

**Town of Valdese  
Town Council Meeting  
Valdese Town Hall  
102 Massel Avenue SW, Valdese  
Monday, April 3, 2023  
6:00 P.M.**

- 1. Call Meeting to Order**
- 2. Invocation**
- 3. Pledge of Allegiance**

**4. Informational Items:**

- A. Communication Notes
- B. Reading Material

**5. Open Forum/Public Comment**

- A. Recognition of Draughn High School's Women's Basketball Team
- B. Recognition of Draughn High School's Volleyball Team

**6. Consent Agenda**

All items below are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item 7.

- A. Approval of Regular Meeting Minutes of March 6, 2023
- B. Approval of Special Meeting Minutes of March 16, 2023
- C. Approval of Budget Retreat Minutes of March 23 & 24, 2023
- D. Set Sunday, April 9, 2023, as Tax Lien Advertising Date for Real Property
- E. Request from American Legion Ladies Auxiliary to Sell Alcohol
- F. Request from Burke Sunrise Rotary Club to Sell Alcohol
- G. Request from Old Colony Players to Sell Alcohol
- H. Set Public Hearing Date for May 1, 2023 for the Rezoning of Lakeside Park

**7. New Business**

- A. Introduction of New Employee
- B. Presentation from Foothills Broadband, LLC
- C. New Lease Agreement with Foothills Broadband, LLC
- D. Loan Resolution for Cline Pump Station
- E. Resolution Authorizing Application for Grant Funding: Stormwater
- F. Resolution Authorizing Application for Grant Funding: Lead Service Lines
- G. Resolution for Sale of Town-Owned Property

**8. Manager's Report**

- A. Town Council Budget Workshop Dinner Meeting, Thursday, April 6, 2023, Valdese Town Hall, Community Room, 6:00 p.m.
- B. Town Offices closed Friday, April 7, 2023 in observance of Good Friday Holiday
- C. NCDOT Biannual Cleanup Drive - Spring Litter Sweep, April 15-29, 2023
- D. Town Council Budget Workshop #2 Meeting (if needed), Tuesday, April 18, 2023, Valdese Town Hall, Community Room, 6:00 p.m.

- E. OCP Production: Shrek The Musical, Show Dates April 21-22 & 27-29, 2023, 7:30 p.m., and May 4-6, 2023, 7:30 p.m.; visit [www.oldcolonyplayers.com](http://www.oldcolonyplayers.com) for more information and to purchase tickets.
- F. Spring Craft Market, Saturday, April 29, 2023, ORS Temple Field, 9:00 a.m., special music by: The Brothers' Cooperative from 10:00 a.m. – 12:00 noon, and Lost Wages from 1:00 p.m. – 3:00 p.m.
- G. Next Council meeting scheduled for Monday, May 1, 2023, 6:00 p.m.

## **9. Mayor and Council Comments**

## **10. Adjournment**

## COMMUNICATION NOTES

**To:** Mayor Watts  
Town Council

**From:** Seth Eckard, Town Manager

**Date:** March 31, 2023

**Subject:** Monday, April 3, 2023, Council Meeting

### 6. Consent Agenda

#### **A. Approval of Regular Meeting Minutes of March 6, 2023**

#### **B. Approval of Special Meeting Minutes of March 16, 2023**

#### **C. Approval of Budget Retreat Minutes of March 23 & 24, 2023**

#### **D. Set Sunday, April 9, 2023, as Tax Lien Advertising Date for Real Property**

Staff recommends the aforementioned date be set as Tax Lien Advertising Date for real property.

#### **E. Request from American Legion Ladies Auxiliary to Sell Alcohol**

Enclosed in the agenda packet is a request from American Legion Post 234, Ladies Auxiliary, to sell beer at the Independence Day Celebration on June 30, 2023, from 5:00 p.m. until 11:00 p.m.

#### **F. Request from Burke Sunrise Rotary Club to Sell Alcohol**

Enclosed in the agenda packet is a request from Burke Sunrise Rotary Club, to sell beer at the Waldensian Festival events on August 11, 2023, from 5:00 p.m. until 11:00 p.m., and August 12, 2023, from 3:00 p.m. until 10:00 p.m.

#### **G. Request from Old Colony Players to Sell Alcohol**

Enclosed in the agenda packet is a request from Old Colony Players to partner with the Levee Brewery and Pub to sell beer and wine(hard cider) at the "Shrek, the Musical" performance on April 21, 22, 27, 28, 29, 2023, & May 4, 5, 6, 2023, at 7:30 p.m., at the Fred B. Cranford Amphitheatre.

#### **H. Set Public Hearing Date for May 1, 2023, for the Re-zoning of Lakeside Park**

Enclosed in the agenda packet are a memo and a location map from the Planning Department requesting that Council set a public hearing date on Monday, May 1, 2023, for the re-zoning of Lakeside Park from R-12 Residential and M-1 Manufacturing to R-12A Residential District.

7. New Business

**A. Introduction of New Employees**

Assistant Fire Chief Truman Walton will introduce the new Fire Engineer, Ethan Woody.

**B. Presentation from Foothills Broadband, LLC**

Zachary Chiz will offer a brief overview of the company Foothills Broadband, LLC.

**C. New Lease Agreement with Foothills Broadband, LLC**

Enclosed in the agenda packet is a memo, location map, and a new lease agreement between the Town of Valdese and Foothills Broadband, LLC. Foothills Broadband, LLC is a private broadband provider that has requested to lease a 0.108 parcel of Town-owned property located off Janavel Ave., across from the Public Safety building, to store company equipment. The lease agreement is in the amount of \$500.00 per month for the next 25 years. The amount will increase by 3% each year. Zachary Chiz with Foothills Broadband, LLC, will provide Council with an overview on the company and a plan for the leased space. Assistant Town Manager/CFO Bo Weichel will be at the meeting to present the lease agreement.

**Requested Action:** Staff recommends the approval of a new lease agreement with Foothills Broadband LLC, as presented.

**D. Loan Resolution for Cline Pump Station**

Enclosed in the agenda packet is a State Reserve Loan Resolution with the North Carolina Department of Environmental Quality in the amount of \$1,176,000 for the replacement of two (2) 200 gpm submersible pumps with two (2) 360 gpm submersible duplex pumps and 1,570 LF of 6-inch FM with 1,570 LF of 8-inch FM; installation of approximately 470 LF of 8-inch FM. Replacement of approximately 2,610 LF of 8-inch gravity sewer and 12 manholes; and rehabilitation of 15 manholes. Water Resources Director Greg Padgett will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council approve the Loan Resolution in the amount of \$1,176,000.

**E. Resolution Authorizing Application for Grant Funding - Stormwater**

Enclosed in the agenda packet is a memo and Resolution authorizing an application for grant funding from NC DEQ for the completion of an assessment of the Town of Valdese's stormwater system. Approval of this Resolution will allow staff to seek funding to inspect and prioritize the stormwater needs of the Town. Water Resources Director Greg Padgett will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council approve the Resolution authorizing supplication for grant funding, as presented.

#### **F. Resolution Authorizing Application for Grant Funding: Lead Service Lines**

Enclosed in the agenda packet is a memo and Resolution authorizing an application for grant funding from NC DEQ for the completion of an assessment of the Town of Valdese's Lead Service Line Inventory. EPA is requiring that all utilities have an updated inventory of all the service lines in their system by no later than October 16, 2024. Water Resources Director Greg Padgett will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council approve the Resolution authorizing supplication for grant funding, as presented.

#### **G. Resolution of Sale of Town-Owned Property**

At the October 3, 2022 Council meeting, Council adopted a resolution proposing the acceptance of an offer to purchase town-owned property at 408 & 409 Pineburr Ave. SW, Valdese. In accordance with G.S. 160A-269, a notice was published detailing Council's intent to accept the offer and informed the public that any person could raise the bid. After receiving nine upset bids, the highest bid received was from W.C. Erwin, in the amount of \$112,000.00. Enclosed in the agenda packet is a resolution approving the sale of the property.

**Requested Action:** Staff recommends that Council approve the sale of the property located at 408 & 409 Pineburr Ave. SW, Valdese, to W.C. Erwin for the purchase price of \$112,000.00.

# READING MATERIAL

## Town of Valdese Personnel Report

<u>Employee Name</u>	<u>Position</u>	<u>Previous Position</u>	<u>Department</u>	<u>Date of Event</u>
<b><i>Promotions</i></b>				
<b><i>New Hires</i></b>				
Ethan Woody	Fire Engineer		Fire Department	3/6/2023
<b><i>Transfers</i></b>				

**VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT****February 1st-28th, 2023**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF FEBRUARY, 2023. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>MONTHLY TOTAL</u>		
STATION DUTY		132 HOURS	
VEHICLE DUTY		84 HOURS	
EQUIPMENT DUTY		58 HOURS	
EMERGENCY RESPONSES (ON DUTY)		60 HOURS	
TRAINING (ON DUTY)		16 HOURS	
FIRE ADMINISTRATION		215 HOURS	
TRAINING ADMINISTRATION		2 HOURS	
MEETINGS		30 HOURS	
FIRE PREVENTION ADMINISTRATION		59 HOURS	
FIRE PREVENTION INSPECTIONS		46 HOURS	
	<u>TYPE</u>	<u>NUMBER OF INSPECTIONS</u>	<u>VIOLATIONS</u>
	ASSEMBLY	5	42
	BUSINESS	6	69
	DAYCARE	0	0
	EDUCATIONAL	0	0
	FACTORY	3	40
	HAZARDOUS	0	0
	INSTITUTIONAL	0	0
	MERCANTILE	3	48
	RESIDENTIAL	0	0
	STORAGE	1	1
	FOSTER HOME	0	0
	REINSPECTIONS	12	4
	<b>TOTAL:</b>	<b>30</b>	<b>204</b>
PUBLIC RELATIONS			8 HOURS
HYDRANT MAINTENANCE			0 HOURS
SAFETY ADMINISTRATION			10 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS			12 HOURS
EXTRA DUTY FIRES			38 HOURS
NON-DEPARTMENTAL DUTIES			1 HOURS
EXTRA DUTY TRAINING			43 HOURS
EXTRA DUTY FIRE/MED STANDBY			0 HOURS
PHYSICAL TRAINING			33 HOURS
EXTRA DUTY MEDICAL RESPONSES			21 HOURS
VOLUNTEER FIREFIGHTER TRAINING			113 HOURS
<b>TOTAL TRAINING MANHOURS:</b>			<b>172 HOURS</b>



**FIRE DEPARTMENT EMERGENCY RESPONSES:**

<b><u>FIRE:</u></b>	<b><u>MONTHLY TOTAL</u></b>
FIRE ALARM	2
CARBON MONOXIDE ALARM	0
MUTUAL AID TO STATION 63	1
MUTUAL AID TO STATION 67	4
MUTUAL AID TO STATION 76	1
STRUCUTRE FIRE	3
GAS ODOR	1
ELECTRICAL HAZARD	2
SMOKE INVESTIGATION	0
SERVICE CALL	2
OUTSIDE FIRE	2
TREE DOWN	<u>0</u>
	<b>18</b>
<b><u>MEDICAL:</u></b>	
ABDOMINAL PAIN	1
ALLERGIC REACTION	0
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	1
BACK PAIN	0
CANCELLED ENROUT	1
CARDIAC	1
CHEST PAIN	4
CHOKING	0
CODE BLUE	0
DIABETIC	0
DOA	0
FAINTING	0
FALL	6
GUNSHOT	1
HEADACHE	0
HEMORRHAGE	1
MOTOR VEHICLE ACCIDENT	2
MEDICAL STANDBY	0
OTHER	2
OVERDOSE/INTOXICATED	2
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	3
SEIZURE	1
SICK	1
STROKE	1
TRAUMATIC	0
UNCONSCIOUS	1
UNKNOWN	<u>0</u>
	<b>29</b>
<b><u>TOTAL RESPONSES:</u></b>	<b><u>47</u></b>

---

GREG STAFFORD, CHIEF  
VALDESE FIRE DEPARTMENT

## Community Affairs & Tourism Monthly Stats

### March 2023

#### Tourism Statistics

*visitvaldese.com Visits (last 28 days)* 9,113

*townofvaldese.com Visits (last 28 days)* 2,932

*Top 5 Pages Viewed (townofvaldese): Recreation, Utilities, Aquatics, How to Pay Utility Bill, Events Calendar*

#### Facebook

*# of followers* 15,880

*Post Engagement (last 28 days)* 37,342

*Post Reach (last 28 days)* 103,851

#### Zoho Social Media Monthly Report: Positive vs. Negative Feedback

Positive: 99.52%

Negative: .48%

#### TOP FIVE MARKETS: Morganton, Valdese, Hickory, Lenoir, Drexel

*Approximate # of Visitors to the Tourism/CA Office* 880

#### Community Affairs Stats

##### Old Rock School Rental Breakdown

AUDITORIUM	0
TEACHER'S COTTAGE	13
WALDENSIAN ROOM	13
CLASSROOMS	4
MAJOR EVENT (ENTIRE SCHOOL)	1
<b>Major Events Held at the Old Rock School</b>	<b>Average Number of Attendees</b>
Burke Co. Public School Mathcounts Competition	600
<b>Monthly Old Rock School Rentals</b>	<b>31</b>
<b>Old Rock School Total Attendance</b>	<b>4,100</b>

#### CA Summary for March 2023

March was a productive and successful month for Community Affairs. The month kicked off with Bluegrass at the Rock as Joe Mullins & the Radio Ramblers took the Old Rock School stage. Over 230 tickets were sold. The first Spring event of the year took place on March 17th with the Lucky Leprechaun Hunt downtown. Over 200 leprechauns were hidden along Main St. for families to find and bring to the Old Rock School for a prize. Morrissa and Annie attended the NC Main Street Conference March 14 and 15th and gained valuable resources to re-vamp the Main Street Program. Work continued on event planning for the Spring Craft Market, FFN Concert Series, and the Waldensian Festival. Business resource packets were designed and distributed among merchants. Promotion for Spring tourism is underway and preparation for the next Spring event, the Pop-Up Egg Hunt is in the works.



**N.C. Department of Transportation  
Biannual Cleanup Drive  
Volunteer Locally!  
April 15-29, 2023**



Forms, posters, and telephone listings are available on our website

[ncdot.gov/littersweep](https://ncdot.gov/littersweep)



Share your clean-up images at: **#LitterSweepNC**



**ADOPT-A-HIGHWAY**  
Learn how you can help keep North Carolina beautiful.  
[apps.ncdot.gov/LM](https://apps.ncdot.gov/LM)

**SWAT-A-LITTERBUG**  
Littering is illegal and a fineable offense upon conviction. G.S. 14-399. Let us know when a person is littering by contacting Litter Management through the Online Swat-A-Litterbug process or by calling the NC State Highway Patrol at \*HP or NCDOT Litter Management at **1-800-331-5864**. Find out more at [ncdot.gov/litterbug](https://ncdot.gov/litterbug).



# SPRING LITTER SWEEP APRIL 15-29, 2023

## VOLUNTEER SAFETY RULES AND GUIDELINES

- ▶ Park in areas that: provide safe entrance and exit of the pickup area; do not create hazards with other vehicles and equipment operating near the work area; and provide maximum protection for volunteers getting in and out of the vehicle.
- ▶ All volunteers must wear a NCDOT approved orange safety vest. It is a good practice to wear long-sleeve shirts, gloves and high-top boots to protect against unforeseen hazards.
- ▶ Take extra precautions to prevent heat and cold stress when working in extreme temperatures. Pick up only during daylight hours and stop work during inclement weather.
- ▶ Face oncoming traffic while on foot. Stay off the road at least five feet from the pavement edge.
- ▶ Do not pick up in ditches, tunnels, on road surfaces, bridges, overpasses or medians. Avoid any construction areas.
- ▶ Work in small groups, allowing ample space for each volunteer to work safely.
- ▶ Place tools in a safe position so that sharp points are not exposed.
- ▶ Be aware of hidden obstructions that may have sharp edges and broken glass, especially in grassy areas.
- ▶ Do not attempt to squeeze bags to make room for more trash. Use caution when handling trash bags containing broken or sharp objects. Use proper lifting techniques when lifting bags.

- ▶ Do not pick up what appears to be hazardous material or any type of container with unknown contents (notify your local coordinator or NCDOT maintenance office if you encounter hazardous objects or holes, guy wires and other hidden obstacles in the ground.)
- ▶ Place trash bags where they can be easily retrieved by NCDOT personnel, but well clear of roadway traffic.
- ▶ Do not use or possess illegal drugs or alcohol prior to or during a cleanup.
- ▶ Provide adequate supervision by one or more adults 21 years of age or older for groups that have volunteers 12-17 years of age. All volunteers must be at least 12 years of age with adult supervision to participate.
- ▶ Know the routes to medical care in case of emergency and have a first-aid kit readily available.
- ▶ Conduct a safety meeting for all volunteers prior to each cleanup and go over all safety procedures, rules and guidelines. View the "North Carolina Adopt-A-Highway Safety" video and the "Colorado Meth Lab Waste Recognition" video prior to participating in a cleanup.

You can access all safety information and videos from our website at [ncdot.gov/littersweep](https://ncdot.gov/littersweep).

### FORMS TO DOWNLOAD

Visit [ncdot.gov/littersweep](https://ncdot.gov/littersweep) to download forms:

- Spring 2023 Litter Sweep poster
- Certificate of Appreciation request form
- Safety rules and regulations for volunteers
- Adopt-A-Highway reporting instructions
- Litter Sweep cleanup procedures
- Adopt-A-Highway media form
- For questions or to request copies, call 1-800-331-5864

### MATERIALS & PICKUP

Visit your local NCDOT maintenance office for **gloves, safety vests** and **orange trash bags that are reversible to a blue color for glass, metal and plastic for recycling**. Dispose of recyclables yourself.

Please report pickups online at [apps.ncdot.gov/LM](https://apps.ncdot.gov/LM) (info needed: **Pickup key, route cleaned, # of volunteers, hours worked, # of recyclable bags and trash bags, and is NCDOT bag pick up needed.**) If you are not an Adopt-A-Highway volunteer, please use the Other Volunteer Pickup Key: NSLKC.

**REMINDER:** It is illegal to dispose of aluminum cans and plastic bottles in landfills.

 Please recycle this mailer after use.

