 Finance Director: Chris Tucker  
 Communications Director: Tammy Vachon  
 Electricities Director: David Lucore

Mayor Jack Edwards called the meeting to order at 5:55 pm. to cover Telephone and Electric.

Mr. Tucker welcomed everyone to Budget Session #4 and gave a brief recap of the previous meetings. He explained that Telephone and Electric revenues are what supports their operations. David Lucore is the only employee under the Electric fund. Other Town positions that have money coming out of Electric include Town Manager, Finance Director, HR, Accounting, Telecommunications Director, and CSRs.

The Electric Fund pressures are the systems expansion, the Electricities contract, the new substation, a new operations center, and cash position leverage.

Telecommunications Director Tammy Vachon began her budget presentation. She shared some highlights from this year, which include subscribers to the internet, which keeps them alive, and is their primary focus. Revenues increased 11% from last year.

NECA Wholesale Revenue increased from tariff rate increase combined with customers converting to fiber.

Revenue. Revenue increased by 40% for Budget FY 24 and will see an actual increase of 107% (+ \$234,800). Interest income is increasing, as well, for FY 24 (+\$59,000).

Ms. Vachon discussed DID (direct in dialing) and advised that it is declining for FY 24.

Expenses. The ILEC/CLEC transfer to cover CLEC operating Plant Under Construction contract increased \$225,326. Salaries increased in FY 23 + \$85,240 due to the salary study.



CLEC Overview. Internet revenues are increasing, and they are finding new ways to drive that line (increasing by \$155,800) for FY 23.

Expenses. The cost allocation handshake increased work in the CLEC is based on FY 22 and FY 23 trends. DSL service expense (+\$119,776). Access Expense increased due to subscriber count and infrastructure access (+\$26,400).

FY 24 Budget Request Summary: They have \$348,460 left after covering operating expenses. They may have to transfer \$501,166 out of ILEC to cover the CLEC loss. CLEC shortfall for operating is \$180,126. She noted that CLEC owns nothing and ILEC owns everything.

Ms. Vachon introduced the new voiceover IP Switch and explained that it's all digital with lots of changes coming.

ILEC covers inside the bridges and includes the Mill area and Polk Street and Preston Park, while CLEC covers everything outside of the bridges, including the areas of Carolina Crossing, McCullough, Huntley Glenn, Dorchester, Chadwick Park, the Mall area, Downs Road, and Charleston Row.

<u>Plant under construction projects:</u>	<u>Cost:</u>
Industrial Park 1 and 2	\$150,500
Water Oak Rebuilt Phase 1	\$135,500
Customer FTTH growth	\$125,000
ILEC Total:	\$411,000

Department Goals FY24: Ms. Vachon plans for increased business subscribers, an increase in business revenue with fiber network conversions, implementing advanced payment options capabilities, and continued conversion of residential ILEC neighborhoods. They are also updating the cost allocation between ILEC and CLEC as they implement new technology and the billing software.

Future plans to continue growth. Collaborate with the Parks and Rec department, direct target marketing to new fiber neighborhoods, looking for ways to support small businesses, utilizing their bilingual staff to attract and support new subscribers, nurturing current electric customers to gain market share and keeping network secure and product on infrastructure.

Council Member Les Gladden asked if the installation guys have a cheat sheet that they leave with new customers with phone numbers, etc.? Ms. Vachon replied that she is working on that, but nothing that they hand out at this time. She did state that their customers do call her office. Ms. Vachon summarized that she feels that her people do it better than their competitors and is proud of her team.

Electricities. David Lucore, Electricities Systems Manager, presented his budget for FY 24 and reviewed FY 23 highlights: Carolina Logistics Park, Main Street, McCullough Phase 1, Town Hall building, AMR meters, and 540 Main Street townhomes.

Capital improvement recommendations include construction of temporary Electric and PCS field offices (\$500,000), purchase land for a new substation (\$500,000), new substation construction (\$4,500,000), construct new Electric and PCS operations facility (\$14.5 million), and extend new circuits from the new substation (\$800,000).

<u>Major capital projects for FY 24:</u>	<u>Cost:</u>
Miller Farm substation	\$250,000
Carolina Village townhomes	\$150,000

Coventry townhomes	\$150,000
Distribution State line extension	\$100,000
Asset pole replacement	\$150,000

Other projects for FY24 to include retail rate review (\$35,000), industrial Drive line extension (\$100,000), Lighting projects (\$60,000), utility line burial (\$478,800), and replace a vehicle one-line truck (\$325,000).

Mr. Lucore outlined the FY23 budget compared to FY24 and compared the projections. FY23 was projected at \$681,047 and FY24 is projected at \$840,287. He highlighted the FY24 projections and expects a 4.26% decrease in the power cost.

He continued to outline the potential wholesale cost reduction in future years:

FY24	5 decreases
FY25	5 decreases
FY26	5 decreases
FY27	2 increases
FY28	2 increases

The net increase/decrease is \$922,363.45.

Mr. Lucore presented a new substation update and advised that several properties were reviewed. He has made a request to Duke Energy to connect to their 44K transmission line.

New Electric and PCS facility. They have received seen RFQ's from architecture firms and reviewed a possible optimistic timeline. They are planning to locate construction trailers to vacant land on Dover Street behind the old Town Hall.

Town Manager Ryan Spitzer added that two customer satisfaction surveys were done, and younger people want to pay online and monitor their usage and adjust it accordingly. He also noted that we cannot spend any General Fund dollars on PCS or Electric.

Finance Director Chris Tucker summarized and added that the challenge on debt will be collateralization.

Council Member Amelia Stinson-Wesley asked if Electricities would do more messaging to the people who consume the electricity and be more visible? Mr. Lucore replied that they are working on that. Ms. Vachon added that her Customer Service Representatives do that, as well, including the billing stuffers. Town Manager Spitzer also added that Electricities has some templates we can use and put our name on them. He also has some spreadsheets that will have all the numbers and he will provide to Council within the week.

**ADJOURNMENT:** At 7:45 p.m. the meeting adjourned.

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Jack Edwards, Mayor

**ATTEST:**

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Lisa Snyder, Town Clerk

**Mayor**  
Jack Edwards

**Mayor Pro Tem**  
Ed Samaha

**Town Manager**  
Ryan Spitzer



**Town Council**  
Les Gladden  
Amelia Stinson-Wesley  
Chris McDonough

**Town Clerk**  
Lisa Snyder

**BUDGET MEETING #5**  
**APRIL 27, 2023**

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Thursday, April 27, 2022 @ 6:00 p.m. The meeting was held at the Town Hall Council Chambers.

**ATTENDANCE**

Mayor: Jack Edwards  
Mayor Pro-Tem: Ed Samaha  
Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough  
Town Manager: Ryan Spitzer  
Town Clerk: Lisa Snyder  
Finance Director: Chris Tucker  
Police Chief: Michael Hudgins  
Fire Chief: Mike Gerin

Mayor Jack Edwards called the meeting to order at 6:00 pm. to cover Public Safety.

Mr. Tucker welcomed everyone to Budget Session #5 and gave a brief recap of the previous meetings. He explained that Public Safety takes up 50 cents of every dollar from the budget.

**Fire Department Budget.** (Chief Mike Gerin) Chief Gerin gave his budget presentation and began by breaking down his budget by wants and needs with Council.

Line-Item additions: recurring subscriptions:

Turnout Gear increase: \$130,000 split into two years. Average cost of \$6,178 for coats, pants, helmets, and boots. The goal is to split the \$130,000 in half – one half this year and one-half next year.

SCBA Bottles: They recommend we split this cost over two years. 35 bottles are going to expire soon. New cylinders are \$1,100 each. Aged Cylinders are \$800 each, offering a \$300 savings each. They are 10-12 months old and there are 118 available. Town Manager Spitzer noted that the new cylinders are currently in the budget.

Four Gas Meters: What they have now are 12-13 years old. Total cost is \$13,000. Replace meters on engines, tower, and rescue (are all needed this year).

Replacement of Squad 12: 1500 SSV (similar to recently purchased Car 3). The cost is \$67,112.84 or a 2500 HD is \$77,350.25. Both include new radio, camper shell, lights package, minus slide out tray, which is approximately \$1,500.00. The difference is the size of the truck. Manager Spitzer noted that these numbers are not in the current budget.

Mayor Pro Tem Ed Samaha asked what the life of these trucks is, and the Chief replied it is about ten years.

Pay Increase: Last pay increase was last year. He is asking for an increase of \$50,000.00 for the Fire Chief. \$45,000.00 for the Deputy Fire Chief. Hourly employees: Assistant Chiefs at \$25.00/hour, Officers at \$22.00/hour and Firefighters at \$20.00/hour. The goal is to get Jason's salary up to a salary position as their administrative duties and roles are increasing.

Council Member Amelia Stinson-Wesley asked to see his research on the comps and thought that information would be helpful. Town of Matthews numbers are much higher. The Deputy Chief in Huntersville makes \$75,000.00.

Uniforms: He's never bought uniforms here. We have to start outfitting our people, other than t-shirts. Estimate \$10,000.00.

Thermal Imaging Camera replacement: \$17,500 asking for 5. Replace the engines, tower, and rescue. Currently applying for a grant through Firehouse Subs.

Recurring Subscriptions: \$14,610.00 Total. When to Work - \$400.00, First Due - \$5,400.00, Emergency Reporting - \$4,000.00. First Arriving - \$1,000.00, Active 911 - \$810.00, NCSFA - \$3,000.00 (approximately).

Medic has provided two tablets to use with the County, but he doesn't know if they'll provide more.

Mayor Pro Tem Ed Samaha asked to see the budget line items and Manager Spitzer displayed the overall budget.

**Police Department Budget.** (Chief Hudgens) Chief introduced their vision & mission statement for the Pineville Police Department. He reviewed the FY 2023 goals and outcomes. Crime rate is basically the same; property crime rate is down 13%.

FY 2024 goals: Complete 15% of strategies in the Police Department criteria. Engaged/strategic management plan. Reduce crime at the mall. Reduce traffic accidents by 5%.

Police Department Critical Issues: 11 Officers left the department since January 2022. Department plans/needs to fill five sworn positions by July 1, 2023. They recently lost two potential recruit candidates at CPCC to police departments that offer sign-on bonuses. National Issues for retaining and hiring: 40% more resignations than 2019.

Salaries: Chief wants to focus on retention and recruitment. He wants to start officers at \$50,000.00 and telecommunicators at \$41,000.00. We are ranked number 9 out of 10 for salaries in the area. Telecommunications is ranked #5 out of 7 for the area.

Retention: Chief wants to expand our incentives package. He is requesting across-the-board COLA to compensate for inflation rates. He would like to add a sergeant position to focus on recruitment, retention and career development, and training.

Council Member Les Gladden recommended a longevity bonus after a period of time. He also suggested offering incentives for attaining training certifications through the state. It is cheaper to retain employees rather than to hire new people.

Additional Sergeant's position would have approximate costs of \$129,367.00. Council Member Les Gladden asked about hire-back for retired employees. Chief answered that he has one retiring this fall that will return to do background

checks. Both Council Member Les Gladden and Mayor Pro Tem Ed Samaha said we need to stay in the middle, or higher, to be competitive.

Salary Line Items:

Increase overtime budget = \$32,800.00  
 Combine FTO and CTO lines into one category and increase funding = \$12,000.00  
 Telephone and postage increase (with AT&T) = \$19,000.00  
 Paint hallways with washable paint = \$8,300.00  
 Tower climb increased = \$4,600.00  
 High Gas Prices = \$70,000.00  
 Special operations for covert funds = \$3,000.00  
 Police Dog = \$4,000.00 (veterinarian costs)  
 Uniforms = \$8,000.00 (replace expired vests that are not in the budget)

Contract Services:

Livescan \$1,000.00 (partnership with Stallings and Mint Hill)  
 Archive Social (archives social media) = \$600.00  
 Axon-in-car cameras = \$30,560.00 (\$14,105.00 will come out of ETS funds)  
 Callio Services = \$5,000.00 (recording service)  
 Move to Grey Key and away from Cellebrite - \$3,500.00

Asset Forfeiture Expenses:

Supplement travel training - \$44,000.00  
 Supplement maintenance & repair of building expenses: \$7,604.24  
 Supplement Quiet Room (for 911 operators) \$4,000.00  
 Supplement three-sided shed - \$6,400.00  
 Supplement TV Monitors in 911 area - \$1,500.00  
 Supplement advertising (recruiting, handouts & giveaways) - \$12,000.00  
 Supplement Department supplies (ammo) - \$33,460.00  
 Supplement department supplies (flashlights, targets, PRE batteries for optics) \$22,000.00  
 Department supplies (less lethal monitors - \$21,000.00  
 Force on Force equipment and training - \$15,000.00  
 Six new AED's (others are obsolete) - \$11,500.00  
 Crime prevention - \$9,000.00  
 Class A Uniforms - \$14,000.00  
 Lexipol Contract - \$29,672.80  
 Peer Support - \$10,000.00  
 Supplement dues and subscriptions - \$2,500.00  
 New phone system for Police Headquarters - \$21,000.00

Capital Projects:

Replace HVAC & controls - \$329,123.00 (Not currently in the budget)  
 Replace Harris Radio System - \$4,850,217 (this is a huge issue)

Costs can be broken down and spread over five years with Motorola:  
 \$879,776 per year for 5 years

\$291,216 per year for maintenance.

Finance Director Chris tucker summarized with a spreadsheet of actual & projected budget figures.

Next Step: Tomorrow will send managers recommended budget and his budget message, which will include the tax rate. The budget ordinance will follow, as well as a fee schedule.

Must allow public ten days to review it for the May 9<sup>th</sup> Council meeting. We will meet again on Tuesday, May 2<sup>nd</sup>, to review/discuss the managers recommendations. Beyond May 9<sup>th</sup>, we can have more workshops, if they are needed.

Council Member Les Gladden thought we might be able to get a FEMA grant. He'd like to see all of the non-essentials for every department (the wants vs. the needs).

Council Member Chris McDonough moved to end the budget meeting and Council Member Les Gladden seconded the motion.

**ADJOURNMENT:** At 8:30 p.m. the meeting adjourned.

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Jack Edwards, Mayor

**ATTEST:**

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Lisa Snyder, Town Clerk

**Mayor**  
Jack Edwards

**Mayor Pro Tem**  
Ed Samaha

**Town Manager**  
Ryan Spitzer



**Town Council**  
Les Gladden  
Amelia Stinson-Wesley  
Chris McDonough

**Town Clerk**  
Lisa Snyder

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**BUDGET MEETING #6**  
**MAY 2, 2023**

The Town Council of the Town of Pineville, NC, met in a Budget Workshop on Thursday, May 2, 2023, at 6:00 p.m. The meeting was held at the Town Hall Council Chambers.

**ATTENDANCE**

Mayor: Jack Edwards  
 Mayor Pro-Tem: Ed Samaha  
 Council Members: Amelia Stinson-Wesley, Les Gladden and Chris McDonough  
 Town Manager: Ryan Spitzer  
 Town Clerk: Lisa Snyder  
 Finance Director: Chris Tucker

Mayor Jack Edwards called the meeting to order at 6:00 pm.

Mr. Tucker welcomed everyone to Budget Session #6 and gave a brief recap of the previous discussions. He said that we really want to concentrate our efforts on bringing our general fund together and what tax rate we want to support and what level of service we want to provide.

There were two big things that don't fit very easily in the budget (the HVAC and the rates). We had a pivot on Friday and Mr. Tucker asked Council to please ask questions. Our target is our public hearing at our June 13<sup>th</sup> council meeting. Ten days prior to that we have to have the budget available for viewing in the Clerk's office and on the Town's website. Town Manager Spitzer added that we also have to advertise what council wants our tax rate to be and our revenue neutral is.

In the current budget, there are two new positions. One is for Stormwater Tech, and one is half a year for a Training Sergeant. There is also 8% COLA with 2.5% merit. Last year we did a 3% COLA and 2.5% merit. People around us did more than that, so this 8% really reflects us trying to catch up. As part of the 8% COLA, we are working with a compensation person, remove the first grade of the PD steps to make the starting pay comparable to other localities. There was general discussion on the steps involved.

Mr. Spitzer has had discussions with department heads about non-budget benefits that we can give our employees that won't tax our budget, and they stated that having the day off for their birthday, and some time off rewarded if they haven't called in sick each quarter, or some period of time.

Tax rate .245 is revenue neutral and we are at .33 now. Each penny that we talk about is \$365,000. Mr. Spitzer reviewed line items within the department's budgets that could be cut.



Council Member Les Gladden thinks we're doing a good job of getting grants. Mr. Spitzer will be talking to someone who has a lot of experience obtaining grants; however, she will get a percentage if the grant is approved. We are using Jordan Williams as our pseudo liaison to talk to downtown merchants. It's not a true downtown person that can get the merchants together and working on the same page. When he attended the NCLM Conference recently, he discovered that 98% of downtown programs are run by the downtown locale.

Mr. Spitzer reviewed areas where we can save money. He also reviewed council topics, including having a lawyer present at each meeting and other miscellaneous items.

Asset forfeiture (Police Department). Council Member Gladden feels that we can't keep taking large portions of money out of this fund or we will run out of money. The increase he's requesting for training and travel is exorbitant. He went from \$19,000 to \$79,000. That's a \$60,000 increase from last year. He feels that a lot of what he requested are wants vs needs. Mr. Spitzer reminded council that this affects the asset forfeiture fund not the general fund. There was general discussion on asset forfeiture.

Mr. Spitzer said that Council Member Stinson-Wesley wants to discuss having a lawyer at every meeting. Currently we do not do that. The hourly rate is \$255 per hour. For two meetings, six hours of time equals about ten hours per month times twelve months comes to \$130,000 annually. The State Code requires having one attorney as your dedicated attorney. In 2015, council selected Janelle. If council wants to get an attorney for each meeting, they should probably stick with one for all matters. We're budgeting \$100,000 annually right now. Janelle's expertise is general advice and employment law. Scott McClatchy only does police work.

The Town Manager cannot hire the attorney; Council has to hire an attorney. They would not have to reappoint each year if they use the same one. Attorneys work for the pleasure of the Board. Dealing with one attorney would be easier and would be beneficial to the Town. The attorney would not be an employee of the Town. Council can do an RFQ or they can interview candidates. Attorneys can be paid hourly or by a retainer. Mr. Spitzer will start working on this and build a number in the budget.

Finance Director Chris Tucker discussed the tax rate presented ranging from 0.245 to 0.33. Everything that's been presented so far can be supported by 0.28 tax rate, or 0.275, if we cut out things. As a side note, there's not a lot that can be cut on the operations side. Capital is the only place to get a bigger chunks of money, but we might have to start cutting into the "needs" stuff. He asked Council what their tax rate ceiling is? He added that we have a healthy fund balance for a town this size.

Town Manager Spitzer added that when the new Fire Department hits, we'll need to be at about 0.32. He made the comparison that Huntersville's penny is a million dollars, or three times what ours is, and Cornelius' is based on several million-dollar homes that their tax rate is based upon. Council Member Gladden feels that we have not worked hard enough to say "no." We have been spoiled for several years. We cannot be scared to say "no."

Mr. Spitzer continued by adding that we are still expecting to receive approximately \$6 million more dollars between the Mill property and the downtown.

Salaries were discussed. Mayor Edwards would rather give the firefighters money and take care of the guys who are working the calls all the time. Council is agreeable with giving Klem \$2.00 per hour, but not the \$45,000 salary.

Town Manager Spitzer recapped:

- 0.285 % tax rate
- Pay for HVAC system with cuts from the PD
- Look for where to get money for the 911 system

- Look for \$200,000 to start putting in future debt
- Adding \$30,000 to the budget for an attorney

Finance Director Tucker said the next step is to have the Budget hearing in June. Our goal is to have the budget ready for the Work Session at the end of the month.

Mayor Pro Tem Ed Samaha moved to end the budget meeting and Council Member Chris McDonough seconded the motion. All ayes.

**ADJOURNMENT:** At 8:20 p.m. the meeting adjourned.

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Jack Edwards, Mayor

**ATTEST:**

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Lisa Snyder, Town Clerk



**TOWN COUNCIL REGULAR MEETING**  
**TOWN HALL COUNCIL CHAMBERS**  
**TUESDAY, JUNE 13, 2022, AT 6:30 PM**

## MINUTES

### CALL TO ORDER

Mayor Jack Edwards called the meeting to order @ 6:30 pm.

Mayor: Jack Edwards  
 Mayor Pro Tem: Ed Samaha  
 Council Members: Amelia Stinson-Wesley, Chris McDonough, Les Gladden  
 Town Manager: Ryan Spitzer  
 Town Clerk: Lisa Snyder  
 Finance Director: Chris Tucker  
 Planning & Zoning Director: Travis Morgan

### PLEDGE ALLEGIANCE TO THE FLAG

Town Manager Ryan Spitzer led everyone in the Pledge of Allegiance.

### MOMENT OF SILENCE

Mayor Jack Edwards asked for a moment of silence for Mike Yocum, who grew up in Pineville, and his family. Please remember our firemen, policemen and military who serve us each and every day. Give them a hug if you see them and listen to their stories.

### ADOPTION OF AGENDA

Mayor Pro Tem Ed Samaha made a motion to accept the agenda as presented, with a second made by Council Member Chris McDonough. All ayes. (**Approved 4-0**).

### APPROVAL OF MINUTES

The Minutes of the Town Council Meeting on May 9, 2023, Council meeting and the Work Session on May 22, 2023, were submitted for approval. Council Member Les Gladden moved to approve the minutes with a second made by Council Member Chris McDonough. All Ayes. (**Approved 4-0**)

### CONSENT AGENDA

The Consent Agenda consisted of one item, the Finance Report, and was approved by a motion made by Council Member Amelia Stinson-Wesley, with a second made by Council Member McDonough. All ayes. (**Approved 4-0**)

### BOARD REPORTS & PUBLIC COMMENT

Mayor Edwards gave reports on the boards that he is representing, which include Electricities, CRTPO and MTC. These are all for elected officials. Electricities is a coop. They have not had a price increase in ten years. Electricities runs our day-to-day operations. There are nineteen communities, an eastern portion, and a western portion. Public Power is the best thing

you can do. MTC, Metropolitan Transit, is the buses, your blue line; right now, they're in a state of siege. They lost their CFO and are basically rebuilding their organization. CRTPO is the money that does the roads, sidewalks, and bikeways. The money that is given to Mecklenburg is the largest consumer of North Carolina Department of Transportation. More happens here than the rest of the state. Last year they did not vote on the budget because the NCDOT cancelled \$37 billion in projects and the money. The State is trying to come up with a different way of funding the NCDOT. There are over \$500 billion dollars in projects in the State of North Carolina. The road realignment came from CRTPO. We're getting some of the funds.

## PUBLIC HEARING

Mayor Pro Tem Ed Samaha moved to open the Public Hearing with a second made by Council Member Les Gladden. All ayes.

Town Manager Spitzer reviewed the overall budget for FY 23-24. He and Finance Director, Chris Tucker, met with the department heads to forecast revenues, look at projects and the operational needs for each department. Several budget workshops were held with council members in March and April. Fund Accounting Principles guide the budget for the various departments.

Budget impacts for FY 23-24 include revaluation, two new positions, employee COLA and benefits and the current debt for Town Hall. Each penny earned in the town equals \$365,000. All accounts combined equal \$36,381,972. Over half of the town's revenue comes from real estate and sales taxes.

Mr. Spitzer outlined expenses which include the paving of Industrial Drive, \$2 million in capital expenditures planned, complete Park design, two new positions, pay increases for paid volunteers and 8% COLA.

Sponsorship funding was outlined as follows: \$40,000 for sponsorships with \$8,000 for the James K Polk site; \$10,000 to PCAA; \$14,000 to Pineville Neighbors Place; \$8,000 to Downtown Merchants. In addition, \$23,000 has been set aside for the Arts & Science program and Pineville Players to do two plays per year. The \$23,000 will be monitored by Pineville Parks and Recreation department.

The CIP account was reviewed. There will be no electric rate increase this year. This is the tenth year that we have not had an increase. Some of the capital projects outlined include pole replacement, utility line burial and a line truck.

Future budget pressures outlined include a new fire station, radios for the police department, parks and recreation, salaries, pedestrian safety, a new substation, a new building for the electric company and competition with PCS.

In conclusion, the budget is balanced, with increased emphasis on salaries and combating inflation. No rate increases for electric or PCS. The tax rate will be 0.285.

Mayor Pro Tem Samaha moved to leave the public hearing with a second made by Council Member Stinson-Wesley. All ayes.

## OLD BUSINESS

Carolina Logistics Park Amendment. Planning & Zoning Director Travis Morgan reviewed the initial proposal with council. The proposal is to add a new driveway access along the north portion of the property just north of Eagleton Downs and across from the SiteOne located at 11901 Downs Road. Discussion was around future town facilities to serve the area for public safety that we discussed at the last meeting. The developer, Beacon, was agreeable to future discussions of needs for the property for these facilities. Council Member Gladden inquired about tractor trailer turn lane stacking plus 140 feet of the deceleration lane for northbound left turns. For southbound right turns, 100 feet of stacking plus 183 feet of deceleration have been added. Mr. Morgan provided report notes: 1. Traffic improvements as shown, are completed with NCDOT approval and prior to building 8D's completion; 2. Outdoor storage by building 8D along Downs Road frontage improved, as discussed for evergreen screen hedges; 3. Any additional signage to meet zoning ordinance; 4. If the four buildings of building 8 are subdivided, they are not to create a land-locked parcel and otherwise meet subdivision ordinance; 5. Buildings have clear address numbers on the walls and street addresses for four building comprising building 8; 6. Proposal was deemed consistent with adopted plans and policies.

Council Member Gladden moved to approve the amendment with a second made by Council Member Stinson-Wesley. All ayes. (**Approved 4-0**)

## NEW BUSINESS

Budget Amendment 2023-15, for general land purchase, was presented by Finance Director, Chris Tucker. Council Member Stinson-Wesley moved to approve with a second made by Mayor Pro Tem Samaha. All ayes. **(Approved 4-0)**

Budget Amendment 2023-16, ARPA Special Revenues Fund, was presented by Mr. Tucker. Mayor Pro Tem Samaha moved to approve with a second made by Council Member Gladden. All ayes. **(Approved 4-0)**

Budget Amendment 2023-17, for General Government/Fire Operations, was also presented by Mr. Tucker. Council Member McDonough moved to approve with a second made by Council Member Stinson-Wesley. All ayes. **(Approved 4-0)**

Budget Amendment 2023-18, for CLEC operations, was presented by Mr. Tucker. Council Member Gladden moved to approve with a second made by Council Member McDonough. All ayes. **(Approved 4-0)**

Budget Amendment 2023-19, to create a General Fund Debt Service, was presented by Mr. Tucker. Council Member Stinson-Wesley moved to approve with a second made by Council Member McDonough. All ayes. **(Approved 4-0)**

Budget Amendment 2023-20, to close out the dog park capital project fund, was also presented by Mr. Tucker. Council Member Gladden moved to approve with a second made by Council Member Stinson-Wesley. All ayes. **(Approved 4-0)**

**Adoption of FY 23-24 Budget.** A motion was made to approve the budget by Council Member Gladden and followed with a second made by Council Member Stinson-Wesley. All ayes. **(Approved 4-0)**

**REC Program.** Town Manager Spitzer said that some of the property is contaminated at the Grower's Outlet. The Fire Department will not be impacted; however, some soil cleanup will be needed. The Brownfield Program would take two to three years. The REC Program would take nine to twelve months to get through and we can clean up at our own pace. Going with REC should not hold up the development of this project. Mr. Spitzer recommends subdividing the area and doing them simultaneously.

Council Member Gladden moved to approve the REC program process by subdividing the property, retaining a consultant for REC, having a consultant prepare and submit Site Conditions Questionnaire for acceptance into REC, execute an Administrative agreement with DEQ if accepted into the program and pay preliminary fees, and have consultant prepare Remedial Investigation Work Plan to further delineate extent of contamination in soil and groundwater and have approved, with a second made by Council Member McDonough. All ayes. **(Approved 4-0)**

**Manager's Report.** Mr. Spitzer reported that we will be having our first "Music on Main" this Friday night in front of Town Hall from 6:00 to 8:00 pm. Last Friday Parks and Rec night's Rockin and Reelin' was very successful. There will be a 5K race this Saturday, from 8:00 to 9:00 am. Parks and Rec Director Matt Jakubowski will be placing door hangers on the doors of residents to let them know about the event. We will have police in the area directing traffic.

Council Member Gladden added that we need to make contact with the county to tell them to shut off the part off Lynnwood, on the lower end, and up to Lakeview.

On June 29<sup>th</sup>, the symphony is scheduled with fireworks afterward. Parks and Rec will send out flyers to the neighborhood closer to the event.

Mayor Edwards announced a five-minute recess before going into Closed Session pursuant to NCGS 143-318-11(5) – negotiating contracts.

Council Member Stinson-Wesley moved to go into Closed Session with a second made by Council Member McDonough. All ayes.

Mayor Pro Tem Samaha made a motion to leave closed session with a second made by Council Member Stinson-Wesley. All ayes.

Mayor Pro Tem Samaha moved to enter the second Closed Session with a second made by Council Member McDonough. All ayes.

Mayor Pro Tem Samaha moved to leave the second Closed Session with Council Member Stinson-Wesley providing a second. All ayes.

**ADJOURNMENT**

Council Member Stinson-Wesley made a motion to adjourn followed by a second made by Mayor Pro Tem Samaha.

**(Approved 4-0)** The meeting was adjourned at 8:55 pm.

\_\_\_\_\_  
**Jack Edwards**

**ATTEST:** \_\_\_\_\_  
**Lisa Snyder, Town Clerk**



**WORK SESSION MINUTES  
MONDAY JUNE 26, 2023 @ 6:00 PM  
TOWN HALL COUNCIL CHAMBERS**

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The Town Council of the Town of Pineville, NC, met in a Work Session on Monday, June 26, 2023 @ 6:00 p.m.

**ATTENDANCE**

Mayor Pro-Tem: Ed Samaha  
 Council Members: Amelia Stinson Wesley, Les Gladden & Chris McDonough  
 Town Manager: Ryan Spitzer  
 Planning & Zoning Director: Travis Morgan  
 Town Clerk: Lisa Snyder

Absent: Mayor: Jack Edwards

**CALL TO ORDER**

Mayor Pro Tem Ed Samaha called the meeting to order at 6:03 p.m. Council Member Amelia Stinson-Wesley moved to open the Work Session meeting followed by a second from Council Member Chris McDonough. All ayes.

