

**AGENDA**  
[www.townofvaldese.com](http://www.townofvaldese.com)

**Town of Valdese Town Council**  
**102 Massel Avenue SW, Valdese, NC**

**Monday, August 5, 2024**  
**6:00 p.m., Valdese Town Hall, Council Chambers**

**The Town Council Meeting will be live-streamed on YouTube [@townofvaldese](https://www.youtube.com/@townofvaldese).**

- 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. Introduction of New Police Officer

**6. Consent Agenda**

All items below are considered 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 Agenda Review Meeting Minutes of May 28, 2024
- B. Approval of Regular Meeting Minutes of June 3, 2024
- C. Approval of Regular Meeting Minutes of June 17, 2024
- D. Approval of Closed Session Minutes of June 17, 2024
- E. Approval of Special Called Meeting Minutes of June 21, 2024
- F. Approval of Closed Session Minutes of June 21, 2024
- G. Approval of Special Called Meeting Minutes of July 2, 2024
- H. Approval of Closed Session Minutes of July 2, 2024
- I. Approval of Special Called Meeting Minutes of July 11, 2024
- J. Approval of Closed Session Minutes of July 11, 2024

- K. Approval of Special Called Meeting Minutes of July 12, 2024
- L. Approval of Closed Session Minutes of July 12, 2024
- M. Approval of Ordinance Declaring Road Closure for Town of Valdese Special Event – Draughn High School Homecoming Parade
- N. Approval of Acknowledgment and Waiver of Conflict of Interest
- O. Approval of Resolution Amending 2024 Town Council Meetings Calendar
- P. Acceptance of Permanent Utility and Access Easement b/t TOV & BCPS for Valdese Bluff's Project
- Q. Acceptance of Temporary Access Easement b/t TOV & BCPS for Valdese Bluff's Project
- R. Acceptance of Permanent Access and Utility Easement & Temporary Access Easement b/t TOV & BC for Valdese Bluff's Project
- S. Acceptance of Temporary Access Easement b/t TOV & The Nicholson's for Valdese Bluff's Project
- T. Acceptance of Permanent Access and Utility Easement b/t TOV & Natural Land Alliance, Inc. for Valdese Bluff's Project
- U. Approval of Budget Amendment – Roll off Dumpster
- V. Approval of Resolution Authorizing Upset Bid Process for the Sale of Town-owned Property – 342 Tron Ave
- W. Approval of Resolution Authorizing Upset Bid Process for the Sale of Town-owned Property – 338 Tron Ave
- X. Acceptance of Easement between TOV & Duke Energy at Lakeside Park for the Pavilion Construction
- Y. Acceptance of Resolution for Cline Ave Basin Pump Station Loan
- Z. Acceptance of Resolution for Lead Service Line Inventory Loan
- AA. Approval of Capital Project Ordinance – Lead Service Line Inventory
- BB. Approval of Resolution Accepting the 2023 Local Water Supply Approved Plan
- CC. Approval of Lenoir Interconnect Agreement
- DD. Approval of Interbasin Transfer Cost Sharing
- EE. Approval of Budget Amendment - Interbasin Transfer Cost Sharing

**7. New Business**

- A. Weavers Mill Housing Project (Presented by Weavers Mill)
- B. 2023 North Carolina Department of Labor Safety Awards (Presented by Chief Walton)
- C. Public Hearing: Rezoning Map Amendment 2-6-24 - B-1 Central Business District to B-2 General Business District (Presented by Larry Johnson)

- D. Drug and Homelessness Task Force Report (Presented by Chief Sharpe)
- E. Facilities Review Committee Report (Presented by Co-Chairs Roger Heavner & Greg Refour)
- F. Consideration of Agreement for Purchase and Sale of Improved Real Property and Additional Provisions Addendum (Presented by Bo Weichel)
- G. Consideration of AIA Document B101-2017 Standard Form Agreement Between Owner and Architect with Talley & Smith Architecture, Inc. (Presented by Bo Weichel)
- H. Review and Consideration of AIA Document B104-2017 Standard Form Agreement Between Owner and Architect (Talley & Smith Architecture, Inc. Public Safety Facility Study) (Presented by Bo Weichel)
- I. Capital Project Ordinance Amendment – Public Safety Building (Presented by Bo Weichel)
- J. Street Resurfacing Status Report (Presented by Allen Hudson)
- K. Permanent Pool Structure Update (Presented by David Andersen)
- L. Waldensian Festival Plans – August 9 and 10, 2024 (Presented by Morrissa Angi)
- M. Old Rock School Renovation Fundraising Disclosure (Presented by Morrissa Angi)
- N. Consideration of Appointments to the Merchants Advisory Committee (Presented by Council)

## **8. Interim Town Manager's Report**

- A. Old Colony Players Presents: From This Day Forward, July 12 through August 10, Fridays and Saturdays, 8:00 p.m. at the Fred B. Cranford Amphitheatre
- B. 49th Annual Waldensian Festival and Footrace – August 9 & 10, 2024
- C. Family Friday Nights Summer Concert Series Finale is scheduled for Friday, August 30, 2024, at 7:00 p.m.
- D. Town Offices Closed on Monday, September 2, 2024 in Observance of Labor Day
- E. Next Agenda Review Council meeting is scheduled for Wednesday, September 4, 2024, 6:00 p.m., Council Chambers, Valdese Town Hall (TBD)
- F. Next Regular Council meeting scheduled for Monday, September 9, 2024, 6:00 p.m., Council Chambers, Valdese Town Hall (TBD)

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

**10. Closed Session under NC General Statute 143-318.11(a)(3)** to consult with an attorney retained by the Town in order to preserve the attorney-client privilege between the Town attorney and the Town Council, which privilege is hereby acknowledged, and

**Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

## **11. Adjournment**

**The Town of Valdese holds all public meetings in accessible rooms. Special requests for accommodation should be submitted by individuals with disabilities at least 48 hours before the scheduled meeting time. Contact Town Hall at 828-879-2120 or TDD Phone Line (hearing impaired) 1-800-735-2962.**



## COMMUNICATION NOTES

**To:** Mayor Watts  
Town Council

**From:** Town Clerk

**Date:** August 2, 2024

**Subject:** Monday, August 5, 2024, Council Meeting

### 6. Consent Agenda

- A. Approval of Agenda Review Meeting Minutes of May 28, 2024**
- B. Approval of Regular Meeting Minutes of June 3, 2024**
- C. Approval of Regular Meeting Minutes of June 17, 2024**
- D. Approval of Closed Session Minutes of June 17, 2024**
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- G. Approval of Special Called Meeting Minutes of July 2, 2024**
- H. Approval of Closed Session Minutes of July 2, 2024**
- I. Approval of Special Called Meeting Minutes of July 11, 2024**
- J. Approval of Closed Session Minutes of July 11, 2024**
- K. Approval of Special Called Meeting Minutes of July 12, 2024**
- L. Approval of Closed Session Minutes of July 12, 2024**
- M. Ordinance Declaring Road Closure for Town of Valdese Special Event – DHS Parade**

Enclosed in the agenda packet is a request to close part of US 70/Main Street in Valdese for the Draughn High School Homecoming Parade on Tuesday, September 24, 2024, from 5:30 p.m. – 7:00 p.m.

### **N. Acknowledgement and Waiver of Conflict of Interest**

Enclosed in the agenda packet is an Acknowledgement and Waiver of Conflict of Interest from Town Attorney Tim Swanson. The buyers that will be purchasing Town-owned property located at 460 Perkins Road, 308 Stuart Ave, and 317 Stuart Ave hired Mr. Swanson's partner, John Crone, to close the properties.

**O. Resolution Amending 2024 Town Council Meetings Calendar**

Council approved the 2024 Town Council Meetings Calendar at the December 18, 2023 meeting; however, a change in date for the September Pre-Agenda Meeting and September Regular Council Meeting has been requested due to scheduling conflicts. Enclosed in the agenda packet is an amendment to the 2024 Town Council Meetings Calendar.

- Change Wednesday, September 4 pre-agenda meeting to Monday, August 26.
- Change Monday, September 9 regular meeting to Tuesday, September 4.

**P. Acceptance of Permanent Utility and Access Easement b/t TOV & BCPS for Valdese Bluff's Project**

Enclosed in the agenda packet is a Permanent Utility and Access Easement agreement with Burke County Public Schools, which aims to support the infrastructure needs of the Valdese Bluff's Sewer Line Extension, a key component of a potential housing project.

**Q. Acceptance of Temporary Access Easement b/t TOV & BCPS for Valdese Bluff's Project**

Enclosed in the agenda packet is a Temporary Access Easement agreement with Burke County Public Schools, which aims to support the infrastructure needs of the Valdese Bluff's Sewer Line Extension, a key component of a potential housing project.

**R. Acceptance of Permanent Access and Utility Easement & Temporary Access Easement b/t TOV & BC for Valdese Bluff's Project**

Enclosed in the agenda packet is a Permanent Access and Utility Easement & Temporary Access Easement agreement with Burke County, which aims to support the infrastructure needs of the Valdese Bluff's Sewer Line Extension, a key component of a potential housing project.

**S. Acceptance of Temporary Access Easement b/t TOV & The Nicholson's for Valdese Bluff's Project**

Enclosed in the agenda packet is a Temporary Access Easement agreement with The Nicholson's, which aims to support the infrastructure needs of the Valdese Bluff's Sewer Line Extension, a key component of a potential housing project.

**T. Acceptance of Permanent Access and Utility Easement b/t TOV & Natural Land Alliance, Inc. for Valdese Bluff's Project**

Enclosed in the agenda packet is a Permanent Access and Utility Easement agreement with Natural Land Alliance, Inc., which aims to support the infrastructure needs of the Valdese Bluff's Sewer Line Extension, a key component of a potential housing project.

**U. Approval of Budget Amendment – Roll off Dumpster**

Enclosed in the agenda packet is a budget amendment prepared by Assistant Town Manager/CFO Bo Weichel. This amendment reallocates \$6,000 to the appropriate account for the purchase of a roll-off dumpster for the Sanitation Department.

Additionally, the agenda packet includes a copy of the roll-off dumpster rental guidelines. If approved, these guidelines will be made available on the Town's website.

**V. Approval of Resolution Authorizing Upset Bid Process for the Sale of Town-owned Property – 342 Tron Ave**

The Town has received an offer of \$10,000 from Tim Norman of T.L. Norman Land Company for the purchase of the property located at 342 Tron Ave NW, Valdese. Enclosed in the agenda packet are a location map and a resolution for the sale of this town-owned property. If approved, staff will be authorized, in accordance with NC General Statute 160A-269, to initiate the upset bid process.

**W. Approval of Resolution Authorizing Upset Bid Process for the Sale of Town-owned Property – 338 Tron Ave**

The Town has received an offer of \$10,000 from Tim Norman of T.L. Norman Land Company for the purchase of the property located at 338 Tron Ave NW, Valdese. Enclosed in the agenda packet are a location map and a resolution for the sale of this town-owned property. If approved, staff will be authorized, in accordance with NC General Statute 160A-269, to initiate the upset bid process.

**X. Acceptance of Easement between TOV & Duke Energy at Lakeside Park for the Pavilion Construction**

Enclosed in the agenda packet is an Easement agreement with Duke Energy, which aims to support the construction of a pavilion at Lakeside Park, providing power to the site.

**Y. Acceptance of Resolution for Cline Ave Basin Pump Station Loan**

Enclosed in the agenda packet is a State Reserve Loan Resolution with the North Carolina Department of Environmental Quality in the amount of \$1,488,510. A few years ago, DWI received and approved the Town's application for a State Reserve Project (SRP) Loan to fund the Cline Ave basin and pump station project. This a letter of intent to fund was then transmitted into a capital project for engineers to begin design and procurement. Eventually a public bid opening was held on 4/18/2024. Carolina Grading and Utilities was the lowest responsive, responsible bidder.

Per the engineer's recommendation letter, Council accepted the bid from Carolina Grading and Utilities, Inc. at the May 2024 meeting. The next step was to have the Local Government Commission approve the DWI loan offer amount of \$1,488,510, which was approved at the LGC's monthly meeting on July 9. After this approval, DWI has sent the Town an Offer and Acceptance letter for the loan. This SRP loan term is 20 years at 1.10% interest rate.

The next step in this process is a resolution adopted by the governing board accepting the funding offer. Funding offer with standard conditions and assurances is enclosed in the agenda packet along with the resolution.

**Z. Acceptance of Resolution for Lead Service Line Inventory Loan**

Enclosed in the agenda packet is a State Reserve Loan Resolution with the North Carolina Department of Environmental Quality in the amount of \$500,000 for the Lead Service Line Inventory project. Sixty percent (60%) of the loan up to a maximum of \$300,000 will be forgiven and the remainder will be repayable at 0.00% interest. The Town of Valdese is to develop a complete, detailed service line inventory for the entire Town that is compliant with Lead and Copper Rule Revisions (LCRR). The project will be performed in phases through desktop evaluation, meter box inspections, field locates (soft digs), and finally assembling the data and finalize and submit inventory report that is compliant with LCRR requirements to Division of Water Infrastructure (DWI).

**AA. Approval of Capital Project Ordinance – Lead Service Line Inventory**

Enclosed in the agenda packet is a Capital Project Ordinance prepared by Assistant Town Manager/CFO Bo Weichel. This ordinance reallocates funds to the appropriate account for the Lead Service Line Inventory project.

**BB. Approval of Resolution Accepting the 2023 Local Water Supply Approved Plan**

Enclosed in the agenda packet is the 2023 Local Water Supply Plan and a resolution approving its adoption. NC General Statute 143-355 (1) requires that each unit of government that provides public water services, or plans to provide public water services, shall prepare and submit a Local Water Supply Plan. The Town of Valdese plan has been submitted and approved with NC Department of Environment Quality.

**CC. Approval of Lenoir Interconnect Agreement**

Enclosed in the agenda packet is a Valdese – Lenoir Interlocal Water Agreement. This agreement would provide water to their system including rates, future increases, terms, conditions of service, and other important factors. The terms are reciprocal. The City of Lenoir will consider this agreement for adoption at their next Council meeting on August 6, 2024.

**DD. Approval of Interbasin Transfer Cost Sharing**

At the request of local governments, the WPCOG is providing coordination of our region's discussions and response to the Charlotte IBT request. The next steps are to employ specialized attorneys, engineers, and lobbying services to navigate this process. Charlotte Water will be required to do an environmental impact statement (EIS), required by law. The Environmental Management Commission (EMC) will hold a public hearing on the EIS sometime after the EIS is submitted.

The cost-sharing plan is based on the size of each local government utility system is attached. The WPCOG will serve as the contracting entity on behalf of the participating local governments. For Valdese to participate, our cost share is as follows:

- FY2024-25 = \$6,890.56
- FY2025-26 = \$5,418.22

**EE. Approval of Budget Amendment - Interbasin Transfer Cost Sharing**

Enclosed in the agenda packet is a budget amendment prepared by Assistant Town Manager/CFO Bo Weichel. This amendment reallocates \$6,891 to the appropriate account to participate in the FY24-25 Inter Basin Transfer cost sharing.

7. New Business

**A. Weavers Mill Housing Project Presentation**

Enclosed in the agenda packet are two PowerPoint presentations. Representatives with the Weavers Mill Housing Project will attend the meeting to present information to the Council.

**B. 2023 North Carolina Department of Labor Safety Awards**

Enclosed in the agenda packet is a memo from Fire Chief/Safety Director Truman Walton. Mr. Walton will present the departmental safety awards for 2023.

**C. Public Hearing: Rezoning Map Amendment 2-6-24 – B1 Central Business District to B-2 General Business District**

Planning Director Larry Johnson will present the proposed Re-zoning Map Amendment Application #2-6-24 requested by the Town of Valdese for properties located at 405-636 Main Street East, 161 Laurel Street NE, 454 Laurel Street NE, 725 Eldred Street SE, from current designation B-1 Central Business District to B-2 General Business. Enclosed in your agenda packet is a memo for Planning Director Larry Johnson and a Town Council Zoning Map Amendment Consistency and Reasonableness Statement for your approval. Mr. Johnson will also present a presentation at the meeting.

**Requested Action:** Staff recommends that Council approve the Re-zoning Application #2-6-24, and the Town Council Zoning Map Amendment Consistency and Reasonableness Statement, as presented.

**D. Drug and Homelessness Task Force Report**

Valdese Police Chief Marc Sharpe, will present a report to the Council.

**E. Facilities Review Committee Report**

Enclosed in the agenda packet is a presentation from Greg Refour and Roger Heavner, Co-Chairs of the Facilities Review Committee. They will present a report to the Council.

**F. Consideration of Agreement for Purchase and Sale of Improved Real Property and Additional Provisions Addendum**

Enclosed in the agenda packet is a purchase agreement for a property located at 215 East Main Street in Valdese, which is up for Councils consideration. Assistant Town Manager/CFO Bo Weichel will present it at the meeting.

**Requested Action:** To approve the Purchase Agreement.

**G. Consideration of AIA Document B101-2017 Standard Form Agreement Between Owner and Architect with Talley & Smith Architecture, Inc.**

Enclosed in the agenda packet is an AIA Document B101-2017, a Standard Abbreviated Form of Agreement between the Town of Valdese and Talley & Smith Architects for the renovation of a building for the Valdese Police Department. The Assistant Town Manager and CFO will present this agreement at the meeting.

**Requested Action:** To approve the Talley & Smith agreement contact.

**H. Review and Consideration of AIA Document B104-2017 Standard Form Agreement Between Owner and Architect (Talley & Smith, Inc. Public Safety Facility Study)**

Enclosed in the agenda packet is a letter from Talley & Smith Architecture, Inc., with a revised and updated scope for the Public Safety Study.

**Requested Action:** To approve the revised scope for the Public Safety Building study.

**I. Capital Project Ordinance Amendment – Public Safety Building**

Enclosed in the agenda packet is a Capital Project Ordinance Amendment prepared by Assistant Town Manager/CFO Bo Weichel. This ordinance amendment reallocates funds to the appropriate account for the Public Safety Building project.

**Requested Action:** To approve the Capital Project Ordinance.

**J. Street Resurfacing Status Report**

Enclosed in the agenda packet is a list of proposed streets for resurfacing, along with estimates from the DOT as of July 2, 2024. Public Works Director Allen Hudson will provide a status report.

**K. Permanent Pool Structure Update**

Parks & Recreation Director David Andersen will present an update to the Council.

**L. Waldensian Festival Plans – August 9 and 10, 2024**

Enclosed in the agenda packet, you will find a flyer about the Waldensian Festival along with a location map detailing the various setups in the Downtown area and its surroundings.

Community Affairs Director Morrissa Angi will present and discuss these plans during the meeting.

**M. Old Rock School Renovation Fundraising Disclosure**

Enclosed in the agenda packet is a letter from the Historic Valdese Foundation and a summary report detailing the fundraiser for the Old Rock School Auditorium seating.

**N. Consideration of Appointments to the Merchants Advisory Committee**

Enclosed in the agenda packet is a memo from Town Clerk Jessica Lail, along with the applications received for the appointments to the Merchants Advisory Committee. Council will need to appoint seven members, with terms assigned as follows:

- Two members for a one-year term
- Two members for a two-year term
- Three members for a three-year term

**Requested Action:** Appointments made by Council.

# READING MATERIAL



**VALDESE FIRE DEPARTMENT  
MONTHLY ACTIVITY REPORT**

**JUNE 2024**



<u>FIRE DEPARTMENT ACTIVITY</u>	<u>ACTIVITY HOURS</u>
Station Duty	113 Hours
Vehicle Duty	103 Hours
Equipment Duty	54 Hours
On-Duty Emergency Responses	100 Hours
On-Duty Training	41 Hours
Fire Administration	121 Hours
Training Administration	2 Hours
Meetings	28 Hours
Fire Prevention Administration	59 Hours
Fire Prevention Inspections	40 Hours
Public Relations	20 Hours
Hydrant Maintenance	57 Hours
Safety Administration	15 Hours
Safe Kids Activities	10 Hours
Extra Duty Fires	18 Hours
Extra Duty Training	7 Hours
Extra Duty Fire & Medical Standby	19 Hours
Physical Training	14 Hours
Extra Duty Medical Responses	37 Hours
Part-Time Firefighter Training	62 Hours
Part-Time Emergency Responses	112 Hours
<b>Total Training Hours</b>	<b>110 Hours</b>
<b>TOTAL MAN HOURS</b>	<b>1032 Hours</b>

<u>INSPECTION TYPE</u>	<u># OF INSPECTIONS</u>	<u>Violations</u>
Assembly	13	26
Business	5	8
Factory	2	0
Hazardous	1	5
Institutional	2	0
Mercantile	2	1
Residential	1	1
Re-inspection	18	0
<b>TOTAL</b>	<b>44</b>	<b>41</b>

**VALDESE FIRE DEPARTMENT  
MONTHLY ACTIVITY REPORT  
JUNE 2024**

**EMERGENCY INCIDENTS**

<b>Fire</b>	<b>3</b>
Building Fire	1
Fire in Mobile Property Used as Fixed Structure	1
Outside Rubbish Fire	1
<b>Rescue &amp; Emergency Medical Incidents</b>	<b>51</b>
Medical Assist	8
Emergency Medical Service (EMS) Incident	43
<b>Hazardous Condition</b>	<b>2</b>
Chemical Release, Reaction, or Toxic Condition	1
Electrical Wiring/Equipment Problem	1
<b>Service Calls</b>	<b>5</b>
Service Call Other	2
Cover assignment, Standby, Move Up	3
<b>Good Intent Calls</b>	<b>1</b>
Dispatched & Cancelled in Route	1
<b>False Alarm &amp; False Calls</b>	<b>7</b>
Unintentional System/ Detector Operation	7
<b>TOTAL EMERGENCY RESPONSES</b>	<b>69</b>

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Truman Walton, Chief  
Valdese Fire Department

## Community Affairs & Tourism Monthly Stats

### July 2024

#### Tourism Statistics

*visitvaldese.com views* 10,411

*townofvaldese.com views* 9,434

*Top 5 Pages Viewed (townofvaldese): Recreation, Utilities, Town Hall, Blog Posts, Police*

#### Facebook

*# of followers* 18,808

*Post Engagement (last 28 days)* 27,211

*Post Reach (last 28 days)* 106,258

#### Facebook Reactions/Feedback (last 28 days)

Reactions: 3,053 Comments: 512 Shares: 643 Photo Views: 7,691 Link Clicks: 682

TOP FIVE AUDIENCE LOCATIONS: Morganton, Valdese, Hickory, Lenoir, Drexel

*Approximate # of Visitors to the Tourism/CA Office* 55

#### Community Affairs Stats

##### Old Rock School Event Breakdown

AUDITORIUM	0
TEACHER'S COTTAGE	9
WALDENSIAN ROOM	0
CLASSROOMS	0
MAJOR EVENT (ENTIRE SCHOOL)	0
Major Events Held at the Old Rock School	Average Number of Attendees
N/A	0

*Monthly Old Rock School Events* 9

**Old Rock School Total Attendance** 67

#### CA Summary for July 2024

It has been a very busy Summer for Valdese Community Affairs. The Annual Independence Day Celebration held June 28th was a tremendous success with an estimated 17K attendees downtown. The FFN Summer Concert Series is still going strong, with excellent turn outs at each show. The season finale concert scheduled for August 30th with The Tonez. The Waldensian Festival is the second weekend of August and will feature over 150 street vendors and all day entertainment on Main Stage throughout the Festival. The renovations in the Old Rock School are nearly complete with very few finishing touches left to complete. Plans are underway for the Re-Dedication Celebration on October 5th. Individual bluegrass tickets are on sale and have continued to climb since the beginning of the month, along with consistent season ticket sales. Planning for other Fall events such as the Treats in the Streets and Christmas in November have also begun. The vendor applications went live the third week of July and have already generated a high return rate.

# VALDESE POLICE DEPARTMENT

James D Buchanan  
Assistant Chief of Police  
Post Office Box 339  
121 Faet Street  
Valdese, North Carolina 28690

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Telephone 828-879-2107  
Fax 828-879-2106

July 30, 2024

To: Mayor & Council  
From: Asst. Chief Buchanan  
Re: Boots on the Ground

Progress Reports: Boots on the Ground

Location:	Officers Visits:
McGalliard Falls	52 Visual Checks/Walk around
Old Rock Schools	50 Visual Checks/Walk around
Children's Park	37 Visual Checks/Walk around
Community Center	40 Visual checks/Walk around
Lakeside Park	11 Visual checks/Walk around
Main St. Extra Patrol	70 Nightly Door Checks
Business/Residential Contact	30 Community Policing

Our officers have logged 419 residential/business security checks, 472 extra patrols and 29 community policing in the month July, 2024 for 920 events related to the safety, security and public interest. As of this date, our department has logged 10,376 events into CAD ranging from vehicle stops, security checks and any incident report from citizens of Valdese.

**Surplus Personal Property Report for Valdese Town Council  
February 2024  
(February 1, 2024 – July 31, 2024)**

<u>Date</u>	<u>Dept</u>	<u>Item(s)</u>	<u>Method of Disposal</u>	<u>Sold To</u>	<u>Selling Price</u>
2/1/2024	PW	2001 Jeep Cherokee	GovDeals	Jarod Lyons	\$5,175.00
7/24/24	PW	2013 deck over trailer	GovDeals	Jeffrey Smith	3,850.00
7/24/24	PW	1995 hudson trailer	GovDeals	Robert Atkinson	1,525.00
7/24/24	PW	1987 Flat bed	GovDeals	Tim Norman	5,800.00
7/24/24	Police	2012 Charger	GovDeals	Colt Howell	3,600.00

May 28, 2024, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL PRE- AGENDA MEETING  
MAY 28, 2024**

The Town of Valdese Town Council met on Tuesday, May 28, 2024, at 3:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The Council meeting was live-streamed on YouTube @townofvaldese. The following were present: Mayor Charles Watts, Mayor Pro Tem Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen, Town Attorney Tim Swanson, Town Clerk Jessica Lail, and various Department Heads.

Absent:

A quorum was present.

Mayor Watts called the meeting to order at 3:00 p.m. He offered the invocation and led in the Pledge of Allegiance to the Flag.

**NEW BUSINESS**

**PRESENTATION OF APPRECIATION** Mayor Watts presented the following Resolution of Appreciation to retiring Water Resources Director, Greg Padgett:

**WHEREAS**, Greg Padgett for the past 20 years has served the Town of Valdese with distinction as a committed and dedicated public servant with the Water Resource Departments; and

**WHEREAS**, throughout his tenure, Greg Padgett's profound knowledge and steadfast dedication have significantly contributed to the effective management and sustainability of our vital water resources; and

**WHEREAS**, under Greg Padgett's guidance, the Town of Valdese has made remarkable strides in the efficient utilization and conservation of water ensuring it's availability for generations to come; and

**WHEREAS**, Greg Padgett has demonstrated exceptional leadership, fostering teamwork and collaboration within the Water Resource Departments, and earning the respect and admiration of colleagues and community members alike; and

**WHEREAS**, Greg Padgett has consistently demonstrated a passion for environmental stewardship, advocating for responsible water management practices and spearheading initiatives to safeguard our water supply; and

**WHEREAS**, Greg Padgett's leadership led to innovative modifications in disinfection treatment strategies, enhancing public safety while simultaneously reducing chemical costs, including pioneering a first in the State pilot study to replace chlorine disinfection with peracetic acid disinfection; and

**WHEREAS**, Greg Padgett played a pivotal role in the development and advancement of Valdese's annual Capital Improvement Process (CIP), ensuring continued infrastructure enhancements for the community's benefit; and

**WHEREAS**, Greg Padgett's continuous dedication has resulted in the optimization and maintenance of our water facilities, ensuring a consistently high level of service for our residents.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Valdese as we take this occasion to express honor, respect, and admiration to **Greg Padgett** for his outstanding contributions to the Water Departments and the Town of Valdese.

**BE IT FURTHER RESOLVED**, that the Town Council of the Town of Valdese, North Carolina, hereby expresses its sincere appreciation and gratitude to **Greg Padgett** for his service and leadership to the Water Departments and the Town of Valdese during the past 20 years and extends congratulations and best wishes upon his retirement.

May 28, 2024, MB#32

Adopted this the 28<sup>th</sup> day of May, 2024.

/s/ Charles Watts, Mayor

**REVIEW AND DISCUSSION OF JUNE 3, 2024 PRELIMINARY AGENDA:**

Assistant Town Manager Bo Weichel added one item under Consent Agenda 6 F. Approval of American Rescue Plan Act Funding Policies. Mr. Weichel added a seventh policy title, Electronic Advertisement.

Mayor Watts asked if there were any questions under the consent agenda. No questions were asked.

**VALDESE POLICE DEPARTMENT PRESENTATION** Mayor Watts said that this presentation would take place on June 3, 2024.

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPOINTMENTS AND/OR REAPPOINTMENTS TO VALDESE ECONOMIC DEVELOPMENT INVESTMENT CORPORATION (VEDIC) BOARD** Mayor Watts noted that there would be two appointments nominated by the VEDIC Board, Tim Barus and Kylie Gera. Mayor Watts said if Council members have other nominations, that would take place at the June 3, 2024 meeting. If someone is interested in serving, an application can be found on the Town's website.

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**FY 24-25 PROPOSED BUDGET AND SCHEDULING OF PUBLIC HEARING FOR MONDAY, JUNE 17, 2024** Assistant Town Manager/CFO Bo Weichel recapped what Council wanted removed from the General Fund budget from the last meeting, \$100,000 Land Use Plan, reduced Attorney fees from \$120,000 to \$80,000, \$150,00 of the \$324,000 Public Safety money will go towards additional paving, ABC revenue that was being put into Public Safety goes back into the General Fund, added a \$2.00 Recycling fee increase, reduced Friday Family Night series in the amount of \$40,000, removed money for a full-time planner, reduced County election fees, and added \$5,000 for additional Police training. Mr. Weichel said we are at a \$69,000 fund balance appropriation with all those numbers run. Councilman Harvey was concerned that there were some things the Council had not resolved, such as staff COLAs, and recommended a 4% increase with money allocated for staff training. Councilman Harvey identified the training needed: Process Improvement, Customer Service, and Teamwork. Mayor Watts expressed his concerns about the staff COLA and workforce shortage and recommended a 5% increase. Councilman Harvey would like a salary study completed. Councilwoman Lowman has no problem adding training to the budget but would like the Council to be included in the training. Councilman Mears likes the idea of training, an updated salary study, and a 5% COLA. Councilman Harvey asked the Council members to consider removing themselves from the employee insurance program and adding compensation to cover the expense. Mr. Weichel suggested waiting until the new manager is hired to determine what training we need and then do a budget amendment at that time for the cost. Councilwoman Ward expressed disappointment for not having an orientation when appointed and feels that is a big reason why the Attorney fees are higher.

Mr. Weichel recapped the Utility Fund and shared that we are not pulling anything from the reserves. Mr. Weichel said that we have the outside water user's rate at 1.5 times over a 2.0 multiplier, moved inside residential water to a no increase, and increased the bulk users to 6%. Mr. Weichel noted that we removed the \$600,000 vector truck and moved that fund to add more aerators to do a one-and-done installation. The Council discussed the outside water rate with the 2.0 multiplier because they have received many calls and complaints. Most of the Council members would like to see the 1.5 multiplier. If we do, Mr. Weichel noted that we would have to look at the capital plan and possibly take away an aerator.

Councilman Harvey asked if the Efficiency Committee looked into the in-ground lift for \$30,000, which was reduced to \$20,000, a pickup truck in the Streets department, and a tractor with a mower for \$60,000. Mr. Weichel said they looked at it and decided it was best to keep those in the budget, so they are currently still in the budget. Councilman Harvey asked about the fee schedule and if there were any deferential outside fees. Mr. Weichel said there was some at the Recreation Center. Councilwoman Lowman asked if we had looked into adding adult orthodontics to the dental plan. Mr. Weichel said we did add it at a minimal cost. The Council further discussed staff COLAs and insurance plans. Councilman Mears, Councilwoman Lowman, and Councilman Ogle want a 5% COLA. Councilwoman Ward is having a hard time determining what the COLA should be.

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Mr. Weichel asked if the Council wanted to add a fee for public records request that was discussed at an earlier meeting. Town Attorney Tim Swanson said that you could charge for the IT time for email records requests and that the Town is getting around three to four requests a month for emails. Mr. Weichel said that IT services are \$110.00 an hour. Councilwoman Lowman feels if someone wants the records, that fee is too high, and she has a problem with that. Councilman Mears is not in agreement but recommends letting the requestor know how much it costs the Town. There will not be a fee added to the fee schedule.

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**REVISION TO VALDESE TOWN COUNCIL RULES & REGULATIONS – RULE 5. PUBLIC COMMENT - COUNCIL DISCUSSION** Interim Town Manager Bryan Steen asked if the Council wanted to change the rules of public comments. Councilwoman Lowman is very pleased with what we have in place and does not think we should limit people. Councilman Harvey liked the Town of Albemarle Rules and Regulations that Mr. Steen shared with the Council and thought they had good ideas. Mayor Watts and Councilman Mears are happy with keeping things as they are. Councilwoman Ward would be in favor of limiting the presentations. Council members would like to see the presentations limited to 15 minutes and leave the public comments at five minutes. Town Attorney Tim Swanson will look at language to limit presentations to 15 minutes.

**RESULT: REMOVED FROM THE JUNE 3, 2024, MEETING**

**CONSIDERATION OF APPROVING RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC STREET MAINTENANCE COMMITTEE** Councilman Harvey shared that there are three proposed new ad hoc committees to continue public involvement. Councilwoman Lowman asked if we could wait until we got a Town Manager to get input from them. Councilman Harvey feels it is a Council decision.

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPROVING RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC UTILITIES INFRASTRUCTURE COMMITTEE**

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPROVING RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC MERCHANTS ADVISORY COMMITTEE**

**RESULT: MOVED WITHOUT OBJECTION TO THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPROVING RESOLUTION OF LOCAL ADMINISTERED PROJECT PROGRAM (LAPP) LOVELADY SIDEWALK** Planning Director Larry Johnson shared that he and Councilman Harvey attended a Transportation meeting in April in Hickory and learned that funding was available for certain projects. Staff came up with a project that would install a sidewalk from Laurel Street along the northern edge of Lovelady Road down to the park. Mr. Johnson shared that this would be completed in two phases: phase 1 would be the sidewalk construction from Laurel to Crescent Street, and phase 2 would be to continue to Lakeside Park. Mr. Johnson noted that the Resolution would need to be approved so the Town could apply for the funds. Mr. Johnson said the commitment for the Town would be 20%.

**Lovelady Sidewalk Phase 1: STBG-DA Funding – Funding to construct sidewalk connecting existing Laurel Street sidewalk to Crescent Street NE.**

- Estimated Total Project Cost: \$1,430,700.00
  - o 80% Federal Share: \$1,144,560.00
  - o 20% Local Share: \$286,140.00

**Lovelady Sidewalk Phase 2: STBG-DA Funding – Funding to construct sidewalk connecting phase 1 to Lake Rhodhiss Drive.**

- Estimated Total Project Cost: \$2,240,960.00
  - o 80% Federal Share: \$1,792,768.00
  - o 20% Local Share: \$448,192.00



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Daniel Odom, Transportation Projects Director from WPCOG said that the applications will be reviewed and approved in June.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF MASTER SERVICES AGREEMENT WITH MCGILL ASSOCIATES** Assistant Town Manager/CFO Bo Weichel shared that this agreement is an on-demand professional service we can use for Water Resources expertise since Greg Padgett retired and for task orders on actual projects. Mr. Weichel, we would pay hourly as needed.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF INTERIM TOWN MANAGER**

**RESULT: MOVED TO AFTER CLOSED SESSION**

**CONSIDERATION OF APPROVING RESOLUTION OF AUTHORIZING UPSET BID PROCESS FOR THE SALE OF TOWN-OWNED PROPERTY – 338 TRON AVE** Assistant Town Manager/CFO Bo Weichel said the following two items go together. The Town received an offer of \$3,500 to purchase two side-by-side parcels, and this resolution would allow us to go through the upset bid process. Councilman Harvey noted that the lots are assessed at \$20,000. Councilman Harvey said the Town has five to six parcels left and recommends the Council give a local realtor the opportunity to list and market them. Councilman Harvey recommended not taking this offer.

**RESULT: REMOVED FROM THE AGENDA**

**CONSIDERATION OF APPROVING RESOLUTION OF AUTHORIZING UPSET BID PROCESS FOR THE SALE OF TOWN-OWNED PROPERTY – 342 TRON AVE**

**RESULT: REMOVED FROM THE AGENDA**

**CONSIDERATION OF APPROVING RESOLUTION OF SALE OF TOWN-OWNED PROPERTY - 308 STUART AVE SE** Assistant Town Manager/CFO Bo Weichel shared that the following three items went through the upset bid process by the same person, and there were no upset bids. Mr. Weichel noted that 308 Stuart was for \$10,000, 317 Stuart was for \$20,000, and 460 Perkins was for \$40,000.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPROVING RESOLUTION OF SALE OF TOWN-OWNED PROPERTY - 317 STUART AVE SE**

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CONSIDERATION OF APPROVING RESOLUTION OF SALE OF TOWN-OWNED PROPERTY – 460 PERKINS RD SE**

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**CAPITAL PROJECT ORDINANCE AMENDMENT – CLINE AVE PUMP STATION** Assistant Town Manager/CFO Bo Weichel said that this amendment is just amending the Capital Project Ordinance to account for the construction cost and SRP loan we are getting.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

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**CAPITAL PROJECT ORDINANCE – POOL STRUCTURE** Assistant Town Manager/CFO Bo Weichel said this is setting up a Capital Project Ordinance for the pool structure at the Aquatics Center.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

Town Attorney Tim Swanson said that we needed to add a Trail Easement between Hoyle Creek and Lake Rhodhiss Road to the June 3, 2024, agenda.

**RESULT: PLACED ON THE CONSENT AGENDA AT THE NEXT MEETING ON JUNE 3, 2024, AT 6:00 P.M.**

**INTERIM MANAGER’S REPORT:**

Family Friday Nights continue each Friday in June on Temple Field from 7:00 p.m. – 10:00 p.m.

Valdese Independence Day Celebration, Friday, June 28, 2024, 6:00 p.m., Main Street

Next Regular Council meeting scheduled for Monday, June 17, 2024, 6:00 p.m.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:

- **Closed Session under NC General Statute 143-318.11(a)(3)** to consult with an attorney retained by the Town in order to preserve the attorney-client privilege between the Town attorney and the Town Council, which privilege is hereby acknowledged.
- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

At 4:49 p.m., Councilwoman Lowman made a motion to go into closed session, seconded by Councilman Mears. The vote was unanimous.

At 5:34 p.m., Councilwoman Lowman made a motion to return to open session, seconded by Councilwoman Ward. The vote was unanimous.

**ADJOURNMENT:** At 5:36 p.m., there being no further business to come before Council, Councilman Harvey made a motion to adjourn, seconded by Councilwoman Lowman. The vote was unanimous.

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Town Clerk

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Mayor

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**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
JUNE 3, 2024**

The Town of Valdese Town Council met on Monday, June 3, 2024, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The Council meeting was live-streamed on YouTube @townofvaldese. The following were present: Mayor Charles Watts, Mayor Pro Tem Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen, Town Attorney Tim Swanson, Town Clerk Jessica Lail, and various Department Heads.

Absent:

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**

**VALDESE POLICE DEPARTMENT PRESENTATION** Valdese Police Chief Marc Sharpe presented the following presentation:

"I think we can all agree many times in everyone's job, some of their greatest efforts or an exemplary performance goes unnoticed or is not recognized.

As an opening, I would like to share a brief synopsis of an incident in my career which was perhaps my most rewarding thus far to illustrate what I am speaking about.

Around 2005, while an SBI Agent, I worked a sexual assault case involving two little girls, (Children) who were 5 and 6 years old. Without going into great detail, I was placed in a situation where I had to make a decision in the case concerning the suspect who was their father of which they had very little contact with. The girls were not direct victims of their Father's wrong doing but were collateral damage. I created a meeting at their Mother's request in my office, with their Father so that the girls could say goodbye before he was sentenced to prison for the rest of his life.

Fast forward, 2018, I had just left the SBI, placing many cases and their details behind me in my past. I was going on a fishing trip with friends to relax for a couple of days and needed a fishing license. As I stood at the counter speaking with a female employee who looked at my driver's license, she asked, are you Marc Sharpe the SBI Agent? Perplexed with 1000 thoughts going through my mind, I said that could be a loaded question why do you ask? The young lady answered, if you are him I met you when I was six years old and while the moment was bad for my Dad it was good for me. You did your job and my Dad got what he deserved for the things he did. You were compassionate and caring and allowed me to say bye to him even though I really didn't know him at that time. I will never forget you for that and if you are him, **"Thank You"**. I tearfully hugged the young lady admitting who I was and we parted ways for the second time in our lives.

A Chance encounter, some of us may think so, more of a blessing, it became the greatest reward of my career thus far for a deed done that was unnoticed, never even spoken about until that day. Now, **Hold that thought.**

On April 19<sup>th</sup>, 2024 each of the seated employees of the Valdese Police Department were instrumental in locating, securing, and rescuing, a (27) twenty seven day old infant reported missing from the State of Florida. My officers and employees worked for several days investigating and attempting to find the child which authorities thought may be in the Valdese area but was not quite sure just where.

During this period much time was spent with information passed on from shift to shift communicating and investigating to the point of almost involving every member of the department to insure this case ended in proper fashion. Once the child was actually located a mother and father had to be communicated with in a

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tense situation to once again insure the child's safety and insure the child was turned over to Florida authorities as requested on the custody order received from the State of Florida.

Judges, Attorney's, DSS, the State of Florida's Department of Children and Families were all in communication with the Valdese Police Department and its employees to make sure the situation was properly handled.

When your time was called to step into the arena each of you did so and completed your task to take care of a child.

Just before midnight Florida authorities and investigators with the Florida Department of Children and Families arrived and took custody of the child transporting the child back to Florida.

Each of your duties over the time period of this case consisted of investigations, planning, transporting, child care, meal prep, counselor, feeding, and yes even rocking a child to sleep in the police department.

I want each of you to know someone noticed, someone was watching, your Chief was watching, and I want your Town to know about the job you did to complete this task. Your dedication and teamwork was exemplary.

I would ask that each of my employees stand to be recognized.

I would now ask that every member of this room give a round of applause and thank each of you for your exemplary performance during this incident. I and the citizens of Valdese applaud your efforts.

In closing a letter was shared with the council from the State of Florida as well as an exemplary performance letter from me. A copy of those letters will be provided to each of you and a copy will be placed in your departmental file.

Perhaps another unknown should be shared about this incident. The Mother of the child sent back to Florida that night told me as she left the Valdese Police Department that unfortunately this was not the first child that had been taken from her by authorities. She then added she had had many dealing with the Police in her life. Then she said she had never been treated with the compassion and kindness that she had received on this occasion from our officers and employees. The Mother said in this bad situation for all of us, your department was only good.

I can only hope for my officers and employees, one day one or all of you is rewarded with that chance encounter in this case from one or all involved thanking you for something that turned out the right way. Thank you all for your time."

**FOOTHILLS BROADBAND – WENDY HARDIN, 313 SPRINGWOOD DR. NE, VALDESE:** Ms. Hardin provided a copy of public comments to the Town Clerk:

Good evening,

My name is Wendy Hardin and my husband and three children reside in the Springwood neighborhood in Valdese. I was born and raised in Morganton and am a public school teacher. My husband is in the IT business and often works from home.

As a constituent of this Council, I would like to speak about a new business trying to be established here in the town of Valdese, that business being Foothills Broadband, a fiber optic internet provider. After speaking at length with Mr. Zachary Chiz, the founder and Chief Operating officer of Foothills Broadband, the company signed a one year lease in April 2023 for a .21 acre piece of property located at 204 Janavel Ave. Sw, currently owned by the Town of Valdese. This property was used to place a large piece of the main infrastructure for the broadband equipment, with the agreement that the lease would be extended for 10 years. The property, located at 204 Janavel Av. SW, was vacant and not generating any income for the town.. With the current lease to Foothills Broadband, the town collects \$500 per month, and with an increase at an agreed upon set rate, in the extended 10 year lease, the Town of Valdese would generate \$79,000. That's a pretty good deal in my opinion.

The large piece of equipment has been installed and the company is ready to proceed. However, from my understanding, there has been some resistance from the newly elected town council members who were not serving at the time of the original lease agreement. Without the renewal of the lease, the business essentially will be inoperable. The concern is whether Foothills Broadband will "come through with their end of the deal" and complete the installation and any repairs to city maintained roads and sidewalks that have been disturbed during the process.

In my opinion as a constituent of this council, this is an issue that should not even be discussed. How do you expect to expand any town, community, and/or business, as my late father used to say, without any growing pains? Which do we value more - pavement or progress? Interruption of traffic and sidewalks or displaying a community who embraces the future, especially when business owners who were born and raised right here in Burke County want to invest in the community and help make it the best it can be.

May I speak about the character and moral values of Mr. Chiz, founder and COO of Foothills Broadband. I have known Zachary and his family for many years and taught Zachary, his twin brother Eric, and his older sister, Andrea in children's choir at Burkemont Baptist Church in Morganton some 20 years ago. The Chiz family is honest, hard working, and

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committed to our community. Through the years I have seen multiple displays of utmost ethics and honesty in Zach during his teenage years on mission trips, in Vacation Bible School, and in hearing about his success from his family after he graduated and left for college. The Chiz family is always willing to help and have proven to follow through on any commitment they make. Zachary and his wife, Jodi have a vision to help provide this service not only for current residents and business, but also for future growth of our beautiful town.

In closing, I ask that you vote to renew and extend the lease of 204 Janavel Avenue to Foothills Broadband and allow Mr. Chiz and his company to begin providing fiber optic internet to the citizens of Valdese, NC. For my family, that means having access to much needed faster and more reliable internet service. For the town of Valdese, this means the ability to offer fiber optic internet to larger businesses and franchising looking to expand in our area. For citizens without current internet connection, Foothills Broadband will allow them to have basic levels of access for safety, security, and support.

Thank you.

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**BUDGET PROPOSALS – TAMIKA GARRISON, 807 MICOL AVE NE, VALDESE:** Ms. Garrison provided a copy of public comments to the Town Clerk:

"I want to address the conversation among the council about the opportunity for pay increases for our town employees. I also want to say that I am available to expand upon anything I am about to say to any council member individually or collectively because I believe in the systems we have in place, and that my voice as a public servant, volunteer, and concerned citizen is important both in this setting and as neighbors of this town.

The fact is, we have all been affected by inflation and the steady increase of costs nationwide. Town of Valdese citizens have been no strangers to this themselves.

I also empathize with folks who had to take out a loan to pay their taxes, because we had to borrow money to pay our taxes this past year. I was pastoring a small church, we had several unexpected medical expenses, and my father's health declined and he died on Christmas eve, around the time we would have typically paid our taxes. My husband, being the main source of income at the time, is a Valdese town employee and a Valdese citizen in Ward 1. As all of you know, responsibilities do not stop because of our circumstances. Our councilperson at the time made phone calls to us, checking in and offering his support for us through all of our tough circumstances, being a friend first, neighbor second, and councilman 3rd.

Another town employee, with a 4 year degree, could not get approved to purchase a home in city limits because their income was deemed inadequate for a first time buyer's loan with the cost of living and median price of homes now in Valdese. This individual has been forced to look outside of our town for homes because of this circumstance.