# Spring 2023 LITTER SWEEP

# APRIL 15-29, 2023

REQUEST FOR CERTIFICATE OF APPRECIATION (Please Print)

Issue in name of \_\_\_\_\_

Mail to \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_ County \_\_\_\_\_

Phone (Cell) \_\_\_\_\_ Secondary \_\_\_\_\_

Email \_\_\_\_\_

DEADLINE TO REQUEST CERTIFICATE IS **MAY 31, 2023**

Mail to: NCDOT Litter Management, 1540 Mail Service Center, Raleigh, NC 27699-1540

Email to: [kasawyer2@ncdot.gov](mailto:kasawyer2@ncdot.gov)

## THANK YOU FOR SAFELY PARTICIPATING IN LITTER SWEEP

Address Service Requested

North Carolina Department of Transportation  
Litter Management  
1540 Mail Service Center  
Raleigh, NC 27699-1540

# VALDESE POLICE DEPARTMENT

Jack W. Moss  
 Chief of Police  
 Post Office Box 339  
 121 Faet Street  
 Valdese, North Carolina 28690

Telephone 828-879-2109  
 Fax 828-879-2106

March 28, 2023

To: Seth Eckard  
 From: Chief Moss  
 Re: Boots on the ground

Progress reports: Boots on the Ground

<u>Location:</u>	<u>Officer Visits:</u>
McGalliard Falls	78 Visual Checks / Walk around
Old Rock School	63 Visuals Checks / Walk around
Children's Park	63 Visual Checks / Walk around
Community Center	86 Visual Checks / Walk around
Lakeside Park	43 Community Contact
Main St Extra Patrol	Nightly Door Checks
Business/Residential Contact	47 Community Policing
Family Fun Night	0 Community policing
Myra's Car show	N/A

Our officer have logged 523 residential/business security checks, 763 extra patrols and 47 community policing contacts in 27 days for a total of 1,333 events related to the safety, security and public interest. These checks and extra patrols include all of the standard residential checks, business, and boots on the ground CAD logs.

March 6, 2023, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
MARCH 6, 2023**

The Town of Valdese Town Council met on Monday, March 6, 2023, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The following were present: Mayor Charles Watts, Mayor Pro Tem Frances Hildebran, Councilwoman Rexanna Lowman, Councilman Tim Skidmore, Councilman Tim Barus, and Councilman Paul Mears. Also present were: Town Attorney Tim Swanson, Town Manager Seth Eckard, Assistant Town Manager/CFO Bo Weichel, Town Clerk Jessica Lail, and various Department Heads.

Absent: None

A quorum was present.

Mayor Watts called the meeting to order at 6:00 p.m. He offered the invocation and led in the Pledge of Allegiance to the Flag.

**OPEN FORUM/PUBLIC COMMENT:**

**RECOGNITION OF DRAUGHN HIGH SCHOOL'S VOLLEYBALL TEAM:** Mayor Watts tabled this to May 1, 2023, Council meeting.

Mayor Pro Tem Frances Hildebran read the Rules & Procedures for Public Comment:

**Rule 5. Public Comment**

Any individual or group who wishes to address the council shall inform the town clerk, any time prior to the start of the meeting, and provide their name, address and subject matter about which they wish to speak. Comments should be limited to five minutes per speaker.

**COMMUNICATIONS & FINANCES – GLENN HARVEY, 801 MICOL AVE NE., VALDESE:** Mr. Harvey expressed his concern with the lack of communication on the Town's biggest undertaking in history with a building that was approved about a year ago. Mr. Harvey shared that he has not heard anything about it since last March and July. Mr. Harvey is concerned about the \$7.4 M loan over 40 years. Mr. Harvey referenced the Finance presentation in the meeting and noted some highlights from slides and the five-pier towns compared to the Town of Valdese. Mr. Harvey hopes that the Town Council will start considering the long-term impact on our legacy to the children and grandchildren for the next 40 years who will be paying for the Public Safety Building.

**PROPERTY TAX RATE – JEAN MARIE COLE, 705 BERTIS ST., VALDESE:** Ms. Cole asked the Council to consider the effects of the property revaluation for some people in Valdese. Ms. Cole received a 79% increase in her 1937 home. Ms. Cole is concerned with home insurance increasing as well. Ms. Cole wants the Council to consider that when setting the tax rate. Ms. Cole would like to keep the Town's services.

**CONSENT AGENDA:** (enacted by one motion)

**APPROVED REGULAR MEETING MINUTES OF FEBRUARY 6, 2023**

**APPROVED REAPPOINTMENT TO VALDESE ABC BOARD:** Seth Eckard was reappointed to the Valdese ABC Board for a third, full three-year term that expires April 1, 2026.

**APPROVED APPOINTMENT TO VALDESE PARKS & RECREATION COMMISSION:** Chip Stallings was appointed to the Valdese Parks & Recreation Commission, filling the unexpired term of Robert Murray. The unexpired term will expire on December 31, 2025.

**APPROVED RENEWAL OF LEASE AGREEMENT AT THE OLD ROCK SCHOOL WITH DR. KYLE BARNES:** Lease agreement with Dr. Kyle Barnes for rental space at the Old Rock School, in the amount of \$50.00 per month.

March 6, 2023, MB#32

**APPROVED ORDINANCE DECLARING ROAD CLOSURES FOR THE TOWN OF VALDESE ANNUAL EVENTS:**

## AN ORDINANCE DECLARING ROAD CLOSURE FOR TOWN OF VALDESE SPECIAL EVENTS

WHEREAS, the Town of Valdese desires to schedule an Independence Day Celebration, Annual Waldensian Festival; Treats in the Streets; and the Annual Valdese Christmas Parade; and

WHEREAS, part of US 70/Main Street in Valdese will need to be closed for each of these special events; and

WHEREAS, G.S. 20-169 provides that local authorities shall have power to provide by ordinance for the regulation of the use of highways by processions or assemblages;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Valdese pursuant to G.S. 20-169 that the following portion of the State Highway System be closed during the times set forth below:

2023 Independence Day Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on June 30, 2023 from 5:00 PM until 11:00 PM.

2023 Waldensian Festival Kickoff Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 11, 2023 from 5:00 PM until 11:00 PM.

2023 Waldensian Festival Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 12, 2023 from 5:30 AM until 11:00 PM.

2023 Valdese Treats in the Streets (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on October 31, 2023 from 3:30 PM until 6:30 PM.

2023 Valdese Christmas Parade (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on December 2, 2023 from 9:30 AM until 12 Noon.

Signs shall be erected giving notice of the limits and times of these street closures as required by G.S. 20-169.

THIS, the 6<sup>th</sup> day of March, 2023.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**APPROVED REQUEST FROM WALDENSIAN STYLE WINES TO SELL WINE AT ANNUAL EVENTS:**

Waldensian Style Wines has been authorized to sell wine at the Craft Market event on April 29, 2023, from 9:00 a.m. to 4:00 p.m., Independence Day Celebration on June 30, 2023, from 5:00 p.m. until 11:00 p.m., and the 48th Annual Waldensian Festival events on August 11 & 12, 2023, from 3:00 p.m. to 10:00 p.m.

Councilwoman Hildebran made a motion to approve the aforementioned items on the Consent Agenda, seconded by Councilman Skidmore. The vote was unanimous.

***End Consent Agenda***

**ITEMS REMOVED FROM CONSENT AGENDA:** None

**ARBOR DAY PROCLAMATION:** Mayor Watts presented the following proclamation:

## ARBOR DAY 2023 PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and



**March 6, 2023, MB#32**

WHEREAS, 2023 is the 151<sup>st</sup> Anniversary of the holiday and Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut our heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal; and

WHEREAS, the Town of Valdese has received the prestigious Tree City USA award for the past 35 years.

NOW, THEREFORE, I, Charles Watts, Mayor of the Town of Valdese, North Carolina, do hereby proclaim Friday, March 17, 2023, as the 151<sup>st</sup> Anniversary celebration of; and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

This 6<sup>th</sup> day of March, 2023.

/s/ Charles Watts, Mayor

Public Works Director Allen Hudson invited everyone to a ceremony in conjunction with Valdese Elementary School at the Old Rock School on Friday, March 17, 2023, at 2:00 p.m. Mr. Hudson shared that staff plans to plant an autumn blaze maple tree on the Old Rock School Temple Field near the permanent stage. Each student will be presented with a small pine tree.

**TOWN FINANCIAL UPDATE:** Assistant Town Manager/CFO Bo Weichel shared a financial update on the general fund only. Mr. Weichel focused on the operations ratio, quick ratio, debt service, and fund balance. Mr. Weichel reviewed the six debt items in the general fund showing the annual payment, balance remaining, and the years remaining to pay off the debt. Mr. Weichel explained that it is important to look at how much of the debt is the percentage of our overall expenditure. Mr. Weichel noted that ours is 3.84%, which is a good percentage. Mr. Weichel ended with a history of our fund balance percentages and feels overall our general fund health is in good shape. Councilwoman Hildebran noted that some debt items would come off in the next few years. Town Manager Seth Eckard reminded Council that the Local Government Commission approves new debt, which must be approved before we can borrow money.

**TOWN OF VALDESE**

2023 March Council Meeting

**FINANCIAL STANDING**

1

- **BENCHMARK MEASURES**
  - OPERATIONS RATIO
  - QUICK RATIO
  
- **FINANCIAL MEASURES**
  - DEBT SERVICE
  - FUND BALANCE

2

# BENCHMARK MEASURES

3

The following financial analysis pulls data from each municipality's audited Annual Financial Reports from the prior five years.

The graph's contain data comparing Valdese's financial health to our peer group.

State and Local Government Finance Division: Financial Reports and Analysis Tools

Select Report Type  
Select Report  
Select Report Criteria  
Select Report Option

Please select criteria for reports: General Fund

Type of Unit: Municipality

Year: Valdese | P: 4677 | WS: Y | E: N

Do you want to select Benchmark Peers?: No

Peer1 Unit: Conover | P: 8437 | WS: Y | E: N

Peer2 Unit: Clarendon | P: 1083 | WS: Y | E: N

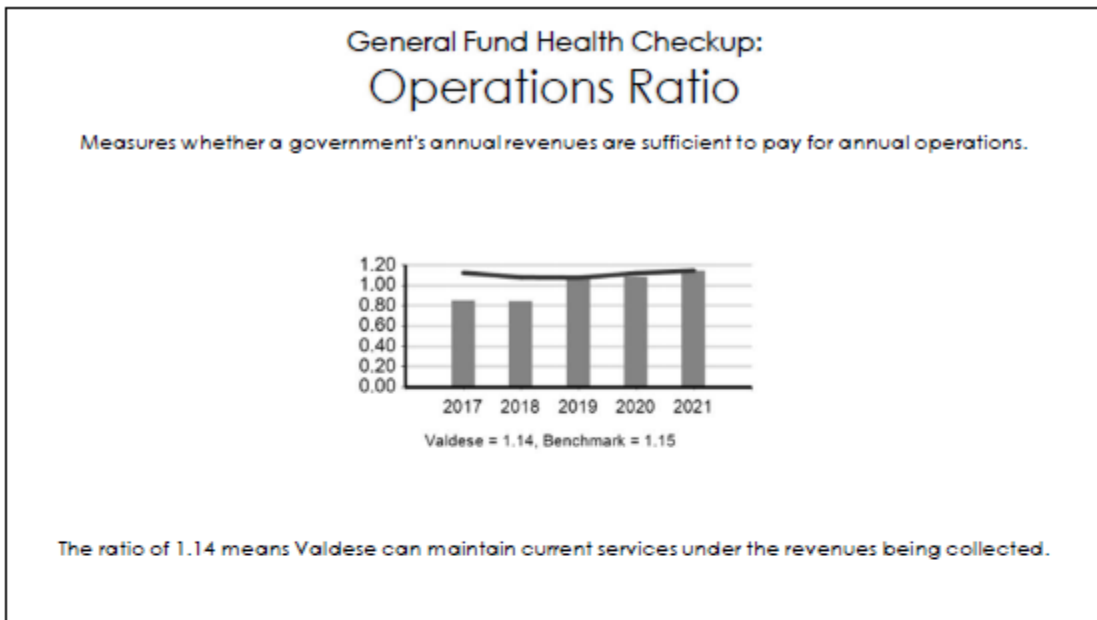
Peer3 Unit: Long View | P: 5083 | WS: Y | E: N

Peer4 Unit: Maiden | P: 3740 | WS: Y | E: Y

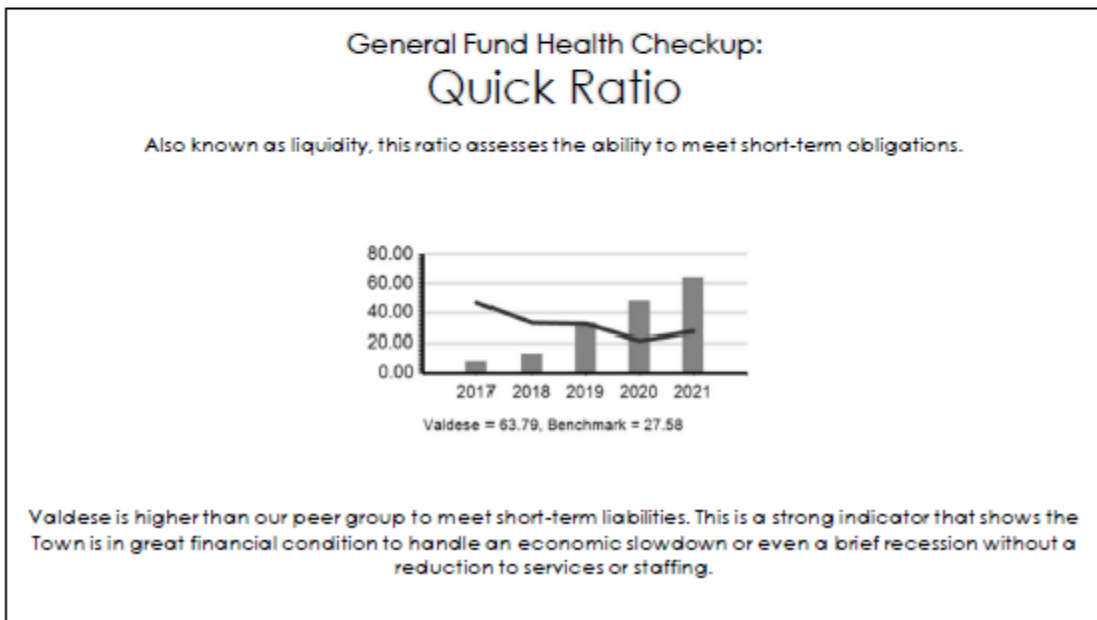
Peer5 Unit: Greene Falls | P: 4957 | WS: Y | E: Y

P = Population      WS = Water & Sewer      E = Electric

4



5



6

### General Fund Health Checkup: Debt Service

Addresses how financially obligated the Town is by measuring the amount of expenditures committed to annual debt service payments.

TOWN OF VALDESE General Fund Debt			
	Annual Payment	Balance Remaining	Years Remaining
Fire Engine (USDA)	26,908	53,816	2
Fire Ladder Truck (USDA)	52,761	844,176	16
Trucks & Equip-Street (Truist)	53,743	214,972	4
Town Hall (USDA)	88,878	2,577,462	29
Splash Park (USDA)	19,483	701,388	36
Patrol Vehicles (Truist)	18,471	55,410	3
<b>Total</b>	<b>260,244</b>	<b>4,447,224</b>	

**260,244 / 6,769,259 = 3.84%**

7

### General Fund Health Checkup: Fund Balance Percentage

This percentage measures the amount of funds available, beyond expected revenue and expenditures, to meet future unexpected needs and emergencies.

Commonly referred to as "reserves" or "savings".

**\$4,907,145**

**113.50%**

Fund Balance History				
FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
18.56 %	60.53 %	72.06 %	93.69 %	113.50 %

This means we have over 14 months of reserves available to cover or expenditures. This allows Valdese to take advantage of time sensitive opportunities, invest in large projects without the need to borrow, and increase interest earned on investment. It also shows us we can weather an economic slowdown without reducing services or staffing.

8

## General Fund Health Checkup:



9

**MANAGER'S REPORT:** Town Manager Seth Eckard made the following announcements:

Year of the Trail Outdoor Adaptive Recreation Day – Friday, March 10, 2023, McGalliard Falls Park, 1:00 pm – 5:00 p.m.

The Lucky Leprechaun Hunt begins Friday, March 17, 2023. Participants will search for Leprechauns hidden around Valdese. Prizes can only be redeemed during the Old Rock School hours, 8:00 a.m. – 5:00 p.m.

Annual Budget Retreat is scheduled for March 23 & 24, 2023, 9:00 a.m. – 5:00 p.m. at the Old Rock School, Waldensian Room

Bluegrass at the Rock presents: Alan Bibey & Grasstowne, Saturday, April 1, 2023, at 7:30 p.m.

**MAYOR AND COUNCIL COMMENTS:** Councilwoman Lowman reminded citizens that if they feel like their property rate percentage went up too much, they have the right to appeal through Burke County. The information to appeal is on the Town's website.

Councilwoman Hildebran thanked Officer Hicks, Code Enforcement/Animal Control, for the great job he is doing for the Town. Councilwoman Hildebran also thanked the Police Department for maintaining a presence within the Town and making our citizens feel safe.

**ADJOURNMENT:** At 6:32 p.m., there being no further business to come before Council, Councilwoman Lowman made a motion to adjourn, seconded by Councilman Barus. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, April 3, 2023, 6:00 p.m., Valdese Town Hall.

---

Town Clerk

---

Mayor

jl

March 16, 2023, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL SPECIAL MEETING  
March 16, 2023**

The Town of Valdese Town Council met on Thursday, March 16, 2023, at 11:00 a.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The following were present: Mayor Charles Watts, Councilwoman Frances Hildebran, Councilman Tim Skidmore, Councilman Tim Barus, and Councilman Paul Mears. Also present were: Town Attorney Tim Swanson, Town Manager Seth Eckard, Assistant Town Manager/CFO Bo Weichel, Town Clerk Jessica Lail, and various Department Heads.

Absent: Councilwoman Rexanna Lowman

A quorum was present.

Mayor Watts called the meeting to order at 11:00 a.m. He offered the invocation and led in the Pledge of Allegiance to the Flag. Town Manager Seth Eckard introduced Nicholas Lattanzi, Area Specialist/Community Programs with U.S. Department of Agriculture Rural Development(USDA).

**USDA PRESENTATION – LETTER OF CONDITION PACKAGE:** Nicholas Lattanzi shared that the official offer for the Town to consider is a loan amount of \$7,241,900, over a 30-year term, with a fixed interest rate of 3.75%. Mr. Lattanzi explained that the need for the special called meeting is due to interest rates increasing after April 1, 2023. Mr. Lattanzi presented the following Letter of Conditions for a Community Facilities Program Loan for the proposed Public Safety Facility.

USDA

United States Department of Agriculture

---

03/16/23

Town of Valdese  
Seth Eckard — Town Manager  
102 Massel Ave SW  
Valdese, NC 28690

Subject: Letter of Conditions for a Community Facilities Program Loan to  
Public Safety Facility

Dear Mr. Eckard:

This letter, with attachments, establishes conditions that must be understood and agreed to by the applicant before further consideration may be given to the application for Federal Assistance. The State and Area Office staff of USDA Rural Development (RD) will administer the loan and/or grant funds for this project on behalf of the Rural Housing Service. All parties may access information and regulations referenced in this letter at our website located at:

<https://www.rd.usda.gov/programs-services/community-facilities>. Any changes in project cost, source of funds, scope of services, or any other significant change (this includes significant changes in the

**March 16, 2023, MB#32**

Borrower's financial condition, operation, organizational structure or executive leadership) in the project or applicant must be reported to and approved by USDA Rural

Development by written amendment to this letter. Any changes not approved by USDA Rural Development will be cause for discontinuing processing of the application. If you do not meet the conditions of this letter, the Agency reserves the right to withdraw Agency funding.

This letter is not to be considered as loan approval or as representation to the availability of funds. The application can be processed on the basis of a USDA Rural Development loan not to exceed \$7,241,900.00. Funds for this project are provided by the Rural Housing Service (RI-IS).