**DISCUSSION ITEMS:**

**Text Amendment (Travis Morgan).** Planning & Zoning Director Travis Morgan stated that the request comes from Attorney Sarah Ghannam on behalf of Ryan Khalil, of Backyard Brew, and proposes a text amendment to the Pineville Zoning Ordinance. The proposal seeks to amend the ordinance to allow food trucks to be permitted year-round, which is a change from the current 56 days that are allowed. This is a follow-up of the Board of Adjustment case that was heard on March 23 of this year.

Attorney Sarah Ghannam addressed council and shared her views on the current ordinance. She stated that she finds the language is unclear and ambiguous. She shared that there is currently a lawsuit in Jacksonville, NC from an organization that is trying to seek justice for food trucks. It states that they are prioritizing brick and mortar restaurants over mobile food vendors. She wants Pineville to recognize their existence.

Council Member Les Gladden responded that in the past food trucks were permitted within our regulation provided that food trucks follow the requirements. He asked if Attorney Ghannam's client owns the property, why don't they build a building to sell coffee? They aren't paying taxes like other businesses who have opened a building and they're paying taxes. Mayor Pro Tem Samaha and Council Member Stinson-Wesley concurred. They must follow regulations. Council Member Gladden continued saying that her client was not paying any taxes. They were using our roads, our police and fire department, but without paying anything to the town.

Mayor Pro Tem Samaha further stated that her client never came to the Town and asked questions. He believes that she is interpreting the ordinance differently.

Council Member Gladden replied that the definition of a food truck is a pop-up, and her client was in violation from day one. Attorney Ghannam stated her belief that the ordinance wasn't clear. Her clients moved to another location, and she feels that food trucks are becoming more popular and that other towns are doing this.

Planning & Zoning Director Morgan disagreed on her interpretation that the ordinance was unclear. The ordinance states that it's one or the other. It's temporary or permanent. Food trucks currently need to meet temporary short-term provisions or more extensive permanent improvements. It is not ambiguous. It's the business owner's responsibility to check with Planning & Zoning on the requirements. Council Member Gladden stated that the issue is not with the food truck, but rather, with the property and length of time requested without any zoning compliance. Mr. Morgan advised that he would look at what other towns are doing and see if we can make the ordinance clearer and post in the questions and answers section of our website.

**Coventry Lot Line (Travis Morgan).** Mr. Morgan stated that this is the former Baynard property at the corner of Downs Circle and Highway 51. The development is now called Coventry by Stanley Martin. Ron Willing, of Stanley Martin, requests council's consideration to adjust the lot lines between the townhome community and the commercial/industrial property to the north. As part of the driveway approval, NCDOT required a slight distance easement across the commercial/industrial property in question, located at 12616 Downs Road currently owned by Yoshino properties. In exchange for the easement, the amount of property is to be deeded over to Yoshino properties. Since the property line is also the zoning line, a rezoning of the portion of property is needed.

Mr. Morgan replied to general questions from council that everything is up-to-date, and all property owners are on board, and he has no concerns. It is just an informational meeting. The next step will be a public hearing and send out notices to everyone.

**Social District (Sarah Longstreet, Carolina Scoops).** Sarah Longstreet, owner of Carolina Scoops, presented a proposed Social District for downtown Pineville. There are 25 municipalities that have established social districts in their town. Benefits include boosting revitalization, driving foot traffic to our small businesses, boosting socialization at our community events. Local businesses can opt in/opt out. Council Member Gladden asked if it would change liabilities for each business. Ms. Longstreet replied that the businesses will have to look at their insurance.

Council Member Gladden stated that our priority needs to be slowing down the traffic and stopping speeding before we consider a social district or promoting downtown. It needs to get under control daily and not monthly. There was general discussion among council members regarding speeding. Ms. Longstreet concurred that it's definitely a problem and concern.

Town Manager Ryan Spitzer added that this is the initial draft. Planning & Zoning Director Morgan said that he can come up with an ordinance for this. Ms. Longstreet stated that she conducted a survey and 90% were in support of a social district. We could start out with one district and look into expanding at a later time.

Council Member Stinson-Wesley said that signage would need to be set up at the bridge going to McCullough indicating that they are leaving the social district. Town Manager Spitzer advised that the next step would be to set up a small committee and present an ordinance to council for approval.

Council Member Stinson-Wesley moved to adjourn the meeting followed by a second made by Council Member McDonogh. Mayor Pro Tem Samaha adjourned the meeting at 7:45 pm.

\_\_\_\_\_  
Ed Samaha, Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
Lisa Snyder, Town Clerk





**RESOLUTION NO. 2023-08**

**RESOLUTION OF TOWN OF PINEVILLE UPDATING THE CHARLOTTE REGIONAL TRANSPORTATION ORGANIZATION’S VOTING STRUCTURE**

**WHEREAS**, the Charlotte Regional Transportation Planning Organization (CRTPO) is responsible for transportation planning for the region; and

**WHEREAS**, CRTPO may revisit, amend (if desired), and re-ratify its memorandum of understanding (MOU), including the current voting structure (the redesignation process); and

**WHEREAS**, CRTPO currently uses a weighted voting structure with Charlotte’s vote counting for 46% of the total; and

**WHEREAS**, Charlotte’s vote is 15.5 times larger than the second largest voting entity; and

**WHEREAS**, the remainder of North Carolina MPOs have a form of unweighted voting structure (i.e., every vote counts equally); and

**WHEREAS**, nationally, there are many examples of equal voting structures for large metropolitan areas, such as Atlanta, that should be considered as models that CRTPO should evaluate; and

**WHEREAS**, with an equal voting structure, it encourages data driven decisions for transportation projects.

**NOW, THEREFORE, IT IS RESOLVED**, that the Town of Pineville finds the current CTPO weighted voting structure is an impediment to regional governance, and it is the position of the Town of Pineville that, CRTPO should adopt an unweighted voting structure where every municipal entity’s vote is counted equally.

**APPROVED** this \_\_\_\_\_day of July 2023.

\_\_\_\_\_  
Mayor Jack Edwards

ATTEST:

\_\_\_\_\_  
Town Clerk Lisa Snyder



**RESOLUTION NO. 2023-07**

**RESOLUTION OF THE TOWN OF PINEVILLE, NORTH CAROLINA DECLARING SURPLUS ITEMS FOR SALE VIA ELECTRONIC AUCTION AND/OR DISPOSAL VIA DONATION OR RECYCLE**

**WHEREAS**, G.S 160A-265 authorizes the Town Council to dispose of surplus property and G.S.160A-270 (c) authorizes the sale of surplus property by means of electronic auction; and

**WHEREAS**, the Town Manager, along with Department Heads, have declared surplus and unusable personal property as listed in “Exhibit A”;

**NOW, THEREFORE BE IT RESOLVED**, that the Mayor and Town Council hereby authorize the Town Manager to dispose of some of the listed items by utilizing the on-line internet auction services of Public Surplus and/or Gov Deals and the Town Clerk to dispose of other surplus items via donation or recycling of such items. The Town Manager and Town Clerk shall have the right to add or delete from the properties listed and any items not sold may be disposed of by any others means available, including sale at public auction, donation to non-profit organization, or destruction, whichever is deemed to be in the best interest of the Town.

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

ATTEST:

SEAL:

\_\_\_\_\_  
Jack Edwards, Mayor

\_\_\_\_\_  
Lisa Snyder, Town Clerk

**EXHIBIT "A"**

Surplus Property for Auction, Donation, Recycling, Destruction, Sale

**Surplus Items**

Dept.	Item/Desc/VIN#	Make/Model	Misc.	How Disposed	Eff. Date	Miles
Admin	Large grey double-door electronic vault			Online Auction	7/01/23	
Admin	Filing cabinets (not in good working order)			Online Auction	7/01/23	
Public Works	4 metal 4-drawer filing cabinets			Online Auction	7/01/23	
Public Works	Phoenix Fire Safe	500 Series		Online Auction	7/01/23	
Public Works	Weider platinum weight bench		No weights, just bench	Online Auction	7/01/23	
Public Works	Stihl FS 90R Weed Eater			Online Auction	7/01/23	
Public Works	Stihl KM56RC Weed Eater			Online Auction	7/01/23	

# Memorandum



**To:** Mayor and Council  
**From:** Lisa Snyder  
**Date:** 7/11/2023  
**Re:** Proclamations for Parks and Rec Month and the Town's Sesquicentennial

---

Each year at this time, we like to recognize certain employees for the work that they do, including our Parks and Recreation Department.

## **NATIONAL PARKS AND RECREATION MONTH**

Attached is a proclamation designating the month of July 2023 as National Parks and Recreation Month. As you know, the Pineville Parks and Recreation Department plays a vital role in bringing people together, providing essential services and fostering the growth of our community. This year's theme, "Where Community Grows" celebrates park and recreation professionals, as they make a positive impact on the lives of our community members every single day.

## **150<sup>th</sup> TOWN SESQUICENTENNIAL**

Attached is a proclamation announcing the Town of Pineville's 150<sup>th</sup> Anniversary of Incorporation. The General Assembly of North Carolina incorporated into a body politic and corporate by the name and style of the Town of Pineville and became officially incorporated on February 28, 1873 and is on file with the Secretary of State's Office.

# A Proclamation of the Town of Pineville, NC, designating July as Parks and Recreation Month

**WHEREAS** Parks and Recreation are an integral part of communities throughout this country, including the State of North Carolina; and

**WHEREAS** Parks and Recreation promotes health and wellness, improving the physical and mental health of people who live near parks; and

**WHEREAS** Parks and Recreation encourages physical activities by providing space for popular sports, hiking trails, swimming pools and many other activities designed to promote active lifestyles; and

**WHEREAS** Parks and Recreation programming and education activities, such as out-of-school time programming, youth sports and environmental education, are critical to childhood development; and

**WHEREAS** Parks and Recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

**WHEREAS** our parks and natural recreation areas ensure the ecological beauty of our state and provide a place for children and adults to connect with nature and recreate outdoors; and

**WHEREAS** local parks in our state generated over \$6 billion dollars in economic activity and provided over 37,000 jobs ranking NC as 10th in the nation; and

**WHEREAS** the U.S. House of Representatives has designated July as Parks and Recreation Month; and

**WHEREAS** the State of North Carolina recognizes the benefits derived from parks and recreation resources.

**NOW THEREFORE, BE IT RESOLVED** that July is recognized as Parks and Recreation Month in the State of North Carolina.

---

**Mayor Jack Edwards**



**A PROCLAMATION CELEBRATING THE 150<sup>TH</sup> ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF PINEVILLE, NORTH CAROLINA**

**WHEREAS**, 2023 marks the 150<sup>th</sup> anniversary of the incorporation of the Town of Pineville; and

**WHEREAS**, the Town of Pineville became known as Pineville, when in 1852, a railway came through Morrows Turnout, who built the sign painted on the building that read "Pineville"; and

**WHEREAS**, the Town of Pineville was incorporated on February 28, 1873; and

**WHEREAS**, the Town provides services, promotes equality, and protects the well-being of all residents and visitors to enhance our quality of life each day; and

**WHEREAS**, the Town of Pineville Town Council and Town Staff are thankful for citizens that are active and involved in the community; and

**WHEREAS**, as a thank you to the community for making Pineville a great place to live, work and play, an event to commemorate the 150<sup>th</sup> anniversary of Pineville will take place at the Pineville Fall Fest on October 19<sup>th</sup> through October 21<sup>st</sup>, 2023.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Town Council of the Town of Pineville, North Carolina, that we recognize and acknowledge our rich history and look forward to the future with hope for prosperity.

This Resolution shall be incorporated into the official Minutes of the Town of Pineville and shall be in full force and effect from and after this 11th day of July 2023.

\_\_\_\_\_  
Mayor Jack Edwards

ATTEST:

\_\_\_\_\_  
Town Clerk Lisa Snyder

# Memorandum



**To:** Mayor and Town Council  
**From:** Ryan Spitzer  
**Date:** 7/7/2023  
**Re:** Downtown Mixed-use and Apartment Development

---

## **Overview:**

The developer has previously submitted a plan for the downtown development. Town Council discussed the developer's proposal and voted on a motion to make the developer have 2.35 parking spaces per unit for buildings 2 and 3, as well as pave and stripe the town owned lot across the street for public parking, and to not allow compact spaces.

Recently the developer has sent an email to the Town stating that they cannot meet the specifications for 2.35 spaces per unit but are still interested in completing the development. They wanted to know if there was a compromise from what Council had voted on and what their initial plans had stated for parking at 1.65 spaces per unit.

Members of Council asked staff to work with the developer to come up with a negotiated compromise and present it to Council. The proposal is as follows:

The Town would sell the developer .6 acres of land that is adjacent to the development for \$500,000. This would allow the developer to build 350 spaces which would get the parking count to 2 spaces per unit for buildings 2 and 3. In the event that the Town can only sell a portion of the .6 acres to the developer, the developer will purchase the fraction of the .6 acres that is available and construct as many parking spaces as possible, and then pay the Town the remainder of the \$500,000 as a payment in lieu of parking spaces. If the Town cannot sell any of the .6 acres to the developer, then the developer will pay the town \$500,000 as a payment in lieu. Items 2 and 3 from the previous motion will stay the same.

## **Estimated Costs:**

## **Attachments:**

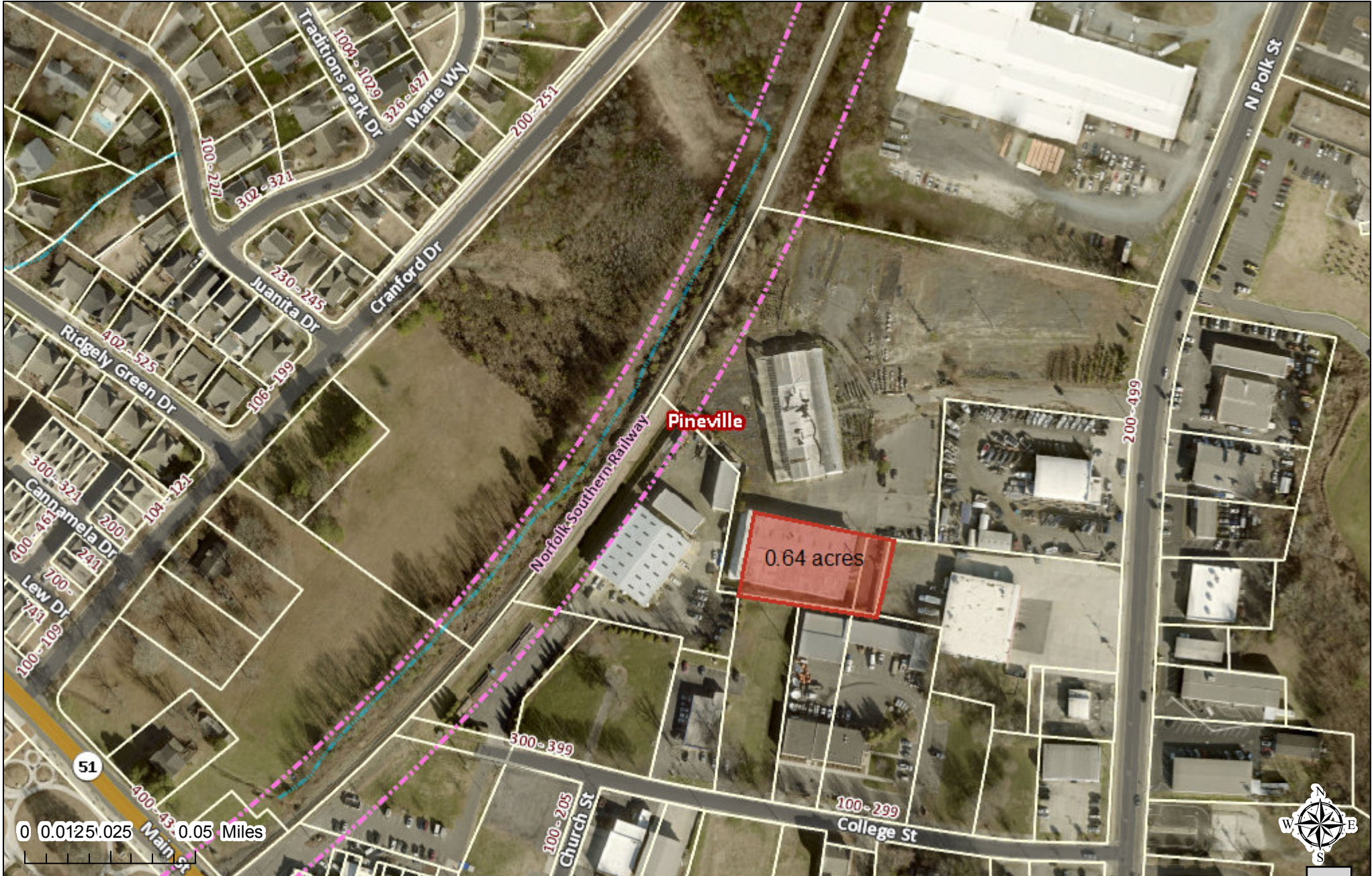
Proposed Property to be sold  
Previous Parking Plan  
Proposed Parking Plan

# Polaris 3G Map – Mecklenburg County, North Carolina

Item 10.

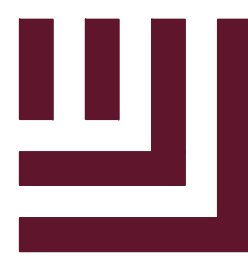
0.64 acres(27732.32 sq ft)

Date Printed: 6/1/2023 10:11:10 AM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no liability or responsibility for the information contained herein.





McADAMS

The John R. McAdams Company, Inc.
3430 Toringdon Way
Suite 110
Charlotte, NC 28277
phone 704.527.0800
fax 919.361.2269
license number: C-0293, C-187

www.mcadamsco.com

CLIENT

MR. ROBERT ADAMS
LIV DEVELOPMENT
2204 LAKESHORE DRIVE, SUITE 250
BIRMINGHAM, ALABAMA 35209

MAIN & COLLEGE STREET
CONSTRUCTION DRAWINGS
PINEVILLE, NORTH CAROLINA



REVISIONS

NO. DATE

PLAN INFORMATION

PROJECT NO. SPEC22587
FILENAME SPEC22587-OA51 - ALT
CHECKED BY JBW
DRAWN BY SRM
SCALE 1"=50'
DATE 08.04.2022

SHEET

OVERALL SITE PLAN
-ALTERNATE

C2.00

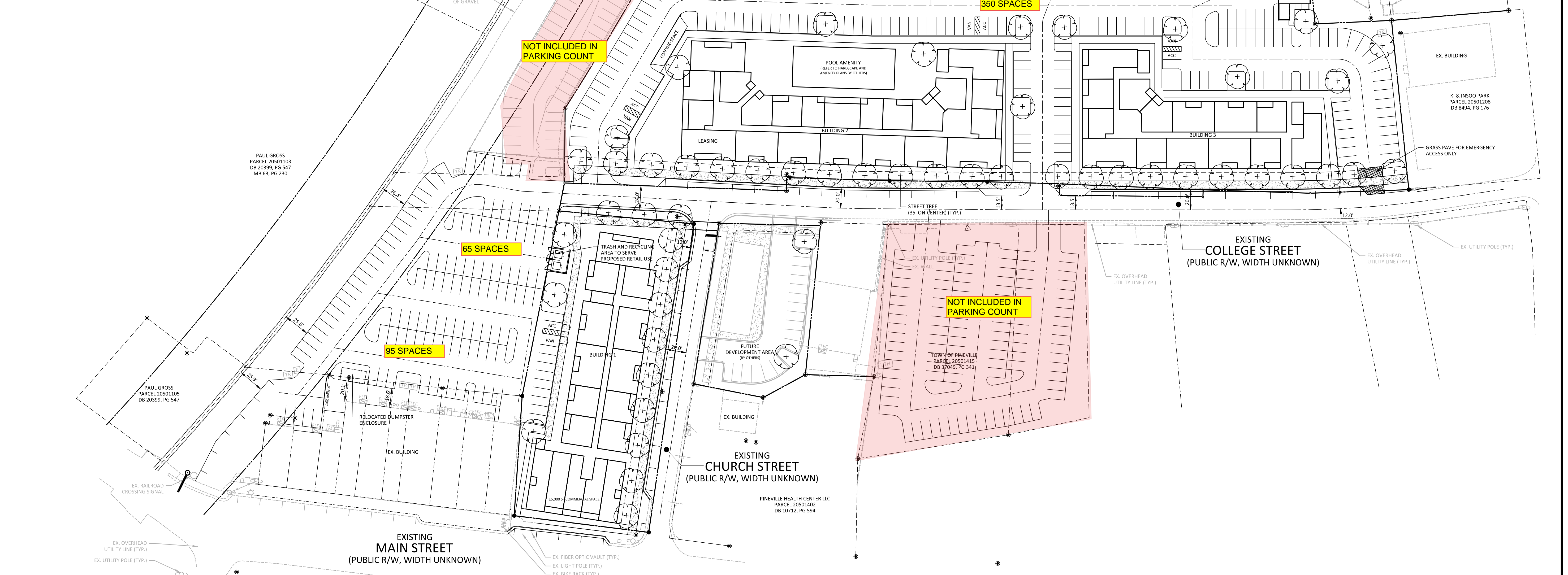
PRELIMINARY DRAWING - NOT RELEASED FOR CONSTRUCTION

SITE DATA table with columns for Developer/Applicant, Prepared By, Tax ID Numbers, Total Site Acreage, Zoning, Current Use, Proposed Use, Setbacks, Minimum Required Front Yard, Minimum Required Side Yard, Minimum Required Rear Yard, Residential Units Proposed, and Proposed Total Parking Spaces.

EXISTING LEGEND table listing symbols for existing iron pipe/rebar, iron pipe set, concrete monument set, calculated point, sanitary sewer manhole, sanitary sewer cleanout, water valve, water meter, water vault, backflow preventer, fire hydrant, telephone box, telephone manhole, gas meter, gas valve, electric meter, electric box, air conditioning unit, transformer, light pole, power pole with guy anchor, catch basin, storm drainage manhole, drop inlet, flared end section, bollard, sign, mailbox, railroad tracks, guard rail, storm drain, overhead utility line, underground electric, underground communications line, water line, sanitary sewer line, gas line, fence line, surveyed property line, and property line not surveyed.

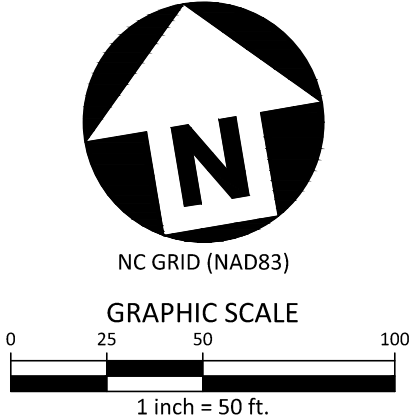
SITE LEGEND

SITE LEGEND table listing symbols for signage, accessible parking stall, parking space count, standard curb and gutter, spill curb and gutter, property line, right-of-way line, easement line, centerline, tree protection, concrete sidewalk or heavy duty concrete, new full depth pavement, and ex. pavement to be milled and overlaid.

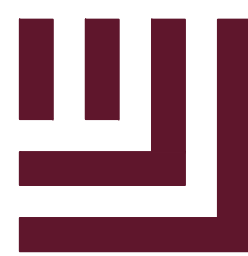


CONTRACTOR SHALL NOTIFY "NC811" (811) OR (1-800-632-4949) AT LEAST 3 FULL BUSINESS DAYS PRIOR TO BEGINNING CONSTRUCTION OR EXCAVATION TO HAVE EXISTING UTILITIES LOCATED. CONTRACTOR SHALL CONTACT ANY LOCAL UTILITIES THAT PROVIDE THEIR OWN LOCATOR SERVICES INDEPENDENT OF "NC811". REPORT ANY DISCREPANCIES TO THE ENGINEER IMMEDIATELY.

SEE SHEET C0.00 FOR ALL PROJECT, SITE, DEMOLITION, GRADING, STORM DRAINAGE, UTILITY, AND EROSION CONTROL NOTES. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT CITY OF CHARLOTTE LAND DEVELOPMENT STANDARDS MANUAL.



Vertical text on the left edge: P:\Projects\SPEC\SPEC 2022\SPEC22587-0A51 - ALT.dwg, 6/16/2023 7:48:49 AM, Jonathan Woodard



McADAMS

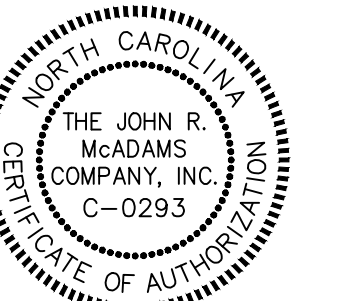
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MAIN & COLLEGE STREET
CONSTRUCTION DRAWINGS
PINEVILLE, NORTH CAROLINA



REVISIONS

NO. DATE

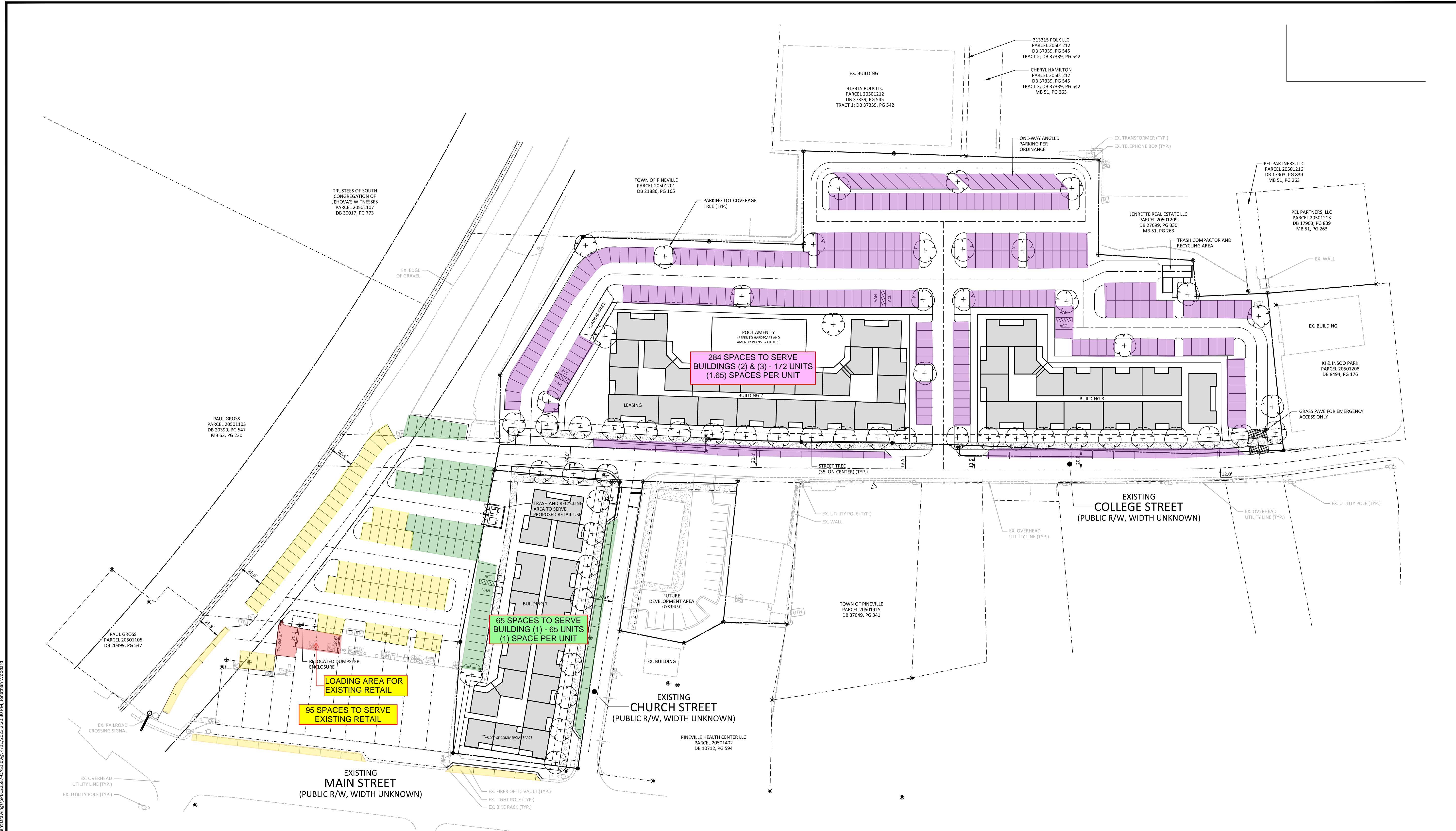
PLAN INFORMATION

PROJECT NO. SPEC22587
FILENAME SPEC22587-OAS1
CHECKED BY JBW
DRAWN BY SRM
SCALE 1"=50'
DATE 08.04.2022

OVERALL SITE PLAN

C2.00

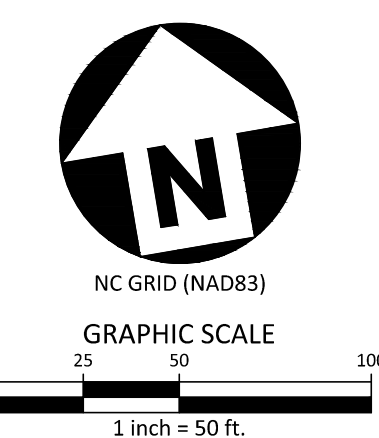
PRELIMINARY DRAWING - NOT RELEASED FOR CONSTRUCTION



284 SPACES TO SERVE
BUILDINGS (2) & (3) - 172 UNITS
(1.65 SPACES PER UNIT)

65 SPACES TO SERVE
BUILDING (1) - 65 UNITS
(1) SPACE PER UNIT

LOADING AREA FOR
EXISTING RETAIL
95 SPACES TO SERVE
EXISTING RETAIL



EXISTING LEGEND

- EXISTING IRON PIPE/REBAR
IRON PIPE SET
EXISTING CONCRETE MONUMENT
CONCRETE MONUMENT SET
CALCULATED POINT
CALCULATED POINT
SANITARY SEWER MANHOLE
SANITARY SEWER CLEANOUT
WATER VALVE
WATER METER
WATER VAULT
BACKFLOW PREVENTER
FIRE HYDRANT
TELEPHONE BOX
TELEPHONE MANHOLE
GAS METER
GAS VALVE
ELECTRIC METER
ELECTRIC BOX
AIR CONDITIONING UNIT
TRANSFORMER
LIGHT POLE
POWER POLE WITH GUY ANCHOR
CATCH BASIN
STORM DRAINAGE MANHOLE
DROP INLET
FLARED END SECTION
BOLLARD
SIGN
MAILBOX

SITE LEGEND

- SIGNAGE
ACCESSIBLE PARKING STALL
PARKING SPACE COUNT
STANDARD CURB AND GUTTER (SEE PLAN FOR SIZE)
SPILL CURB AND GUTTER (SEE PLAN FOR SIZE)
PROPERTY LINE
RIGHT-OF-WAY LINE
EASEMENT LINE
CENTERLINE
TREE PROTECTION
RAILROAD TRACKS
GUARD RAIL
STORM DRAIN
OVERHEAD UTILITY LINE
UNDERGROUND ELECTRIC
UNDERGROUND COMMUNICATIONS LINE
WATER LINE
SANITARY SEWER LINE
GAS LINE
FENCE LINE
SURVEYED PROPERTY LINE
PROPERTY LINE NOT SURVEYED
CONCRETE SIDEWALK OR HEAVY DUTY CONCRETE (WHERE SPECIFIED)
NEW FULL DEPTH PAVEMENT WITHIN BUILDING SETBACK WHERE SPECIFIED FOR UTILITY INSTALLATION
EX. PAVEMENT TO BE MILLED AND OVERLAVED (1.5") & GRADE ADJUSTED W/ WEDGING (WHERE SPECIFIED) (SEE CROSS-SECTIONS IN C7.00 SHEET SERIES FOR AREAS OF WEDGING)

SITE DATA

Table with site data including developer, prepared by, tax ID numbers, acreage, zoning, and unit counts.