There are several examples of town employees who are in tough positions financially and other employees who have donated their banked sick or vacation time to support one another through various financial hardships.

For those of you who serve the town of Valdese in civic organizations and public service groups, you are made aware of many of these needs because you are volunteering your time serving the people of Valdese. Most recently, I had the privilege of serving two mobile food drives in this community. One at Abernethy Methodist and the other at First UMC here in valdese. I recognized over 20 of our town employees receiving food between these ministries because grocery money is sparing on town income.

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There are many other stories I can't share due to privacy concerns and the fear that has been cast over the vast majority of our employees. Many of whom, I am sure, would love to feel the same support we felt through their own adversities.

I share all of this to say that I am more than a little concerned. We know that based on studies, neighboring municipalities will be experiencing a labor shortage. That means open door opportunities for our town employees to seek positions elsewhere with better pay, leaving Valdese with unfilled vacancies for long periods of time. Vacancies that put undue workload on existing employees. Let's not try so hard to lower our taxes to prove a point that we neglect our most precious resources. Let's think forward about the future of our town and the wellbeing of citizens, employees, and services.

As I stand before you council, I am not asking for you to agree with me or take my word for it. I am asking you to consider that there is more out there than you may be aware of. I am asking you to hear the voices of 25 plus employees through my words here today. Equity is not just about money or resources, it is about being fair. I pray that you will be equitable in your decisions this evening."

**TOWN MEETINGS – JEAN-MARIE COLE, 705 BERTIS ST, VALDESE:** Ms. Cole shared that she was disappointed at the last agenda review meeting. She showed up at 6:00 p.m., and no one was there. Ms. Cole noted that this was the second time a meeting had been moved this year. She never found anything that gave a new time for the meeting, so she is concerned about that and would like the process fixed.

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

**APPROVED AGENDA REVIEW MEETING MINUTES OF APRIL 29, 2024**

**APPROVED REGULAR MEETING MINUTES OF MAY 6, 2024**

**APPROVED CLOSED SESSION MINUTES OF MAY 6, 2024**

**APPROVED LEASE AGREEMENT AT THE OLD ROCK SCHOOL WITH DREAM CONNECTIONS** Lease agreement for rental space at the Old Rock School. The Dream Connections Lease is in the amount of \$1,100 per month.

**APPROVED AMERICAN RESCUE PLAN ACT (ARPA) FUNDING POLICIES** Revised policies to meet the requirements for current and future federal funding. To obtain a copy of the policies, contact the Clerk's office.

- i. Record Retention Policy
- ii. Eligible Use Policy
- iii. Allowable Cost Policy
- iv. Civil Rights Compliance Policy/Nondiscrimination
- v. Conflict of Interest Policy
- vi. Procurement Policy
- vii. Resolution for Electronic Advertising for Bidding

**APPROVED RESOLUTION OF LOCAL ADMINISTERED PROJECT PROGRAM (LAPP) LOVELADY SIDEWALK**

RESOLUTION AUTHORIZING TOWN OF VALDESE TO SUBMIT AN APPLICATIONS TO THE GREATER HICKORY METROPOLITAN PLANNING ORGANIZATION IN THE AMOUNT OF \$3,671,660.00 AND WILL COMMIT \$734,332.00 AS A CASH MATCH FOR LOVELADY ROAD SIDEWALK PHASE 1 & 2.

**LEGISLATIVE INTENT/PURPOSE:**

On March 27, 2024, the Greater Hickory Metropolitan Planning Organization (GHMPO) issued a call for projects to agencies in its jurisdiction for Surface Transportation Program- Direct Appointment (STBG-DA). Funding is available for Bicycle and Pedestrian, Intersections, Roadway, and Transit. The funding requires a 20% minimum local match.

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The Town of Valdese is submitting applications for the following projects:

**Lovelady Sidewalk Phase 1:** STBG-DA Funding – Funding to construct sidewalk connecting existing Laurel Street sidewalk to Crescent Street NE.

- Estimated Total Project Cost: \$1,430,700.00
  - o 80% Federal Share: \$1,144,560.00
  - o 20% Local Share: \$286,140.00

**Lovelady Sidewalk Phase 2:** STBG-DA Funding – Funding to construct sidewalk connecting phase 1 to Lake Rhodhiss Drive.

- Estimated Total Project Cost: \$2,240,960.00
  - o 80% Federal Share: \$1,792,768.00
  - o 20% Local Share: \$448,192.00

NOW, THEREFORE, BE IT RESOLVED:

That, the Town of Valdese is hereby authorized to submit a STBG-DA application in the amount of \$3,671,660.00 and will commit \$734,332.00 as cash match for the Lovelady Sidewalk Project.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**APPROVED MASTER SERVICES AGREEMENT WITH MCGILL ASSOCIATES** An agreement with McGill Associates, P.A. for on-demand professional, multi-dimensional consulting services from time to time on an as-needed basis, to assist with Town projects, including but not limited to planning, design, bidding, and construction services up to and including public water distribution, sanitary sewer collection, transportation, water resources, administrative, funding and facility design, along with specific needs for supplemental engineering services. To obtain a copy of the agreement, contact the Clerk's office.

**APPROVED RESOLUTION OF SALE OF TOWN-OWNED PROPERTY - 308 STUART AVE SE**  
RESOLUTION AUTHORIZING SALE OF REAL PROPERTY

*Sale of 1.00 +/- Acre Tract at 308 Stuart Ave SE, Valdese, NC (REID: 10507)*

WHEREAS, the Town of Valdese (the "Town") is the owner of that certain tract or parcel of real property (the "Property") situated in Lovelady Township, Valdese, North Carolina commonly known as 308 Stuart Ave SE, Valdese, North Carolina, PIN: 2743526258, REID: 10507, which Property is more particularly described in Deed Book 1044, Pages 150-152, Burke County Registry as follows:

BEGINNING on iron stake at the intersection of the new road and runs then North 76° East with north margin of said new road, 18½ poles to stake, a corner of Lot No 3, then with Lot No. 3, 24 poles more or less to a stake in the road, then with the road, 26 poles to the point of BEGINNING, containing 1 acre, more or less, being Lot No 4 of Report of Commissioners Deed.

WHEREAS, North Carolina General Statute §160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property;

WHEREAS, on or about March 25, 2024, the Town received an offer to purchase the Property from Michael R. Abee for \$10,000.00; and

WHEREAS, at its May 6 2024 regular meeting, Town Council adopted a Resolution Authorizing Upset Bid Process authorizing the sale of the Property through the upset bid procedure of North Carolina General Statute § 160A-269;



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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 offer of Michael R. Abee for \$10,000.00 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 Michael R. Abee and sell the Property to Michael R. Abee upon the terms hereafter set forth; and

WHEREAS, Michael R. Abee will be responsible for all legal fees associated with preparing the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

IT IS THEREFORE RESOLVED that, pursuant to N.C.G.S. § 160A-269, the sale of the Property to Michael R. Abee for the purchase price of \$10,000.00 is approved and the Town Manager is hereby authorized and directed to deliver to Michael R. Abee a special warranty deed for the Property upon receipt of the purchase price, subject to the following terms and conditions: 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; that Michael R. Abee pay all legal fees associated with preparation of the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**APPROVED RESOLUTION OF SALE OF TOWN-OWNED PROPERTY - 317 STUART AVE SE**  
**RESOLUTION AUTHORIZING SALE OF REAL PROPERTY**

*Sale of 3.28 +/- Acre Tract at 317 Stuart Ave SE, Valdese, NC (REID: 38623)*

WHEREAS, the Town of Valdese (the “Town”) is the owner of that certain tract or parcel of real property (the “Property”) situated in Lovelady Township, Valdese, North Carolina commonly known as 317 Stuart Ave SE, Valdese, North Carolina, PIN: 2743528801, REID: 38623, which Property is more particularly described in Deed Book 112, Page 522, Burke County Registry as follows:

Beginning at a point in center of road in line of the Town of Valdese, Impounding Basin and runs with the said line the following courses and distances, North 32 deg. 0’ West 71.1 feet; North 41 deg. and 52’ East 65 feet to the center of creek; thence down the meanders of said creek and the line of Valdese Property line, approximately North 25 deg. West 435 feet to a point in creek, their corner; thence down the meanders of the present creek as now runs North 32 deg. and 30’ West 180 feet to the mouth of Culvert over the Railroad; the same course North 32 deg. and 30’ West 50 feet to a point in center of Creek over the Culvert of the Southern Railroad track; thence with the center of Southern Railroad tract North 86 deg. West 240 feet to a point in said tract; thence leaving the railroad and running South 6 deg. East 51 feet to a white oak a new marked corner 3 hacks; thence with a new line South 18 deg. and 0’ East 560 feet to a point in center of road leading across the Impounding Water Basin of the Town of Valdese; thence with the said road approximately 330 feet to the point of Beginning, and containing 4 acres more or less, as surveyed by James A. Harbison, County Surveyor, December 22, 1951.

WHEREAS, North Carolina General Statute §160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property;

WHEREAS, on or about March 25, 2024, the Town received an offer to purchase the Property from Michael R. Abee for \$20,000.00; and

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WHEREAS, at its May 6 2024 regular meeting, Town Council adopted a Resolution Authorizing Upset Bid Process authorizing the sale of the Property through the upset bid procedure of North Carolina General Statute § 160A-269;

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 offer of Michael R. Abee for \$20,000.00 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 Michael R. Abee and sell the Property to Michael R. Abee upon the terms hereafter set forth; and

WHEREAS, Michael R. Abee will be responsible for all legal fees associated with preparing the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

IT IS THEREFORE RESOLVED that, pursuant to N.C.G.S. § 160A-269, the sale of the Property to Michael R. Abee for the purchase price of \$20,000.00 is approved and the Town Manager is hereby authorized and directed to deliver to Michael R. Abee a special warranty deed for the Property upon receipt of the purchase price, subject to the following terms and conditions: 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; that Michael R. Abee pay all legal fees associated with preparation of the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

/s/ Charles Watts, Mayor

ATTEST:  
/s/ Town Clerk

**APPROVED RESOLUTION OF SALE OF TOWN-OWNED PROPERTY – 460 PERKINS RD SE**  
**RESOLUTION AUTHORIZING SALE OF REAL PROPERTY**

*Sale of 13.44 +/- Acre Tract at 460 Perkins Rd SE, Valdese, NC (REID: 38624)*

WHEREAS, the Town of Valdese (the “Town”) is the owner of that certain tract or parcel of real property (the “Property”) situated in Lovelady Township, Valdese, North Carolina commonly known as 460 Perkins Rd SE, Valdese, North Carolina, PIN: 2743624062, REID: 38624; and

WHEREAS, North Carolina General Statute §160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, on or about March 25, 2024, the Town received an offer to purchase the Property from Michael R. Abee for \$40,000.00; and

WHEREAS, at its May 6 2024 regular meeting, Town Council adopted a Resolution Authorizing Upset Bid Process authorizing the sale of the Property through the upset bid procedure of North Carolina General Statute § 160A-269;

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 offer of Michael R. Abee for \$40,000.00 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 Michael R. Abee and sell the Property to Michael R. Abee upon the terms hereafter set forth; and

WHEREAS, Michael R. Abee will be responsible for all legal fees associated with preparing the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

IT IS THEREFORE RESOLVED that, pursuant to N.C.G.S. § 160A-269, the sale of the Property to Michael R. Abee for the purchase price of \$40,000.00 is approved and the Town Manager is hereby authorized and directed to deliver to Michael R. Abee a special warranty deed for the Property upon receipt of the purchase price, subject to the following terms and conditions: 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; that Michael R. Abee pay all legal fees associated with preparation of the closing documents and all closing costs necessary to transfer ownership from the Town to Michael R. Abee.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.  
 /s/ Charles Watts, Mayor

ATTEST:  
 /s/ Town Clerk

**APPROVED CAPITAL PROJECT ORDINANCE AMENDMENT – CLINE AVE PUMP STATION**

Valdese Town Council Meeting

Monday, June 3, 2024

Capital Project Ordinance Amendment # 1-50

Subject: Cline Ave Pump Station

Description: To amend Project Ordinance 50 for to account for the construction contract approved at the May 6, 2024 meeting.

**Proposed Action:**

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the capital project ordinance for various capital projects funded from a variety of sources is hereby amended as follows.

**Section I:**

Revenues available to the Town to complete the projects are hereby amended as follows:

Account	Description	Decrease/ Debit	Increase/ Credit
50.3000.001	Utility Fund Contribution		7,260
50.3000.002	SRP Loan		312,510
Total		\$0	\$319,770

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
50.8110.600	Loan Closing Fee	6,780	
50.8110.800	Construction	197,190	
50.8110.900	Contingency	115,800	
Total		\$319,770	\$0

**Section II:**

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

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**APPROVED CAPITAL PROJECT ORDINANCE – POOL STRUCTURE**

TOWN OF VALDESE  
POOL STRUCTURE  
CAPITAL PROJECT ORDINANCE

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1. The project authorized is the Pool Structure at the Jimmy C. Draughn Aquatic Center. This project involves building a permanent structure over the pool for year-round swimming. The project will be funded by a combination of grants and Town funds.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the program ordinance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to contribute to this project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Transfer from General Fund	\$ 119,340	31.3970.000
	-----	
	\$ 119,340	
	=====	

Section 4. The following amounts are appropriated for the project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Engineering Services	\$ 112,840	31.6200.040
Site Evaluation and Testing	6,500	31.6200.041
	-----	
	\$ 119,340	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The finance officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.

Section 8. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

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Section 9: Copies of this project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 3rd day of June 2024.

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/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**APPROVED ACCEPTANCE OF TRAIL EASEMENT AGREEMENT** Acceptance of a trail easement agreement located between 0 Lake Rhodhiss Dr. NE and Hoyle Creek, Valdese, which Burke County Public Schools own. Duke Energy signed off on a conservation buffer on the property.

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

**End Consent Agenda**

**ITEMS REMOVED FROM CONSENT AGENDA:** Councilman Harvey removed 6 E. Approval of Resolution of the Town of Valdese Town Council Leasing Property for a Term Up to Ten Years (Foothills Broadband)

A RESOLUTION OF THE TOWN OF VALDESE TOWN COUNCIL LEASING PROPERTY FOR A TERM UP TO TEN YEARS

WHEREAS, the Town of Valdese 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, the Town Property is a vacant, unimproved lot other than permitted improvements the Town of Valdese has authorized Foothills Broadband, LLC ("Foothills Broadband") to make pursuant to a one (1) year Ground Lease dated April 6, 2023; and

WHEREAS, the Town Council for the Town of Valdese finds the Town Property is currently surplus to the Town's needs; and

WHEREAS, the Town of Valdese and Foothills Broadband have agreed upon a Ground Lease under which Foothills Broadband will lease the Town Property for a term of ten (10) years, beginning June \_\_, 2024; and

WHEREAS, in consideration for the Ground Lease, Foothills Broadband has agree to pay rent in the amount of \$6,000.00 for the first year of the lease term, which rental rate shall increase by three percent (3%) each lease year thereafter; and

WHEREAS, North Carolina General Statute § 160A-272 authorizes the city to enter into leases of up to ten (10) years upon resolution of the Town Council adopted at a regular meeting after ten (10) days' public notice; and

WHEREAS, the required notice has been published and the Town Council is convened in a regular meeting.

NOW, THEREFORE, BE IT HEREBY RESOLVED that:

1. Town Council hereby approves ground lease of the Town Property to Foothills Broadband, LLC for ten (10) years on the terms and conditions of the attached Ground Lease and authorizes the Mayor to execute any instruments necessary to effectuate the Ground Lease.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

/s/ Charles Watts, Mayor

ATTEST:  
/s/ Town Clerk

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STATE OF NORTH CAROLINA  
GROUND LEASE  
COUNTY OF BURKE

THIS GROUND LEASE ("Lease") is made as of the \_\_\_\_ day of \_\_\_\_\_, 202\_ 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 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 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, on April 6, 2023 Lessee and Lessor entered into a Lease Agreement for a one-year term which commenced on April 15, 2023 and is set to expire on April 14, 2024 (the "One-Year Lease Agreement") for the Premises described above. 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; and

WHEREAS, on April 6, 2023, the Town Council authorized and approved by Resolution/Vote the Premises to be leased subject to the terms, provisions and conditions set forth in the One-Year Lease Agreement; 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 \_\_\_\_\_, 202\_, prior to the expiration of the One-Year Lease Agreement, 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 constructed thereon, together with all rights, privileges and easements pertaining thereto.

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2. COMMENCEMENT DATE. For purposes of this Agreement, "Commencement Date" shall mean April 15, 2024.
3. TERM. The term of this Lease shall commence on the Commencement Date and shall terminate ten (10) 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 has installed and shall maintain and repair as set forth below, 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 has also installed and shall maintain and repair as set forth below, at its sole cost and expense, 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 15, 2024 and continue on the 15<sup>th</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.

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- 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, and all improvements located thereon, which were constructed with the advance approval of Lessor in accordance with Section 4, in clean order, condition and repair, normal wear and tear excepted. Any changes in design, color and/or material shall be subject to the advance written approval of Lessor and shall be constructed in accordance with all Applicable Laws. 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



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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 or assignments shall require the written consent of Lessor.
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,

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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

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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 12 and the Lender shall be entitled to receive the benefit of and enforce the provisions of this Section 12 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 with or without cause 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 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.
- 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, specifically excluding, however, an Event of Default based on Lessee's non-payment of rent, 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.** Except as otherwise provided herein for non-payment of rent, following any dispute between the Parties under this Lease, the Parties agree to participate in mediation proceedings which shall be scheduled within thirty (30) days of such a request by either Party and held within sixty (60) 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. In the event the Lessee holds over beyond the Term, such holding over shall be from month to month only, subject to the conditions of this Agreement, shall not be a renewal or extension thereof, and shall be at the monthly compensation provided herein.
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.

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- 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, 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.
- c. Such obligation of Lessee under this section which shall have occurred at the time of any termination of this Lease shall survive any such termination.

25. NOTICES. Notices under this Lease shall be in writing and shall be deemed properly served and received: (i) two (2) business days after being deposited in the United States mail, as certified or registered mail, return receipt requested, bearing adequate postage, (ii) one (1) business day after being deposited with a reputable overnight delivery carrier (e.g. Federal Express, Airborne, UPS, Express Mail) for guaranteed next day delivery with a request that the addressee sign a receipt evidencing delivery or (iii) upon receipt if personally delivered. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver. Notices shall be addressed as follows:

To Lessor at:

Town of Valdese  
Post Office Box 339

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Valdese, North Carolina 28690  
Attention: Town Manager

With a copy to: Timothy D. Swanson, Esq.  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

To Lessee at: Foothills Broadband, LLC  
3088 US 70 E  
Morganton, NC 28655  
Attention: Zachary and Jodi Chiz

With a copy to: Tina Hlabse, Esq.  
Ramseur Maultsby LLP  
1150 N. Revolution Mill Drive, Suite 3  
Greensboro, NC 27405

or to any other address furnished in writing by any of the foregoing. However, any change of address furnished shall comply with the notice requirements herein and shall include a complete outline of all current addresses to be used for all parties.

## 26. MISCELLANEOUS PROVISIONS.

- a. Time of Essence. Time is of the essence with respect to any time periods or dates referenced in this Lease with respect to both Lessor and Lessee.
- b. Identity of Interest. Nothing contained in this Lease shall be construed to make Lessor and Lessee partners or joint venturers or to render either party liable for the debts or 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



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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. The Parties acknowledge and agree that on or before the Commencement Date, the Lessor will issue a written public notice via publication as required by N.C.G.S. §160A-272(a1), announcing that it intends to enter into a ten (10) year lease with Lessee ("Amended Lease") and take up such matter for a decision at the next regular council meeting occurring at least thirty (30) days after the publication is issued.
- 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.

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

ATTEST: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

\_\_\_\_\_  
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 \_\_\_\_\_, 202\_\_.

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\_\_\_\_\_  
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 \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
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 \_\_\_\_\_, 202\_\_.

[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.

**Motion:** Councilman Harvey made a motion to approve the ten-year lease that was submitted by a private firm effective October 31, 2024, contingent upon Foothills Broadband having repaired all installation damage to the satisfaction of inspection by the NC Department of Transportation or an independent engineering firm. Seconded by Councilwoman Ward.

**Discussion:** Councilman Harvey shared:

Broadband is good – broadband is here to stay.

This item is not about broadband or any particular broadband provider but is about what is best for the citizens of Valdese. There are three or four broadband services available to most Valdese residents and businesses, and there soon will be more. The broadband services will compete on speed, price, and other features to win a share of the 2000 or so potential Valdese customers.

TWO ISSUES: Last year, the Town gave Foothills Broadband two major business boosts:

1. An “encroachment agreement” that permitted them to install underground cable throughout the town’s rights-of-way, with two significant features:
  - a. Access to every residence and business in Valdese.
  - b. Authority to dig and cut into paving throughout the town.
  - c. The town received no compensation for giving the private firm access to the captive market that is the entire Town; or for the resultant inconvenience to citizens whose lawns and water service were disturbed, or damage done to the town’s streets.
2. A lease to construct a facility on town property where they had access to existing underground conduit throughout town where there are no utility poles and from which they intend to serve all of Burke County, for \$500/month. That lease continues to this day and beyond, on a month-to-month basis, and at the same rate as the firm requests in the ten-year lease. **In effect** – no advantage or disadvantage to either the firm or the citizens of Valdese by deferring the effective date of a new lease to October.

THE FUNDAMENTAL PROBLEM EACH AGREEMENT – THEY ARE ONE-SIDED

- FIRST, the town did not require a performance bond to assure that all the resultant damage would be repaired.
- Second, the town did not do any financial verification of the firm’s financial viability. The town has no idea who is the silent backer, or if it is foreign or domestic funding.
- The installation and street repair dates are constantly changing, with the latest promise being the end of September.

**The prevailing situation is:**

Our streets will never be the same until all of them are repaved.

- 1) The only leverage that the town has to ensure that repairs will be made to some acceptable standard is to hold the long-term lease until the cable installation is complete and all damage is repaired.
- 2) There is no benefit to the Town, or change in the current lease terms, if the town were to give up its only leverage in this arrangement by approving a long-term lease today, rather than in October, or whenever the last street is repaired?

Councilwoman Lowman asked if other providers compensate us when they put things in the ground. Town Attorney Tim Swanson noted that typically, they would not give compensation; it’s the value added of the infrastructure you are getting as a Town. Mr. Swanson shared that Foothills has provided a letter of credit in the amount of \$15,000. Councilman Mears asked if the Public Works Director would speak to the condition of the roads. Public Works Director Allen Hudson shared that everything has been GPS, so we know where everything is. Mr. Hudson noted that we have standard paperwork from NCDOT that the

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paving company is going by. Mr. Hudson has been out on an inspection and can confirm that they are doing the repairs to NCDOT standards.

Councilman Harvey asked what the benefit is to either party if this agreement is made effective today or in October. Councilman Mears said that as a business owner, coming to Valdese and investing 3 million dollars and then getting delay after delay over 10% of road incompleteness repair is absurd. Councilman Mears said we need to approve this lease and stop delaying it. Councilman Mears feels it would be a terrible look for Council to continue to postpone this. Councilwoman Lowman agrees that we need to move forward.

Councilman Ogle asked Mr. Swanson if there was something in the contract that we can pull out of it if needed. Mr. Swanson said there is a termination provision that allows either party to terminate upon 12 months notice.

**Vote:** Councilman Harvey – Yes, Councilman Mears – No, Councilwoman Lowman – No, Councilman Ogle – No, Councilwoman Ward – No, Motion failed.

**2<sup>nd</sup> Motion:** Councilwoman Lowman made a motion to approve the ten-year lease with Foothills Broadband effective tonight, seconded by Councilman Mears.

**Vote:** Councilman Mears – Yes, Councilwoman Lowman – Yes, Councilman Ogle – Yes, Councilwoman Ward – Yes, Councilman Harvey – No, Motion carried.

**APPOINTMENTS TO VALDESE ECONOMIC DEVELOPMENT INVESTMENT CORPORATION (VEDIC) BOARD** Mayor Watts said we have two nominations to serve on the VEDIC Board: Rick McClurd and Kylie Gera. Councilman Harvey nominated Gary Ogle. Councilman Harvey believes it would be good to have a Council member on the board representing the Town.

Kylie Gera - Councilman Mears – Yes, Councilwoman Ward – No, Councilman Ogle – No, Councilman Harvey – No, Councilwoman Lowman – Yes

Rick McClurd - Councilman Mears – Yes, Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – Yes

Gary Ogle - Councilman Mears – Yes, Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – Yes

Mayor Watts stated that the Council appointments for the VEDIC Board would be Gary Ogle and Rick McClurd.

**FY 24-25 PROPOSED BUDGET AND SCHEDULING OF PUBLIC HEARING FOR MONDAY, JUNE 17, 2023** Interim Town Manager Bryan Steen said that we have gone through some workshops, modified the budget based on the Council's input, and put together a budget message available to the public on the website. A public hearing is scheduled for June 17, 2024.

Councilman Harvey encouraged citizens to visit the Town's website and review the FY 23-24 budget. Councilman Harvey said that it was approved with a deficit of \$238,000, and the projected outcome is a surplus of \$390,000, which is a swing of \$629,000 and is equivalent to ¼ of the total property taxes that were collected in 2023. Councilman Harvey said the problem was that we did not know the projected results for much of the budget during the budget process.

Councilman Harvey noted that three of the Capital Expenditure items still in the budget that the Efficiency Task Force needs to review are questions still pertaining to the Water Resources Director position and COLAs/Training for employees.

**Motion:** Councilman Harvey made a motion to remove the Ford F150 pickup truck, estimated at \$45,000, a tractor and mower, estimated at \$60,000, and a roll-off dumpster, estimated at \$6,000 in Public Works

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from the present budget and defer them until the Efficiency Task Force had had an opportunity to complete an analysis of equipment, seconded by Councilman Ogle.

**Vote:** Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – No, Councilman Mears – No, Motion carried.

The Efficiency Task Force will meet to determine the need.

**Motion:** Councilman Harvey made a motion to remove the Water Resource Director position from the present pay plan schedule of positions and salary ranges, that the position opening be removed from the Town's website and publications, and that the 2018 Ford Explorer that was assigned to this position be sold or traded in for the purchase of the police cruiser that is budgeted under capital expenditures.

**Discussion:** Interim Town Manager Bryan Steen shared that we have divided those duties between two current staff members until something is determined. We have also contracted with McGill Associates to help with some of the duties. Councilman Harvey suggested selling the 2018 Ford Explorer, which Kelly Bluebook values at \$17,000 to \$20,000.

There was no second to the motion, so the motion failed.

**Motion:** Councilman Harvey made the following motion: Whereas the Town Council strives to provide our valued employees with the best possible benefits that taxpayers can afford, which, among other benefits, is exceptionally good group health insurance coverage known as a "gold" or "platinum" plan; I, therefore, move that we bring back the two steps that the 2021 Town Council was prepared to address at its October 2021, to take effect at June 30, 2022, until it learned at the meeting that the compensation of council members can be adjusted only at the time of budget adoption. In accordance with intention and research that the Council and staff had concluded in 2021 to be prudent and justifiable, I move that the changes the prior Council intended to take effect in Fiscal Year 2023 be adopted to take effect December 31, 2024:

1. Ending all health, dental, vision, and supplemental insurance benefits for council members, effective December 31, 2024.
2. The stipends of the Town Council members will be increased to \$6,000 per year and the Mayor's to \$8,000 per year, effective December 31, 2024.

Seconded by Councilwoman Ward.

**Discussion:** Councilman Harvey said that making it effective starting 1/1/2025 would give the Council time to get other health insurance, and this issue would not have to be passed on to a new council. Councilman Harvey shared that this would be a savings of \$11,000 for FY 24-25. Councilwoman Ward shared that being on Council takes a lot of time and is okay with giving up the insurance but asked if we could increase the stipend by \$400 to cover the cost. Councilman Mears has no problem giving up these benefits as long as the employees get a 5% COLA.

**Amended Motion:** Councilman Harvey made a motion that Town Council will give up Town provided insurance and increase Town Council member's stipend to \$8,000 per year and the Mayor's to \$10,000 per year, effective December 31, 2024.

**Vote:** The vote was unanimous

Councilwoman Lowman noted that she gave up the town-provided insurance at 8:00 a.m. this morning, and Mayor Watts ended his a few days ago.

**APPROVED RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC STREET MAINTENANCE COMMITTEE** Councilman Harvey believes the new committees are doing good things in the community. Councilman Harvey and Allen Hudson have contacted NC DOT to possibly complete the paving for the town, which will manage the whole project. Councilman Harvey also shared that the Institute for Transportation Research and Education (ITRE) – a state agency based at NCSU- may be a further resource for training our public works staff and assistance with future street maintenance planning. The Public Works Director is looking for a quote for approximately 30 streets. Councilman Harvey said that

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because of the experience with the street paving committee and, especially, the importance of the town's street infrastructure, he moves to adopt the resolution establishing a street maintenance committee to engage citizens who use our streets daily to help set priorities for maintaining and repaving our streets.

**A RESOLUTION BY THE TOWN OF VALDESE TOWN COUNCIL TO ESTABLISH AN AD HOC STREET MAINTENANCE REVIEW COMMITTEE**

WHEREAS, the Town Council is responsible for the care and maintenance of approximately thirty-five miles of streets owned and managed by the Town of Valdese; and

WHEREAS, the Town Council desires to establish an Ad Hoc Street Maintenance Review Committee to advise and make recommendations to the Town Council regarding the management, maintenance, improvement, and/or construction of Town-owned streets.

NOW, THEREFORE, BE IT RESOLVED that the Ad Hoc Street Maintenance Review Committee is hereby established, the membership of which shall be appointed by Town Council and shall include five (5) members who shall have in-depth experience in street maintenance, construction and/or project management.

BE IT FURTHER RESOLVED that the Ad Hoc Street Maintenance Review Committee shall have the authority to elect its chairman, promulgate its own rules of order, and develop its schedule of meetings, which meetings shall be conducted by North Carolina Open Meeting Laws, N.C. Gen. Stat. Ch. 143, Art. 33C, §§ 143-318.9 through -318.18. Each member of the Ad Hoc Street Maintenance Review Committee shall serve a staggered three-year term unless otherwise removed by the Town Council, which may be done at any time, with or without cause. Members will be divided into three classes with the appointment of one class of members taking place every December at the regular meeting of the Town Council. The initial committee shall have one member appointed for a one-year term, two members appointed for a two-year term, and two members for a three-year term. No member shall serve more than two consecutive terms. A member shall be eligible for re-appointment after an absence from the Ad Hoc Street Maintenance Review Committee after one year.

BE IT FURTHER RESOLVED that the Ad Hoc Street Maintenance Review Committee shall evaluate, consider, review, and make recommendations to the Town Council regarding ways to care for, maintain, and/or improve Town owned and managed streets. The Ad Hoc Street Maintenance Review Committee may solicit input from the public that may assist with its duties. The Ad Hoc Street Maintenance Review Committee shall issue a written report of its findings and recommendations to the Town Council annually on or before December 31 of each year, or as otherwise requested by the council.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**Motion:** Councilman Harvey made a motion to adopt the Resolution, seconded by Councilwoman Ward.

**Discussion:** Councilwoman Lowman asked if they did not have a study completed already with streets listed in order of how bad they are. Councilman Mears asked if this committee would add to the already-in-place Street Committee. Councilman Harvey said it would replace it and be an ad hoc committee that kept agendas and minutes. Councilman Harvey noted that the study completed is old. Councilman Mears suggested holding off on this committee until a permanent manager is hired and allowing our staff to make some decisions. Councilwoman Ward has heard positive things about the committees.

**Vote:** Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – No, Councilman Mears – No, Motion carried.

**APPROVED RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC UTILITIES INFRASTRUCTURE COMMITTEE** Councilman Harvey shared that the Town's water and sewer lines are

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an even more important infrastructure on which every Valdese resident depends. Councilman Harvey moved to adopt the resolution by establishing a Utilities Infrastructure Committee to engage citizens and businesses who use our utility systems daily to help set priorities for maintaining and replacing our water and sewer lines.

**A RESOLUTION BY THE TOWN OF VALDESE TOWN COUNCIL TO ESTABLISH AN AD HOC UTILITIES INFRASTRUCTURE REVIEW COMMITTEE**

WHEREAS, the Town Council is responsible for the care and maintenance of a water plant, a wastewater plant, and numerous miles of water and sewer lines owned and managed by the Town of Valdese; and

WHEREAS, the Town Council desires to establish an Ad Hoc Utilities Infrastructure Review Committee to advise and make recommendations to the Town Council regarding the management, maintenance, improvement, and/or construction of Town-owned utility infrastructure assets.

NOW, THEREFORE, BE IT RESOLVED that the Ad Hoc Utilities Infrastructure Review Committee is hereby established, the membership of which shall be appointed by Town Council and shall include five (5) members who shall have in-depth experience in the management of complex systems, construction, excavation, or project management,

BE IT FURTHER RESOLVED that the Ad Hoc Utilities Infrastructure Review Committee shall have the authority to elect its chairman, promulgate its own rules of order, and develop its schedule of meetings, which meetings shall be conducted by North Carolina Open Meeting Laws, N.C. Gen. Stat. Ch. 143, Art. 33C, §§ 143-318.9 through -318.18. Each member of the Ad Hoc Utilities Infrastructure Review Committee shall serve a staggered three-year term unless otherwise removed by the Town Council, which may be done at any time, with or without cause. Members will be divided into three classes with the appointment of one class of members taking place every December at the regular meeting of the Town Council. The initial committee shall have one member appointed for a one-year term, two members appointed for a two-year term, and two members for a three-year term. No member shall serve more than two consecutive terms. A member shall be eligible for re-appointment after an absence from the Ad Hoc Utilities Infrastructure Review Committee after one year.

BE IT FURTHER RESOLVED that the Ad Hoc Utilities Infrastructure Review Committee shall evaluate, consider, review, and make recommendations to the Town Council regarding the management, maintenance, improvement, and/or construction of Town-owned utility infrastructure assets. The Ad Hoc Utilities Infrastructure Review Committee may solicit input from the public that may assist with its duties. The Ad Hoc Utilities Infrastructure Review Committee shall issue a written report of its findings and recommendations to the Town Council annually on or before December 31 of each year, or as otherwise requested by the council.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

/s/ Charles Watts, Mayor

ATTEST:  
/s/ Town Clerk

**Motion:** Councilman Harvey made a motion to adopt the Resolution, seconded by Councilman Ogle.

**Discussion:** Councilwoman Lowman asked if this is not what we hire McGill Associates to do. Councilman Harvey said that this is not for engineering services; it is for citizens to get involved and advise the Council and management on concerns that they see with some of the water and sewer lines. Councilman Mears believes that this is a bad idea and does not know what citizens would know about our infrastructure.

**Vote:** Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – No, Councilman Mears – No, Motion carried.

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**APPROVED RESOLUTION ESTABLISHING NEW TOWN OF VALDESE AD HOC MERCHANTS ADVISORY COMMITTEE**

Councilman Harvey said that economic development begins at home, and there is no group of individuals who contribute more to the economic development of our town that attracts tourists and generates an increasing amount of sales tax revenue than our local merchants. Councilman Harvey said that Valdese once had an active "Merchants Association" that folded for unknown reasons. However, in recent visits to most of our merchants, we have gained strong support for establishing a formal Town committee. Councilman Harvey moves to adopt the Resolution establishing a Merchants Advisory Committee to advise the town management and Council on ways to make Valdese even more attractive to customers and visitors and that we increase the proposed membership of the committee to seven.

**A RESOLUTION BY THE TOWN OF VALDESE TOWN COUNCIL TO ESTABLISH AN AD HOC MERCHANTS ADVISORY COMMITTEE**

WHEREAS, the Town Council is responsible for the economic development of the Town of Valdese, including but not limited to planning events and programs that support local merchants and their efforts to attract customers and tourists and to serve citizens of Valdese; and

WHEREAS, the Town Council desires to establish a Merchants Advisory Committee to advise and make recommendations to the Town Council regarding the planning, management, maintenance, and/or improvement of conditions under the Town's control to serve citizens and attract visitors.

NOW, THEREFORE, BE IT RESOLVED that a Merchants Advisory Committee is hereby established, the membership of which shall be appointed by Town Council and shall include seven (7) members who shall own or operate businesses that serve Valdese citizens and other customers.

BE IT FURTHER RESOLVED that the Merchants Advisory Committee shall have the authority to elect its chairman, promulgate its own rules of order, and develop its schedule of meetings, which meetings shall be conducted by North Carolina Open Meeting Laws, N.C. Gen. Stat. Ch. 143, Art. 33C, §§ 143-318.9 through -318.18. Each member of the Merchants Advisory Review Committee shall serve a staggered three-year term unless otherwise removed by the Town Council, which may be done at any time, with or without cause. Members will be divided into three classes with the appointment of one class of members taking place every December at the regular meeting of the Town Council. The initial committee shall have two members appointed for a one-year term, two members appointed for a two-year term, and three members for a three-year term. No member shall serve more than two consecutive terms. A member shall be eligible for re-appointment after an absence from the Ad Hoc Merchants Advisory Committee after one year.

BE IT FURTHER RESOLVED that the Ad Hoc Merchants Advisory Committee shall evaluate, consider, review, and make recommendations to the Town Council regarding ways to plan and execute programs in support of local merchants and their efforts to serve Valdese citizens and attract new customers. The Ad Hoc Merchants Advisory Committee may solicit input from the public that may assist with its duties. The Ad Hoc Merchants Advisory Committee shall issue a written report of its findings and recommendations to the Town Council annually on or before December 31 of each year, or as otherwise requested by the council.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

**Motion:** Councilman Harvey made a motion to adopt the Resolution, seconded by Councilman Ogle.

**Discussion:** Councilwoman Ward shared that the Merchants she talked to were excited about this committee, and sometimes, they feel ignored if they are too far out. Councilman Mears said that he used to be the President of the Merchants Association, but it disbanded due to a lack of interest. The Community Affairs Director noted that there is a Main Street Committee that meets quarterly.



**Vote:** Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – No, Councilman Mears – No, Motion carried.

**CONSIDERATION OF INTERIM TOWN MANAGER** Interim Town Manager Bryan Steen will be resigning June 28, 2024, and recommends appointing Assistant Town Manager/CFO Bo Weichel as Interim Town Manager with a salary of \$130,000.

**Motion:** Councilwoman Lowman made a motion to accept the resignation of our Interim Manager and appoint Bo Weichel as our Interim Manager on June 28, 2024, at 5:01 pm, and appointed to represent the Town on the ABC Board, VEDIC Board, and BDI, seconded by Councilman Ogle.

**Discussion and 2<sup>nd</sup> Motion:** Councilman Harvey noted that the recommendation from the Interim Manager was more complicated than what we last discussed and would like to move that we table this to the next closed session on June 17, 2024, seconded by Councilman Ogle

**Vote:** Councilwoman Ward – Yes, Councilman Ogle – Yes, Councilman Harvey – Yes, Councilwoman Lowman – No, Councilman Mears – No, Motion carried.

**INTERIM MANAGER’S REPORT:**

Family Friday Nights continue each Friday in June on Temple Field from 7:00 p.m. – 10:00 p.m.

Valdese Independence Day Celebration, Friday, June 28, 2024, 6:00 p.m., Main Street

Next Regular Council meeting scheduled for Monday, June 17, 2024, 6:00 p.m.

**MAYOR AND COUNCIL COMMENTS:** Councilwoman Ward bragged about Police Chief Sharpe and our future plans for the Drug and Homeless Task Force.

Mayor Watts has received a few calls about emails and telephone calls not being returned by Council members and has asked that if we get a complaint or if someone has a question, we need to respond promptly.

**ADJOURNMENT:** At 8:11 p.m., there being no further business to come before Council, Councilman Harvey made a motion to adjourn, seconded by Councilman Mears. The vote was unanimous.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

jl

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**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
JUNE 17, 2024**

The Town of Valdese Town Council met on Monday, June 17, 2024, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The Council meeting was live-streamed on YouTube @townofvaldese. The following were present: Mayor Charles Watts, Mayor Pro Tem Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen, Town Attorney Tim Swanson, Town Clerk Jessica Lail, and various Department Heads.

Absent:

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**

**POSITIVE THINGS – EDDIE PERROU, 1312 LAUREL AT NE, VALDESE:** Mr. Perrou thanked the Council for all their work in the last six months. Mr. Perrou identified the accomplishments: Strategic Plan, establishing new committees, upcoming new pool structure, Rock School renovations, firing an architect that could not get anything completed and buying land to build a new facility, hiring a new Police Chief, lower the tax rate and balancing the budget, giving employees a COLA, and looking into paving more streets. Mr. Perrou is pleased with the direction the Town is taking.

**SEWER BACKUP – AZZAM KAMAL, 329 N. RODORET ST., VALDESE:** Mr. Kamal lives on a street that always has sewer problems, and his backyard has been demolished to find out what is going on. Mr. Kamal said he had a manhole under his house. Mr. Kamal knows that something is in the CIP in a few years to fix the street, but in the meantime, he has a plumber who needs to know what to do with the manhole. Mr. Kamal needs the Town's help with what to do.

**CONSENT AGENDA: (enacted by one motion)** No items to approve.

***End Consent Agenda***

**APPROVED FY 2024-2025 BUDGET PUBLIC HEARING & ORDINANCE ADOPTION:** Mayor Watts opened the Public Hearing at 6:10 p.m.

Councilman Harvey asked if the Council could make amendments to the budget tonight. Mayor Watts said this is for the adoption tonight, and there can be no changes.

Interim Town Manager Bryan Steen recapped the budget process and asked if Council had any questions. Hearing none, Mayor Watts asked if anyone wished to speak either for or against the proposed budget.

Town Attorney Tim Swanson noted that we could make modifications, but doing so would require us to continue the meeting so that management has time to make them.

**KAREN CARUSO, 805 MICOL AVE, VALDESE:** Ms. Caruso provided a copy of her comments to the Town Clerk:

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Karen Caruso, 805 Micol Avenue. Good evening, Mayor and Council. I'm here to ask you to approve the 5% employee pay increase in the proposed FY 24/25 budget. Please consider: inflation continues to erode purchasing power and has for several years; the latest unemployment rate for Burke County is at the lowest it's been this calendar year; competition for good employees among local and state governments isn't going away; your own strategic plan places a priority on employee retention; and employees shouldn't have to fund their own training.

The Consumer Price Index, or CPI, measures the change in prices paid by consumers for goods and services. The annual CPI for 2021 was 7%. In the FY 21/22 budget, town employees received a 2% pay increase. The 2022 CPI was 6.5%. Employees received a 5% increase in the FY 22/23 budget. CPI in 2023 came down to 4.1%. Employees received a 5% increase in the FY 23/24 budget. These CPI numbers include the prices for food. Anyone who goes to the grocery store knows that when food is broken out of these numbers, by itself, the increase in cost is well above these percentages. You can get by without buying a lot of things, but food isn't one of them. At the last council meeting, it was heartbreaking to hear that a citizen witnessed town employees receiving food assistance from area church ministries.

Full employment is generally considered to be an unemployment rate of 5% or lower. Some economist question this and suggest it should be 3%. Last month, the unemployment rate in Burke County was 3.1%. That's full employment by most any economist's standards and indicates anyone who wants a job can likely find one. It also means it's easier for those with jobs to find another one if they're not satisfied with their current employment situation.

You can bet all the municipalities in the Unifour and the state institutions in Morganton are aware of the competition for good employees. Western Piedmont Community College has ten full-time positions available. There are nearly 100 full-time state job openings at various facilities in Morganton. A quick look for full-time municipal jobs shows multiple openings with Morganton, Burke County, and Hickory. Some of these positions even include generous signing bonuses. But the competition for our folks is definitely not limited to governmental entities. The private sector is much larger and has deeper pockets.

Employee retention emerged as a key priority of your SWOT analysis during the strategic plan process. Support your own plan by giving the town's most important asset competitive pay. The optics of not doing so are going to be very poor on the heels of giving yourselves a huge raise at the last council meeting.

I'm all for employee training and think it's a great idea. But don't do it on the backs of employees by reducing their pay increase to fund it.

The strategic plan mandates that you must do your part to retain our experienced, dedicated employees who serve us so well. Please do not erode your employees' buying power further and continue to force them into seeking food assistance. Vote yes for the 5% pay increase. Thank you.

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Mayor Watts asked if anyone else wished to speak. Hearing none, Mayor Watts closed the Public Hearing at 6:17 p.m.

Councilman Harvey asked what the COLA proposed in the budget cost, if training was included, and if any essential services had been cut. Mr. Steen said a 5% COLA, \$30,000 for employee training, and no essential services that he knows of have been cut.

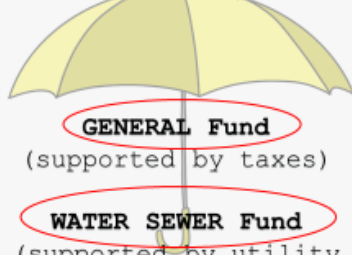
Assistant Town Manager/CFO Bo Weichel shared the following presentation:



## Fund Categories of Valdese

### Annual Budget Ordinance

(funds expire after June 30<sup>th</sup>)



#### GENERAL Fund

(supported by taxes)

#### WATER SEWER Fund

(supported by utility sales)

### Capital Project Ordinance

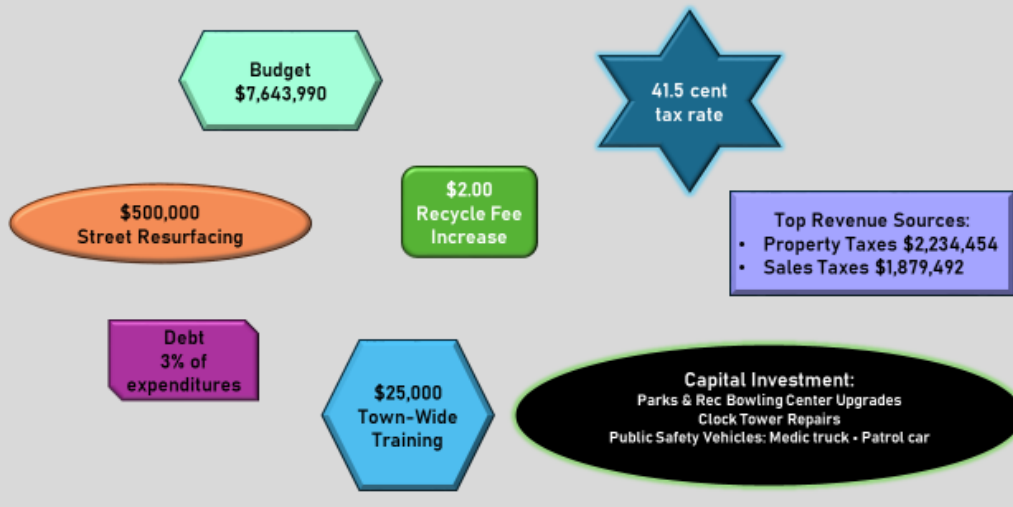
(funds remain over project life)

#### CAPITAL PROJECT Fund

(supported by General, Utility, Grants, etc.)