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds," within the next ten (10) days, if you desire that we give further consideration to your application. The execution of these and all other documents required by USDA Rural Development must be authorized by appropriate resolutions of the applicant's governing body.

The loan will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds," is mailed by USDA Rural Development. This is also the date that the interest rate is established. If the interest rate is lower at the time of loan closing, you must make a request in writing to receive the lower rate in effect.

The loan will be repayable over a period not to exceed 30 years from the date of loan closing at the market interest rate. The first interest installment will be due no later than one full year from the date of loan closing.

Project Budget—Based on Standard Form 424, "Application for Federal Assistance," the project cost and funding will be as follows:

a.

Development	Construction	\$6,742,170.00
Other	FF&E	\$350,000.00
Contingencies		\$400,000.00
Arch, Eng, & Planning	Interest	\$451,850.00
Other Professional Fees	Construction Loan Interest (18-months)	\$577,748.00
Other Professional Fees	Geotechnical	\$12,000.00
Land & Rights	Special Inspections	\$30,000.00
Legal Services	Site Purchase	\$98,132.00
		\$30,000.00
	Total	\$8,691,900.00

b.	<u>Source of Funds</u>	<b>\$6,775,381.00</b>
	USDA Loan	
	Applicant Contribution	\$950,000.00
	NC State	\$500,000.00
	TOTAL:	<b>\$8,691,900.00</b>

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the borrower may be necessary.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. Section I of the attached conditions (Items 1—21) must be satisfied prior to interim loan closing or before construction



**March 16, 2023, MB#32**

begins, whichever occurs first, in either case not later than one (1) year from the date of this letter. In the event the project has not advanced to the point of construction within one (1) year, USDA Rural Development reserves the right to discontinue the processing of the application.

If you have any questions, feel free to contact this office.

Sincerely,

Nick Lattanzi  
Area Specialist

## ATTACHMENT TO LETTER OF CONDITIONS

---

### SECTION 1. CONDITIONS TO BE SATISFIED PRIOR TO LOAN CLOSING OR BEFORE CONSTRUCTION BEGINS, WHICHEVER OCCURS FIRST

- I. Reserves—The applicant will establish a separate debt service reserve account in an amount at least equal to an average annual loan installment. This reserve will be accumulated at the rate of at least one-tenth of the average annual installment each year until the required level is reached, which is one average annual loan installment. The reserve account balance must be reported annually to the State Office and included in the audit as a separate and identifiable line item as restricted.

For any fiscal year end in which the debt service reserve account balance is less than the required account total; the applicant will provide the Agency with a twelve-month budget and plan to correct the cash shortfall.

Additionally, the applicant will establish a capital asset replacement reserve in an amount adequate to replace short term assets with an annual contribution of \$10,000.00. The amount will be based on the condition of the existing facility and the economic life of the proposed improvements.

### **2. Disbursement of Funds**

- a. Interim loan financing during construction will be required in accordance with 7 CFR 1942.17 (n)(3) for all construction loans over \$50,000. The applicant must provide Rural Development a copy of the proposed interim financing package prior to execution.
- b. The applicant will provide evidence that funds from other sources will be made available for the project cost in the amount of \$1 **450,00.00**. This evidence should include a copy of the loan/grant award that addresses how funds will be disbursed.
- c. The applicant's contribution of funds toward the project cost shall be considered the first funds expended and must be deposited in its project account before construction is started. Please provide Rural Development evidencing applicant's contribution.
- d. Agency funds will not be used to pre-finance funds committed to the project from other sources.
- e. The Debt Collection Improvement Act (DCIA) of 1996 requires that all Federal payments be made by Electronic Funds Transfer/Automated Clearing House (EFT/ACH). Borrowers receiving payments by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment. The

**March 16, 2023, MB#32**

borrower should complete Form SF-3881, Electronic Funds Transfer Payment Enrollment Form, for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least forty-five (45) days prior to the first advance of funds. Failure to do so could delay loan closing.

**3. Security Requirements**

- a. At loan closing the applicant will execute the attached Form RD 1942-47, "Loan Resolution (Public Bodies)". Please note the refinancing provision in paragraph
2. Also, on page 3 there is a certification to be executed at loan closing.
  - b. The security instrument and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983. c. The applicant and the applicant's financial institution(s) will execute the USDA RHS Community Facility Program, Deposit Account Control Agreement. This is required on all account(s) the applicant has which the Agency will be taking a security interest in, including but not limited to, all primary accounts where the facilities operating and non-operating revenues are deposited and any accounts holding the debt service reserve(s) for the Agency loan(s). Please note the Termination of Agreement provision, item number 8.
  - d. The security for this project will be an Installment Purchase Contract and a Deed of Trust with 1<sup>st</sup> lien position on the property in which construction will be completed and a UCC-1 filed for all assets and equipment.

**4. Appraisal Requirements**

- a. Appraisal reports must be performed by a certified general real estate appraiser licensed in the state where the property is located. The appraiser must have the specific qualifications, experience, and competency necessary to appraise the type of facility being financed.
- b. For loans which include the purchase of an existing facility, the appraisal must report the "As Is" Market Value of the property. For loans which contain a construction component (new construction or rehabilitation), the initial appraisal must estimate the "As Is" Market Value and the "Prospective Market Value" as of the date of completion of construction pursuant to Uniform Standards of Professional Appraisal Practice (USPAP) and Agency appraisal requirements. [12 CFR, Chapter I, Subpart C, Part 34.420)].
- c. USDA Rural Development must be listed as an intended user of the appraisal report.
- d. The appraisal must determine that the value is equal to or exceeds the amount of the USDA loan(s), plus any other indebtedness against the security.
- e. The appraisal must be submitted and approved by USDA Rural Development prior to the start of construction or earlier if required.
- f. Once construction is complete and prior to closing the Agency direct loan(s), any appraisal more than two years from the estimated date of closing must be updated and submitted 90 days in advance of loan closing. The value of the appraisal must demonstrate that the Agency remains fully secured.
- g. Reports shall be in compliance with the reporting requirements of USPAP Standard Rule 2-2 for an Appraisal Report and with the Agency requirements.
- h. Appraisers must be prepared to discuss their analyses, opinions, and conclusions and provide additional written support, clarification, and a corrected electronic appraisal report, at no additional cost, if requested by a USDA Regional Appraisal Reviewer.

**March 16, 2023, MB#32**

5. Insurance and Bonding Requirements—The applicant must provide evidence of adequate insurance and fidelity bond coverage by loan closing or start of construction, whichever occurs first. Adequate coverage, in accordance with USDA Rural Development's regulations, must then be maintained for the life of the loan and evidence must be submitted to Rural Development annually. Evidence that coverage is being maintained must be provided annually thereafter. It is the responsibility of the applicant and not that of USDA Rural Development to assure that adequate insurance and fidelity bond coverage is maintained. Applicants are encouraged to review coverage amounts and deductible provisions with their attorney, consulting engineer, and/or insurance provider(s).
- a. Property Insurance—Fire and extended coverage will be required on all above-ground structures, including applicant-owned equipment and machinery housed therein. Provide USDA Rural Development with proof of coverage and attach Lender's Loss Payable Endorsement (438 BFU or equivalent) naming the UNITED STATES OF AMERICA as lender.
  - b. Corporate Liability Insurance - The Applicant will provide public liability, and property damage insurance in an amount to adequately protect the applicant from civil action arising from the function of the applicant relative to the project.
  - c. Workers' Compensation Insurance—The applicant will be required to carry workers' compensation insurance for all employees in accordance with the State law. Provide USDA Rural Development with proof of coverage.
  - d. General liability and vehicular coverage must be maintained—Provide USDA Rural Development with proof of coverage.
  - e. Fidelity Bond—Persons who have access to the funds and custody to any property will be covered by a fidelity bond or an adequate crime policy that protects the applicant from an employee crime. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required by USDA Rural Development will be sufficient to cover the total annual debt and  
  
reserve service requirements for the loan. The United States of America will be named as co-obligee on the bond. A certified power-of-attorney with effective date will be attached to each bond. Provide USDA Rural Development with a copy of the bond and the power of attorney.
6. Civil Rights & Equal Opportunity— The borrower has received an award of Federal funding and is required to comply with U.S. statutory and public policy requirements, including but not limited to:
- a. Section 504 of the Rehabilitation Act of 1973 — Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance. The Standard for compliance is the Architectural Barriers Act Accessibility Standards (ABAAS).
  - b. Civil Rights Act of 1964 — All recipients are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.

**March 16, 2023, MB#32**

- c. The Americans with Disabilities Act (ADA) of 1990 — This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. Age Discrimination Act of 1975 — This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. Limited English Proficiency (LEP) under Executive Order 13166 - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. The recipient must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information the recipient provides. These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA."
- f. Controlled Substances Act - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. The recipient must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor the recipient's compliance with these requirements during regular compliance reviews.

As a recipient of Rural Development funding, you are required to post a copy of the NonDiscrimination Statement listed below in your office and include in full, on all materials produced for public information, public education, and public distribution both print and non-print.

Non-Discrimination Statement

"This institution is an equal opportunity provider and employer."

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office, or call (866) 6329992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

If the material is too small to permit the full statement to be included, the material at a minimum includes the statement in print size no smaller than the text that "This institution is an equal opportunity provider and employer."

**7. Written Agreements for Professional Services**

- a. The legal service agreement submitted by Young, Morphis, Bach, & Taylor, LLP is satisfactory to USDA Rural Development.
- b. An Agreement for Architectural Services with CBSA Architects will have to be approved by USDA Rural Development.
- c. Agreement for Project Manager Services will have to be approved by USDA Rural

## Development

9. Land and Rights-of-Way—The applicant must present satisfactory evidence that they have obtained, or can obtain, any and all lands, rights-of-way, easements, permits and franchises which are required by the architectural/engineering plan. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation and Real Property Acquisition Act. The following forms, copies of which are attached, may be used for these purposes:

o Form RD 442-21, "Right-of-Way Certificate" (with map attached) o Final as-built will be required

10. System Policies, Procedures, Contracts, and Agreements — The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system.

- a. Conflict of Interest Policy — Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-ofinterest> or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency contracted technical assistance providers if desired,

- b) Contracts for Other Services/Lease Agreement — Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.

11. Permits—All permits involving Federal, State, and local agencies must be obtained and evidence thereof provided to USDA Rural Development prior to bidding. All permits involving Federal, State, and local agencies must be obtained and evidence thereof provided to USDA Rural Development prior to the start of the construction phase of the project.

12. Environmental Reviews— The project as proposed has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and or permits may apply or be required. During any stage of project development, including construction, should environmental issues develop which require mitigation measures, USDA Rural Development applicants are required to notify USDA Rural Development and comply with such mitigation measures. Failure by an applicant to implement mitigation measures may disqualify the project from Agency funding. Mitigation measures identified or prepared as part of the State Environmental Act if applicable and NEPA environmental process must be implemented. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

**March 16, 2023, MB#32**

- Mitigation Measure #1 — Historic Preservation: The contractor must follow and maintain a copy of the Agency's inadvertent discovery plan (attached) onsite for review as a condition of obligation in order to address any historic properties inadvertently discovered or affected during construction. Any excavation by the contractor that uncovers a historical or archaeological artifact or human remains shall be immediately reported to the owner and a representative of the Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO). During the ground disturbance phase of the project, the Catawba Indian Nation and Cherokee Nation must be notified if Native American artifacts and /or human remains are located.
- Mitigation Measure #2 — Threatened and Endangered Species/Biological Resources: In order for this project to not adversely impact species listed as Threatened or Endangered, the following measures must be taken:
  - To protect the northern long-eared bat (*Myotis septentrionalis*)'s summer roosting habitat, all tree-clearing activities must occur between October 15th and April 1<sup>st</sup>. To protect the dwarf-flowered heartleaf (*Hexastylis naniflora*), the contractor must flag areas of suitable habitat prior to construction activities and all such activities must avoid those areas. Sediment and erosion control measures will also be implemented to prevent surface run-off and sedimentation in off-site areas.
  - If the tricolored bat (*Perimyotis subflavus*) is listed as Endangered before the completion of this project, the applicant will contact the USFWS (and copy the Agency) before the effective date of the listing (typically 30 days after the listing is posted in the Federal Register) for further consultation.
  - The contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of contractor, the contractor will
    - immediately report this evidence to Owner and a representative of Agency.
    - Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the USFWS.
- Mitigation Measure #3 — Wetlands: When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert wetlands. A formal wetland delineation of the proposed project area has been completed.
- Mitigation Measure #4 — Floodplains: When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.
- Mitigation Measure #5 -- Environmental Risk Management: The proposed project does not include any land disturbing activities within the existing abandoned mill facility and storage building property (2743038327). All existing structures, grassed areas, paved parking areas, concrete building pads, or other engineered barriers will be left in place. No soils from this area are planned to be transported off-site or relocated on-site because of the proposed project. Groundwater use, either through drinking water wells or irrigation wells, is not planned for the proposed project. All water requirements for the property will be made available by the Town of Valdese public water system.

**13. Architectural and Construction**

- a. USDA Rural Development must approve any agreements or modifications to agreements for professional planning and design services. AIA Document "Standard Form of Agreement

**March 16, 2023, MB#32**

Between owner and Architect," may be used when appropriate or other Agency approved forms of agreement

- b. All construction will be completed under contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942, Subpart A, and any additional requirements of the State's law and the requirements of other County, State, or Federal agencies.
- c. The following must be reviewed and approved by USDA Rural Development in the sequence indicated:
  - i. Preliminary Architectural Report
  - ii. Agreement for Architectural Services
  - iii. Final Plans and Specifications for the project
  - iv. Draft/Construction Bid Documents, prior to Going Out to Bid
  - v. Bid Award Information.
  - vi. Executed Contract Documents
- d. Affirmative steps should be taken to assure that small, minority and/or women-owned businesses are utilized as source of supplies, equipment, construction, and services.
- e. The Plans & Specifications must be reviewed and approved, when applicable, by any regulatory or other agencies that are required to review these documents.
- f. A representative of USDA Rural Development will attend all pre-construction conferences in connection with this project. These conferences must be held prior to the issuance of the Notice to Proceed to the contractors. The applicant's architect will conduct the conference and document the discussions and agreements.

**14. BUILD AMERICA, BUY AMERICA ACT (BABAA)**

The borrower must comply with the provisions of the Build America, Buy America Act (the "Act"). Pub. L. No. 117-58, §§ 70901-52, enacted on November 15, 2021. The Act requires that "none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Borrowers of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

**March 16, 2023, MB#32**

The BABAA requirement applies to the entirety of an infrastructure project, even if only a portion of the project is funded by Federal funds. The requirement applies to each product, manufactured good, or construction material incorporated in the project.

**14.1. Definitions**

Construction Materials—include an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives— that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass); • lumber; or • drywall.

Domestic Content Procurement Preference—means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

Infrastructure—includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure also includes structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle (EV) charging stations. "Infrastructure" has a broad interpretation and the definition provided is illustrative and not exhaustive.

Manufactured Product—Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

Manufacturer's Certification—Documentation provided by a manufacturer, certifying that the items provided by manufacturer meet the domestic preference requirements of the Act.

Project—means the construction, alteration, maintenance, or repair of infrastructure in the United States.

**14.2. Compliance**

The borrower must comply with the provisions of the Build America, Buy America Act (BABAA). Pub. L. No. 117-58, 70901-52, enacted on November 15, 2021.

By accepting these conditions, the borrower attests that they or their designee(s) will maintain documentation for BABAA provisions to indicate compliance.

Minimum records include certifications from manufacturers, the architect/engineers, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR)/ Resident Inspector (RI). Documentation must be available and reviewable upon request.

**14.3. Evidence Standards****Manufacturers**



**March 16, 2023, MB#32**

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative. The manufacturer may submit a letter on letterhead or provide other evidence acceptable to the Agency.

**Architects and Engineers WE.)**

The need to comply with BABAA will be spelled out in agreements for ME services, construction contracts, and procurement contracts. Generally, the A/E contract will include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the borrower upon substantial completion of the project. The architect or engineer should certify in writing to the completeness and accuracy of the manufacturers' certifications.

Resident project representative (RPR) / Resident inspector (RI)

As part of their duties, RPR/RI will be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They will photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

**Contractors**

The construction contract(s) will include a requirement to procure and install only items that comply with BABAA or are subject to a waiver approved by the Secretary of Agriculture or designee. The contractors are to provide manufacturers' certifications for all BABAA compliant items to the architect/engineer no later than with applications for payment. At substantial completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided to the architect/engineer.

**14.4. Obtaining Waivers under the BABA Act**

The Secretary of Agriculture or a designee may grant waivers to the procurement requirements under the following conditions:

- (1) Nonavailability. The Secretary of Agriculture or delegate determines that the iron, steel or relevant manufactured goods or construction materials are not produced or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (2) Unreasonable cost. The Secretary of Agriculture or delegate determines that the inclusion of domestic iron, steel, or relevant manufactured goods will increase the cost of the overall project by more than 25%.
- (3) Inconsistent with public interest. The Secretary of Agriculture or delegate determines that the application of these restrictions would be inconsistent with the public interest.

**14.5. BABAA Waivers for Rural Development**

A waiver of the domestic procurement requirement for a specific product in a specific infrastructure project may be obtained upon a satisfactory showing of evidence that the waiver is warranted by a borrower and a recommendation by the Agency. Waivers of the procurement requirement are granted by the Secretary of Agriculture or by a designee of the Secretary. The requirements are posted publicly at the USDA OCFO website: USDA Buy America Waivers for Federal Financial Assistance | USDA located at <https://www.usda.gov/ocfo/federal-financial-assistancepolicy/USDABuyAmericaWaiver>

**March 16, 2023, MB#32**

Before submitting a request for waiver, borrower should determine whether they qualify for agency-wide public interest waivers that have already been approved by USDA. One such public interest waiver is referred to as the "De Minimis, Small Grants, and Minor Components" waiver, which has three parts. De Minimis is intended to prevent restrictions on the procurement of materials and products that represent a small portion of an infrastructure project, specifically no more than 5% of the project costs up to a maximum of \$1 from hindering the overall project. Small Grants exempts projects below the Federal Simplified Acquisition Threshold of \$250,000 (the grant section also applies to small loans and loan guarantees). The Minor Components provision of the waiver exempts miscellaneous components of iron and steel that make up no more than 5% of the total cost of an iron or steel product used in a project.