CONTRACTOR SHALL NOTIFY "NC811" (811) OR (1-800-632-4949) AT LEAST 3 FULL BUSINESS DAYS PRIOR TO BEGINNING CONSTRUCTION OR EXCAVATION TO HAVE EXISTING UTILITIES LOCATED.

SEE SHEET C0.00 FOR ALL PROJECT, SITE, DEMOLITION, GRADING, STORM DRAINAGE, UTILITY, AND EROSION CONTROL NOTES

ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT CITY OF CHARLOTTE LAND DEVELOPMENT STANDARDS MANUAL

811 Know what's below. Call before you dig.

Vertical text on the left edge of the drawing.

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 7/7/2023

**Re:** Greenway Inspections Firm

---

## **Overview:**

The Town is ready to start the bidding process for the Greenway Connection Project. One of the steps to this process is to engage an inspector to make sure all of the materials are up to town specifications.

In order to engage an engineer, a municipality must follow the Mini-Brooks Act. This Act usually requires a formal bidding process for any amount of money. However, State Statute allows a municipality to forgo the formal process, as outlined in the Mini-Brooks Act, if the fee is below \$50,000.

The Town would like to engage Terracon on this project as they have worked on the other greenway projects in town for the County. Their fee is \$48,970.

## **Estimated Costs:**

\$48,970

## **Attachments:**

Terracon Proposal for the Greenway Connection

## **Recommendation:**

Approve the proposal and exclude the Town from going through the normal bidding process as allowed in General Statute 143-64.32



2701 Westport Road  
Charlotte, NC 28208  
P (704) 509-1777  
F (704) 509-1888  
**Terracon.com**

April 7, 2023

Town of Pineville  
1000 Johnston Drive  
Pineville, North Carolina 28134

Attn: Mr. Matt Jakubowski  
E: [mjakubowski@pinevillenc.gov](mailto:mjakubowski@pinevillenc.gov)

Re: Budget Estimate for Special Inspection & Material Testing Services  
McCullough Greenway Connector  
Pineville, North Carolina  
Terracon Proposal No. P71231083

Mr. Jakubowski:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this budget estimate to provide Special Inspection and Construction Materials Testing services for the new McCullough Greenway Connector project in Pineville, North Carolina. It is our understanding that the project designer, Kimley-Horn and Associates, has recommended Terracon for this project due to our experience with other similar projects. This document outlines our understanding of the project, scope of services, and our estimated costs for our services.

**A. PROJECT INFORMATION**

**Project Description**

ITEM	DESCRIPTION
<b>Location</b>	McCullough Neighborhood to Jack D. Hughes Park in Pineville, NC
<b>Proposed Construction</b>	The project consists of a 0.38-mile greenway connecting the McCullough Neighborhood near the clubhouse/pool area to the Jack D. Hughes Park. The greenway will be paved with asphalt and concrete. A prefabricated pedestrian bridge will be constructed across Sugar Creek with boardwalk approaches on each end. The pedestrian bridge foundations will consist of drilled-in steel piles, and the boardwalk foundations will consist of driven timber piles.
<b>Schedule</b>	A detailed construction schedule is not available yet. Based on our discussion with Kimley-Horn, we understand that the total project duration is anticipated to be approximately 6 months.

*Should any of the above information or assumptions be inconsistent with the planned construction, please let us know so that we may make any necessary modifications to this proposal.*

**In preparation for this proposal, the following documents were reviewed:**

- Email request of March 21, 2023, from Ms. Tori Golaszewski with Kimley-Horn
- Final Plans for McCullough Greenway Connector, dated March 9, 2023, prepared by Kimley-Horn and Associates.

**B. SCOPE OF SERVICES**

We anticipate providing Special Inspection Services and Construction Materials Testing Services for the project on a part-time basis. Terracon proposes to utilize qualified Special Inspectors for the applicable tasks.

Based on our experience with other similar projects in Mecklenburg County, we anticipate that Special Inspections will be required for the pedestrian bridge only, not the boardwalks. The Statement and Schedule of Special Inspections (Plan Sheets S-07 and S-08) prepared by Kimley-Horn summarizes the Special Inspection services required for the proposed project. The Statement indicates that the following Special Inspections are to be performed:

- IT- 03 – Concrete Construction
- IT- 08 – Cast In Place Deep Foundations

**Construction Materials Testing and Special Inspection Services**

The inspection and testing services for this project will be conducted by Terracon in accordance with the recommendations and requirements offered by the project contract documents, the project geotechnical report, the International Building Code, and the applicable ASTM testing and material standards, as well as other applicable referenced standards. We understand our scope of services for this project will include observations and/or testing of the following areas of construction:

**Soils/Foundations**

- Observe proofrolling of prepared subgrade and provide direction for removal and replacement of unsuitable soil
- Periodic observations of subgrade to verify it has been prepared properly prior to placement of compacted fill
- Observe proofrolling of subgrade soil prior to stone base placement

**Cast-in-Place Concrete**

- Periodic observations of reinforcing steel, welded wire fabric
- Observations of cast-in-place concrete placement
- Verification of correct mix design used during placement
- Monitoring of sampling of fresh concrete, slump test, air content test, temperature of concrete and creation of strength test specimens
- Observations of bolts to be installed in concrete prior to and during placement.
- Observations of curing techniques

- Observations of formwork for shape, location, and dimensions of concrete members being formed
- Observations of post-installed and adhesive concrete anchors

### **Cast in Place Deep Foundations**

- Inspect drilling operations and maintain records for each element
- Verify placement locations and plumbness, confirm element dimensions, embedment lengths and grout/concrete volumes

### **Timber Pile Foundations for Boardwalks**

- Observe driving operations and maintain records for each pile
- Document placement locations, confirm element dimensions and embedment lengths

### **Asphalt**

- Observe proofrolling of stone base prior to asphalt placement
- Perform field density tests of asphalt using a nuclear density gauge during placement. Percent compaction to be based on field target density.

### **Assumptions and Exclusions**

The following assumptions were made when creating a cost estimate for the above referenced scope of services:

- Construction administration services including leading progress meetings and reviewing contractor pay applications are not required.
- Concrete composite sampling will be performed at a rate of one sample per 100 cubic yards placed per day or fraction thereof.

Terracon requests to be notified should any of these assumptions be incorrect or if additional testing is needed so that a revised scope of services and cost estimate may be submitted.

Without attempting to provide a complete list of all services or potential services that will be excluded from this budget estimate, the following services are specifically **excluded** from this budget estimate. These services can be performed by Terracon if desired; however, a separate or revised proposal for these services would be required.

- Unsuitable soil observation, documentation, and stabilization recommendations
- Erosion Control Inspections
- Time and cost for reinspection due to failing tests or inspection delays have not been included
- Construction materials testing and Special Inspection services not specifically detailed in this budget estimate

### **Limitations**

Terracon will use persons experienced in the various phases of the construction testing. We will provide the project team with daily inspection reports and, if appropriate, make recommendations for correcting substandard test results. We will not direct the contractor or his subcontractors in performance of their work and we do not have the authority to authorize changes in their contracts. Most construction testing is a random

sampling of the work product. It is not intended to be a guarantee of the overall work. The contractor is responsible for performing the work in accordance with the contract documents. In addition, the contractor and his subcontractors are solely responsible for safety on the job site. Terracon accepts no responsibility for site safety.

**C. SCHEDULING GUIDELINES**

**Dispatch/Scheduling Email Address: Charlotte-Scheduling@Terracon.com**

Our services will be provided on an “as requested” basis when scheduled by your representative or the contractor’s representative. We recommend that you provide scheduling requests to Charlotte-Scheduling@Terracon.com between the hours of 8:00 am and 5:00 pm. During scheduling the following information should be provided to our dispatcher to best serve you:

- Project name and location
- Date and time of the requested service(s)
- Services required (please do not assume that technicians carry all equipment)
- Onsite location(s) of the requested service(s)
- Anticipated quantities of materials (i.e., cubic yards of concrete)
- Onsite contact information (name and phone number, if possible)

Please note that we would prefer you schedule our services in a timely manner and need to cancel them than to not schedule at all or schedule late. We require a minimum 24-hour notice to schedule personnel for services to avoid delays to construction activity. If our services are not scheduled according to this time frame, we will make every reasonable effort to accommodate your needs but may be unable to provide service. Terracon will only provide testing when contacted by your designated representative and will not be responsible for required testing if we are not scheduled.

**D. DATA MANAGEMENT AND REPORTING**



To enhance the service Terracon provides to our clients, we use a proprietary project management and data management software program known as CMELMS™ (Construction Materials Engineering Laboratory Management System). CMELMS™ is a program developed by Terracon specifically tailored for Construction Quality Control and Quality Assurance consulting and testing projects. CMELMS™ allows us to electronically track all client service requests, daily field reports, laboratory test results, concrete history and performance, invoicing, project budgets, and project report and invoice distribution. The software creates a database for each project that allows us to provide **timely and constant communication** to our clients and instantaneous retrieval of field and laboratory reports and test results and budget information. This proves to be invaluable to our project managers and our clients when discussing specific project details and data. Furthermore, we can also provide distribution of reports and invoicing to our clients via electronic methods. This includes email distribution or setting up project specific “Client Document Website” where our clients and other approved Project Team members can go to via the Internet and retrieve critical project information.

Through our CMELMS™ program, we have the capability to efficiently track and develop a listing of our tests and observations that are not in compliance with the approved

plans and specifications for the project. This deviation log is maintained throughout the project and serves as one point of reference that can be viewed by the project team members to see which items are still unresolved. Maintenance and distribution of a deviation log serves to help address and correct deviations throughout the project.

Each of our technicians is provided a field laptop and smartphone. With these devices, the technicians can connect to the internet, complete their report in the field electronically and submit it directly to the project manager in the office through CMELMS™. Once the report is submitted, it is instantly uploaded to the project manager’s dashboard for review. If a deviation is noted within the report, an email notification is automatically sent to the project manager informing him or her of the non-conforming items and that action may be required. At Terracon, we have a company-wide standard utilizing the following reporting goals:

- Formal reports containing deviations or non-conforming items will be submitted within 24 hours of the site visit.
- Formal reports without deviations or non-conforming items will be submitted within 5 business days of the site visit.
- Formal laboratory testing reports will be submitted within 2 business days of the completion of the testing.

**Tracking of Non-Conformances for Special Inspection Services**

For Special Inspection Services, non-conformance items not resolved by the end of the day will be recorded as being in non-compliance. They will be logged and tracked until cleared. All pertinent parties will be informed of non-compliance at the time it is discovered, and weekly updates will be given until all non-conformance items are cleared.

**Reporting**

Results of field tests will be submitted verbally to available personnel at the site. Final written summaries of field tests and observations are usually submitted at intervals of approximately twice per week and will include results of laboratory tests.

**E. SAFETY**



At Terracon, we all have a personal and uncompromising commitment to everyone going home safely each and every day. Incident and Injury-Free (*IIF*) is about care and concern for people. It is our commitment at all levels of the company

where safety is held as a core value and an operational priority. Working safely is an inseparable part of working correctly, and just as important as other operational priorities, including quality, profitability and schedule. *IIF* is our commitment to people, valued by us for who they are and what they do. *IIF* is not just something we do; it's in everything we do.

As part of being truly *IIF*, we will prepare a “Pre-Task Plan” for this project where we will identify the potential site safety and job hazards associated with your site. Our Pre-Task Plan will identify and prepare our personnel to handle conditions such as traffic control,



environmental contamination, site access issues, overhead and underground utilities, adverse weather conditions, and personal protection equipment.

**In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant’s employees or subcontractors to do so to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant’s pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.**

**F. COMPENSATION**

Based on the scope of services we have outlined above and discussed, we recommend a budget allowance of **\$48,970** will be required for the services outlined above. The budget allowance is based on our estimated durations and our experience with similar projects. If the construction schedule changes, we request the opportunity to review our scope and fees. We have enclosed a Fee Schedule that would be appropriate for any additional services that may be requested.

The above cost will not be exceeded without prior written approval from the client. If services are requested beyond the above scope of services or if additional site visits are necessary to complete special inspection services, they will be invoiced in accordance with the attached unit rate fee schedule.

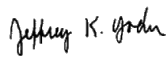
For services outside of our scope and beyond the project duration, overtime is defined as all hours more than eight hours per day, Monday through Friday, hours worked before and after 6:00 am and 6:00 pm and all hours worked on weekends and holidays. Overtime rates will be billed at 1.5 times the hourly rate quoted. You will be invoiced monthly for services performed. An itemized invoice for our services provided will be sent monthly unless directed otherwise.

**G. AUTHORIZATION**

Our Agreement for Services is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing the form (Agreement) and returning it to our office. Upon receipt of a signed agreement (Agreement), we will proceed with the performance of our services. Any changes or modifications to the agreement are required to be acknowledged by both parties initialing acceptance of proposal and agreement for services next to the change or modification. You may authorize us by returning these documents via email or by fax (704-509-1888). This Agreement, including the limitations it contains, shall constitute the exclusive terms, conditions and services to be performed for this project.

We appreciate the opportunity to be considered for our services. Please do not hesitate to contact us if you have any questions or comments concerning this proposal. We look forward to working with you.

Sincerely,  
**Terracon Consultants, Inc.**



Jeffrey K. Yoder, P.E.  
Senior Engineer



Chad W. Andersen, P.E.  
Materials Department Manager

**Attachments:**

- Cost Estimate
- Fee Schedule
- Agreement for Services

cc: Tori Golaszewski – Kimley-Horn, Tori.Golaszewski@kimley-horn.com



**PROJECT BUDGET ESTIMATE BREAKDOWN**  
 Special Inspections and Construction Materials Testing Services  
 McCullough Greenway Connector  
 Terracon Budget Estimate P71231083  
 Pineville, North Carolina

Task Description	Unit	Rate	Cost Estimate	
			Estimate	Cost
<b>I Pavement System (Asphalt and Concrete)</b>				
<i>Field Technician</i>				
- Soil subgrade proofroll evaluation - Estimate 4 trips at 5 hours per trip	hour	\$75.00	20	\$1,500.00
- ABC Stone Proofroll and Field Density Testing - Estimate 4 trips at 6 hours per trip	hour	\$75.00	24	\$1,800.00
- Asphalt Paving - Estimate 4 trips at 8 hours per trip	hour	\$75.00	32	\$2,400.00
- Pavement Concrete Sampling and Testing - Estimate 4 trips at 6 hours per trip	hour	\$75.00	24	\$1,800.00
- Cylinder Pickup/Login - Estimate 4 trips, 2 hours per trip	each	\$75.00	8	\$600.00
<i>Laboratory Testing Services</i>				
- Compressive Strength Testing - 4 Sets of 6 Cylinders	each	\$20.00	24	\$480.00
<i>Laboratory Testing Services</i>				
- Modified Proctor	each	\$215.00	1	\$215.00
- Sieve Analysis	each	\$105.00	1	\$105.00
<i>Trip Charges (Including Mileage)</i>	each	\$30.00	20	\$600.00
<b>Pavement System (Asphalt and Concrete):</b>				<b>\$9,500.00</b>
<b>II Pedestrian Bridge</b>				
<i>Special Inspector</i>				
- Cast In Place Pile Observation - Estimate 10 trips at 8 hours per trip	hour	\$115.00	80	\$9,200.00
- Reinforcing Steel and Post Installed Anchor Placement Observations, Cap, Abutment and Deck - Estimate 6 trips at 3 hours per trip	hour	\$115.00	18	\$2,070.00
- Pile and Bridge Concrete Sampling and Testing - Estimate 6 trips at 6 hours per trip	hour	\$115.00	36	\$4,140.00
<i>Field Technician</i>				
- Cylinder Pickup/Login - Estimate 6 trips, 2 hours per trip	each	\$75.00	12	\$900.00
<i>Laboratory Testing Services</i>				
- Compressive Strength Testing - 6 Sets of 6 Cylinders	each	\$20.00	36	\$720.00
<i>Trip Charges (Including Mileage)</i>	each	\$30.00	28	\$840.00
<b>Pedestrian Bridges:</b>				<b>\$17,870.00</b>
<b>III Boardwalks</b>				
<i>Senior Field Technician</i>				
- Pile Observation - Estimate 11 trips at 8 hours per trip (Regular Time)	hour	\$85.00	88	\$7,480.00
- Pile Observation - Estimate 4 trips at 8 hours per trip (Overtime for Weekend Work)	hour	\$127.50	32	\$4,080.00
<i>Field Technician</i>				
- Boardwalk Decks Concrete Sampling and Testing - Estimate 3 trips at 6 hours per trip	hour	\$75.00	18	\$1,350.00
- Cylinder Pickup/Login - Estimate 3 trips, 2 hours per trip	each	\$75.00	6	\$450.00
<i>Laboratory Testing Services</i>				
- Compressive Strength Testing - 3 Sets of 6 Cylinders	each	\$20.00	18	\$360.00
<i>Trip Charges (Including Mileage)</i>	each	\$30.00	21	\$630.00
<b>Boardwalks:</b>				<b>\$14,350.00</b>
<b>IV Project Management, Consulting and Reporting Services</b>				
<i>Project Manager</i>				
- Project Management, Report Preparation, Data Review, Inspection Document Management, Special Inspections Meeting and Administration	hour	\$155.00	40	\$6,200.00
<i>Clerical</i>				
- Report Preparation/Data Entry/Scheduling	hour	\$70.00	10	\$700.00
<i>Senior Engineer</i>				
- Report Review and Consulting	hour	\$175.00	2	\$350.00
<b>Project Management and Reporting Services:</b>				<b>\$7,250.00</b>
<b>Budget Estimate of Services:</b>				<b>\$48,970.00</b>



**Special Inspections and Construction Materials Testing Services  
Charlotte, NC**

**2023 UNIT RATE FEE SCHEDULE**

**PERSONNEL/FIELD SERVICES**

1.	Field Technician, per hour .....	\$ 75.00
2.	Senior Field Technician, per hour .....	\$ 85.00
3.	Special Inspector, per hour .....	\$ 115.00
4.	Certified Welding Inspector, per hour .....	\$ 105.00
5.	Asphalt Roadway Technician (NCDOT), per hour .....	\$ 85.00
6.	Field Engineer .....	\$ 115.00
7.	Project Manager/Engineer, per hour .....	\$ 155.00
8.	Senior Project Manager, per hour .....	\$ 175.00
9.	Principal, per hour .....	\$ 195.00
10.	Clerical, per hour .....	\$ 70.00
11.	Direct Expenses .....	\$Cost + 15%
12.	Mileage, per mile .....	\$ 1.00

**LABORATORY SERVICES**

1.	Percent Fines (Wash 200 sieve), each .....	\$ 105.00
2.	Sieve Analysis, each .....	\$ 115.00
3.	Particle Size Analysis (With Hydrometer), each .....	\$ 145.00
4.	Natural Moisture Content Test, each .....	\$ 15.00
5.	Atterberg Limits Test, each .....	\$ 105.00
6.	Standard Proctor Compaction Test, each .....	\$ 195.00
7.	Modified Proctor Compaction Test, each .....	\$ 215.00
8.	Standard Proctor Compaction Test (with Rock Correction), each .....	\$ 205.00
9.	CBR Testing, per point .....	\$ 225.00
10.	Concrete:	
	a) Compressive Strength Testing of 4" x 8" or 6" x 12" Concrete Cylinders, each .....	\$ 20.00
	b) Flexural Strength Testing of Concrete Beams .....	\$ 45.00
	c) Compressive Strength Testing of 2" x 2" Mortar Cubes, each .....	\$ 25.00
	d) Compressive Strength Testing of Grout Prisms, each .....	\$ 45.00
	e) Compressive Strength Testing of Concrete Cores, each .....	\$ 50.00
	f) Compressive Strength Testing of CMU units, each .....	\$ 95.00
	g) Compressive Strength Testing of Masonry Prisms, each .....	\$ 205.00
11.	Asphalt:	
	a) Thickness and Density Testing, per sample .....	\$ 85.00
12.	Steel:	
	a) UT Scope, per day .....	\$ 150.00
	b) Couplant, per day .....	\$ 25.00
	c) Skidmore, per day .....	\$ 250.00
	d) Ultrasonic Flaw Detector, per day .....	\$ 45.00

NOTE: Overtime, at a rate of 1.5 time the standard rate, is charged for technician services for time over 8.0 hours per day, hours prior to 6:00 AM and past 6:00 PM and for Saturdays, Sundays, and holidays. Overtime is not applicable to engineering rates. The mileage charge includes vehicle mileage between Terracon's Charlotte office and the job site.

## AGREEMENT FOR SERVICES

This **AGREEMENT** is between Town of Pineville ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the McCullough Greenway Connector project ("Project"), as described in Consultant's Proposal dated 04/07/2023 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

- 1. Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
- 2. Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
- 3. Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
- 4. Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
- 5. Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
- 6. LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.**
- 7. Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
- 8. Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- 9. Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$2,000,000 occ / \$4,000,000 agg); (iii) automobile liability insurance (\$2,000,000 B.I. and P.D. combined single limit); (iv) umbrella liability (\$5,000,000 occ / agg); and (v) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Kansas law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to unsafe site conditions. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes.

Consultant: **Terracon Consultants, Inc.**

By:  Date: **4/7/2023**

Name/Title: **Chad W Andersen / Department Manager III**

Address: **2701 Westport Rd  
Charlotte, NC 28208-3608**

Phone: **(704) 509-1777** Fax: **(704) 509-1888**

Email: **Chad.Andersen@terracon.com**

Client: **Town of Pineville**

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

Name/Title: **Matt Jakubowski / Parks & Recreation Director**

Address: **1000 Johnston Drive  
Pineville, NC 28134**

Phone: **(704) 889-2400** Fax: \_\_\_\_\_

Email: **mjakubowski@pinevillenc.gov**

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 7/7/2023

**Re:** Greenway Inspections Firm

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## **Overview:**

The Town is ready to start the bidding process for the Greenway Connection Project. One of the steps to this process is to engage a Construction Manager to oversee the project.

In order to engage an engineer, a municipality must follow the Mini-Brooks Act. This Act usually requires a formal bidding process for any amount of money. However, State Statute allows a municipality to forgo the formal process, as outlined in the Mini-Brooks Act, if the fee is below \$50,000.

The Town would like to engage Kimley Horn on this project as they have worked on the other greenway projects in town for the County and created the engineering documents. Their fee is \$47,000.

## **Estimated Costs:**

\$47,000

## **Attachments:**

Kimley Horn Proposal for the Greenway Connection

## **Recommendation:**

Approve the proposal and exclude the Town from going through the normal bidding process as allowed in General Statute 143-64.32



May 5, 2023

Matthew Jakubowski  
Town of Pineville  
200 Dover Street  
Pineville, NC 28134

Re: Amendment Number 01 to Professional Services Agreement – Greenway Connection from McCullough Neighborhood to Jack Hughes Park

Dear Matthew:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) and the Town of Pineville (“Client”) entered in a Professional Services Agreement dated 03-03-2022 (“Agreement”) concerning McCullough Greenway Connector (“Project”).

The parties now desire to amend the Agreement to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Consultant will provide the services specifically set forth below.

1. Pre-Construction Conference. Consultant will conduct a Pre-Construction Conference before the start of construction.
2. Site Visits and Construction Observation. Consultant will make visits once a week to observe the progress of the work. Observations will not be exhaustive or extend to every aspect of Contractor's work, but will be limited to spot checking, and similar methods of general observation. Based on the site visits, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Document and keep Client informed of the general progress of the work.

Consultant will not supervise, direct, or control Contractor's work, and will not have authority to stop the Work or responsibility for the means, methods, techniques, equipment choice and use, schedules, or procedures of construction selected by Contractor, for safety programs incident to Contractor's work, or for failure of Contractor to comply with laws. Consultant does not guarantee Contractor's performance and has no responsibility for Contractor's failure to perform in accordance with the Contract Documents.

Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement.

3. Construction Meetings. Consultant will attend construction meetings on site once a month.
4. Recommendations with Respect to Defective Work. Consultant will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if Consultant believes that





such work will not produce a completed Project that generally conforms to the Contract Documents.

5. Clarifications and Interpretations. Consultant will respond to reasonable and appropriate Contractor requests for information made in accordance with the Contract Documents and issue necessary clarifications and interpretations. Any orders authorizing variations from the Contract Documents will be made only by Client.
6. Change Orders. Consultant may recommend Change Orders to the Client and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
7. Shop Drawings and Samples. Consultant will review Shop Drawings and Samples and other data which Contractor is required to submit, but only for general conformance with the Contract Documents. Such review and any action taken in response will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders.
8. Substitutes and "or-equal/equivalent." Consultant will evaluate the acceptability of substitute or "or-equal/equivalent" materials and equipment proposed by Contractor in accordance with the Contract Documents.
9. Inspections and Tests. Consultant may require special inspections or tests of Contractor's work and may receive and review certificates of inspections within Consultant's area of responsibility. Consultant's review will be solely to determine that the results indicate compliance with the Contract Documents and will not be an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the Contract Documents. Consultant is entitled to rely on the results of such tests.
10. Disputes between Client and Contractor. Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents. In rendering decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision.
11. Applications for Payment. Based on its observations and on review of applications for payment and supporting documentation, Consultant will recommend amounts that Contractor be paid. Recommendations will be based on Consultant's knowledge, information, and belief, and will state whether in Consultant's opinion Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. Consultant's recommendations will not be a representation that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.
12. Substantial Completion. When requested by Contractor and Client, Consultant will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.



- 13. Final Notice of Acceptability of the Work. Consultant will conduct a final site visit to evaluate whether the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend final payment to Contractor.
- 14. Record Drawings. As an additional service if required, Consultant will prepare a record drawing showing significant changes reported by the Contractor or made to the design by Consultant. Record drawings are not guaranteed to be as-built but will be based on information made available.

We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

Schedule is anticipated to be 6 months from the beginning of the Construction Contract

For the services set forth above, Client shall pay Consultant the following compensation:

- A Lump Sum Fee of \$41,800 for the scope of services outlined above.
- Reimbursable Expenses Fee of \$5,200

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Signed:

Printed Name: Tori Golaszewski

Title: Project Manager

AGREED AND ACCEPTED:

Town of Pineville

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

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

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

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 7/7/2023

**Re:** Edifice CM@R Documentation for the Electric and PCS Facility

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## **Overview:**

The Town has selected Edifice to provide CM@R services through a competitive process for the new Electric and PCS facility that will be located on Grower's Outlet. Edifice is currently doing the new Fire Department facility also. The selection of Edifice for this project will give continuity to both projects since they are adjacent to each other. These documents match what was provided to the Town for the Fire Department project and when the Town Hall was constructed.

The fee for construction management will be a percentage based on the final price established through the Guaranteed Maximum Price.

## **Estimated Costs:**

Preconstruction Activities - \$97,303

## **Attachments:**

AIA133  
Preconstruction Scope of Services  
Preconstruction Fee

## **Recommendation:**

Approve the contract with Edifice for preconstruction work as well as construction management and authorized the Town Manager to execute the documents necessary for this project.

# DRAFT AIA® Document A133™ – 2019

**Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the «7 » day of «July » in the year «2023 »  
(In words, indicate day, month, and year.)

**BETWEEN** the Owner:  
(Name, legal status, address, and other information)

« Town of Pineville »  
« 505 Main Street »  
« Pineville, North Carolina 28134 »

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

« Edifice, LLC » « »  
« 4111 South Blvd (28209) »  
« Post Office Box 36349 »  
« Charlotte, North Carolina 28236 »  
Telephone: 704-332-0900  
North Carolina General Contracting License #10514»

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

« Town of Pineville  
Communications & Electric Operations  
and Warehouse Facility »

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

**STEWART-COOPER-NEWELL ARCHITECTS, P.A.**  
Kenneth C Newell  
719 E. Second Avenue  
Gastonia, NC 28054  
P: (704) 865-6311  
F: (704) 865-0046

The Owner and Construction Manager 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.

AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

**ELECTRONIC COPYING** of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

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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, as described in Section 4.1.1: (Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

« Ryan Spitzer »  
 « Town Manager »  
 « Town of Pineville »  
 « 505 Main Street »  
 « Pineville, North Carolina 28134 »  
 « Telephone Number: 704.889.2291 »  
 »

§ 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 Town of Pineville purchased six (6) acres of land at 315 N. Polk St. to construct a new Communications and Electric Utilities Operation and Warehouse Facility. Edifice will work with the Architect on construction of the facility. Scope of the project per the RFQ includes:

- 21,000 sqft communications building with optional second floor mezzanine upfit.
- 3,000 sqft electrical building.
- 5,000 sqft covered open air shed for the communications department.
- 3,000 sqft covered open air shed for the electric department.
- Gravel & heavy-duty storage yards

»

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:  
(Provide total and, if known, a line item breakdown.)