- 31 Pool Structure
- 32 Hoyle Creek Restoration
- 35 Public Safety Building
- 38 Old Rock School Renovation
- 50 Cline Ave. Pump Station
- 54 Water Treatment Plant Upgrades

## General Fund Budget Highlights





Councilman Harvey made a motion to adopt the FY 2024-2025 Fee Schedules, FY 2024-2025 General Fund Capital Improvement Plan, FY 2024-2025 Utility Capital Improvements Plan, and the FY 2024-20245 Budget Ordinance, seconded by Councilwoman Lowman. The vote was unanimous.

**FACILITIES REVIEW COMMITTEE REPORT** Facilities Review Co-chairs Roger Heavner and Greg Refour gave Council the following update from their June 12, 2024, meeting. Mr. Heavner stated, "Last week there was a site visit to the Public Safety Building by Tally and Smith Architectural Firm. This is the group hired to develop new Public Safety facilities. This tour was conducted by Fire Chief Truman Walton and Police Chief Marc Sharpe.

As in previous inspections by several engineering and architectural firms, it has been suggested the Fire and Police Officers be relocated to a different facility. The reason being, the walls are deteriorating and creating a potentially dangerous condition. This coupled with the fact that it is probably going to take two years to complete the new facilities.

There are several potential locations in Valdese to fill these needs. After looking at the different locations, it is being recommended by the Facilities Review Committee the old Town Hall be renovated for temporary



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Fire and Police offices. There are numerous reasons for this, some of which being: close proximity to all Police and Fire facilities such as armory, computer equipment, trucks and available parking.

Once the new Public Safety facilities are completed, this old Town Hall will become very marketable as a potential lease or sale property. These capital improvements will only enhance this property."

Councilwoman Lowman asked if there was enough room for both Fire and Police in the Old Town Hall. Mr. Heavner believes there is more room in the Old Town Hall than were they are now but said it would be up to the architect firm. Mr. Heavner said this is just a recommendation, and the Police and Fire Chief will meet with the architect as well.

**STREET PAVING UPDATE** Public Works Director Allen Hudson said that the Street Paving Panel came up with 30 streets to pave and they have been sent to NCDOT who said that they would have pricing for us the first of July.

### FY 24-25 Budget Paving list

With estimates provided by NC DOT 4 June 2024 - two streets added 17 June 2024

	miles	At \$210k/mile	width	mil	Y/N
1 Anthony St	0.17	\$ 35,700	18ft		Y
2 Bellview Ave Ne (Laurel to Walnut Ave)	0.16	\$ 33,600	14 ft		Y
3 Bellview to Clyde	0.22	\$ 46,200	18ft		Y
4 Berry Ave	0.24	\$ 50,400	18ft		Y
5 Bonous St Nw	0.25	\$ 52,500	18ft		Y
6 Campbell Ave( bottom of hill to the end past Picou)	0.18	\$ 37,800	26ft		Y
7 Carter St Ne	0.19	\$ 39,900	18ft		Y
8 Cline St Sw (Bertis St to Hoyle St )	0.15	\$ 31,500	36ft		Over Lay
9 Club Circle Ne	0.31	\$ 65,100	18ft		Y
10 Dixie Ave Nw	0.4	\$ 84,000	20ft		Y
11 Eagle Nest Lane Nw	0.12	\$ 25,200	20ft		Over Lay
12 Eldred St Ne (Main to Laurel St)	0.22	\$ 46,200	20ft		Y
13 Flora Lane Ne ( Gravel Portion)	0.11	\$ 23,100	14ft		N
14 Forest Ave Ne	0.25	\$ 52,500	20ft		Y
15 Forest Dr Ne	0.33	\$ 69,300	20ft		Y
16 Griffin Ave Nw	0.19	\$ 39,900	20ft		Y
17 Harris	0.35	\$ 73,500	18		y
18 Hickory Ave Nw	0.1	\$ 21,000	18ft		Y
19 Jaubert Ave Se	0.18	\$ 37,800	18ft		Y
20 Katherine St Se (Portion next to the creek )	0.21	\$ 44,100	20ft		Y
21 Laurel St Ne to Gardiol Ave Ne	0.37	\$ 77,700	20Ft		Y
22 Louise ave Ne (Italy to end)	0.21	\$ 44,100	18ft		Y
23 Morganton St Nw	0.36	\$ 75,600	18ft		Y
24 Nellie St Nw	0.07	\$ 14,700	18ft		Y
25 Pineburr Ave Sw ( Orchard St to Hoyle St	0.17	\$ 35,700	18ft		Y
26 Pineburr Ave Sw (Carolina to Faet St)	0.36	\$ 75,600	20Ft		Y
27 Pineridge St SW	0.2	\$ 42,000	22ft to 32 ft		Y
28 Tarheel Ave Ne	0.17	\$ 35,700	18ft		Y
29 Tarvia Ave Ne	0.23	\$ 48,300	16ft		Y
30 Tron Ave	0.67	\$ 140,700	18		Y
31 Vinay Ave Nw	0.14	\$ 29,400	18ft		Y
32 White St Ne	0.08	\$ 16,800	18ft		Y
<b>TOTALS</b>	<b>7.36</b>	<b>\$ 1,545,600</b>			
<b>5</b> If rounded down to 7 miles	7	\$ 1,470,000			
<b>4</b> If rounded down to 6 miles	6	\$ 1,260,000			
<b>3</b> If rounded down to 5 miles	6	\$ 1,050,000			
<b>2</b> FY 24-25 Budget Allocation, would repave about	2.4	\$ 500,000			
<b>1</b> Repaving completed in FY 23-24	1.34	\$ 500,000			

Councilman Harvey noted that one of the decisions the Town needs to make is whether to limit our paving this year to \$500,000 and 2.4 miles, consider borrowing enough money to do two to three years of paving at this time under current costs, or borrow money from the Town’s reserves and pay it back out of the Powell Bill fund.

**APPROVED LOCAL REALTOR LISTING TOWN-OWNED PROPERTIES** Interim Town Manager Bryan Steen shared that he emailed four local realtors and received two applications from Thompson Realty and Brinkley & Associates to list seven town-owned parcels.

39792	0 FOREST AVE NE	0.19		R-12	TOWN OF VALDESE
11672	811 FONTAINE AVE NW	0.53		R-12	TOWN OF VALDESE
38608	809 BIENVENUE AVE NW	0.32		R-12	TOWN OF VALDESE
38607	721 BIENVENUE AVE NW	0.43		R-12	TOWN OF VALDESE
41732	342 TRON AVE NW	0.46		R-12	TOWN OF VALDESE
41733	338 TRON AVE NW	0.46		R-12	TOWN OF VALDESE
12132	341 RODORET ST N	0.82		R-12	TOWN OF VALDESE

Councilman Harvey made a motion to engage Thompson Realty to list the properties, seconded by Councilman Mears.

Councilwoman Lowman asked if we could use both firms. Councilman Harvey noted that one them has a minimum listing fee and we should go with the better of the two options.

The vote was unanimous.

**APPROVED ENCROACHMENT AGREEMENT TOWN RIGHT OF WAY WITH CONTERRA ULTRA BROADBAND, LLC** Planning Director Larry Johnson shared that Catawba Valley Healthcare is seeking fiber, and Conterra has a line along Main Street, and they want to connect it to their business. Mr. Johnson said that they would have to encroach 108 feet along Morgan Street. Conterra has provided a performance bond guarantee of \$10,000. Mr. Johnson shared that Conterra installed fiber along Main Street years ago.

**STATE OF NORTH CAROLINA  
BURKE COUNTY**

**ENCROACHMENT AGREEMENT  
TOWN RIGHT OF WAY**

**THIS MASTER ENCROACHMENT AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the **TOWN OF VANDESE**, a North Carolina municipal corporation having a mailing address of P.O. Box 339, Valdese, North Carolina 28690 (the “Grantor”), and **CONTERRA ULTRA BROADBAND, LLC d/b/a CONTERRA NETWORKS**, a South Carolina limited liability company having a mailing address of 5301 77 Center Drive, Charlotte, North Carolina 28217 (the “Grantee”).

**WITNESSETH:**

WHEREAS, the Grantee desires to encroach on certain public streets and/or street right of ways (hereinafter collectively “ROW”) under the Grantor’s jurisdiction for the purposes of constructing, installing and maintaining telecommunications facilities, including but not limited to fiber optic cables and associated conduit (hereinafter “Telecommunications Facilities”) and the parties wish to memorialize any such permission and conditions through this Agreement rather than individual permits or approvals; and

WHEREAS, the Grantor is willing to exercise its authority in accordance with N.C.G.S. § 160A-296 to grant the Grantee a non-exclusive, revocable (subject to applicable law) permission to encroach on the ROW in locations approved by the Grantor pursuant to plans approved for the purposes described in this Agreement.

NOW, THEREFORE, IT IS AGREED that the Grantor grants to the Grantee, its successors, and assigns, the right and privilege to make this encroachment as shown on the attached plans (the "Encroachment"), upon the following conditions:

1. Permission to Encroach. Upon the approval of specific construction plans by the Grantor, the Grantor hereby grants the Grantee permission to encroach at the locations described in construction plans in accordance with this Agreement. Encroachments are for the purpose of constructing, installing, maintaining, operating and if necessary removing Telecommunications Facilities. The Telecommunications Facilities may consist of aerial or underground fiber optic cables, lines, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; huts; and other similar facilities (hereinafter "Network Facilities"). A general route and proposed design of Grantee's Telecommunications Facilities is attached as **Exhibit A**. Grantee understands and agrees that, notwithstanding any language in this Agreement to the contrary, the Grantor grants permission only to the extent authorized by law and the terms of the conveyance of the right of way, fee, easement, or other property interest to the Grantor in the ROW or public street. Nothing in this Agreement shall constitute or create an assignment to Grantee by the Grantor of any easement or license held by the Grantor or of any rights under any easement or license held by the Grantor. Nothing herein contained shall be construed to confer on Grantee an exclusive right to encroach on ROW or public streets or confer any rights to any third party. This Agreement also does not grant usage of Grantor poles or conduits by the Grantee.

Construction plans that are approved by the Grantor and show an encroachment shall be added as exhibits to this Agreement and shall be governed by the terms and conditions of this Agreement. Each such approved plan shall have a sequential Exhibit number included on the plan. All such construction plans that show an encroachment shall reference this Agreement and provide that any such installation, operation, or maintenance shall be governed by and incorporated into this Agreement.

2. Pre-Existing Interests. This Agreement and the rights granted hereto are subordinate and subject to the Grantor's continuing right to use and control the ROW in accordance with North Carolina law. Nothing in this Agreement shall be interpreted to restrict, impair, or affect the Grantor's right to construct, install, operate, maintain, repair, or remove roadways, sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines, and any other associated facilities or utility and municipal uses.

Grantee's rights are subject to all pre-existing easements, restrictions, conditions, covenants, claims of title and other property interests in the ROW. Grantee shall obtain any permission or rights necessary to accommodate such pre-existing property interests.

3. Grantee's Obligations. The Grantee, its contractors, employees, agents, successors, and assigns shall:

(a) take all necessary steps, including but not limited to, contacting North Carolina 811 at least three (3) days prior to any digging or excavation to ensure that any activity or operation by Grantee will not interfere with, damage, disrupt, or interrupt any utility located in the ROW, above or below ground;

(b) notify the Grantor at least five (5) business days before commencing work at a Grantor ROW location and at least three (3) days before work begins, take reasonable steps to notify residents of buildings in the area of the affected ROW that work will be performed. Failure to provide the notifications outlined in this Agreement may, in the Grantor's discretion, result in suspension or termination of this Agreement. Grantee shall not begin work until approval to proceed has been provided by the Grantor. Approval may



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be provided through electronic mail and shall not be unreasonably withheld. Approvals will be provided by a representative designated by the Grantor. Approval or objections will be provided by the Grantor within two (2) business days of receipt of Notice;

(c) in the event Grantee will be placing Network Facilities in the ROW within the tolerance zone (as defined in Section 87-117 of the North Carolina Underground Utility Safety and Damage Prevention Act) (hereinafter "NC811 Law") of a Grantor water or sewer line or any other Grantor-owned utility line, Grantee shall follow NC811 Law requirements for excavating within that tolerance zone;

(d) provide proper traffic control devices in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways ("MUTCD"), including but not limited to signs, signal lights, and flagmen for the protection of traffic and amendments or supplements thereto during any installation or maintenance of the Network Facilities pursuant to this Agreement; Grantee shall provide at least five (5) business days' notice to the Grantor of any work which will require lane closure or traffic control measures lasting more than twenty-four hours; Grantee shall follow all federal, state, and local accessibility regulations, including the MUTCD and the Americans with Disabilities Act;

(e) install, operate, repair and maintain the Network Facilities at Grantee's sole cost and expense and in accordance with federal, state, and local law, and any other regulations, ordinances and standards imposed by the Grantor, as may be amended from time to time. Construction, installation, operation, and maintenance of Network Facilities shall not endanger, inhibit, prevent, or interfere (i) with use of a ROW as a way of passage except in conformance with paragraph 3(d) above, (ii) with traffic on any ROW except in conformance with paragraph 3(d) above, (iii) with the maintenance of any ROW, (iv) with operation or maintenance of any Grantor-owned infrastructure located within or adjacent to the ROW, including but not limited to electric lines or poles, underground fiber, and water or sewer lines, or (v) with operation or maintenance of any other infrastructure or equipment lawfully located within the ROW;

(f) in the event Grantee damages any existing gas, electric, communications, water, sewer, or other utility facilities, Grantee shall immediately cease work and notify the Grantor and the affected utility company of the damage. Grantee will not resume work where damage has occurred until the Grantor determines that the danger to the public and the utility facilities has been eliminated;

(g) promptly repair any damage to the ROW, all Grantor-owned infrastructure, and all other areas disturbed during installation, operation, repair and maintenance of the Network Facilities, including but not limited to pavement, sidewalk, curb and gutter, drainage systems, signs, pavement markings, underground fiber, utility poles, electric lines, and water or sewer lines, and shall restore same to the condition existing prior to Grantee's disturbance, re-establishing grass cover with seeding and spreading of straw for finishing, all to the Grantor's satisfaction which shall be based on the industry standards for such activity;

(h) comply with all Grantor ordinances, rules, and regulations regarding stormwater discharge and soil erosion and sedimentation control as well as the Grantor's regulations, ordinances, standards and specifications for roadway and utility construction;

(i) reimburse Grantor for any reasonable costs or expenses of Grantor for any repairs or maintenance to the ROW, any Grantor-owned infrastructure, or other Grantor-owned structures resulting from or related to Grantee's negligence or willful misconduct in performing the installation, operation, maintenance, repair, or existence of the Network Facilities following receipt of invoices from the Grantor detailing those costs and/or expenses, including supporting documentation evidencing them, if requested and available;

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(j) in the event that Grantor, its employees, agents, or contractors, in Grantor's sole discretion, need to conduct work in the ROW for a legitimate governmental purpose that will conflict with the Network Facilities, Grantee shall within a commercially reasonable time, remove or alter the Network Facilities at its cost, unless applicable law provides otherwise. The Grantor will use due diligence when approving Grantee's construction plans to avoid a potential foreseeable conflict between the proposed Network Facilities and the need for work in the ROW by the Grantor. In the event of a public emergency that creates an imminent threat to the health, safety, or property of the Grantor or its residents, the Grantor may remove or relocate any applicable Network Facilities without notice to Grantee, provided, however, that Grantor will make best efforts to provide prior notice to Grantee before making an emergency removal or relocation. Grantor will provide Grantee a detailed description of any emergency removals or relocations of Network Facilities. If Grantee abandons any portion of its Network Facilities, Grantee shall notify the Grantor and remove the Network Facilities at Grantee's expense, provided, however, that Grantor and Grantee shall discuss whether underground facilities may be abandoned in place or transferred to Grantor at the mutual agreement of Grantee and Grantor;

(k) understand and agree that damage or destruction may occur to Network Facilities and other property of Grantee in the course of Grantor's operations and that Grantor has no obligation to take extraordinary measures to protect Grantee, Grantee's property, or Network Facilities or to minimize, mitigate, or avoid any such damage; and release, waive, and discharge any legal rights or claims to seek payment or relief of any kind from the Grantor, its elected officials, boards, commissions, and employees, for any damages resulting from Grantor's operations, maintenance, or other use of the ROW under its prior and continuing right to use the ROW;

(l) understand and agree that permission provided by this Agreement is non-exclusive, that additional encroachments by others may currently exist and be permitted in the future in the ROW ("Third Party Encroachments"), and that Grantor is not liable for any damage to Network Facilities that arise from the installation, operation, maintenance, or existence of Third Party Encroachments; and that any recourse for such damage must be from the Third Party Encroacher;

(m) release, waive, and discharge any legal rights to seek payment or relief of any kind from the Grantor, its elected officials, boards, commissions, and employees, for any damages due to or resulting from Third Party Encroachments;

(n) hold the Grantor, its officers, employees, and elected officials harmless from any and all liability arising out of the construction, installation, maintenance, repair, or existence of the Network Facilities and associated restoration activities in the ROW; that it will defend the Grantor, its officers, employees, and elected officials, and pay reasonable attorney fees in any and all actions brought as a result of such; and that it will indemnify the Grantor, its officers, employees, and elected officials against any and all loss sustained by reason of negligence, recklessness, or intentional wrongful conduct of Grantee arising out of the installation, maintenance, operation, repair, removal, location, or existence of Network Facilities, provided, however, that indemnification relating to personal injury of employees will not apply to any claims made by Grantor's employees that are covered under applicable workers' compensation laws, and provided, further, that Grantee's indemnification and defense obligations shall not extend to liability to the extent caused by the negligence or willful misconduct of Grantor;

(o) comply with all applicable Federal, State, and local laws and regulations. Grantee, and all subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes; and

(p) maintain valid general liability insurance in the combined single limit (bodily injury and property damage) amount of \$5,000,000 general aggregate, commercial automobile liability insurance in the minimum amount of \$2,000,000, and provide certificates of such

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insurance naming the Grantor as an additional insured by endorsement to the policies. Grantee shall maintain an umbrella excess policy in the minimum amount of \$3,000,000 over primary insurance. Additionally, Grantee shall maintain and show proof of workers' compensation within the NC statutory limits and employer's liability insurance in the minimum amount of \$1,000,000. Grantee shall provide notice of cancellation, non-renewal or material change in coverage to the Grantor within 10 days of their receipt of notice from the insurance company. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Grantee to have sufficient insurance nor the requirement that the Grantor is named as an additional insured, shall constitute waiver of the Grantor's governmental immunity in any respect, under North Carolina law. All insurance certificates, endorsements, coverage verifications and any other items required pursuant to this Agreement will be mailed directly to:

Town of Valdese  
Attn: Town Manager  
Post Office Box 339  
Valdese, North Carolina 28690

4. Microtrenching. Installation of Network Facilities through the use of microtrenching (installing conduits within the edges of sidewalk or roads) that in any way impacts any Grantor-owned street, road, sidewalk, curb, gutter, or infrastructure of any kind is prohibited under this Agreement unless first approved in writing by the Grantor. Approval may be provided through electronic mail.

5. As-Built Maps. Grantee will maintain accurate as-built drawings and maps of its Network Facilities located in the Grantor and provide them to the Grantor upon request and subject to applicable confidentiality protections under North Carolina law.

6. Required Relocation. In the event Grantee's Network Facilities would interfere with the Grantor's use of the ROW for a legitimate governmental purpose, including but not limited to, construction or installation of water, sewer, or electric lines, or construction/relocation of a public road, Grantee will, upon written notice from the Grantor, relocate its Network Facilities at Grantee's expense to another location in the public ROW as may be agreed upon by the Parties. Relocation shall occur within a commercially reasonable time period after receiving notice from the Grantor, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances.

7. Contractors and Subcontractors. Grantee may retain contractors and subcontractors to perform the work contemplated by this Agreement on behalf of Grantee. Grantee will notify the Grantor in writing of the identity of and contact information for each contractor and subcontractor performing any work for the Grantee in the Grantor prior to commencement of the work by the contractor or subcontractor. The contact information to be provided to the Grantor shall include the contractor's state license information and the name and telephone number of the contractor/subcontractor representative with supervisory authority of the work.

8. Term. This Agreement is effective on the date the last party to sign executes this Agreement ("Effective Date"). The initial term will be twenty (20) years from the Effective Date. At the end of the initial term, the Agreement shall automatically renew for successive five-year terms unless terminated by either party in accordance with this Agreement or unless superseded by a new or amended agreement. Either party may terminate this Agreement without cause upon one hundred eighty (180) days written notice to the other party. In the event of termination of this Agreement, the Agreement will nevertheless continue to govern any construction plans approved by the Grantor and that are Exhibits to this Agreement prior to the effective date of termination. All provisions contained in Section 3 of this Agreement shall survive termination.

Notwithstanding the foregoing, a grant of permission to encroach shall become void, and this Agreement terminated, as to any individual Grantor approved construction plans if the Grantee does not begin installation of the Facilities covered by that permit application in the relevant ROW within one (1) year

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of the date the plans are approved, unless the approval is updated in writing by the Grantor, and thereafter diligently pursue installation to completion.

9. Notice. Any notice, demand, request, or any other communication required, permitted, or desired to be given under this Agreement (collectively, "Notice") shall be in writing and sent via national overnight courier company (such as UPS or FedEx) or by depositing the Notice with the United States Postal Service, certified or registered mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's or department's attention if so indicated) as hereinafter provided. Each Notice shall be effective upon being delivered to the national overnight courier company or being deposited with the United States Postal Service, as the case may be, but the time period in which a response to any Notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the Notice by the addressee thereof, as evidenced by the national overnight courier company's records or by the return receipt of the United States Postal Service, as the case may be. Rejection or other refusal by the addressee to accept or the inability of the national overnight courier company or the United States Postal Service to deliver because of a changed address of which no Notice was given shall be deemed to be the receipt of the Notice sent. The addresses of the Parties shall be as follows:

If to Grantor:	Town of Valdese Post Office Box 339 Valdese, North Carolina 28690 Attention: Town Manager
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With a copy (which shall constitute notice) to:  
Timothy D. Swanson, Esq.  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

If to Grantee:	Conterra Ultra Broadband, LLC dba Conterra Networks 5301 77 Center Drive Charlotte, NC 28217
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Any Party shall have the right from time to time to change the Party's own address or individual or department's attention to which Notices shall be sent or the address to which copies of Notices shall be sent and to specify up to two additional addresses to which copies of Notices shall be sent by giving the other Party at least ten (10) days' prior written Notice thereof.

10. Mechanic's Liens. Grantee shall not permit or suffer any mechanic's or materialmen's or other liens of any kind or nature to be recorded and/or enforced against the Grantor, and Grantee shall indemnify and hold the Grantor harmless from and against any and all liens, claims, and expenses related to work done, labor performed, activities undertaken or materials furnished in connection with the Grantor's access to the encroachment area described herein in accordance herewith.

11. Taxes. Grantee shall pay all taxes which may be levied, imposed or assessed upon or against the Encroachment, or any possessory interest right which Grantee may have in or to the Town ROW by reason of its use or occupancy thereof, and upon or against the Encroachment. Grantee agrees to pay all taxes, assessments, and charges on goods, merchandise, appliances, equipment and property owned by it in or about the Town ROW.

12. Use at Permittee's Own Risk. In installing and constructing the Encroachment, Grantee agrees that it will, on its own behalf and on behalf of its contractors and subcontractors, and permitted guests and invitees, release, discharge and covenant not to sue the Town, its officials, officers, employees, volunteers and agents (collectively, the "Releasees") for any and all liability to Grantee, its contractors, subcontractors,

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employees, officers, guests, invitees, or assigns (the "Releasors"), for any loss or damage and any claim or demands therefore on account of injury or death to persons or injury or damage to property of the Releasors resulting from and while Releasors are in, upon or about the Town ROW, or Encroachment, or any Network Facilities or equipment therein, unless such loss, damages, claim or demand is determined (by a court's final judgment after all appeals have been concluded or exhausted) to have been caused by the gross negligence or willful misconduct of the Releasees. Permittee accepts the Town's ROW, in its "AS-IS" condition as of the Effective Date of this Agreement and "WITH ALL FAULTS" AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED ON THE PART OF TOWN, OR ARISING BY OPERATION OF LAW INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE CITY-OWNED CONDUIT.

13. Recitals. The Recitals are incorporated herein.

14. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina and the parties agree that the proper venue for all suits or actions related to Agreement shall be in Burke County, North Carolina.

15. Miscellaneous.

(a) Neither party waives any rights it may have under applicable law with respect to the subject matter in this Agreement, and no breach or non-performance of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties.

(b) There are no third party beneficiaries to this Agreement.

(c) The individual signing this Agreement warrants that he/she has the authority to do so and binds the Grantee to the obligations set forth herein.

(d) Grantee acknowledges that records in the custody of Grantor are public records and subject to public records requests unless such records are exempt from disclosures under North Carolina law. The burden of claiming an exemption from disclosure shall rest solely with Grantee and Grantee shall comply with North Carolina law in asserting any such exemption. Grantor shall make reasonable efforts to notify Grantee of any requests made for disclosure of documents submitted under any claim of exemption from public records requests, and Grantee may take any appropriate actions, at its own expense, to prevent disclosure of such material.

(e) Nothing contained in this Agreement shall be deemed or construed so as to restrict or inhibit the Grantor's police powers or regulatory authority.

(f) No elected official, agent, or employee of the Grantor shall be subject to any personal liability by reason of the execution of this Agreement. Such elected officials, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities.

(g) Should any portion of this Agreement require judicial interpretation, it is agreed that the court construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any one party by reason of the rule of construction that a document is to be more strictly construed against the party who prepared the documents.

(h) This Agreement represents the entire agreement between the Parties with regard to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, either written or oral, and may only be amended only by written amendment in a writing signed by the both parties.

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(i) In the event of conflict between the requirements of this Agreement, the Grantor's ordinances, or the terms of any applicable construction plans, the more restrictive requirement shall apply.

(j) The Encroachment shall not be enlarged or increased beyond that shown in any individual approved construction plans.

(k) Grantee binds itself, its successors, permitted assigns and legal representatives to the terms of this Agreement. This Agreement may not be assigned without the prior written consent of the Grantor. In the event Grantee retains subcontractors to perform any activities covered by this Agreement, Grantee shall be and remain responsible for all activities and all required insurance. All entities performing the work must be North Carolina licensed and bonded contractors.

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*

June 17, 2024, MB#32

IN WITNESS WHEREOF, the parties hereto have caused this Agreement 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

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 corporation, the foregoing instrument was signed in its name and by its Mayor, sealed with its corporate seal and attested by her as its Town Clerk.

Witness my hand and notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

June 17, 2024, MB#32

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

CONTERRA ULTRA BROADBAND, LLC

By: \_\_\_\_\_, Manager

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he or she is the \_\_\_\_\_ for Conterra Ultra Broadband, LLC, a South 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 \_\_\_\_\_, 2024.

[NOTARIAL SEAL]

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

My commission expires: \_\_\_\_\_

Councilman Mears made a motion to approve the Encroachment Agreement with Conterra Ultra Broadband, LLC, seconded by Councilman Harvey. The vote was unanimous.

**INTERIM MANAGER'S REPORT:**

Family Friday Nights continue each Friday in June on Temple Field from 7:00 p.m. – 10:00 p.m.

Special Called Meeting scheduled for Friday, June 21, 2024, 8:45 a.m., at Valdese Town Hall, to go into Closed Session Pursuant to NC General Statute 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Valdese Independence Day Celebration, Friday, June 28, 2024, 6:00 p.m., Main Street

Next Agenda Review Council meeting is scheduled for Monday, July 29, 2024, 6:00 p.m., Council Chambers, Valdese Town Hall

Next Regular Council meeting scheduled for Monday, August 5, 2024, 6:00 p.m., Council Chambers, Valdese Town Hall

**MAYOR AND COUNCIL COMMENTS:** Councilman Harvey thanked everybody for tolerating the change we have had this year. Councilman Harvey thanked the citizens for being a part of the Strategic Planning and new committees and the staff for their hard work. Councilman Harvey said the good news is that people will see a 20% cut in the Valdese tax rate and no cuts in services. Councilman Harvey said anyone who wants to donate money to the Town of Valdese could do so if they felt we did not need a drop in the tax rate. Councilman Harvey reminded citizens interested in serving in the new committees to fill out an application, which can be found on the website.

Councilwoman Ward thanked everyone involved with the budget and Councilman Harvey for addressing things that she would not have thought to address. She feels the committees are going well.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:



June 17, 2024, MB#32

- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

At 7:04 p.m., Councilwoman Lowman made a motion to go into closed session, seconded by Councilwoman Ward. The vote was unanimous.

At 7:17 p.m., Councilman Ogle made a motion to return to open session, seconded by Councilwoman Lowman. The vote was unanimous.

Councilwoman Lowman made a motion to approve the contract amendment for Interim Town Manager Bryan Steen, seconded by Councilman Mears. The vote was unanimous.

**ADJOURNMENT:** At 7:19 p.m., there being no further business to come before Council, Councilwoman Lowman made a motion to adjourn, seconded by Councilwoman Ward. The vote was unanimous.

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Town Clerk

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Mayor

jl

**TOWN OF VALDESE  
TOWN COUNCIL SPECIAL CALLED MEETING  
JUNE 21, 2024**

The Town of Valdese Town Council met on Friday, June 21, 2024, at 8:45 a.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 Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen and Town Clerk Jessica Lail.

Absent:

A quorum was present.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:

- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

At 8:45 a.m., Councilwoman Ward made a motion to go into closed session, seconded by Councilman Mears. The vote was unanimous.

At 12:03 p.m., Councilman Mears made a motion to return to open session, seconded by Councilwoman Lowman. The vote was unanimous.

**ADJOURNMENT:** At 12:04 p.m., there being no further business to come before Council, Councilman Mears made a motion to adjourn, seconded by Councilwoman Lowman. The vote was unanimous.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

jl

July 2, 2024, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL SPECIAL CALLED MEETING  
JULY 2, 2024**

The Town of Valdese Town Council met on Tuesday, July 2, 2024, at 2:00 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 Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen and Assistant Town Manager/CFO Bo Weichel

Absent: Town Clerk Jessica Lail

A quorum was present.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:

- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Councilwoman Ward made a motion to go into closed session, seconded by Councilwoman Lowman. The vote was unanimous.

Councilman Ogle made a motion to return to open session, seconded by Councilwoman Ward. The vote was unanimous.

**ADJOURNMENT:** At 2:52 p.m., there being no further business to come before Council, Councilman Mears made a motion to adjourn, seconded by Councilwoman Lowman. The vote was unanimous.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

jl

**TOWN OF VALDESE  
TOWN COUNCIL SPECIAL CALLED MEETING  
JULY 11, 2024**

The Town of Valdese Town Council met on Thursday, July 11, 2024, at 8:30 a.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 Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen and Town Clerk Jessica Lail

Absent:

A quorum was present.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:

- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Councilwoman Lowman made a motion to go into closed session, seconded by Councilwoman Ward. The vote was unanimous.

Councilman Harvey made a motion to return to open session, seconded by Councilwoman Lowman. The vote was unanimous.

**ADJOURNMENT:** At 10:02 a.m., there being no further business to come before Council, Councilwoman Ward made a motion to adjourn, seconded by Councilman Mears. The vote was unanimous.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

jl

July 12, 2024, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL SPECIAL CALLED MEETING  
JULY 12, 2024**

The Town of Valdese Town Council met on Friday, July 12, 2024, at 10:30 a.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 Gary Ogle, Councilwoman Rexanna Lowman, Councilwoman Heather Ward, Councilman Glenn Harvey, and Councilman Paul Mears. Also present were: Interim Town Manager Bryan Steen and Town Clerk Jessica Lail

Absent:

A quorum was present.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session for:

- **Closed Session Pursuant to NC General Statute 143-318.11(a)(6)** to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

Councilman Mears made a motion to go into closed session, seconded by Councilman Ogle. The vote was unanimous.

Councilwoman Lowman made a motion to recess the closed session to 1:00 p.m., seconded by Councilwoman Ward. The vote was unanimous.

Councilwoman Lowman made a motion to go back into closed session at 1:07 p.m., seconded by Councilman Harvey. The vote was unanimous.

Councilwoman Lowman made a motion to return to open session, seconded by Councilman Mears. The vote was unanimous.

**ADJOURNMENT:** At 5:25 p.m., there being no further business to come before Council, Councilwoman Lowman made a motion to adjourn, seconded by Councilwoman Ward. The vote was unanimous.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor

jl



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

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2120 | FAX (828) 879-2139 | TOWNOFVALDESE.COM

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

WHEREAS, for many years the Town of Valdese has sponsored the Draughn High School Homecoming Parade; and

WHEREAS, the Town of Valdese desires to schedule the Draughn High School Parade on Tuesday, September 24, 2024; and

WHEREAS, part of US 70/Main Street in Valdese will need to be closed for the parade; 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:

**DRAUGHN HIGH SCHOOL HOMECOMING PARADE**

Date: September 24, 2024

Time: 5:30pm to 7:00pm

Route: Main Street (US 70) from Hoyle Street to Eldred Street

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

This ordinance shall take effect upon adoption.

THIS, the 5<sup>th</sup> day of August 2024.

---

CHARLES WATTS, MAYOR

---

Town Clerk

## Parade Detour Signage and Road Closure Notice

Main St. (US 70) will be closed from Hoyle St to Eldred St. The Detour route will use Hoyle St, Pineburr Av, and Eldred St. Detour signage will be placed as follows.

### Eastbound Detour

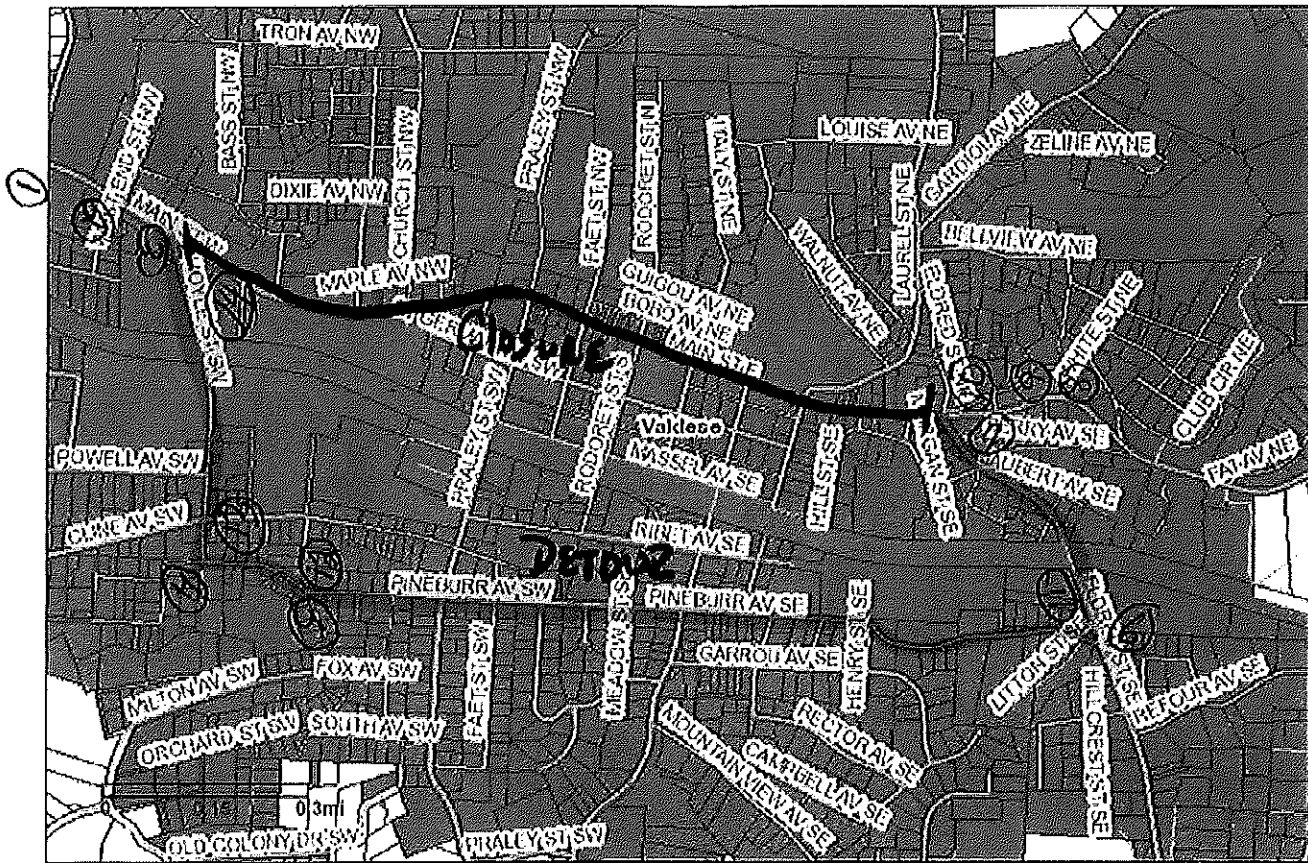
1. Main St and Sterling St (eastbound) -- Road Closed Ahead
2. Main St and West End St (eastbound) -- Detour Ahead
3. Main St and Hoyle St (eastbound) -- Detour Right
4. Hoyle St and Pineburr Ave -- Detour Left
5. Pineburr Ave and Orchard St -- Detour Left
6. Eldred St and Pineburr -- Detour Left
7. Main St and Eldred -- Detour Right

### Westbound Detour

8. Main St 1000 feet prior to Eldred St (Westbound)-Road Closed Ahead
9. Main St. 500 feet prior to Eldred St (Westbound)-Detour Ahead
10. Main St and Eldred St (Westbound) -- Detour Right
11. Eldred St and Pineburr -- Detour Right
12. Pineburr Ave and Orchard St -- Detour Right
13. Hoyle St and Pineburr Ave-Detour Right
14. Main St and Hoyle St -- Detour Left

\*\*\*\*\* During closure period intersections will be manned with either REACT personnel or Valdese Police Officer\*\*\*\*\*

**Note: Sign locations are indicated by number on the map.**



### Burke County, NC

**Disclaimer:** The information contained on this page is taken from aerial mapping, tax mapping, and public records and is NOT to be construed or used as a survey or 'legal description'. Only a licensed professional land surveyor can legally determine precise locations, elevations, length and direction of a line, and areas.

<http://www.webgis.net> Anderson & Associates, Inc. <http://www.endassoc.com>

init: start  
init: done



**ACKNOWLEDGMENT AND WAIVER OF  
CONFLICT OF INTEREST**

This Acknowledgment and Waiver of Conflict of Interest is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **The Town of Valdese, a North Carolina municipal corporation (“Seller”)** and **Michael Abee and wife, Ciejae Abee (“Buyers”)** (collectively, the “Parties”).

**WITNESSETH :**

**WHEREAS**, the Parties have decided to enter into certain sell/purchase of certain real properties known as 460 Perkins Road, SE (13.44 acres), 308 Stuart Avenue, SE (1 acre) and 317 Stuart Avenue, SE (3.28 acres), Valdese, North Carolina 28690 and shown as Parcel Identification Number(s) (PINS): 2743-62-4062; 2743-52-6258 and 2743-52-8801, Burke County Tax Assessor Office,(the “Agreement”);

**WHEREAS**, the parties acknowledge that the law firm of Young, Morphis, Bach & Taylor, L.L.P., and its various partners and associate attorneys (the “Law Firm”) may have previously represented and/or continue to represent all and/or certain Parties in various matters; and

**WHEREAS**, the Parties desire that the Law Firm search title and conduct a closing based upon terms provided by each of the Parties.

**NOW, THEREFORE**, for and in consideration of the mutual premises and covenants set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto acknowledge and agree as follows:

1. The Parties acknowledge that the Law Firm’s representation of each of them in connection with the title search and closing may present a conflict of interest as to such representation of all Parties as set forth above. The Parties, for themselves and their respective partners, officers, directors, shareholders, managers, agents, successors, assigns and personal representatives, hereby waive such conflict of interest in order that the Law Firm search title and conduct a closing.
2. The Parties each acknowledge and agree that the Law Firm did not participate in the negotiation of the terms of the purchase, as the Parties were each afforded the opportunity to secure their own representation as to the Purchase Contract terms. Further, the Parties each acknowledge and agree that the terms of the purchase represent the terms upon which they negotiated.
3. The Parties each acknowledge and agree that, if any issues arise in connection with the terms of the closing and execution of closing documents thereof that may involve further negotiations, the Law Firm will be unable to negotiate such terms but will merely present such issues and will rely upon the Parties to solely negotiate such issues and direct the Law Firm upon their mutual agreement as to any such issues.

4. The Parties, for themselves, their respective partners, officers, directors, shareholders, members, managers, agents, personal representatives, successors and/or assigns, hereby fully release and hold harmless the Law Firm from any and all matters which might arise in connection with the Law Firm's limited representation of each of them as set forth herein and waive any conflict relating to such representation.
5. The Parties understand that they have the right to repudiate this conflict waiver should they later decide that it is no longer in their best interest. Should a conflict contemplated and/or addressed by this conflict waiver be in existence at the time either party wishes to repudiate this conflict waiver, and should the Law Firm and/or the non-repudiating client have acted in reliance on the representations of the repudiating client set forth and/or contemplated by this conflict waiver, the Law Firm will have the right to continue to represent the Seller in this transaction. The Buyers acknowledge that continued representation of the Seller may be adverse to their interest, but agree to this conflict waiver and hereby waive any and all objections they may have to the Law Firm's continued representation of the Seller.
6. This acknowledgment shall be binding upon the parties hereto and their respective successors and/or assigns, may be executed in any number of counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute an original and one and the same instrument. Further, copies of signatures hereto shall constitute originals for all purposes.

**IN WITNESS WHEREOF**, the parties hereto have signed or caused this Acknowledgment effective as of the day and year first above written.

**Seller:**  
**The Town of Long View,**  
**A North Carolina municipal corporation**

\_\_\_\_\_ (SEAL)  
**Charles Watts, Mayor**

**Attest:**

\_\_\_\_\_ (SEAL)  
**Jessica Lail, Town Clerk**

**Buyers:**

\_\_\_\_\_ (SEAL)  
**Michael Abee**

\_\_\_\_\_ (SEAL)  
**Ciejae Abee**

**TOWN OF VALDESE  
RESOLUTION AMENDING 2024 TOWN COUNCIL MEETING SCHEDULE**

WHEREAS, pursuant to Section 2-1011 of the Town of Valdese Code of Ordinances, there shall be a regular meeting of the council at the town hall, on the first Monday in each month, at 6:00 p.m., unless another place, date or time shall be designated.

NOW, THEREFORE, BE IT RESOLVED that the Town of Valdese Town Council adopts the following Meeting Schedule for 2024:

<i>Council Chambers, Unless Noted</i>		<i>Council Chambers, Unless Noted</i>	
<b>2024 REGULAR MONTHLY MEETINGS</b>		<b>PUBLIC FORUMS AND REVIEW MEETINGS</b> (Informal review of agendas/town news)	
January 8		January 29	Review Feb Agenda
February 5		February 26	Review Mar Agenda
March 4		March 18	Citizen Budget Priorities (WPCOG Strategic Planning Results)
April 1		March 25	Review April Agenda
April 22	Council Budget Review	April 29	Review May Agenda
May 6		May 29@3:00 pm	Review June Agenda
June 3			
June 24	2024-25 Budget Hearing	(June 24 for July Mtg. is a Public Meeting)	
August 5		July 29	Review August agenda
September 3		August 26	Review Sept Agenda
October 7		September 30	Review Oct Agenda
November 4		October 28	Review Nov Agenda
December 2		November 25	Review Dec Agenda

This 5<sup>th</sup> day of August 2024.

\_\_\_\_\_  
Charles Watts, Mayor

(the above space is left blank for recording purposes)

---

Excise Tax: \$0.00

PREPARED BY/RETURN TO:

Timothy D. Swanson, Attorney  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

**STATE OF NORTH CAROLINA**

**BURKE COUNTY**

**DEED OF EASEMENT  
(Permanent Access and Utility Easement)**

This Deed of Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **BURKE COUNTY BOARD OF EDUCATION**, a North Carolina school system having a mailing address of Post Office Box 989, Morganton, North Carolina 28680 ("**Grantor**"), and **TOWN OF VALDESE**, a municipal corporation duly organized and existing under the laws of the State of North Carolina having a mailing address of 102 Massell Avenue SW, Valdese, North Carolina 28690 ("**Grantee**").

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

WHEREAS, Grantor is the owner of that certain tract or parcel of real property (the "**Grantor Property**") situated in Lovelady Township, Burke County, North Carolina, commonly known as 0 Lake Rhodhiss Drive NE, Valdese, North Carolina 28690, Parcel ID No.

2744557428, which Grantor Property is more particularly described in Deed Book 1556, Page 91, Burke County Registry; and

WHEREAS, Grantee has determined that it is in the best interest, safety and welfare of the general public to install and maintain water and sewer lines and facilities and/or other utilities to serve the public in the vicinity of a residential development being constructed on the Grantor Property (the "Project").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid to the Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does grant, bargain, sell and convey to Grantee, its successors and assigns, the Permanent Utility and Access Easement indicated below:

**Permanent Utility and Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a perpetual right to enter upon the Permanent Utility and Access Easement Area, hereinafter defined (the "***Permanent Utility and Access Easement Area***"), for the purpose of laying, constructing, reconstructing, extending, inspecting, operating, and maintaining water and sewer lines and facilities and/or other utilities and for the purpose of constructing, reconstructing, extending, inspecting, operating, and maintaining private roads within the Permanent Utility and Access Easement Area for ingress, egress, and regress to and from the Grantor Property, the Permanent Utility and Access Easement Area, any utility lines and/or facilities located therein, any private roads located therein, any adjoining properties over, under or across which Grantee maintains an easement or interest, and/or any other parts of the Project (the "***Permanent Utility and Access Easement***"); said Permanent Utility and Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 0.04 acre (1,706 square feet) and 0.04 acre (1,799 square feet), more or less, and being all of the areas labeled "Permanent Access & Utility Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

The Permanent Utility and Access Easement shall also include the right of Grantee to enter the Permanent Utility and Access Easement Area to install new utility lines, facilities and/or improvements, inspect existing utility lines, facilities and/or improvements, and to perform necessary maintenance and repairs and to make alternations and additions thereto; to remove from the Permanent Utility and Access Easement Area, now or in the future, trees, shrubs and landscaping, structures that may, in the opinion of Grantee, endanger the proper maintenance and operation of said utility lines, facilities and/or improvements; make modifications to the topography which are necessary for the construction, installation, and proper maintenance and operation of the utility lines, facilities and/or improvements.

Grantee shall have such right of ingress, egress, and regress over and upon any lands of Grantor immediately adjacent to the Permanent Utility and Access Easement Area as may be

necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair the lines, facilities and improvements for which the Permanent Utility and Access Easement is granted.

It is further understood that Grantor shall not erect a permanent structure of any kind over or across the easements herein granted; permit or cause water to be ponded or impounded over or across said easements or attempt to block or otherwise impede the natural flow of water; excavate from or add fill material to the property within said easements resulting in elevation change of +/- 1 foot; cause or permit to be stored over said easements any personal property which materially impairs Grantee's access to the infrastructure within said easement and which cannot be removed by the fee owner within twenty-four hour notice; or plant any trees or other plants with invasive root systems within water or sewer easements. Any irrigation systems installed within the easement herein granted shall be the sole responsibility of the fee owner of the Grantor Property and will not be subject to repair or replacement by Grantee upon its exercise of the rights herein granted.