15. Electronic Funds Transfer—All loan funds will be transferred to borrowers via Electronic Funds Transfer/Automated Clearinghouse Systems (EFT/ACH). Normal transfers will be ACH, with money being placed in Borrower's account two business days after the USDA processing office approves the pay request. The applicant must submit the Electronic Funds Transfer Form containing the banking (ACH) information to the USDA Servicing Office at least 90 days prior to the date of loan closing. Failure to do so could delay loan closing.
16. Automatic Payments—The applicant is required to participate in the Pre-Authorized Debit (PAD) payment process for all new and existing indebtedness to USDA Rural Development. It will allow for the applicant's payment to be electronically debited from its account on the date their payment is due. Form RD 3550-28, "Authorization Agreement for Pre-Authorized Payments," is attached. Please fill out and sign your "Individual/Company Information" section, then have your financial institution/bank fill out the bottom portion prior to submitting the form to the USDA Rural Development service office.
17. Loan Closing—The permanent loan will be closed in accordance with USDA Rural Development instructions, the legal requirements of the USDA Office of General Counsel, and this Letter of Conditions. All applicable closing documents, including draft security documents, must be submitted to USDA Rural Development at least 90 days prior to the planned closing date. Prior to loan closing, a request for reimbursement must be submitted to USDA with all the supporting invoices.
18. Operating Budget— Prior to loan closing, USDA Rural Development must review the applicant's approved operating budget. The budget must balance and include the proposed USDA debt service and reserve obligations. Each year the USDA loan is outstanding, the applicant will adopt an annual budget which provides for the annual debt service and reserve payments.
19. System for Award Management Registration and Unique Entity ID—You as the recipient must maintain the currency of your information in the System for Award Management (SAM) until you submit the final financial report required under this award and all grant funds under this award have been disbursed or de-obligated, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Recipients can register on-line at (<https://www.sam.gov>) You as the recipient may not make a sub-award to an entity unless the entity has provided its Unique Entity ID from SAM.gov to you.
20. Suspension and Debarment Screening — You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.
  - a. Principal —
    - i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
    - ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who —
      1. Is in a position to handle federal funds;
      2. Is in a position to influence or control the use of those funds; or,

**March 16, 2023, MB#32**

Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

21. Litigation. You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.

**SECTION 11. LOAN CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- I. Inspections— A full-time resident inspector/project manager is required during construction unless a written exception is made by the Agency upon your written request. This service is to be provided by the consulting architect or other arrangements as approved by the Agency. Prior to the pre-construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and Agency for review and approval. The owner will provide a letter of acceptance for all proposed observers to the architect and Agency. The inspection reports must be available to USDA, Rural Development for review at any time. These reports must be kept at the project site or borrower's office, if nearby.
2. Monthly Reporting—The applicant must monitor and provide a monthly report to USDA Rural Development on actual performance during construction for each project financed, or to be financed, in whole or in part with USDA Rural Development funds, to include Forms RD 1924-18, "Partial Payment Estimate"; RD 1924-7, "Contract Change Order"; SF-270, "Request for Advance or Reimbursement" (non-construction); SF-271 , "Outlay Report and Request for Reimbursement for Construction Programs"; and Project Daily Inspection Reports.
3. Final Inspection—A final inspection will be made by USDA Rural Development on the component USDA is financing before final payment is made.
4. Excess Funds—Any remaining funds must be utilized for approved purposes within 60 days following the final inspection or the funds will be canceled without further notification from USDA Rural Development.

**SECTION 111. LOAN CONDITIONS TO BE SATISFIED AFTER PROJECT COMPLETION**

- I. Financial Statements—To be submitted on an annual basis in accordance with the following:
  - a. 2 CFR Part 200, Subpart F establishes audit requirements that borrowers and grantees must follow. Borrowers and grantees who expend \$750,000 or more in Federal awards in their fiscal year, have CF loan balances totaling \$750,000 or more, or a combination of the two must submit an audit in accordance with 2 CFR 200, Subpart F.

Federal funds expended during a borrowers fiscal year: 2 CFR Part 200, Subpart F requires a borrower that expends \$750,000 or more in Federal awards in their fiscal year to submit a single or program-specific audit. A CF direct loan, guaranteed loan, and/or grant, or any combination thereof, are considered Federal awards.

Grantees: Grantees that expend \$750,000 or more in a year in Federal awards must have an audit conducted in accordance with 2 CFR Part 200, Subpart F except when the grantee elects to have a program specific audit conducted.

Prior loan and loan guarantees: 2 CFR Part 200, §200.502(b) establishes the basis for including loan and loan guarantees (loans) on the Schedule of Expenditures of Federal Awards (SEFA). The value of new loans made or received during the audit period plus the beginning of the audit

**March 16, 2023, MB#32**

period balance of loans from previous years for which the Federal Government imposes continuing compliance requirements must be reported on the SEFA. CF Program loans require its borrowers to meet continuing compliance requirements. Continuing compliance requirements that CF borrowers must meet include, but are not limited to, funding reserves, maintaining insurance, deposit funds in Federally insured banks, meet financial covenants, maintain sufficient debt service ratios, comply with civil rights requirements, and comply with additional requirements established as part of the loan approval process.

Borrowers and grantees must submit audits within nine months from the end of the borrower's fiscal year or 30 days after receipt from the auditor, whichever is earlier. The audited financial statements must be submitted to the Federal Audit Clearinghouse.

- b. All borrowers exempt from the audit requirements cited in I (a) above, and who do not otherwise have annual audits, will within 60 days following the end of the borrower's fiscal year furnish Rural Development with annual financial statements, consisting of a verification of the organizations, balance sheet and statement of income and expenses.

Grantees exempt from the audit requirements cited in I (a) above, and who do not otherwise have annual audits, will within 60 days following the end of the fiscal year in which any grant funds were expended furnish Rural Development with annual financial statements consisting of a verification of the organizations, balance sheet and statement of income and expenses.

The borrower/grantee may use Forms RD 442-2 "Statement of Budget, Income and Equity" and 442-3 "Balance Sheet", or similar format to provide the financial information. For borrowers using Form RD 442-2, the dual purpose of fourth quarter management reports, when required, and annual statements of income will be met with this one submission.

2. Quarterly Reports—A quarterly management report will be required for the first year for new borrowers and for all borrowers experiencing financial or management problems for one year from the date problems were noted. If the borrower's account is current at the end of the year, the processing office may waive the required reports. The recipient may use Form RD 442-2 or similar format to provide this information, and the reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter's end.
3. Audit agreement—If you are required to obtain the services of a licensed Certified Public Accountant (CPA), you must enter into a written audit agreement with the auditor. The audit agreement may include terms and conditions that you and auditor deem appropriate.
4. Limitations of Additional Debt- You will not borrow any money from any source or enter into any contract or agreement or incur any other liabilities in connection with making extensions or improvements to the Facility, exclusive of normal maintenance, without obtaining the prior written consent of the Agency.
5. Compliance Reviews—Rural Development will be required to periodically conduct a compliance review of this facility and operation. Compliance reviews will be completed one year after loan closing and every three years thereafter. You will need to provide the local office the statistical information as requested.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1 191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter. If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that the recipient provides, the recipient must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

6. Continuation of Financing Statement- At the time of renewal (every 5 years) the borrower must provide a \$10.00 (or applicable filing fee) check payable to the Secretary of State (fee subject to

**March 16, 2023, MB#32**

change based on current Secretary of State fee schedule) for the continuation of the Financing Statement until the loan is paid in full.

7. Security Inspections—Rural Development is required to conduct an inspection of the facility a minimum of once every three years. The recipient must participate in these inspections and provide the required information.
8. Graduation—You may be required to refinance (graduate) the unpaid balance of the RD loan, in whole or in part, if at any time RD determines your entity is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time, the recipient will be requested to refinance. The ability to refinance will be assessed every other year for those loans that are five years old or older.
9. Prepayment and Extra Payments - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

**10. Financial Covenants**

- a) Beginning in the First Full Year of 2026, a debt service coverage ratio (DSCR) of a least 1.10 will be maintained with debt service to include the loan payments plus all required reserves. If the DSCR drops below 1.10 for any audited year, or quarterly financial report, then an independent management consultant shall be engaged at the expense of the Applicant to prepare a fiscal strategy report that documents how the debt service requirement will be met. This must be provided to the Agency no later than 90 days after any quarter in which the DSCR drops below 1.10.

Debt service coverage is defined as net income plus depreciation and amortization expense plus interest expense on structured debt divided by the sum of all structured debt payments including required reserve payments still due.

**DISCUSSION:** Councilwoman Hildebran asked what the timeline would be for the loan closing. Mr. Lattanzi estimates an 18-24 month process for construction. After the construction is completed, the USDA will officially close the loan, pay off the construction loan, and then the permanent loan with USDA begins. Mr. Lattanzi explained that the first payment would not be due until one year after the loan's closing date. Councilman Mears asked if the interest rates would possibly go down. Mr. Lattanzi explained that USDA looks at the interest rate twice, one now in the process and the second at the closing. If the rate does go down at the time of closing, the Town Manager will have to write a letter to the USDA asking for the lower rate. Mr. Lattanzi shared that accepting this letter does not obligate the Town; the official approval would not be until construction was done at the closing. Councilwoman Hildebran noticed that everything is American-made and wondered if that was new. Mr. Lattanzi shared that a new regulation was passed about two years ago but was delayed until February 2023. Councilwoman Hildebran is pleased that the Town great staff in place to work through this process. Town Manager Seth Eckard will provide Council weekly/biweekly updates once the project starts. Mr. Lattanzi noted that all Town business would be filtered through the Town Manager.

**APPROVED LOAN RESOLUTION:** Mr. Lattanzi asked Mayor Watts to read the Loan Resolution to Council.

**BE IT RESOLVED**

That the Town Counsel of the Town of Valdese accepts the conditions set forth in a Letter of Conditions dated March 16, 2023, and the "Loan Resolution" dated March 16, 2023; that the Town Council adopt the Operating Budget for the Town of Valdese that will meet all budgeted operations, replacement, and debt service expenses associated with the ~~Singer Park Project~~ Public Safety Project.

That the Town Manager and Town Clerk be authorized to execute all forms necessary to obtain a loan from Rural Development, but not limited to the following forms:

- Form RD 1942-46 Letter of Intent to Meet Conditions
- Form RD 1940-1 Request For Obligations of Funds
- Form RD 1942-47 Loan Resolution
- Form RD 400-1 Equal Opportunity Agreement
- Form RD 400-4 Assurance Agreement
- Form RD 442-7 Operating Budget

That if the interest rate charged by Rural Development should change between this date and the date of actual approval, the Town Manager be authorized to execute new forms reflecting the current interest rate and revised payments as required by Rural Development.

That the Town Manager elects to have the interest charged by Rural Development to be the lower of the rate in effect at either the time of loan approval or loan closing.

The Town Manager hereby agrees to abide by the mitigation requirements in the Letter of Conditions.

This resolution is to become a part of the official minutes of the Town Council meeting held on March 16, 2023

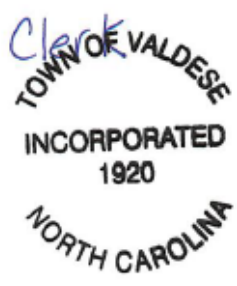
MOTION MADE BY: Timothy Barus and  
SECONDED BY: Timothy Skidmore THAT THE RESOLUTION  
BE APPROVED.

MOTION PASSED 4 FOR AND 0 AGAINST.

BY: Town of Valdese

Attest: Jessica Lail  
(Date) 3/16/2023

BY: Jessica Lail Town Clerk  
(TYPE NAME AND TITLE)



Councilman Barus made a motion to accept the resolution, seconded by Councilman Skidmore. The vote was unanimous.

**March 16, 2023, MB#32**

After a brief discussion on the condition of the current public safety building, the special called meeting was adjourned.

**ADJOURNMENT:** At 11:24 a.m., Councilwoman Hildebran made a motion to adjourn, seconded by Councilman Barus. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, April 3, 2023, at 6:00 p.m., Valdese Town Hall.

---

Town Clerk

---

Mayor

jl

**TOWN OF VALDESE  
ANNUAL COUNCIL/DEPARTMENT HEAD BUDGET RETREAT  
THURSDAY, MARCH 23, 2023 & FRIDAY, MARCH 24, 2023**

The Valdese Town Council met on Thursday, March 23, 2023, and Friday, March 24, 2023, at 9:00 a.m., for the Annual Budget Retreat, Old Rock School, Waldensian Room, 400 Main Street West, Valdese, North Carolina. The following members were present: Mayor Charles Watts, Councilwoman Frances Hildebran, Councilman Tim Barus, Councilwoman Rexanna Lowman, Councilman Tim Skidmore, and Councilman Paul Mears. Also present: Town Manager Seth Eckard, Town Clerk Jessica Lail, and Department Heads.


Absent: None

A quorum was present; however, no action was taken.

**DAY 1 – MARCH 23, 2023**

**CALL TO ORDER** At 9:00 a.m., Mayor Watts opened the meeting with an invocation and led in the Pledge of Allegiance to the Flag. Mayor Watts welcomed everyone and thanked the staff for all the planning that went into the budget retreat. Mayor Watts shared several goals he would like to see for the future. Mayor Watts would like to maintain staff’s high level of service, personnel recruitment and retention, our current Capital Improvement Plan(CIP), and street paving while using taxpayer monies wisely, consistently, and conservatively.

Town Manager Seth Eckard reviewed the Town’s 2022 Annual Statistics:

<p><b>Administration</b></p> <ul style="list-style-type: none"> <li>4,867 population</li> <li>7.87 square miles</li> <li>73 full time employees</li> <li>9 town departments</li> <li>60 zoning permits issued</li> <li>19 zoning permits for new home construction</li> <li>10 industries</li> </ul>	<p><b>Police</b></p> <ul style="list-style-type: none"> <li>168,230 patrol miles</li> <li>19,623 CAD logged events</li> <li>7,369 security checks</li> <li>6,181 extra patrols</li> <li>608 community policing contacts</li> <li>107 traffic accidents reports</li> <li>45 written warning citations</li> <li>417 verbal warning traffic stops</li> <li>353 traffic citations issued</li> <li>201 arrests made</li> </ul>	<p><b>Recreation</b></p> <ul style="list-style-type: none"> <li>7 unique facilities tennis/pickleball courts, 2 gyms, year around pool, bowling alley, &amp; fitness center, 3 ball fields</li> <li>319 weekly fitness center visitors</li> <li>2 miles crushed cinder greenway</li> <li>353 acres of recreation parks</li> <li>26 classes weekly</li> <li>708 participants in youth athletics</li> <li>145 facility reservations</li> <li>502 pool/fitness memberships</li> <li>9 trails</li> </ul>
<p><b>Community Affairs</b></p> <ul style="list-style-type: none"> <li>35 season performances at Old Rock School</li> <li>18 times the stage at Temple Field was used last year</li> <li>14 events in downtown</li> <li>87 businesses (downtown district) Restaurants = 8   Retail = 21   Industry &amp; Commercial = 5 Health &amp; Wellness = 15   Automotive = 6   Misc. Services = 32</li> <li>624 events at the Old Rock School</li> <li>27,184 Old Rock School attendance</li> <li>122,386 social media followers</li> <li>6,040 e-newsletter subscribers with 36% open rate</li> <li>154,238 website visits</li> </ul>	<p><b>Fire</b></p> <ul style="list-style-type: none"> <li>4 primary emergency response vehicles</li> <li>3 support vehicles</li> <li>287 fire inspections with 1,046 violations</li> <li>200 fire responses</li> <li>478 medical responses</li> <li>1,804 training hours</li> </ul>	
 <p><b>TOWN OF VALDESE</b> NORTH CAROLINA</p>	<p><b>Public Works</b></p> <ul style="list-style-type: none"> <li>3 buildings</li> <li>2 mowers</li> <li>37.5 miles of streets</li> <li>1 cemetery</li> <li>30 pieces of equipment Ex: 2 dump trucks, 2 brush trucks, 1 trash, 2 flat-beds, 1 water truck, sand spreader truck</li> <li>1466 work orders completed</li> </ul>	
<p><b>2022 Annual Statistics</b></p> <p>Valdese, in the heart of Burke County is located in the foothills of Western North Carolina "where the Piedmont meets the Mountains." The Catawba River traverses Burke County west to east creating a wide valley and Lake Rhodhiss. Founded on the rich traditions of 19th century Waldensian settlers, the Town of Valdese honors the heritage and determination of the Waldenses with its historic attractions, parks and annual events. Find out more at <a href="http://townofvaldese.com">townofvaldese.com</a></p>	<p><b>Utilities</b></p> <ul style="list-style-type: none"> <li>Water Plant Capacity: 12 million gals/day</li> <li>Waste Water Plant Capacity: 75 million gals/day</li> <li>5,324 water customers</li> <li>164 miles of water line</li> <li>5 pump stations (water resources)</li> <li>4 water tanks 2 - 250,000 gallon tanks, 1 - 500,000 gallon tank, 1 - 2,000,000 gallon tank</li> <li>65 miles of sewer line</li> <li>36 new water taps</li> </ul>	

**UTILITY FUND OVERVIEW** Assistant Town Manager/CFO Bo Weichel provided an overview of the Town’s utility fund balance, debt services, and budget challenges. Mr. Weichel shared that the unassigned fund balance for last year was in the amount of \$2,845,266, with a 50% fund balance percentage of expenditures. Mr. Weichel shared that this was an increase of \$1,100,000, or 18% of expenditures. Mr. Weichel identified items that will affect this year’s fund balance. Mr. Weichel identified challenges for the upcoming year, with one being the increase of the Towns portion of retirement moving from 12.16% to 12.91%, which is state-mandated.

**UTILITY DEPARTMENTS** Water Resources Director Greg Padgett shared that the Utility Departments consist of Collections & Distribution Systems, Water Treatment Plant, and Wastewater Treatment Plant. Mr. Padgett said that each department would share its presentations.



March 23 & 24, 2023, MB#32

**COLLECTIONS & DISTRIBUTION SYSTEM** Public Works Director Allen Hudson identified obstacles that the Collections & Distribution department faces due to the price increase of materials. In addition, he shared the proposed water/sewer tap fee increases.

**WATER TREATMENT PLANT** Water Plant Superintendent Eric Wilson presented all the locations of the Town's pump stations and water tanks and explained the water flushing and sampling process. Mr. Wilson highlighted the recent Water Plant projects that are a part of the Capital Improvement Plan.

**WASTEWATER TREATMENT PLANT** Water Resources Director Greg Padgett shared that the Wastewater Plant is looking into chlorine disinfection alternatives due to the rising costs. Mr. Padgett went over the sampling process and provided an overview of all the pump stations that the Wastewater employees manage. Mr. Padgett identified various projects that have been completed and showed Council the rate dashboard on the NC Water Infrastructure Environmental Quality website of where we should be with water and sewer rates. Mr. Padgett encourages everyone to visit <https://dashboards.efc.sog.unc.edu/nc> to review it.

**CAPITAL IMPROVEMENTS PLAN WATER & SEWER RATE STUDY** R.J. Mozeley with McGill Associates provided updates on projects in progress, upcoming projects, and went over why developing a Capital Improvement Plan (CIP) is important. Mr. Mozeley explained to Council that the CIP list items are either for a regulatory requirement, viability of equipment, efficiency, and growth causing the need to expand. Dale Schepers with McGill Associates provided an overview of market considerations, which have increased over the years. Mr. Mozeley noted that looking at the overall market in planning for utilities is important. Mr. Schepers reviewed the Water and Sewer Utility Fund Summary Financial Analysis and Funding Awards Summary. Mr. Schepers explained that an increase in water and sewer rates would need to occur. Mr. Schepers shared the current and proposed water and sewer rates based on the projected numbers. Mr. Schepers recommends an 8% residential increase, 8% for wholesale, and an 8% increase for commercial and industrial increase for this coming year. The sewer increase would be 8% across the board. This would be a \$3.60 increase in residential monthly bills. Mr. Schepers noted that it is important not to defer costs because of escalates of emergency repairs. Mr. Mozeley reviewed water bill comparisons for Valdese and neighboring communities showing FY 22-23 rates and the anticipated percentage increases for FY 23-24. Mr. Mozeley reminded Council that the CIP guides in decision-making, budgeting, and operations.