« Fourteen Million Dollars, (\$14,000,000.00) »

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

.1 Design phase milestone dates, if any:

«TBD »

.2 Construction commencement date:

«TBD »

.3 Substantial Completion date or dates:

«TBD »

.4 Other milestone dates:

«TBD »

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:  
(Identify any requirements for fast-track scheduling or phased construction.)

«Not Applicable »

§ 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.)

«Not Applicable »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere.)

« See 1.1.2 »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:  
(List name, address, and other contact information.)

«« «Ryan Spitzer»  
«Town Manager»  
«Town of Pineville»  
«505 Main Street»  
«Pineville, North Carolina 28134»  
«Telephone Number: 704.889.2291»  
»

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

« Not Applicable »

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

.1 Geotechnical Engineer:

«TBD »« »  
« »  
« »  
« »  
« »

.2 Civil Engineer:

« »« »  
« »  
« »  
« »  
« »

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

«TBD »

§ 1.1.11 The Architect’s representative:  
(List name, address, and other contact information.)

**STEWART-COOPER-NEWELL ARCHITECTS, P.A.**  
**Kenneth C Newell**  
**719 E. Second Avenue**  
**Gastonia, NC 28054**  
**P: (704) 865-6311**  
**F: (704) 865-0046**

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:  
(List name, address, and other contact information.)

«Tim Bender»  
«Project Executive »  
«Edifice, LLC»  
«4111 South Boulevard»

«Charlotte, North Carolina 28209»  
 «tbender@edificeinc.com »  
 «704-332-0900 »

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

*(List any Owner-specific requirements to be included in the staffing plan.)*

« See attached Preconstruction Services Scope and Fee»

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

*(List any Owner-specific requirements for subcontractor procurement.)*

«On public projects in North Carolina, follow all procurement requirements for Construction Management at Risk projects as written in NC G.S. 143-128. »

§ 1.1.15 Other Initial Information on which this Agreement is based:

«TBD – Implement Design Documents into the contract at GMP »

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

### § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. The Construction Manager expects the Owner and Architect to work together as the Project Team for the betterment and ultimate benefit of the project.

### § 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information;



Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

### ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

#### § 3.1 Preconstruction Phase

##### § 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and 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 Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.

##### § 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using 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.

##### § 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect’s **information** and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

### § 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

### § 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's **information** and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's **information** and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's **information** and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

### § 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

### § 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's **information** and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum

Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

### § 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

«See attached Preconstruction Services Scope and Fee »

## § 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's **information**, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### § 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### § 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### § 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### § 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

## ARTICLE 4 OWNER'S RESPONSIBILITIES

### § 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including

schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing 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.

§ 4.1.4.3 The Owner, when such services are requested, 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.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

## § 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** 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.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

« Construction Manager shall be paid a Lump Sum of Ninety Seven Thousand, Three Hundred and Three Dollars and 00/00 (\$97,303.00) which includes all costs, expenses, and fees for Preconstruction Services. See Exhibit “C” – Preconstruction Services Fee and Scope, attached for further information.

If project does not proceed for any reason, then the Construction Manager shall be paid actual costs to date not to exceed \$97,303.00 and nothing else »

See attached Preconstruction Fee Schedule and Scope of Services for further information »

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

« See attached Preconstruction Fee Schedule and Scope of Services for hourly rates to be used to calculate fees that are supplemental to any work not covered under the lump sum scope of work in Exhibit C. »

Individual or Position	Rate
------------------------	------

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within «Fourteen» ( « 14 » ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid «Thirty» ( «30» ) 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 Construction Manager.

*(Insert rate of monthly or annual interest agreed upon.)*

«Twelve» % «per annum»

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

**«6% of Cost of the Work to be converted to a Lump Sum at Owner's acceptance of the GMP»**

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

**«The Cost of Work plus (+) 6% for additive changes and 0% for deductive changes.»**

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

**« Fifteen percent (15%) for work performed by Subcontractor's own forces, and seven and one-half percent (7.5%) for work performed by 2<sup>nd</sup> Tier subcontractors or lower forces. »**

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed **«one hundred»** percent (**«100»** %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

**«Owner and Contractor acknowledge and agree if Contractor fails to achieve Substantial Completion of the Work within the Contract Time the Contractor agrees to pay Owner as Liquidated Damages, and not as a penalty, but as a reasonable estimate of the amount of damages Owner will suffer, the amount of Five Hundred and 00/00 dollars (\$500.00) per day for each calendar day occurring after the Contract Time during which Contractor fails to achieve Substantial Completion. The Liquidated Damages described herein shall be the Owner's sole and exclusive remedy for any delays.»**

§ 6.1.7 Other:

*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

**«If the "Total Cost of the Work", which equals the Cost of the Work as defined in Article 7 plus the Contractor's Fee, is less than the value of the Guaranteed Maximum Price (GMP), then the difference between the Total Cost of the Work and the GMP shall be split as follows: % shall be distributed to the Owner % shall be distributed to the Construction Manager»**

### § 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

### § 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

§ 6.3.6 In the event of significant delay or price increase of material occurring during the performance of the contract through no fault of the Contractor, the contract sum, time of performance, and contract requirements shall be equitably adjusted by change order in accordance with the procedures of the contract documents. A change in price of an item of material shall be considered significant when the price of an item increases 5% percent between the date of this contract and the date of delivery.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

### § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site and performing Work, with the Owner’s prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager’s supervisory and administrative personnel **as noted** below: *(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

«The following personnel’s cost shall be included in the Cost of the Work at the following rates:	
Project Executive	\$ 5,295/week (this will be prorated per time spent on project)
Construction Manager	\$ 5,014/week (this will be prorated per time spent on project)
Project Manager	\$ 4,423/week
Assistant Project Manager	\$ 2,865/week
Superintendent	\$ 4,107/week
Area Superintendent	\$ 3,438/week
Assistant Superintendent	\$ 2,865/week
Quality Control Manager	\$ 2,648/week
Project Assistant	\$ 1,986/week



**Cost shall commence approximately 2 (two) weeks prior to the start of construction and conclude upon Final Completion. The above stated rates include each personnel's base salary and burdens described in Article 7.2.4. Contractor shall invoice monthly in arrears for actual time spend by Contractor for the work. Contractor shall keep accurate time records which shall be accessible to the Owner upon request.**

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

**Costs of this Article 7.2.4 for those personnel identified in Article 7.2.2 are included in the stated rates. Costs as noted in this Article 7.2.4 for those personnel associated with Article 7.2.1 are to be considered actual Cost of the Work at the reimbursable rate of 49%.**

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

### § 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

### § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### § 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, **temporary utilities**, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

### § 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**Contractor's Insurance is to be considered cost at the following rates applied to the total of all the items identified in this Article 7:**

<b>General Liability</b>	<b>0.90%</b>
<b>Builder's Risk</b>	<b>0.35%</b>
<b>Pollution Insurance</b>	<b>0.05%</b>
<b>Contractor's Payment and Performance Bonds</b>	<b>1.00%</b>
<b>Subcontractor Default Insurance</b>	<b>1.25%</b>

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for electronic equipment, and software, directly related to the Work and located at the site and Construction Manager's office, with the Owner's prior approval. **Costs associated with the items within this Article are to be considered cost at the reimbursable rate of 0.25% of the Cost of Work.**

§ 7.6.7 Costs of **communication services including cell phone, site phones and internet service**, document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work, **including but not limited to: Superintendent’s vehicle and fuel, Project Manager’s vehicle and fuel and the meals and living expenses of those personnel identified in Article 7.2.2.1.**

### § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner’s prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

### § 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

### § 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded;

## ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

## ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

&lt;&lt; &gt;&gt;

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the «25<sup>th</sup>» day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the «10<sup>th</sup>» day of the «following» month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than «fifteen » («15 ») days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit a **Conditional Waiver and Release of Mechanic's Lien**.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;

- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

### § 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

**«Five Percent (5%) in NC »**

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

**« Cost of Bonds, Insurance, Permits, General Conditions, and Construction Manager’s Fee »**

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

**« When the project is fifty percent (50%) complete the retainage percentage withheld on the Contractor by the Owner will be reduced to two and one half percent (2.5%) and remain at two and one half percent (2.5%) until Substantial Completion.»**

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)*

**« Upon achieving Substantial Completion, the Owner will withhold one hundred fifty percent (150%) of the cost of outstanding punch list items and release the balance of retainage to the Contractor. »**

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the

Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

## § 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

«12» % « per annum»

**ARTICLE 12 DISPUTE RESOLUTION****§ 12.1 Initial Decision Maker**

**§ 12.1.1** Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

**§ 12.1.2** The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

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**§ 12.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

[ **« X »** ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[ **« »** ] Litigation in a court of competent jurisdiction

[ **« »** ] Other: *(Specify)*

<< >>

If the Owner and Construction Manager 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, Claims will be resolved by litigation in a court of competent jurisdiction.

**ARTICLE 13 TERMINATION OR SUSPENSION****§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment**

**§ 13.1.1** If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.3** Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

**§ 13.1.4** In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.



§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.
- .4 **Add a termination fee equal to Twenty-Five percent (25%) of Construction Manager's originally calculated fee**

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## § 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

### § 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

### § 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

### § 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)*

**« Contractor's Fee on all Work completed up to termination date plus all associated costs associated with such termination plus fee for all Work not completed.**

**Contractor's fee upon termination for convenience to be 10% of the Cost of the Work completed up to the date of termination, plus any costs associated with such termination, plus 10% of the anticipated Cost of Work not yet completed. »**

### § 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### § 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

### § 14.3 Insurance and Bonds

#### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than **«One Million Dollars and 00/100»** (\$ **«1,000,000.00»**) for each occurrence and **«Two Million Dollars and 00/100»** (\$ **«2,000,000.00»**) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than **«One Million Dollars and 00/100»** (\$ **«1,000,000.00»**) 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.

§ 14.3.1.3 The Construction Manager 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 that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, 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.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than «One Million Dollars and 00/100» (\$ «1,000,000.00») each accident, «One Million Dollars and 00/100» (\$ «1,000,000.00») each employee, and «One Million Dollars and 00/100» (\$ «1,000,000.00») policy limit.

§ 14.3.1.5 Not Used

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager 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 Construction Manager'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.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 **Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

«Notices shall be delivered electronically to the individuals executing the Agreement.»

§ 14.5 Other provisions:

«N/A»

**ARTICLE 15 SCOPE OF THE AGREEMENT**

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

.5 ~~AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~  
~~(Insert the date of the E203 2013 incorporated into this Agreement.)~~

« »

.6 Other Exhibits:  
(Check all boxes that apply.)

AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:  
(Insert the date of the E234 2019 incorporated into this Agreement.)

« »

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.7 Other documents, if any, listed below:  
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- «Exhibit “A” – Guaranteed Maximum Price Amendment Date TBD
- Exhibit “B” – Insurance Bonds Date TBD
- Exhibit “C” – Preconstruction Services Scope of Services Date 6.20.2023
- Exhibit “D” – Preconstruction Services Fee Date 6.20.2023

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

**Town of Pineville**

**Edifice, LLC**

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

« Ryan Spitzer » « Town Manager »

«Michael A. Carlito » « Executive Vice President »

(Printed name and title)

(Printed name and title)



**Town of Pineville  
New Communications & Electric  
Ops Building  
June 20<sup>th</sup>, 2023**

**PRECONSTRUCTION SERVICES** (Aug 2023 – Aug 2023 ) Scope of services will include review and analysis during the three key design phases:

**Programming and Conceptual Pricing**

- Coordination meetings with the Town of Pineville and Design Team
- High level conceptual pricing exercises and planning
- Create project schedule that maps out preconstruction activities
- Create project procurement schedule that maps out milestones designers must hit in order to procure long lead time materials and components that allow project milestones to be reached without construction delays.

**Schematic**

- Coordination meetings with owner and design team – Bi-Weekly (every other week)
- Programming verification
- An allowance of \$7,500.00 has been included in the preconstruction services fee to cover Ground Penetrating Radar scans
- Value engineering
- Value engineering workshop with owner and designer
- Quantity take off and unit cost pricing
- Schematic design estimate
- Clarifications to estimate
- Facilitate estimate review meeting and refine based on team comments
- Establish Project Collaborative website for the project team to utilize

**Design Development**

- Coordination meetings with owner and design team – Bi-Weekly (every other week)
- Constructability review
- Product and system analysis with recommendations
- Value engineering
- Value engineering workshop with owner and designer
- Quantity take off
- Solicit key trades for current market pricing
- Design development estimate
- Clarifications to estimate
- Facilitate estimate review meeting and refine based on team comments
- Analyze products and building systems and make recommendations
- Solicit current market pricing from key trades



**The following Preconstruction Services will be included in the PGMP Contract for Construction Services:**

**Construction Documents**

- Coordination meetings with owner and design team – Bi-Weekly (every other week)
- Constructability review
- Design quality control and/or VE workshop with owner and designer
- Phasing and site logistics plan
- Milestone construction schedule
- Value engineering
- Construction document estimate
- Clarifications to estimate
- Perform quality control review of construction documents
- Create site logistics plan
- Create milestone construction schedule
- Provide cost estimate based on 90% CD's
- Conduct estimate review meeting and refine cost estimate based on feedback

**Prequalification of Trade Contractors**

- Establish a prequalification process to ensure that all Town of Pineville policies are adhered to and project-specific criteria is included.
- Tailor bid packages for the benefit of the project in terms of available resources and funding
- Advertise trade package opportunities for those interested in prequalifying to bid the project
- Edifice will work with the Town of Pineville on the Prequalification process making sure all County policies are followed and project specific criteria is included
- Outreach Sessions will be held to help advertise and promote interest in the project
- Describe prequalification process at Outreach Sessions
- The Town of Pineville and Edifice will work together to develop the list of Prequalified Trade Contractors in concert with the G.S. 143-135.8 Prequalification and 143-128.1 Construction Management at Risk Contracts
- All Town of Pineville requirements for MWSBE participation will be followed
- Get approval from the Town of Pineville for recommended prequalified bidders
- Only allow prequalified trade contractors to bid the project

**Pubic Bid**

- Advertise the project for bid to all prequalified trade contractors
- Conduct an open, competitive public bid process for all trade packages
- Offer and provide MWSBE firms assistance during the bidding phase
- Provide feedback to any unsuccessful bidders
- Notify Prequalified Bidders of pre-bid meeting and bid date
- Conduct Pre-Bid meeting



- Hold the bid opening in a public location at a Town of Pineville facility or agreed upon location.
- Edifice will work in concert with the Town of Pineville and designer (TBD) on all the necessary requirements related to the bid opening
- G.S. 143-129 Procedure for Letting of Public Contracts will be followed
- All Town of Pineville requirements for MWSBE participation will be followed
- Post Bid meetings with all apparent low, responsive, responsible trade contractors will be held to determine the authenticity and accuracy of bids
- Award 1st Tier Contracts
- Report Actual MWSBE participation vs. Goals

#### **MWSBE**

- Engage MWSBE coordinator to define MWSBE Plan
- Complete Project-specific MWSBE Plan
- Coordinate goals with project team

#### **Guaranteed Maximum Price**

- Once Post Bid Meetings are finalized and apparent low bidders are determined, a Guaranteed Maximum Price (GMP) Proposal will be put together.
- The GMP Proposal will then become part of the A133 – Exhibit A Guaranteed Maximum Price Amendment

#### **Contract**

- Negotiate and execute contract with the Town of Pineville using AIA A133 and A201
  - Include Preconstruction Services only to start the process
- Establish GMP once Post-Award meetings are finalized and apparent low bidders are determined
- Put together GMP Amendment for approval and it gets added to and becomes a part of the contract

**Preconstruction Services Fee Estimate**

<b>Project: Pineville Communications &amp; Electric Ops Building</b>		<b>Start Date</b>	<b>Aug-23</b>	
<b>Owner: Town of Pineville</b>		<b>Completion</b>	<b>Aug-23</b>	
		<b>Budget Estimate</b>	<b>\$13,000,000</b>	
<b>Personnel Activates</b>				
<b>Conceptual Design &amp; Programming Estimates</b>	<b>Man-hours</b>	<b>Rate</b>	<b>Labor</b>	<b>Personnel</b>
Project Executive	20	\$133.00	\$2,660	TB
Preconstruction Manager	40	\$105.00	\$4,200	CT
VP of Preconstruction Services	20	\$125.00	\$2,500	AA
<b>Subtotal</b>	<b>80</b>		<b>\$9,360</b>	
<b>Schematic Design</b>	<b>Man-hours</b>	<b>Rate</b>	<b>Labor</b>	<b>Personnel</b>
Project Executive	20	\$133.00	\$2,660	TB
VP of Preconstruction Services	60	\$125.00	\$7,500	AA
Project Manager	20	\$111.00	\$2,220	TP
Preconstruction Manager	60	\$105.00	\$6,300	CT
<b>Subtotal</b>	<b>160</b>		<b>\$18,680</b>	
<b>Design Development</b>	<b>Man-hours</b>	<b>Rate</b>	<b>Labor</b>	<b>Personnel</b>
Project Executive	20	\$133.00	\$2,660	TB
VP of Preconstruction Services	40	\$125.00	\$5,000	AA
Project Manager	40	\$111.00	\$4,440	TB
Superintendent	20	\$103.00	\$2,060	RB
Preconstruction Manager	60	\$105.00	\$6,300	CT
<b>Subtotal</b>	<b>180</b>		<b>\$20,460</b>	
<b>Complete CD's</b>	<b>Man-hours</b>	<b>Rate</b>	<b>Labor</b>	<b>Personnel</b>
Project Executive	25	\$133.00	\$3,325	TB
VP of Preconstruction Services	40	\$125.00	\$5,000	AA
Project Manager	40	\$111.00	\$4,440	TP
Superintendent	20	\$103.00	\$2,060	RB
Preconstruction Manager	80	\$105.00	\$8,400	CT
<b>Subtotal</b>	<b>205</b>		<b>\$23,225</b>	
<b>Bid Documents and Bidding</b>	<b>Man-hours</b>	<b>Rate</b>	<b>Labor</b>	<b>Personnel</b>
Project Executive	25	\$133.00	\$3,325	TB
VP of Preconstruction Services	40	\$125.00	\$5,000	AA
Project Manager	23	\$111.00	\$2,553	IR
Preconstruction Manager	80	\$105.00	\$8,400	CT
Preconstruction Assistant	20	\$65.00	\$1,300	V
<b>Subtotal</b>	<b>188</b>		<b>\$20,578</b>	
<b>Services Cost Recap</b>	<b>Man-hours</b>	<b>Days</b>	<b>Labor</b>	<b>Personnel</b>
<b>Personnal Activity Summary</b>				
Conceptual Design	80	10	\$9,360	3
Schematic Design	160	20	\$18,680	4
Design Development	180	23	\$20,460	5
Complete CD's	205	26	\$23,225	5
Bid Documents and Bidding	188	24	\$20,578	5
<b>Subtotal</b>	<b>800</b>	<b>102</b>	<b>\$92,303</b>	<b>22</b>
<b>Pre-construction Summary</b>				
<b>Total Labor</b>			<b>\$92,303</b>	
<b>Infrared Scans, Ground Penetrating Radar, Deconstructive Testing, &amp; Systems Testing Allowance</b>			<b>\$5,000</b>	
<b>Total Pre-construction Services Fee</b>			<b>\$97,303</b>	





# Memorandum

**To:** Mayor and Town Council  
**From:** Ryan Spitzer  
**Date:** 7/7/2023  
**Re:** Temporary Electric and PCS Facilities

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## **Overview:**

The Town needs to prepare for the temporary relocation of the Electric and PCS facilities until the new facility is built. The temporary facility will be located just south of the fence that delineates the brownfields site on the former Cone Mills property (in front of the old substation). The town anticipates moving the current “carports” from the current site to the new site, erecting a storage facility, and locating temporary office space for the department crews there. Other items that are at the current facility will be placed within the fence at the former Cone Mills Site and in the fenced in area across the street.

In order to engage an engineer, a municipality must follow the Mini-Brooks Act. This Act usually requires a formal bidding process for any amount of money. However, State Statute allows a municipality to forgo the formal process, as outlined in the Mini-Brooks Act, if the fee is below \$50,000.

The Town would like to engage LaBella on this project. LaBella is currently under contract with the Town for on-call services. LaBella’s scope of work will be to prepare the site plan and engineering documents for approval through the county. Their fee is \$44,210.

## **Estimated Costs:**

\$44,210

## **Attachments:**

LaBella Proposal for the Relocation of the Electric and PCS operation

## **Recommendation:**

Approve the proposal and exclude the Town from going through the normal bidding process as allowed in General Statute 143-64.32

## Professional Services Agreement

Agreement made the \_\_\_\_ day of \_\_\_\_\_, 2023

between

**LaBella Associates, D.P.C.**  
**("LaBella")**

and

**Town of Pineville**  
**("Client")**

for services related to the following Project:

**Proposed Grading and Structural Foundation Plan for Temporary Operations Site**  
**Pineville, NC**  
**("Project")**

LaBella and Client hereby agree as follows:

**Description of Services:** LaBella shall perform the services set forth and described in LaBella's proposal, dated July 6, 2023, a copy of which is attached as *Exhibit A*, in accordance with the terms and conditions of this contract attached as *Exhibit B*.

**Compensation for Services:** Client shall compensate LaBella for its professional services as set forth in LaBella's proposal. LaBella shall submit invoices for services rendered monthly. Client shall make payment to LaBella no later than thirty (30) days after the date of each invoice.

**Term:** LaBella shall commence performing its services when Client gives notice to proceed. This Agreement shall terminate when LaBella's services are completed and final payment has been received from Client, or as otherwise provided in this Agreement.

**Insurance:** LaBella shall maintain, at its own expense, throughout the term of this Agreement and until the expiration of all applicable statutes of limitation, the following insurance coverages:

- Comprehensive general liability insurance with policy limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage;

- Automobile liability insurance covering owned, non-owned, rented and hired vehicles operated by LaBella with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage;
- Umbrella liability insurance with policy limits of not less than \$10,000,000 each occurrence and \$10,000,000 in the aggregate;
- Worker’s compensation insurance at statutory limits and employer’s liability insurance with a policy limit of not less than \$1,000,000 for all employees engaged in the rendering of professional services under this Agreement; and
- Professional liability insurance with policy limits of not less than \$5,000,000 per claim and \$7,500,000 in the aggregate.

Client shall be named as an additional insured on a primary and non-contributory basis under the CGL, Automobile and Umbrella insurance policies. LaBella shall provide to the Client certificates of insurance evidencing compliance with the requirements of this Agreement. The certificates shall contain a provision that at least thirty (30) days prior written notice shall be given to Client in the event of cancellation, non-renewal, or reduction of the insurance.

**Indemnification:** To the fullest extent permitted by law, LaBella shall indemnify and hold the Client and its officers and employees harmless from and against liabilities, damages, losses and judgments, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts, errors or omissions of LaBella, its employees and its consultants in the performance of professional services under this Agreement.

In recognition of the relative risks and benefits of the Project to both Client and LaBella, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, to limit the liability of LaBella and LaBella’s consultants for any and all claims, liabilities, damages, losses, costs, and judgments of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of LaBella and LaBella’s consultants shall not exceed \$50,000 or LaBella’s total fee for services rendered on this Project, whichever is greater.

**LaBella Associates, D.P.C.**

**Town of Pineville**

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

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

Name Keith Garbrick, PE

Name \_\_\_\_\_

Title Vice President

Title \_\_\_\_\_

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

Date \_\_\_\_\_

# **Exhibit A**

## **LaBella's Proposal**

July 6, 2023

Mr. David Lucore  
Town of Pineville  
505 North Main Street  
Pineville, NC 28134

Subject: Proposed Grading and Structural Foundation Plan for Temporary Operations Site

Dear David:

LaBella Associates, P.C. (LaBella) is pleased to submit our proposal to the Town of Pineville (Town) for providing engineering services for the proposed site improvements of the Town's property at 403 Dover Street. Our understanding of the project and scope are described below.

**PROJECT DESCRIPTION:**

The Town plans to relocate three existing storage buildings currently located at 118 College Street to 403 Dover Street, Pineville, where they will be reassembled on new concrete bases. Two new modular offices will be placed on the site to serve field staff. A stone base driveway for tractor trailer deliveries shall be sited. Building dimensions were provided by the Client and are listed below, and a conceptual layout map of the project area provided by the Town is attached (Attachment 1).

- Approximately 175' x 35' Covered Truck Parking,
- Approximately 20' x 40' PCS Modular Office Trailer
- Approximately 20' x 40' Electrical Modular Office Trailer
- Approximately 70' x 70' PCS Storage
- Minimum 12-foot wide tractor-trailer size delivery truck route through the site (one-way)
- Employee parking area (5 spaces)

The scope of services and fees are provided below:

**SCOPE OF SERVICES:**

**Task #1 – Surveying and Mapping Coordination**

Surveying/Mapping and mapping shall be provided to LaBella by the Town's surveyor, Carolina Surveying, in a separate contract. LaBella will coordinate with the surveyor to receive sufficient field surveying data within the project limits to complete the design. Surveyor shall provide topographic and boundary survey/mapping for the project as needed to establish parcel boundary as required by Mecklenburg County site development regulations for permitting. Underground utilities shall be marked to ensure accurate locations. No real estate easements are anticipated, as the Town owns the property. There will be no encroachment into the adjacent railroad right of way.



## Task #2 – Conceptual Layout Plans

Conceptual Site and Grading Plan: Using topographic data provided by the Town’s surveyor, create a site and grading plan for permitting and bidding purposes. A concept layout plan for the driveway, and buildings shall be submitted to the Town for review and feedback. Revisions based upon Town’s comments will be incorporated into the final grading plans.

Utility Coordination: Send letters (via email) to utilities within the project limits to introduce the project and request information on existing or planned facilities that may or may not be impacted by construction of the improvements. Email distribution of the plans is anticipated with hard copies provided only at the request of an individual utility. Coordinate the relocation of all utilities proposed to be relocated prior to construction of site improvements. Significant design and coordination with private and public utilities is not anticipated.

Permitting: Calculate existing Built Upon Impervious area based upon the field survey received. Attend a pre-submittal meeting with Mecklenburg County Plan Review staff to identify the permits that will be necessary to develop the site in conformance with local, State, and Federal requirements. Provide estimate of permitting fee costs. **This Proposal assumes that the proposed site will utilize existing impervious area to successfully stay below the Stormwater Ordinance maximum thresholds for water quality controls.** If thresholds must be exceeded due to permitting requirements, then Stormwater design and permitting shall be provided as an Additional Service. The disturbed area is anticipated to be less than one acre, and no formal Erosion Control permit will be required.

It is our understanding that the Brownfield designation of the Town’s site adjacent to the project has been resolved, and there are no restrictions placed upon the site for the proposed development.

## Task #3 – Structural Foundation Design

Provide Structural engineering design of foundations for three existing pre-engineered metal buildings. Two of these buildings will have a gravel floor and will be an open structure, and one will have a slab-on-grade and will be an enclosed structure with existing exterior wall girts. Provide Permit set of documents stamped by a registered Professional Engineer licensed in the State of North Carolina. See Attachment A for a detailed description of the scope of services and fees for this phase.

The modular buildings will be separately permitted by the Town when installed. No costs for electrical plans or permitting are included in this Proposal.

## Task #4 – Subsurface Investigation and Geotechnical Engineering Evaluation

Perform a geotechnical evaluation based on our understanding of the proposed construction and conditions encountered during subsurface investigation. Prepare a report that presents the results of the subsurface investigation, includes a description of the existing site and proposed construction; a description of the subsurface conditions; geotechnical engineering recommendations for foundation types along with allowable bearing capacities and anticipated settlement, pavement sections, and a discussion of construction considerations such as site



preparation, earthwork, excavations, fill and backfill material and placement criteria, and control of water. See Attachment B for a detailed description of the scope of services and fees this phase.

Task #5 –Construction Documents

Grading Plans and Specifications - Develop plans in sufficient detail to obtain construction contract bids and permits for the proposed improvements on the site. Grade site to drain by designed swales, with discharge to natural low areas and existing storm drainage systems. Final plans will include onsite grading, drainage, sediment and erosion control, and construction details. Structural drawings acceptable for building permitting will be included in the bid package. Construction specifications will be provided in a Project Manual and will be in conformance with the Town of Pineville Land Development Specifications and Standards, NCDOT Standard Specifications and Standard Details, and local building standards.

Prepare construction specifications, special provisions, bid documents, and Proposal Form for use in bidding, in accordance with NC General Statute requirements.

Develop a final construction cost estimate for the project.

Construction Bid Phase Services: The Town will be responsible for the bid phase and contract execution phase of the project. These services may be provided by LaBella as an additional service upon request.

Task #6 - Allowance for Reimbursable Expenses

An allowance shall be established for reimbursable expenses incurred by LaBella during performance of this agreement. Reimbursable expenses shall be compensated at cost unless otherwise noted. Reimbursable expenses shall be limited to the actual expenditures made by the Engineer during the performance of the work with respect to travel, postage, courier expenses, copies, printing, plots, permitting fees, photographs, maps, or other miscellaneous project expenses.

**FEE:**

LaBella will perform the services described on a time and materials basis with a not-to-exceed fee, and according to the conditions of the Agreement and the attached schedule of fees. A summary of the not-to-exceed fees is as follows:

TASK	FEE
Task #1 – Surveying and Mapping	\$1,600.00
Task #2 – Conceptual Site Plan	\$11,920.00
Task #3 – Structural Foundation Design	\$7,200.00
Task #4 – Geotechnical Investigation	\$6,300.00
Task #5 - Construction Documents	\$16,190.00
Expenses	\$ 1,000.00
 Total Not-To-Exceed Fee:	 \$44,210.00



If authorized by the Client, LaBella shall furnish additional services not included in the tasks above. Approval by the Client shall be granted in writing prior to initiation of any additional services. Compensation for additional services performed shall be in accordance with the hourly and unit price rates and rates for reimbursable expenses set forth in the Agreement. Additional services may include such items as soft digs excavation for utility locates, changes in scope requested by the owner or reviewing agency, detailed stormwater design and permitting, bidding phase assistance, construction administration and inspections, or other tasks not defined in the project scope.