The easements conveyed herein are non-exclusive to the extent that other public services and utilities may install services lines across the herein described easements provided they do not (i) unreasonably interfere with Grantee's use, and (ii) Grantor, or its successor in title, has received prior written approval from Grantee for said utility installation.

Grantor understands that the interests conveyed hereby are being acquired for a construction project and Grantor agrees that construction may begin on said Grantor Property upon execution of this instrument. Grantor further acknowledges that the consideration stated herein is full and just compensation pursuant to North Carolina General Statutes for the acquisition of the said property interests and rights by the Grantee, and for any and all damages to the value of the remaining Grantor Property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of the Project; and for the past and future use of said areas by Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject the same.

Grantee shall return the Permanent Utility and Access Easement Area and any other area outside the permanent easements conveyed herein that are disturbed as a result of Grantee's activities in connection with the Project, to a similar condition as existed prior to Grantee's activities.

TO HAVE AND TO HOLD the aforesaid rights and easements to Grantee, its successors and assigns, it being agreed that the rights and easements hereby granted are appurtenant to and run with the land.

AND, the Grantor covenants with said Grantee that Grantor is seized of the Grantor Property in fee simple, has the right to grant the rights and easements provided herein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*

IN TESTIMONY WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

BURKE COUNTY PUBLIC SCHOOLS,  
BOARD OF EDUCATION

By: [Signature] (Seal)  
SETH HUNT, Chairman

Attest: [Signature]  
DR. MIKE SWAN, Superintendent and Ex Officio Secretary

STATE OF NORTH CAROLINA  
COUNTY OF Burke

I, Sylvia Phillips, a Notary Public of Burke County, State of North Carolina, do hereby certify that DR. MIKE SWAN personally came before me this day and acknowledged that he is the Superintendent and Ex Officio Secretary for the Burke County Public Schools Board of Education, a North Carolina school system, and that by authority duly given and as the act of the Burke County Public Schools Board of Education, the foregoing instrument was signed in its name and by its Chairman, SETH HUNT, sealed with its corporate seal, and attested by him as its Ex Officio Secretary.

Witness my hand and notarial stamp or seal, this 25 day of June, 2024.

[Signature]  
Notary Public

[AFFIX NOTARIAL SEAL]

My Commission Expires: 7-22-25.





**ACCEPTANCE**

Accepted by the Town of Valdese Council for and on behalf of the Town of Valdese, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina municipal corporation

By: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

Attest: \_\_\_\_\_  
JESSICA LAIL, Town Clerk

Approved as to form on behalf of the Town of Valdese this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorney for the Town of Valdese

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that JESSICA LAIL personally came before me this day and acknowledged that she is the 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 \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**EXHIBIT A****PERMANENT ACCESS AND UTILITY EASEMENT**

A PERMANENT ACCESS AND UTILITY EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURKE COUNTY PUBLIC SCHOOL BOE AS DESCRIBED IN DEED BOOK 1556, PAGE 91, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8-INCH IRON ROD WITH AN ILLEGIBLE CAP WITH COORDINATED VALUES OF NORTH = 744,049.633 FEET AND EAST = 1,246,065.463, SAID POINT LYING ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND BURKE COUNTY AS DESCRIBED IN DEED BOOK 1591, PAGE 198; THENCE SOUTH 17°34'52" WEST, A DISTANCE OF 68.43 FEET TO THE POINT OF BEGINNING.

BEGINNING AT A POINT WITH COORDINATED VALUES OF NORTH = 743,984.228 AND EAST = 1,246,044.804 ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND BURKE COUNTY; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY SOUTH 81°03'26" EAST, A DISTANCE OF 66.30 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND NATURAL LAND ALLIANCE, INC AS DESCRIBED IN DEED BOOK 2312, PAGE 264; THENCE ALONG SAID COMMON LINE FOR THE FOLLOWING TWO (2) COURSES: SOUTH 08°04'43" WEST, A DISTANCE OF 20.69 FEET; SOUTH 28°57'11" WEST, A DISTANCE OF 4.59 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY NORTH 81°03'26" WEST, A DISTANCE OF 68.84 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND BURKE COUNTY; THENCE ALONG SAID COMMON LINE NORTH 17°34'52" EAST, A DISTANCE OF 25.29 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.04 ACRE (1,706 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE PERMANENT ACCESS & UTILITY EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**PERMANENT ACCESS AND UTILITY EASEMENT**

A PERMANENT ACCESS AND UTILITY EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURKE COUNTY PUBLIC SCHOOL BOE AS DESCRIBED IN DEED BOOK 1556, PAGE 91, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8-INCH IRON ROD WITH A CAP STAMPED "ABERNATHY & ASSOCIATES" WITH COORDINATED VALUES OF NORTH = 742,760.966 FEET AND EAST = 1,246,286.013 FEET, SAID POINT LYING ON A COMMON LINE BETWEEN NATURAL LAND ALLIANCE, INC AS DESCRIBED IN DEED BOOK 2312, PAGE 264 AND RICHARD G. AND BRENDA F. NICHOLSON AS DESCRIBED IN DEED BOOK 1510, PAGE 473; THENCE ALONG SAID COMMON LINE SOUTH 59°42'44" WEST, A DISTANCE OF 20.67 FEET TO A COMMON CORNER BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE, AND BEING THE SOUTHWEST CORNER OF NATURAL LAND ALLIANCE, INC; THENCE ALONG SAID COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND NATURAL LAND ALLIANCE, INC, NORTH 14°20'09" WEST, A DISTANCE OF 32.53 FEET TO THE POINT OF BEGINNING.

BEGINNING AT A POINT WITH COORDINATED VALUES OF NORTH = 742,781.971 FEET AND EAST = 1,246,260.124 FEET ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND NATURAL LAND ALLIANCE, INC; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING TWO (2) COURSES: SOUTH 32°17'07" WEST, A DISTANCE OF 34.45 FEET; SOUTH 59°47'50" WEST, A DISTANCE OF 63.54 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND BURKE COUNTY, AS DESCRIBED IN DEED BOOK 1591, PAGE 198; THENCE ALONG SAID COMMON LINE NORTH 15°54'00" WEST, A DISTANCE OF 17.13 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY NORTH 52°47'52" EAST, A DISTANCE OF 94.01 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND NATURAL LAND ALLIANCE, INC; THENCE ALONG SAID COMMON LINE SOUTH 14°20'09" EAST, A DISTANCE OF 12.62 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.04 ACRE (1,799 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE PERMANENT ACCESS & UTILITY EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**EXHIBIT A-1**

**PLAN SHEET(S)**

**PREPARED BY J. LEONARD OF SURVEYING AND MAPPING, LLC.**

# Exhibit "A"

## Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

**AREA STATEMENT**

PROPOSED PERMANENT ACCESS & UTILITY EASEMENT  
CONTAINS 0.04 ACRES OR 1,799 SQUARE FEET,  
MORE OR LESS.

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

**CERTIFICATION:**

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024



1	ADDRESS COMMENTS	ZB	11/6/23
NO.	REVISIONS	BY	DATE

Burke County Public School BOE - Burke County PIN: 2744-55-7428

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: N/A
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-55-7428
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

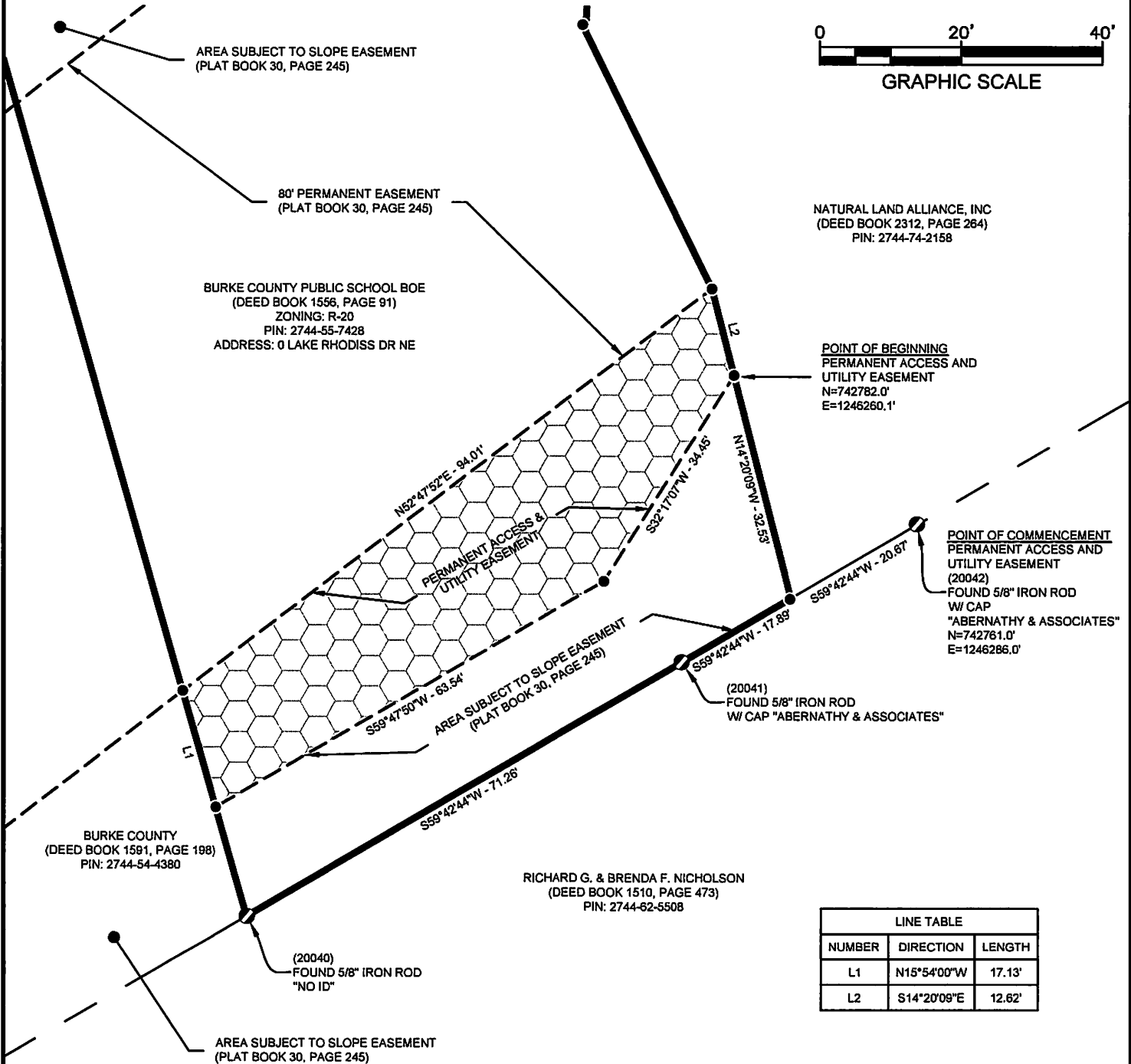
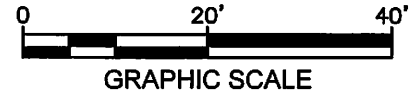
SHEET 1  
OF 2

# Exhibit "A"

## Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

NC GRID  
NAD 83 (2011)



NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
PIN: 2744-74-2158

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-20  
PIN: 2744-55-7428  
ADDRESS: 0 LAKE RHODISS DR NE

POINT OF BEGINNING  
PERMANENT ACCESS AND  
UTILITY EASEMENT  
N=742782.0'  
E=1246260.1'

POINT OF COMMENCEMENT  
PERMANENT ACCESS AND  
UTILITY EASEMENT  
(20042)  
FOUND 5/8" IRON ROD  
W/ CAP  
"ABERNATHY & ASSOCIATES"  
N=742761.0'  
E=1246286.0'

(20041)  
FOUND 5/8" IRON ROD  
W/ CAP "ABERNATHY & ASSOCIATES"

(20040)  
FOUND 5/8" IRON ROD  
"NO ID"

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	N15°54'00"W	17.13'
L2	S14°20'09"E	12.62'

Burke County Public School BOE - Burke County PIN: 2744-55-7428

JOB NUMBER: 1022074274  
DATE: 10/2023  
SCALE: 1" = 20'  
SURVEYOR: J. LEONARD  
TECHNICIAN: Z. BARNETT  
DRAWING: MGA - VALDESE BLUFFS - EASEMENT  
TRACT ID: 2744-55-7428  
PARTYCHIEF: A. RENNE  
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement  
SHEET 2  
OF 2

# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

<p><b>AREA STATEMENT</b></p> <p>PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT CONTAINS 0.04 ACRES OR 1,706 SQUARE FEET, MORE OR LESS.</p>
--

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS.
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JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024



1	ADDRESS COMMENTS	ZB	11/6/23
NO.	REVISIONS	BY	DATE

Burke County Public School BOE - Burke County PIN: 2744-55-7428

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: N/A
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-55-7428
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 1  
OF 2

# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

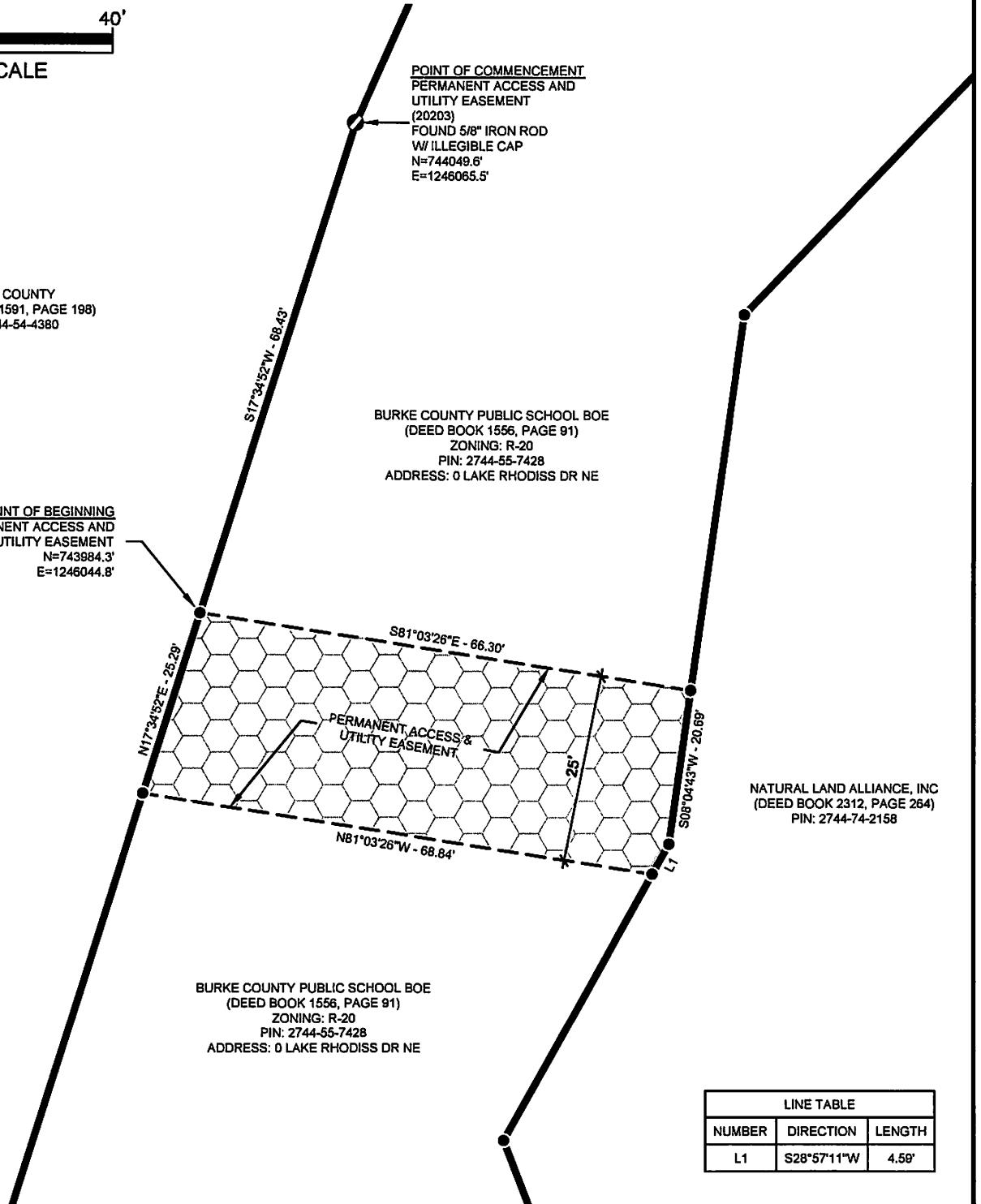


BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
PIN: 2744-54-4380

**POINT OF COMMENCEMENT**  
PERMANENT ACCESS AND  
UTILITY EASEMENT  
(20203)  
FOUND 5/8" IRON ROD  
W/ILLEGIBLE CAP  
N=744049.6'  
E=1246065.5'

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-20  
PIN: 2744-55-7428  
ADDRESS: 0 LAKE RHODISS DR NE

**POINT OF BEGINNING**  
PERMANENT ACCESS AND  
UTILITY EASEMENT  
N=743984.3'  
E=1246044.8'



NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
PIN: 2744-74-2158

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-20  
PIN: 2744-55-7428  
ADDRESS: 0 LAKE RHODISS DR NE

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	S28°57'11\"W	4.59'

Burke County Public School BOE - Burke County PIN: 2744-55-7428

JOB NUMBER: 1022074274  
DATE: 10/2023  
SCALE: 1" = 20'  
SURVEYOR: J. LEONARD  
TECHNICIAN: Z. BARNETT  
DRAWING: MGA - VALDESE BLUFFS - EASEMENT  
TRACT ID: 2744-55-7428  
PARTYCHIEF: A. RENNE  
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email: info@sam.biz

**PROJECT:** McGill Associates  
Valdese Bluffs - Easement

SHEET 2  
OF 2



(the above space is left blank for recording purposes)

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Excise Tax: \$0.00

PREPARED BY/RETURN TO:

Timothy D. Swanson, Attorney  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

**STATE OF NORTH CAROLINA**

**BURKE COUNTY**

**DEED OF EASEMENT  
(Temporary Access Easement)**

This Deed of Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **BURKE COUNTY BOARD OF EDUCATION**, a North Carolina school system having a mailing address of Post Office Box 989, Morganton, North Carolina 28680 ("**Grantor**"), and **TOWN OF VALDESE**, a municipal corporation duly organized and existing under the laws of the State of North Carolina having a mailing address of 102 Massell Avenue SW, Valdese, North Carolina 28690 ("**Grantee**").

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

WHEREAS, Grantor is the owner of that certain tract or parcel of real property (the "**Grantor Property**") situated in Lovelady Township, Burke County, North Carolina, commonly known as 0 Lovelady Drive, Valdese, North Carolina 28690, Parcel ID No. 2744621058, which

Grantor Property is more particularly described in Deed Book 1556, Page 91, Burke County Registry; and

WHEREAS, Grantee has determined that it is in the best interest, safety and welfare of the general public to install and maintain water and sewer lines and facilities and/or other utilities to serve the public in the vicinity of a residential development being constructed on Azalea Drive, Connelly Springs, North Carolina 28612, Parcel ID No. 2744742158 (the "Project").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid to the Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does grant, bargain, sell and convey to Grantee, its successors and assigns, the Temporary Access Easement indicated below:

**Temporary Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a temporary, non-exclusive right to enter upon the Temporary Access Easement Area, hereinafter defined (the "***Temporary Access Easement Area***"), for the purpose of constructing, reconstructing, extending, inspecting, operating, maintaining, and using private roads for ingress, egress, and regress to and from the Project, any utility lines and/or facilities located within the Project area, and/or any adjoining properties over, under or across which Grantee maintains an easement or interest (the "***Temporary Access Easement***"); said Temporary Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 0.43 acre (18,823 square feet), more or less, and being all of the area labeled "Temporary Access Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

The Temporary Access Easement shall also include the right of Grantee to enter the Temporary Easement Area to install new improvements, inspect existing improvements, and to perform necessary maintenance and repairs and to make alternations and additions thereto; to remove from the Temporary Access Easement Area, now or in the future, trees, shrubs and landscaping, structures that may, in the opinion of Grantee, endanger the proper maintenance and operation of said improvements; make modifications to the topography which are necessary for the construction, installation, and proper maintenance and operation of the improvements.

Grantee shall have such right of ingress, egress, and regress over and upon any lands of Grantor immediately adjacent to the Temporary Easement Area as may be necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair the improvements for which the Temporary Access Easement is granted.

It is further understood that Grantor shall not erect a permanent structure of any kind over or across the easements herein granted; permit or cause water to be ponded or impounded over or across said easements or attempt to block or otherwise impede the natural flow of water;

excavate from or add fill material to the property within said easements resulting in elevation change of +/- 1 foot; cause or permit to be stored over said easements any personal property which materially impairs Grantee's access to the infrastructure within said easements and which cannot be removed by the fee owner within twenty-four hour notice; or plant any trees or other plants with invasive root systems within water or sewer easements. Any irrigation systems installed within the easements herein granted shall be the sole responsibility of the fee owner of the Grantor Property and will not be subject to repair or replacement by Grantee upon its exercise of the rights herein granted.

The easements conveyed herein are non-exclusive to the extent that other public services and utilities may install services lines across the herein described easements provided they do not (i) unreasonably interfere with Grantee's use, and (ii) Grantor, or its successor in title, has received prior written approval from Grantee for said utility installation.

Grantor understands that the interests conveyed hereby are being acquired for a construction project and Grantor agrees that construction may begin on said Grantor Property upon execution of this instrument. Grantor further acknowledges that the consideration stated herein is full and just compensation pursuant to North Carolina General Statutes for the acquisition of the said property interests and rights by the Grantee, and for any and all damages to the value of the remaining Grantor Property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of the Project; and for the past and future use of said areas by Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject the same.

The Temporary Construction Easement granted herein shall expire upon the earlier of (i) completion of the construction of the Project (including all post-construction work and closing out of all permits) and written notice of expiration by the Grantee to the Grantor, or (ii) establishment of a permanent access road providing Grantee permanent access to the Project and all permanent easements granted to Grantee in connection therewith. Grantee shall return the Temporary Easement Area and any other area outside the easements conveyed herein that are disturbed as a result of Grantee's activities in connection with the Project to substantially the same condition they were in prior to Grantee's work, to the extent commercially reasonable and ordinary wear and tear excepted.

TO HAVE AND TO HOLD the aforesaid rights and easements to Grantee, its successors and assigns, it being agreed that the rights and easements hereby granted are appurtenant to and run with the land.

AND, the Grantor covenants with said Grantee that Grantor is seized of the Grantor Property in fee simple, has the right to grant the rights and easements provided herein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*

IN TESTIMONY WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

BURKE COUNTY  
BOARD OF EDUCATION

By: [Signature] (Seal)  
SETH HUNT, Chairman

Attest: [Signature]  
DR. MIKE SWAN, Superintendent and Ex Officio Secretary

STATE OF NORTH CAROLINA  
COUNTY OF Burke

I, Sylvia Phillips, a Notary Public of Burke County, State of North Carolina, do hereby certify that DR. MIKE SWAN personally came before me this day and acknowledged that he is the Superintendent and Ex Officio Secretary for the Burke County Public Schools Board of Education, a North Carolina school system, and that by authority duly given and as the act of the Burke County Public Schools Board of Education, the foregoing instrument was signed in its name and by its Chairman, SETH HUNT, sealed with its corporate seal, and attested by him as its Ex Officio Secretary.

Witness my hand and notarial stamp or seal, this 25 day of June, 2024.

[Signature]  
Notary Public

[AFFIX NOTARIAL SEAL]

My Commission Expires: 7-22-25.



**ACCEPTANCE**

Accepted by the Town of Valdese Council for and on behalf of the Town of Valdese, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina municipal corporation

By: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

Attest: \_\_\_\_\_  
JESSICA LAIL, Town Clerk

Approved as to form on behalf of the Town of Valdese this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorney for the Town of Valdese

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that JESSICA LAIL personally came before me this day and acknowledged that she is the 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 \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**EXHIBIT A****TEMPORARY ACCESS EASEMENT**

A TEMPORARY ACCESS EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURK COUNTY PUBLIC SCHOOL BOE AS DESCRIBED IN DEED BOOK 1556, PAGE 91, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 5/8-INCH LEANING IRON ROD WITH COORDINATED VALUES OF NORTH = 742,538.971 FEET AND EAST = 1,246,016.084 FEET, SAID POINT BEING A COMMON CORNER BETWEEN BURKE COUNTY PUBLIC SCHOOL BOE AND RICHARD G. AND BRENDA F. NICHOLSON, AS DESCRIBED IN DEED BOOK 1510, PAGE 473; THENCE ALONG SAID COMMON LINE SOUTH 45°04'51" EAST, A DISTANCE OF 95.79 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING SIX (6) COURSES: SOUTH 31°20'19" EAST, A DISTANCE OF 24.71 FEET; SOUTH 34°04'31" EAST, A DISTANCE OF 131.29 FEET; SOUTH 16°30'12" EAST, A DISTANCE OF 172.56 FEET; SOUTH 05°15'44" WEST, A DISTANCE OF 180.91 FEET; SOUTH 01°47'14" WEST, A DISTANCE OF 149.18 FEET; SOUTH 03°20'34" EAST, A DISTANCE OF 71.66 FEET TO A POINT ON A COMMON LINE WITH BURKE COUNTY PUBLIC SCHOOL DOE AND THE NORTHERLY RIGHT-OF-WAY LINE OF LOVELADY ROAD; THENCE ALONG SAID COMMON LINE NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,023.65 FEET, A CENTRAL ANGLE OF 01°35'54", AND A CHORD THAT BEARS NORTH 64°26'49" WEST, A CHORD DISTANCE OF 28.56 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING SEVEN (7) COURSES: NORTH 03°20'34" WEST, A DISTANCE OF 58.99 FEET; NORTH 01°47'14" EAST, A DISTANCE OF 151.05 FEET; NORTH 05°15'44" EAST, A DISTANCE OF 176.86 FEET; NORTH 16°30'12" WEST, A DISTANCE OF 163.89 FEET; NORTH 34°04'31" WEST, A DISTANCE OF 117.59 FEET; NORTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 622.93 FEET, A CENTRAL ANGLE OF 07°47'38", AND A CHORD THAT BEARS NORTH 29°19'14" WEST, A CHORD DISTANCE OF 84.67 FEET; NORTH 32°56'32" WEST, A DISTANCE OF 44.19 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.43 ACRE (18,823 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE TEMPORARY ACCESS EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**EXHIBIT A-1**

**PLAN SHEET(S)**

**PREPARED BY J. LEONARD OF SURVEYING AND MAPPING, LLC.**

# Exhibit "A"

## Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

**AREA STATEMENT**

PROPOSED TEMPORARY ACCESS EASEMENT CONTAINS 0.43 ACRES OR 18,823 SQUARE FEET, MORE OR LESS.

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 5 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

**CERTIFICATION:**

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024



Burke County Public School BOE - Burke County PIN: 2744-62-1058

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: N/A
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-1058
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



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Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

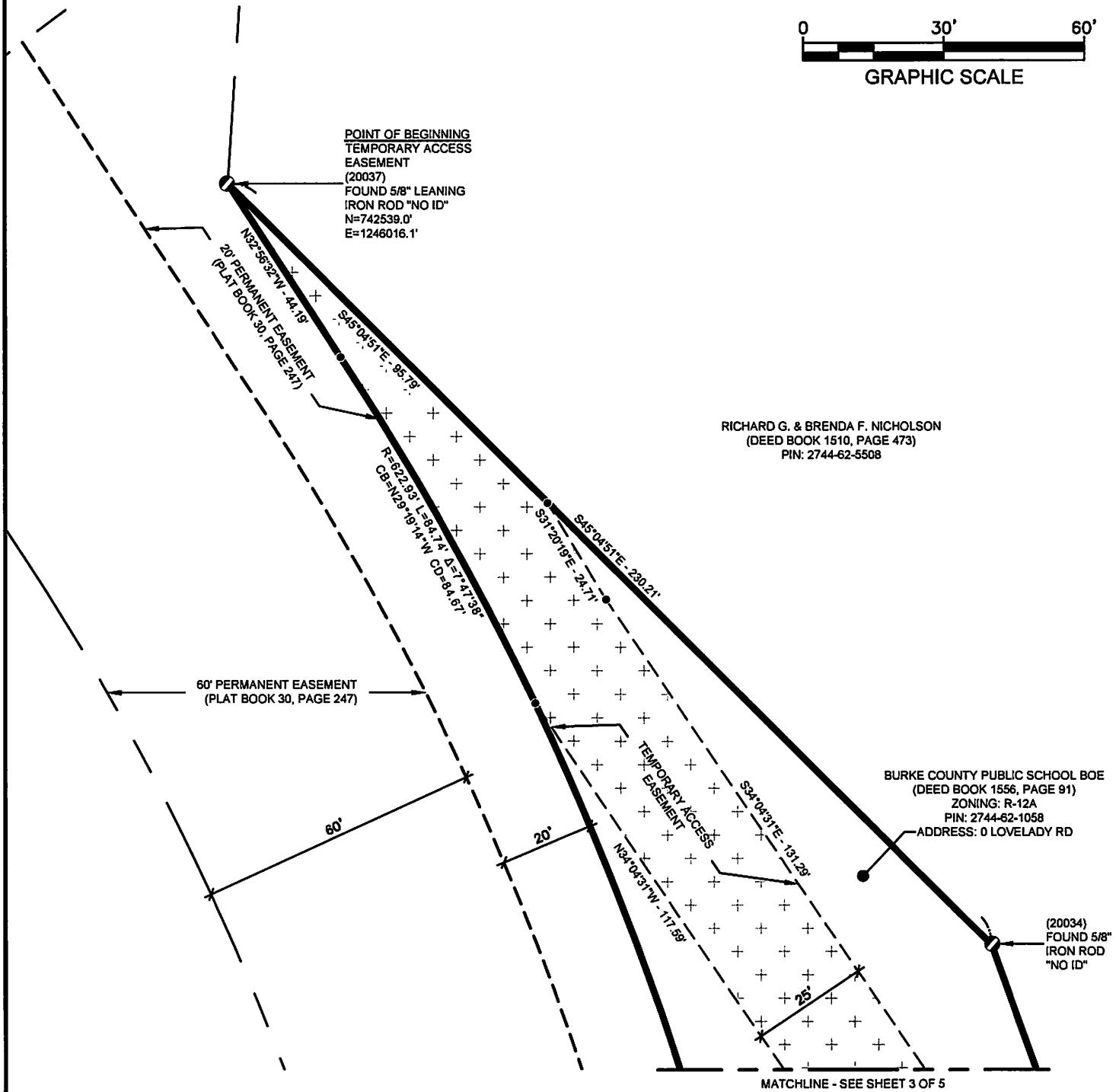
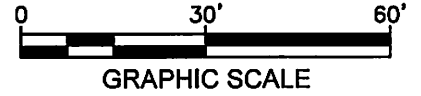
SHEET 1  
OF 5



# Exhibit "A"

## Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



Burke County Public School BOE - Burke County PIN: 2744-62-1058

JOB NUMBER: 1022074274
DATE: 10/20/23
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-1058
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



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Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

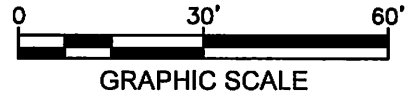
**PROJECT:** McGill Associates  
Valdese Bluffs - Easement

SHEET 2  
OF 5

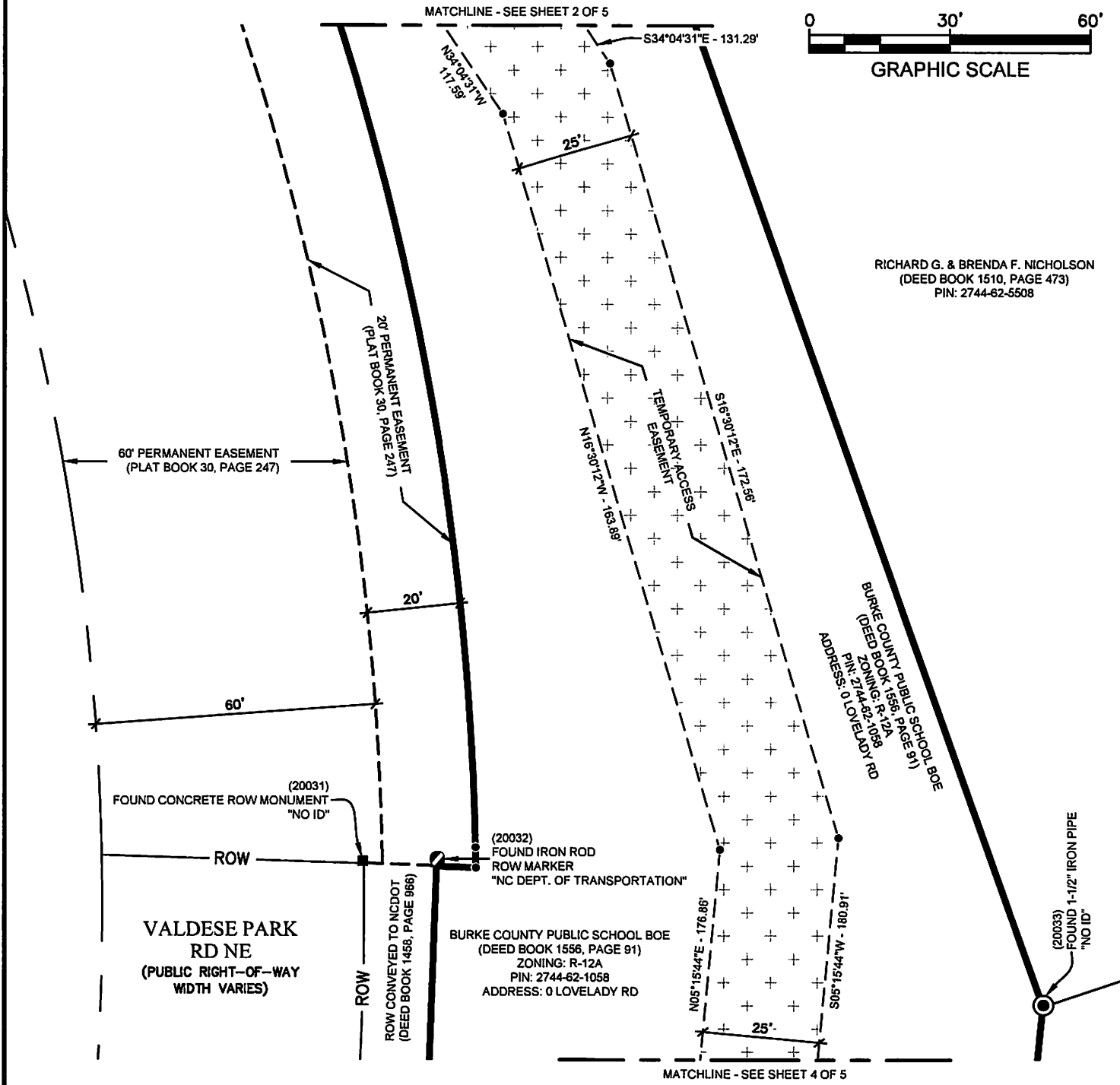
# Exhibit "A"

## Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



RICHARD G. & BRENDA F. NICHOLSON  
(DEED BOOK 1510, PAGE 473)  
PIN: 2744-62-5508



Burke County Public School BOE - Burke County PIN: 2744-62-1058

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-1058
PARTY CHIEF: A. RENNE
FIELD BOOKS: 41206



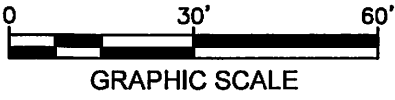
9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

**PROJECT:** McGill Associates  
Valdese Bluffs - Easement

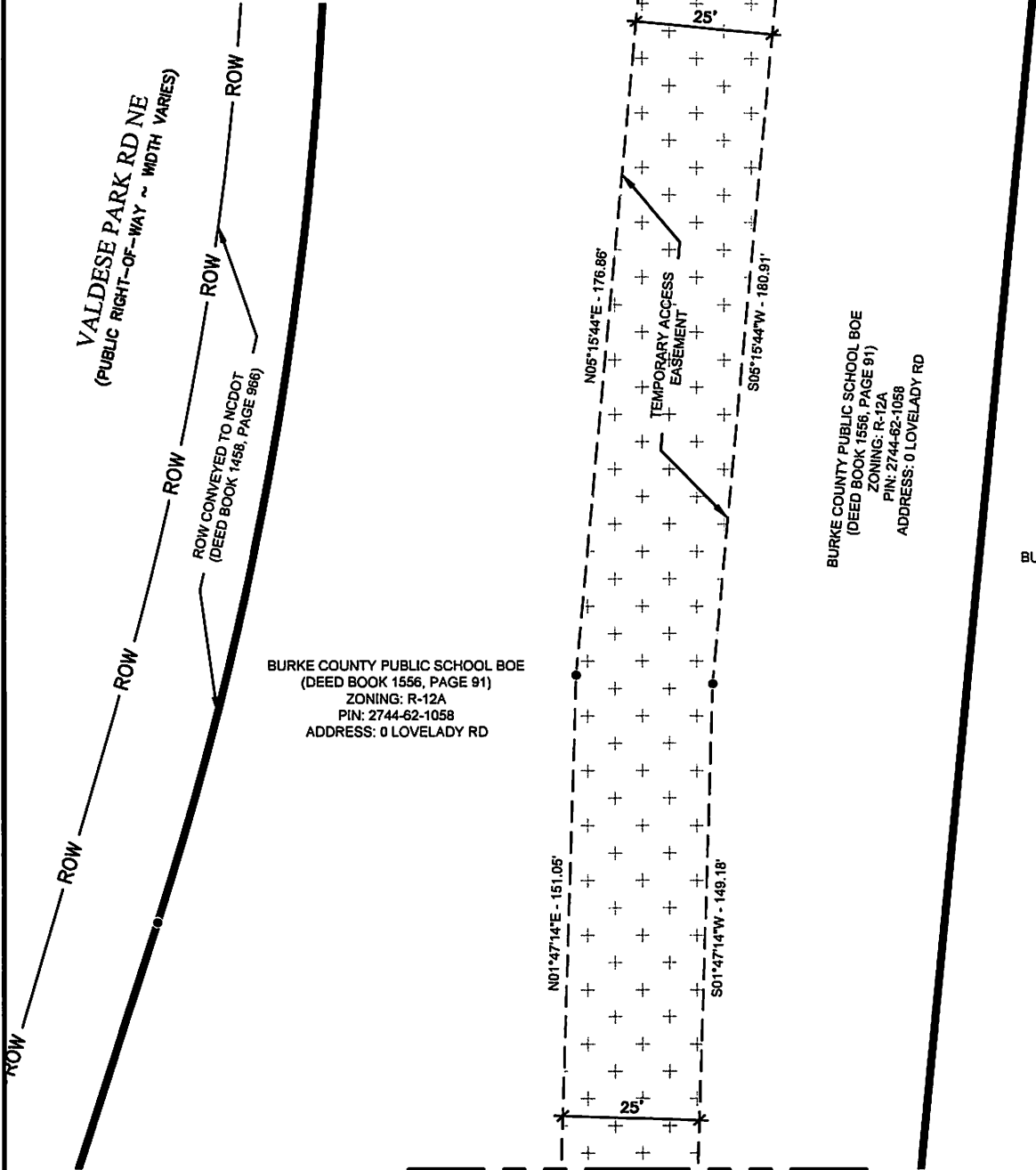
SHEET 3  
OF 5

# Exhibit "A" Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



MATCHLINE - SEE SHEET 3 OF 5



BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-12A  
PIN: 2744-62-1058  
ADDRESS: 0 LOVELADY RD

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-12A  
PIN: 2744-62-1058  
ADDRESS: 0 LOVELADY RD

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-62-1058.001

MATCHLINE - SEE SHEET 5 OF 5

Burke County Public School BOE - Burke County PIN: 2744-62-1058

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-1058
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



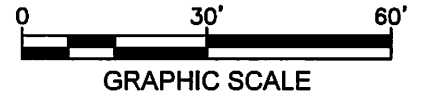
9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 4  
OF 5

# Exhibit "A" Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

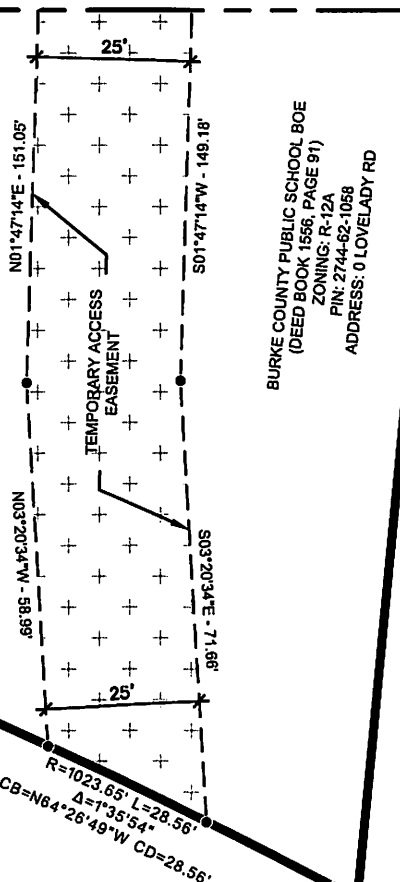


MATCHLINE - SEE SHEET 4 OF 5

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-12A  
PIN: 2744-62-1058  
ADDRESS: 0 LOVELADY RD

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
ZONING: R-12A  
PIN: 2744-62-1058  
ADDRESS: 0 LOVELADY RD

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-62-1058.001



ROW  
ROW  
ROW  
ROW  
LOVELADY ROAD  
(PUBLIC RIGHT-OF-WAY ~ WIDTH VARIES)

Burke County Public School BOE - Burke County PIN: 2744-62-1058

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-1058
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement  
SHEET 5  
OF 5

(the above space is left blank for recording purposes)

---

Excise Tax: \$0.00

PREPARED BY/RETURN TO:

Timothy D. Swanson, Attorney  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

**STATE OF NORTH CAROLINA**

**BURKE COUNTY**

**DEED OF EASEMENT**

**(Permanent Access and Utility Easement and Temporary Access Easement)**

This Deed of Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **BURKE COUNTY**, a body politic organized and existing under the laws of the State of North Carolina having a mailing address of 200 Avery Avenue, Morganton, North Carolina 28655 (“**Grantor**”), and **TOWN OF VALDESE**, a municipal corporation duly organized and existing under the laws of the State of North Carolina having a mailing address of 102 Massell Avenue SW, Valdese, North Carolina 28690 (“**Grantee**”).

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

WHEREAS, Grantor is the owner of that certain tract or parcel of real property (the “**Grantor Property**”) situated in Lovelady Township, Burke County, North Carolina, commonly known as 709 Lovelady Road NE, Valdese, North Carolina 28690, Parcel ID No. 2744544380,

which Grantor Property is more particularly described in Deed Book 1591, Page 198, Burke County Registry; and

WHEREAS, Grantee has determined that it is in the best interest, safety and welfare of the general public to install and maintain water and sewer lines and facilities and/or other utilities to serve the public in the vicinity of a residential development being constructed on the Grantor Property (the "Project").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid to the Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does grant, bargain, sell and convey to Grantee, its successors and assigns, the Permanent Utility and Access Easement and a Temporary Access Easement indicated below:

**Permanent Utility and Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a perpetual right to enter upon the Permanent Utility and Access Easement Area, hereinafter defined (the "***Permanent Utility and Access Easement Area***"), for the purpose of laying, constructing, reconstructing, extending, inspecting, operating, and maintaining water and sewer lines and facilities and/or other utilities and for the purpose of constructing, reconstructing, extending, inspecting, operating, and maintaining private roads within the Permanent Utility and Access Easement Area for ingress, egress, and regress to and from the Grantor Property, the Permanent Utility and Access Easement Area, any utility lines and/or facilities located therein, any private roads located therein, any adjoining properties over, under or across which Grantee maintains an easement or interest, and/or any other parts of the Project (the "***Permanent Utility and Access Easement***"); said Permanent Utility and Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 0.28 acre (12,030 square feet) and 0.02 acre (1,015 square feet), more or less, and being all of the areas labeled "Permanent Access & Utility Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

**Temporary Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a temporary, non-exclusive right to enter upon the Temporary Access Easement Area, hereinafter defined (the "***Temporary Access Easement Area***"), for the purpose of constructing, reconstructing, extending, inspecting, operating, maintaining, and using private roads for ingress, egress, and regress to and from the Project, any utility lines and/or facilities located within the Project area, and/or any adjoining properties over, under or across which Grantee maintains an easement or interest (the "***Temporary Access Easement***"); said Temporary Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 0.15 acre (6,367 square feet) and 0.00 acre (180 square feet), more or less, and being all of the area labeled "Temporary Access Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

The Permanent Utility and Access Easement and Temporary Access Easement shall also include the right of Grantee to enter the Permanent Utility and Access Easement Area and Temporary Easement Area to install new utility lines, facilities and/or improvements, inspect existing utility lines, facilities and/or improvements, and to perform necessary maintenance and repairs and to make alternations and additions thereto; to remove from the Permanent Utility and Access Easement Area and Temporary Access Easement Area, now or in the future, trees, shrubs and landscaping, structures that may, in the opinion of Grantee, endanger the proper maintenance and operation of said utility lines, facilities and/or improvements; make modifications to the topography which are necessary for the construction, installation, and proper maintenance and operation of the utility lines, facilities and/or improvements.

Grantee shall have such right of ingress, egress, and regress over and upon any lands of Grantor immediately adjacent to the Permanent Utility and Access Easement Area and Temporary Easement Area as may be necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair the utility lines, facilities and/or improvements for which the easements are granted.

It is further understood that Grantor shall not erect a permanent structure of any kind over or across the easements herein granted; permit or cause water to be ponded or impounded over or across said easements or attempt to block or otherwise impede the natural flow of water; excavate from or add fill material to the property within said easements resulting in elevation change of +/- 1 foot; cause or permit to be stored over said easements any personal property which materially impairs Grantee's access to the infrastructure within said easements and which cannot be removed by the fee owner within twenty-four hour notice; or plant any trees or other plants with invasive root systems within water or sewer easements. Any irrigation systems installed within the easements herein granted shall be the sole responsibility of the fee owner of the Grantor Property and will not be subject to repair or replacement by Grantee upon its exercise of the rights herein granted.

The easements conveyed herein are non-exclusive to the extent that other public services and utilities may install services lines across the herein described easements provided they do not (i) unreasonably interfere with Grantee's use, and (ii) Grantor, or its successor in title, has received prior written approval from Grantee for said utility installation.

Grantor understands that the interests conveyed hereby are being acquired for a construction project and Grantor agrees that construction may begin on said Grantor Property upon execution of this instrument. Grantor further acknowledges that the consideration stated herein is full and just compensation pursuant to North Carolina General Statutes for the acquisition of the said property interests and rights by the Grantee, and for any and all damages to the value of the remaining Grantor Property; for any and all claims for interest and costs; for any and all damages

caused by the acquisition for the construction of the Project; and for the past and future use of said areas by Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject the same.