Councilwoman Hildebran asked if this proposed 8% increase was due to the inflation we are seeing today because a 4% increase was recommended last year. Mr. Mozeley said yes. Councilman Mears asked if the Triple community could pay more than our Valdese citizens. Town Manager Seth Eckard shared that the original contract stated that the Triple community had to pay the same, but it may be something staff could re-visit and discuss with the Town Attorney. Councilwoman Hildebran is concerned with the thoughts of an 8% increase due to the conversations she continues to have with her constituents. Councilman Barus feels the same based on all the other additional costs on the bill. Council members discussed what it would look like for a 4% or 6% increase. Mr. Mozeley shared to keep in mind that if do not increase now, the increases would more than likely be more significant next year. Mr. Mozeley will provide Council with a rate comparison increasing by 4% and 6%.

**EMPLOYEE BENEFITS** Town Manager Seth Eckard shared a possible plan for employee recruitment and retention. Mr. Eckard is requesting that we update the pay plan, and increase the starting salaries by 10%. Mr. Eckard explained that anyone below the minimal salary would be brought up to the new minimum. Mr. Eckard would also like to bring back retiree insurance for full-time employees who have completed at least 25 years of employment with the Town of Valdese but are not yet eligible for Medicare. Mr. Eckard would like to sunset this benefit, so any employees hired after June 30, 2026, will not qualify for this benefit. Council discussed other ways we could improve recruitment and retention.

**GENERAL FUND OVERVIEW** Assistant Town Manager/CFO Bo Weichel provided an overview of the Town's general fund balance, debt services, and budget challenges. Mr. Weichel shared that the unassigned fund balance for last year was in the amount of \$5,569,974, with a 113% fund balance percentage of expenditures. Mr. Weichel shared that this was an increase of \$1,270,297, or 20% of expenditures from the prior year. Mr. Weichel identified items that will affect this year's fund balance. Mr. Weichel identified challenges for the upcoming year and shared that we do not have employee insurance rates yet but should by the April budget workshop.

**COMMUNITY AFFAIRS** Community Affairs Director Morrissa Angi shared the annual statistics on community outreach and engagement, showing an additional increase of 44,201 visits to the website from 2021. Ms. Angi shared ideas for new Town of Valdese welcome signs, downtown streetscape improvements, and wayfinding signs. Ms. Angi informed the Council of the many events and projects that Community Affairs completed this year. Ms. Angi finished her presentation with requests for FY 2023-2024, including repairs to the clock tower and the front stairs at the Old Rock

**March 23 & 24, 2023, MB#32**

School and an increase to the current fee schedule and lease rates at Old Rock School. Council members would like to see staff raise funds for the clock tower repairs.

**PARKS & RECREATION** Parks and Recreation Director David Andersen discussed various local and state organizations that the department had collaborated with this past year that brought more opportunities to Parks & Recreation. Mr. Andersen gave an overview of the updates to the gymnasium, locker rooms, lobby area, and pool boilers. Mr. Andersen identified departmental challenges and shared ways to expand revenues, such as increasing facility rentals. In addition, the Council discussed increasing Recreation fees for patrons living outside of the Town limits. Mr. Andersen shared budget highlights and CIP projects for FY 23-24.

At 3:00 p.m., Mayor Watts closed the meeting and continued it to Day 2.

**DAY 2 CONTINUED – MARCH 24, 2023**

**CALL TO ORDER** At 9:00 a.m., Mayor Watts continued the meeting with an invocation and led in the Pledge of Allegiance to the Flag.

**POLICE DEPARTMENT** Police Chief Jack Moss shared the Police Department accomplishments for FY 22-23, identified objectives, and budget needs for FY 23-24. Chief Moss shared that the Police Department recorded 19,623 CAD logs and shared other stats, such as security checks, incident reports, traffic accidents, and arrests made.

**PLANNING DEPARTMENT** Planning Director Larry Johnson provided an overview of zoning permits, housing development updates, rental housing projects, and items the Planning Board is working on. Mr. Johnson shared that the Planning Department and Planning Board has a big project coming to work on re-zoning the Downtown Business Corridor. Mr. Johnson has been working on creating a Unified Development Ordinance and showed Council an example of what it will look like compared to the current format. Mr. Johnson shared that he has no new funding request for the next FY but shared improvements that the Council will need to consider in the future.

**FIRE DEPARTMENT** Assistant Fire Chief Truman Walton shared departmental accomplishments. Assistant Chief Walton also provided an overview of calls and activities throughout FY 22-23 at the Fire Department. Assistant Chief Walton shared operational budget increases and reviewed capital improvement needs for the next four years. Assistant Chief Walton informed Council of all the existing programs the Fire Department is involved in and possibly offering a community CPR/First Aid class in the future.

**PUBLIC WORKS** Public Works Director Allen Hudson gave an overview of the services provided by Public Works. Mr. Hudson shared the need for the upcoming FY. Mr. Hudson discussed the extra trash that Public Works has to pick up around town. The excess trash is due to citizens overflowing their trash bins. Council discussed ways to improve the process. Mr. Hudson recommended a \$75.00 charge to citizens who need to use the flatbed truck to help cover the cost of fuel, maintenance, and land field fees.

**FINANCE DEPARTMENT** Assistant Town Manager/CFO Bo Weichel shared the proposed ten-year General Fund Capital Improvement Plan.

Copies of department presentations are located on the Town of Valdese website.

**ADJOURNMENT** At 12:38 p.m., there being no further business to come before Council, Councilwoman Hildebran made a motion to adjourn, seconded by Councilman Barus. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, April 3, 2023, 6:00 p.m., Valdese Town Hall.

---

Town Clerk

---

Mayor

jl

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo D. Weichel / Finance Director  
**Agenda:** 4/03/2023  
**Re:** 2022 Delinquent Taxes

**REQUEST**

G.S. 105-369(a) mandates that the tax collector must first inform the governing body of and then advertise the "total amount of unpaid taxes for the current fiscal year that are liens on real property".

**BACKGROUND**

A taxing unit has the option of also advertising personal property taxes that are not a lien on real property, but the cost of that advertisement may not be passed along to taxpayers as is the cost of the real property tax lien advertisement. The amount advertised should be only the principal amount of taxes owed, not including any interest, costs, or fees.

G.S. 105-369(c) requires that real property tax liens for the current year be advertised at any time from March 1 through June 30.

Three actions must occur before the advertisement may be published and posted. (1) The governing body is informed of the "total amount of unpaid taxes for the current fiscal year that are liens on real property". (2) The governing body must issue an order to the tax collector to advertise the tax liens; the order will be issued, presumably, immediately upon receipt of the tax collector's report. (3) At least thirty days before the advertisement is published and posted, the tax collector must provide written notice to the affected taxpayers of the intent to publish outstanding current tax liens.

**ANALYSIS**

In compliance with item (1) above, the Tax Collector reports a total amount of unpaid 2022 Real Property taxes to be \$117,626.31.

In compliance with item (3) above, written notice was provided on March 2, 2023.

**RECOMMENDATION**

The Tax Collector has informed Town Council of the unpaid tax amounts for the current fiscal year. It is recommended that Council issue an order to advertise all real tax amounts in the Morganton News Herald in an attempt to collect the outstanding amounts. The advertisement date will be Sunday April 9, 2023.

**BUDGET ANALYSIS:*****Budgetary Action***

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**ORDER OF THE TOWN OF VALDESE CITY COUNCIL  
IN ACCORDANCE WITH NCGS 105-369**

State of North Carolina  
Town of Valdese

To: Kimberly Cline, Tax Collector, Town of Valdese

- You are hereby authorized, empowered, and commanded to advertise tax liens on real property for failure to pay 2022 property taxes.
- You shall advertise said liens by publishing each lien in the local newspaper having general circulation in Valdese and adjacent areas.
- Advertisement of the liens shall be made on **Sunday April 9, 2023.**

This order shall be full and sufficient authority to direct, require, and enable you to advertise said tax liens in accordance with North Carolina General Statute 105-369.

Witness my hand and official seal, this 3<sup>rd</sup> day of April 2023.

---

Charles Watts  
Mayor

Attest:

---

Jessica Lail  
Town Clerk



Town of Valdese,

Strategic planning for our annual fundraising efforts for the American Legion Post 234 in Valdese has begun. With this being said, I, Curtis Cook Commander of Post 234, would like to formally request permission for our Ladies Auxiliary to sell beer at the following Town sponsored event:

-Independence Day Celebration on June 30th, 2023 from 5:00pm until 11:00pm  
(In the designated area in the 100 block of West Main Street in Downtown Valdese)

The American Legion was founded in 1919 in Paris, France, at the close of World War I. The organization now includes veterans of World War II, Korea, Vietnam, Lebanon/Grenada periods, Operation Just Cause in Panama, Desert Storm, Enduring Freedom, Operation Iraqi Freedom and Global War On Terror. The American Legion Post 234 in Valdese, North Carolina provides local outreach to veterans, provides support to local schools, and serves community needs.

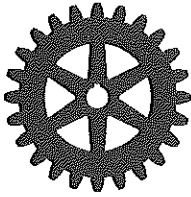
It Is our mission to support the community, provide for local veterans of all ages, and raise awareness and engage in fundraisers for veterans concerns both nationally and within the city of Valdese, NC. In order to meet our mission and provide these services in our community, we rely on these fundraisers and the generosity of individuals and businesses for support. Without the assistance of community-minded Individuals just like you, we wouldn't be able to serve veterans and their families both locally and abroad as well as contribute to needs within our community each year.

Thank you for considering our request.

Sincerely,  
Curtis Cook  
Post Commander  
American Legion Post 234  
Phone: 828-764-3764  
Tax Classifications: 601 (c)19 Not for profit military organization  
FIN: 56-1881998

# The Rotary Club of Burke Sunrise

Post Office Box 2936 Morganton, North Carolina 28680-2936



March 6, 2023

Town of Valdese  
P.O. Box 339  
Valdese, NC 28690

Burke Sunrise Rotary Club requests permission to sell beer at the Waldensian Festival (Friday, August 11, 5:00 p.m. – 11:00 p.m. and Saturday, August 12, 3:00 p.m. – 10:00 p.m.) in the area of the 100 block of Main Street designated by the Festival for beer sales. Burke Sunrise Rotary Club successfully handled that responsibility at the 2021 Waldensian Festival.

Burke Sunrise Rotary Club will obtain a special event permit from and follow all of the requirements of the North Carolina ABC Commission. It will also obtain special event liability insurance.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Stephen M. Schoeberle".

Stephen M. Schoeberle, President (2022-2023)  
Burke Sunrise Rotary Club



## Old Colony Players, Inc.

400 Main Street West Valdese North Carolina  
 PO Box 112 Valdese NC 28690 | oldcolonyplayers.com | 828.522-1150  
 Email: ftdfoutdoordrama@yahoo.com

### Board of Directors

March 24, 2023

### Board of Directors

#### Chair

Tammy Black

#### Vice Chair

Greg Mastin

#### Treasurer

Morrissa Angi

#### Secretary

Angela Cannon

#### Members

Sharon Bowman

Mindy Cook

John Heilman

Josh Lail

Susan Pollpeter

Susan Stevenson

Louis Vinay

Philip Brendel,

Ex- Officio

Tim Barus,

Ex-officio

#### General Manager

Edyth Pruitt

#### Bookkeeper

Karen Knight

Dear Valdese Town Council and Honorable Mayor,

Old Colony Players respectfully requests to partner with the Levee Brewery and Pub to sell beer, wine and cider at our upcoming production of “Shrek, the Musical” at the Fred B Cranford Amphitheatre. Please see the attached proposed contract between Old Colony Players, the Levee Brewery and Pub and, with your approval, the Town of Valdese as lessor of the Fred B Cranford Amphitheatre. We are excited to be able to partner with one of our local merchants to provide a fun and safe experience for our patrons.

“Shrek the Musical” will run April 21, 22, 27, 28, 29 and May 4, 5 & 6 at 7:30 PM. Alcohol will be sold in a separate tent from our regular concessions, wristbands will be distributed after checking ID’s and signs will clearly identify “no alcohol beyond this point” at all entrances and exits to the seating area. Alcohol sales will begin when the seating area opens at 7:00 PM and will cease after intermission of the show (approximately 9:15 PM).

The Levee Brewery and Pub has secured all the off site permits for sale of alcohol. With their off-site permit, their liability insurance will cover any alcohol related liability.

Thank you for your consideration in this matter and for all you do for our wonderful town.

Sincerely,

*Edyth Potter Pruitt*

Edyth P. Pruitt

General Manger, Old Colony Players, Inc.

(828)413-3730

ftdfoutdoordrama@yahoo.com

Contract for Alcohol Sales- Old Colony Players/The Levee Brewery and Pub

This contract exists between the Parties:

Old Colony Players and Town of Valdese (as lessor of the Fred B Cranford Amphitheatre)

and

The Levee Brewery and Pub

Old Colony Players, Inc contracts the Levee Brewery and Pub to be the exclusive seller/distributor of beer, wine and cider at the upcoming production of "Shrek the Musical" at the Fred B. Cranford Amphitheatre. The show will run April 21, 22, 27, 28, 29 and May 4, 5 and 6, 2023. All shows will be produced at 7:30 PM

The Levee will provide:


- All alcohol as requested by Old Colony Players and containers for alcohol.
- One Levee employee per show to oversee and manage the alcohol tent.
- Point of sale check out.
- Off-site permits, with copy sent to Old Colony Players as producer and the Town of Valdese as lessor of the Amphitheatre property seven days prior to the event.
- A copy of liability insurance with a rider specifying Old Colony Players and the Town of Valdese are listed as off site recipients of the Levee's services provided seven days prior to the event.
- The Levee Brewery and Pub agrees to pay the sum of \$1 per drink served to Old Colony Players payable by the Wednesday following each weekend of performances.


Old Colony Players will provide:

- Tent and table for set up.
- All pertinent signs designating boundaries for alcohol consumption.
- Volunteers as needed to assist employees with alcohol concessions.
- The Levee logo and information will be included on all playbills, signage, website and social media as a sponsor of Old Colony Players.

Service at the Amphitheatre for Shrek, The Musical will begin at 7:00 pm when the house opens and will conclude at the end of intermission (approximately 9:00).

All alcohol will be removed from the amphitheatre at the conclusion of each weekend.

Signed:  Date: 24 MAR 23  
 Peter Skelton for The Levee Brewery

Signed:  Date: 3-24-23  
 Edyth Pruitt, General Manager of Old Colony Players

Date Approved by Town Council: \_\_\_\_\_





**TOWN OF VALDESE**  
NORTH CAROLINA'S FRIENDLY TOWN



P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2120 | FAX (888) 798-1022 | TOWNOFVALDESE.COM

## **Memorandum**

Date: March 24, 2023

To: Charlie Watts, Mayor  
Town Council Members

From: Larry Johnson, Planning Director

Subject: Set Public Hearing Date – Rezoning of Lakeside Park

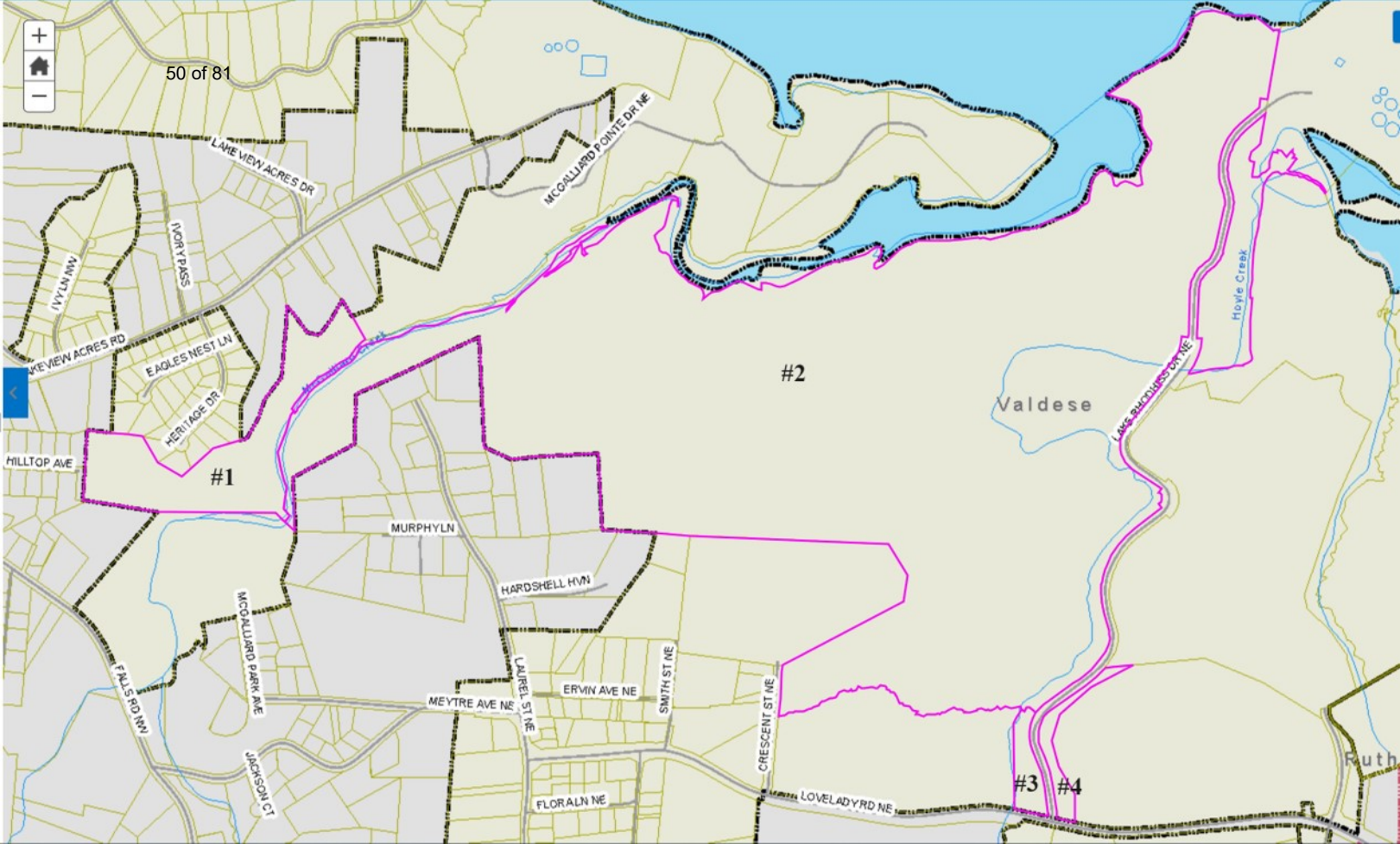
Staff respectfully request that Town Council set May 1, 2023, as the date to hold a public hearing on the rezoning or amendment of the Town of Valdese Zoning Map regarding Lakeside Park.