**SCHEDULE:**

LaBella proposes to complete the conceptual site plan (Task 2) within 30 calendar days after receipt of field topographic survey from the Town's surveyor and Notice to Proceed from the Town. After receipt of review comments and final approval of the conceptual plans from the Client, LaBella will complete Tasks 3-5 within an additional 45 calendar days.

We appreciate the opportunity to work with you on the project and be of service to Pineville. If this proposal is acceptable, please have an authorized agent sign and date the enclosed agreement and return to LaBella for final signature. Please contact me at 704-941-2132 if you have any questions on the proposal or require additional information.

Sincerely,

**LaBella Associates**

Bonnie A. Fisher, P.E.  
Project Manager

Attachment



**SCHEDULE OF FEES**

<u>CLASSIFICATION</u>	<u>BILLING RATE</u>
Principal	\$185.00/hour
Project Manager	\$180.00/hour
Senior Engineer	\$170.00/hour
Senior Project Engineer	\$140.00/hour
Structural Engineer	\$132.00/hour
Project Engineer	\$120.00/hour
GIS Analyst	\$115.00/hour
Senior Engineering Technician	\$115.00/hour
Design Engineer	\$110.00/hour
Jr. Engineer/Engineering Technician	\$105.00/hour
Construction Inspector	\$87.00/hour
Engineering Co-op	\$70.00/hour
Clerical	\$70.00/hour
Mileage	at current IRS rate
Expenses	at cost
Subconsultants	at cost

June 09, 2023

David Lucore  
ElectriCities of NC, Inc.  
505 Main Street  
Pineville, NC 28134

**RE: Proposal for Foundation Design for Pre-engineered metal buildings located at 403 Dover Street Pineville, NC 28134**

**LaBella Project Number 2211901.02**

Dear Mr. Lucore:

LaBella Associates, D.P.C. (LaBella) is pleased to submit this proposal to provide Structural Professional Engineering Services associated with the foundation design for the Pre-engineered metal buildings at the location noted above.

## SCOPE OF WORK

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Our proposal for structural professional engineering services for the project for which LaBella understands will include the following items:

- Structural engineering design of foundations for three existing pre-engineered metal buildings. These existing buildings are currently located at 118 College Street, and will be relocated to 403 Dover Street Pineville, NC 28134.
- Two of these buildings will have a gravel floor and will be an open structure, and one will have a slab-on-grade and will be an enclosed structure with existing exterior wall girts.
- Permit set of documents stamped by a registered Professional Engineer licensed in the State of North Carolina.
- Construction related activities include review of submittals, coordination with contractor for questions and changes due to unforeseen conditions. No construction inspections are included in our fee noted below.

## ASSUMPTIONS AND EXCLUSIONS

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LaBella has made the following assumptions in the preparation of this proposal:

- Access to the site is available during regular working hours.
- Existing building drawings were not provided. The contractor will be responsible for verifying all existing building conditions and dimensions provided on final structural drawings prior to pouring any structural foundations.
- Drawings will be provided in PDF format printed from AutoCAD.
- Design to include foundations and slab and will be based on assumed loading information based on current North Carolina Building Code standards.



- Foundation and slab design will be performed utilizing assumed bearing pressure and subgrade modulus as required by NC State Building Code. It should be noted that without geotechnical information these assumptions can be conservative.
- Third party testing required to determine bearing pressure, properties, depths, construction, etc. is not included in our fee noted below.
- Document reproduction is not included in fee noted below. Reproduction for distribution purposes can be added as a reimbursable expense.
- Submittal for Permit and/or Approvals and any associated fees will be by others.

## FEES & SCHEDULE

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Services will be rendered and invoiced based on a Fixed Fee as follows:

Seven Thousand Two Hundred Dollars (\$7200), plus any reimbursable expenses.

The term of this Agreement shall be for a period of Six (6) months beginning as of June 09, 2023.

LaBella will complete the above in accordance with a mutually agreed upon schedule.

## ADDITIONAL DETAILS AND SERVICES

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Soil conditions will be an assumed minimum and If any unsuitable soils are encountered on site LaBella will not be responsible for costs associated with removal and replacement of those soils. LaBella assumes that the Owner will be responsible for the any costs associated with that soil replacement. Existing building drawings were not provided. The contractor will be responsible for verifying all existing building conditions and dimensions provided on final structural drawings, as well as any services involving the relocation of the existing buildings to the new site.

If you have any questions, please do not hesitate to contact me directly at (704) 290-4384 or e-mail at [dhill@labellapc.com](mailto:dhill@labellapc.com). We appreciate the opportunity and look forward to working with you towards the successful completion of this project. If acceptable, please have this letter signed below and return one copy to us.

Respectfully submitted,

### **LABELLA ASSOCIATES, D.P.C.**

Daniel R. Hill, PE  
SE Regional Engineering Manager



June 12, 2023

David Lucore  
ElectriCities of NC, Inc.  
505 Main Street  
Pineville, NC 28134

Re: PVL Temporary Ops Site  
Subsurface Investigation and Geotechnical Engineering Evaluation

Dear Mr. Lucore:

LaBella Associates (LaBella) is pleased to submit this proposal for performing a Subsurface Investigation and Geotechnical Engineering Evaluation for the proposed PVL Temporary Ops Site located at 403 Dover Street Pineville, NC.

### PROJECT UNDERSTANDING

LaBella understands that this project consists of several improvements to the site including:

- Approximately 175' x 35' Covered Truck Parking
- Approximately 20' x 40' PCS Trailer
- Approximately 20' x 40' Electrical Trailer
- Approximately 70' x 70' PCS Storage
- A delivery truck route through the site
- Employee parking area

The scope of services described below, and the associated estimated cost are provided for the subsurface investigation and geotechnical engineering evaluation for the proposed transmission lines.

### SCOPE OF SERVICES

#### Task 1: Subsurface Investigation

- A. Site Reconnaissance, Utility Locate Coordination, and on-site meeting with private locators.
- B. Test borings will be advanced to depths indicated in the attached figure. and include a total of five (5) test borings for a total of approximately 90 linear feet.
- C. Test borings will be sampled at the standard sampling interval of every 5 feet.
- D. Soil boring inspection by LaBella geotechnical personnel.



**Task 2: Geotechnical Engineering Evaluation and Reporting:**

A. LaBella will perform a geotechnical evaluation based on our understanding of the proposed construction and conditions encountered during LaBella's subsurface investigation. We will prepare a report, in general accordance with this proposal, that presents the results of the subsurface investigation, includes a description of the existing site and proposed construction; a description of the subsurface conditions; geotechnical engineering recommendations for foundation types along with allowable bearing capacities and anticipated settlement, pavement sections, and a discussion of construction considerations such as site preparation, earthwork, excavations, fill and backfill material and placement criteria, and control of water.

**ESTIMATED COST**

DESCRIPTION	QUANTITY	UNIT	RATE	TOTAL
Drilling Services (CVET)	1	Day	\$1,800.00	\$1,800.00
Utility Locating Services (Estimated)	1	Day	\$1,500.00	\$1,500.00
<b>SUBTOTAL FOR DRILLING SERVICES</b>				<b>\$3,300.00</b>
Geotechnical Engineering Evaluation and Report	1	LS	\$3,000.00	\$3,000.00
<b>SUBTOTAL FOR GEOTECHNICAL ENGINEERING SERVICES</b>				<b>\$3,000.00</b>
<b>TOTAL DRILLING AND GEOTECHNICAL ENGINEERING SERVICES</b>				<b>\$6,300.00</b>

Notes:

1. Pay Quantities: All quantities represented above reflect approximation, whereas actual requirements may be more or less, depending on the subsurface conditions encountered. Payment for Field Work & Related Activities shall be made at the above unit prices for the actual quantity of work performed.
2. Day - Daily Rate; Ea - Each; LF - Linear Feet; LS - Lump Sum

LaBella will coordinate and/or provide boring layout, drilling, and geotechnical engineering professional services in accordance with the project understanding and the above outlined scope of work. If the existing vegetation densities or terrain does not allow access for drilling equipment the client will be contacted to discuss access solutions. Landowner access agreements and any permits required are the responsibility of the client. LaBella is not responsible for any matting, clearing, or any delays related to site access. Any additional effort and cost associated with encountering, handling, and/or disposal of potentially contaminated soils or groundwater is not a part of this proposal but can be quoted separately, if those services are needed.

Based on the Scope of Work to complete all phases of the project, we recommend a budget be established in the amount of **\$6,300.00**. LaBella will notify the Client immediately if the budget amount does not appear adequate during the course of the project due to unforeseen subsurface conditions or other constraints beyond LaBella's control.



Geotechnical Subsurface Investigation and Engineering Proposal  
PVL Temporary Ops Site  
North Carolina

We appreciate the opportunity to serve your needs with regard to the proposed PVL Temporary Ops Site and look forward to working with you toward successful completion of this project. If you have any questions, please do not hesitate to contact us at 585-944-3116.


Respectfully submitted  
LaBella Associates,

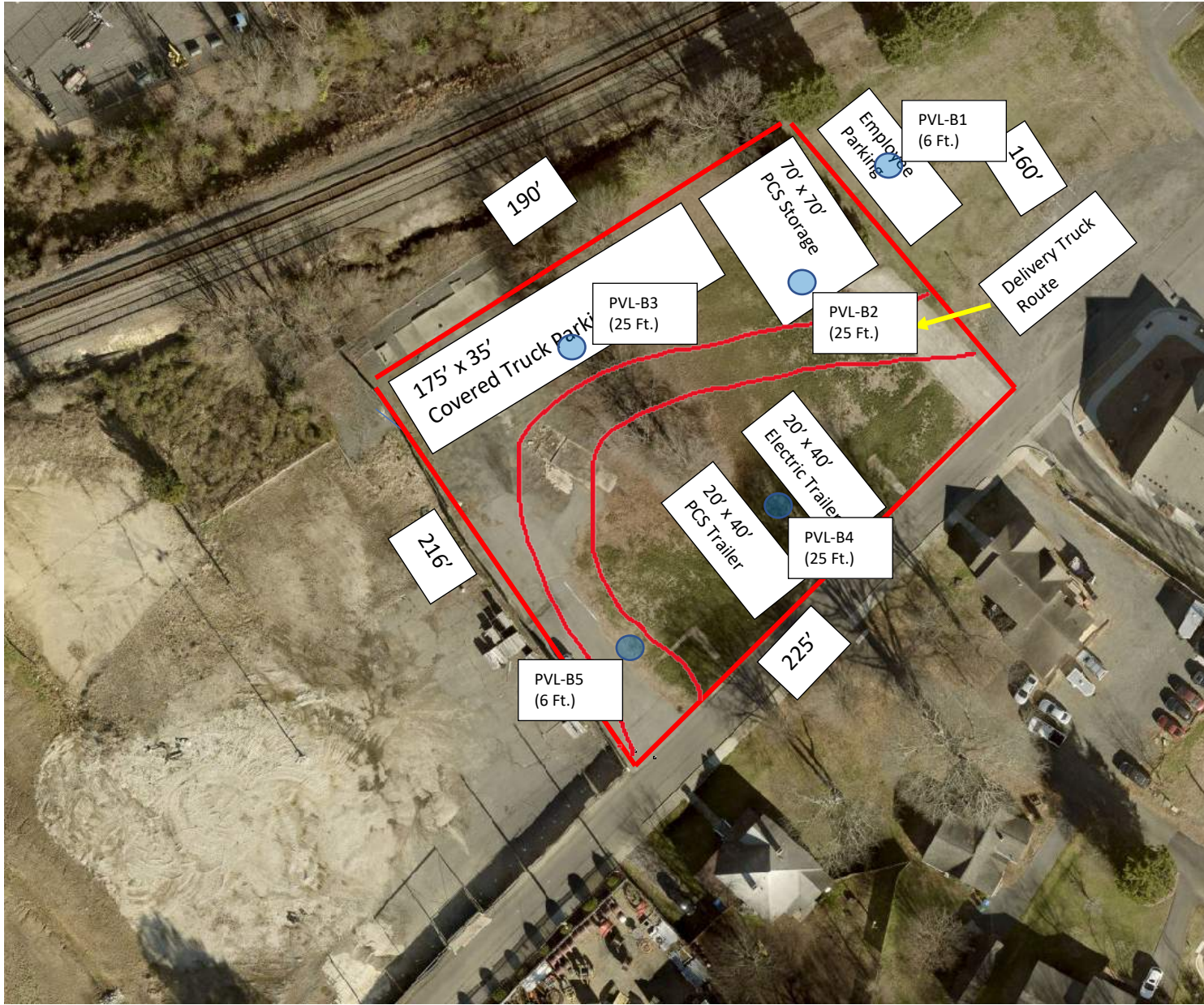
A handwritten signature in black ink, appearing to read 'Chris Redmond', written in a cursive style.

Christopher R. Redmond  
Senior Geotechnical Engineer

A handwritten signature in black ink, appearing to read 'Tom Zaso', written in a cursive style.

Thomas J. Zaso  
Geotechnical Engineering Discipline Lead

 PVL-B1  
Proposed Boring Location and Designation



# **Exhibit B**

## **Terms and Conditions**



## Terms and Conditions

**LaBella's Responsibilities:** LaBella shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

LaBella shall perform its services consistent with the professional skill and care ordinarily provided by members of the same profession practicing in the same or similar locality under the same or similar circumstances. LaBella shall perform its services as expeditiously as is consistent with such professional skill and care, and the orderly progress of the Project.

LaBella shall not at any time supervise, direct, control or have authority over any contractor or subcontractor's work, nor shall LaBella have authority over, or be responsible for, the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor or subcontractor, or the safety precautions and programs incident thereto, for safety or security at the Project location, nor for any failure of a contractor or subcontractor to comply with laws and regulations applicable to the performance of their work and the furnishing of materials on the Project. LaBella shall not be responsible for the acts or omissions of any contractor or subcontractor.

**Client's Responsibilities:** Client shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

Client shall provide LaBella with all available information regarding, and site access to, the Project necessary for LaBella to perform its professional services, including Client's requirements for the Project. Client also shall provide information regarding the Project site and any existing facilities, including destructive testing and investigation of concealed conditions and hazardous substances or injurious conditions. If Client does not perform destructive testing or investigation, nor provide information beyond that which is apparent by non-intrusive observations, or in the event documentation or information furnished by Client is inaccurate or incomplete, then any resulting damages, losses and expenses, including the cost of LaBella's changes in service or additional services, shall be borne by Client.

Client shall examine documents submitted by LaBella and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of LaBella's services.

**Additional Services:** LaBella may provide additional services after execution of this Agreement without invalidating the Agreement. LaBella shall not proceed to provide any additional services, unless and until LaBella receives written direction from Client. Client shall compensate LaBella for additional services as set forth in LaBella's proposal, or any supplemental proposal or contract modification, or as agreed upon in writing signed by both parties.

**Assignment:** Neither party may assign any benefit or obligation under this Agreement without the prior written consent of the other party, except LaBella may use the services of persons and entities not in LaBella's employ when appropriate and customary to do so.

**Confidentiality:** During the Project, confidential and/or proprietary information of the Client might be furnished to LaBella. LaBella shall use such information for the purpose of providing its professional services on the Project, and for no other purpose. LaBella shall hold such information in strict confidence and shall not disclose such information to any person or entity, except sub-consultants engaged on the Project or as required by law. Upon completion of its services, LaBella shall return or destroy all confidential and/or proprietary information to the Client.

**Instruments of Service:** All documents prepared or furnished by LaBella pursuant to this Agreement are instruments of professional service, and LaBella shall retain its ownership and property interest therein, including all copyrights and the right to reuse the documents. Upon payment in full for services rendered, LaBella grants Client a license to use the instruments of service for the purposes of constructing, occupying and maintaining the Project. Reuse or modification of any documents by Client without LaBella's written permission shall be at Client's sole risk, and Client agrees to defend, indemnify, and hold LaBella harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Client and Client's contractors and other consultants may rely only upon printed copies (also known as hard copies) of documents that are signed and sealed by a licensed professional employed by LaBella. If there is any discrepancy between printed copies and any electronic copies, the most recent version of the printed and certified copies shall govern. Any electronic copies (files) provided by LaBella will be provided solely as a convenience and shall not be considered "Contract Documents," "Construction Documents" or any type of certified document. All documents considered "Contract Documents," "Construction Documents" or any type of certified document shall consist only of printed copies having an original signature and seal of a licensed professional employed by LaBella. Client is advised that electronic copies of documents can deteriorate or be inadvertently modified without LaBella's consent or may otherwise be corrupted or defective. Accordingly, Client and Client's contractors or other consultants may not rely upon the accuracy of any electronic copies of documents.

**Escalation:** In the event the term of this Agreement is extended beyond the period of service set forth in LaBella's proposal, then compensation for professional services is subject to review and escalation by LaBella upon thirty (30) days written notice to Client.

**Suspension:** Client may suspend this Agreement in whole or in part at any time for convenience upon seven (7) days written notice. Upon receipt of notice, LaBella shall immediately discontinue all services. LaBella shall be entitled to compensation for all services rendered up to the date of suspension. If the suspension exceeds three (3) months, an equitable adjustment in compensation shall be negotiated to compensate LaBella for all reasonable costs incurred by LaBella on account of the suspension of the Project.

LaBella may suspend its performance under this Agreement if any delinquent amounts due for services and expenses have not been paid. LaBella may refuse to release drawings, plans, specifications, reports, maps, materials and any other instruments of service prepared by LaBella

for Client until all arrearages are paid in full. LaBella shall not be liable to Client for delay or any other damages due to any such suspension of services.

**Termination:** Either party may terminate this Agreement for cause upon seven (7) days written notice with an opportunity to cure any default during that period. In any event, without regard to the party terminating the Agreement, Client shall remit payment of all amounts that are not in dispute no later than thirty (30) days after the date of each invoice.

**Disputes:** The parties agree that mediation before a mutually agreeable neutral third party shall be a condition precedent to any legal action arising out of this Agreement, unless waived in writing by the parties. The cost of the mediation shall be borne equally by the parties. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, unless the parties agree otherwise. No demand for mediation shall be made after the date that the applicable statute of limitations would bar a legal or equitable action based on the claim or dispute.

**Venue and Jurisdiction:** Any legal suit, action or proceeding arising out of or relating to this agreement shall be instituted in a court of competent jurisdiction located in the state and county where the project is located. The parties hereby waive any objection which they may have now or hereafter to the venue of any such suit, action or proceeding, and hereby irrevocably consent to the personal jurisdiction of any such court in any such suit, action or proceeding.

**Choice of Law:** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state where the project is located without giving effect or reference to any conflict of laws provisions.

**Consequential Damages:** In any suit, action or proceeding, the parties shall be entitled to recover compensatory damages incurred as a result of the breach of this Agreement, but, to the fullest extent permitted by law, neither party shall be liable to the other for any special, incidental, indirect, or consequential damages.

**Late Fees, Costs and Attorneys' Fees:** An additional charge of 1.5% of an invoice will be imposed each month on all past due accounts. Imposition of such charges does not constitute an extension of the payment due date. If LaBella must bring suit to collect payment of any invoices, then Client agrees to pay LaBella's costs and expenses, including reasonable attorneys' fees.

**Remedies Cumulative:** The rights and remedies available to a party under this Agreement are cumulative and in addition to, not exclusive of, or in substitution for, any other rights or remedies either party may have at law, or in equity, or under this Agreement. Nothing contained in this Agreement shall be deemed to preclude either party from seeking injunctive relief, if necessary, to prevent the other party from willfully or intentionally breaching its obligations under this Agreement or to compel the other party to perform its obligations hereunder.

**Non-Waiver:** Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right

accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

**Force Majeure:** Neither party to this Agreement shall be liable to the other for delays in performing the obligations called for by this Agreement, or the direct and indirect costs resulting from such delays, that are caused by labor strikes, riots, war, acts of government authorities other than the Client (if a governmental authority), extraordinary weather conditions, epidemics, pandemics or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

**Severability:** The provisions of this Agreement are hereby agreed and declared to be severable. Any term or provision of this Agreement which is held to be unenforceable by a court of competent jurisdiction shall be deemed to have been stricken from this Agreement, and the remaining terms and provisions of this Agreement shall be construed and enforced without such terms or provisions.

**Counterparts:** This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Scope of Agreement:** This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, except that terms specific to future projects shall be set forth in LaBella's proposals. This Agreement may be amended only by written instrument signed by both parties.

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 7/7/2023

**Re:** Cone Mill Memorial Construction Administration and Inspections

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## **Overview:**

The Town is ready to start the bidding process for the Cone Mill Memorial Project. One of the steps to this process is to engage a construction manager to oversee the project, as well as an inspector, to make sure all of the materials are up to town specifications.

In order to engage an engineer, a municipality must follow the Mini-Brooks Act. This Act usually requires a formal bidding process for any amount of money. However, State Statute allows a municipality to forgo the formal process as outlined in the Mini-Brooks Act if the fee is below \$50,000.

The Town would like to engage LaBella on this project, as they are the ones who completed the design and engineering work. Their fee is \$27,060.

## **Estimated Costs:**

\$27,060

## **Attachments:**

LaBella Proposal for the Cone Mill Memorial

## **Recommendation:**

Approve the proposal and exclude the Town from going through the normal bidding process as allowed in General Statute 143-64.32

June 19, 2023

Mr. Chip Hill, Director of Public Works  
Town of Pineville  
316 College Street  
Pineville, NC 28134

Subject: Construction Administration and Inspection Services  
Site Improvements for Memorial Park and Proposed Memorial Monument

Dear Chip:

LaBella Associates, P.C. (LaBella) is pleased to submit our proposal to the Town of Pineville (Town) for providing construction administration and inspection services for the proposed site improvements of the Town's property at Cone Avenue and Dover Street (PID 22107108). Our understanding of the project and scope are described below.

**PROJECT DESCRIPTION:**

The Town plans to create a memorial park with parking, sidewalk, and a memorial monument based upon the site plan and architectural plans prepared by Labella.

**SCOPE OF SERVICES:**

Task #1- Construction Administration and Periodic Construction Inspections

LaBella will provide office and field administration of the construction contract as necessary for the construction of the project. LaBella shall consult with and advise the Town and act as Town's representative during the construction contract period. The Town's instructions to the Contractor shall be issued through LaBella's assigned Project Manager who shall have the authority to act on behalf of the Town in dealings with Contractor to the extent provided in this Agreement. These services shall include issuance of Notice to Proceed, conduct pre-construction meeting and prepare/distribute meeting minutes, review Contractors' submittals/shop drawings; respond to requests for information (RFI's) from the Contractor and prepare Field orders and Change orders as necessary; review and recommend for payment the Contractor's Applications for payment (assume 3); perform a substantial completion inspection and in collaboration with the Town prepare and deliver a punch list for the contractor to address; perform a final completion inspection to ensure all punch list items have been addressed

LaBella shall provide one field Inspector to assist the Town in inspecting the progress and quality of the Work of the Contractor. The Inspector shall be LaBella's agent at the site, and will act as directed by and under the supervision of the Project Manager. The Inspector will make visits to the site at intervals appropriate to the stage of construction to observe the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. On the basis of on-site observations, LaBella shall keep the Town informed of the progress and quality of the Work and shall alert the Town to defects and deficiencies in the Work of the Contractor. LaBella shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures of construction selected by Contractor or for safety and environmental programs and precautions incidental to the Work.

Periodic Inspections for site grading shall be based on a total hour basis (approximately 16 hours per week assumed for 8 weeks) and is intended to be at a sufficient level to satisfactorily inspect the Contractor's Work. The construction period is assumed to be 8 weeks duration.



Task #2 - Allowance for Reimbursable Expenses

An allowance shall be established for reimbursable expenses incurred by LaBella during performance of this agreement. Reimbursable expenses shall be compensated at cost unless otherwise noted. Reimbursable expenses shall be limited to the actual expenditures made by the Engineer during the performance of the work with respect to travel, postage, courier expenses, copies, printing, plots, permitting fees, photographs, maps, or other miscellaneous project expenses.

Additional Services

If authorized by the Client, LaBella shall furnish additional services not included in the tasks above. Approval by the Client shall be granted in writing prior to initiation of any additional services. Compensation for additional services performed shall be in accordance with the hourly and unit price rates and rates for reimbursable expenses set forth in the Agreement. Additional services may include such items as detailed flood study for floodplain development permit, soft digs excavation for utility locates, changes in scope requested by the owner or reviewing agency, engineering consulting services during the construction period, or other tasks not defined in the project scope.

**FEE:**

LaBella will perform the services described on a time and materials basis with a not-to-exceed fee, and according to the conditions of our current on-call contract with the Town and the attached schedule of fees. A summary of the not-to-exceed fees is as follows:

TASK	FEE
Task #1 – Construction Admin. & Inspection	\$26,560.00
Task #2 – Expenses	\$ 500.00
 Total Not-To-Exceed Fee:	 \$27,060.00

**SCHEDULE:**

LaBella will provide the described services during the contract period, assumed to be eight calendar weeks.

We appreciate the opportunity to work with you on the project and be of service to Pineville. If this proposal is acceptable, please have an authorized agent sign and date the enclosed agreement and return one copy to LaBella. Please contact me at 704-941-2132 if you have any questions on the proposal or require additional information.

Sincerely,

**LaBella Associates**

Bonnie A. Fisher, P.E.  
Project Manager

\_\_\_\_\_  
Town of Pineville Authorized Agent

\_\_\_\_\_  
Date



### SCHEDULE OF FEES

<u>CLASSIFICATION</u>	<u>BILLING RATE</u>
Principal	\$180.00/hour
Project Manager	\$175.00/hour
Senior Engineer	\$160.00/hour
Senior Project Engineer	\$140.00/hour
Structural Engineer	\$130.00/hour
Project Engineer	\$120.00/hour
GIS Analyst	\$115.00/hour
Senior Engineering Technician	\$115.00/hour
Design Engineer	\$105.00/hour
Jr. Engineer/Engineering Technician	\$95.00/hour
Construction Inspector	\$85.00/hour
Engineering Co-op	\$70.00/hour
Clerical	\$70.00/hour
Mileage	at current IRS rate
Expenses	at cost
Subconsultants	at cost



# Memorandum



**To:** Mayor and Town Council

**From:** David Lucore, Electric Systems Manager, ElectriCities of NC, Inc.

**Date:** 7/7/2023

**Re:** Award of Bid for Architectural Design and Construction Administration for Communications and Electric Operations and Warehouse Facility

## Overview:

Staff solicited RFQ's for Architectural Design and Construction Administration for a new Communications and Electric Operations and Warehouse Facility.

Staff received six (6) proposals from architectural firms:

C Design, Inc.,	Ramsey, Burgin, Smith Architects, Inc.
Clark Patterson Lee,	LS3P
LaBella Associates, P.C.,	Stewart-Cooper-Newell Architects, PA

Each proposal was evaluated abilities and experience with this type of project and three (3) firms were selected for in-person interviews: Ramsey Burgin Smith Architects, C Design and Stewart Cooper Newell.

The interview process revealed Stewart Cooper Newell as the firm best able to meet the needs of the Town of Pineville for this project. Stewart Cooper Newell is the architect for the new fire station to be built at the same location and efficiencies will be gained by working on these two projects concurrently.

## Attachments:

## Recommendation:

Staff recommends awarding a contract to Stewart Cooper Newell for architectural design and construction administration for \$1,295,200.00 for this project.

## Procedure:

Motion to award contract to Stewart Cooper Newell for \$1,295,200.00 and authorize town manager to execute all documents.



July 5, 2023 (rev 7/7/23)

Mr. David Lucore, Electric Systems Manager  
Town of Pineville  
PO Box 249  
200 Dover Street  
Pineville, NC 28134

Re: Design Services Proposal for the PCS/Electrical Operations Facilities

Dear Mr. Lucore,

Thank you, the Town and the Selection Committee for selecting Stewart-Cooper-Newell Architects for the design of the new facilities to serve the Communications and Electrical Operations of the City. We are thrilled to have the opportunity to work with Pineville and Edifice Construction on another exciting project.

**Project Understanding:** The facilities are anticipated to consist of an approximately 13,577 sf single-story finished building with a shelled-in roughly 11,371 sf second story, 3 warehouse style buildings for material storage and multiple open air covered storage areas and open “yard” storage as indicated on the Preliminary Site Plan Layout provided by the town dated January 2023 and with a preliminary construction budget of \$11,600,000. The site is roughly 6 acres located at 311 and 312 N. Polk Street and will be subdivided to provide separate parcels for this project and the new Pineville Fire Station. We understand that the Site is properly zoned for the proposed use and that no rezoning, special exception permits, or variances will be required. We also understand that the subdivided parcel will allow us to separate the property into a parcel with soils contamination and one without, the contaminated parcel being for this project and the other parcel being for the fire station. The city will take responsibility for contamination mitigation and design, outside of this contract. Likewise, we assume that no roadway improvements will be required on the adjacent roadways. The permitting Authority Having Jurisdiction (AHJ) for this project is the Town of Pineville for zoning and Mecklenburg County for building permits. The City has opted to utilize Construction Management at Risk (CMAR) as the construction delivery method for this project, and has selected Edifice Construction as their CMAR

**BASIC DESIGN SERVICES**

Our proposal for the new facility design services will include architectural, structural, civil, landscape, mechanical, electrical, and plumbing design for the design phases itemized in this proposal.

**BASIC DESIGN SERVICES FEE PROPOSAL**

*The proposed fees to provide the above BASIC DESIGN SERVICES are \$1,232,500, as broken into the separate phases as shown below, plus a \$7,500 Reimbursables Allowance for travel expenses.*

Schematic Design Phase	\$246,500
Design Development Phase	\$246,500
Construction Document Phase	\$431,375
Bidding/Negotiation Phase	\$ 61,625
Construction Administration	\$246,500



*Should the Town approve a scope during the design that varies more than 10% from the size or budget as described above, the fee shall be adjusted accordingly prior to proceeding with the remainder of the design scope.*

If desired, the following additional services can be provided:

1. PME Commissioning per NCECC C408: \$ 18,600
2. Site Lighting and Photometric Design: \$ 6,600
3. Exterior envelope (air-tightness) testing. Cost to be determined – we would propose an Allowance of: \$ 30,000

Excluded Services:

- Site Surveys
- Contaminated soils mitigation and design
- Contaminated soils gas capture/ventilation systems, if required
- Environmental services, hazardous materials testing and/or mitigation design.
- Rezoning/Variance Applications
- Geotechnical Investigations
- Furnishings/Fixtures/Equipment Design & Bidding
- 3<sup>rd</sup> Party Professional Construction Cost Estimates
- Special Inspection, Material and Compaction Testing during Construction
- LEED Certification
- Municipal, County or State Submittal or review fees
- Telecommunications, data room and CRAC systems.
- Bi-Directional Antenna / Amplifier (BDA) System for fire fighter communications. The testing will be included as part of the base bid package and we will include an allowance for the design and installation as part of the bid package, if testing shows that this will be required.
- Specialty grounding systems. Hard grounding points will be provided for owners' use in IT spaces.