The Temporary Construction Easement granted herein shall expire upon the earlier of (i) completion of the construction of the Project (including all post-construction work and closing out of all permits) and written notice of expiration by the Grantee to the Grantor, or (ii) establishment of a permanent access road providing Grantee permanent access to the Project and all permanent easements granted to Grantee in connection therewith. Grantee shall return the Permanent Utility and Access Easement Area and Temporary Easement Area and any other area outside the easements conveyed herein that are disturbed as a result of Grantee's activities in connection with the Project to substantially the same condition they were in prior to Grantee's work, to the extent commercially reasonable and ordinary wear and tear excepted.

TO HAVE AND TO HOLD the aforesaid rights and easements to Grantee, its successors and assigns, it being agreed that the rights and easements hereby granted are appurtenant to and run with the land.

AND, the Grantor covenants with said Grantee that Grantor is seized of the Grantor Property in fee simple, has the right to grant the rights and easements provided herein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*



IN TESTIMONY WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

BURKE COUNTY,  
a North Carolina body politic

By: *Scott Mulwee* (Seal)  
Scott Mulwee, Vice Chairman  
Burke County Board of Commissioners

Attest: *Kay Honeycutt Draughn*  
KAY HONEYCUTT DRAUGHN, CMC, NCMCC  
Clerk to the Board

Approved as to form on behalf of Burke County this 16 day of July, 2024.

*[Signature]*  
Attorney for Burke County

STATE OF NORTH CAROLINA  
COUNTY OF Burke

I, Katherine Wright, a Notary Public of Catawba County, State of North Carolina, do hereby certify that KAY HONEYCUTT DRAUGHN personally came before me this day and acknowledged that she is the Clerk to the Buke County Board of Commissioners of BURKE COUNTY, a North Carolina body politic, and that by authority duly given and as the act of the Board of Commissioners of BURKE COUNTY, the foregoing instrument was signed in its name and by its Vice Chairman, SCOTT MULWEE, sealed with its corporate seal, and attested by her as its Clerk to the Board.

Witness my hand and notarial stamp or seal, this 16 day of July, 2024.

*Katherine Wright*  
Notary Public

[AFFIX NOTARIAL SEAL]

My Commission Expires: 07/26/2028



**ACCEPTANCE**

Accepted by the Town of Valdese Council for and on behalf of the Town of Valdese, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina municipal corporation

By: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

Attest: \_\_\_\_\_  
JESSICA LAIL, Town Clerk

Approved as to form on behalf of the Town of Valdese this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorney for the Town of Valdese

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that JESSICA LAIL personally came before me this day and acknowledged that she is the 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 \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**EXHIBIT A**

**BURKE COUNTY – PIN: 2744-54-4380**

**PERMANENT ACCESS AND UTILITY EASEMENT**

A PERMANENT ACCESS AND UTILITY EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURKE COUNTY AS DESCRIBED IN DEED BOOK 1591, PAGE 198, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8-INCH IRON ROD WITH AN ILLEGIBLE CAP WITH COORDINATED VALUES OF NORTH = 744,049.633 FEET AND EAST = 1,246,065.463, SAID POINT LYING ON A COMMON LINE BETWEEN BURKE COUNTY AND BURKE COUNTY PUBLIC SCHOOL BOE, AS DESCRIBED IN DEED BOOK 1556, PAGE 91; THENCE SOUTH 17°34'52" WEST, A DISTANCE OF 68.43 TO THE POINT OF BEGINNING.

BEGINNING AT A POINT WITH COORDINATED VALUES OF NORTH = 743,984.228 AND EAST = 1,246,044.804 ON A COMMON LINE BETWEEN BURKE COUNTY AND BURKE COUNTY PUBLIC SCHOOL BOE; THENCE ALONG SAID COMMON LINE SOUTH 17°34'52" WEST, A DISTANCE OF 25.29 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING NINE (9) COURSES: NORTH 81°03'26" WEST, A DISTANCE OF 277.46 FEET; NORTH 64°03'03" WEST, A DISTANCE OF 160.58 FEET; SOUTH 85°45'28" WEST, A DISTANCE OF 30.84 FEET; NORTH 62°01'53" WEST, A DISTANCE OF 14.31 FEET; NORTH 25°46'03" EAST, A DISTANCE OF 23.97 FEET; SOUTH 64°21'44" EAST, A DISTANCE OF 6.61 FEET; NORTH 85°49'38" EAST, A DISTANCE OF 31.88 FEET; SOUTH 64°03'03" EAST, A DISTANCE OF 163.70 FEET; SOUTH 81°03'26" EAST, A DISTANCE OF 277.52 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.28 ACRE (12,030 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE PERMANENT ACCESS & UTILITY EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**TOGETHER WITH**

**TEMPORARY ACCESS EASEMENT**

A TEMPORARY ACCESS EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURKE COUNTY AS DESCRIBED IN DEED BOOK 1591, PAGE 198, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A STRIP OF LAND, LYING SOUTH OF, ADJACENT TO, AND PARALLEL WITH THE ABOVE DESCRIBED PERMANENT ACCESS AND UTILITY EASEMENT. SAID EASEMENTS BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A-1" OF THIS DOCUMENT.

IT IS THE INTENT OF THE SIDE LINES OF THE ABOVE-DESCRIBED TEMPORARY CONSTRUCTION EASEMENT TO BE LENGTHENED OR SHORTENED TO INTERSECT AT THE ANGLE POINTS AND THE PROPERTY LINES OF THE AFOREMENTIONED PROPERTY OF BURKE COUNTY.

SAID EASEMENT CONTAINING 0.15 ACRES (6,367 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE TEMPORARY ACCESS EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**BURKE COUNTY – PIN: 2744-54-4380**

**TEMPORARY ACCESS EASEMENT**

A TEMPORARY ACCESS AND PERMANENT ACCESS AND UTILITY EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF BURKE COUNTY AS DESCRIBED IN DEED BOOK 1591, PAGE 198, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 5/8-INCH LEANING IRON ROD WITH COORDINATED VALUES OF NORTH = 742,605.930 FEET AND EAST = 1,246,020.733 FEET, SAID POINT BEING A COMMON CORNER BETWEEN BURKE COUNTY AND RICHARD G. AND BRENDA F. NICHOLSON, AS DESCRIBED IN DEED BOOK 1510, PAGE 473; THENCE DEPARTING SAID CORNER AND THROUGH SAID PROPERTY THE FOLLOWING THREE (3) COURSES: NORTH 03°00'54" EAST, A DISTANCE OF 7.17 FEET; NORTH 52°20'39" EAST, A DISTANCE OF 28.46 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; SOUTH 18°21'28" WEST, A DISTANCE OF 14.60 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY AND RICHARD G. AND BRENDA F. NICHOLSON; THENCE ALONG SAID COMMON LINE SOUTH 59°43'35" WEST, A DISTANCE OF 21.20 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.00 ACRE (180 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE TEMPORARY ACCESS EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**TOGETHER WITH**

**PERMANENT ACCESS AND UTILITY EASEMENT**

COMMENCING AT THE AFOREMENTIONED POINT "A" WITH COORDINATED VALUES OF NORTH = 742,630.474 FEET AND EAST = 1,246,043.641 FEET, SAID POINT LYING IN THE PROPERTY OF BURKE COUNTY; THENCE THROUGH SAID PROPERTY NORTH 52°20'39" EAST, A DISTANCE OF 47.15 FEET TO THE POINT OF BEGINNING.

BEGINNING AT A POINT WITH COORDINATED VALUES OF NORTH = 742,659.277 FEET AND EAST 1,246,080.967 FEET LYING IN THE PROPERTY OF BURKE COUNTY; THENCE NORTH 52°20'39" EAST, A DISTANCE OF 127.78 FEET TO A POINT ON A COMMON LINE BETWEEN BURKE COUNTY AND BURKE COUNTY PUBLIC SCHOOL BOE, AS DESCRIBED IN DEED BOOK 1556, PAGE 91; THENCE ALONG SAID COMMON LINE SOUTH 15°54'00" EAST, A DISTANCE OF 17.10 FEET; THENCE DEPARTING SAID LINE AND THROUGH SAID PROPERTY SOUTH 59°47'50" WEST, A DISTANCE OF 122.47 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.02 ACRE (1,015 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE PERMANENT ACCESS & UTILITY EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**EXHIBIT A-1**

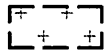
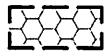
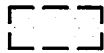






**PLAN SHEET(S)**

**PREPARED BY J. LEONARD OF SURVEYING AND MAPPING, LLC.**

# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

<u>AREA STATEMENT</u>
<p>PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT CONTAINS 0.28 ACRES OR 12,030 SQUARE FEET, MORE OR LESS.</p> <p>PROPOSED TEMPORARY CONSTRUCTION EASEMENT CONTAINS 0.15 ACRES OR 6,367 SQUARE FEET, MORE OR LESS.</p>

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 5 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

**CERTIFICATION:**

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024




1	ADDRESS COMMENTS	ZB	11/6/23
NO.	REVISIONS	BY	DATE

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: N/A
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-54-4380
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 1  
OF 5

# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

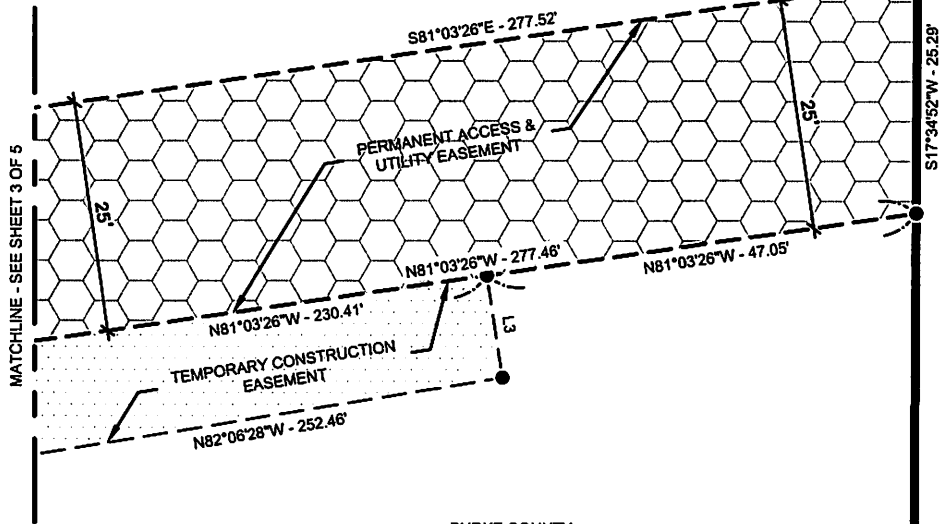


BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE

**POINT OF COMMENCEMENT  
PERMANENT ACCESS AND  
UTILITY EASEMENT  
(20203)**  
FOUND 5/8" IRON ROD  
W/ ILLEGIBLE CAP  
N=744049.6'  
E=1246065.5'

**POINT OF BEGINNING  
PERMANENT ACCESS AND  
UTILITY EASEMENT**  
N=743984.2'  
E=1246044.8'

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L3	S08°31'49"W	11.18'

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274  
 DATE: 10/2023  
 SCALE: 1" = 20'  
 SURVEYOR: J. LEONARD  
 TECHNICIAN: Z. BARNETT  
 DRAWING: MGA - VALDESE BLUFFS - EASEMENT  
 TRACT ID: 2744-54-4380  
 PARTY CHIEF: A. RENNE  
 FIELDBOOKS: 41206



9047 Executive Park Drive  
 Suite 120  
 Knoxville, TN 37923  
 Ofc: 865.200.4366  
 email: info@sam.biz

**PROJECT:** McGill Associates  
 Valdese Bluffs - Easement

**SHEET 2  
 OF 5**



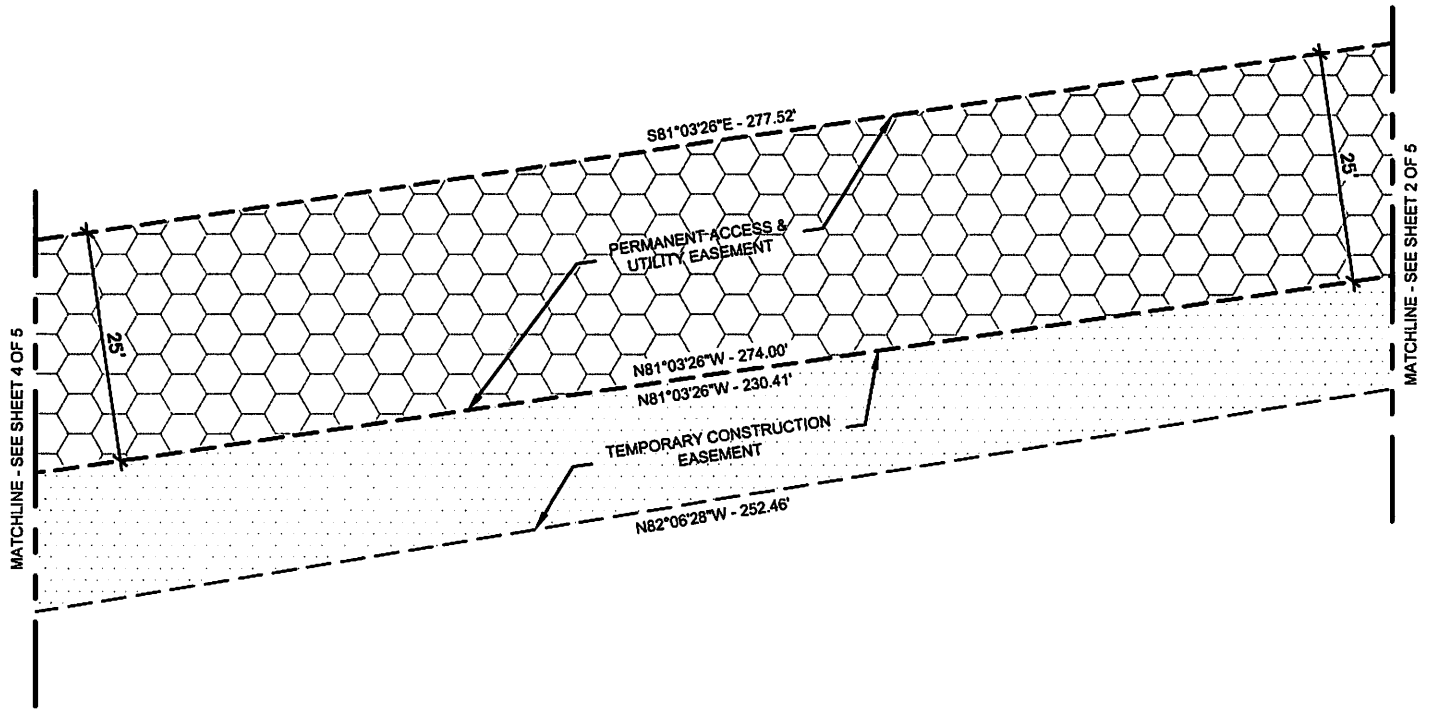
# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274
DATE: 10/20/23
SCALE: 1" = 20'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-54-4380
PARTY CHIEF: A. RENNE
FIELD BOOKS: 41206

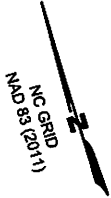


9047 Executive Park Drive  
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Knoxville, TN 37923  
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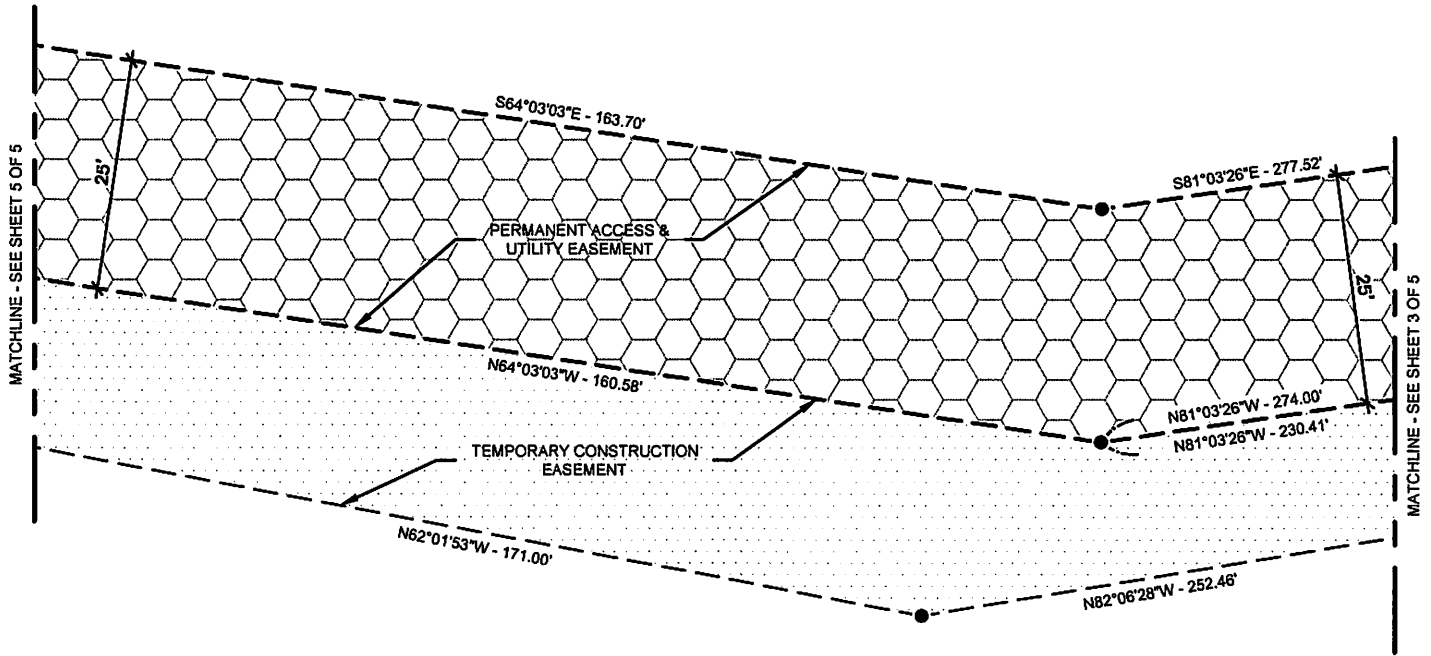
**PROJECT:** McGill Associates  
Valdese Bluffs - Easement

**SHEET 3**  
**OF 5**

Exhibit "A"  
**Permanent Access And Utility Easement For:**  
**Town of Valdese**  
 Lying in the City of Valdese, of Burke County, North Carolina



BURKE COUNTY  
 (DEED BOOK 1591, PAGE 198)  
 ZONING: R-20  
 PIN: 2744-54-4380  
 ADDRESS: 709 LOVELADY RD NE



BURKE COUNTY  
 (DEED BOOK 1591, PAGE 198)  
 ZONING: R-20  
 PIN: 2744-54-4380  
 ADDRESS: 709 LOVELADY RD NE

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 20'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-54-4380
PARTY CHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
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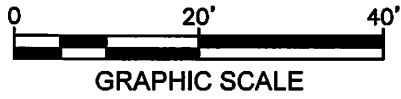
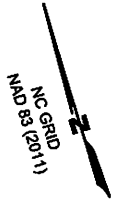
PROJECT: McGill Associates  
 Valdese Bluffs - Easement

SHEET 4  
 OF 5

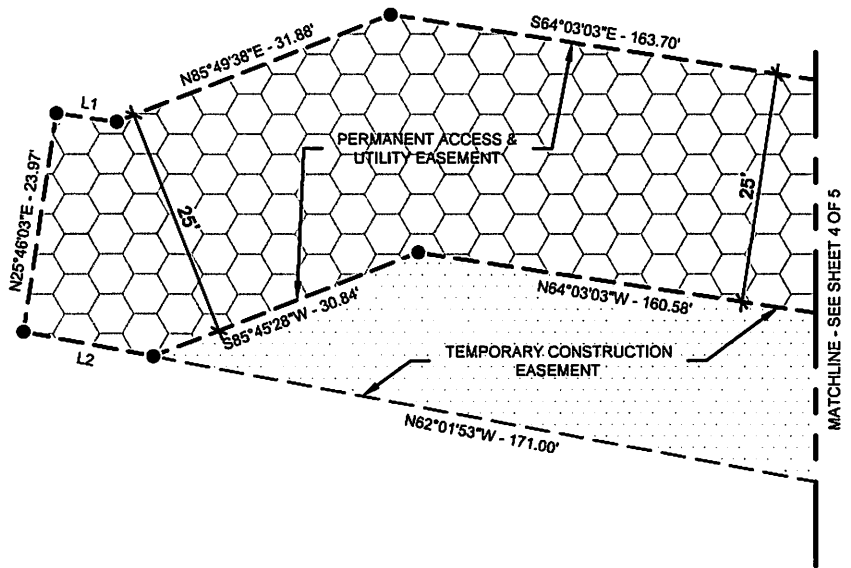
# Exhibit "A"

## Permanent Access And Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	S64°21'44\"E	6.61'
L2	N62°01'53\"W	14.31'

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274  
DATE: 10/2023  
SCALE: 1" = 20'  
SURVEYOR: J. LEONARD  
TECHNICIAN: Z. BARNETT  
DRAWING: MGA - VALDESE BLUFFS - EASEMENT  
TRACT ID: 2744-54-4380  
PARTY CHIEF: A. RENNE  
FIELDBOOKS: 41206



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email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 5  
OF 5

# Exhibit "A"

## Permanent Access And Utility Easement, and a Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

**AREA STATEMENT**

PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT  
CONTAINS 0.02 ACRES OR 1,015 SQUARE FEET,  
MORE OR LESS.

TEMPORARY ACCESS EASEMENT  
CONTAINS 0.00 ACRES OR 180 SQUARE FEET,  
MORE OR LESS.

NOTES:

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

CERTIFICATION:

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024



1	ADDRESS COMMENTS	ZB	11/6/23
NO.	REVISIONS	BY	DATE

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: N/A
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-54-4380
PARTY CHIEF: A. RENNE
FIELDBOOKS: 41206



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PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 1  
OF 2

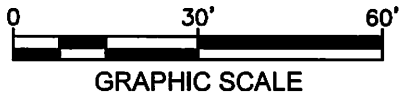
Exhibit "A"

# Permanent Access And Utility Easement, and a Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

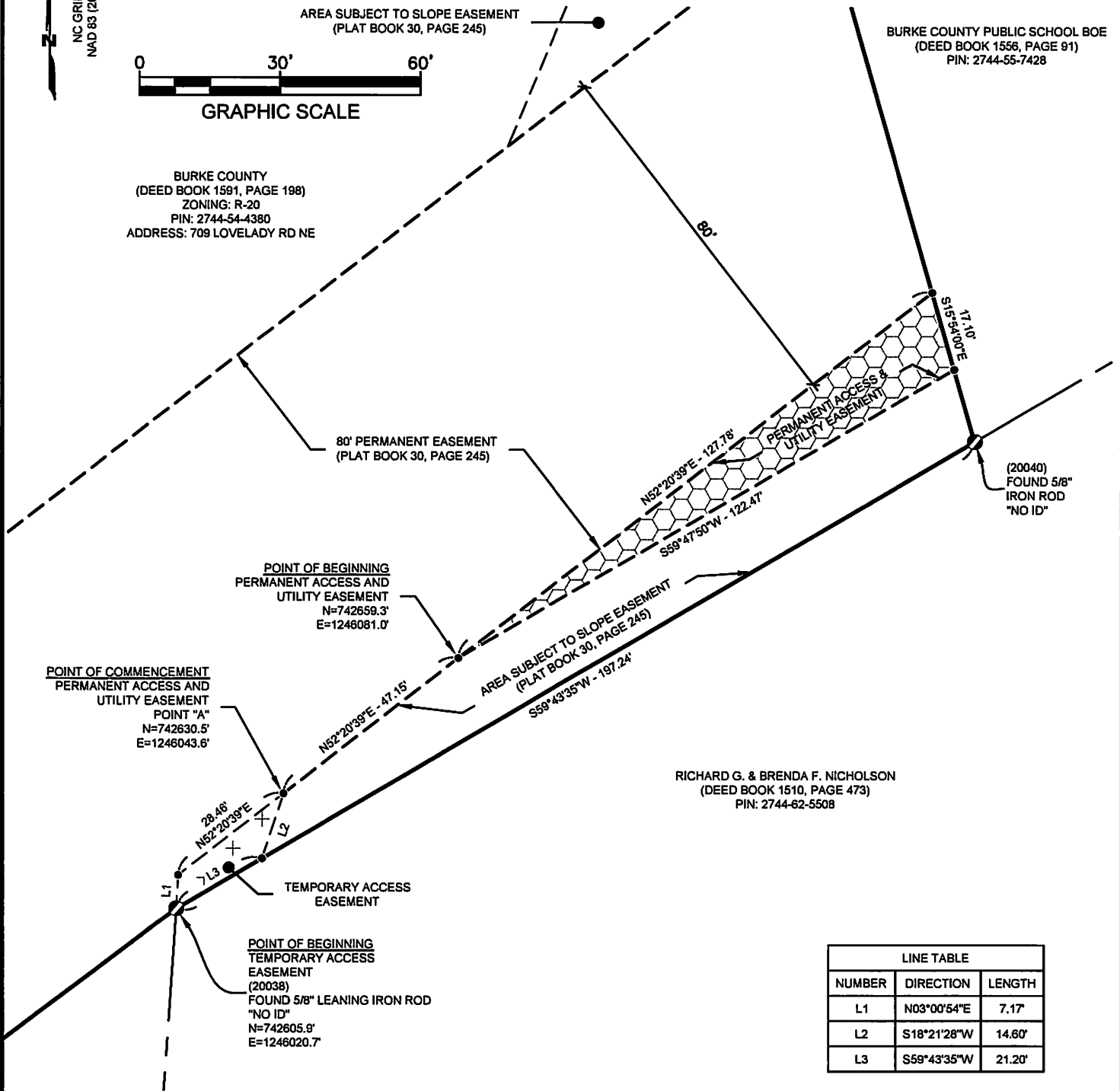


NC GRID  
NAD 83 (2011)



BURKE COUNTY  
(DEED BOOK 1591, PAGE 198)  
ZONING: R-20  
PIN: 2744-54-4380  
ADDRESS: 709 LOVELADY RD NE

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428



LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	N03°00'54"E	7.17'
L2	S18°21'28"W	14.60'
L3	S59°43'35"W	21.20'

Burke County - Burke County PIN: 2744-54-4380

JOB NUMBER: 1022074274  
 DATE: 10/2023  
 SCALE: 1" = 30'  
 SURVEYOR: J. LEONARD  
 TECHNICIAN: Z. BARNETT  
 DRAWING: MGA - VALDESE BLUFFS - EASEMENT  
 TRACT ID: 2744-54-4380  
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 email: info@sam.biz

PROJECT: McGill Associates  
 Valdese Bluffs - Easement

SHEET 2  
 OF 2

(the above space is left blank for recording purposes)

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Excise Tax: \$0.00

PREPARED BY/RETURN TO:

Timothy D. Swanson, Attorney  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

**STATE OF NORTH CAROLINA  
BURKE COUNTY**

**DEED OF EASEMENT  
(Temporary Access Easement)**

This Deed of Easement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between **RICHARD G. NICHOLSON** and **BRENDA F. NICHOLSON**, citizens and residents of Burke County, North Carolina having a mailing address of 110 Coleman Drive, Connelly Springs, North Carolina 28612 (“*Grantor*”), and **TOWN OF VALDESE**, a municipal corporation duly organized and existing under the laws of the State of North Carolina having a mailing address of 102 Massell Avenue SW, Valdese, North Carolina 28690 (“*Grantee*”).

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

WHEREAS, Grantor is the owner of that certain tract or parcel of real property (the “*Grantor Property*”) situated in Lovelady Township, Burke County, North Carolina, commonly known as 110 Coleman Drive, Connelly Springs, North Carolina 28612, Parcel ID No.

2744625508, which Grantor Property is more particularly described in Deed Book 1510, Page 473, Burke County Registry; and

WHEREAS, Grantee has determined that it is in the best interest, safety and welfare of the general public to install and maintain water and sewer lines and facilities and/or other utilities to serve the public in the vicinity of a residential development being constructed on Azalea Drive, Connelly Springs, North Carolina 28612, Parcel ID No. 2744742158 (the "Project").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid to the Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does grant, bargain, sell and convey to Grantee, its successors and assigns, the Temporary Access Easement indicated below:

**Temporary Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a temporary, non-exclusive right to enter upon the Temporary Access Easement Area, hereinafter defined (the "***Temporary Access Easement Area***"), for the purpose of constructing, reconstructing, extending, inspecting, operating, maintaining, and using private roads for ingress, egress, and regress to and from the Project, any utility lines and/or facilities located within the Project area, and/or any adjoining properties over, under or across which Grantee maintains an easement or interest (the "***Temporary Access Easement***"); said Temporary Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 0.04 acre (1,839 square feet), more or less, and being all of the area labeled "Temporary Access Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

The Temporary Access Easement shall also include the right of Grantee to enter the Temporary Easement Area to install new improvements, inspect existing improvements, and to perform necessary maintenance and repairs and to make alternations and additions thereto; to remove from the Temporary Access Easement Area, now or in the future, trees, shrubs and landscaping, structures that may, in the opinion of Grantee, endanger the proper maintenance and operation of said improvements; make modifications to the topography which are necessary for the construction, installation, and proper maintenance and operation of the improvements.

Grantee shall have such right of ingress, egress, and regress over and upon any lands of Grantor immediately adjacent to the Temporary Easement Area as may be necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair the improvements for which the Temporary Access Easement is granted.

It is further understood that Grantor shall not erect a permanent structure of any kind over or across the easements herein granted; permit or cause water to be ponded or impounded over or across said easements or attempt to block or otherwise impede the natural flow of water;

excavate from or add fill material to the property within said easements resulting in elevation change of +/- 1 foot; cause or permit to be stored over said easements any personal property which materially impairs Grantee's access to the infrastructure within said easements and which cannot be removed by the fee owner within twenty-four hour notice; or plant any trees or other plants with invasive root systems within water or sewer easements. Any irrigation systems installed within the easements herein granted shall be the sole responsibility of the fee owner of the Grantor Property and will not be subject to repair or replacement by Grantee upon its exercise of the rights herein granted.

The easements conveyed herein are non-exclusive to the extent that other public services and utilities may install services lines across the herein described easements provided they do not (i) unreasonably interfere with Grantee's use, and (ii) Grantor, or its successor in title, has received prior written approval from Grantee for said utility installation.

Grantor understands that the interests conveyed hereby are being acquired for a construction project and Grantor agrees that construction may begin on said Grantor Property upon execution of this instrument. Grantor further acknowledges that the consideration stated herein is full and just compensation pursuant to North Carolina General Statutes for the acquisition of the said property interests and rights by the Grantee, and for any and all damages to the value of the remaining Grantor Property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of the Project; and for the past and future use of said areas by Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject the same.

The Temporary Construction Easement granted herein shall expire upon the earlier of (i) completion of the construction of the Project (including all post-construction work and closing out of all permits) and written notice of expiration by the Grantee to the Grantor, or (ii) establishment of a permanent access road providing Grantee permanent access to the Project and all permanent easements granted to Grantee in connection therewith. Grantee shall return the Temporary Easement Area and any other area outside the permanent easements conveyed herein that are disturbed as a result of Grantee's activities in connection with the Project to substantially the same condition they were in prior to Grantee's work, to the extent commercially reasonable and ordinary wear and tear excepted.

TO HAVE AND TO HOLD the aforesaid rights and easements to Grantee, its successors and assigns, it being agreed that the rights and easements hereby granted are appurtenant to and run with the land.

AND, the Grantor covenants with said Grantee that Grantor is seized of the Grantor Property in fee simple, has the right to grant the rights and easements provided herein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*



IN TESTIMONY WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

\_\_\_\_\_  
RICHARD G. NICHOLSON (Seal)

\_\_\_\_\_  
BRENDA F. NICHOLSON (Seal)

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that RICHARD G. NICHOLSON and BRENDA F. NICHOLSON personally came before me this day and signed the foregoing instrument.

Witness my hand and notarial stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**ACCEPTANCE**

Accepted by the Town of Valdese Council for and on behalf of the Town of Valdese, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina municipal corporation

By: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

Attest: \_\_\_\_\_  
JESSICA LAIL, Town Clerk

Approved as to form on behalf of the Town of Valdese this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorney for the Town of Valdese

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that JESSICA LAIL personally came before me this day and acknowledged that she is the 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 \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**EXHIBIT A**

**TEMPORARY ACCESS EASEMENT**

A TEMPORARY ACCESS EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF RICHARD G. AND BRENDA F. NICHOLSON AS DESCRIBED IN DEED BOOK 1510, PAGE 473, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 5/8-INCH LEANING IRON ROD WITH COORDINATED VALUES OF NORTH = 742,605.930 FEET AND EAST = 1,246020.733 FEET, SAID POINT BEING A COMMON CORNER BETWEEN RICHARD G. AND BRENDA F. NICHOLSON AND BURKE COUNTY, AS DESCRIBED IN DEED BOOK 1591, PAGE 198; THENCE ALONG A COMMON LINE BETWEEN RICHARD G. AND BRENDA F. NICHOLSON AND BURKE COUNTY NORTH 59°41'35" EAST, A DISTANCE OF 21.19 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING TWO (2) COURSES: SOUTH 18°21'28" WEST, A DISTANCE OF 48.52 FEET; SOUTH 31°20'19" EAST, A DISTANCE OF 116.05 FEET TO A POINT ON A LINE BETWEEN RICHARD G. AND BRENDA F. NICHOLSON AND BURKE COUNTY PUBLIC SCHOOL BOE, AS DESCRIBED IN DEED BOOK 1556, PAGE 91; THENCE ALONG SAID COMMON LINE NORTH 45°04'51" WEST, A DISTANCE OF 95.79 FEET TO A FOUND 5/8-INCH LEANING IRON ROD; THENCE NORTH 03°49'19" EAST, A DISTANCE OF 66.99 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 0.04 ACRE (1,839 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE TEMPORARY ACCESS EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**EXHIBIT A-1**

**PLAN SHEET(S)**

**PREPARED BY J. LEONARD OF SURVEYING AND MAPPING, LLC.**

# Exhibit "A"

## Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

<u>LEGEND</u>	
[---]	= PROPOSED TEMPORARY ACCESS EASEMENT
[---]	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
[---]	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
—————	= BOUNDARY LINE
- - - - -	= PROPOSED EASEMENT LINE
- - - - -	= PROPOSED TEMPORARY EASEMENT
—————	= RIGHT-OF-WAY LINE
- - - - -	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
●	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

**AREA STATEMENT**

PROPOSED TEMPORARY ACCESS EASEMENT  
CONTAINS 0.04 ACRES OR 1,839 SQUARE FEET,  
MORE OR LESS.

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 2 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

**CERTIFICATION:**

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024




Richard G. & Brenda F. Nicholson - Burke County PIN: 2744-62-5508

NO.	ADDRESS COMMENTS	ZB	11/8/23
	REVISIONS	BY	DATE
JOB NUMBER: 1022074274			
DATE: 10/2023			
SCALE: N/A			
SURVEYOR: J. LEONARD			
TECHNICIAN: Z. BARNETT			
DRAWING: MGA - VALDESE BLUFFS - EASEMENT			
TRACT ID: 2744-62-5508			
PARTY CHIEF: A. RENNE			
FIELDBOOKS: 41206			



9047 Executive Park Drive  
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Ofc: 865.200.4366  
email: info@sam.biz

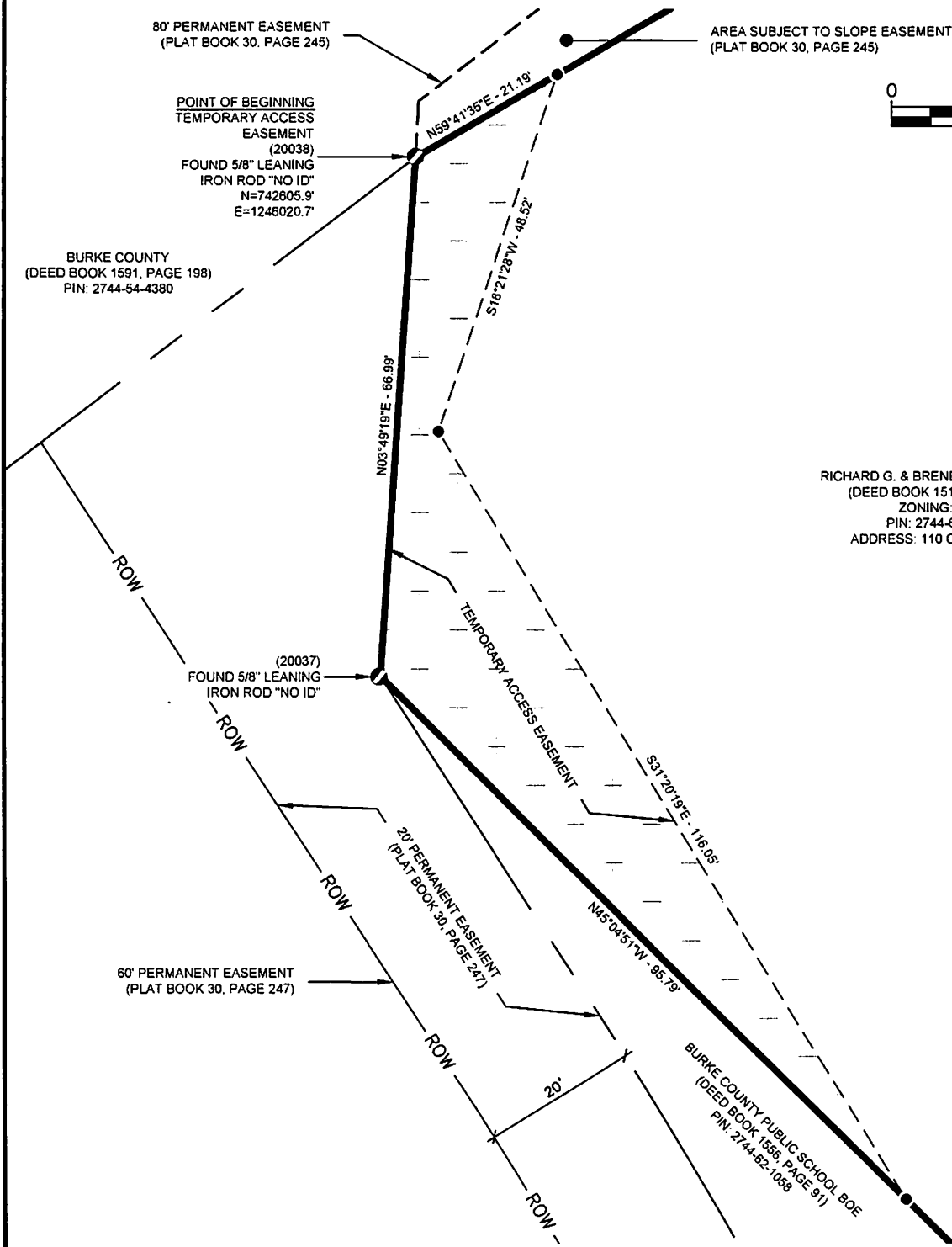
PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 1  
OF 2

# Exhibit "A"

## Temporary Access Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



RICHARD G. & BRENDA F. NICHOLSON  
 (DEED BOOK 1510, PAGE 473)  
 ZONING: R-20  
 PIN: 2744-62-5508  
 ADDRESS: 110 COLEMAN DR

Richard G. & Brenda F. Nicholson - Burke County PIN: 2744-62-5508

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 20'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-62-5508
PARTY CHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
 Suite 120  
 Knoxville, TN 37923  
 Ofc: 865.200.4366  
 email: info@sam.biz

PROJECT: McGill Associates  
 Valdese Bluffs - Easement

SHEET 2  
 OF 2

(the above space is left blank for recording purposes)

Excise Tax: \$0.00

PREPARED BY/RETURN TO:

Timothy D. Swanson, Attorney  
Young, Morphis, Bach & Taylor, LLP  
Post Office Drawer 2428  
Hickory, North Carolina 28603

STATE OF NORTH CAROLINA  
BURKE COUNTY

DEED OF EASEMENT  
(Permanent Access and Utility Easement)

THIS DEED OF EASEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between NATURAL LAND ALLIANCE, INC., a North Carolina corporation having a mailing address of 1036 Peninsula Drive, Belmont, North Carolina 28012 (“Grantor”), and TOWN OF VALDESE, a municipal corporation duly organized and existing under the laws of the State of North Carolina having a mailing address of 102 Massell Avenue SW, Valdese, North Carolina 28690 (“Grantee”).

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, Grantor is the owner of that certain tract or parcel of real property (the “Grantor Property”) situated in Lovelady Township, Burke County, North Carolina, commonly known as Azalea Drive, Connelly Springs, North Carolina 28612, Parcel ID No. 2744742158,

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which Grantor Property is more particularly described in Deed Book 2312, Page 264, Burke County Registry; and

WHEREAS, Grantee has determined that it is in the best interest, safety and welfare of the general public to install and maintain water and sewer lines and facilities and/or other utilities to serve the public in the vicinity of a residential development being constructed on the Grantor Property (the "Project").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid to the Grantor by Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does grant, bargain, sell and convey to Grantee, its successors and assigns, the Permanent Utility and Access Easement indicated below:

**Permanent Utility and Access Easement:** Grantor hereby grants to Grantee, for the benefit of Grantee, its successors and assigns, a perpetual right to enter upon the Permanent Utility and Access Easement Area, hereinafter defined (the "*Permanent Utility and Access Easement Area*"), for the purpose of laying, constructing, reconstructing, extending, inspecting, operating, and maintaining water and sewer lines and facilities and/or other utilities and for the purpose of constructing, reconstructing, extending, inspecting, operating, maintaining, and using private roads within the Permanent Utility and Access Easement Area for ingress, egress, and regress to and from the Grantor Property, the Permanent Utility and Access Easement Area, any utility lines and/or facilities located therein, any private roads located therein, any adjoining properties over, under or across which Grantee maintains an easement or interest, and/or any other parts of the Project (the "*Permanent Utility and Access Easement*"); said Permanent Utility and Access Easement Area running over, under and across the Grantor Property and being more particularly described as follows:

The portions of the Grantor Property described in **Exhibit A** attached hereto and incorporated herein by reference, having an area comprised of 1.41 acres (61,312 square feet), more or less, and being all of the area labeled "Permanent Access & Utility Easement" on the Plan Sheet(s) prepared by Surveying and Mapping, Inc. attached hereto as **Exhibit A-1** and incorporated herein by this reference.

The Permanent Utility and Access Easement shall also include the right of Grantee to enter the Permanent Utility and Access Easement Area to install new utility lines, facilities and/or improvements, inspect existing utility lines, facilities and/or improvements, and to perform necessary maintenance and repairs and to make alternations and additions thereto; to remove from the Permanent Utility and Access Easement Area, now or in the future, trees, shrubs and landscaping, structures that may, in the opinion of Grantee, endanger the proper maintenance and operation of said utility lines, facilities and/or improvements; make modifications to the topography which are necessary for the construction, installation, and proper maintenance and operation of the utility lines, facilities and/or improvements.

Grantee shall have such right of ingress, egress, and regress over and upon any lands of Grantor immediately adjacent to the Permanent Utility and Access Easement Area as may be necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating,



extending, maintaining, and otherwise keeping open and in good repair the lines, facilities and/or improvements for which the Permanent Utility and Access Easement is granted.

It is further understood that Grantor shall not erect a permanent structure of any kind over or across the easements herein granted; permit or cause water to be ponded or impounded over or across said easements or attempt to block or otherwise impede the natural flow of water; excavate from or add fill material to the property within said easements resulting in elevation change of +/- 1 foot; cause or permit to be stored over said easements any personal property which materially impairs Grantee's access to the infrastructure within said easements and which cannot be removed by the fee owner within twenty-four hour notice; or plant any trees or other plants with invasive root systems within water or sewer easements. Any irrigation systems installed within the easements herein granted shall be the sole responsibility of the fee owner of the Grantor Property and will not be subject to repair or replacement by Grantee upon its exercise of the rights herein granted.

The easements conveyed herein are non-exclusive to the extent that other public services and utilities may install services lines across the herein described easements provided they do not (i) unreasonably interfere with Grantee's use, and (ii) Grantor, or its successor in title, has received prior written approval from Grantee for said utility installation.

Grantor understands that the interests conveyed hereby are being acquired for a construction project and Grantor agrees that construction may begin on said Grantor Property upon execution of this instrument. Grantor further acknowledges that the consideration stated herein is full and just compensation pursuant to North Carolina General Statutes for the acquisition of the said property interests and rights by the Grantee, and for any and all damages to the value of the remaining Grantor Property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of the Project; and for the past and future use of said areas by Grantee, its successors and assigns, for all purposes for which the Grantee is authorized by law to subject the same.

Grantee shall return the Permanent Utility and Access Easement Area and any other area outside the permanent easements conveyed herein that are disturbed as a result of Grantee's activities in connection with the Project to substantially the same condition they were in prior to Grantee's work, to the extent commercially reasonable and ordinary wear and tear excepted.

TO HAVE AND TO HOLD the aforesaid rights and easements to Grantee, its successors and assigns, it being agreed that the rights and easements hereby granted are appurtenant to and run with the land.

AND, the Grantor covenants with said Grantee that Grantor is seized of the Grantor Property in fee simple, has the right to grant the rights and easements provided herein, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

LB

*This Space was Intentionally Left Blank. Signatures and Acknowledgments Appear on the Following Pages.*

LRB

IN TESTIMONY WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

NATURAL LAND ALLIANCE, INC.,  
a North Carolina corporation

By: LB (Seal)  
Name: Larry Bragg  
Its: President

STATE OF NORTH CAROLINA  
COUNTY OF Gaston

I, Brandy G Wynn, a Notary Public of Gaston County, State of North Carolina, do hereby certify that Larry Bragg personally came before me this day and acknowledged that he is the President of Natural Land Alliance, Inc., a North Carolina corporation, and that by authority duly given and as the act of Natural Land Alliance, Inc., signed the foregoing instrument.

Witness my hand and notarial stamp or seal, this 31<sup>st</sup> day of July, 2024.

Brandy G Wynn  
Notary Public

[AFFIX NOTARIAL SEAL]

My Commission Expires: 09-19-2027

BRANDY G WYNN  
NOTARY PUBLIC  
Gaston County, North Carolina  
My Commission Expires 09-19-2027.

**ACCEPTANCE**

Accepted by the Town of Valdese Council for and on behalf of the Town of Valdese, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina municipal corporation

By: \_\_\_\_\_ (Seal)  
CHARLES WATTS, Mayor

Attest: \_\_\_\_\_  
JESSICA LAIL, Town Clerk

Approved as to form on behalf of the Town of Valdese this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Attorney for the Town of Valdese

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

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of North Carolina, do hereby certify that JESSICA LAIL personally came before me this day and acknowledged that she is the 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 \_\_\_\_\_, 2024.