The Valdese Planning Board recommends that Lakeside Park, comprised of four parcels, be rezoned from R-12 Residential and M-1 Manufacturing District to R-12A Residential District. Town Council must hold a public hearing to consider any amendment to the Valdese Zoning Map.

A map of the parcels is attached for your review. If you have comments or questions, please get in touch with me.



50 of 81



#1

#2

Valdese

#3

#4

LAKE VIEW ACRES DR

MCGALLARD POINTE DR NE

IVY LN NW

NORTH PASS

LAKE VIEW ACRES RD

EAGLES NEST LN

HERITAGE DR

HILLTOP AVE

MURPHY LN

HARDSHELL HWY

MCGALLARD PARK AVE

MEYTRE AVE NE

LAUREL ST NE

ERVIN AVE NE

SMITH ST NE

CRESCENT ST NE

FALLS RD NW

JACKSON CT

FLORAL LN NE

LOVELADY RD NE

Hoyle Creek

LAKE RUTHERFORD NE

Ruth

**COUNCIL AGENDA MEMO**

**From:** Bo Weichel, Assistant Town Manager  
**Agenda:** 04/03/2023

**REQUEST**

Approve the agreement with Foothills Broadband for the lease of Town owned grounds.

**BACKGROUND**

Foothills Broadband, LLC is a private broadband provider. Their goal is to expand their fiber network into Valdese and surrounding areas, which would provide another option for residential and business interest access.

Foothills Broadband approached staff seeking to lease a small parcel of property to as the central office and storage area for securing and maintaining telecommunication equipment essential for the installation, monitoring, and security of network for broadband services. They plan to install (at their sole cost and expense) a pre-fabricated building on the premises which building will, at all times, be and remain the personal property of Foothills Broadband. They will install privacy fencing along the perimeter of the leased area.

**ANALYSIS**

Several locations were considered in the selection process. Town staff and Foothills Broadband have agreed on the location described in Exhibit A and pictured in Exhibit B. This ground lease is comprised of 0.108 acres off Janavel Ave.

Term of the lease is for 25 years with a monthly payment of \$500 due on the first day each month. The amount will increase at 3% each year.

**STATE OF NORTH CAROLINA**

**GROUND LEASE**

**COUNTY OF BURKE**

**THIS GROUND LEASE** (“Lease”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the **TOWN OF VALDESE**, a municipal corporation duly organized and existing under the laws of the State of North Carolina (“Lessor”), and **FOOTHILLS BROADBAND, LLC**, a North Carolina limited liability company (“Lessee”). Lessor and Lessee are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

**WITNESSETH:**

**WHEREAS**, the Lessor is the owner of that certain real property (the “Town Property”) situated in Lovelady Township, Burke County, North Carolina commonly known as 204 Janavel Avenue SW, Valdese, North Carolina, Parcel I.D. No.: 2733950361, which Town Property is more particularly described in Deed Book 592, Page 904, Burke County Registry; and

**WHEREAS**, Lessee is a private broadband provider or cooperative; and

**WHEREAS**, in accordance with North Carolina General Statute § 160A-272(c)(3), Lessee seeks to lease from Lessor and Lessor seeks to Lease to Lessee that certain area located on the Town Property described in **EXHIBIT A** attached hereto (the “Premises”), together with all rights, appurtenances, servitudes, charges, easements, rights of ingress and egress, parking, licenses, hereditaments thereto and any improvements presently located thereon, if any, for the operation and use of components of a wired or wireless network in connection with a grant received by the Town pursuant to North Carolina General Statute § 143B-1373 for a discrete and specific project located in an unserved and economically distressed area to provide broadband services to homes, businesses, and community anchor points not currently served; and

**WHEREAS**, to facilitate the accomplishment of their respective purposes, Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor, the Premises upon the terms, provisions and conditions hereinafter set forth in this Lease; and

**WHEREAS**, on \_\_\_\_\_, 2023, the Town Council authorized and approved by Resolution/Vote the Premises to be leased subject to the terms, provisions and conditions hereinafter set forth in this Lease.

**NOW THEREFORE**, for and in consideration of the lease of the Premises, the mutual covenants contained herein and other valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. **DEMISE**. In consideration of the rents hereinafter agreed to be paid and in consideration of the mutual covenants and agreements herein contained, and to be performed by the respective Parties hereto, Lessor does hereby lease and demise unto Lessee, its successors and assigns as hereinafter limited, and Lessee does hereby lease and take as tenant from Lessor the

Premises, together with the improvements to be constructed thereon, together with all rights, privileges and easements pertaining thereto.

2. COMMENCEMENT DATE. For purposes of this Agreement, “Commencement Date” shall mean the later date on which both Lessor and Lessee shall have executed this Lease, as evidenced by the date set forth below next to each party’s signature.

3. TERM. The term of this Lease shall commence on the Commencement Date and shall terminate twenty-five (25) years thereafter (the “Term”), unless sooner terminated hereunder. In the event the Lessee is permitted to hold over beyond the Term with the consent, express or implied, of Lessor, such holding over shall be from month to month only, subject to the conditions of this Agreement, shall not be a renewal thereof, and shall be at the monthly compensation provided herein.

4. USE. Lessee will use the Premises as the central office and storage area for securing and maintaining telecommunication equipment essential for the installation, monitoring, and security of network for broadband services. Subject to the advance approval of the Lessor as to design, color and material, and subject to all applicable federal, state and local laws, rules, regulations, codes, ordinances, judgments, decrees, or orders of any state, federal or local government or agency having jurisdiction over the Town Property, the Lease Premises, or any portion thereof (“Applicable Laws”), Lessee may install, at its sole cost and expense, a pre-fabricated building on the Premises, which building will, at all times, be and remain the personal property of Lessee (“Lessee Improvements”). Lessee will also install, at the Lessor’s request, a privacy fence on the Premises, which will at all times, be and remain the personal property of Lessee.

5. DELIVERY OF PREMISES. Lessor shall deliver possession of the Premises to Lessee as of the Commencement Date. Lessee acknowledges that it has had the opportunity to inspect the Premises. Except as expressly set forth herein, the rights granted hereby by Lessor to Lessee are made and granted without any warranty or representation by Lessor whatsoever, and Lessor hereby disclaims all express and implied warranties, including, without limitation, any warranty of fitness of the Premises for the purpose of use desired by Lessee. Lessee accepts the Premises in their present “AS-IS,” “WHERE-IS,” and “WITH ALL FAULTS” condition subject to any and all: (a) taxes and assessments which may now or hereafter be assessed against the Town Property; (b) matters of record affecting the Premises or the Town Property lying outside of the Premises; (c) tenants or occupants in possession of the Town Property or any part thereof; (d) matters which would be shown by a current accurate survey of the Town Property or Premises; and (e) all Applicable Laws. Lessee, to the maximum extent permitted by North Carolina law, assumes the entire risk of all activities conducted or performed by Lessee or on behalf of Lessee on the Premises. Lessor shall have no obligation to make any repairs, alterations, or improvements to the Premises. Lessee will have the right to access the Premises via Janavel Ave SW and will have the right to use the parking lot located on the Town Property adjacent to the Premises in a manner otherwise allowed by the public in general. Lessee’s use of the parking, when permitted hereunder, shall not interfere with or obstruct the Lessor’s access and/or use of the Town Property and is subject to the absolute and sole discretion of Lessor.

6. RENT.

a. Lessee shall pay to Lessor annual rent payments in the amount of Six Thousand and 00/100 Dollars (\$6,000.00) for each year of the Term of this Lease ("Rent"). Rent shall be payable in installments of Five Hundred and 00/100 Dollars (\$500.00) per month.

b. Rent shall commence on April 1, 2023, and continuing on the 1<sup>st</sup> day of each month thereafter during the Term of this Lease.

c. Payment of all Rent shall be made by check, draft or money order issued and payable to the Lessor and mailed or otherwise delivered to Lessor at the address set forth herein, or such other place as may be designated in writing by the Lessor.

d. Rent shall increase each Lease year, effective on the anniversary of the Commencement Date, by three percent (3%) and shall be payable on the same terms as set forth herein.

7. REPAIRS AND MAINTENANCE OF LESSEE IMPROVEMENTS. Lessee shall throughout the term of this Lease, at its own cost and without any expense to Lessor, keep and maintain the Premises in clean order, condition and repair, normal wear and tear excepted. Lessee shall comply with and abide by all Applicable Laws affecting the Town Property and Premises, or any activity conducted thereon by Lessee.

8. UTILITIES. Lessee shall contract in its own name and fully and promptly pay for all water, gas, heat, light, sewage, power, telephone service and other public utilities of every kind that Lessee desires to be furnished to the Premises throughout the Term hereof.

9. REAL ESTATE TAXES AND ASSESSMENTS. For purposes of this Lease, the term "Real Estate Taxes: shall mean all general real estate or personal property taxes and assessments and other ad valorem taxes, rates and levies paid upon or with respect to the Premises, or the Lessee Improvements, for a calendar year, or a portion thereof to any governmental agency, or authority and all charges specifically imposed in lieu of any such taxes. Lessee shall timely pay all Real Estate Taxes attributable to the Premises and Lessee Improvements. In the event Lessor is charged for any Real Estate Taxes attributable to the Premises or Lessee Improvements, Lessee shall promptly pay such Real Estate Taxes within thirty (30) days of receipt from Lessor of the tax bill, or in the alternative, reimburse Lessor upon receipt of a copy of the tax bill and a copy of Lessor's check to the appropriate governmental agency or authority evidencing Lessor's payment thereof to the taxing authority.

10. INSURANCE.

a. From and after the Commencement Date, Lessee shall, at its sole cost and expense, obtain and maintain property insurance covering the Premises and Lessee Improvements in an amount not less than the full replacement cost thereof (less the cost of foundations), with such deductibles and retentions as determined by Lessee in its sole and absolute discretion. Such

insurance shall be provided by companies authorized to do business in the State of North Carolina and shall name Lessor as an additional insured.

b. From and after the Commencement Date, Lessee shall maintain with respect to the Premises and Lessee Improvements a policy of commercial general liability insurance covering bodily injury, death and property damage in a commercially reasonable amount not less than \$1,000,000.00 per each occurrence and \$2,000,000.00 in aggregate limits.

c. Lessee shall, within fifteen (15) days after receipt of written request therefor by Lessor, provide Lessor with (i) evidence of such property insurance and (ii) a certificate of such commercial general liability insurance, each naming Lessor as an additional insured or loss payee, as applicable.

d. All insurance shall contain a provision requiring that Lessor will be given written notice of any intent to terminate within sixty (60) days by either the insured or the insurance company.

e. Lessee will provide Lessor with copies of any substantial changes to the policies. Within sixty (60) days prior to the expiration of any such policy, a signed and complete certificate of insurance coverage that has been renewed or extended shall be filed with Lessor.

f. Neither Lessor nor Lessee nor anyone claiming by, through, under or in their behalf shall have any claim, right of action or right of subrogation one against the other for or based upon liability for personal injury or any loss or damage caused by fire, explosion or other casualty relating to the Premises or to any property upon, in, or about the Premises, whether such fire, explosion or other casualty shall arise from the negligence of Lessor or Lessee, their respective agents, representatives or employees, or otherwise.

11. ASSIGNMENT. Lessee shall have the right, without Lessor's consent, to assign, transfer and encumber its interest in the Premises, including the leasehold estate created by this Lease, to (a) any lender as collateral for a loan to Lessee, or (b) any lender or a transferee pursuant to a foreclosure, deed in lieu of foreclosure or otherwise. Any other transfer shall require the written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. In the event Lessee shall be reorganized, merged or consolidated with any other corporation, limited liability company or other business entity, or shall sell all or substantially all of its assets, any resulting or surviving corporation, limited liability company or other business entity, or any other person, which shall, as a result of such reorganization, merger, consolidation or sale, succeed to substantially all of the assets or the business of Lessee, and which shall assume all of the liabilities and obligations of Lessee under this Lease, shall automatically and without the necessity of further assignment or any other act become and be Lessee under this Lease in accordance with and subject to all of the terms, provisions and conditions hereof, including the requirement of obtaining Lessor consent, if applicable. Lessee shall give Lessor notice of any transfer, such notice to include a copy of the original instrument evidencing such transfer.

12. LESSEE'S FINANCING. Subject to the provisions of this Section 12 and provided that Lessee is not in default under this Lease, Lessee shall have the right at all times during the

Term, to mortgage, assign, pledge, hypothecate or otherwise encumber all or any portion of Lessee's interests in the Premises, including the leasehold estate created by this Lease, by one or more deeds of trust or other security instruments in favor of any lender, or any financing in conjunction with construction of the Lessee Improvements and the development and operation of the Premises or a sale of the Lessee Improvements or a portion of the Lessee Improvements, including, without limitation, assignments of the profits from the Premises, to secure repayment of any loans, associated obligations, and other obligations of Lessee, for the purposes of interim and long-term financing of the Premises, the construction of new buildings and improvements upon the Premises, any refinancing of any such construction or acquisition financing whether equal to, less than, or in excess of the original financing, with notice to, but without the consent of Lessor. Any Leasehold Mortgage, as hereafter defined, as permitted hereunder and all rights of the mortgagee, beneficiary or security holder thereunder, shall in the event of any foreclosure of such Leasehold Mortgage be subject to all terms, covenants and conditions of this Lease and to all other rights and interests of Lessor under this Lease. In no event shall any Leasehold Mortgage constitute or be deemed to constitute a lien upon the fee estate of Lessor. As used in this Lease, "Leasehold Mortgage" shall mean any deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits from the Premises, which constitutes a lien on the leasehold estate created by this Lease, and "Lender" shall mean a beneficiary of a Leasehold Mortgage.

Notwithstanding anything herein to the contrary, the following provisions shall apply to the protection of any Lender during the continuance of any Leasehold Mortgage and until such time as the lien of any Leasehold Mortgage has been extinguished:

a. Lessor and Lessee shall not agree to any mutual termination or surrender of this Lease, nor shall they amend or modify this Lease, in any material manner, without the prior written consent of all Lenders, which consent shall not be unreasonably withheld, and any termination or surrender of, or material amendment or modification to, this Lease without such prior written consent shall be void. Unless the Lender shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Lessee therein created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of such fee title and such leasehold estate by Lessor or by Lessee or by a third party, by purchase or otherwise.

b. Notwithstanding any default by Lessee in the performance or observance of any agreement, covenant or condition of this Lease on the part of Lessee to be performed or observed, Lessor shall have no right to terminate this Lease unless an Event of Lessee Default shall have occurred and be continuing, and Lessor shall, subject to subparagraph G. below, have given all Lenders written notice of such Event of Lessee Default, and such Lenders shall have failed to remedy such default or acquire Lessee's leasehold estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof, all as set forth in, and within the time specified by, this Section 12.

c. Any Lender shall have the right, but not the obligation, at any time prior to termination of this Lease and without payment of any penalty, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, including, without limitation, the Real Estate Taxes, as defined above, to make any repairs and improvements, to do any act or thing



required of Lessee hereunder, and which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease. All payments so made and all things so done and performed by any Lender shall be as effective to prevent a termination of this Lease as the same would have been if made, done and performed by Lessee instead of by such Lender. Any Lender of the Premises, and any sublessee, shall not be disturbed by Lessor in the event of any default hereunder or any termination of this Lease or in the event that this Lease is subject to termination for any reason by virtue of Lessee's bankruptcy including the rejection of this Lease by Lessee or any trustee of Lessee in bankruptcy, or by any party under Section 365 of the Bankruptcy Code or any similar Section as a result of Lessee's bankruptcy, as long as (a) such sublessee performs all sublessee's obligations binding upon sublessee under its sublease, (b) such sublessee attorns to Lessor, and (c) any defaults in the payment of any monetary obligations of Lessee under this Lease are cured by any Lender within a reasonable time period not to exceed ninety (90) days.

d. Should any Event of Lessee Default under this Lease occur, any Lender shall have ninety (90) days after receipt of notice from Lessor, subject to subparagraph g. below, setting forth the nature of such Event of Lessee Default, to remedy such default, or if such default cannot be remedied within such ninety (90) day period, within a reasonable period thereafter, provided that the remedy for such default shall have been commenced within such ninety (90) day period and shall thereafter be diligently prosecuted to completion, and if the default is such that possession of the Premises may be reasonably necessary to remedy the default, a reasonable time after the expiration of such ninety (90) period within which to remedy such default, provided that (i) the Lender shall have fully cured any default in the payment of any monetary obligations of Lessee under this Lease within such ninety (90) period and shall continue to pay currently such monetary obligations as and when the same are due and (ii) the Lender shall have acquired Lessee's leasehold estate created hereby or commenced foreclosure or other appropriate proceedings in the nature thereof within such period, or prior thereto, and is diligently prosecuting any such proceedings. All right of Lessor to terminate this Lease as the result of the occurrence of any such Event of Lessee Default shall be subject to, and conditioned upon, Lessor, subject to subparagraph g. below, having first given any Lender written notice of such default and such Lender having failed to remedy such default or acquire Lessee's leasehold estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this subparagraph d.

e. Any Event of Lessee Default under this Lease which in the nature thereof cannot be remedied by a Lender shall be deemed to be remedied if (i) within ninety (90) days after receiving written notice from Lessor, subject to subparagraph g. below, setting forth the nature of such Event of Lessee Default, or prior thereto, the Lender shall have acquired Lessee's leasehold estate created hereby or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (ii) the Lender shall diligently prosecute any such proceedings to completion, (iii) the Lender shall have fully cured any default in the payment of any monetary obligations of Lessee hereunder which do not require possession of the Premises within such ninety (90) day period and shall thereafter continue to faithfully perform all such monetary obligations which do not require possession of the Premises, and (iv) after gaining possession of the Premises, the Lender performs all other obligations of Lessee hereunder excepting however the cure or remedy of such Event of Lessee Default which in the nature thereof cannot be remedied by a Lender.

f. If a Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessee from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in subparagraphs d. and e. above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition provided that the Lender shall have fully cured, within the 90 day time periods set forth in subparagraphs d. and e. above, any default in the payment of any monetary obligations of Lessee under this Lease and shall continue to pay currently such monetary obligations as and when the same fall due.

g. Lessor shall mail or deliver to any Lender of whom Lessor has received notice hereunder or has actual knowledge, a duplicate copy of any and all notices which Lessor may from time to time give to or serve upon Lessee pursuant to the provisions of this Lease, and such copy shall be mailed or delivered to such Lender simultaneously with the mailing or delivery of the same to Lessee. Lessee shall provide Lessor with written notice of the name, mailing address, street address and telephone number of any such Lender of whom Lessee has received notice under any sublease or has actual knowledge. Any Lender may directly provide such information to Lessor. Upon receipt of such information, unless otherwise actually known to Lessor, Lessor shall thereupon become and thereafter shall be bound to mail or deliver a duplicate copy of all notices to the Lessee hereunder to each such Lender; provided, however, that any failure to provide such notice shall not constitute a failure to provide notice to Lessee hereunder. All such notices shall be governed by Section 24 of this Lease.

h. Notwithstanding anything to the contrary contained herein, foreclosure of a Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Leasehold Mortgage, or any conveyance of the leasehold estate created hereby from Lessee to a Lender through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof shall not require the consent or approval of Lessor or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance Lessor shall recognize the Lender, or any other foreclosure sale purchaser, as Lessee hereunder. In the event the Lender becomes Lessee under this Lease or any new lease obtained pursuant to subparagraph i. below, or in the event the leasehold estate hereunder is purchased by any other party at a foreclosure sale, the Lender, or such other foreclosure sale purchaser, shall be bound to perform and satisfy the obligations of Lessee under this Lease or such new lease; provided, however, that the personal liability of the Lender, or such foreclosure sale purchaser, for the obligations of Lessee under the Lease or such new lease shall exist only with respect to obligations arising, or to be performed, during the period of time that the Lender or such other foreclosure sale purchaser remains lessee thereunder, and the Lender's or such foreclosure sale purchaser's right thereafter to assign this Lease or such new lease shall not be subject to any restriction. In the event the Lender subsequently assigns or transfers the interest under this Lease after acquiring the same by foreclosure or deed in lieu of foreclosure or subsequently assigns or transfers its interest under any new lease obtained pursuant to subparagraph i. below, and in connection with any such assignment or transfer the Lender takes back a mortgage or deed of trust encumbering such leasehold interest to secure a portion of the purchase price given to the Lender for such assignment or transfer, then such mortgage or deed of trust shall be considered a Leasehold Mortgage as

contemplated under this Section 13 and the Lender shall be entitled to receive the benefit of and enforce the provisions of this Section 13 and any other provisions of this Lease regarding the holder of a Leasehold Mortgage.