The city will perform or be responsible for any necessary traffic studies, hazardous material studies, and abatement separate from this proposal.

If this proposal is acceptable, please let us know and we can make it an exhibit to an AIA Agreement (AIA B133) for your review and signature. Please let me know if you have any questions regarding our proposal or would like any additional information. We look forward to working with you on this important project.

Sincerely,

James R. Stumbo, AIA  
Principal Architect / Vice-President

# Memorandum



**To:** Mayor and Town Council  
**From:** Ryan Spitzer  
**Date:** 7/7/2023  
**Re:** REC Program Professional Services

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## **Overview:**

The Town would like to engage Mid Atlantic Associates to perform the preliminary site evaluation and testing as well as to be the Town's Registered Environmental Consultant to provide the necessary documentation to NCDENR. Mid Atlantic is familiar with the site conditions as they were hired by the previous owner to perform the work necessary to get the land in the Brownfields Program. Having this knowledge will create cost savings for the Town. Mid Atlantic was also the firm that did the Brownfields work for the Town previously at the Cone Mills site.

Having a Registered Environmental Consultant is a necessity for entering into the program.

## **Estimated Costs:**

\$215,000

## **Attachments:**

Mid Atlantic Proposal  
REC Timeline

## **Recommendation:**

Approve the contract with Mid Atlantic and authorize the Town Manager to execute the necessary documents.



June 8, 2023

Amy L. Rickers, Partner  
Johnston Allison Hord  
1065 East Morehead Street  
Charlotte, NC 28204

Subject: **Strategy & Cost Considerations  
Preliminary Site Evaluation & Registered Environmental Consultant  
(REC) Approach  
Former Grower's Outlet, 311-315 N. Polk Street, Pineville, NC  
Mid-Atlantic Project No.: H1805.00**

Dear Amy:

Based on our conversations regarding the Town of Pineville's purchase of the former Grower's Outlet site and the planned redevelopment of the property, I provide the following for consideration as it relates to the environmental management of the site. The site is to be subdivided into two parcels. Parcel "A" which will be redeveloped into a new 2-story, 6-bay fire station and Parcel "B" which will house the Town of Pineville Electric and Telephone Operations facility. Our approach is based on separate uses, sequencing of development and different regulatory approaches relative to each parcel.

### **Project Background**

The Grower's Outlet (the "Subject Property") is 6.13 acres and is assigned Mecklenburg County Parcel ID 20501212. The southern portion of the Site is developed with an approximately 18,940-square foot (sq ft) warehouse building, and the west-central portion of the Site is developed with an approximately 9,900-sq ft warehouse building that was converted to a nursery sales/office and greenhouse building. Remaining portions of the Site consist of exterior plant storage areas, greenhouses, unpaved walkways, and asphalt driveways and parking areas. The greenhouses have since been demolished, with only the nursery and warehouse buildings currently present on site. The nursery operations have ceased, and the Subject Property is currently unoccupied.

The Subject Property remained agricultural and/or undeveloped land until the late 1960s to early 1970s, when the two warehouse buildings were constructed in the southern and west-central portions of the Subject Property. In the early 2000s, the plant nursery and associated greenhouses were developed and as of 2005, the warehouse building in the west-central portion of the Subject Property was expanded to include greenhouses on the east and west sides of the structure. Former occupants of the Subject Property include Industrial Finishing Corp. during the 1970s, Todd Construction Co. and T&A Materials Handling Inc. during the 1980s. Industrial Engine & Equipment Co. and Diesel Power Injection & Equipment occupied the current warehouse building during the 1980s and 1990s. Growers Outlet was in operation from approximately 2003-2023.

Mid-Atlantic reviewed a previously provided Phase I and Phase II Environmental Site Assessment (ESA) prepared in September 2020. The Phase II report noted petroleum and chlorinated compounds in soil and groundwater above North Carolina Department of Environmental Quality (NCDEQ) standards. Based on our review of the information provided, there appear to be 2 primary areas of concern (AOC) on Parcel B. AOC-1 is associated with an off-site impact to the Subject Property's groundwater from the former EC Manufacturing Company, which occupied the adjacent north parcel. Impacts include chlorinated compound impact to groundwater. AOC-2 is located in the southern portion of Parcel B. This area appears to have been impacted by former on-site automotive-related uses and consists of petroleum and chlorinated impact to site soil and chlorinated impacts to site groundwater. There are no known environmental impacts on Parcel A.

### **Project Objectives**

- 1) Determine the extent of contamination from AOC-1 to the east, towards the planned Parcel A;
- 2) Conduct a preliminary assessment of Parcel A for the presence of soil, groundwater and/or soil gas impacts that may affect the planned development on Parcel A;
- 3) Further delineate AOC-1 and AOC-2 as it related to the contamination previously identified;
- 4) Conduct soil gas evaluation within the footprints of the structures associated with Parcel B development; and,
- 5) Evaluate Parcel B relative to the likely regulatory requirements under the North Carolina Department of Environmental Quality (NCDEQ) Inactive Hazardous Sites Branch (IHSB) Registered Environmental Consultant (REC) Program.

## Project Approach

We recommend conducting both Parcel A and B investigations simultaneously and outside of the formal REC program. This will enable us to evaluate the data relative to the likelihood of a future REC closure or another more extended approach (monitoring only). If no issues are documented at the Parcel A (Fire Station) site, the project can move forward into construction outside of any environmental regulatory oversight. The simultaneous evaluation of both parcels will help determine the demarcation between Parcel A and Parcel B and influence the size of each parcel relative to impacted versus unimpacted. Data generated will be used to develop a strategy for entry into the REC program and can be rolled into future scopes inside of the REC program if necessary.

If additional contamination is documented on REC site during the initial phase of investigation, additional assessment will be determined once the site formally receives REC designation. In addition to the Administrative Order, this will involve preparation of a Remedial Investigation (RI) Work Plan, Work Plan implementation, Remediation Action Plan (RAP) development and implementation with required reporting.

## Preliminary Investigative Scope

Mid-Atlantic recommends the following tasks be considered in our preliminary scope of work. Sampling locations are preliminary and provided in **Drawing 1**.

### Parcel A – Proposed Fire Station

- Install soil borings to document site soil conditions relative to the previous nursery uses;
- Install groundwater monitoring wells along the northern property boundary to identify off-site groundwater impacts;
- Install a groundwater monitoring well along the southern Parcel A property boundary and Huntley Marine, which borders the Subject Property to the south; and,
- Install soil gas monitoring points inside the planned footprint of the planned Fire Station building to document soil gas conditions that could represent a vapor intrusion (VI) condition.

### Parcel B – Electric and Telephone Operations Facility

- Install soil borings in AOC-1 and AOC-2 to document AOC soil conditions;
- Install a groundwater monitoring well along the northern Parcel B property boundary to document site groundwater conditions as a result of the identified off-site impact to site groundwater;
- Install a groundwater monitoring well in the anticipated southern portion of AOC-1 to document southern plume extent;
- Install a groundwater monitoring well to the east of AOC-1, near the planned property boundary with Parcel A to document the eastern extent of the AOC-1 groundwater contaminant plume and to verify placement of Parcel A's western property boundary relative to groundwater impact;
- Install a groundwater monitoring well near a possible septic system/field associated with the nursery building;
- Install soil borings and a groundwater monitoring well in AOC-2 to document soil and groundwater quality conditions; and,
- Install soil gas implants in the footprints of the Electric and Telephone Operations Building footprint and two associated planned enclosed structures.

### **Project Cost Considerations**

Based on the project as planned and anticipated activities required to address the project objectives, Mid-Atlantic requested cost estimates from subcontractors anticipated to be needed for completion of the field work portion of the project. These activities will include utility and subsurface obstruction evaluation, soil boring installation, soil gas implant and groundwater monitoring well installation and laboratory analysis. Project costs are presented for the preliminary environmental investigation for the entire project (Parcels A and B) and our estimated costs for continuation of Parcel B through a REC approach. Our conceptual plan does not anticipate impact on Parcel A and therefore no regulatory oversight or involvement. Conducting the preliminary investigation as a single scope avoids multiple project mobilizations, provides the necessary data for concurrent evaluation of both parcels, and reduces costs.

### Preliminary Environmental Assessment – Parcels A & B

#### **Budget Recommendation:       \$62,000**

This is based on the scopes presented herein. Drilling contractors estimate the field activities will require 5 days to complete.



Strategy & Cost Considerations  
 Former Grower's Outlet, Pineville, NC  
 Town of Pineville  
 Mid-Atlantic Project: H1805.00

June 8, 2023  
 Page 5

### REC Approach – Parcel B

**Budget recommendation \$150,000** as detailed below:

- REC Consultation \$25,000
- REC Assessment:
  - RI Work Plan Development \$10,000
  - RI Implementation \$50,000
  - RAP Development \$10,000
  - RAP Implementation \$40,000
  - Closure & Reporting \$15,000

The REC approach will be dictated by the preliminary environmental assessment findings on Parcel B and our subsequent discussions with NCDEQ staff and may be higher or lower than planned. Results of the preliminary investigation will help further define the REC scope and budget, but we believe this is a reasonable estimate based on our experience with similar REC projects.

Mid-Atlantic appreciates the opportunity to work with you on this project. We look forward to our continued discussions regarding project development. We're available to discuss the approach presented as needed.

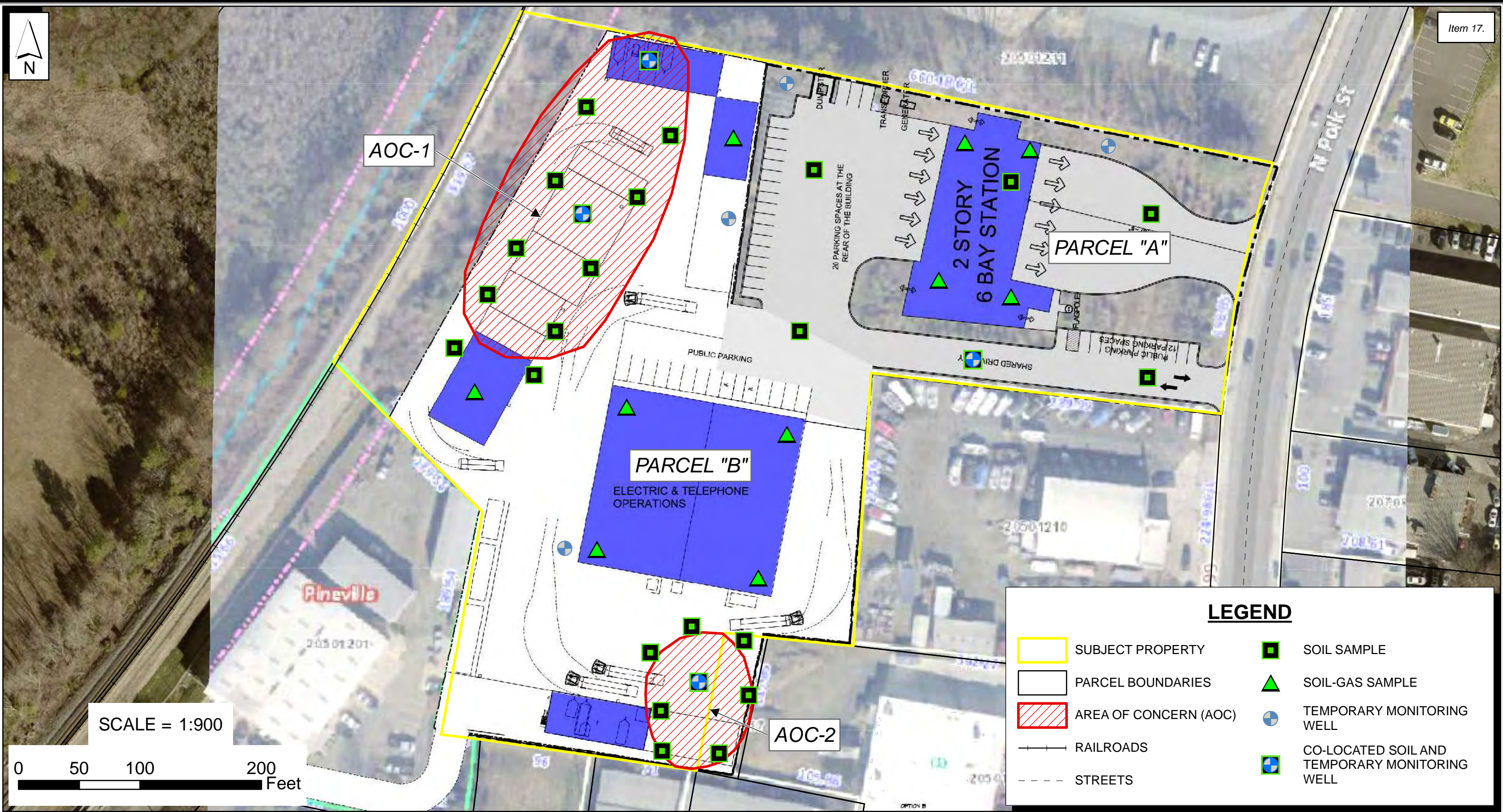
With best regards,

**MID-ATLANTIC ASSOCIATES, INC.**



Greg D. Icenhour, P.G., MBA  
 Principal Geologist

Attachment: Drawing 1 – Proposal Sample Locations Map



SCALE = 1:900



LEGEND			
	SUBJECT PROPERTY		SOIL SAMPLE
	PARCEL BOUNDARIES		SOIL-GAS SAMPLE
	AREA OF CONCERN (AOC)		TEMPORARY MONITORING WELL
	RAILROADS		CO-LOCATED SOIL AND TEMPORARY MONITORING WELL
	STREETS		



**SITE AND PROPOSED SAMPLE LOCATION MAP**  
**TOWN OF PINEVILLE - FORMER GROWERS OUTLET**  
 311 - 315 N. POLK STREET  
 PINEVILLE, NORTH CAROLINA

DRAWN BY: <i>JMK</i>	DATE: JUNE 2023
DRAFT CHECK BY:	JOB NO.: H1805.00
ENGINEER CHECK BY:	GIS NO.: 07G-H1805.00-01
APPROVED BY: <i>GDI</i>	DRAWING NO.: 1

## REC Summary for Council Meeting:

-REC is the Recognized Environmental Consultant Program with the North Carolina Department of Environmental Quality (DEQ)

-It is a voluntary remediation program that can be used to close environmental issues at a site with a risk based closure (i.e. the program allows the utilization of land use restrictions to appropriately address the concerns at the property)

-The timeline for REC is based on the schedule of the requestor because the requestor uses an environmental consultant that essentially steps into the shoes of the DEQ and plans and proposes the remediation method that then is reviewed by DEQ (but DEQ does not have general oversight of the project)

-given our current knowledge of the situation and the existing state of scheduling necessary contractors, it is believed it will likely take 9-12 months to work through the REC process for this property; we can try and move more quickly but a number of forces are out of our control and it could of course take longer

-The known contamination is limited to the west and southwest portions of the parcel, therefore it would be prudent to subdivide the parcel into the fire station parcel and then a second parcel for the utilities structures. This would allow us to:

1. remove the area for development of the fire station as it has no known contamination;
2. reduce the area for the application of land use restrictions; and
3. reduce the cost of the REC program as there is a \$5000 per acre cost for the program in addition to the administrative fees of approximately \$3000. (Note that these fees are subject to change as DEQ is working to update and revise their fee schedules for many of its programs)

-it is currently estimated that approximately 3.5 acres would be entered into REC

There are currently some groundwater and soil issues that will need to be further evaluated and addressed through the program

### What would the process look like:

1. Subdivide property
2. Retain consultant for REC
  - a. Greg Icenhour (MidAtlantic) completed the work for the Brownfields Application for the previous owner
  - b. Hart & Hickman completed Phase I in 2020
3. Have consultant (REC) prepare and submit Site Conditions Questionnaire for acceptance into REC
4. Execute Administrative Agreement with DEQ if accepted into program and pay preliminary fee
5. Have consultant prepare Remedial Investigation Work Plan to further delineate extent of contamination in soil and groundwater and have approved:
  - Will have to consult with REC but the assessment would be expected to involve further evaluation of:

-Known soil contamination (additional site investigation may expand this list):

-exceedances of Preliminary Soil Remediation Goal standards for:

Dibromochloromethane

Cis, 1-2-dichloroethene

Methylene Chloride

PCE

TCE (also exceeded residential and industrial standards)

1-methylnaphthalene (also exceeded the Maximum Soil Contaminant Concentration Standards)

-Known groundwater contamination:

-PCE

-Additional assessment will delineate the existing known contamination and assess the likelihood of impact in areas previously not evaluated (i.e. extended aeration during the Tillett Chemical operations on the property adjacent to the southwestern boundary)

6. Have consultant prepare Remedial Investigation Report and if needed (not anticipated at this time) repeat steps 5 and 6 until contamination is sufficiently delineated
7. Have consultant prepare Remedial Action Plan to address contamination
8. When approved will have to mail notification to necessary parties for 30-day comment period regarding the proposed Remedial Action Plan
  - a. If comments are received they will need to be addressed and this may involve additional rounds of proposed Remedial Action Plan and comment period – this is not anticipated at this time
9. Implement the Remedial Action Plan measures
  - a. This may include additional notice periods for land use restrictions if necessary
10. Have the consultant complete the Final Report and submit to DEQ for approval, and pay additional fee for program.
11. Await issuance of the concurrence of closure.

Preliminary cost estimates look to be around \$215,000 for consultant fees, there are also DEQ fees of \$3000 to enter REC and \$5000/acre of contaminated area to be closed out in the program, and legal fees



# Department Update

## PUBLIC WORKS

To: Town Council

From: Chip Hill

Date: July 1, 2023

Re: **Public Works Updates**

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**Lynnwood/Lakeview:** Construction is continuing. Storm drainage pipe installation between Lynnwood and Lakeview is completed. Pipe installation behind Mr. Thrower's property is in progress. Power and cable companies are continuing to move lines. Public Works assisted with the utility crossing on Lakeview. Final connections to be made within a week at that location.

**Lowery:** Preconstruction meeting was held with United Construction 6/20/23. Notice to Proceed was given with the start date of 7/10/23.

**Cone Mill Memorial:** The property owner at 433 Cone Avenue has been given an extension until August to move the fence and building. Spectrum has been notified that the communication line running through the parking lot will need to be relocated. LaBella has been given notice to move forward with permitting. Construction is tentatively scheduled for Spring 2024.

**Johnston Road Realignment:** The contractor for Charlotte Water is currently working on the sewer line and should be finished by the last week of June. Sealand is expected to start back on construction the week after the 4<sup>th</sup> of July holiday.

**Growers Outlet Property:** Previous owner/resident has been notified that they have until June 30th to completely evacuate the property.

**Chadwick Park:** Town staff and LaBella had a meeting with Gvest to discuss storm drain repairs. Approximately ½ of the storm drain has been repaired. The video of repairs is being reviewed by the Town engineer. In 5 different locations of the storm drain, PNG bored through the existing lines. Gvest will work with PNG to get the repairs completed.

\*See attached spreadsheet of permits pending/issued

## PERMITS ISSUED/PENDING

## COMPANY

Fiscal Year 2023

COMPANY	LOCATION	STATUS	PERMIT NO
Electricities/AJ Molnar Southeastern Consulting Engineers	813 Main/810 Main to 511 Main/516 Main	Cancelled	
Spectrum/Melissa Sherrill Telics/Angie Jewett Telics	10518 Cadillac Street/Pineville Road	Cancelled	
Charlotte Water/Zach Pellicone	632 Eagleton Down Drive/Downs Rd and cul de sac	Issued	PW20220801EAGLETON632
AT&T/Kara Rydill/Lee Sadler #A02BQ76	11925 Carolina Logistics Drive	Issued	PW20221026CAROLINALOGISTICS11925
Spectrum/Tracey Kendall/STS Cable Services	9132 Willow Ridge Road/Willow Bend Circle	Cancelled	
Southeastern Consulting/A.J. Molner/Dynetek for Electricities	517 Main Street/Jack Hughes Lane/813 Main Street	Issued	PW20221007MAINS17
Level 3 Communications/Cindy Crews/Outsource Inc	505 Main Street/Reid Lane	Issued	PW20220804MAINST505
Charlotte Water/Zach Pellicone/Geneva Montgomery	233 Eden Circle/Cone Ave	Issued	PW20220801EDENCIRCLE233
Charlotte Water/Horsepower Site Service/Angel Caudle	10320 Rodney St/Industrial Drive	Issued	PW20221014RODNEY10320
Tower Engineering Professionals/Gage Martin/Samatha Hall	10851 Park Road, Charlotte/Pineville Matthews Rd	Issued	PW20221014PARKRD10851
Spectrum/Telics Permitting/Melissa Sharriell/Metro-Tech/Torrance Countrymen	10320 Rodney St/Industrial Drive	Issued	PW20221215RODNEY10320
AT&T/Rosita Villavicencio/Sourceone	10810 Park Crossing Drive	Issued	PW20230112PARKCROSSING10810
Pineville Communications/Tammy Vachon/Frank Peay	Mallard Drive/Park Lake Drive	Issued	PW20220921MALLARD
AT&T/Sylvia Paschal/Sourceone	10625 to 10701 McMullen Creek Pkwy	Issued	PW20221007MCMULLENCREEK10625&10701
AT&T/Rosita Villavicencio/Sourceone	12115 Downs Rd	Issued	PW20221014DOWNS12115
Charlotte Water/Geneva Montgomery/Zack Pellicone	12031 Carolina Logistics Rd/Nations Ford Road	Issued	PW201025CAROLINALOGISTICS12031
Charlotte Water/Geneva Montgomery/Zack Pellicone	9919 Industrial Drive	Issued	PW20221202INDUSTRIAL9919
PNG/Mears Group/Carl Hamlin	McIntyre Ridge Rd/Jacks Lane(McCullough)	Issued	PW20221215MCINTYRERIDGE
PNG/Mears Group/Carl Hamlin	12025 Carolina Logistics Drive/Nations Ford Rd	Issued	PW20230106CAROLINALOGISTICS12025
PNG/Lori Houck	307 Johnston Drive	Issued	PW20221209JOHNSTON307
AT&T/Rosita Villavicencio/Sourceone	10100 Park Cedar Drive	Issued	PW20230203PARKCEDAR10100
AT&T/Rosita Villavicencio/Sourceone	9120 Willow Ridge Rd	Issued	PW20230124WILLOWRIDGE9120
PNG/Mears Group/Carl Hamlin	Carolina Logistics Drive	Issued	PW20230214CAROLINALOGISTICS
AT&T/Ashley Northup	8700 Pineville Matthews Rd/Park Cedar Drive	Issued	PW20230306PINEVILLEMATTHEWS8700
Pineville Communications/Tammy Vachon/Frank Peay	10240 Industrial Drive	Issued	PW20230308INDUSTRIALDR10240
PNG/Mears Group/Carl Hamlin	12031 Carolina Logistics Dr	Issued	PW20230412CAROLINALOGISTICS12031
PNG/Tyler Fowler	10401 Cadillac St	Issued	PW20230320CADILLAC10401
AT&T/Christopher Gettys	S Lancaster Hwy(SR4982),Carolina Pkwy(SR4931)Sam Meeks Rd(SR3638)	Issued	PW20230425LANCASTERHWY
AT&T/Ashley Northup	10100 Park Cedar Drive/Habersham Pointe	Issued	PW20230522PARKCEDAR10100
Charlotte Water/Zach Pellicone/The Isaacs Group PC/William D Pugh	10228 Rodney Street	Issued	PW20230504RODNEY10228
Charlotte Water/Clinton Bell/Atlantic Coast Contractors	229 Main Street/Main Street Sewer Replacement	Issued	PW20230518MAIN229
Spectrum/Melissa Sherrill Telics	201 Towne Centre Blvd/Lee Street	Issued	PW20230524TOWNECENTRE201
Spectrum/Melissa Sherrill Telics	11500 Carolina Place Parkway/S Lancaster Hwy	Issued	PW20230620CAROLINAPLACE11500
Spectrum/Ashley Johnson Telics	409 Cone Ave/Dover	Issued	PW20230621CONEAVE409
Spectrum/Melissa Sherrill Telics	Franklin/Main Street	Pending	
Spectrum/Melissa Sherrill Telics	201 Towne Centre Blvd/Pineville Matthews Road	Pending	
Charlotte Water/Zach Pellicone	273 Eden Circle/Cone Avenue	Issued	PW20230630EDENCIRCLE273



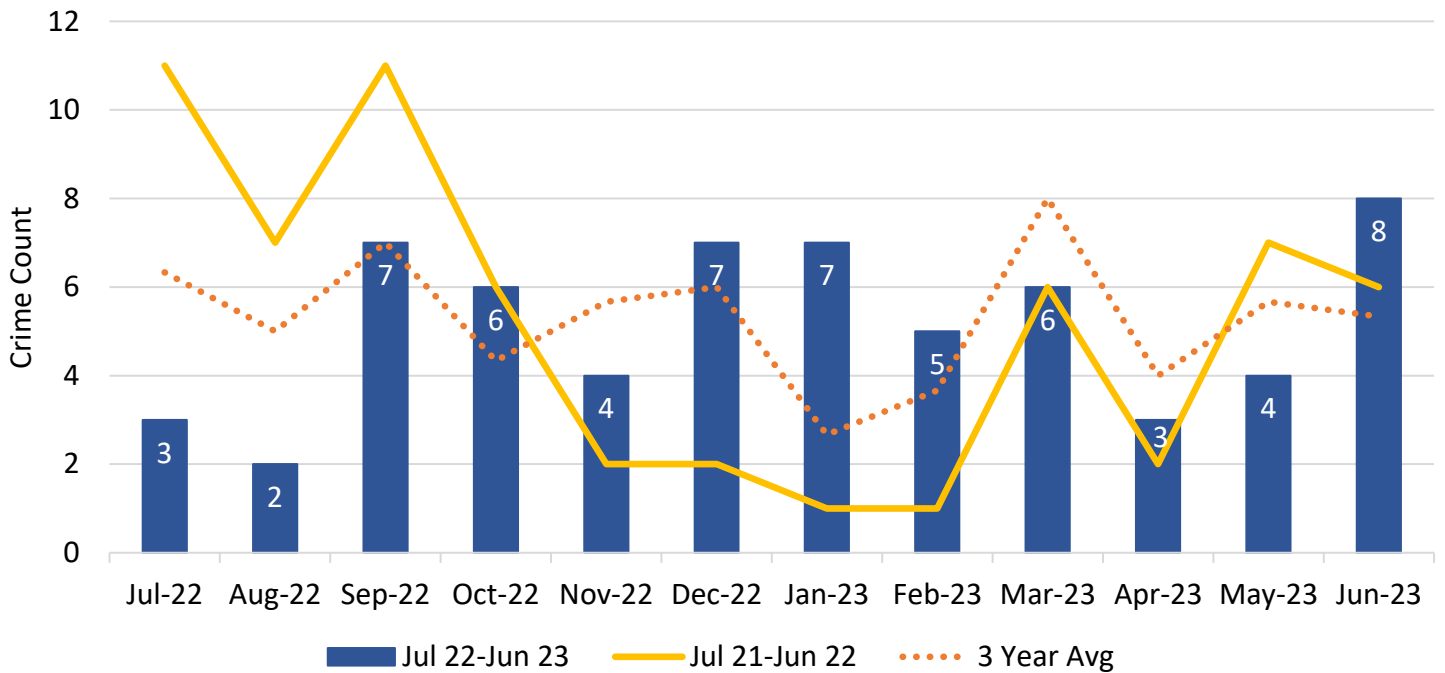
# PINEVILLE POLICE DEPARTMENT

## MONTHLY REPORT June 2023

### Crime Goals

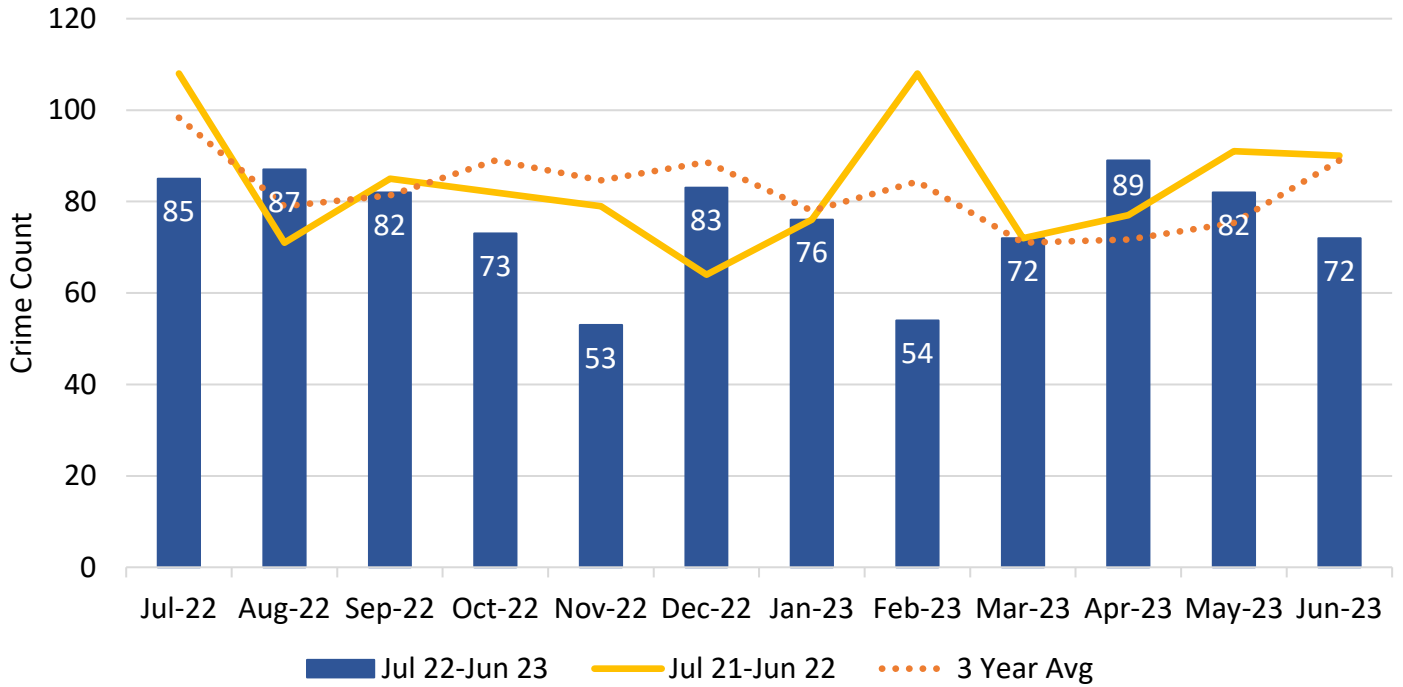
Below is the evaluation of the department’s crime goals. Goals are measured for 12 months based on the fiscal year. For the year of July 2022 – June 2023, the goals are to reduce violent crime by 5% and reduce property crime by 7%. **The department exceeded their property crime goal but did not meet the violent crime goal.**