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

[AFFIX NOTARIAL SEAL]

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

**EXHIBIT A****PERMANENT ACCESS AND UTILITY EASEMENT**

A PERMANENT ACCESS AND UTILITY EASEMENT LYING IN THE CITY OF VALDESE, COUNTY OF BURKE, AND STATE OF NORTH CAROLINA, SAID EASEMENT LYING IN THE PROPERTY OF NATURAL LAND ALLIANCE, INC, AS DESCRIBED IN DEED BOOK 2312, PAGE 264, AS RECORDED IN THE BURKE COUNTY REGISTER OF DEEDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 5/8-INCH IRON ROD WITH A CAP STAMPED "ABERNATHY & ASSOCIATES" WITH COORDINATED VALUES OF NORTH = 742,760.966 FEET AND EAST = 1,246,286.013 FEET, SAID POINT LYING ON A COMMON LINE BETWEEN NATURAL LAND ALLIANCE, INC AND RICHARD G. AND BRENDA F. NICHOLSON, AS DESCRIBED IN DEED BOOK 1510, PAGE 473; THENCE ALONG SAID COMMON LINE SOUTH 59°42'44" WEST, A DISTANCE OF 20.67 FEET TO A COMMON CORNER BETWEEN NATURAL LAND ALLIANCE, INC AND BURKE COUNTY PUBLIC SCHOOL BOE, AS DESCRIBED IN DEED BOOK 1556, PAGE 91; THENCE ALONG SAID COMMON LINE NORTH 14°35'38" WEST, A DISTANCE OF 32.39 FEET TO THE POINT OF BEGINNING.

BEGINNING AT A POINT WITH COORDINATE VALUES OF NORTH = 742,780.859 FEET AND EAST = 1,246,260.408 FEET, AND LYING ON A COMMON LINE BETWEEN NATURAL LAND ALLIANCE, INC AND BURKE COUNTY PUBLIC SCHOOL BOE; THENCE ALONG SAID COMMON LINE THE FOLLOWING TWO (2) COURSES: NORTH 14°20'09" WEST, A DISTANCE OF 13.77 FEET; NORTH 26°14'50" WEST, A DISTANCE OF 17.71 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING SEVENTEEN (17) COURSES: NORTH 31°56'36" EAST, A DISTANCE OF 106.54 FEET; NORTH 27°59'14" WEST, A DISTANCE OF 245.81 FEET; NORTH 19°37'07" WEST, A DISTANCE OF 23.68 FEET; NORTH 49°18'04" WEST, A DISTANCE OF 45.22 FEET; NORTH 50°52'52" WEST, A DISTANCE OF 59.73 FEET; NORTH 45°37'42" WEST, A DISTANCE OF 44.54 FEET; NORTH 17°39'05" WEST, A DISTANCE OF 70.90 FEET; NORTH 07°17'26" WEST, A DISTANCE OF 83.97 FEET; NORTH 17°59'13" EAST, A DISTANCE OF 71.78 FEET; NORTH 22°55'03" EAST, A DISTANCE OF 67.55 FEET; NORTH 02°06'13" WEST, A DISTANCE OF 120.99 FEET; NORTH 19°22'25" EAST, A DISTANCE OF 124.10 FEET; NORTH 36°54'18" EAST, A DISTANCE OF 82.16 FEET; NORTH 59°14'29" EAST, A DISTANCE OF 27.98 FEET; NORTH 05°51'12" EAST, A DISTANCE OF 95.15 FEET; NORTH 68°20'00" WEST, A DISTANCE OF 6.32 FEET; NORTH 81°03'26" WEST, A DISTANCE OF 96.02 FEET TO A POINT ON A LINE BETWEEN NATURAL LAND ALLIANCE, INC AND BURKE COUNTY PUBLIC SCHOOL BOE; THENCE ALONG SAID COMMON LINE THE FOLLOWING TWO (2) COURSES: NORTH 28°57'11" EAST, A DISTANCE OF 4.59 FEET; NORTH 08°04'43" EAST, A DISTANCE OF 20.69 FEET; THENCE DEPARTING SAID COMMON LINE AND THROUGH SAID PROPERTY THE FOLLOWING THIRTY-SEVEN (37) COURSES: SOUTH 81°03'26" EAST, A DISTANCE OF 70.19 FEET; NORTH 09°56'09"

EAST, A DISTANCE OF 33.18 FEET; NORTH 54°56'37" EAST, A DISTANCE OF 205.85 FEET; SOUTH 80°03'23" EAST, A DISTANCE OF 54.74 FEET; NORTH 74°02'27" EAST, A DISTANCE OF 17.17 FEET; NORTHEASTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET, A CENTRAL ANGLE OF 50°47'22", AND A CHORD THAT BEARS NORTH 48°38'46" EAST, A CHORD DISTANCE OF 32.16 FEET; NORTH 23°15'05" EAST, A DISTANCE OF 35.23 FEET; SOUTH 77°15'58" WEST, A DISTANCE OF 23.16 FEET; NORTH 12°44'02" WEST, A DISTANCE OF 116.99 FEET; NORTH 77°15'58" EAST, A DISTANCE OF 87.74 FEET; SOUTH 12°44'02" EAST, A DISTANCE OF 116.99 FEET; SOUTH 77°15'58" WEST, A DISTANCE OF 36.00 FEET; SOUTH 09°56'00" WEST, A DISTANCE OF 80.05 FEET; SOUTH 54°56'37" WEST, A DISTANCE OF 32.32 FEET; NORTH 80°03'23" WEST, A DISTANCE OF 41.45 FEET; SOUTH 74°02'27" WEST, A DISTANCE OF 46.45 FEET; SOUTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET, A CENTRAL ANGLE OF 11°27'05", AND A CHORD THAT BEARS SOUTH 68°18'54" WEST, A CHORD DISTANCE OF 7.48 FEET; SOUTH 62°35'22" WEST, A DISTANCE OF 49.33 FEET; SOUTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET, A CENTRAL ANGLE OF 20°47'11", AND A CHORD THAT BEARS SOUTH 52°11'46" WEST, A CHORD DISTANCE OF 13.53 FEET; SOUTH 41°48'11" WEST, A DISTANCE OF 77.99 FEET; SOUTHWESTWARDLY, WITH THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET, A CENTRAL ANGLE OF 22°06'16", AND A CHORD THAT BEARS SOUTH 30°45'03" WEST, A CHORD DISTANCE OF 14.38 FEET; SOUTH 19°41'55" WEST, A DISTANCE OF 40.01 FEET; SOUTH 05°51'20" WEST, A DISTANCE OF 102.23 FEET; SOUTH 59°14'29" WEST, A DISTANCE OF 35.61 FEET; SOUTH 36°54'18" WEST, A DISTANCE OF 73.37 FEET; SOUTH 19°22'25" WEST, A DISTANCE OF 115.50 FEET; SOUTH 02°06'13" EAST, A DISTANCE OF 121.80 FEET; SOUTH 22°55'03" WEST, A DISTANCE OF 72.02 FEET; SOUTH 17°59'13" WEST, A DISTANCE OF 65.10 FEET; SOUTH 07°17'26" EAST, A DISTANCE OF 76.09 FEET; SOUTH 17°39'05" EAST, A DISTANCE OF 62.41 FEET; SOUTH 45°37'42" EAST, A DISTANCE OF 37.17 FEET; SOUTH 50°52'52" EAST, A DISTANCE OF 58.93 FEET; SOUTH 49°18'04" EAST, A DISTANCE OF 52.19 FEET; SOUTH 19°37'07" EAST, A DISTANCE OF 28.48 FEET; SOUTH 27°59'14" EAST, A DISTANCE OF 258.39 FEET; SOUTH 31°56'36" WEST, A DISTANCE OF 139.80 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 1.41 ACRES (61,312 SQ. FT.) OF LAND, MORE OR LESS, AND BEING ALL OF THAT AREA IDENTIFIED AS THE PERMANENT ACCESS & UTILITY EASEMENT ON THE PLAN SHEET(S) PREPARED BY SURVEYING AND MAPPING, INC., SAID PLAN SHEET(S) BEING ATTACHED HERETO AS **EXHIBIT A-1** AND INCORPORATED HEREIN BY THIS REFERENCE.

**EXHIBIT A-1**

**PLAN SHEET(S)**

**PREPARED BY J. LEONARD OF SURVEYING AND MAPPING, LLC.**



# Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

**LEGEND**

	= PROPOSED TEMPORARY ACCESS EASEMENT
	= PROPOSED PERMANENT ACCESS AND UTILITY EASEMENT
	= PROPOSED TEMPORARY CONSTRUCTION EASEMENT
	= BOUNDARY LINE
	= PROPOSED EASEMENT LINE
	= PROPOSED TEMPORARY EASEMENT
	= RIGHT-OF-WAY LINE
	= ADJOINER LINE, LINE NOT SURVEYED. LINE MAPPED FROM DEEDS OR PLATS. (UNLESS NOTED)
	= CALCULATED POINT
PAUE	= PERMANENT ACCESS & UTILITY EASEMENT
TCE	= TEMPORARY CONSTRUCTION EASEMENT
TAE	= TEMPORARY ACCESS EASEMENT
(#####)	= "SAM" POINT NUMBER

**AREA STATEMENT**

PROPOSED PERMANENT ACCESS & UTILITY EASEMENT  
CONTAINS 1.41 ACRES OR 61,312 SQUARE FEET,  
MORE OR LESS.

**NOTES:**

1. ALL DISTANCES SHOWN HERE ARE GRID DISTANCES, AND THE COMBINED SCALE FACTOR IS 0.9999100972.
2. AREA CALCULATED BY COORDINATE GEOMETRY.
3. ADJOINER'S INFORMATION OBTAINED FROM BURKE COUNTY GIS WEBSITE.
4. INFORMATION SHOWN BASED ON A FIELD SURVEY PERFORMED BY SAM LLC ON NOVEMBER 8, 2022 THROUGH FEBRUARY 1, 2024.
5. NORTH CAROLINA STATE PLANE COORDINATES SHOWN WERE DETERMINED USING REAL TIME KINEMATIC GPS OBSERVATIONS (VRS) TAKEN ON NOVEMBER 8, 2022, BASED ON CORS ID "NCMG".
6. THIS SKETCH INCLUDED IN THIS EXHIBIT SHALL NOT BE VALID UNLESS:
  - A. PROVIDED IN ITS ENTIRETY CONSISTING OF 9 SHEETS.
  - B. REPRODUCTION OF THE SKETCH IS SIGNED AND SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.

**CERTIFICATION:**

I, JOSHUA LEONARD, DO HEREBY DECLARE THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM A SURVEY MADE UNDER MY SUPERVISION, THAT THIS MAP DOES NOT REPRESENT AN OFFICIAL BOUNDARY SURVEY AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. IT HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS FIRST DAY OF FEBRUARY, 2024.

JOSHUA B. LEONARD  
NORTH CAROLINA PROFESSIONAL LAND SURVEYOR  
LICENSE NUMBER L-5447

DATE: FEBRUARY 1, 2024



Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

NO.	ADDRESS COMMENTS	ZB	11/6/23
NO.	REVISIONS	BY	DATE
JOB NUMBER: 1022074274			
DATE: 10/2023			
SCALE: N/A			
SURVEYOR: J. LEONARD			
TECHNICIAN: Z. BARNETT			
DRAWING: MGA - VALDESE BLUFFS - EASEMENT			
TRACT ID: 2744-74-2158			
PARTYCHIEF: A. RENNE			
FIELDBOOKS: 41206			



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

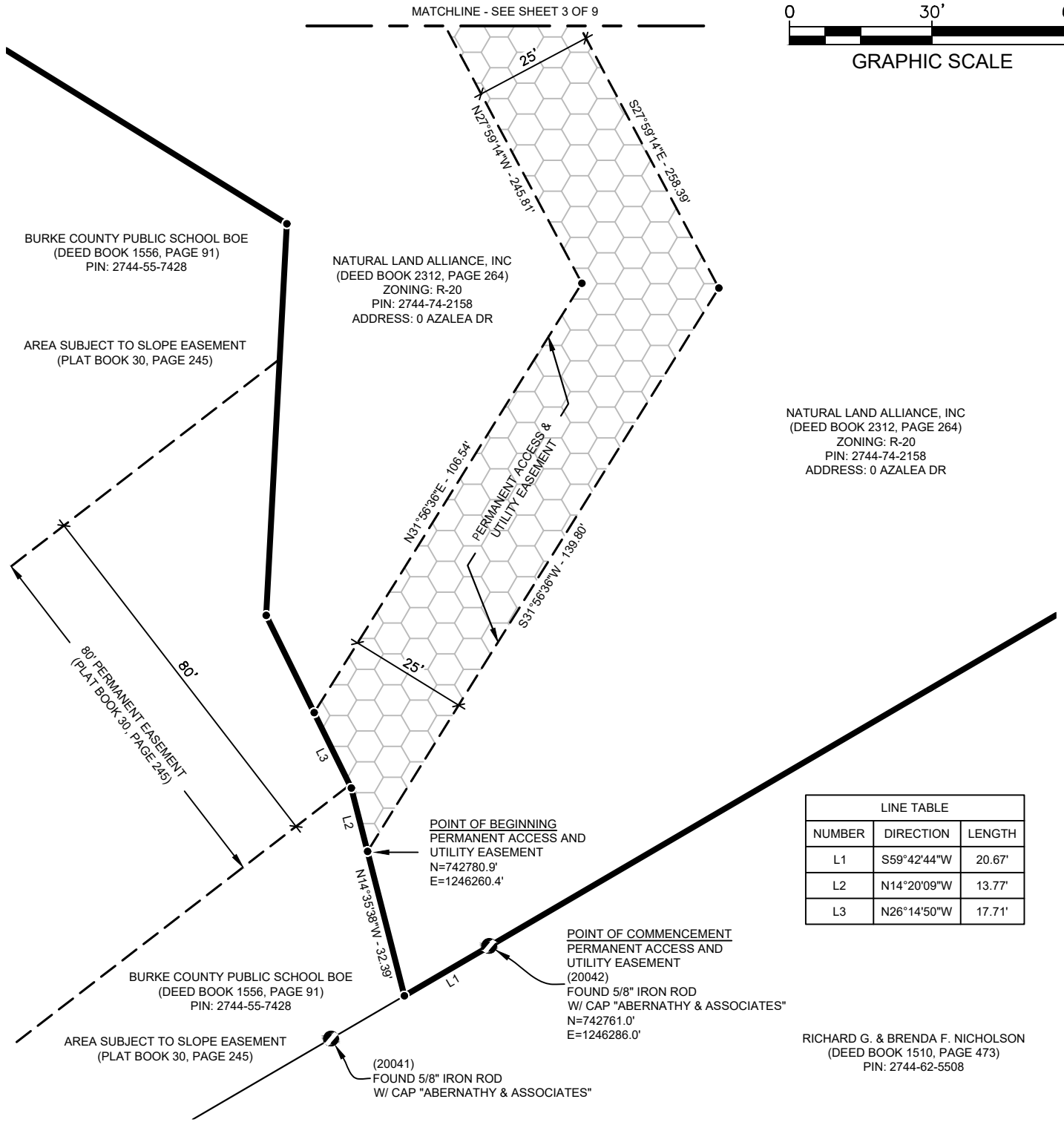
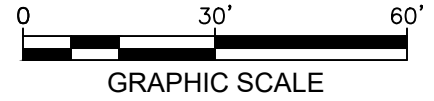
SHEET 1  
OF 9



# Exhibit "A"

## Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	S59°42'44"W	20.67'
L2	N14°20'09"W	13.77'
L3	N26°14'50"W	17.71'

RICHARD G. & BRENDA F. NICHOLSON  
(DEED BOOK 1510, PAGE 473)  
PIN: 2744-62-5508

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
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DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-74-2158
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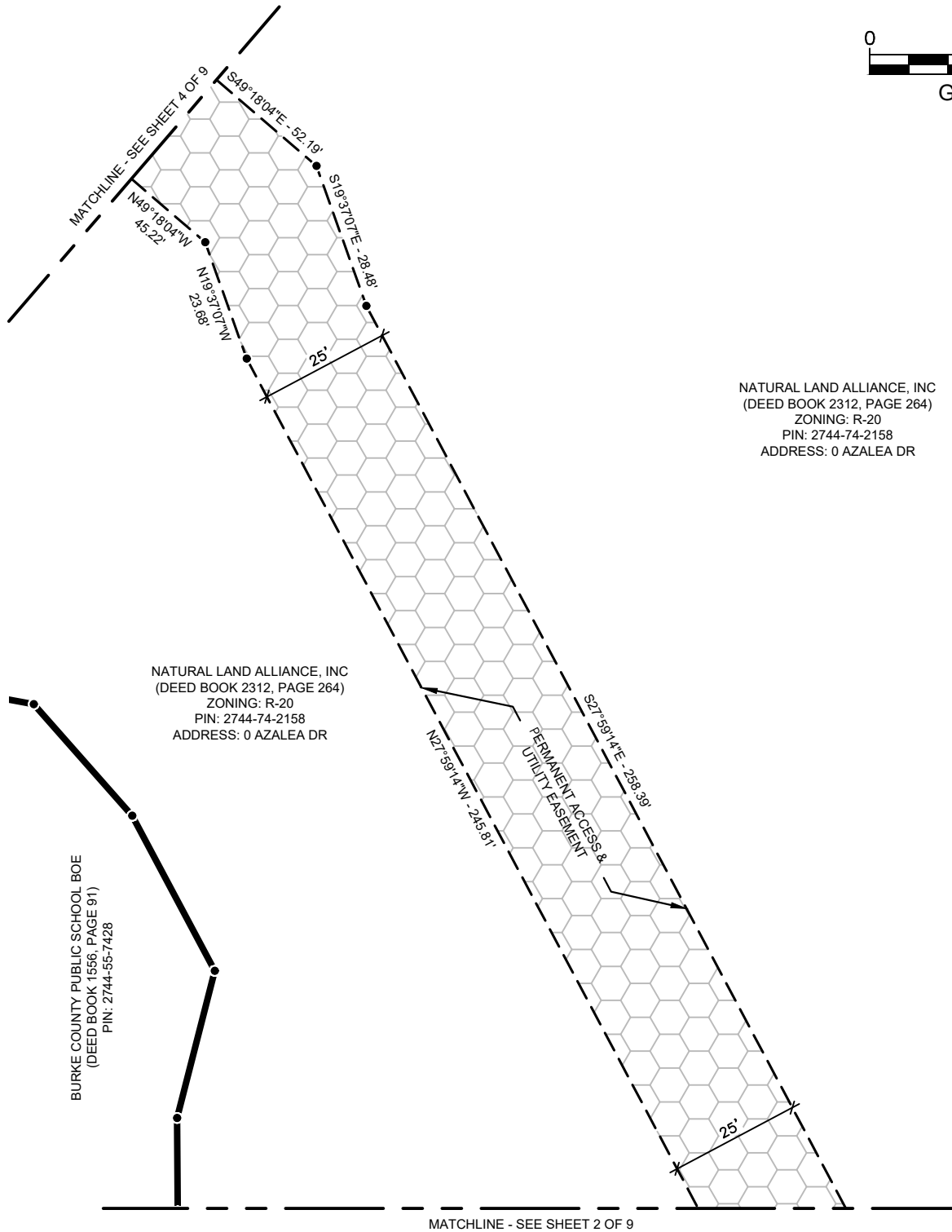
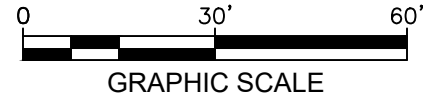
9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 2  
OF 9

# Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



NATURAL LAND ALLIANCE, INC  
 (DEED BOOK 2312, PAGE 264)  
 ZONING: R-20  
 PIN: 2744-74-2158  
 ADDRESS: 0 AZALEA DR

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 (DEED BOOK 2312, PAGE 264)  
 ZONING: R-20  
 PIN: 2744-74-2158  
 ADDRESS: 0 AZALEA DR

BURKE COUNTY PUBLIC SCHOOL BOE  
 (DEED BOOK 1556, PAGE 91)  
 PIN: 2744-55-7428

MATCHLINE - SEE SHEET 2 OF 9

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
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DRAWING: MGA - VALDESE BLUFFS - EASEMENT
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PARTYCHIEF: A. RENNE
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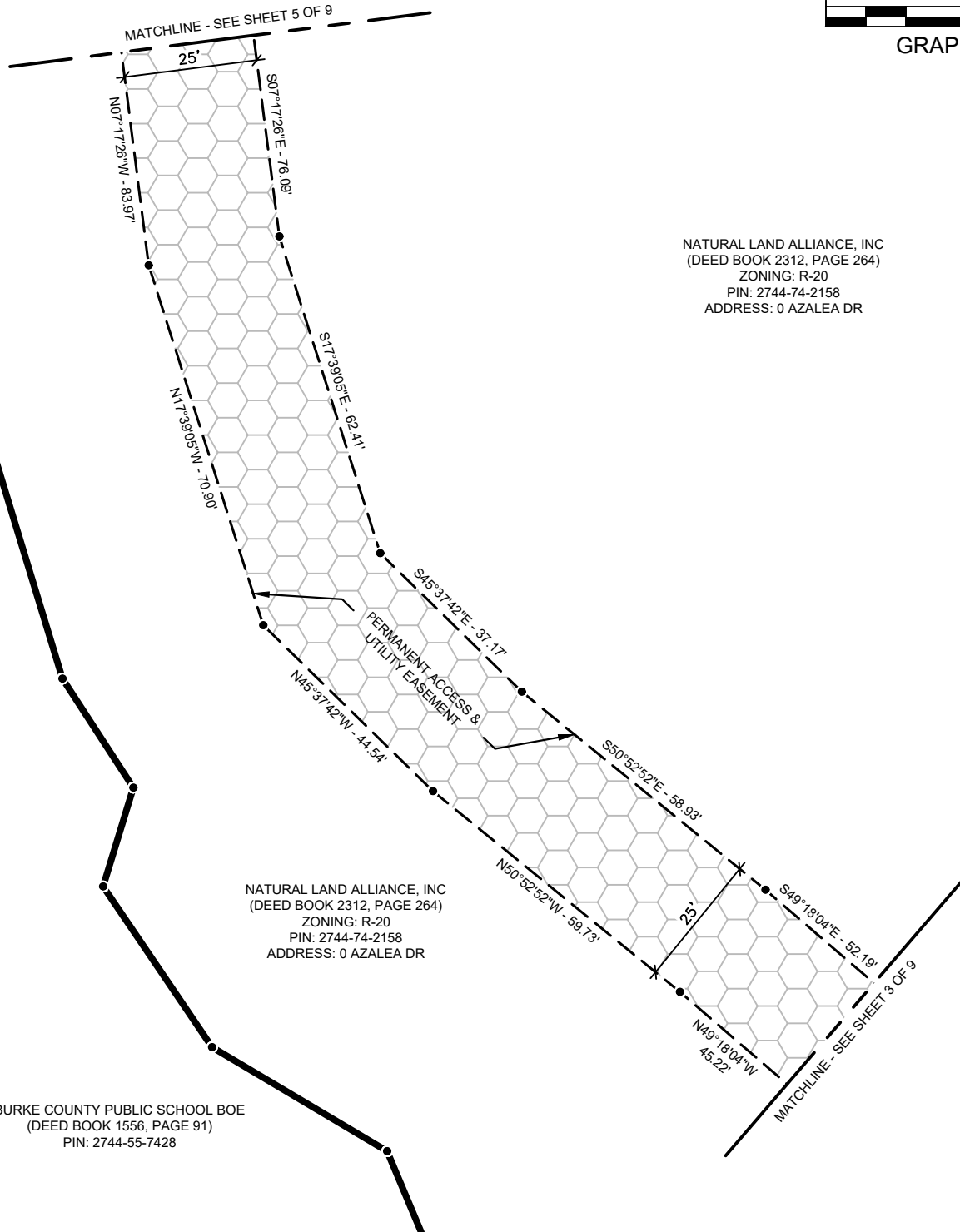
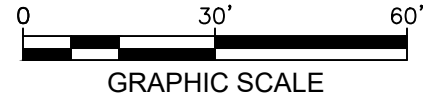
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PROJECT: McGill Associates  
 Valdese Bluffs - Easement

SHEET 3  
 OF 9

# Exhibit "A" Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



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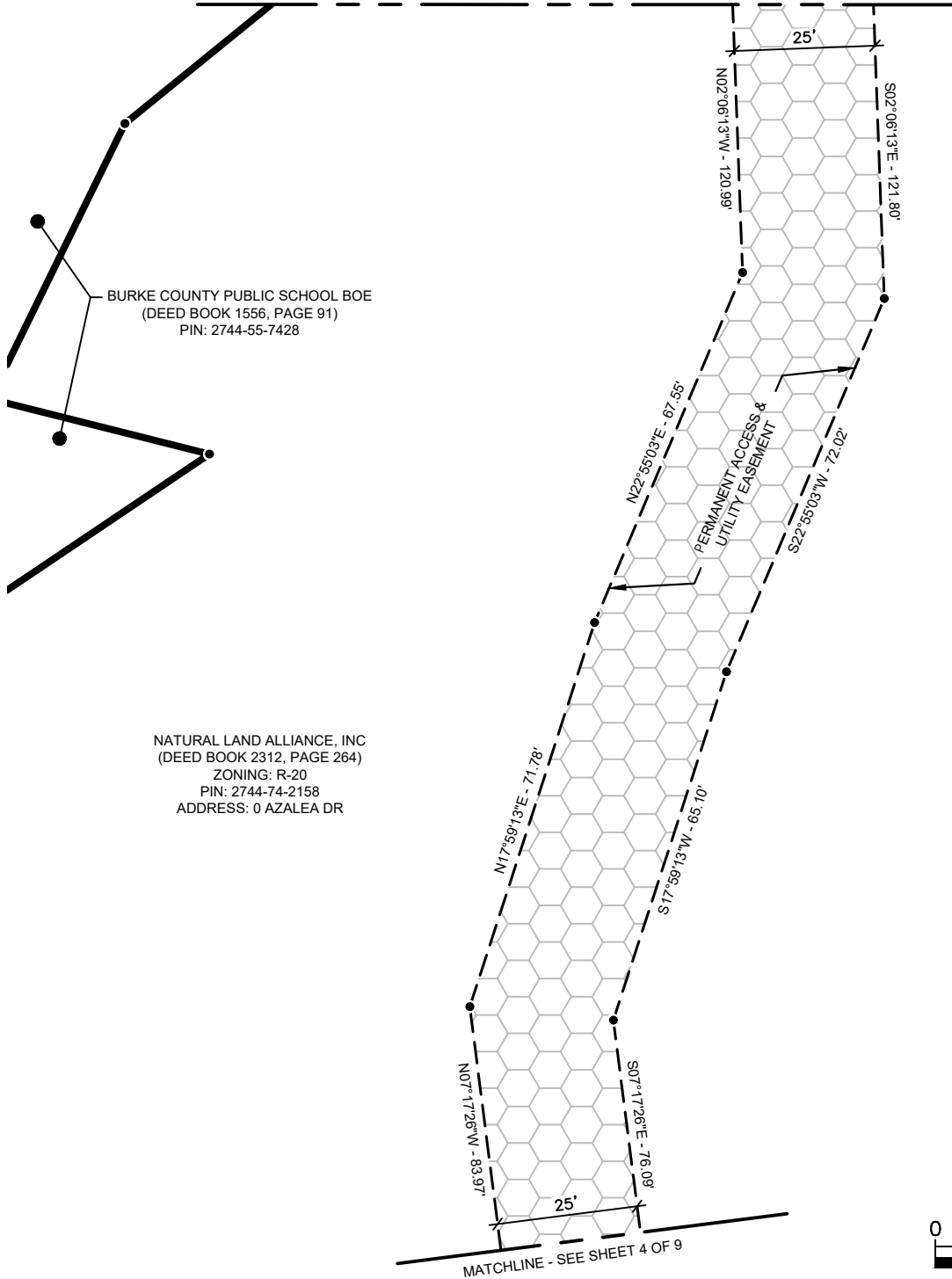
SHEET 4  
OF 9

# Exhibit "A" Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

NC GRID  
NAD 83 (2011)

MATCHLINE - SEE SHEET 6 OF 9



BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

MATCHLINE - SEE SHEET 4 OF 9



GRAPHIC SCALE

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
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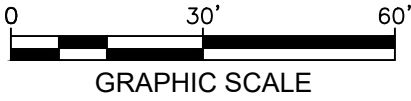
PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 5  
OF 9

# Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

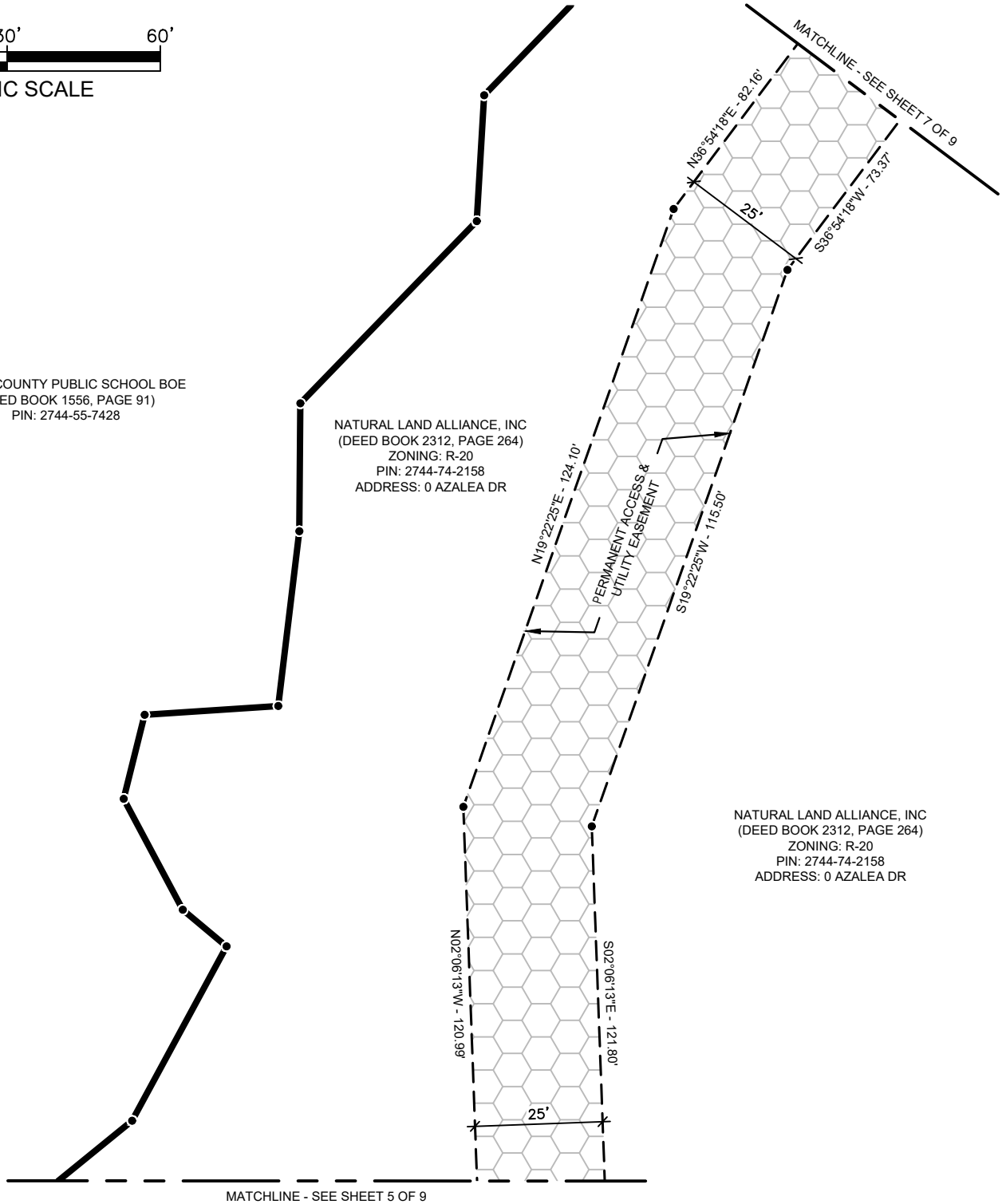
NC GRID  
NAD 83 (2011)



BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR



Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-74-2158
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

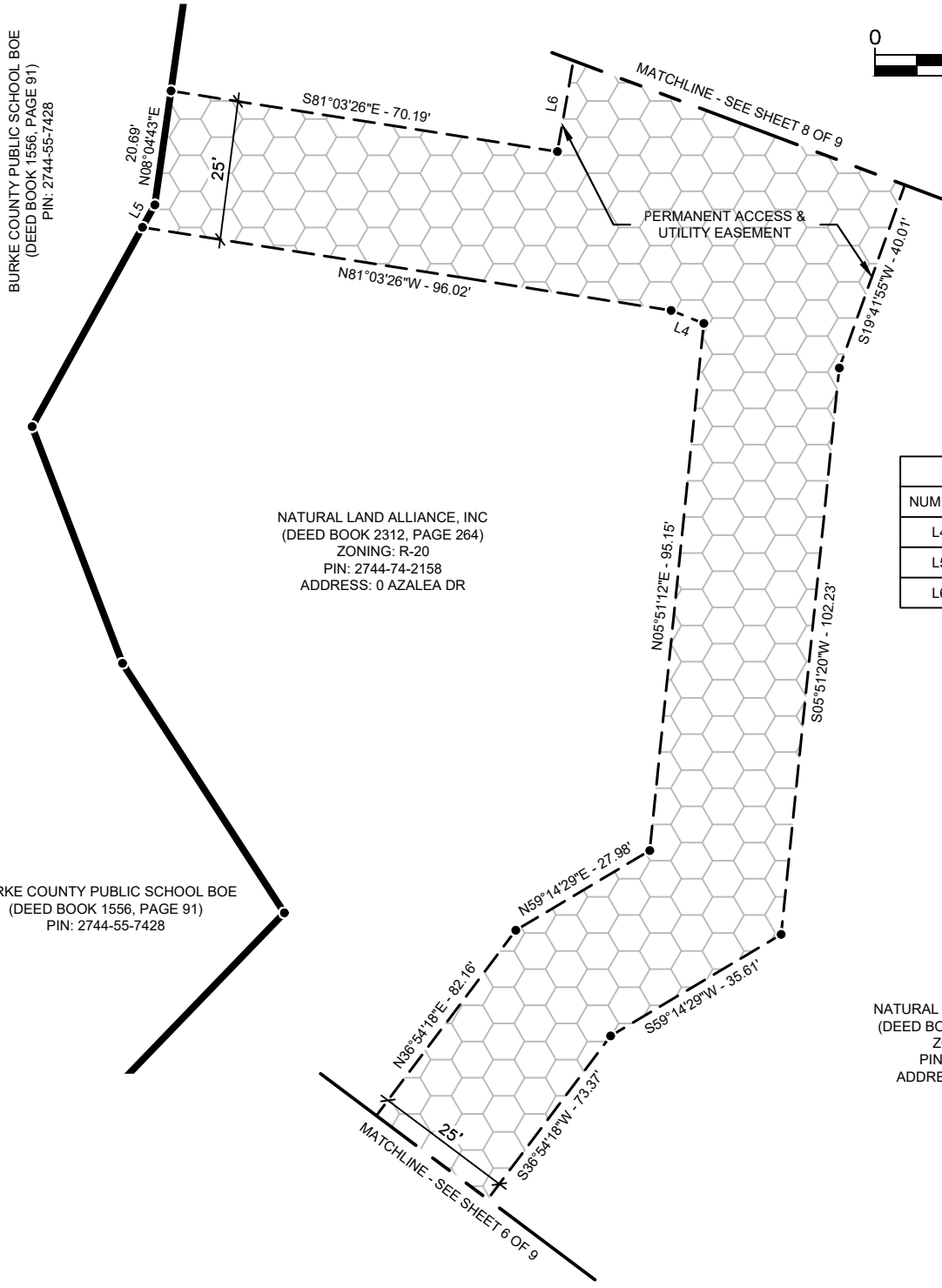
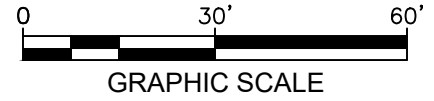
PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 6  
OF 9

# Exhibit "A"

## Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L4	N68°20'00"W	6.32'
L5	N28°57'11"E	4.59'
L6	N09°56'09"E	33.18'

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
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TRACT ID: 2744-74-2158
PARTYCHIEF: A. RENNE
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Ofc: 865.200.4366  
email: info@sam.biz

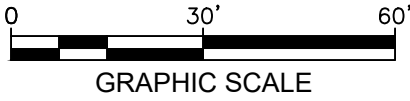
PROJECT: McGill Associates  
Valdeese Bluffs - Easement

SHEET 7  
OF 9

# Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina

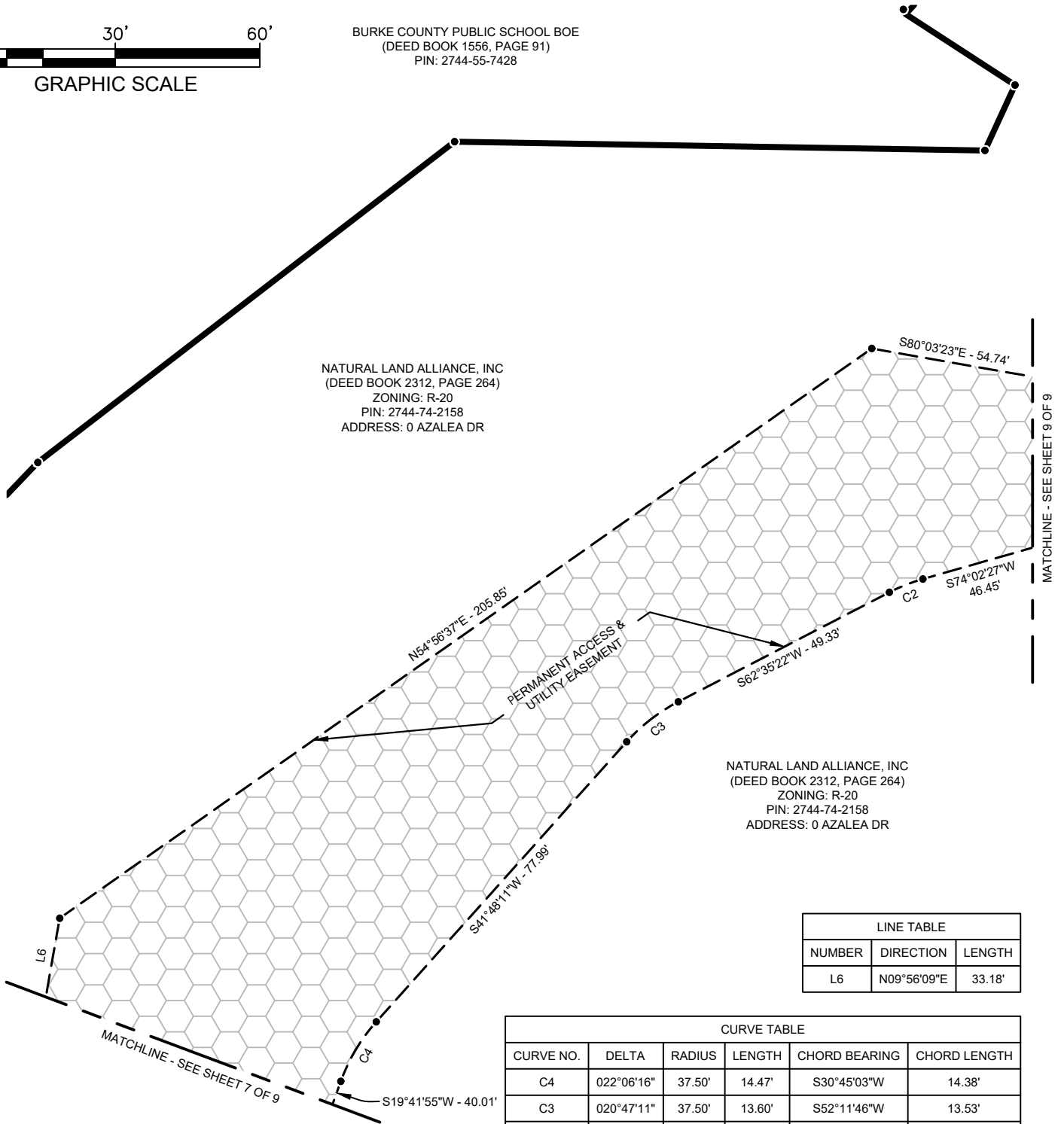
NC GRID  
NAD 83 (2011)



BURKE COUNTY PUBLIC SCHOOL BOE  
(DEED BOOK 1556, PAGE 91)  
PIN: 2744-55-7428

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR



LINE TABLE		
NUMBER	DIRECTION	LENGTH
L6	N09°56'09"E	33.18'

CURVE TABLE					
CURVE NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD LENGTH
C4	022°06'16"	37.50'	14.47'	S30°45'03"W	14.38'
C3	020°47'11"	37.50'	13.60'	S52°11'46"W	13.53'
C2	011°27'05"	37.50'	7.49'	S68°18'54"W	7.48'

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-74-2158
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
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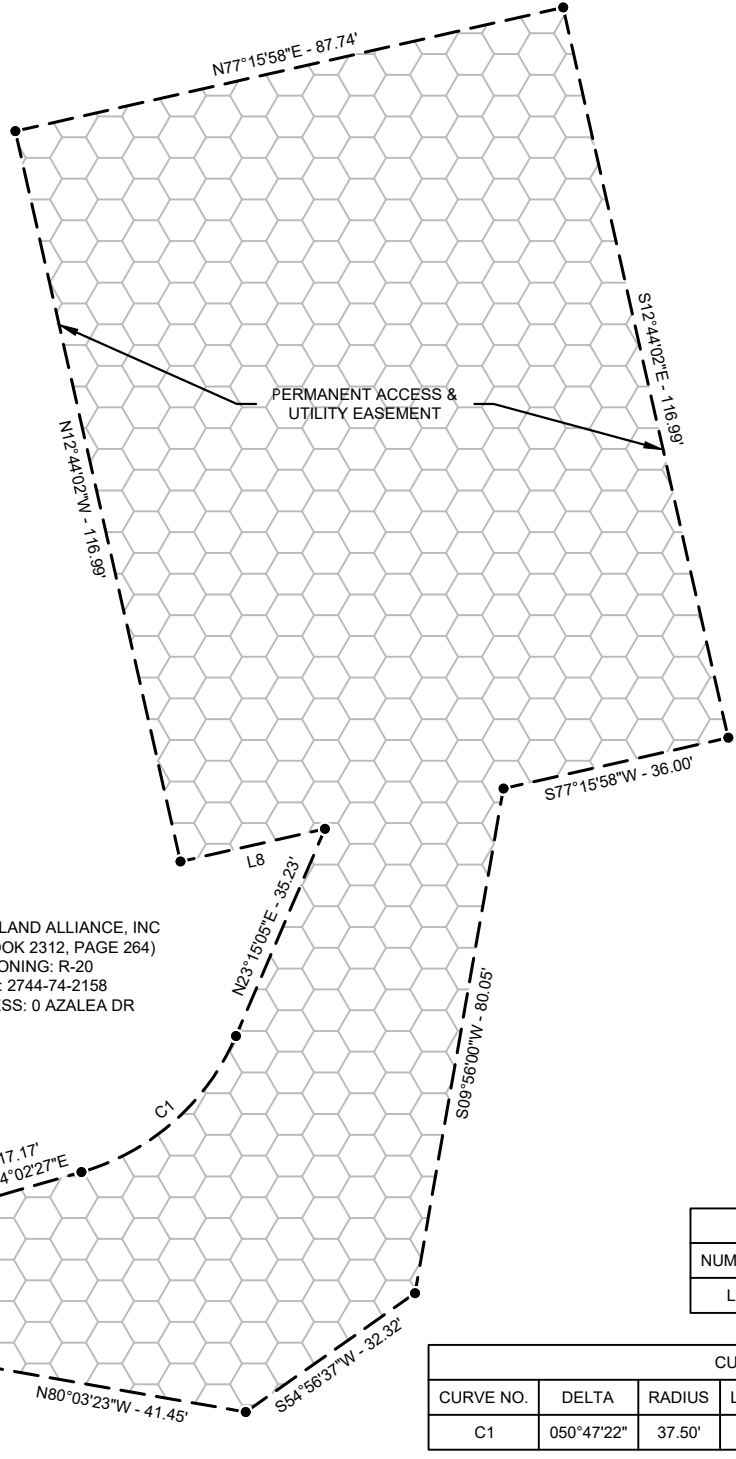
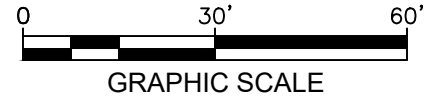
PROJECT: McGill Associates  
Valdese Bluffs - Easement

SHEET 8  
OF 9

# Exhibit "A"

## Permanent Access & Utility Easement For: Town of Valdese

Lying in the City of Valdese, of Burke County, North Carolina



NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

NATURAL LAND ALLIANCE, INC  
(DEED BOOK 2312, PAGE 264)  
ZONING: R-20  
PIN: 2744-74-2158  
ADDRESS: 0 AZALEA DR

MATCHLINE - SEE SHEET 8 OF 9

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L8	S77°15'58"W	23.16'

CURVE TABLE					
CURVE NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD LENGTH
C1	050°47'22"	37.50'	33.24'	N48°38'46"E	32.16'

Natural Land Alliance, Inc. - Burke County PIN: 2744-74-2158

JOB NUMBER: 1022074274
DATE: 10/2023
SCALE: 1" = 30'
SURVEYOR: J. LEONARD
TECHNICIAN: Z. BARNETT
DRAWING: MGA - VALDESE BLUFFS - EASEMENT
TRACT ID: 2744-74-2158
PARTYCHIEF: A. RENNE
FIELDBOOKS: 41206



9047 Executive Park Drive  
Suite 120  
Knoxville, TN 37923  
Ofc: 865.200.4366  
email: info@sam.biz

**PROJECT:** McGill Associates  
Valdeese Bluffs - Easement

SHEET 9  
OF 9



Budget Amendment # 1-10

Subject: Roll off dumpster

Description: For the Sanitation Department to supply bulk trash service for \$75 per load to citizens only.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3990.000	General Fund Balance Appr.		6,000
Total		\$0	\$6,000

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.5800.740	Capital Outlay	6,000	
Total		\$6,000	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

## **Roll off Dumpster Rental Guidelines**

### **For City Residents Only**

- This service is available exclusively to property owners within the city limits.
- It is not intended for clean-up or remodeling work carried out by contractors hired by homeowners.
- Construction debris from remodeling or new home builds is not accepted.
- A fee of \$75.00 per load applies, limited to one week per request.

### **Prohibited Items:**

1. **No shingles**
2. **No insulation**
3. **No tires**
4. **No hot ashes**
5. **No stumps**
6. **No bricks or blocks**
7. **No hazardous materials**
8. **No sheet rock**

### **Accepted Materials:**

1. **Trash**
2. **Cleaning out of homes, outbuildings, basements, and garages**
3. **Furniture**
4. **Metal (not to be mixed with wood)**
5. **Wood materials (not to be mixed with metal)**
6. **Brush (may be up to eight feet long and up to seven inches in diameter)**
7. **Rough trash**

## RESOLUTION AUTHORIZING UPSET BID PROCESS

*Sale of 0.46 +/- Acre Tract at 342 Tron Ave NW, Valdese, NC (REID: 41732)*

WHEREAS, the Town of Valdese (the “Town”) is the owner of that certain tract or parcel of real property (the “Property”) situated in Lovelady Township, Valdese, North Carolina commonly known as 342 Tron Ave NW, Valdese, North Carolina, PIN: 2733874604, REID: 41732; and

WHEREAS, North Carolina General Statute §160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, on or about July 12, 2024, the Town received an offer to purchase the Property from Tim Norman of T.L. Norman Land Company for \$10,000.00; and

WHEREAS, Tim Norman has deposited five percent (5%) of its bid with the town clerk.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF VALDESE RESOLVES THAT:

1. The Town Council authorizes sale of the Property through the upset bid procedure of North Carolina General Statute §160A-269.
2. The Town Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the Property and the amount of the offer and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Town Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the Town Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the Town Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Town Council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made by cashier’s check or by certified check. The Town will return the deposit on any bid not accepted, and will return the

deposit on an offer subject to upset if a qualifying higher bid is received. The Town will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that:
  - (a) the Town Council must approve the final high offer before the sale is closed, which it will do within thirty (30) days after the final upset bid period has passed;
  - (b) the buyer must pay the purchase price in certified funds at the time of closing;
  - (c) the Property shall be sold “as is” and subject to all existing easements, restrictions, utility easements and right of ways of record;
  - (d) the Town will reserve easements for all town utility lines located on or under the Property; and
  - (e) the Property shall be conveyed by special warranty deed.
  