13. DAMAGE OR DESTRUCTION. If any of the Lessee Improvements are damaged or destroyed by fire, earthquake, act of God, or other casualty (a "Casualty"), Lessee shall either (i) repair and restore the affected portion of the Lessee Improvements to substantially the same condition as existed immediately prior to the Casualty, or (ii) raze the affected portions of the Lessee Improvements, remove all debris and maintain the affected area as an appropriately landscaped area. All property insurance proceeds payable with respect to Lessee Improvements shall belong to and be the exclusive property of Lessee. Notwithstanding any provision contained in this Lease to the contrary, Lessor and Lessee acknowledge and agree that the application of any and all insurance proceeds payable to Lessee as a result of any Casualty may be governed by and subject to the terms and conditions of any Leasehold Mortgage.

14. CONDEMNATION. If the whole or any part of the Premises shall be acquired or taken by eminent domain, condemnation or private purchase under threat thereof or in lieu thereof, including, without limitation, the physical occupation of the Premises, or any portion thereof, or the filing of eminent domain or condemnation papers by appropriate authorities (a "Taking"), and such Taking shall affect Lessee Improvements, Lessee shall be entitled to claim compensation from the condemning authority for (i) the value of its leasehold estate in the Premises, (ii) the unamortized costs of all leasehold improvements paid for by the Lessee and (iii) damages to Lessee Improvements occurring by reason of the Taking, and any other items to which Lessee may be entitled under applicable law. In the event of a complete Taking or a substantive Taking that would materially impede the operating of the business on the Premises, this Lease shall automatically terminate as of the effective date of such Taking. Notwithstanding any provision contained in this Lease to the contrary, Lessor and Lessee acknowledge and agree that the application of any and all proceeds payable to Lessee as a result of any Taking may be governed by and subject to the terms and conditions of any Leasehold Mortgage.

15. LEASE TERMINATION AND SURRENDER OF LAND.

a. Termination Rights. Notwithstanding anything contained herein to the contrary, either Party may terminate this Lease by providing the other Party with at least twelve (12) months' written notice.

b. Surrender of Land. Upon the expiration or earlier termination of this Lease, Lessee shall, at its sole cost and expense, promptly (i) return and restore the Premises and any portion of the Town Property located outside of the Premises which are damaged or disturbed by Lessee to Lessor in substantially the same condition the Premises and Town Property were in as of the Commencement Date, reasonable wear and tear excluded; and (ii) remove all Lessee Improvements and equipment kept, constructed or installed by Lessee on the Premises. Notwithstanding anything to the contrary contained herein, in the event any required restoration work is not promptly performed by Lessee, and such failure is not cured within thirty (30) days after Lessee's receipt of written notice from Lessor, Lessor shall have the right, but not the

obligation, to perform such restoration work and to collect the costs and expenses of such restoration work from Lessee.

16. PROVISIONS RELATED TO WORK PERFORMED BY LESSEE.

a. General. Notwithstanding anything to the contrary set forth in this Agreement, the installation of any improvements on the Premises, including the installation of the pre-approved fabricated building and privacy fence, shall, in each and every instance, (A) be performed in a good and workmanlike manner; (B) be performed in a lien-free manner; (C) be performed in accordance with all Applicable Laws; (D) not violate any terms or provisions of this Agreement or of any other agreement or restriction affecting the Town Property or Premises; (E) be performed by qualified, licensed and insured contractors; (F) be performed only after at least seven (7) days' prior written notice to Lessor, except in the event of an emergency (and Lessor shall have the right to have a representative of Lessor present during the performance of any such work); and (G) be performed in such a manner so as not to interfere with, interrupt, disturb, obstruct, delay, or impose any additional expense, burden, or obligation upon Lessor or the ownership, use, enjoyment, operation, or maintenance of the Town Property. Lessor already has notice that the pre-fabricated building will be installed on the Premises on or after April 18, 2023 and the privacy fence requested by Lessor will be installed on the Premises on or after June 2023.

b. Unsafe Conditions. Under no circumstance shall Lessee create or suffer any unsafe conditions on the Town Property, the Premises, or any portion thereof. If any unsafe condition is created, it shall be promptly remedied by Lessee, at Lessee's sole cost and expense, and, notwithstanding anything contained herein to the contrary, in the event Lessee fails to remedy such unsafe condition within thirty (30) days after Lessee's receipt of written notice from Lessor (except in the event of an emergency, in which no prior notice shall be required), or if such unsafe condition cannot be remedied within thirty (30) days and Lessee fails to commence the remedial work within such time period and diligently prosecute the same thereafter, Lessor shall have the right, but not the obligation, to remedy such condition and collect the costs and expenses of its work from Lessee.

c. Restoration. After the completion of all work of any kind or nature whatsoever performed under or pursuant to this Agreement, Lessee shall, at its sole cost and expense, promptly restore the Premises, any portion of the Town Property located outside of the Premises, and any site which are damaged or disturbed by such work to as near possible the condition and contour that existed immediately prior to such work. Notwithstanding anything to the contrary contained herein, in the event any required restoration work is not promptly performed by Lessee, and such failure is not cured within thirty (30) days after Lessee's receipt of written notice from Lessor (except in the event of an emergency, in which no prior notice shall be required), Lessor shall have the right, but not the obligation, to perform such restoration work and to collect the costs and expenses of such restoration work from Lessee.

d. Repair and Maintenance. Lessee, at its sole cost and expense, shall keep and maintain the Premises and all Lessee Improvements in good, operational order and repair and a safe, clean, attractive, and presentable condition, clear of trash, debris, and other obstructions. Prior to commencing any major maintenance or repair work to the exterior of the structure or the

Premises (which shall be defined for purposes of this Section as any maintenance or repair work exceeding \$1,000.00), Lessee shall provide no less than seven (7) days' prior written notice of such repair or maintenance work, along with a reasonably detailed description of the repair or maintenance work and the anticipated timeframe for completion of such work, to Lessor. Notwithstanding anything to the contrary contained herein, and for the avoidance of all doubt, the Parties agree that Lessee is solely responsible for the maintenance and repair of the entirety of the Premises and Lessee Improvements and Lessor is under no duty to maintain or repair the Premises, the Lessee Improvements, or any portion thereof.

17. LESSEE'S DEFAULT.

a. Lessee shall be in default hereunder (an "Event of Lessee Default") in the event Lessee fails to observe or perform any material provision of this Lease within sixty (60) days after Lessee's receipt of written notice from Lessor to Lessee specifying such default and demanding that the same be cured; provided that if such default cannot with due diligence be wholly cured within such sixty (60) day period, Lessee shall have such longer period as is reasonably necessary to cure the default, so long as Lessee proceeds promptly to commence the cure of same within such sixty (60) day period and diligently prosecutes the cure to completion.

b. Upon the occurrence of an Event of Lessee Default, at Lessor's option, in addition to any and all other remedies which it may have at law and/or in equity except as provided below, and without its actions being deemed an election of remedies or a cure of Lessee's default, Lessor may (i) obtain specific performance, injunction, appointment of a receiver, or other equitable remedy, (ii) recover actual damages suffered by Lessor as a direct result of Lessee's default, and (iii) subject to the provisions of Section 19 below, terminate this Lease and Lessee's right of possession to the Premises.

c. Notwithstanding the foregoing or anything herein to the contrary, if Lessee reasonably believes that an Event of Lessee Default has not occurred, Lessee may, within the applicable cure period, request that the matter be submitted for mediation as provided in Section 19 below, and no Event of Lessee Default shall be deemed to have occurred until the Parties have been through the mediation procedure provided in Section 19 below.

18. LESSOR'S DEFAULT

a. Lessor shall be in default hereunder (an "Event of Lessor Default") in the event Lessor fails to perform any nonmonetary obligations of Lessor hereunder within sixty (60) days after receipt of written notice from Lessee specifying such default and demanding that the same be cured; provided that if such default cannot with due diligence be wholly cured within such sixty (60) day period, Lessor shall have such longer period as is reasonably necessary to cure the default, so long as Lessor proceeds promptly to commence the cure of same within such sixty (60) day period and diligently prosecutes the cure to completion.

b. Upon the occurrence of an Event of Lessor Default, at Lessee's option, in addition to any and all other remedies which it may have at law and/or in equity except as provided below, and without its actions being deemed an election of remedies or a cure of Lessee's default,

Lessor may pay or perform such obligations and offset Lessee's actual cost of performance, including any and all transaction costs and attorneys' fees actually incurred, against the Rent and any and all other amounts and charges due Lessor hereunder.

c. Notwithstanding the foregoing or anything to the contrary, if Lessor reasonably believes that an Event of Lessor Default has not occurred, Lessor may, within the applicable cure period, request that the matter be submitted for mediation as provided in Section 19 below, and no Event of Lessor Default shall be deemed to have occurred until the Parties have been through the mediation procedure provided in Section 19 below.

19. MEDIATION. Notwithstanding anything to the contrary in this Lease, following any dispute between the Parties under this Lease, the Parties agree to participate in mediation proceedings which shall be scheduled, but not necessarily occur, within thirty (30) days of such a request by either Party. The cost of the mediation will be split equally between the Parties. Such mediation shall be in accordance with the American Arbitration Association's mediation rules then in effect unless otherwise agreed to by the Parties. The Parties shall jointly pick the mediator.

20. LIENS. Should any lien of any nature, including but not limited to mechanic's and materialmen's liens, be filed against the Premises, the party on account of whose actions such lien has been filed shall, within thirty (30) days after receipt of written notice of such lien, cause such lien to be removed, or otherwise protected against execution during good faith contest, by substitution of collateral, posting a bond therefor, escrowing of adequate funds to cover the claim and related transaction costs or such other method as may be permissible under applicable title insurance regulations and reasonably acceptable to the other party hereto.

21. SURRENDER; HOLDING OVER. Upon expiration of this Lease, or its earlier termination, Lessee will surrender possession of the premises, except for the Lessee Improvements removed from the Premises in accordance with this Agreement, to Lessor in a condition as described in Section 15(b) hereof. If Lessee shall remain in possession of the Premises, or any part thereof after expiration of the Term, Lessee shall be deemed a tenant from month to month upon the same terms and conditions as contained in this Lease.

22. COVENANT OF QUIET ENJOYMENT. Lessor covenants, warrants and represents that Lessee, upon paying the rent herein reserved and performing the covenants and agreements hereof, shall peaceably and quietly have, hold and enjoy the premises during the Term. No third party claiming a right through Lessor has the right to prohibit Lessee's tenancy hereunder, to prohibit Lessee or its employees, customers and/or invitees from using the Premises in accordance with the terms of this Lease or to consent to or approve, excepting governmental agencies, any feature of the Premises.

23. ENVIRONMENTAL REPRESENTATIONS; WARRANTIES AND INDEMNITY.

a. Lessee shall not cause or permit any hazardous wastes, hazardous substances, toxic substances or related materials (collectively, "Hazardous Materials") to be used, generated, stored, or disposed of on, under or about, or transported to or from the Premises (collectively "Hazardous Materials Activities") except in compliance with all Applicable Laws

governing such Hazardous Materials or hazardous Materials Activities, which compliance shall be at Lessee's sole expense.

b. Lessor shall not be liable to Lessee or to any other party for any Hazardous Materials Activities conducted or permitted on, under or about the Premises by Lessee or by Lessee's employees, agents, contractors, licensees, or invitees. Lessee shall indemnify and hold Lessor harmless from any claims, damages, fines, penalties, losses, judgments, costs and liabilities arising out of or related to any Hazardous Materials Activities conducted or permitted on, or under or about the Premises by Lessee's employees, agents, contractors, licensees, or invitees, regardless of whether Lessor shall have consented to, approved of, participated in or had notice of such Hazardous Materials Activities. The provisions of this paragraph shall survive the expiration or termination of this Lease.

c. At the expiration of this Lease, including any extension, Lessee shall remove from the Premises, at Lessee's sole expense, all Hazardous Materials located, stored or disposed of on, under or about the Premises which were first brought to or used, stored or disposed of on the Premises by Lessee or by Lessee's employees, agents, contractors, licensees, or invitees. Lessee shall close, remove or otherwise render safe any buildings, tanks, containers, or other facilities related to the Hazardous Materials Activities conducted or permitted on the Premises in the manner required by all Applicable Laws. Lessee shall be solely responsible for the transportation, handling, use or reuse and disposal of such Hazardous Materials after their removal from the Premises.

d. For purposes of this section, Hazardous Materials shall include all solid, liquid or gaseous material defined or regulated as wastes under any Applicable Law applicable to the Premises and shall further include all other substances defined or regulated as pollutants or as hazardous, toxic, infectious, or radioactive substances under any Applicable Law applicable to the Premises, all as amended from time to time. Without limitation to the foregoing, the term Hazardous Materials shall include used or waste oils regulated under any federal, state or local law, regulation or ordinance.

#### 24. INDEMNIFICATION.

a. During the term of this Lease, Lessee will protect, indemnify and save harmless Lessor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses, including without limitation, attorneys' fees and expenses by reason of (i) any accident, injury to or death of persons or loss of or damage in property occurring on the Premises or any part thereof due to the negligence of Lessee, its employees or agents, (ii) any use, nonuse or condition of the Premises or any part thereof due to actions or conditions attributable to Lessee, its employees or agents or (iii) any failure on the part of the Lessee to perform or comply with any of the terms of this Lease.

b. In case any action, suit or proceeding is brought against Lessor by reason of any such occurrences, Lessee upon Lessor's request, will at Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted and defended by counsel.





the obligations of the other. The only relationship created by this Lease between the parties is that of Lessor and Lessee.

c. Third Party Beneficiaries. Except as herein specifically provided, no person, subtenant, customer, employee or invitee or any other third party shall be deemed to be a third party beneficiary of any of the provisions herein.

d. Partial Invalidity. If any section, paragraph, subparagraph, sentence, clause or phrase of this Lease shall be declared or judged invalid or unconstitutional, such declaration or adjudication shall not affect the other sections, paragraphs, subparagraphs, sentences, clauses or phrases of this Lease, all of which shall remain in full force and effect.

e. Recording of Memorandum of Lease. A Memorandum of Lease may be recorded in the appropriate office for filing by Lessee at Lessee's expense.

f. Headings; Gender. The section headings are for convenience and are not a part of this Lease. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others whenever the context so requires or indicates.

g. No Waiver. The failure of either party to insist in any one or more instances upon a strict performance of any covenant of this Lease or to exercise any option or right herein contained shall not be construed as a waiver or relinquishment for the future enforcement of such covenant, right or option, but the same shall remain in full force and effect, unless the contrary is expressed in writing by such party.

h. Force Majeure. Except as otherwise specifically contemplated in this Lease, in the event that Lessor or Lessee shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, delay by the other party, failure of power or unavailability of utilities, riots, insurrection, war, terrorism or other reason of a like nature not the fault of such party or not within its control (each, a "Force Majeure Event"), then performance of such act shall be excused for the period of delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, the party claiming a delay by reason of a Force Majeure Event shall notify the other party within five (5) business days following the onset of the Force Majeure Event.

i. Choice of Law. This Lease shall be construed in accordance with and governed by the laws of the State of North Carolina. Venue for any action brought pursuant to this Lease shall be placed in Burke County, North Carolina.

j. Binding Effect. This Lease shall inure to the benefit of and be binding upon Lessor and Lessee and their respective heirs, executors, legal representatives, successors and assigns.

k. Entire Agreement; Amendment. This Lease and the attached exhibits constitute the entire agreement between Lessor and Lessee with respect to the Premises, and all negotiations, considerations, representations and understandings between Lessor and Lessee prior

to the execution of this Lease are incorporated herein. This Lease shall not be amended, modified, waived, discharged or terminated except by an instrument in writing signed by the parties hereto.

l. Brokers. Lessee and Lessor warrant each to the other that it has had no dealings with any broker or agent in connection with this lease, and each party covenants to pay, hold harmless and indemnify the other from and against any and all costs, expenses or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Lease or the negotiation thereof.

m. Counterparts. This Lease may be executed in more than one counterpart, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**THIS SPACE WAS INTENTIONALLY LEFT BLANK. SIGNATURES AND  
ACKNOWLEDGMENTS APPEARS ON THE FOLLOWING PAGES.**

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be duly executed effective as of the day and year written below.

**THE TOWN OF VALDESE,**  
a North Carolina Municipal Corporation

\_\_\_\_\_  
**CHARLES WATTS, Mayor** (Seal)

**ATTEST:**

\_\_\_\_\_  
**JESSICA LAIL, Town Clerk**

**This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.**

\_\_\_\_\_  
**BO WEICHEL, Chief Financial Officer**

**Approved as to form on behalf of the Town this \_\_\_\_\_ day of \_\_\_\_\_, 2023.**

\_\_\_\_\_  
**TIMOTHY D. SWANSON, Attorney**

STATE OF NORTH CAROLINA  
COUNTY OF BURKE

I, \_\_\_\_\_ a Notary Public of said county and state, certify that Jessica Lail personally came before me this day and acknowledged that she is Town Clerk of the Town of Valdese, a North Carolina municipal corporation, and that by authority duly given and as the act of the Town Council of the Town of Valdese, the foregoing instrument was signed in its name and by its Mayor, CHARLES WATTS, sealed with its corporate seal and attested by her as its Town Clerk.

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

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

[AFFIX NOTARIAL SEAL]

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

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be duly executed effective as of the day and year written below.

**FOOTHILLS BROADBAND, LLC**

By: \_\_\_\_\_  
Zachary Chiz  
Chief Operating Officer

By \_\_\_\_\_  
Jodi Chiz  
Chief Executive Officer

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

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that Zachary Chiz and Jodi Chiz personally appeared before me this day and acknowledged that they are the Chief Operating Officer and the Chief Executive Officer of Foothills Broadband, LLC, a North Carolina limited liability company, and being duly authorized to do so, voluntarily executed the foregoing instrument for the purposes stated therein on behalf of said limited liability company.