### Part 1 Offenses: Violent Crime



Goal: -5%  
 Baseline Jul 21 – Jun 22: 62  
 Target Jul 22 – Jun 23: 58  
 Jul 22 – Jun 23: 62  
 Comparison to Jul 21 – Jun 22: 0%  
 Comparison to Jul – Jun 3 Year Avg: **-3.13%**

Part 1 Offenses:  
Property Crime



Goal: -7%  
 Baseline Jul 21 – Jun 22: 1,003  
 Target Jul 22 – Jun 23: 932  
 Jul 22 – Jun 23: 908  
 Comparison to Jul 21 – Jun 22: -9.47%  
 Comparison to Jul – Jun 3 Year Avg: **-8.28%**

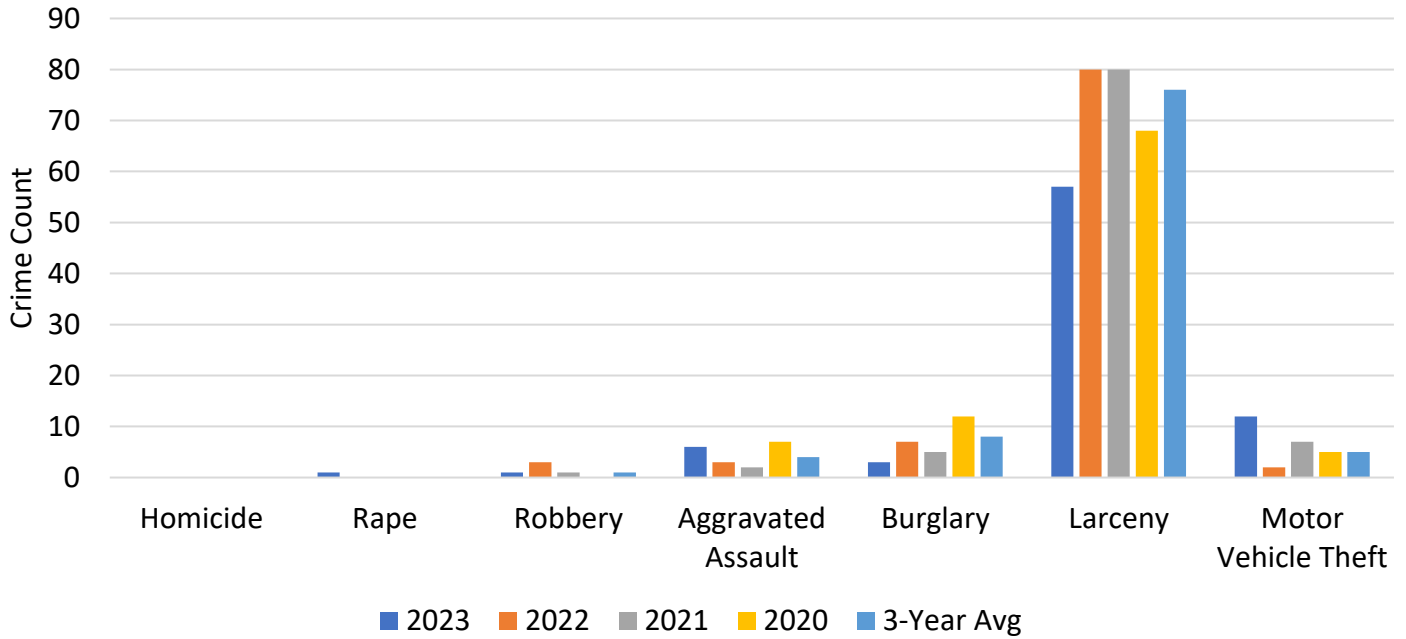
Monthly Crime Statistics

Below is a table and bar graph of the counts for Part 1 Offenses in June. For comparison, the same is shown for the past 3 years. The average of the 3 years was calculated.

June Crime Statistics					
Part 1 Offenses					
	2023	2022	2021	2020	3-year average (2020-2022)
Homicide	0	0	0	0	0
Rape	1	0	0	0	0
Robbery	1	3	1	0	1
Aggravated Assault	6	3	2	7	4
Burglary	3	7	5	12	8
Larceny	57	80	80	68	76
Motor Vehicle Theft	12	2	7	5	5



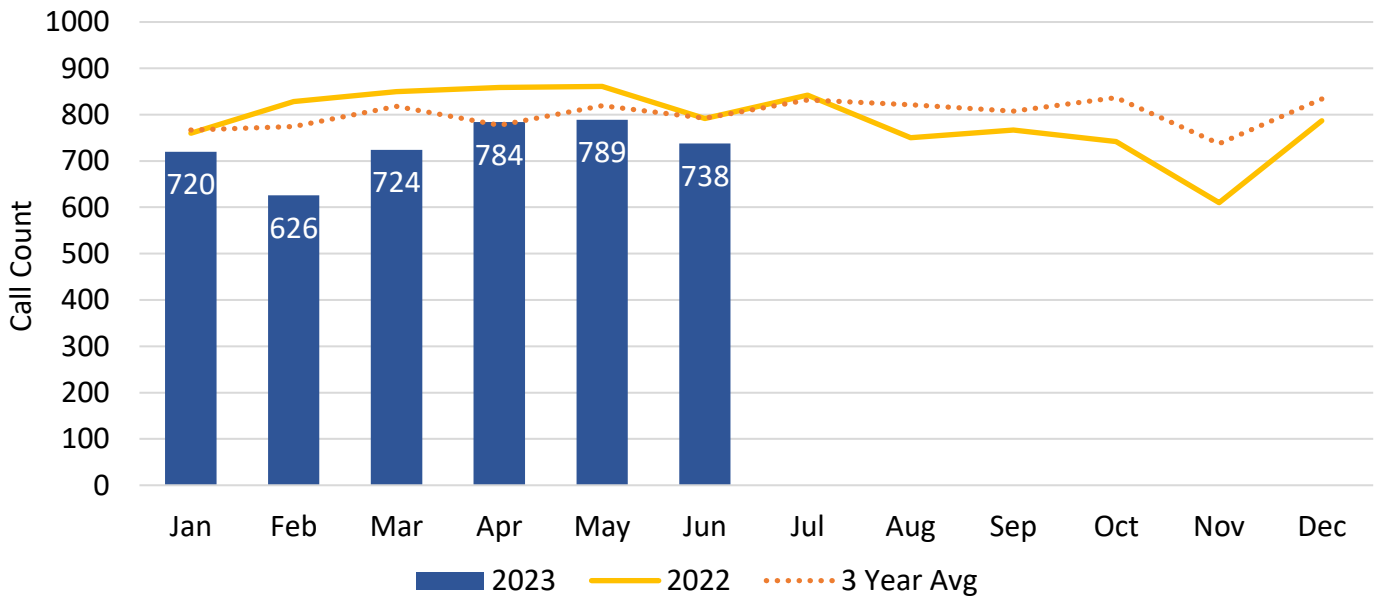
### June Part 1 Offenses



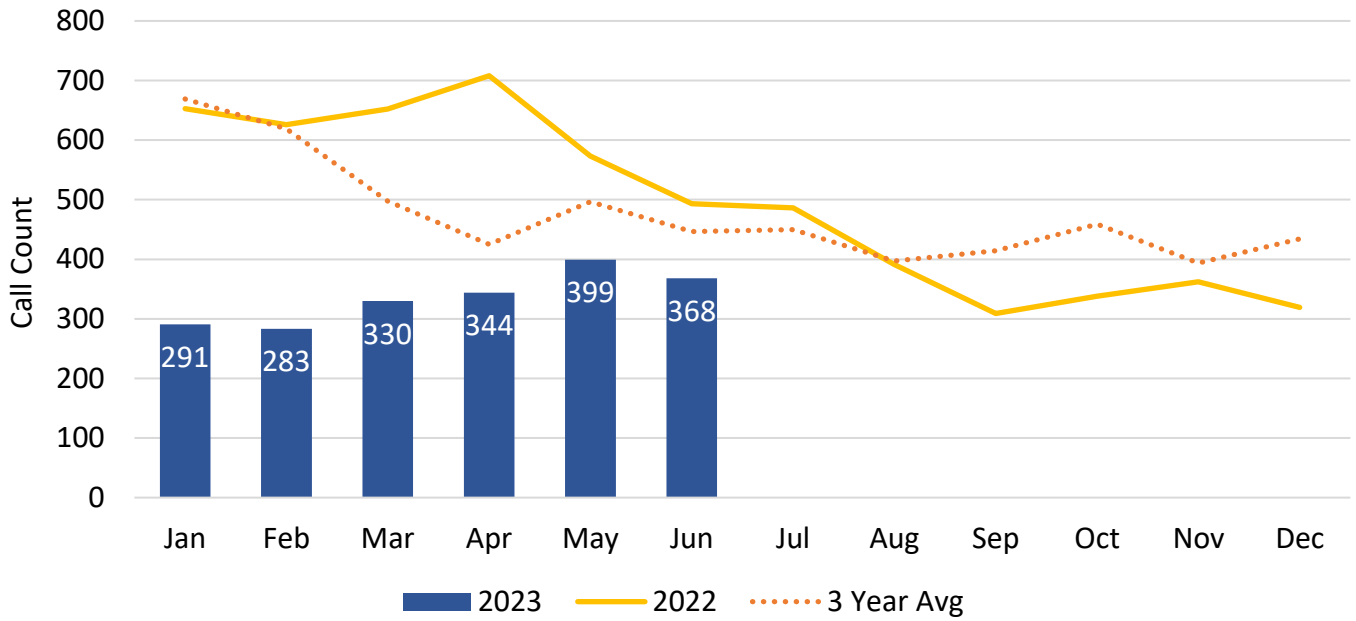
### Calls for Service

The graphs below display the number of calls for service in comparison to previous months and the previous 2 years. The first graph is citizen-generated calls. The second graph is officer-generated calls (zone checks and foot patrols excluded).

#### Citizen-Generated Calls for Service



### Officer-Generated Calls for Service



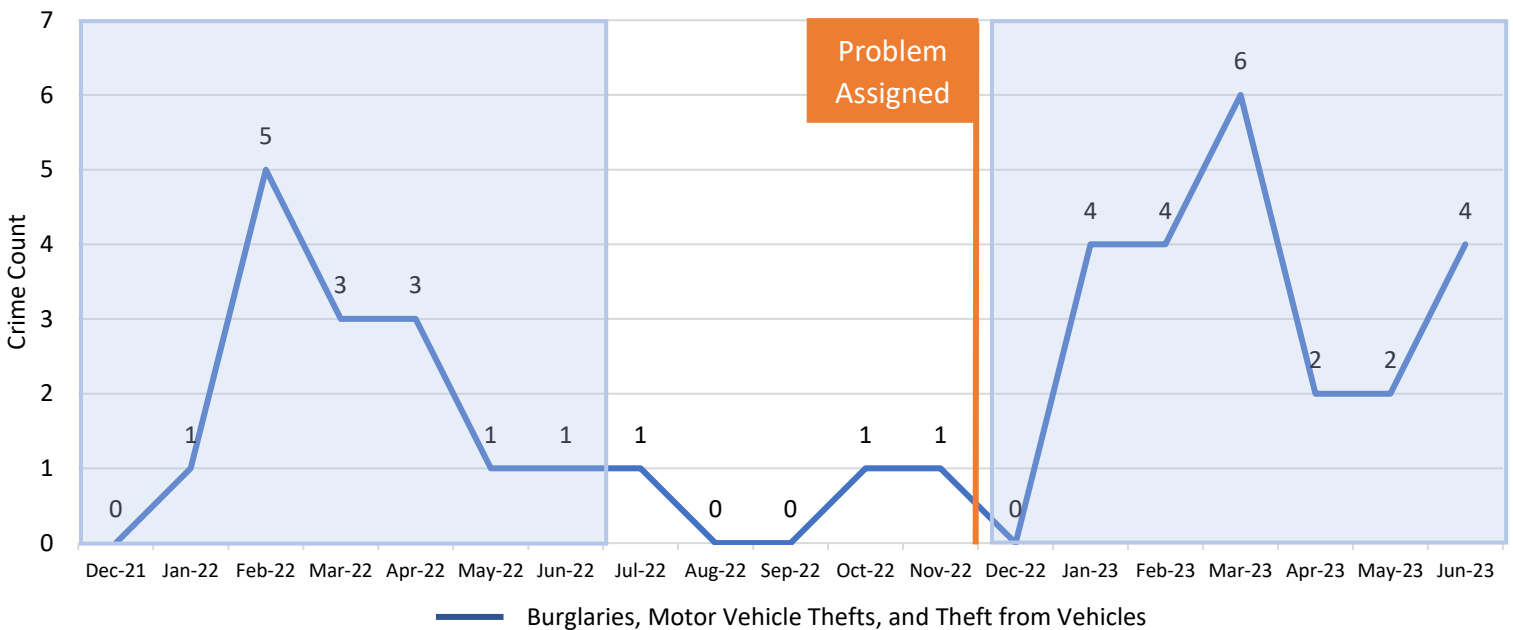
\*zone checks and foot patrols removed

### Problem Locations

The following problem locations have been identified using 12 months of calls for service and crime data, showing a consistent crime problem. Each month, these locations are evaluated based off the crime and disorder the assignee was tasked to handle. Problem locations are evaluated until deemed successful.

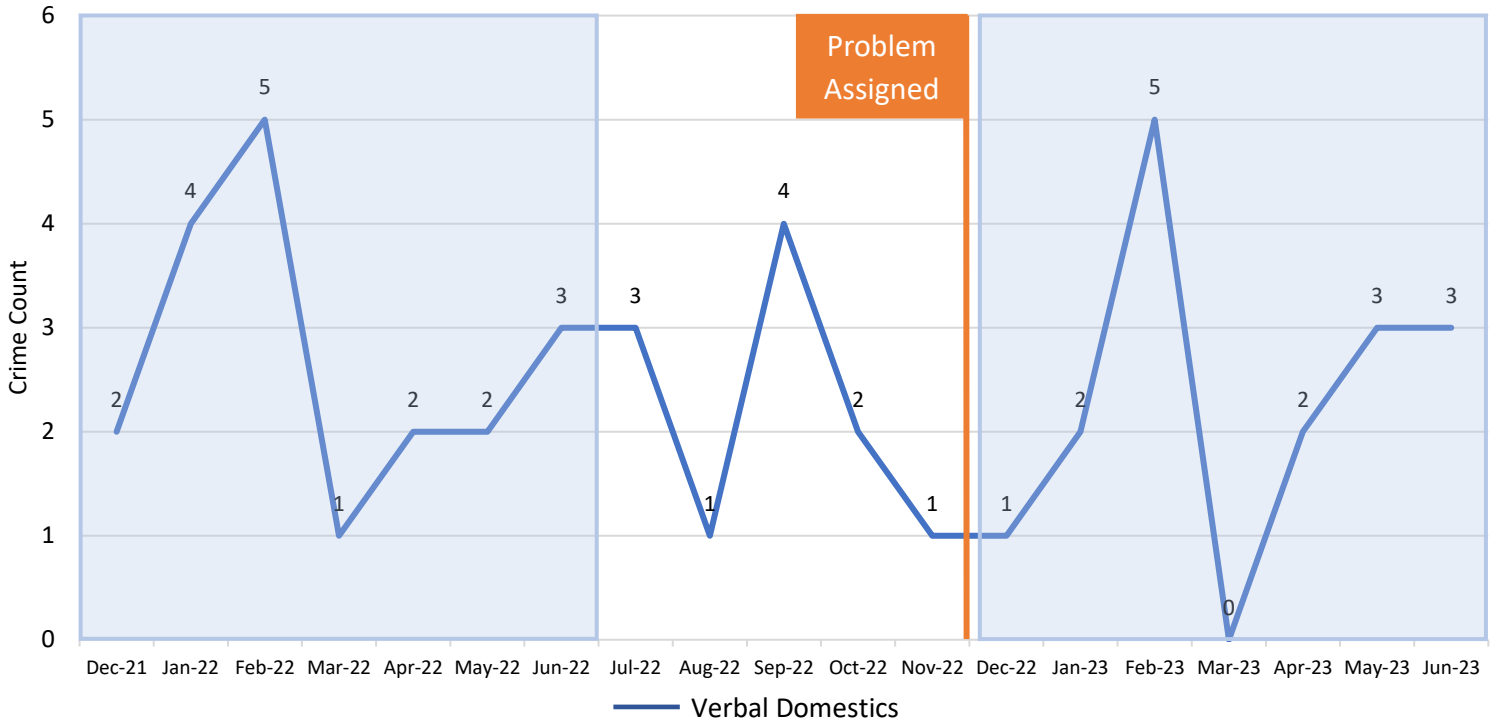
#### 1. Sabal Point Apartments

**% Change: 57.14%**



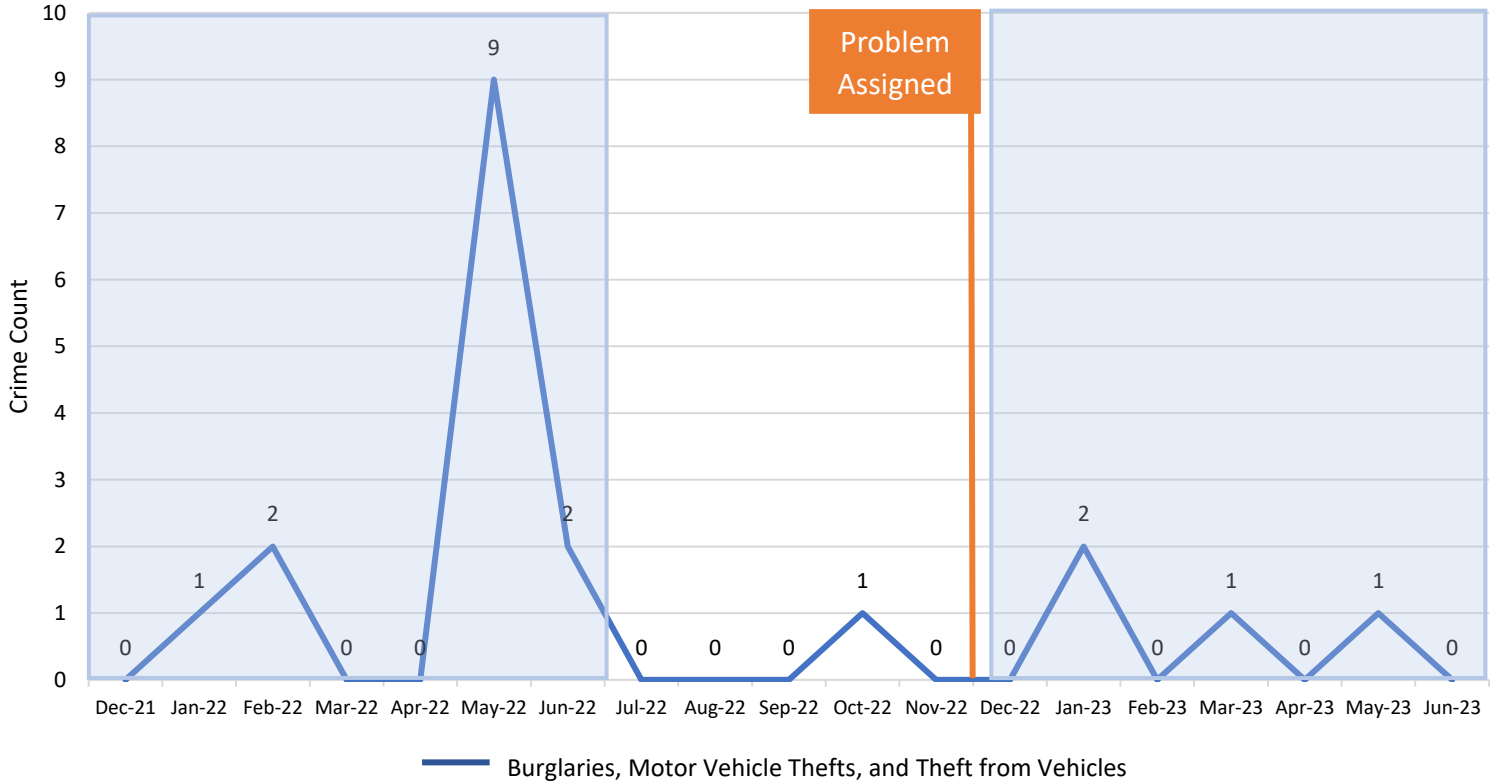
\* data pulled from RMS by locations containing "sabal"; offense code equal to 220, 240, or 23F; unfounded removed

% Change: -15.79%



### 2. Willow Ridge Apartments - MONITORING

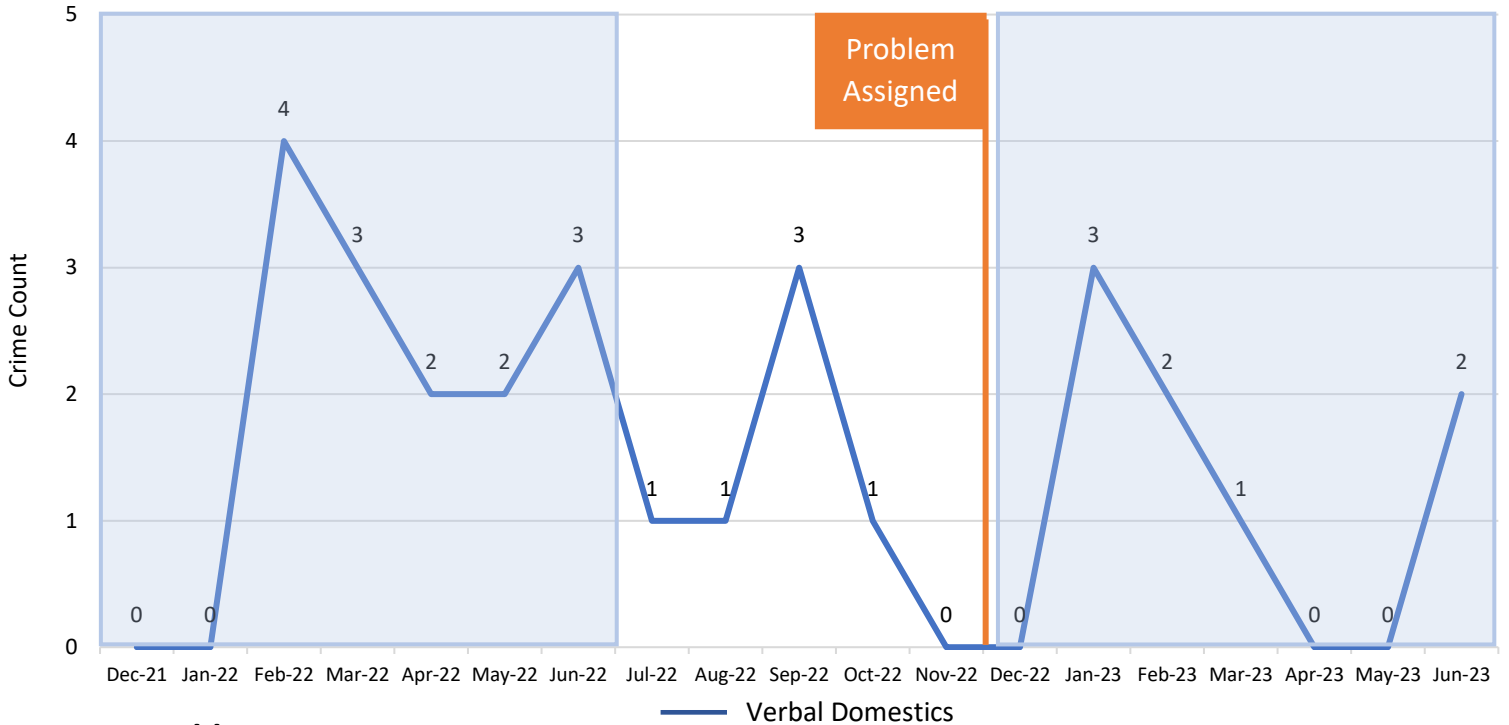
% Change: -71.43%



\*top chart disclaimer: data pulled from RMS by locations containing "sabal"; offense description containing "domestic"; unfounded removed

\*bottom chart disclaimer: data pulled from RMS by locations containing "willow"; addresses not in Willow Ridge removed; offense code equal to 220, 240, or 23F; unfounded removed

% Change: **-42.86%**



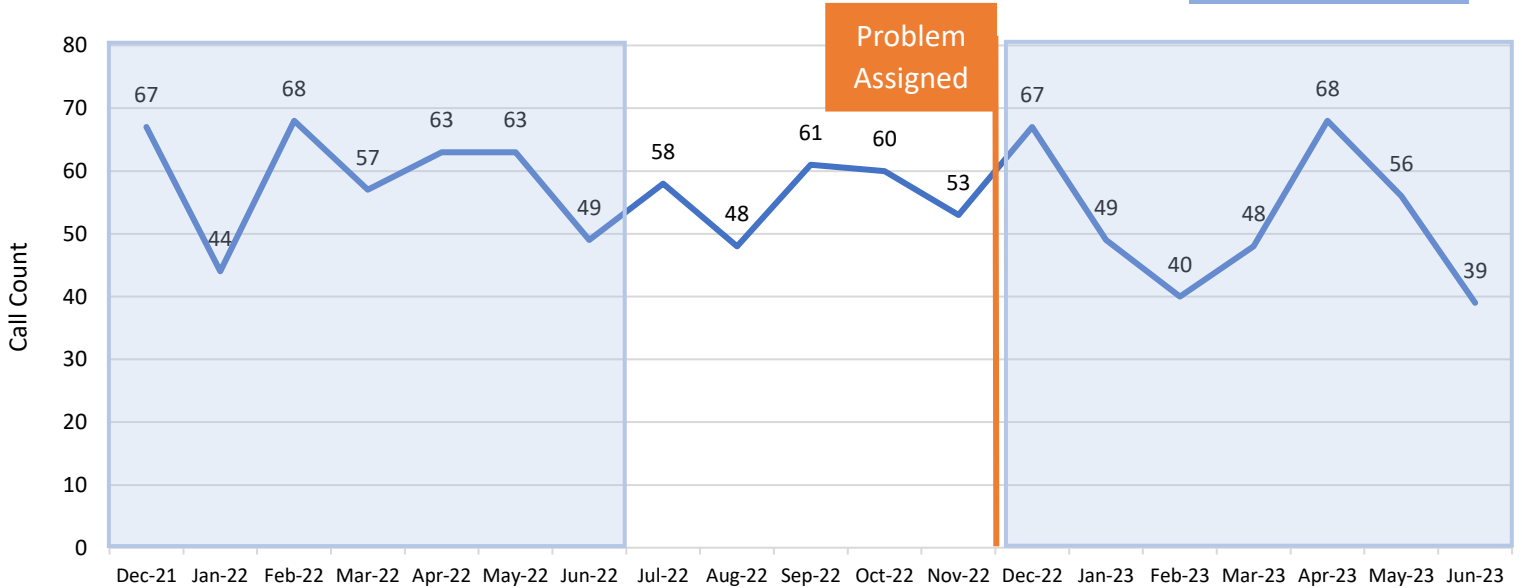
### Problem Area

The problem area is Carolina Place Mall. It was identified using 12 months of calls for service and crime data, showing a consistent crime problem. Each month, the evaluation is based off the crime and disorder the assignee was tasked to handle. Since a problem area has more crime and disorder than a problem location, the evaluation is broken down into several charts.