8. The Town reserves the right to withdraw the Property from sale at any time before the final high bid is accepted and the right to reject all bids at any time.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

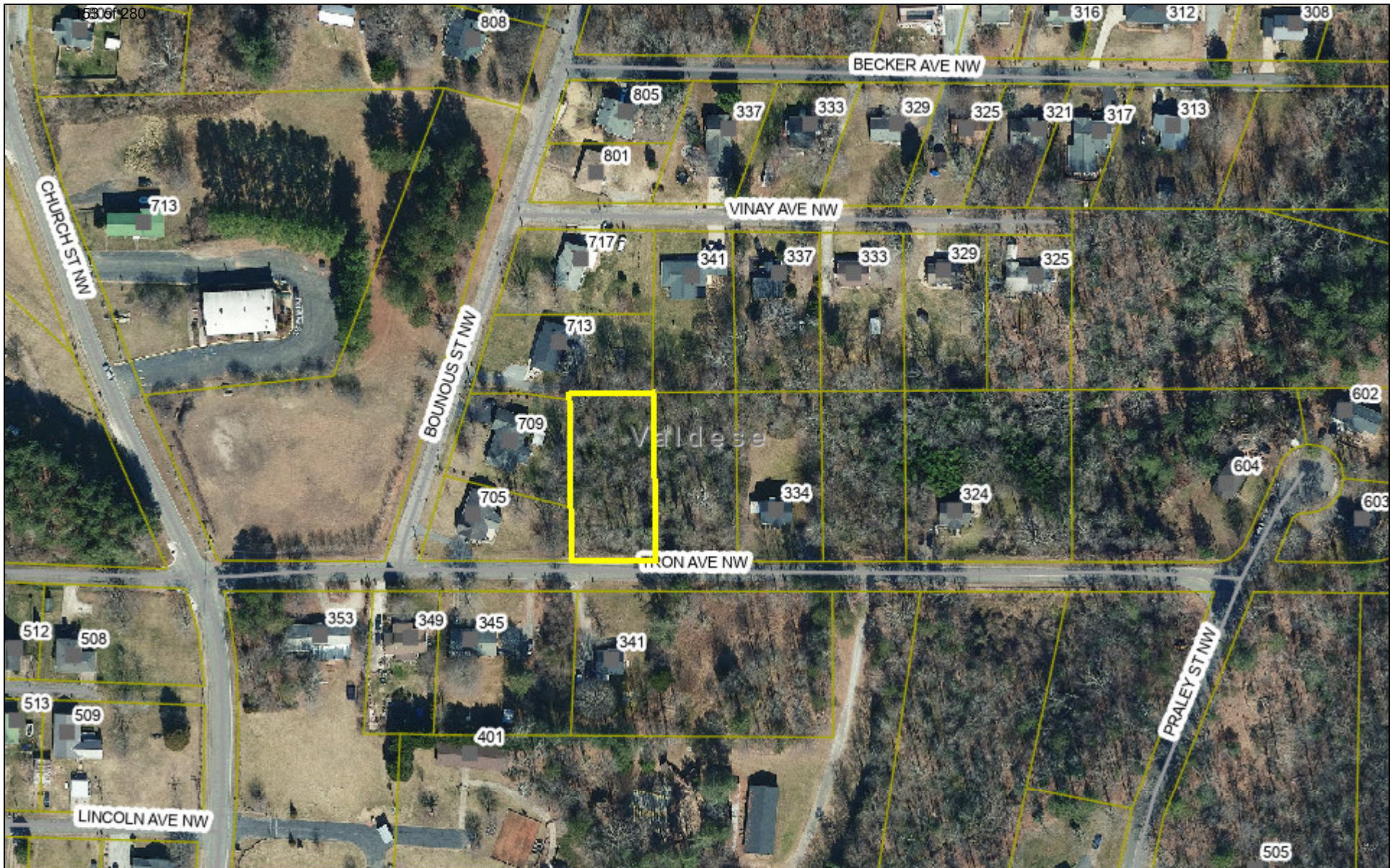
(SEAL)

ATTEST:

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

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





May 14, 2024

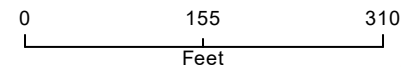
## Burke County, NC

**Owner:** TOWN OF VALDESE  
P O BOX 339

VALDESE, NC 28690

**Property Address:** 342 TRON AVE NW  
VALDESE 28690  
PROPERTY\_DESC

**PIN:** 2733874604  
**PIN EXT:** 000  
**REID:** 41732  
**Property Value:** \$0  
**Acreage:** 0.46  
**Deed Book:** 000915  
**Deed Page:** 01534  
**Deed Date:** 12/21/1998



1:1,988

1 inch = 166 feet



*Disclaimer: The information contained on this page is taken from aerial mapping, tax mapping, and public records and is NOT to be construed or used as a survey or 'legal description'. Only a licensed professional land surveyor can legally determine precise locations, elevations, length and direction of a line, and areas.*



### Property Summary

Tax Year: 2024

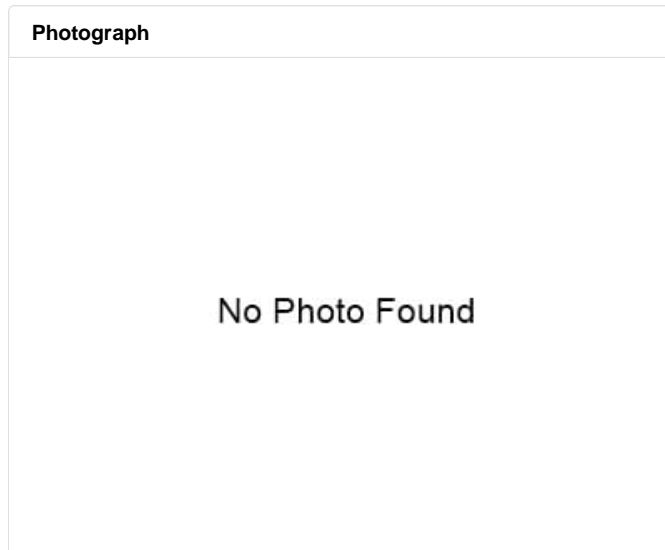
<b>REID</b>	41732	<b>PIN</b>	2733-87-4604	<b>Property Owner</b>	TOWN OF VALDESE
<b>Location Address</b>	342 TRON AVE NW	<b>Property Description</b>		<b>Owner's Mailing Address</b>	P O BOX 339 VALDESE NC 28690

Administrative Data	
<b>Plat Book &amp; Page</b>	
<b>Old Map #</b>	74
<b>Market Area</b>	3025
<b>Township</b>	LOVELADY
<b>Planning Jurisdiction</b>	VALDESE
<b>City</b>	VALDESE
<b>Fire District</b>	
<b>Spec District</b>	
<b>Land Class</b>	EXEMPT VALUE
<b>History REID 1</b>	
<b>History REID 2</b>	
<b>Acreage</b>	0.46
<b>Permit Date</b>	
<b>Permit #</b>	

Transfer Information	
<b>Deed Date</b>	12/22/1998
<b>Deed Book</b>	000915
<b>Deed Page</b>	01534
<b>Revenue Stamps</b>	
<b>Package Sale Date</b>	
<b>Package Sale Price</b>	
<b>Land Sale Date</b>	
<b>Land Sale Price</b>	

Improvement Summary	
<b>Total Buildings</b>	0
<b>Total Units</b>	0
<b>Total Living Area</b>	0
<b>Total Gross Leasable Area</b>	0

Property Value	
<b>Total Appraised Land Value</b>	\$20,700
<b>Total Appraised Building Value</b>	
<b>Total Appraised Misc Improvements Value</b>	
<b>Total Cost Value</b>	\$20,700
<b>Total Appraised Value</b>	
<b>Other Exemptions</b>	\$20,700
<b>Exemption Desc</b>	City Govt
<b>Use Value Deferred</b>	
<b>Historic Value Deferred</b>	
<b>Total Deferred Value</b>	
<b>Total Taxable Value</b>	



### Building Summary

### Misc Improvements Summary

Card #	Unit Quantity	Measure	Type	Base Price	Size Adj Factor	Eff Year	Phys Depr (% Bad)	Econ Depr (% Bad)	Funct Depr (% Bad)	Common Interest (% Good)	Value
No Data											
<b>Total Misc Improvements Value Assessed:</b>											

### Land Summary

155 of 280

Land Class: EXEMPT VALUE		Deeded Acres: 0			Calculated Acres: 0		
Zoning	Soil Class	Description	Size	Rate	Size Adj. Factor	Land Adjustment	Land Value
R-12		PRIME_SITE	0.46 BY THE ACRE PRICE	\$45,000			\$20,700
<b>Total Land Value Assessed: \$20,700</b>							

### Ownership History

	Owner Name	Deed Type	% Ownership	Stamps	Sale Price	Book	Page	Deed Date
Current	TOWN OF VALDESE	DEED	100	0		000915	01534	12/22/1998
1 Back	HABITAT, FOR HUMANITY OF	DEED	100	0		000853	01993	12/29/1995
2 Back	WOLFE, BOB/ WOLFE, KATHRYN	DEED	100	0		000853	01992	12/29/1995
3 Back	L & L CONSTRUCTION INC	DEED	100	0		000672	00251	1/28/1985

### Notes Summary

Building Card	Date	Line	Notes
No Data			

## RESOLUTION AUTHORIZING UPSET BID PROCESS

*Sale of 0.46 +/- Acre Tract at 338 Tron Ave NW, Valdese, NC (REID: 41733)*

WHEREAS, the Town of Valdese (the “Town”) is the owner of that certain tract or parcel of real property (the “Property”) situated in Lovelady Township, Valdese, North Carolina commonly known as 338 Tron Ave NW, Valdese, North Carolina, PIN: 2733875604, REID: 41733; and

WHEREAS, North Carolina General Statute §160A-269 permits the Town to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, on or about July 12, 2024, the Town received an offer to purchase the Property from Tim Norman of T.L. Norman Land Company for \$10,000.00; and

WHEREAS, Tim Norman has deposited five percent (5%) of its bid with the town clerk.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF VALDESE RESOLVES THAT:

9. The Town Council authorizes sale of the Property through the upset bid procedure of North Carolina General Statute §160A-269.
10. The Town Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the Property and the amount of the offer and shall state the terms under which the offer may be upset.
11. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Town Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the Town Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
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deposit on an offer subject to upset if a qualifying higher bid is received. The Town will return the deposit of the final high bidder at closing.

15. The terms of the final sale are that:

- (f) the Town Council must approve the final high offer before the sale is closed, which it will do within thirty (30) days after the final upset bid period has passed;
- (g) the buyer must pay the purchase price in certified funds at the time of closing;
- (h) the Property shall be sold “as is” and subject to all existing easements, restrictions, utility easements and right of ways of record;
- (i) the Town will reserve easements for all town utility lines located on or under the Property; and
- (j) the Property shall be conveyed by special warranty deed.

16. The Town reserves the right to withdraw the Property from sale at any time before the final high bid is accepted and the right to reject all bids at any time.

THIS RESOLUTION IS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

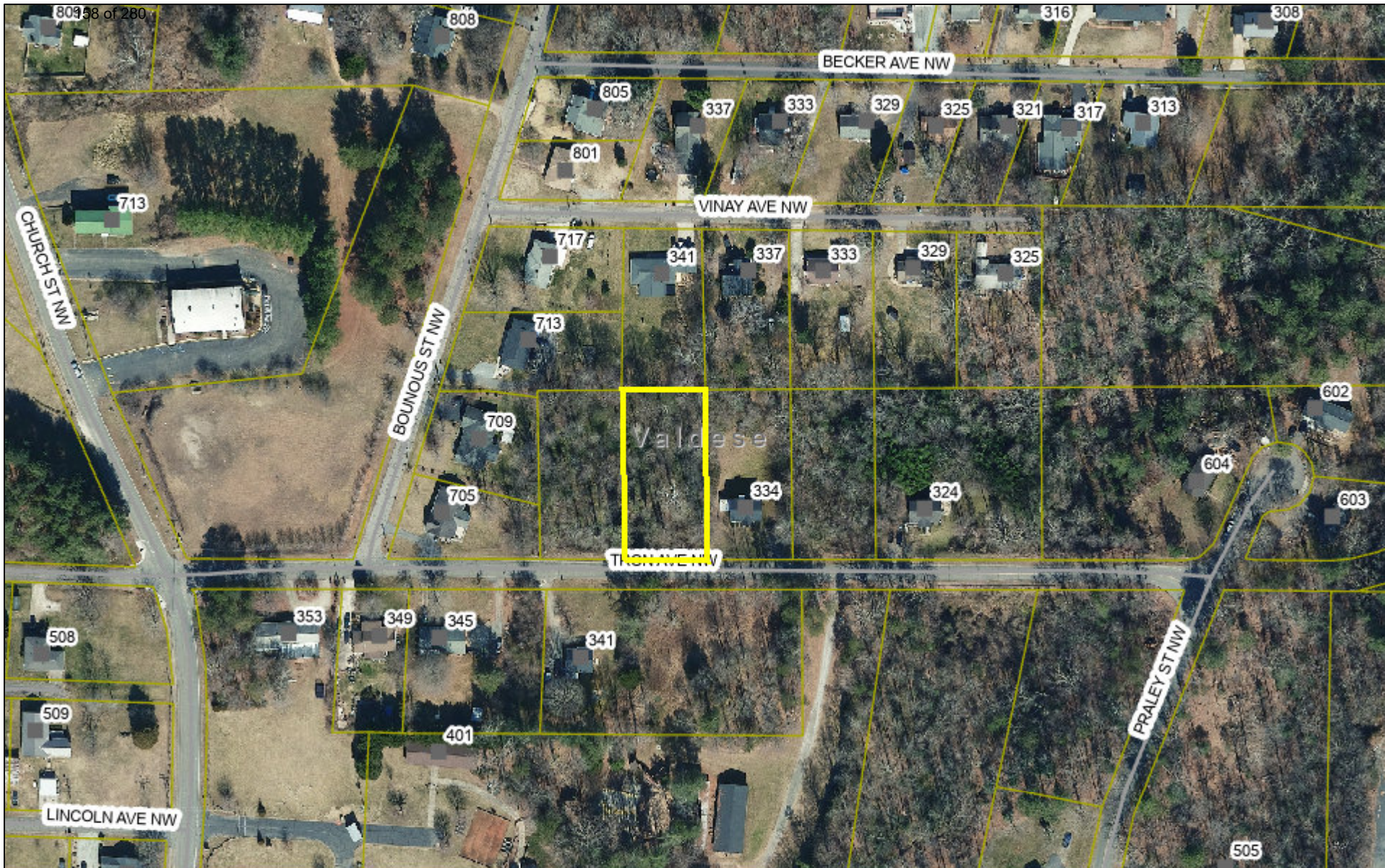
(SEAL)

ATTEST:

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

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





May 14, 2024

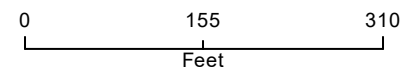
## Burke County, NC

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P O BOX 339

VALDESE, NC 28690

**Property Address:** 338 TRON AVE NW  
VALDESE 28690  
PROPERTY\_DESC

**PIN:** 2733875604  
**PIN EXT:** 000  
**REID:** 41733  
**Property Value:** \$0  
**Acreage:** 0.46  
**Deed Book:** 000915  
**Deed Page:** 01534  
**Deed Date:** 12/21/1998



1:1,988

1 inch = 166 feet



*Disclaimer: The information contained on this page is taken from aerial mapping, tax mapping, and public records and is NOT to be construed or used as a survey or 'legal description'. Only a licensed professional land surveyor can legally determine precise locations, elevations, length and direction of a line, and areas.*



### Property Summary

Tax Year: 2024

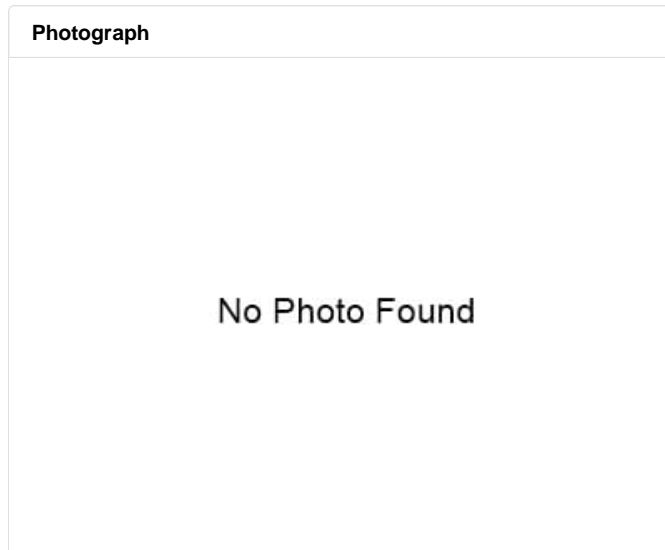
<b>REID</b>	41733	<b>PIN</b>	2733-87-5604	<b>Property Owner</b>	TOWN OF VALDESE
<b>Location Address</b>	338 TRON AVE NW	<b>Property Description</b>		<b>Owner's Mailing Address</b>	P O BOX 339 VALDESE NC 28690

Administrative Data	
<b>Plat Book &amp; Page</b>	
<b>Old Map #</b>	74
<b>Market Area</b>	3025
<b>Township</b>	LOVELADY
<b>Planning Jurisdiction</b>	VALDESE
<b>City</b>	VALDESE
<b>Fire District</b>	
<b>Spec District</b>	
<b>Land Class</b>	EXEMPT VALUE
<b>History REID 1</b>	
<b>History REID 2</b>	
<b>Acreage</b>	0.46
<b>Permit Date</b>	
<b>Permit #</b>	

Transfer Information	
<b>Deed Date</b>	12/22/1998
<b>Deed Book</b>	000915
<b>Deed Page</b>	01534
<b>Revenue Stamps</b>	
<b>Package Sale Date</b>	
<b>Package Sale Price</b>	
<b>Land Sale Date</b>	
<b>Land Sale Price</b>	

Improvement Summary	
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<b>Total Units</b>	0
<b>Total Living Area</b>	0
<b>Total Gross Leasable Area</b>	0

Property Value	
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<b>Total Appraised Building Value</b>	
<b>Total Appraised Misc Improvements Value</b>	
<b>Total Cost Value</b>	\$20,700
<b>Total Appraised Value</b>	
<b>Other Exemptions</b>	\$20,700
<b>Exemption Desc</b>	City Govt
<b>Use Value Deferred</b>	
<b>Historic Value Deferred</b>	
<b>Total Deferred Value</b>	
<b>Total Taxable Value</b>	



### Building Summary

### Misc Improvements Summary

Card #	Unit Quantity	Measure	Type	Base Price	Size Adj Factor	Eff Year	Phys Depr (% Bad)	Econ Depr (% Bad)	Funct Depr (% Bad)	Common Interest (% Good)	Value
No Data											
<b>Total Misc Improvements Value Assessed:</b>											

### Land Summary

160 of 280

Land Class: EXEMPT VALUE		Deeded Acres: 0			Calculated Acres: 0		
Zoning	Soil Class	Description	Size	Rate	Size Adj. Factor	Land Adjustment	Land Value
R-12		PRIME_SITE	0.46 BY THE ACRE PRICE	\$45,000			\$20,700
<b>Total Land Value Assessed: \$20,700</b>							

### Ownership History

	Owner Name	Deed Type	% Ownership	Stamps	Sale Price	Book	Page	Deed Date
Current	TOWN OF VALDESE	DEED	100	0		000915	01534	12/22/1998
1 Back	HABITAT, FOR HUMANITY OF	DEED	100	0		000853	01993	12/29/1995
2 Back	WOLFE, BOB/ WOLFE, KATHRYN	DEED	100	0		000853	01992	12/29/1995
3 Back	L & L CONSTRUCTION INC	DEED	100	0		000672	00251	1/28/1985

### Notes Summary

Building Card	Date	Line	Notes
No Data			

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Easement for Duke Energy at Lakeside Park

**REQUEST**

Approve easement for Duke Energy to install power to park pavilion area.

**BACKGROUND**

A couple months ago, Council approved the construction of a pavilion at Lakeside Park, being funded by private donors and Friends of Valdese Rec.

**ANALYSIS**

Duke Energy needs Town of Valdese approval on an easement to proceed with power to the pavilion site. The standard agreement will allow Duke to bury the transmission line and install the transformer box on Town of Valdese Property. The line will be pulled from a pole on Lake Rhodhiss Drive and run underground through the red gate to the south side of the pavilion space.

This incurs no cost to the Town.

**RECOMMENDATION**

No action requested. Informational item only.

**BUDGET ANALYSIS:**

***Budgetary Action***

Is a Budget Amendment required?

Yes

No



Search Results Layers

Results List

Details

4 Features Found (Showing 1 of 4)  
Prev Next

**Burke County Parcel**  
TOWN OF VALDESE  
P O BOX 339  
VALDESE NC 28690

Property Record Card

PROPERTY ADDRESS: 1149 LAKE RHODISS DR NE  
PROPERTY CITY: VALDESE  
PROPERTY ZIP: 28690  
DESCRIPTION:  
REID: 59784  
PIN: 2744445905  
PIN EXT: 000  
PROPERTY VALUE: \$0  
TOTAL\_ACREAGE: 294.91  
DEED DATE: 1/31/2018 4:37:00 PM  
DEED BOOK: 002331  
DEED PAGE: 00723

[View Deed](#) (Burke County Register of Deeds)

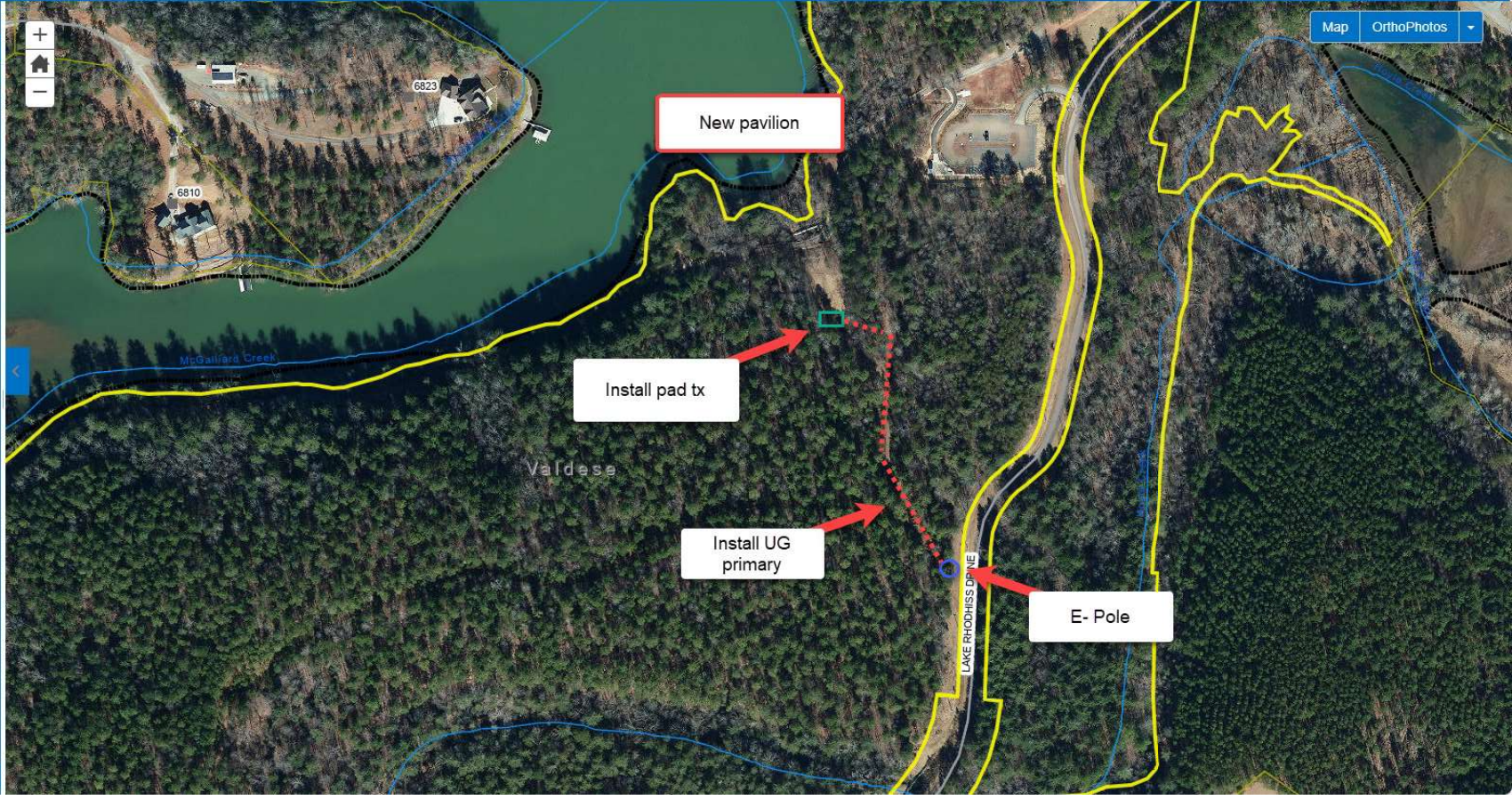
[View Tax Bill Information](#)

Zoom To Clear  
Select By Location  
Mail To Adjoiners

Zoning Information

Zoning Jurisdiction: Valdese Zoning  
Zoning: R-8  
Zoning Jurisdiction: Valdese Zoning  
Zoning: M-1  
Zoning Jurisdiction: Valdese Zoning  
Zoning: R-12A  
Zoning Jurisdiction: Burke County  
Zoning: HD  
Zoning Jurisdiction: Burke County  
Zoning: R-2  
Zoning Jurisdiction: Burke County  
Zoning: R-1

Buffer



Map OrthoPhotos

Prepared by: Duke Energy Carolinas, LLC  
Return to: Duke Energy Carolinas, LLC  
Attn: Carmel French  
PO Box 6318  
High Point, NC 27262

Parcel # 2744445905

### EASEMENT

State of North Carolina  
County of Burke

THIS EASEMENT ("**Easement**") is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, from **TOWN OF VALDESE**, a North Carolina municipal corporation ("**Grantor**", whether one or more), to **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company ("**Grantee**").

Grantor, for and in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto Grantee a perpetual and non-exclusive easement, to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify, and remove electric and communication lines including, but not limited to, all necessary supporting structures, and all other appurtenant apparatus and equipment for the transmission and distribution of electrical energy, and for technological purposes related to the operation of the electric facilities and for the communication purposes of Incumbent Local Exchange Carriers (collectively, "**Facilities**").

Grantor is the owner of that certain property described in that instrument recorded in **Deed Book 2331, Page 723**, Burke County Register of Deeds ("**Property**").

The Facilities may be both overhead and underground and located in, upon, over, along, under, through, and across a portion of the Property within an easement area described as follows:

A strip of land thirty feet (30') in uniform width for the overhead portion of said Facilities and a strip of land twenty feet (20') in uniform width for the underground portion of said Facilities, lying equidistant on both sides of a centerline, which centerline shall be established by the center of the Facilities as installed, along with an area ten feet (10') wide on all sides of the foundation of any Grantee enclosure/transformer, vault and/or manhole, (hereinafter referred to as the "Easement Area").

The rights granted herein include, but are not limited to, the following:



1. Grantee shall have the right of ingress and egress over the Easement Area, Property, and any adjoining lands now owned or hereinafter acquired by Grantor (using lanes, driveways, and adjoining public roads where practical as determined by Grantee).
2. Grantee shall have the right to trim, cut down, and remove from the Easement Area, at any time or times and using safe and generally accepted arboricultural practices, trees, limbs, undergrowth, other vegetation, and obstructions.
3. Grantee shall have the right to trim, cut down, and remove from the Property, at any time or times and using safe and generally accepted arboricultural practices, dead, diseased, weak, dying, or leaning trees or limbs, which, in the opinion of Grantee, might fall upon the Easement Area or interfere with the safe and reliable operation of the Facilities.
4. Grantee shall have the right to install necessary guy wires and anchors extending beyond the boundaries of the Easement Area.
5. Grantee shall have the right to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening, or alterations.
6. Grantor shall not place, or permit the placement of, any structures, improvements, facilities, or obstructions, within or adjacent to the Easement Area, which may interfere with the exercise of the rights granted herein to Grantee. Grantee shall have the right to remove any such structure, improvement, facility, or obstruction at the expense of Grantor.
7. Excluding the removal of vegetation, structures, improvements, facilities, and obstructions as provided herein, Grantee shall promptly repair or cause to be repaired any physical damage to the surface area of the Easement Area and Property resulting from the exercise of the rights granted herein to Grantee. Such repair shall be to a condition which is reasonably close to the condition prior to the damage, and shall only be to the extent such damage was caused by Grantee or its contractors or employees.
8. The rights granted in this Easement include the right to install Facilities wherever needed on the Property to serve future development on the Property and adjoining lands. Portions of the Facilities may be installed immediately and other portions may be installed in the future as the need develops. Facilities installed in the future shall be installed at locations mutually agreeable to the parties hereto if they are to be located outside of the Easement Area. Upon any future installations of Facilities at mutually agreed locations, the Easement Area shall be deemed to include such future locations.
9. All other rights and privileges reasonably necessary, in Grantee's sole discretion, for the safe, reliable, and efficient installation, operation, and maintenance of the Facilities.

The terms Grantor and Grantee shall include the respective heirs, successors, and assigns of Grantor and Grantee. The failure of Grantee to exercise or continue to exercise or enforce any of the rights herein granted shall not be construed as a waiver or abandonment of the right thereafter at any time, or from time to time, to exercise any and all such rights.

TO HAVE AND TO HOLD said rights, privilege, and easement unto Grantee, its successors, licensees, and assigns, forever. Grantor warrants and covenants that Grantor has the full right and authority to convey to Grantee this perpetual Easement, and that Grantee shall have quiet and peaceful possession, use and enjoyment of the same.



**IN WITNESS WHEREOF**, Grantor has signed this Easement under seal effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**TOWN OF VALDESE**  
a North Carolina municipal corporation

\_\_\_\_\_(SEAL)  
Charles Watts, Mayor

Attest:

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of \_\_\_\_\_, certify that Jessica Lail personally appeared before me this day and acknowledged that he/she is Town Clerk of TOWN OF VALDESE, a North Carolina municipal corporation, and that by authority duly given and as the act of said corporation, the foregoing EASEMENT was signed in its name by its Mayor, sealed with its official seal, and attested by herself/himself as its Town Clerk.

Witness my hand and notarial seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

Commission expires: \_\_\_\_\_

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Resolution to accept funding offer

**REQUEST**

Approve funding offer from NCDEQ – Division of Water Infrastructure for the Cline Ave basin and pump station project.

**BACKGROUND**

A few years ago, DWI received and approved the Town's application for a State Reserve Project (SRP) Loan to fund the Cline Ave basin and pump station project. This a letter of intent to fund was then transmitted into a capital project for engineers to begin design and procurement. Eventually a public bid opening was held on 4/18/2024. Carolina Grading and Utilities was the lowest responsive, responsible bidder.

Per the engineer's recommendation letter, Council accepted the bid from Carolina Grading and Utilities, Inc. at the May 2024 meeting. The next step was to have the Local Government Commission approve the DWI loan offer amount of \$1,488,510 which was approved at the LGC's monthly meeting on July 9<sup>th</sup>.

**ANALYSIS**

After this approval, DWI has sent the Town an Offer and Acceptance letter for the loan. This SRP loan term is 20 years at 1.10% interest rate.

The next step in this process is a resolution adopted by the governing board accepting the funding offer.

Funding offer with standard conditions and assurances is attached along with the resolution.

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

Is a Budget Amendment required?

Yes

No

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 \$1,488,510 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 \$1,488,510.

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. Bryan Steen, Valdese interim 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 5th day of August 2024.

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Charles Watts, Mayor

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Jessica Lail, Town Clerk

**STATE OF NORTH CAROLINA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**DIVISION OF WATER INFRASTRUCTURE**

**Funding Offer and Acceptance**

**Legal Name and Address of Award Recipient**  
 Town of Valdese  
 PO Box 339  
 Valdese, NC 28690

**Project Number(s): SRP-W-0197**

**Assistance Listing Number: N/A**

**Unique Entity ID Number: V67AJH87ABSS**

**Funding Program**

	<input type="checkbox"/>	<b>Additional Amount for Funding Increases</b>	<b>Previous Total</b>	<b>Total Offered</b>
<b>Drinking Water</b>	<input type="checkbox"/>			
<b>Stormwater</b>	<input type="checkbox"/>			
<b>Wastewater</b>	<input checked="" type="checkbox"/>			
State Revolving Fund-Repayable Loan	<input type="checkbox"/>			
State Revolving Fund-Principal Forgiveness	<input type="checkbox"/>			
State Reserve Loan	<input checked="" type="checkbox"/>	\$312,510	\$1,176,000	\$1,488,510
State Reserve Grant	<input type="checkbox"/>			
State Reserve Earmark (S.L. 2023-134)*	<input type="checkbox"/>			
American Rescue Plan Act - <i>Choose an item.</i>	<input type="checkbox"/>			

**Project Description:**

Cline Avenue Basin Collection System and Pump Station Upgrades

**Total Financial Assistance Offer:** **\$ 1,488,510**  
**Total Project Cost:** \$ 1,518,280  
**Estimated Closing Fee\*\*:** \$ 29,770  
*For Loans*  
**Interest Rate:** 1.10% Per Annum  
**Maximum Loan Term:** 20 Years

\* Federal conditions and requirements will also apply to S.L. 2023-134 projects co-funded with federal funds.

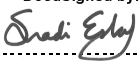
\*\* Estimated closing fee calculated based on grant and loan amount.

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Shadi Eskaf, Director, Division of Water Infrastructure**  
**North Carolina Department of Environmental Quality**

DocuSigned by:  Signature	7/10/2024 Date
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On Behalf of: Town of Valdese  
 Name of Representative in Resolution: \_\_\_\_\_  
 Title (Type or Print): \_\_\_\_\_

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Signature	Date
-----------	------

**STANDARD CONDITIONS & ASSURANCES FOR STATE RESERVE PROJECTS****Project Applicant: Town of Valdese****Project Number: SRP-W-0197**

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division.  
The recipient acknowledges that in the event a milestone contained in the most recent Clean Water State Revolving Fund Intended Use Plan and/or the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for DWI funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. As of the acceptance of this Funding Award Offer, steps A-D in the SRP Guidance will be complete. These Assurances, likewise, incorporate the most recent version of the SRP Guidance, and the Applicant hereby certifies by accepting this Funding Award Offer that it will adhere to the subsequent steps in the SRP Guidance document. The remaining steps generally govern project design, bidding, contracting, inspection, disbursements, closeout and repayment.
5. The Applicant will provide and maintain adequate engineering supervision and inspection.
6. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
7. All SRP funds must be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
8. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
9. The applicant acknowledges that any loan funds contained in this Funding Offer requires approval from the North Carolina Local Government Commission before they can be disbursed.

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Resolution to accept funding offer

**REQUEST**

Approve funding offer from NCDEQ – Division of Water Infrastructure for the Lead Service Line Inventory project.

**BACKGROUND**

As part of the Lead and Copper Rule Revisions (LCRR) published December 16, 2021, the Environmental Protection Agency (EPA) requires that all community water systems (CWS) and non-transient non-community (NTNC) water systems develop an inventory of all service line connections, both system-owned and customer-owned. The inventory must identify the potential presence of lead within each service line connection.

**ANALYSIS**

The process to identify these service line connections will require a combination of research of records and field “soft” digs. The North Carolina Department of Environmental Quality has offered a State Revolving Fund Loan in the amount of \$500,000. Sixty percent (60%) of the loan up to a maximum of \$300,000 will be forgiven and the remainder will be repayable at 0.00% interest. The goal of the Lead Service Line Inventory project for the Town of Valdese is to develop a complete, detailed service line inventory for the entire Town that is compliant with LCRR. The project will be performed in phases through desktop evaluation, meter box inspections, field locates (soft digs), and finally assembling the data and finalize and submit inventory report that is compliant with LCRR requirements to DWI.

The next step in this process is a resolution adopted by the governing board accepting the loan offer.

**BUDGET ANALYSIS:**

***Budgetary Action***

Is a Budget Amendment required?

Yes

No

RESOLUTION BY VALDESE, TOWN COUNCIL

WHEREAS, part of the Lead and Copper Rule Revisions (LCRR) published December 16, 2021, the Environmental Protection Agency (EPA) requires that all community water systems and non-transient non-community water systems develop an inventory of all service line connections, both system-owned and customer-owned. The inventory must identify the potential presence of lead within each service line connection, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Revolving Fund Loan in the amount of \$500,000. Sixty percent (60%) of the loan up to a maximum of \$300,000 will be forgiven and the remainder will be repayable at 0.00% interest. The goal of the Lead Service Line Inventory project for the Town of Valdese is to develop a complete, detailed service line inventory for the entire Town that is compliant with LCRR. The project will be performed in phases through desktop evaluation, meter box inspections, field locates (soft digs), and finally assembling the data and finalize and submit inventory report that is compliant with LCRR requirements to DWI.

WHEREAS, the Town of Valdese intends to perform said project in accordance with the approved requirements,

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

That the Town of Valdese does hereby accept the State Revolving Fund Loan offer of \$500,000.

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 will be adhered to.

That Mr. Bryan Steen, Valdese interim 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 5th day of August 2024.

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Charles Watts, Mayor

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Jessica Lail, Town Clerk

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

Project Number: SRF-D-LSL-0053

Town of Valdese
PO Box 339
Valdese, NC 28690

Assistance Listing Number: 66.468
Unique Entity ID Number: V67AJH87ABS5

Funding Program

Table with 5 columns: Program Name, Selection Box, Additional Amount for Funding Increases, Previous Total, Total Offered. Rows include Drinking Water, Stormwater, Wastewater, BIL-DWSRF-LSLR Fund - Repayable Loan, BIL-DWSRF-LSLR Fund - Principal Forgiveness, State Reserve Loan, State Reserve Grant, State Reserve Earmark (S.L. 2023-134), American Rescue Plan Act - Choose an item.

Project Description:

Lead Service Line Inventory

Total Financial Assistance Offer: \$500,000
Total Project Cost: \$500,000
Estimated Closing Fee\*: \$10,000
For Loans
Interest Rate: 0% Per Annum
Maximum Loan Term: 5 Years

\*Estimated closing fee calculated based on grant and loan amount.

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
The project is eligible under Federal and State law, and
The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance.

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality

DocuSigned by: Shadi Eskaf
Signature
6300A872077B4C5...
Date
7/23/2024

On Behalf of: Town of Valdese
Name of Representative in Resolution:
Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the attached Assurances and the Standard Conditions.

Signature
Date



TOWN OF VALDESE  
LEAD SERVICE LINE INVENTORY  
CAPITAL PROJECT BUDGET ORDINANCE  
DWI PROJECT NO.: SRF-D-LSL-0053

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1. The project authorized is the **Lead Service Line Inventory (SRF-D-LSL-0053)** which is a federally mandated requirement to identify the Town's water service lines into categories such as known non-lead, unknown non-lead, or lead status unknown. The goal of the LSL Inventory project for the Town of Valdese is to develop a complete, detailed service line inventory for the entire Town that is compliant with LCRR. The project will be performed in phases through desktop evaluation, meter box inspections, field locates (soft digs), and finally assembling the data and finalize and submit inventory report that is compliant with LCRR requirements to DWI.

The Division of Water Infrastructure (Division) has reviewed the application, and the State Water Infrastructure Authority (SWIA) has approved our Lead Service Line Replacement project as eligible to receive a total funding amount of \$500,000 from DWSRF BIL Lead Service Line Replacement Funds. Sixty percent (60%) of the loan up to a maximum of \$300,000 will be forgiven and the remainder will be repayable at 0.00% interest. DWI charges a 2% mandatory administrative fee on the loan.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the program ordinance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to contribute to this project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Principle Forgiveness	300,000	53.3000.000
Loan	200,000	53.3000.001
Transfer from Utility Fund	10,000	53.3000.002
	-----	
	\$ 510,000	
	=====	

Section 4. The following amounts are appropriated for the project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Desktop Evaluation	85,000	53.8120.000
Meter Box Inspections	40,000	53.8120.001
Develop Initial Inventory for LCRR	20,000	53.8120.002
Field Locates – Soft Digs	275,000	53.8120.003
Assemble Data Final Report	80,000	53.8120.004
Loan Fee	10,000	53.8120.005
	-----	
	\$ 510,000	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. Funds may be advanced from the Utility Fund for the purpose of making payments as due.

Section 7. The finance officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.

Section 8. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

Section 9: Copies of this project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 5th day of August 2024.

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Charles Watts, Mayor

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Jessical Lail, Town Clerk

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Resolution to adopt the approved 2023 Local Water Supply Plan

**REQUEST**

Adopt the Town of Valdese 2023 Local Water Supply Plan (LWSP) that has been approved by NCDEQ.

**BACKGROUND**

LWSPs are essentially a summary of a system’s current and future water needs and sources of supply, as well as wastewater information. These plans are prepared annually for the prior complete year and then submitted to the Division of Water Resources at NCDEQ. Their staff review and eventually approved the annualized report.

**ANALYSIS**

The staff at NCDEQ have determined the LWSP for the Town of Valdese Water System hereby meets the minimum criteria established in North Carolina General Statute 143-355(l).

The next step is for the LWSP be adopted by resolution of the governing board. The LWSP cannot be considered compliant with the requirements of NCGS 143-355(l) until an adopted resolution is received by NCDEQ.

**BUDGET ANALYSIS:**


***Budgetary Action***

Is a Budget Amendment required?

Yes

No

# Valdese

2023 

The Division of Water Resources (DWR) provides the data contained within this Local Water Supply Plan (LWSP) as a courtesy and service to our customers. DWR staff does not field verify data. Neither DWR, nor any other party involved in the preparation of this LWSP attests that the data is completely free of errors and omissions. Furthermore, data users are cautioned that LWSPs labeled **PROVISIONAL** have yet to be reviewed by DWR staff. Subsequent review may result in significant revision. Questions regarding the accuracy or limitations of usage of this data should be directed to the water system and/or DWR.

## 1. System Information

### Contact Information

Water System Name:	Valdese	PWSID:	01-12-010
Mailing Address:	P.O. Box 339 Valdese, NC 28690	Ownership:	Municipality
Contact Person:	Bo Weichel	Title:	Assistant Manager
Phone:	828-879-2123	Cell/Mobile:	--
Secondary Contact:	Eric Wilson	Phone:	828-874-6788
Mailing Address:		Cell/Mobile:	828-455-5593

# Complete

### Distribution System

Line Type	Size Range (Inches)	Estimated % of lines
Asbestos Cement	6-14	14.51 %
Cast Iron	4-20	18.59 %
Ductile Iron	6-24	6.71 %
Galvanized Iron	1-2	4.24 %
Polyvinyl Chloride	2-8	55.95 %

What are the estimated total miles of distribution system lines? **154 Miles**

How many feet of distribution lines were replaced during 2023? **0 Feet**

How many feet of new water mains were added during 2023? **0 Feet**

How many meters were replaced in 2023? **0**

How old are the oldest meters in this system? **4 Year(s)**

How many meters for outdoor water use, such as irrigation, are not billed for sewer services? **23**

What is this system's finished water storage capacity? **7.6050 Million Gallons**

Has water pressure been inadequate in any part of the system since last update? *Line breaks that were repaired quickly should not be included.* **No**

### Programs

Does this system have a program to work or flush hydrants? **Yes, Monthly**

Does this system have a valve exercise program? **No, As Needed**

Does this system have a cross-connection program? **Yes**

Does this system have a program to replace meters? **Yes**

Does this system have a plumbing retrofit program? **No**

Does this system have an active water conservation public education program? **Yes**

Does this system have a leak detection program? **Yes**

What type of rate structure is used? **Uniform**

How much reclaimed water does this system use? **0.0000 MGD** For how many connections? **0**

Does this system have an interconnection with another system capable of providing water in an emergency? **No**

## 2. Water Use Information

### Service Area

Sub-Basin(s)	% of Service Population	County(s)	% of Service Population
Catawba River (03-1)	100 %	Burke	100 %

What was the year-round population served in 2023? **12,800**

Has this system acquired another system since last report? **No**

### Water Use by Type

Type of Use	Metered Connections	Metered Average Use (MGD)	Non-Metered Connections	Non-Metered Estimated Use (MGD)
Residential	5,001	0.6140	0	0.0000
Commercial	336	0.4250	0	0.0000
Industrial	26	0.7570	0	0.0000
Institutional	17	0.0260	0	0.0000

How much water was used for system processes (backwash, line cleaning, flushing, etc.)? **0.1500 MGD**

Carry water not used at WWTP. Pilot study with PAA.

### Water Sales

Purchaser	PWSID	Average Daily Sold (MGD)	Days Used	Contract		Required to comply with water use restrictions?	Pipe Size(s) (Inches)	Use Type
				Expiration	Recurring			
Burke County	01-12-065	0.0770	365	0.7000		Yes	8	Regular
Icard Township WC	01-12-060	0.2402	365	0.3330		Yes	12	Regular
Rutherford College WC	01-12-055	0.1480	365		2026	Yes	12	Regular

## 3. Water Supply Sources

### Monthly Withdrawals & Purchases

	Average Daily Use (MGD)	Max Day Use (MGD)		Average Daily Use (MGD)	Max Day Use (MGD)		Average Daily Use (MGD)	Max Day Use (MGD)
Jan	3.0613	3.6000	May	3.2096	3.8000	Sep	3.2367	3.9000
Feb	3.0429	3.6000	Jun	3.2733	3.8000	Oct	3.2806	4.0000
Mar	3.1258	3.9000	Jul	3.1968	3.9000	Nov	3.0633	3.8000
Apr	3.1333	3.9000	Aug	3.3839	3.9000	Dec	3.1355	3.8000



### Surface Water Sources

Stream	Reservoir	Average Daily Withdrawal		Maximum Day Withdrawal (MGD)	Available Raw Water Supply		Usable On-Stream Raw Water Supply Storage (MG)
		MGD	Days Used		MGD	* Qualifier	
Catawba River	Lake Rhodhiss	3.1786	365	4.0000	12.0000	C	0.0000

\* Qualifier: C=Contract Amount, SY20=20-year Safe Yield, SY50=50-year Safe Yield, F=20% of 7Q10 or other instream flow requirement, CUA=Capacity Use Area Permit

### Surface Water Sources (continued)

178 of 280 Stream	Reservoir	Drainage Area (sq mi)	Metered?	Sub-Basin	County	Year Offline	Use Type
Catawba River	Lake Rhodhiss	1,088	Yes	Catawba River (03-1)	Burke		Regular

What is this system's off-stream raw water supply storage capacity? 0 Million gallons

Are surface water sources monitored? Yes, Daily

Are you required to maintain minimum flows downstream of its intake or dam? No

Does this system anticipate transferring surface water between river basins? No

#### Water Treatment Plants

Plant Name	Permitted Capacity (MGD)	Is Raw Water Metered?	Is Finished Water Output Metered?	Source
Valdese Water Plant	12.0000	Yes	Yes	Lake Rhodhiss

Did average daily water production exceed 80% of approved plant capacity for five consecutive days during 2023? No

If yes, was any water conservation implemented?