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

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

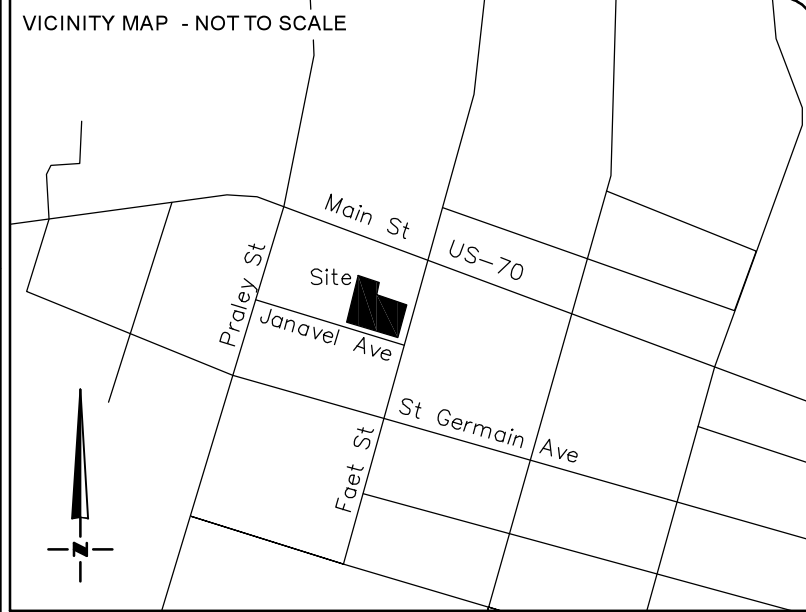
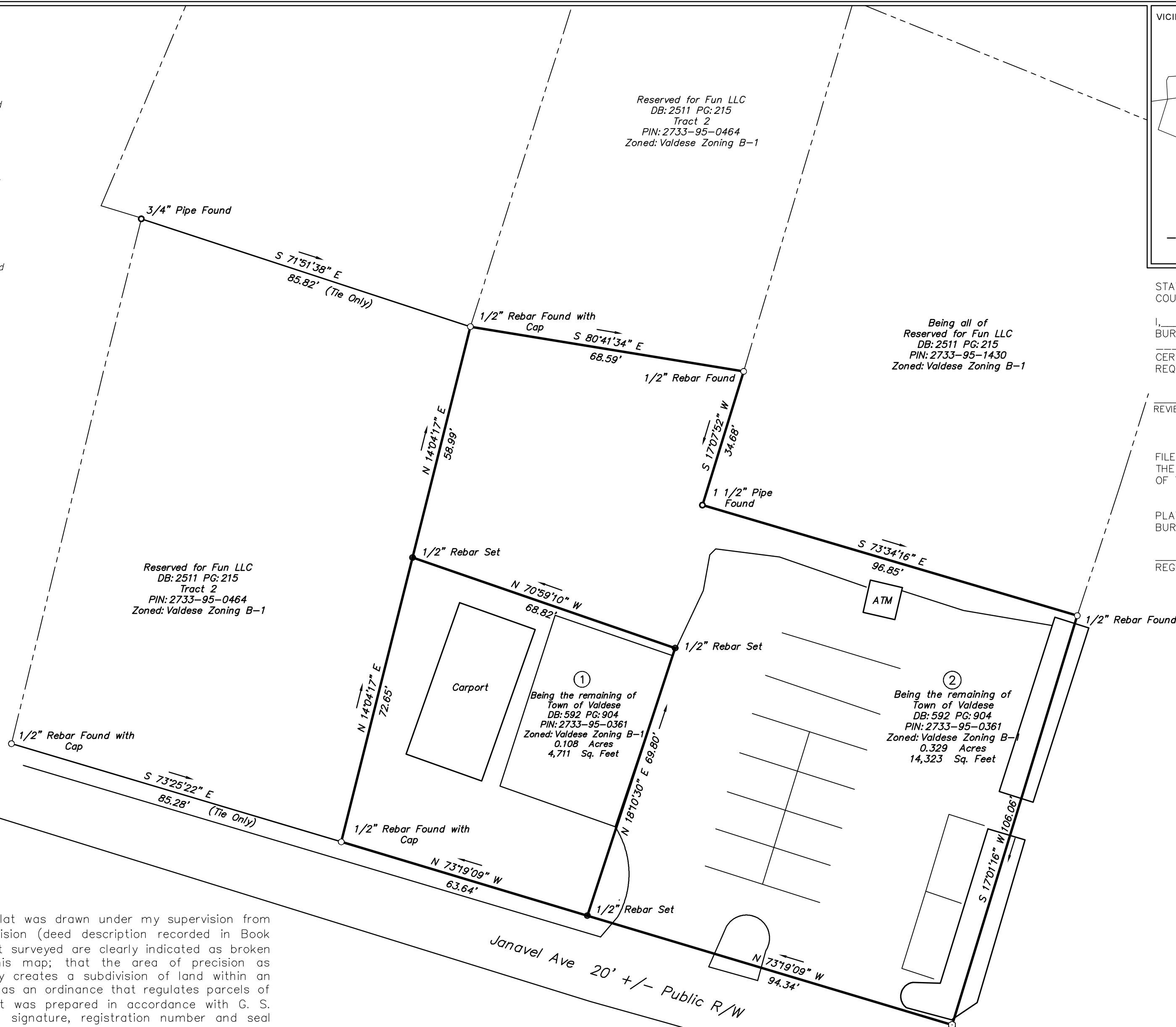
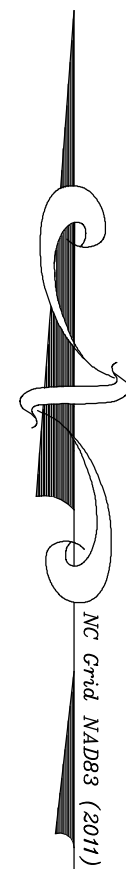
**EXHIBIT A**

Legal Description

BEING that certain tract or parcel of land lying and being in Lovelady Township, Burke County, North Carolina more particularly described as follows:

BEGINNING at an iron pipe located in the southwest corner of the property of the Town of Valdese as shown in Deed Book 592, Page 904, Burke County Registry, and running thence South 73-19-09 East 63.64 feet; thence North 18-10-30 East 69.80 feet; thence North 70-59-10 West 68.82 feet; thence South 14-04-17 West 72.65 feet to the point of BEGINNING as surveyed by Roger D. Morgan Surveying, March 14, 2023, attached hereto for illustrative purposes only as Exhibit B, and being a portion of that property conveyed by Bertha S. Martinat to The Town of Valdese by Deed recorded in Deed Book 592, Page 904, Burke County Registry. Further being a portion of the land assigned Burke County PIN: 2733950361.

- Notes:**
1. Area determined by coordinate method.
  2. North Carolina Geodetic Survey Monumentation not recovered within 2000'.
  3. No improvements, above ground utilities or underground utilities, and infrastructure located other than shown hereon.
  4. Property is subject to deeds, restrictions, right-of-ways of record and/or other legal prescription.
  5. No title report was provided to the surveyor at the time of survey.
  6. Deed references; DB: 592 PG: 904, in the Burke County Registry.
  7. Broken lines indicate lines not surveyed.
  8. All distance shown hereon are horizontal ground distances unless otherwise noted.



STATE OF NORTH CAROLINA  
 COUNTY OF BURKE

I, \_\_\_\_\_, A REVIEW OFFICER OF BURKE COUNTY, CERTIFY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023 THAT THE MAP TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER \_\_\_\_\_

FILED FOR REGISTRATION AT \_\_\_\_\_ O'CLOCK \_\_\_\_M. ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023. IN THE OFFICE OF THE REGISTER OF DEEDS.

PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 BURKE COUNTY NORTH CAROLINA

REGISTER OF DEEDS \_\_\_\_\_

I, ROGER D. MORGAN, certify that this plat was drawn under my supervision from an actual field survey under my supervision (deed description recorded in Book 592, page 904); that the boundaries not surveyed are clearly indicated as broken lines from information as shown on this map; that the area of precision as calculated is 1:10,000+; that this survey creates a subdivision of land within an area of the county or municipality that has an ordinance that regulates parcels of land: NCGS 47-30(f)(11)a; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, registration number and seal this 14th day of March, A.D., 2023.

**Preliminary**  
 NOT FOR USE OF RECORDATION OR SALES  
 FOR REVIEW ONLY

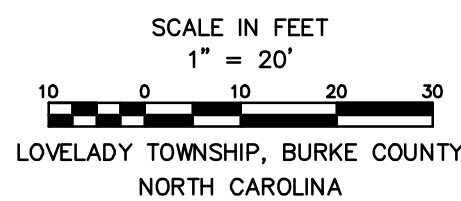
ROGER D. MORGAN  
 PLS L-3847

**CERTIFICATE OF SURVEY AND ACCURACY**

I, Roger D. Morgan, certify that this map was drawn by me from an actual survey made by me of a deed description record in Book 592 Page 904; that the ratio of precision exceeds 1:10,000; that the grid tie was made using the RTN network of NC and datum used was the NAD 83 (2011) 2012A Geoid and that the positional accuracy for the GPS survey is greater than 0.07'; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56. 1600).

Witness my hand and seal this 14th day of March, A.D., 2023.

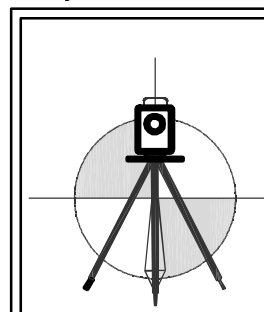
Professional Land Surveyor \_\_\_\_\_  
 L-3847



- LEGEND**
- IRON PIPE FOUND
  - IRON ROD FOUND
  - ⊙ PK NAIL FOUND
  - IRON ROD SET
  - PROPERTY LINE
  - - - ADJOINER PROPERTY LINE

PK Nail Found  
 NC Grid NAD83 (2011)  
 N=735,231.0234 FT  
 E=1,239,124.6413 FT  
 CSF=0.999859128

Project # 2348



Survey for: Foothills Broadband LLC  
 Owner: Town of Valdese  
 Subdivision Survey  
 DB: 592 PG: 904  
 PIN: 2733-95-0361  
 204 Janavel Avenue SW Valdese 28690  
 LOVELADY TOWNSHIP  
 BURKE COUNTY, NORTH CAROLINA





- Pre-fab building on concrete slab.
- 25-year lease term
- Month-to-month thereafter.
- \$500 per month.
- Annual increase of 3%.

April 3, 2023

Offer and Acceptance  
Cline Pump Station Project  
Project Number: SRP-W-0197

The North Carolina Department of Environmental Quality has offered a State Reserve Loan in the amount of \$1,176,000 for the replacement of two (2) 200 gpm submersible pumps with two (2) 360 gpm submersible duplex pumps and 1,570 LF of 6-inch FM with 1,570 LF of 8-inch FM; installation of approximately 470 LF of 8-inch FM, and replacement of approximately 2,610 LF of 8-inch gravity sewer and 12 manholes; and rehabilitation of 15 manholes.

Staff recommends acceptance of the offer from the State.

Thanks,

Greg Padgett



RESOLUTION BY VALDESE, TOWN COUNCIL

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Reserve Loan in the amount of \$1,176,000 for the replacement of two (2) 200 gpm submersible pumps with two (2) 360 gpm submersible duplex pumps and 1,570 LF of 6-inch FM with 1,570 LF of 8-inch FM; installation of approximately 470 LF of 8-inch FM. Replacement of approximately 2,610 LF of 8-inch gravity sewer and 12 manholes; and rehabilitation of 15 manholes.

WHEREAS, the Town of Valdese intends to construct said project in accordance with the approved plans and specifications,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF VALDESE:

That the Town of Valdese does hereby accept the State Reserve Loan offer of \$1,176,000.

That the Town of Valdese does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II - Assurances will be adhered to.

That Mr. Seth Eckard, Valdese Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Town of Valdese has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted the 3rd day of April 2023.

---

Charles Watts, Mayor

---

Jessica Lail, Town Clerk

**COUNCIL AGENDA MEMO**

**From:** Greg Padgett, Water Resources Director  
**Agenda:** April 3, 2023

**REQUEST**

Adoption of a resolution to apply for a grant from NC DEQ for doing an assessment of the Town of Valdese's stormwater system.

**BACKGROUND**

The Town is required to maintain any stormwater pipes that are located under or next to our roads. Unless maintained by NCDOT.

**ANALYSIS**

This funding will allow the Town to assess the condition of all the town's stormwater pipes and create a plan to repair/replace pipes if needed.

**RECOMMENDATION**

Staff respectfully recommends that Council approve the resolution to apply for funding from NCDEQ

**BUDGET ANALYSIS:**

***Budgetary Action***

Is a Budget Amendment required?

Yes

No

## **RESOLUTION BY GOVERNING BODY OF APPLICANT**

WHEREAS, The Town of Valdese has need for and intends to construct, plan for, or conduct a study in a project described as (Assessment of the Town's Stormwater System), or give a brief description of the project(s) in the application(s), and

WHEREAS, The Town of Valdese intends to request Local Assistance for Stormwater Infrastructure Investments (LASII) Planning Studies for the project,

### **NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF VALDESE:**

That Town of Valdese, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for Local Assistance for Stormwater Infrastructure Investments (LASII) Planning Study grant award.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Valdese to make a scheduled repayment of the loan, to withhold from the Town of Valdese any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

If applying for a regional project, that the **Applicant** will partner and work with other units of local government or utilities in conducting the project, including N/A

That Mr. Seth Eckard, Valdese Town Manager, the **Authorized Representative**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Representative**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the April 3<sup>rd</sup>, 2023 at Valdese, North Carolina.

\_\_\_\_\_  
(Signature of Mayor)

Charles Watts, Town Mayor

\_\_\_\_\_  
(Title)

**FORM FOR CERTIFICATION BY THE RECORDING OFFICER**

The undersigned duly qualified and acting Town Clerk of the Town of Valdese does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Town Council of the Town of Valdese duly held on the 3rd day April 2023; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

(Signature of Recording Officer)

Jessica Lail, Town Clerk

---

Title of Recording Officer

**COUNCIL AGENDA MEMO**

**From:** Greg Padgett, Water Resources Director  
**Agenda:** April 3, 2023

**REQUEST**

Staff is requesting adoption of a resolution to apply for a grant from NC DEQ to inventory town service lines.

**BACKGROUND**

The EPA is requiring all utilities to have a complete inventory of the all the water service lines including materials completed by October 16, 2024.

**ANALYSIS**

This funding will allow the Town to assess all the town's water service lines and submit the required report to the State and EPA by the deadline.

**RECOMMENDATION**

Staff respectfully recommends that Council approve the resolution to apply for funding from NCDEQ.

**BUDGET ANALYSIS:**

***Budgetary Action***

Is a Budget Amendment required?

Yes

No

## **RESOLUTION BY GOVERNING BODY OF APPLICANT**

WHEREAS, The Town of Valdese has need for and intends to construct, plan for, or conduct a study in a project described Lead Service Line Inventory and Assessment, and

WHEREAS, The Town of Valdese intends to request DWI Assistance for Lead Service Line Replacement Funding,

### **NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF VALDESE:**

That Town of Valdese, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for Local Assistance Solicitation to apply for Lead Service Line Replacement funding.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Valdese to make a scheduled repayment of the loan, to withhold from the Town of Valdese any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

If applying for a regional project, that the **Applicant** will partner and work with other units of local government or utilities in conducting the project, including N/A

That Mr. Seth Eckard, Valdese Town Manager, the **Authorized Representative**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Representative**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the April 3<sup>rd</sup>, 2023 at Valdese, North Carolina.

---

Signature of Mayor

Charles Watts, Town Mayor

(Title)

**FORM FOR CERTIFICATION BY THE RECORDING OFFICER**

The undersigned duly qualified and acting Town Clerk of the Town of Valdese does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Town Council of the Town of Valdese duly held on the 3rd day April 2023; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Recording Officer)

Jessica Lail, Town Clerk

\_\_\_\_\_  
Title

**RESOLUTION AUTHORIZING SALE OF REAL PROPERTY**

*Sale of 3.645 Acre Tract at 408 Pineburr Ave SE, Valdese, NC*

*Sale of 0.40 Acre Tract at 409 Pineburr Ave SE, Valdese, NC*

WHEREAS, W.C. Erwin (“**Buyer**”) offered to purchase from the Town of Valdese (the “**Town**”) for the sum of \$112,000.00 certain property located at 408 Pineburr Ave SE & 409 Pineburr Ave SE, Valdese, North Carolina (the “**Property**”), which is described as follows:

Being all of that 3.645 acre tract or parcel of real property being identified as Parcel A on that plat entitled “Recombination Plat for: Town of Valdese,” dated September 28, 2022 and revised October 3, 2022, prepared by Jason N. Gasperson, NC PLS L-5267, and being recorded in Plat Book 60, Page 61, Burke County Registry, to which reference is hereby made for greater certainty in description.

ADDRESS: 408 Pineburr Avenue, SE, Valdese, NC 28690  
DEED REF: Book 2540, Page 374, Burke County Public Registry  
REID NO.: 33227  
PIN NO.: PIN No.: 2743038327

Being all of that 0.41 acre tract or parcel of real property being identified as Tract No. 2 on that plat entitled “Property of Alba-Waldensian, Inc.,” dated January 13, 1970, prepared by R. A. Childres, a Reg. Land Surveyor, and recorded in Plat Book 5, Page 95, Burke County Registry, to which reference is hereby made for greater certainty in description.

ADDRES: 409 Pineburr Avenue, SE, Valdese, NC  
DEED REF: Book 2540, Page 371, Burke County Public Registry  
REID NO.: 30873  
PIN NO.: 2743037173

WHEREAS, at its October 3, 2022 regular meeting, the Town council adopted a Resolution Authorizing Upset Bid Process proposing to accept this offer;

WHEREAS, as required by N.C.G.S. § 160A-269, the Town council directed Town representatives to publish notice of the Town’s intent to accept the offer and notice that persons could raise the bid, and that notice was published;

WHEREAS, no upset bids were received within the ten (10) day upset bid period, and the \$112,000.00 offer made by Buyer is the last and highest bid for the Property; and



WHEREAS, the Town does not need the Property, and the Town therefore desires to accept the offer made by Buyer and sell the Property to Buyer upon the terms hereafter set forth; and

WHEREAS, the Buyer will be responsible for all legal fees associated with the closing documents necessary to transfer ownership from the Town to the Buyer.

IT IS THEREFORE RESOLVED that, pursuant to N.C.G.S. § 160A-269, the sale of the Property to Buyer for the purchase price of \$112,000.00 is approved; that the Property shall be sold “as is” and subject to all existing easements; that the Town shall reserve easements for all Town utility lines located on or under the property, if any; and that the Town manager is authorized and directed to deliver to Buyer a special warranty deed for the Property upon receipt of the purchase price, subject to the above terms and conditions.

THIS RESOLUTION IS ADOPTED this 3<sup>rd</sup> day of April, 2023.

THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Charles Watts, Mayor

\_\_\_\_\_  
Jessica Lail, Town Clerk