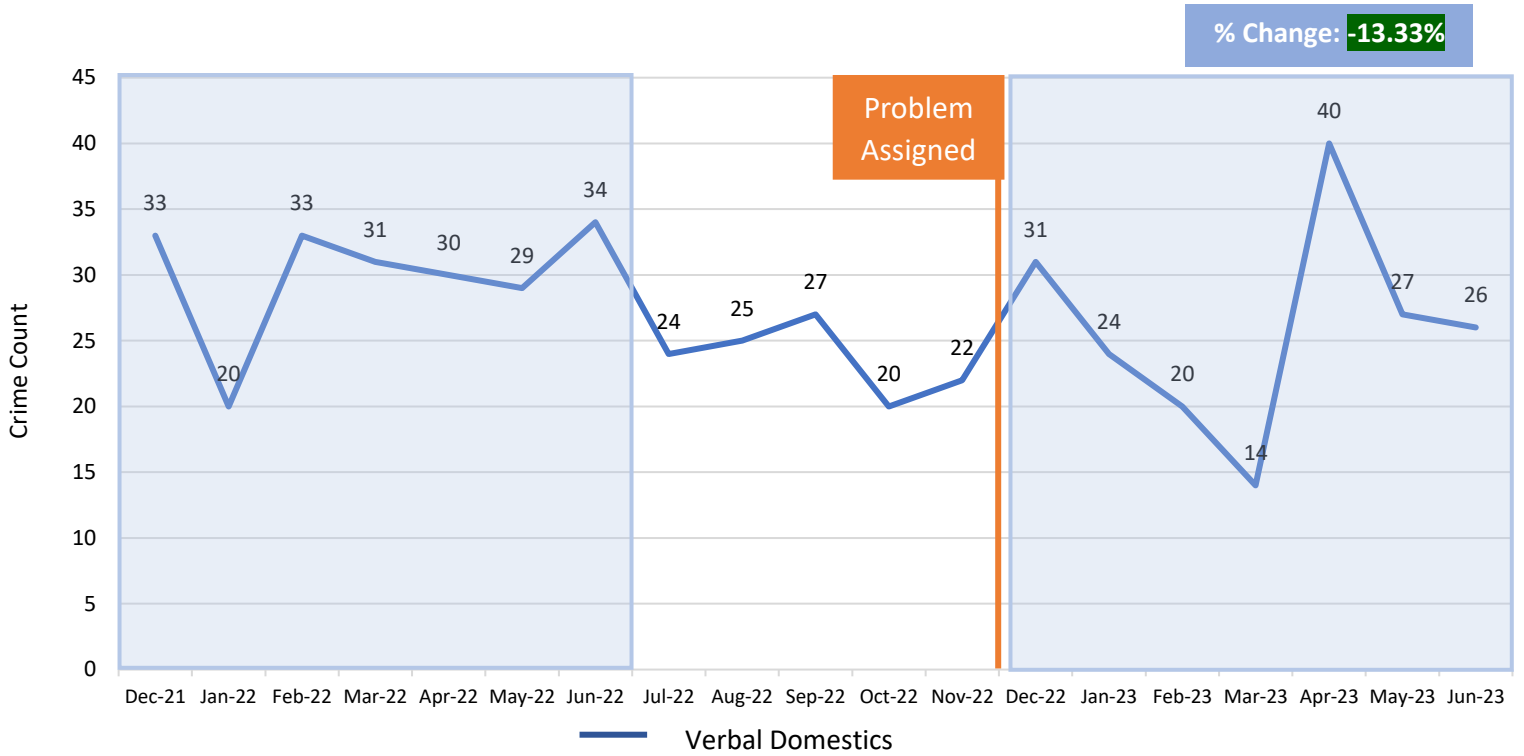
### Carolina Place Mall

#### 1. Citizen-Generated Calls for Service

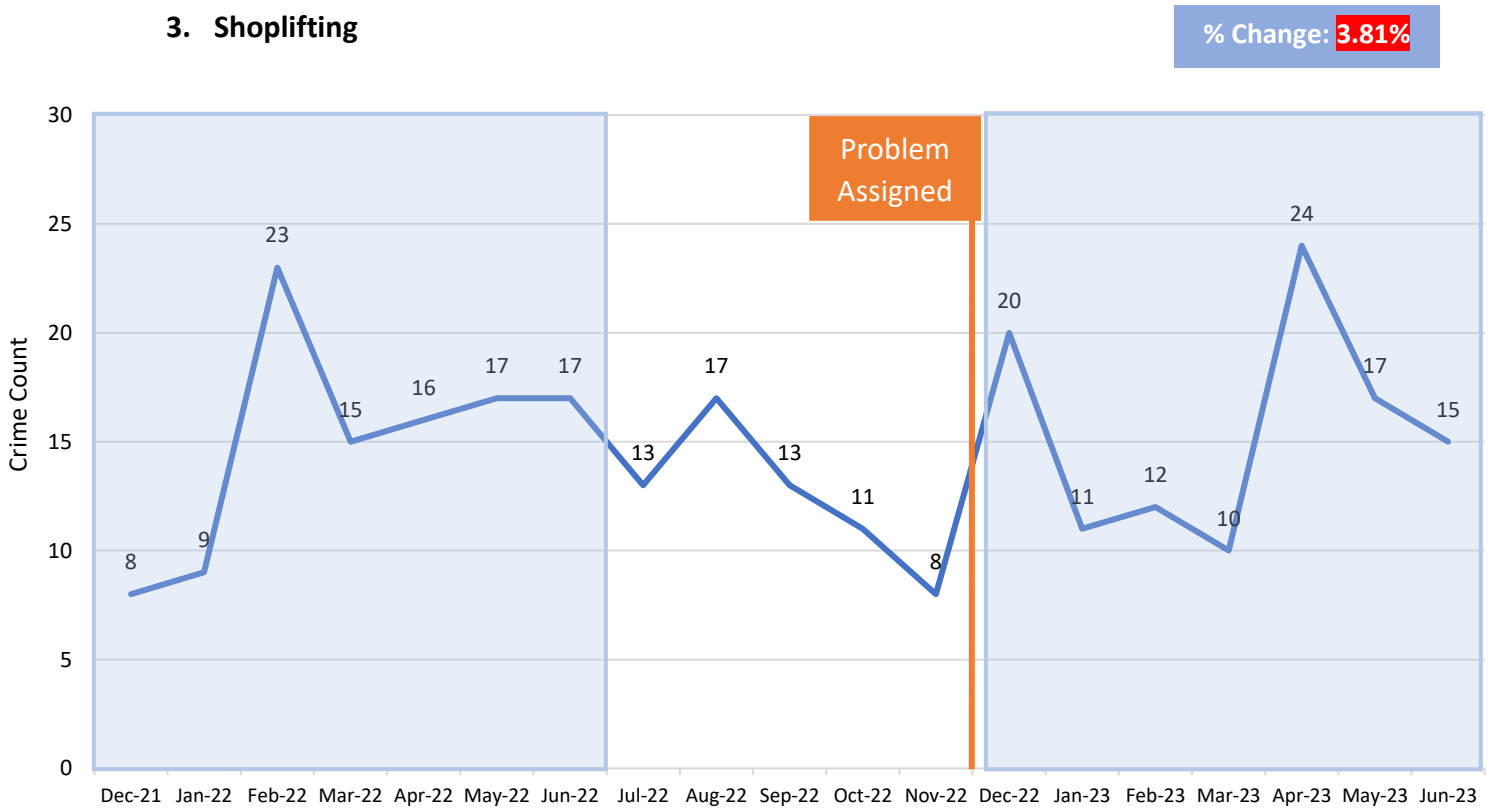
% Change: **-10.71%**



**2. Group A Offenses:** NIBRS Group A offenses are the more serious crimes such as Murder, Rape, Robbery, etc. There are 71 Group A Offenses. Group B offenses tend to be minor in nature, such as curfew/loitering/vagrancy violations, disorderly conduct, driving under the influence, etc.



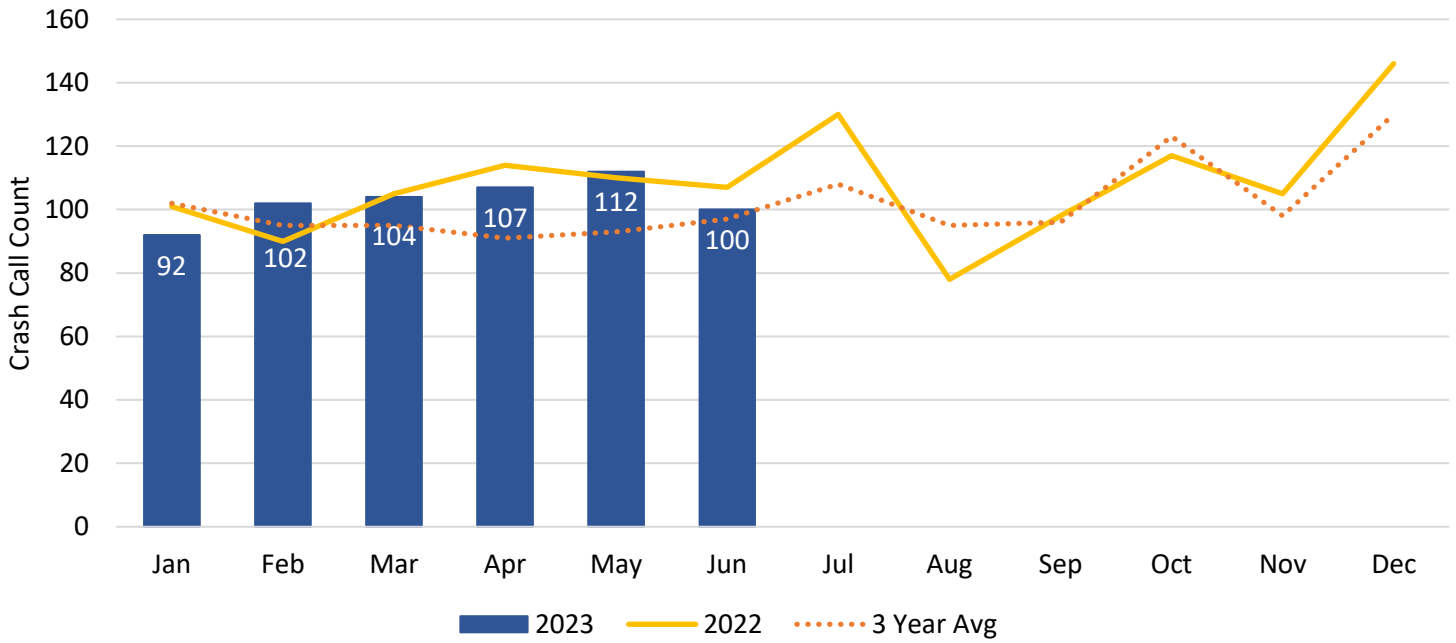
**3. Shoplifting**



\*Chart 2 disclaimer: data pulled from RMS by locations containing "11001, 11009, 11017, 11033, 11025, 11041, 11049, 11055, 11059, 11067"; offense not containing "90" in code; unfounded removed  
 \*Chart 3 disclaimer: data pulled from RMS by locations containing "11001, 11009, 11017, 11033, 11025, 11041, 11049, 11055, 11059, 11067"; offense code equal to 23C; unfounded removed

### Traffic Crash Data

#### Calls for Traffic Crashes



\*Counts are all traffic accident and hit and run calls with a disposition of report taken or rendered assistance MI

## June Community Engagement

- Monthly Chamber of Commerce Meeting
- Monthly OSHA meeting and inspections
- Recruiting meetings
- Recruiting Event 3 of them this month
- Working with the Intern for her schedule and creating a program
- Crime Scene Class
- School Tour at PD 6/7
- Community Conversation event on 6/7
- Meeting with QCD for community event
- Meeting with CMPD for new ETJ
- Interview by Zoom
- Kiwanis meeting 6/12
- Chamber of Commerce Meeting
- Facebook Live 6/22
- Awards Ceremony meeting
- Charlotte Symphony event

Weekly meetings with Chief on progress for projects. Manage Twitter, Instagram, Facebook and Ring apps for the PD Recruiting has been the majority of my time as I check indeed daily and email candidates information to get them started.

## June Traffic Enforcement

### Traffic Enforcement Type and Dispositions

Enforcement	Count
Traffic Stop	206
Citation Issued	51
Warning	141
Report Taken	4

\*Officer-generated traffic stops; unfounded removed

### Locations of Traffic Enforcement

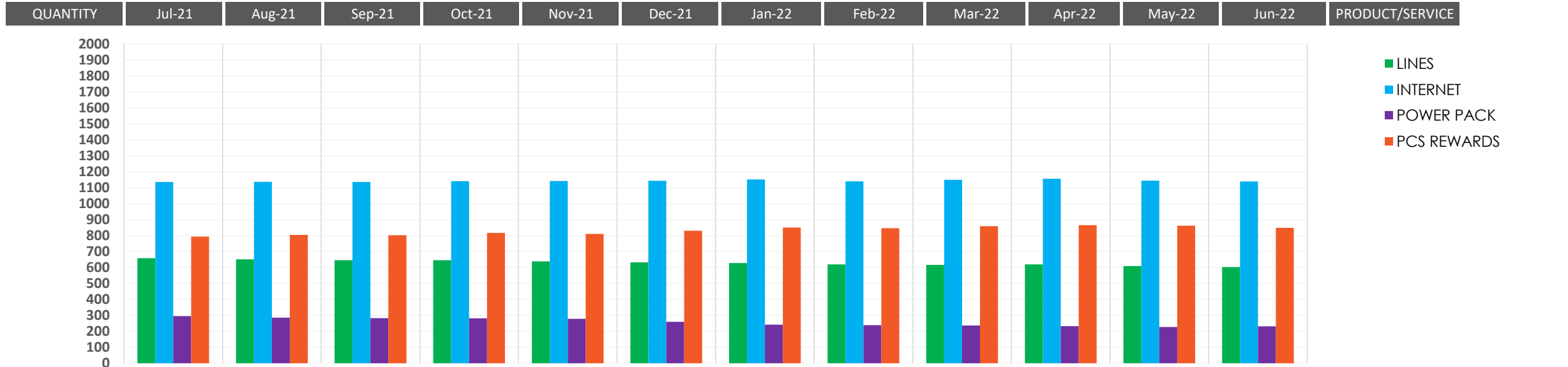
Street Name	Count
MAIN ST	53
PINEVILLE-MATTHEWS RD	39
CAROLINA PLACE PKY	18
POLK ST	16
PARK RD	11
CRANFORD DR	8
ROCK HILL-PINEVILLE RD	7
JOHNSTON DR	7
PARK CEDAR DR	3
DORMAN RD	3
TOWNE CENTRE BLVD	3
LEE ST	3
LEITNER DR	2
KINNERTON PL	2
LOWRY ST	2
LAKEVIEW DR	2
MEADOW CREEK LN	2
DOWNS CIR	2
MCCULLOUGH CLUB DR	2
SOUTH BLVD	1
I-485 OUTER HWY	1
WILLOWHURST CT	1
BLUE HERON DR	1
SAM MEEKS RD	1
CHILDERS LN	1
UNKNOWN	1
NATIONS FORD RD	1
I-485 INNER HWY	1
OAKBROOK DR	1
SABAL PARK DR	1
OAKLEY AVE	1
SOUTH BLVD	1



<b>OLD TOWN PVA</b>	<b>1</b>
<b>DOVER ST</b>	<b>1</b>
<b>EAGLETON DOWNS DR</b>	<b>1</b>
<b>WALSH</b>	<b>1</b>
<b>LANCASTER HWY</b>	<b>1</b>
<b>WINDY PINES WAY</b>	<b>1</b>
<b>FELDFARM LN</b>	<b>1</b>
<b>MCMULLEN CREEK PKY</b>	<b>1</b>
<b>Grand Total</b>	<b>206</b>

\*based on location of stop in CAD

# Lines, Internet, Power Pack and PCS Rewards FISCAL YEAR FY 23 (JULY 1, 2022 THRU JUNE 30, 2023)



PRODUCT	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	Total For FY22	Trend
<b>LINES</b>	658	651	645	645	638	632	628	619	616	619	609	602	-34	
<b>INTERNET</b>	1,135	1,137	1,135	1,141	1,142	1,143	1,151	1,140	1,149	1,155	1,144	1,139	4	
<b>POWER PACK</b>	295	286	283	282	278	259	242	238	236	232	227	231	-88	
<b>PCS REWARDS</b>	793	804	802	817	810	830	850	846	858	865	862	848	189	

The above totals are month ending reporting. For instance July totals are for month ending July 31st, August 31st, September 30th, October 31st & November 30th etc

# PINEVILLE COMMUNICATION SYSTEMS



## INTERNET RESULTS FOR MONTH ENDING 06-30-2023

REVENUE AREA	TOTAL FOR MONTH ENDING 04-30-2023	INSTALLS SOLD IN & COMPLETED IN MAY.	DISCONNECTS TAKEN & EXECUTED IN MAY.	TOTAL INTERNET FOR MONTH ENDING 05-31-2023	INSTALLS SOLD AND COMPLETED IN JUN.	DISCONNECTS TAKEN AND EXECUTED IN JUN.	MONTH ENDING 06-30-2023	SOLD IN JUN. ON SCHEDULE FOR INSTALLATION IN JULY.	TOTAL INTERNET FOR MONTH ENDING 06-30-2023
ILEC	519			515	6	-7	514	1	515
CLEC	636			629	12	-18	623	1	624
<b>TOTAL</b>	<b>1155</b>	<b>0</b>	<b>0</b>	<b>1144</b>	<b>18</b>	<b>-25</b>	<b>1137</b>	<b>2</b>	<b>1139</b>

**\*\*25-DISC Moving out of area, 0-DISC to go to competitor, 0-DISC non pay, 0 -Removing Service\*\***

REVENUE AREA	PENDING INSTALLS ON SCHEDULE SOLD IN JUN. INSTALLING IN JULY.	SOLD WAITING FOR SIGNED CONTRACT SO THEY CAN BE SCHEDULED	UPGRADES IN SPEED COMPLETED IN JUNE. WILL INCREASE REV	UPGRADES SOLD AFTER BILLING WILL INCREASE REV AUG.	EXISTING COPPER CUSTOMER CONVERTING TO FIBER ON SCHEDULE FOR JUN. OR COMPLETED IN JULY.	PENDING DISCONNECTS ON SCHEDULE FOR JUNE/JULY.
ILEC	1	0	7	0	7	2
CLEC	1	0	0	0	0	2
<b>TOTAL</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>7</b>	<b>4</b>

**\*\*4 PENDING DISCONNECTION OF SERVICE ORDERS \*\***

**\*\* THESE 2 CUSTOMERS SOLD IN JUNE. BUT INSTALLATION SCHEDULED FOR JULY. \*\***

**\*\*WE HAD 7 EXISTING ACCOUNTS THAT UPGRADE SPEED IN JUN.\*\***

**\*\*7 EXISTING COPPER CUSTOMERS CONVERTING TO FIBER IN JUNE OR COMPLETED IN JULY. \*\***

<b>100M TO 1 GIG SPEED OFFERING TAKE RATE TO DATE</b>							
<b>INTERNET RESULTS FOR MONTH ENDING 06-30-2023</b>	<b>May-23</b>	<b>Jun-23</b>	<b>SERVICE AREA</b>	<b>RES OR BUS</b>	<b>SPEED</b>	<b>NET GROWTH/LOSS FROM PREVIOUS MONTH</b>	
<b>1139</b>	194	191	CLEC	RES	300M	-3	
	64	64	CLEC	RES	600M	0	
	<b>210</b>	232	CLEC	RES	1GIG	22	
	<b>2</b>	1	CLEC	BUS	100M	-1	
	6	6	CLEC	BUS	GIG	0	
	1	1	CLEC	BUS	200M	0	
	25		CLEC	RES	400M	0	
	25	28	ILEC	BUS	100M	3	
	7	7	ILEC	BUS	200M	0	
	21	22	ILEC	BUS	1 GIG	1	
	138	150	ILEC	RES	1 GIG	12	
	150	158	ILEC	RES	300M	8	
	25	25	ILEC	RES	600M	0	
	11		ILEC	RES	400M		
	879	885				42	
<b>0.771729587</b>							
<i>77% of our Internet subscribers now subscriber to 100M or higher (decrease by from previous month)</i>							



**RESIDENTIAL AND BUSINESS LINE COUNT MONTH ENDING 06-30-2023**

	<b>TOTAL FOR MONTH ENDING 05-31-2023</b>	<b>TOTAL FOR MONTH ENDING 06-30-2023</b>	
<b>CLEC LINE COUNT</b>			
BUS	<b>44</b>	<b>44</b>	0
RES	<b>100</b>	<b>99</b>	-1
<b>SUB TOTAL</b>	<b>144</b>	<b>143</b>	<b>-1</b>
	<b>TOTAL FOR MONTH ENDING 05-31-2023</b>	<b>TOTAL FOR MONTH ENDING 06-30-2023</b>	<b>NET LOSS/GAIN AS OF 06-30-2023</b>
<b>ILEC LINE COUNT</b>			
BUS	<b>341</b>	<b>338</b>	-3
RES	<b>124</b>	<b>121</b>	-3
<b>SUB TOTAL</b>	<b>465</b>	<b>459</b>	<b>-6</b>
<b>TOTAL</b>	<b>609</b>	<b>602</b>	<b>-7</b>

0



# PCS REWARDS MONTH ENDING 06-30-2023

**NET INCREASE OF POWER PACK DISCOUNTS 4**  
**NET DECREASE OF PCS REWARDS DISCOUNTS 14**

PCS REWARDS	Count as of 05-31-2023	Count as of 06-30-2023	NET Gain/Loss
RES	862	848	
<b>SUB TOTAL</b>	862	848	<b>-14</b>
POWERPACK DISCOUNT	Count as of 05-31-2023	Count as of 06-30-2023	NET Gain/Loss
RES	227	231	
<b>SUB TOTAL</b>	227	231	<b>4</b>
<b>TOTAL CUSTOMERS RECEIVING REWARDS</b>	1089	1079	<b>-10</b>



## Human Resources

Linda Gaddy, PHR SHRM-CP MSHR  
lgaddy@pinevillenc.gov  
(704) 889-2362

**To:** Ryan Spitzer, Town Manager  
Members of the Town Council

**From:** Linda Gaddy

**Date:** 7/6/2023

**Re:** Human Resources Monthly Report

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Ryan,

Enclosed is the Human Resources Department Monthly Report for the month of June 2023.

**New Hires:**

None

**Resignation/Termination:**

**Sophia Sepulveda**, Park Maintenance Technician

**Breanna Brown**, 911 Telecommunicator

**Retirements:**

None

**Transfers:**

None

**Promotions:**

**Michael Soto**, from B.L.E.T. trainee to Sworn Police Officer

**Kara Scott Devon**, 911 Telecommunicator, temp call-in to fulltime

**Current Openings:**

**Police Officer**, 8 B.L.E.T. trainees planned to start in August, 13 sworn Police Patrol or Investigations openings, 4 laterals in onboarding or background check process

**911 Telecommunicator**, Police, 3 positions, interviews in progress, one offer & background check in progress

**Park Maintenance Technician**, interviews in progress

**Part time Recreation Assistant**, Parks & Rec, accepting applications

**Storm Water Technician**, accepting applications

**PCS Telecommunications**, Systems Technician Apprentice, accepting applications

**Departmental Update:**

Employee Handbook:

Due to the changing Town operations and employee expectations, we are reviewing the entire Town Employee handbook and revising policies that are outdated, unclear, or need to be added with the assistance of a professional consultant. This will be reviewed by our Town attorney before presenting to Council. The expected timeframe to present the proposed update is in August or September.

Annual benefit renewal and enrollment:

Open enrollment began on May 26<sup>th</sup> and concluded June 20<sup>th</sup>. All benefit changes were implemented by the end of June. We are now in FY24. There are two new providers for our Medical and our Dental plans. All other providers stayed the same. The changes were necessary to avoid some higher than usual increases with our current providers. The cost for medical did not increase at all, and went down slightly for dental plans. We also had our rep for supplemental voluntary benefits here this year in person so that employees could meet individually with him. He had some newer plans that offered better benefits or lower cost this year, so we had some interest. So far, the transition has been smooth.

Annual budget process/pay increases:

We are ready to implement the planned 8% COLA increase effective 7/5/2023. We also did some checking of the two Pay Plans structures with the help of a compensation consultant to make sure that they were structured correctly, and made a few adjustments. The increased starting pay rates are already proving to be beneficial to our recruiting efforts, especially in the Police Department.

Annual performance reviews:

These will be conducted from mid-July to mid-August for all staff except law enforcement sworn officers. Corresponding annual merit pay increases will happen the first of September for these employees. Sworn Officers continue to receive their annual reviews throughout the year on their anniversary date.

Training:

Human Resources has continued conducting live training on our polices for handling Workplace Romance and Harassment, as well as including these in new hire training requirements.

Recruiting:

Eight candidates are lined up to start Basic Law Enforcement training in August. Most will begin working for the Town in July in various capacities per a plan developed to bring them on board and familiarize them with the Town and the Police Department.



June

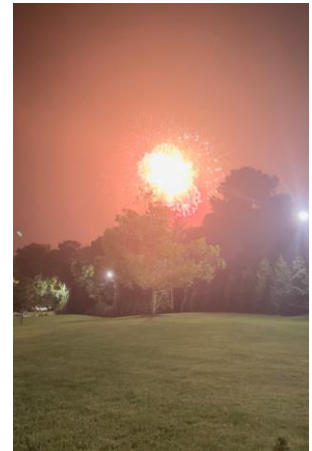
2023

Rock'n & Reel'n kicked off our summer season on June 9<sup>th</sup> with Pandora's Box, a large crowd and beautiful weather helped our Aerosmith tribute band have a wonderful night. We then hosted our first Music on Main at Town Hall on Friday, June 16<sup>th</sup> from 6 – 8pm. A few lucky patrons came and listened to The Big Dam Trio. Our summer camp began with 50 campers on June 19<sup>th</sup>. Kids participate in games, arts and craft, Carowinds, field trips and more. We are lucky to be partnering with the Pineville Library to do some summer programming with them as well with our campers. Porcupine games, weekend tournaments and daily baseball practices continue to keep Jack Hughes busy. On Thursday, June 29<sup>th</sup> we hosted the Charlotte Symphony. Garret Huffman a talented local talent opened up the night, following by a patriotic hour of music by the Charlotte Symphony. A beautiful display of fireworks peppered the sky after the symphony had completed. A truly wonderful evening.



June

2023



## **General Programming – Belle Johnston**

**Pickleball:** Open Pickleball times Saturdays from 10:15am – 1pm. 14 participants

**Karate:** Wednesdays. 31 participants

**Pre School Open Gym** – Wednesday morning from 9a – 12p – 11 participants

**Cookie Decorating** – June 22 – 7 participants

**Fitness Dance** – Monday evening – 7 participants

**Sound Bath Meditation Class** – June 7 – 3 participants

## **Lake Park**

**Tai Chi:** Hold classes T/Th/Sat under the large shelter/stage. 122 participated

**Storytime in the Park** – Every Wednesday morning – 1114 kids and 99 adults

**Boot Camp w/ Lia** – M/W/F Am – 84

## **The Hut**

**Senior Fit** – Senior Fit Monday – Thursday. 331 participants

**Yoga** – Monday and Thursday - 52 participants

**Cardio Funk:** Lem holds class on Tuesdays at 6:30pm. 10 participants

June

2023

## Jack D. Hughes

### **Tournaments**

June 3-4: USSSA Tournament

June 10-11: Perfect Game Tournament

June 17-18: USSSA Tournament

June 24-25: USSSA Tournament – Cancelled due to rain

### **Baseball Field Usage**

Pineville Porcupines started their season in June. They held 9 home games in June 1 was rained out.

PCAA finished their seasons in June.

On Deck continued their seasons on Fields 2 and 4 in June.

### **Multipurpose Field Usage**

Red Wolves Hurling Club continued using field 3 for hurling practice in June.

Carolina Lacrosse used field 3 during June.

## Social Media

### **Facebook**

Post Reach: 19,459

Post Engagements

**Facility The Hut:** 3 Rentals

**The BJCC Dining Room:** 5 Rentals

**The BJCC Gym:** 2 Rentals

**Large Shelter:** 13 Rentals

**Medium Shelter:** 14 Rentals

**Tot Lot at Lake Park:** 5 Rentals

**\*Shelter 1 at JH:** 0 Rentals

**\*Shelter 2 at JH:** 1 Rentals

**\*Shelter 3 at JH:** 0 Rental

June

2023

## **Park Maintenance Update**

### **Lake Park**

- Cut weekly
- Sprayed algae as needed
- Sprayed fire ants
- Sprayed for weeds
- Monthly building inspections
- Pressure washed Large and medium shelter
- Add pond dye
- Replaced 3 bushes in buffer at Belle
- Symphony set up tables/chairs/tents

### **The Hut**

- Cut as needed
- Trash removal
- Sprayed weeds
- Trimmed Bushes
- Monthly Building inspections

### **Dog Park**

- Cut as needed
- Blew entrance
- Picked up limbs

### **Jack Hughes**

- Cut weekly
- Daily field prep
- Porcupine game preps
- Pressure washed stadium seating
- Pressure washed bridge
- Sprayed fire ants
- Sprayed weeds
- Monthly building inspections

### **Town Hall/PD**

- Cut weekly
- Pull/spray weeds
- Daily check/trash removal

June

2023

**Splashpad**

- Check chemical readings
- Adjusted sulfuric acid pump
- Changed chlorine pump head
- Fixed leaking chlorine line
- Removed damaged spray feature

**Cemetery**

- Cut weekly
- Sprayed weeds

**Social Media**

**Facebook**

Post Reach: 19,459

Post Engagements: 6,011

New Page Likes: +60

Total Page Likes: 4,462

Total Page Followers: 4,993

**Instagram**

New Followers: +79

Total Followers: 1,666

# Department Update



**To:** Town Council

**From:** Travis Morgan

**Date:** 7/11/2023

**Re:** Town Planning Updates

**PLANNING:**

**Gold Lion:** Former Sears building at Carolina Place Mall in the works for exterior and signage of new former Black Lion business.

**Johnston Drive Part 2:** Part two plans have been submitted to NCDOT for comment/approval. Working on right of way verification and endangered species approval for this second half of the project.

**Lancaster sidewalk:** Final plans turned into NCDOT for comment/approval. Once approved we can go out for bid.

**CODE ENFORCEMENT:**

<p><b>High Weeds and Grass/debris:</b>                  408 Fisher  <b>109 Reid Ln</b>                  14006 Green Birch Dr                  335 Towne Centre Blvd                  522 Main St                  427 Park av                  202 Eden                  900 Johnston                  219 Lynnwood                  10600 Centrum</p>	<p><b>Dumpster:</b></p> <p><b>Community Appearance/Junk Vehicle:</b>                  407 James</p> <p><b>Signs:</b>                  210 N Polk                  8302 P-M Rd                  335 Towne Center Blvd                  113 Kenmore                  9939 Lee St                  9920 P-M Rd                  8500 P-M Rd K</p> <p><b>Parking on Sidewalk:</b>                  Stratfield                  Atwell Glen                  Stockdale                  Graceview                  Green Birch</p>	<p><b>Parking on the lawn:</b>                  203 Mallard</p> <p><b>Commercial vehicles:</b>                  BJ's</p> <p><b>Temp Permit:</b>                  Lowe's</p>
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# August

# 2023



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8 <b>6:30 Council Meeting</b>	9	10	11	12
13	14 <b>Electricities Conference</b>	15 <b>Electricities Conference</b>	16 <b>Electricities Conference</b>	17 <b>Electricities Conference</b>	18	19
20	21	22	23	24 <b>Clerk's Conference</b>	25 <b>Clerk's Conference</b>	26 <b>Clerk's Conference</b>
27	28 <b>6:00 Work Session</b>	29	30	31		