Did average daily water production exceed 90% of approved plant capacity for five consecutive days during 2023? No

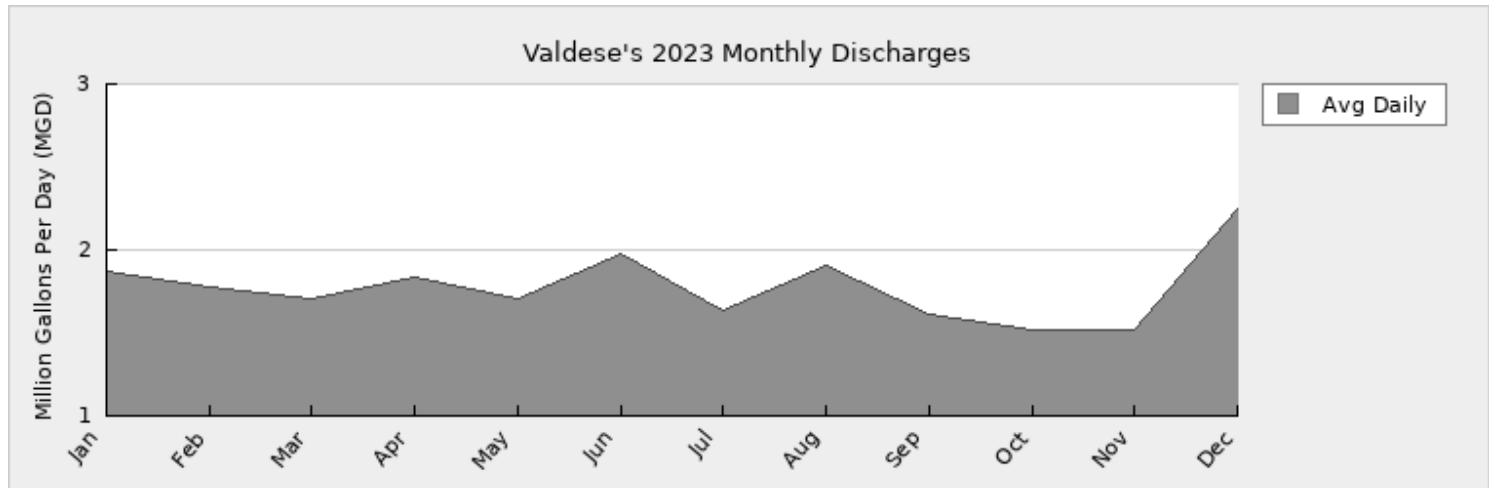
If yes, was any water conservation implemented?

Are peak day demands expected to exceed the water treatment plant capacity in the next 10 years? No

## 4. Wastewater Information

#### Monthly Discharges

	Average Daily Discharge (MGD)		Average Daily Discharge (MGD)		Average Daily Discharge (MGD)
Jan	1.8700	May	1.7100	Sep	1.6100
Feb	1.7800	Jun	1.9800	Oct	1.5200
Mar	1.7100	Jul	1.6300	Nov	1.5200
Apr	1.8400	Aug	1.9100	Dec	2.2500



How many sewer connections does this system have? 1,895

How many water service connections with septic systems does this system have? 3,457

Are there plans to build or expand wastewater treatment facilities in the next 10 years? No

#### Wastewater Permits

Permit Number	Type	Permitted Capacity (MGD)	Design Capacity (MGD)	Average Annual Daily Discharge (MGD)	Maximum Day Discharge (MGD)	Receiving Stream	Receiving Basin
NC0041696	WWTP	7.5000	7.5000	1.7775	15.4200	Lake Rhodhiss	Catawba River (03-1)

#### Wastewater Interconnections

Water System	PWSID	Type	Average Daily Amount		Contract Maximum (MGD)
			MGD	Days Used	
Burke County	01-12-065	Receiving	0.1530	365	0.5000
Drexel	01-12-045	Receiving	0.2160	365	0.5000
Rutherford College WC	01-12-055	Receiving	0.0170	365	0.2000

## 5. Planning

### Projections

	2023	2030	2040	2050	2060	2070
Year-Round Population	12,800	12,900	13,000	13,100	13,200	13,300
Seasonal Population	0	0	0	0	0	0
Residential	0.6140	0.6200	0.6250	0.6300	0.6350	0.6400
Commercial	0.4250	0.4300	0.4350	0.4400	0.4450	0.4500
Industrial	0.7570	0.7570	0.7570	0.7570	0.7570	0.7570
Institutional	0.0260	0.0300	0.0300	0.0300	0.0300	0.0300
System Process	0.1500	0.2000	0.2000	0.2000	0.2000	0.2000
Unaccounted-for	0.7414	0.6400	0.6000	0.6000	0.5000	0.5000

### Demand v/s Percent of Supply

	2023	2030	2040	2050	2060	2070
Surface Water Supply	12.0000	12.0000	12.0000	12.0000	12.0000	12.0000
Ground Water Supply	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Purchases	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Future Supplies		0.0000	0.0000	0.0000	0.0000	0.0000
Total Available Supply (MGD)	12.0000	12.0000	12.0000	12.0000	12.0000	12.0000
Service Area Demand	2.7134	2.6770	2.6470	2.6570	2.5670	2.5770
Sales	0.4652	1.1810	1.1810	1.1810	1.1810	1.1810
Future Sales		0.0000	0.0000	0.0000	0.0000	0.0000
Total Demand (MGD)	3.1786	3.8580	3.8280	3.8380	3.7480	3.7580
Demand as Percent of Supply	26%	32%	32%	32%	31%	31%



The purpose of the above chart is to show a general indication of how the long-term per capita water demand changes over time. The per capita water demand may actually be different than indicated due to seasonal populations and the accuracy of data submitted. Water systems that have calculated long-term per capita water demand based on a methodology that produces different results may submit their information in the notes field.

Your long-term water demand is 48 gallons per capita per day. What demand management practices do you plan to implement to reduce the per capita water demand (i.e. conduct regular water audits, implement a plumbing retrofit program, employ practices such as rainwater harvesting or reclaimed water)? If these practices are covered elsewhere in your plan, indicate where the practices are discussed here. **No Changes**

Are there other demand management practices you will implement to reduce your future supply needs? **No Changes**

What supplies other than the ones listed in future supplies are being considered to meet your future supply needs? **No Changes**

How does the water system intend to implement the demand management and supply planning components above? **No Changes**

### Additional Information

Has this system participated in regional water supply or water use planning? **Yes, Member of the Catawba-Wateree Water Management Group**

What major water supply reports or studies were used for planning?

Please describe any other needs or issues regarding your water supply sources, any water system deficiencies or needed improvements (storage, treatment, etc.) or your ability to meet present and future water needs. Include both quantity and quality considerations, as well as financial, technical, managerial, permitting, and compliance issues:

The Division of Water Resources (DWR) provides the data contained within this Local Water Supply Plan (LWSP) as a courtesy and service to our customers. DWR staff does not field verify data. Neither DWR, nor any other party involved in the preparation of this LWSP attests that the data is completely free of errors and omissions. Furthermore, data users are cautioned that LWSPs labeled **PROVISIONAL** have yet to be reviewed by DWR staff. Subsequent review may result in significant revision. Questions regarding the accuracy or limitations of usage of this data should be directed to the water system and/or DWR.



**RESOLUTION FOR APPROVING 2023 LOCAL WATER SUPPLY PLAN**

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for Town of Valdese, has been developed and submitted to the Town Council of the Town of Valdese for approval; and

WHEREAS, the Town Council of the Town of Valdese finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for Town of Valdese Water System, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Valdese that the Local Water Supply Plan entitled, Valdese LWSP dated 2023, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Valdese intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Charles Watts, Mayor

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

## COUNCIL AGENDA MEMO

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Valdese – Lenoir Interlocal Water Agreement

### REQUEST

Approve the interlocal agreement with the City of Lenoir for the Valdese utility system to provide water to their system.

### BACKGROUND

In February 2024, the town was notified by the Division of Water Infrastructure (DWI) of \$7,000,000 (less a 1.5% DWI admin fee) that would be funded under Session Law 2023-134 Appropriations Act Directed Project. This direct appropriation from State funds is for upgrades to the Valdese Water Plant in preparation of increasing the daily output of clean water production into the City of Lenoir's water system.

At the same time, the City of Lenoir received a similar notice of direct appropriation of State funds for the purpose of constructing infrastructure to connect to the Valdese water system. This extensive project (responsibility of Lenoir) will take several years to complete.

Valdese has already begun the process of upgrades to the Water Plant – we are currently in the design phase of the engineering work.

### ANALYSIS

The next step in this partnership with the City of Lenoir is to approve an interlocal agreement for providing water to their system including rates, future increases, terms, conditions of service, and other important factors.

A key to the agreement is that the terms are reciprocal, meaning in case of some emergency in the future, the Valdese Water Plant could pull water from the Lenoir system if necessary, utilizing the same conditions outlined in the agreement.

Both municipal staff and attorney's have reviewed and negotiated for several months to develop this final agreement.

The City of Lenoir Council will consider this agreement for adoption at their next meeting on August 6<sup>th</sup>.

### BUDGET ANALYSIS:

#### ***Budgetary Action***

Is a Budget Amendment required?

Yes

No

STATE OF NORTH CAROLINA

COUNTY OF BURKE

**WATER PURCHASE AGREEMENT**

THIS WATER PURCHASE AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 by and between the Town of Valdese, a North Carolina municipal corporation, having a mailing address of P.O. Box 339, Valdese, NC 28690 (hereinafter referred to as “Valdese”) and the City of Lenoir, a North Carolina municipal corporation, having a mailing address of P.O. Box 958, Lenoir, NC 28645 (hereinafter referred to as “Lenoir”).

**WITNESSETH**

WHEREAS, N.C. Gen. Stat. §§ 160A-460 through 160A-466, N.C. Gen. Stat. § 160A-11 and N.C. Gen. Stat. § 160A-322 authorize municipalities to enter into joint undertakings to own and operate a public enterprise; and

WHEREAS, N.C. Gen. Stat. § 160A-311(2) defines a public enterprise to include water supply and distributions systems; and

WHEREAS, N.C. Gen. Stat. § 160A-274 authorizes governmental units such as Valdese and Lenoir to exchange with, lease to, lease from, sell to, or purchase from one another an interest in real or personal property upon such terms and conditions as the governmental units deem wise, with or without consideration; and

WHEREAS, Valdese and Lenoir are municipalities duly organized and existing under the laws of the State of North Carolina; and

WHEREAS, Lenoir, among its other functions, operates a water supply and distribution system serving water users within its boundaries, and is in need of an additional supply of treated

water; and

WHEREAS, Valdese, among its other functions, owns and operates a water supply and distribution system serving water users within its boundaries; and

WHEREAS, Valdese currently has available excess capacity of treated water sufficient to supply the request of Lenoir as set forth in this Agreement and to satisfy the present and anticipated needs of its customers; and

WHEREAS, Valdese desires to sell to Lenoir and Lenoir desires to buy from Valdese a supply of potable water as set forth herein; and

WHEREAS, Valdese and Lenoir have agreed upon certain terms regarding the sale of water as mentioned above, and now desires to set forth the terms of their Agreement; and

WHEREAS, by vote approved by the Town Council for the Town of Valdese at its meeting on August 5, 2024, the sale of said water to Lenoir as provided herein was approved, and the execution of this Agreement by Valdese was duly authorized; and

WHEREAS, by vote approved by the City Council for the City of Lenoir at its meeting on August 6, 2024, the purchase of said water from Valdese as provided herein was approved, and the execution of this Agreement by Lenoir was duly authorized,

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, the parties agree as follows:

A. VALDESE'S OBLIGATIONS:

1. (Quality and Quantity) Subject to the remaining provisions of this Agreement, Valdese shall furnish to Lenoir at the point of delivery hereinafter specified, during the term of this Agreement or any renewal or extension thereof, potable treated water meeting applicable purity standards of the State of North Carolina, Rules Governing Public Water Systems, 15 NCAC

18C, in such quantity as may be required by Lenoir and not to exceed Four Million (4,000,000) gallons per day except as set out in paragraph B.1. Lenoir shall not resell, give away, transfer or otherwise dispose of water purchased under this Agreement to anyone other than Lenoir customers without the prior written consent of Valdese.

2. (Point of Delivery and Pressure) Valdese shall furnish water at a reasonably constant pressure from an existing main supply line owned by Lenoir. The point of delivery shall be at a meter vault that includes appropriate meter size and backflow apparatus provided by Lenoir. If a greater pressure than that normally available at the point of delivery is required by Lenoir, the cost of providing such greater pressure shall be borne by Lenoir. The water purchased by Lenoir from Valdese shall be transmitted on a continuous basis except for unforeseen circumstances and emergency failures of pressure or supply due to main supply line breaks, power failure, water source contamination, flood, drought, fire and use of water to fight fire, earthquake or other catastrophe. In the event of an unforeseen circumstance or emergency, Valdese shall notify Lenoir of the circumstances and provide timely updates so as to keep Lenoir informed of the status and nature of repairs.

3. (Metering Equipment) The metering equipment that will be located on Valdese property shall be furnished by Lenoir and dedicated to Valdese. Lenoir staff/designee shall be granted reasonable access to Valdese facilities for maintenance of Lenoir's equipment located on Valdese property. Future repairs or replacement to meter equipment shall be the responsibility of Lenoir. Recalibration of meter equipment shall be done annually by Lenoir. Additional calibrations beyond the annual will be covered by the party initiating the calibration. This meter shall be read by Valdese between the fourteenth (14<sup>th</sup>) and seventeenth (17<sup>th</sup>) of each billing cycle.

An appropriate official of Lenoir shall have access at all reasonable times to the meter for the purpose of verifying its readings.

4. (Billing Procedure) Valdese shall provide to Lenoir, between the first (1) day and the fifth (5) day of the billing month a statement of the amount of water furnished to Lenoir during the preceding billing cycle. Water bills are considered past due after the 15<sup>th</sup> of the billing month at 5:00 pm. After 5:00 p.m. on the 15<sup>th</sup> of the month, a ten percent (10%) penalty will be added to any outstanding balance to such account. If payment is not received by 5:00pm on the 25<sup>th</sup> of the month, a non-payment fee of \$25 will be added to the account and water service may be cut off until the account balance is paid in full. If payment is not received by 5:00 pm on the 25<sup>th</sup> of the following month, this shall constitute a material breach of this Agreement, and Valdese may terminate this Agreement as provided in Paragraph C.6. If the 25<sup>th</sup> falls on a Saturday, Sunday, or a holiday, the customer will be given until 5:00 pm, on the next working day to pay their bill before a penalty charge and/or non-payment fee is added.

**B. LENOIR'S OBLIGATIONS:**

1. (Rates and Payment Dates) See above A.4 for payment dates and penalties. The rate shall be \$2.50 per thousand (1000) gallons of water purchased, up to 4,000,000 gallons. Valdese will bill by rounding up to the nearest thousand (1000) gallon. For example, if Lenoir uses 500,001 gallons, billing will be based on 501,000 gallons. Lenoir shall use its best efforts not to exceed 4,000,000 gallons per day without the advance written consent of Valdese. Above 4,000,000 gallons, rate per gallon of water purchased shall be as follows:

<i>Gallons</i>	<i>Rate</i>
4,000,001 to 6,000,000 gallons	Fiscal year base rate per 1000 gallons x 5%
6,000,001 or more	Fiscal year base rate per 1000 gallons x 10%

2. (Rate Increases) The rate per thousand (1000) gallons of water purchased may be increased on the first billing cycle applicable to each new fiscal year. The fiscal year rate increase may be no more equal to the percentage increase in the Consumer Price Index for All Urban Consumers (Water and Sewage Maintenance) U.S. City Average, as published by the U.S. Bureau of Labor Statistics. Rates will be adjusted using the “Unadjusted percent change” for the month of February average CPI compared to the preceding 12 months, or by 2%, whichever is greater.

3. (Minimum Usage) Lenoir agrees to purchase a minimum volume of 0.30 MGD (million gallons per day).

C. IT IS FURTHER AGREED BETWEEN VALDESE AND LENOIR AS FOLLOWS:

1. (Term of Agreement) This Agreement shall extend for a term of forty (40) years from the date of the initial delivery of water as shown by the first bill submitted by Valdese to Lenoir and, thereafter may be automatically renewed annually unless a six month written notice by either Valdese and Lenoir to modify or terminate the agreement.

2. (Emergency Services) Valdese and Lenoir shall endeavor to provide such quantities of water each to the other as may be needed in the case of emergency water needs, such as water source contamination, production facility failure, natural disaster, or other catastrophe. The cost of such water shall be at the rate described in Paragraph B. 1.

3. (Delivery of Water) Lenoir shall notify Valdese in writing of the date for the initial delivery of water.

4. (Failure to Deliver) Valdese will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish Lenoir with quantities of water required under the terms of this Agreement by Lenoir. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. Notwithstanding the foregoing, Valdese

retains the right to restrict the amount of water it furnishes under this Agreement, if it determines in its sole discretion that such restriction or cessation is necessary or prudent in order to safeguard Valdese's ability to provide adequate water service to the retail customers of its own system.

5. (Modification of Agreement) The provisions of this Agreement may be modified or altered by mutual written agreement of the parties.

6. (Termination) This Agreement may be terminated, for cause, by the non-breaching party notifying the breaching party of a substantial failure to perform in accordance with the provisions of this Agreement and if the failure is not corrected within thirty (30) days of the receipt of the notification. Upon such termination, the parties shall be entitled to such additional rights and remedies as may be allowed by applicable law. Termination of this Agreement shall not form the basis of any claim for loss of anticipated profits by either party.

7. (Notices) Any notice required to be given hereunder by Valdese to Lenoir shall be made by Valdese in writing and mailed by first class mail or transmitted by email to the City Manager, City of Lenoir, at the following address: P.O. Box 958, Lenoir, NC 28645, or by email to the City Managers email address displayed on the City of Lenoir website. Notice shall be effective upon receipt. Any notices required to be given hereunder by Lenoir to Valdese shall be made by Lenoir in writing and mailed by first class mail or transmitted by email to the Town Manager, Town of Valdese, at the following address: P.O. Box 339, Valdese, NC 28690, or by email to the Town Managers email address displayed on the Town of Valdese website. Notice shall be effective upon receipt.

8. (Regulatory Agencies) This Agreement is subject to such rules, regulation, or laws as may be applicable to similar agreements in this State, and Valdese and Lenoir will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.



9. (Governing Laws) This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Burke and the State of North Carolina.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Agreement to be duly executed in duplicate counterparts, each of which shall constitute and original.

*Signatures Appear on the Following Pages.*

**PRE-AUDIT CERTIFICATE**

This Agreement has been pre-audited pursuant to North Carolina General Statute § 159-28 in the manner required by the Local Governmental Budget and Fiscal Control Act.

\_\_\_\_\_  
Bo Weichel, Assistant Town Manager / CFO

Approved as to form on behalf of the Town this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Timothy D. Swanson, Town Attorney

IN WITNESS WHEREOF, the Town of Valdese has executed this Agreement effective as of the date first written above.

THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

(SEAL)

ATTEST:

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

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

**PRE-AUDIT CERTIFICATE**

This Agreement has been pre-audited pursuant to North Carolina General Statute § 159-28 in the manner required by the Local Governmental Budget and Fiscal Control Act.

\_\_\_\_\_  
Donna Bean, Finance Director

Approved as to form on behalf of the City of Lenoir this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Timothy J. Rohr, City Attorney

IN WITNESS WHEREOF, the City of Lenoir has executed this Agreement effective as of the date first written above.

CITY OF LENOIR,  
a North Carolina Municipal Corporation

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Joseph L. Gibbons, Mayor

\_\_\_\_\_  
Shirley M. Cannon, City Clerk

## COUNCIL AGENDA MEMO

**To:** Town Clerk  
**From:** Bo Weichel, Assistant Town Manager  
**Date:** August 5<sup>th</sup>, 2024  
**Re:** Cost sharing representation - Charlotte Inter Basin Transfer project

### REQUEST

Approve Valdese to participate and contribute in a regional cost sharing project that will provide valuable resources to combat the Charlotte Inter Basin Transfer (IBT) request.

### BACKGROUND

Charlotte Water filed a notice of its intent to request an increase from 33 million gallons per day (MGD) to 63 MGD regarding the water it transfers from the Catawba River Basin to the Rocky River Basin, a tributary of the Yadkin/Pee Dee River.

The local governments in our region are concerned about the negative impacts of Charlotte's request to transfer additional water from the Catawba River Basin into the Rocky River which is part of the Yadkin River Basin. Like all rivers, the Catawba River is a limited resource that is vital to life and economic growth.

IBTs of this magnitude subsidize growth in other areas using the limited resources of the Catawba River. The NC Environmental Management Commission approved a Charlotte requested IBT in 2002 for 33 million gallons per day and approved another IBT in 2007 for 10 million gallons per day for Concord and Kannapolis.

### CONCERNS

A few years ago, we experienced severe drought conditions that depleted water levels to a point that nearly interrupted public drinking water supplies. This IBT will exacerbate that issue with the next drought.

Transferring water from the Catawba River Basin reduces future growth opportunities for local communities in our region by reducing the available water. Reducing the flow of the Catawba River potentially causes greater concentrations of pollutants in the river. IBTs of this magnitude subsidize growth in other areas using the limited resources of the Catawba River.

### ANALYSIS

Charlotte should not increase its IBT for its growth needs over the next 30 years but should instead use that time to implement water infrastructure and policies to eliminate its current IBT certificate issued in 2002. An IBT should be a temporary measure to accommodate growth and not a permanent solution.

Our region should not be forced to give up its potential growth opportunities to subsidize Charlotte growth with our water resources.

At the request of local governments, the WPCOG is providing coordination of our region's discussions and response to the Charlotte IBT request. The next steps are to employ specialized attorneys, engineers, and lobbying services to navigate this process. Charlotte Water will be required to do an environmental impact statement (EIS), required by law. The Environmental Management Commission (EMC) will hold a public hearing on the EIS sometime after the EIS is submitted.

The cost sharing plan is based on the size of each local government utility system is attached. The WPCOG will serve as the contracting entity on behalf of the participating local governments. For Valdese to participate, our cost share is as follows:

- FY2024-25 = \$6,890.56
- FY2025-26 = \$5,418.22

### BUDGET ANALYSIS:

#### ***Budgetary Action***

Is a Budget Amendment required?

Yes

No



## Update: Charlotte Interbasin Transfer Request

**Issue:** Charlotte Water filed a notice of its intent to request an increase from 33 million gallons per day (MGD) to 63 MGD regarding the water it transfers from the Catawba River Basin to the Rocky River Basin, a tributary of the Yadkin/Pee Dee River.

**History:** Interbasin transfers (IBTs) are regulated and approved by the state through the Environmental Management Commission within the NC Department of Environmental Quality. In 2002, Charlotte Water received approval to transfer 33 MGD from the Catawba River to the Rocky River Basin. In 2005, Concord and Kannapolis requested 36 MGD from the Catawba River Basin to the Rocky River Basin. The compromise approved in 2007 allows for 10 million gallons per day from the Catawba but reduces that number during drought. This occurred after extensive public debate and the state law was amended to further define the interbasin transfer approval process. Concerns were raised about the negative impacts on the Catawba River and the communities it serves. Those concerns apply to the new Charlotte IBT request.

### Status Update as of July 24, 2024:

- Charlotte Water held an additional public input meeting on July 15<sup>th</sup> at the CoMMA in Morganton. Attendance was strong with an estimated 400-500 people present. Dozens of people spoke at the meeting and provided thoughtful comments to Charlotte Water. Charlotte Water provided additional details from the May 8th Hickory meeting, reiterating their anticipated submission of the environmental impact statement in 2026 (the next step in the process). A video of the meeting can be viewed by clicking [here](#). The presentation at that meeting can be accessed [here](#).
- Nearly all the local governments in our region have adopted resolutions opposing the Charlotte IBT.
- The Environmental Management Commission (EMC) will hold a public hearing on the EIS sometime after the EIS is submitted in 2026.
- Charlotte Water setup a website for their IBT request: [CharlotteWaterIBT.org](http://CharlotteWaterIBT.org)
- At the request of local governments, the WPCOG is providing coordination of our region's discussions and response to the Charlotte IBT request.
- The WPCOG contacted a number of attorneys and lobbyists. We identified two available legal firms that specialize in this area of environmental law. A team of local government managers and attorneys are meeting with one of the specialized attorneys in August. We also have narrowed the lobbyist search to two firms and expect to select one firm in August.
- Work by a lobbyist is expected to begin in September to prepare for the General Assembly's long session in late January. This includes work to develop potential changes to the state law regarding IBTs.

- The WPCOG Policy Board approved a preliminary budget and cost allocation to fund the expenses associated with this initiative. Note that it is preliminary and additional costs will be added at a later date in this process. Additional costs could include the preparation of our own environmental impact statement and employment of a public relations firm. Participation is voluntary and local governments are requested to indicate if they will support the initiative.
- Now that Charlotte Water is completing its public input meetings, it is expected that the public may hear less information for a lengthy period of time. During this time, we will work on potential changes to state law that are favorable to our interests. We also will begin legal preparation for the upcoming meetings by the NC Environmental Management Commission in 2026.
- Future updates could focus on developed legal and legislative strategies.

#### **Upcoming Steps:**

- Confirm which local governments will provide financial support for the initiative.
- Execute agreements with a lobbyist and specialized attorney.
- Work with a lobbyist to draft new legislation and engage with leadership in the General Assembly.
- Begin work with the specialized attorney to gather the necessary information to represent our interests in the future EMC meetings.
- Using the selected attorney, determine if favorable terms could be negotiated with Charlotte Water.
- Determine the need and scope of creating our own environmental assessment to present to the EMC.
- Update the budget for the initiative, as necessary.
- Form workgroups using local government staff for legal issues, engineering, lobbying, and public relations.



## Draft Interbasin Transfer Project Cost Distribution

Local Governments	Population (2022 State Estimate)	Water/Sewer FY 25 Budget	Percent of Total W/S Budgets	FY25 Cost (1/2 based on pop & 1/2 based W/S budget)	FY26 Cost (1/2 based on pop & 1/2 based W/S budget)	FY25 & FY26 Total Cost
<b>Alexander County</b>	33,917	\$ 5,075,750	3.50%	\$ 13,639.97	\$ 10,725.45	\$ 24,365.42
Taylorsville	2,313	\$ 2,804,250	1.94%	\$ 2,915.11	\$ 2,292.22	\$ 5,207.33
<b>Burke County</b>	56,820	\$ 2,473,798	1.71%	\$ 17,981.82	\$ 14,139.55	\$ 32,121.38
Connelly Springs	1,558	\$ 69,081	0.05%	\$ 494.07	\$ 388.50	\$ 882.57
Drexel	1,766	\$ 795,600	0.55%	\$ 1,139.25	\$ 895.82	\$ 2,035.06
Glen Alpine	1,548	\$ 21,240	0.01%	\$ 452.62	\$ 355.91	\$ 808.53
Hildebran	1,703	\$ -	0.00%	\$ 479.08	\$ 376.71	\$ 855.79
Morganton	18,025	\$ 16,778,529	11.58%	\$ 18,619.31	\$ 14,640.83	\$ 33,260.14
Rutherford College	1,253	\$ 805,771	0.56%	\$ 1,003.14	\$ 788.80	\$ 1,791.94
Valdese	4,920	\$ 6,819,202	4.71%	\$ 6,890.56	\$ 5,418.22	\$ 12,308.77
<b>Caldwell County</b>	41,734	\$ 4,723,863	3.26%	\$ 15,554.85	\$ 12,231.17	\$ 27,786.02
Cajah's Mountain	2,744	\$ 3,774,000	2.60%	\$ 3,819.42	\$ 3,003.31	\$ 6,822.73
Cedar Rock	305	\$ -	0.00%	\$ 85.80	\$ 67.47	\$ 153.27
Gamewell	3,745	\$ 88,610	0.06%	\$ 1,125.07	\$ 884.67	\$ 2,009.74
Granite Falls	5,088	\$ 3,840,618	2.65%	\$ 4,532.62	\$ 3,564.11	\$ 8,096.73
Hudson	3,819	\$ -	0.00%	\$ 1,074.34	\$ 844.78	\$ 1,919.11
Lenoir	18,683	\$ 11,770,028	8.12%	\$ 14,760.06	\$ 11,606.20	\$ 26,366.26
Rhodhiss	1,007	\$ 387,000	0.27%	\$ 595.78	\$ 468.48	\$ 1,064.26
Sawmills	5,075	\$ 2,097,429	1.45%	\$ 3,121.34	\$ 2,454.38	\$ 5,575.72
<b>Catawba County</b>	86,827	\$ 6,578,043	4.54%	\$ 29,737.37	\$ 23,383.23	\$ 53,120.61
Brookford	456	\$ -	0.00%	\$ 128.28	\$ 100.87	\$ 229.15
Catawba	720	\$ -	0.00%	\$ 202.55	\$ 159.27	\$ 361.81
Claremont	1,742	\$ 2,456,887	1.70%	\$ 2,473.98	\$ 1,945.35	\$ 4,419.33
Conover	8,606	\$ 6,902,279	4.76%	\$ 7,994.56	\$ 6,286.32	\$ 14,280.89
Hickory	44,765	\$ 38,817,714	26.79%	\$ 43,938.25	\$ 34,549.73	\$ 78,487.98
Long View	5,164	\$ 2,592,500	1.79%	\$ 3,546.14	\$ 2,788.42	\$ 6,334.56
Maiden	3,807	\$ 3,308,723	2.28%	\$ 3,742.75	\$ 2,943.02	\$ 6,685.77
Newton	13,427	\$ 10,909,850	7.53%	\$ 12,586.88	\$ 9,897.38	\$ 22,484.26
<b>McDowell County</b>	36,726	\$5,075,750	3.50%	\$ 14,430.18	\$ 11,346.81	\$ 25,776.99
Marion	7,643	\$5,925,406	4.09%	\$ 6,934.84	\$ 5,453.03	\$ 12,387.87
<b>Totals</b>	<b>415,906</b>	<b>\$144,891,921</b>	<b>100.00%</b>	<b>\$ 234,000.00</b>	<b>\$ 184,000.00</b>	<b>\$ 418,000.00</b>

Based on 2022 State Population Estimates and FY25 Budgets.

### Preliminary Interbasin Transfer Budget

Costs	FY25	FY26	Total
Attorney	\$ 62,000	\$ 62,000	\$ 124,000
Engineering Consultant*	\$ 42,000	\$ 42,000	\$ 84,000
Lobbyist**	\$ 65,000	\$ 25,000	\$ 90,000
WPCOG Coordination & Admin	\$ 40,000	\$ 30,000	\$ 70,000
Contingency	\$ 25,000	\$ 25,000	\$ 50,000
			\$ -
<b>Total</b>	<b>\$ 234,000</b>	<b>\$ 184,000</b>	<b>\$ 418,000</b>

\*Does not include the cost of an engineering firm preparing our own environmental assessment.

\*\*Assumes choosing one firm starting in Sept. 2024.

Funds for public relations consultants are not included at this time.

Costs per local government may be lowered if additional local governments join the coalition.



Budget Amendment # 2-10

Subject: Inter Basin Transfer cost sharing participation

Description: Participation allocation for FY24-25 to the WPCOG for their legal and lobbying work to prevent the City of Charlotte from being allowed to draw more water from the Catawba river basin

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I:

The following revenues available to the Town will be increased:

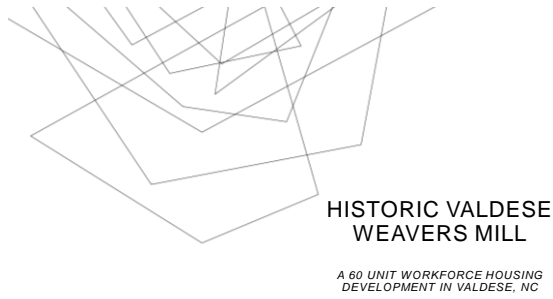
Account		Description	Decrease/ Debit	Increase/ Credit
10.3990.000		General Fund Balance Appr.		6,891
Total			\$0	\$6,891

Amounts appropriated for expenditure are hereby amended as follows:

Account		Description	Increase/ Debit	Decrease/ Credit
10.4200.530		Dues	6,891	
Total			\$6,891	\$0

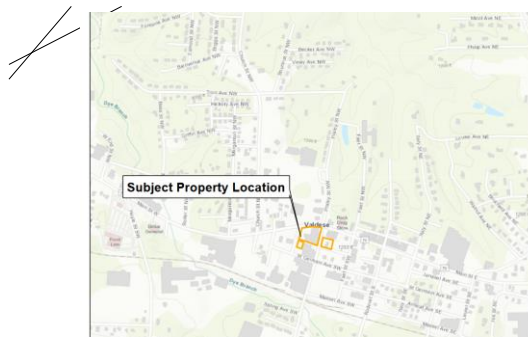
Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.



## WORKFORCE HOUSING

- INTENDED TO HELP WORKING FAMILIES AFFORD RENTAL HOUSING
- QUALIFIED APPLICANTS WILL EARN 60% OF AREA MEDIAN INCOME FOR BURKE COUNTY



### THE ULTIMATE RECYCLING!



© 1920s



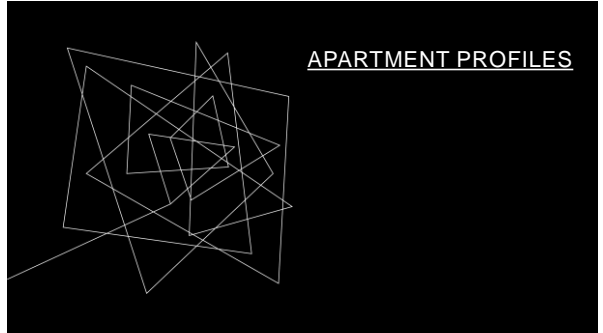
*HISTORIC ADAPTIVE REUSE IS A VERY GREEN FORM OF BUILDING AS THE CARBON FOOTPRINT FOR THE STRUCTURE WAS PAID MANY YEARS AGO.*

OUR PLANS TO CREATE AFFORDABLE HOUSING THROUGH HISTORIC ADAPTIVE REUSE ARE CONTINUING WITH THE FOLLOWING MILESTONE EVENTS HAVING BEEN ACCOMPLISHED:

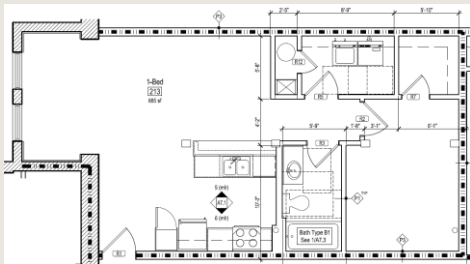
- Full architectural and engineering design
- Placement of the mill on the National Register of Historic Places
- Internal demolition and structural repair of walls and roof systems
- Financing commitments and general contract all drafted
- Successful rollover of bonds and housing tax credits into 2024



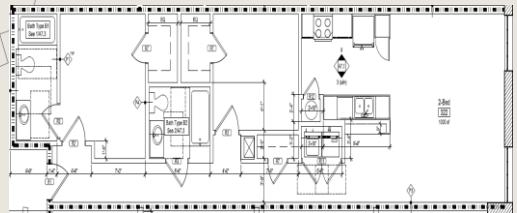
## APARTMENT PROFILES



TYPICAL ONE BEDROOM UNIT



TYPICAL TWO BEDROOM UNIT



**DEVELOPMENT TEAM:**

- Owner – Blue Ridge Housing of Burke, LLC
- Developer – Northwestern Housing Enterprises, Incorporated
- Foundation Funder – Dogwood Health Trust
- Lender – Churchill Stateside Group
- Federal Investor – Community Affordable Housing Equity Corporation
- State Investor – FOSS Equity Group
- Bond Counsel – McGuireWoods Firm
- Corporate Counsel – Blanco-Tackaberry
- Architect – Tise-Kiester Architects
- Engineer – West Consultants, Inc.
- General Construction Contract Manager – ALH General Contractor
- Historic Consultant – Post Oak Historic
- Environmental Engineer – Geosyntec, Inc.

**WHY NHE?:**

For over 25 years NHE has partnered with institutional investors and advantaged lenders along with State Agencies, Councils of Government, Cities, Towns, and Counties to advance affordable senior and workforce living, with designs that enhance the surroundings and provide jobs. Often, we are able to breathe new life into older landmark buildings to benefit the western NC communities we serve.

**THANK YOU**

Luke Fowler  
 (828) 264-6683  
 lukefowler@nwrha.com

McGUIREWOODS

## TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS

Kristen Kirby  
McGuireWoods LLP  
501 Fayetteville Street, Suite 500  
Raleigh, North Carolina 27601  
(919) 755-6574  
kkirby@mcguirewoods.com

[www.mcguirewoods.com](http://www.mcguirewoods.com)

### What are multifamily housing revenue bonds?

- Bond (debt) issued by a governmental entity – state or local housing authority, county or city/town (the “Issuer”)
- Under N.C.G.S. 160D-1311(b), the Town is authorized to exercise the powers of a housing authority, including acting as the Issuer of tax-exempt multifamily housing bonds
- Proceeds are loaned to private entity (the “Borrower”)
- Borrower uses those dollars to acquire, construct and/or rehab and equip “multifamily residential rental housing”
- Bonds are “private activity bonds” under Section 142 of the Internal Revenue Code (the “Code”)
- Town would be acting as a conduit issuer and has no financial obligation with respect to the bonds

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### Project must meet Income Restrictions

Either

20% of units must be set aside for individuals whose income is 50% or less of area median income (“AMI”)

Or

40% of units must be set aside for individuals whose income is 60% or less of AMI

- Income limits based on HUD guidelines; subject to family size
- Income determination must be made at least annually
- Restrictions apply for the LONGER of 15 years or life of bonds

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CONFIDENTIAL

### Who are the players in a bond deal?

- Issuer - governmental unit that issues bonds (in this instance the Town)
- Underwriter – investment banking firm that structures the deal and finds buyers
- Trustee
  - holds proceeds pending disbursement for construction costs
  - collects debt service payments from Borrower and pays to bondholders
- Bond counsel – oversees entire process and issues opinion that bonds are tax-exempt
- Issuer’s counsel – looks out for issuer’s interests
- Underwriter’s counsel - prepares disclosure document to sell bonds to the market place - “Official Statement”
- Borrower’s counsel - looks out for Borrower’s interest; generally does real estate work and opinion

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### What are the Issuer's Responsibilities?

- Bonds are not a debt of the Town or a pledge of its faith and credit or taxing power and do not affect the Town's debt ratios or legal debt limit
- Town has no financial responsibility for the bonds; the Borrower is solely responsible for repayment of principal and interest on the bonds
- Issuers often receive a fee for serving as the bond issuer and the developer is responsible for paying all costs of issuance (including bond counsel and issuer's counsel)

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### What steps are required?

- Developer files application with North Carolina Housing Finance Agency (NCHFA) for approval of volume cap for bonds
- Inducement resolution – indicates the issuer's willingness to issue bonds if all approvals are obtained; not an approval for any other purpose (i.e. zoning, planning, construction approvals separate)
- Developer receives allocation of volume cap from NCHFA
- Town Council holds a public hearing (also called the TEFRA hearing) as required under the federal tax code and adopts a resolution approving in principle the issuance of the bonds
- Town Council adopts resolution approving documents and financing (usually done at the same time as findings resolution)
- Sign documents at closing
- Post issuance: receive monitoring reports regarding compliance with low-income requirements

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## QUESTIONS?

Kristen M. Kirby  
McGuireWoods LLP  
501 Fayetteville Street, Suite 500  
Raleigh, North Carolina 27601  
(919) 755-6574  
kkirby@mcguirewoods.com

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# VALDESE FIRE DEPARTMENT



Serving The Community With Pride,  
Integrity And Courage.

M. Truman Walton  
Fire Chief Appointee / Safety Director  
Post Office Box 339  
121 Faet Street  
Valde, North Carolina 28690

Telephone: 828-879-2103  
Fax: 828-879-2106

TO: Bryan Steen, Town Manager  
Valde Town Council

FROM: Truman Walton, Safety Director

DATE: June 19, 2023

REF: 2023 North Carolina Department of Labor Safety Awards

The goal of the North Carolina Department of Labor Safety Awards Program is to recognize those entities that go the extra mile to promote safety in the workplace. For calendar year 2023, most of our Town departments received recognition for their efforts to prevent work place injuries and illnesses. These achievements are largely due to our department heads and employees working and training together to ensure that safe workplace practices are followed and that safety is the top priority of every Town of Valde employee.

In order to qualify for a NCDOL Safety Achievement Silver Award the rate of days away from work must be at least 50% below the industry average. The following town departments received NCDOL Safety Achievement Silver Awards for calendar year 2023:

- Police Department (1<sup>st</sup> year)
- Public Works Department (2<sup>nd</sup> consecutive year)

In order to qualify for a NCDOL Safety Achievement Gold Award the rate of days away from work, job transfer or restriction must be at least 50% below the industry average. The following town departments received NCDOL Safety Achievement Gold Awards for calendar year 2023:

- Waste Water Department (1<sup>st</sup> year)
- Recreation Department (2<sup>nd</sup> consecutive year)
- Water Department (7<sup>th</sup> consecutive year)
- Community Affairs Department (13<sup>th</sup> consecutive year)
- Administrative Department (36<sup>th</sup> consecutive year)

The Administrative Department's 36<sup>th</sup> consecutive year of achievement is the 3<sup>rd</sup> longest active awards streak in the State of North Carolina according to NCDOL Commissioner Josh Dobson.

Particular attention should be paid to those departments receiving consecutive Safety Awards, especially those departments where accident rates are usually elevated due to the nature of their work.

Thank you.

**To:** Valdese Town Council

**From:** Larry Johnson, Planning Director

**Date:** July 29, 2024

**Subject:** Rezoning Application 2-6-24 (Map Amendment)  
Town of Valdese

**Property Location:** 405-636 Main Street East, 161 Laurel Street NE, 454 Laurel Street NE,  
725 Eldred Street SE

**Parcel ID Numbers:** 2743149654, 2743144676, 2743148636, 2743142677, 2743145991  
2743140771, 2743142885, 2743157022, 2743143886, 2743144883, 2743049773,  
2743140817, 2743146604, 2743144607, 2743141676, 2743142855,  
2743143806, 2743142805, 2743144995

**Requested Action:** Rezone nineteen parcels from the current designation of B-1 Central Business District to B-2 General Business

**BACKGROUND:** The Town of Valdese adopted the Valdese Vision: A Land Use Action Plan in January 2014. This development plan was created to establish a vision for the Town's future, help ensure that planning is done in a manner that best serves the public interest, be an adopted policy document that can help guide appointed and elected officials in matters related to the Town's physical growth and development and help constitute the legal basis for the Town's land use decision-making process.

The action matrix of the Valdese Vision identifies action/policy, types of action, responsibility, resource allocation, time, and prioritization. The Downtown/Commercial Development section of the Valdese Vision Land Use Plan prioritizes the rezoning of properties in the downtown area to promote the expansion of the Central Business District and the creation of a new zoning district. This process is part of the proposed rezoning of the B-1 Central Business parcels to B-2 General Business.

The current zoning designation of the nineteen parcels is B-1 Central Business District. The current uses are retail, sales and services, medical or professional services, a public park, automotive sales, a restaurant, a personal care establishment, a convenience store, and residential, all of which are allowed in the B-2 General Business District.



**REVIEW CRITERIA:**

1. Existing land uses in the general vicinity of the nineteen properties are residential, manufacturing parking, manufacturing, commercial, and medical and professional services.
  - **North:** Manufacturing (parking lot), residential,
  - **South:** Medical or professional, manufacturing, and residential.
  - **East:** Commercial (animal hospital), automotive sales and service, and church.
  - **West:** Manufacturing and manufacturing parking.

*To the extent to which zoning will detrimentally affect properties in the general vicinity of the applicant's properties, the requested B-2 General Business District permits the zoning uses of the B-1 Central Business District.*

**2. Traffic**

The Town of Valdese conducted no traffic study. However, the NCDOT traffic volume website reveals an Annual Average Daily Traffic count (AADT) of 8000 vehicles, according to the latest from NCDOT.

*No anticipated traffic volume increase is generated from rezoning the nineteen parcels to B-2 General Business District.*

**3. Public Services**

*The extent to which the proposed amendment (zoning map) will cause public services to fall below acceptable levels, public services are in place and serve the parcels. These include public water, sewer infrastructure, and police and fire protection.*

**4. Consistency of the proposed zoning with the Valdese Vision: A Land Use Action Plan for the Future**

*The general area is classified as commercial by the land use plan adopted by the Valdese Town Council. This rezoning petition is **consistent** with The Valdese Vision: Land Use Action Plan.*

**5. "Spot" Zoning**

*The total acreage of the nineteen parcels is sufficient not to be construed as “spot” zoning.*

**REVIEW:**

The Valdese Planning Board finds Rezoning Petition 2-6-24 (Zoning Map Amendment) **consistent** with the Valdese Vision: A Land Use Action Plan for the Future. In so finding, the Planning Board provides the following review:

1. Staff recommended to the Planning Board a zoning map amendment in June 2024 to rezone nineteen parcels with zoning designations of B-1 Central Business District to B-2 General Business District.
2. The parcels' land uses are retail, sales and services, medical or professional services, public parks, restaurants, personal care establishments, convenience stores, automotive sales, and residential.
3. The B-2 General Business District permits retail, sales and services, medical or professional services, public parks, restaurants, personal care establishments, convenience stores, automotive sales, and residential uses.
4. The rezoning petition is reasonable and consistent with The Valdese Vision: Land Use Action Plan. The Land Use Action Plan identifies the parcels for commercial development, consistent with the proposed B-2 General Business designation.

**RECOMMENDED ACTION:**

Valdese Planning Board recommends the following:

1. The Valdese Town Council adopts a Consistency and Reasonableness Statement under North Carolina General Statute 160D-605(a)(b) affirming that the rezoning is reasonable and consistent with the Valdese Vision: A Land Use Action Plan for the Future.

**PUBLIC NOTICE**

- The following steps were taken in advance of the public hearing on Rezoning Petition 2-6-24:
- a. Adjoining property owners will receive first-class mail notifications.
  - b. The Notice of Public Hearing was advertised in the local paper.
  - c. Staff placed rezoning public hearing signs where appropriate in the proposed rezoning area.



# TOWN OF VALDEESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDEESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2120 | FAX (828) 879-2139 | TOWNOFVALDEESE.COM



## VALDEESE TOWN COUNCIL ZONING MAP AMENDMENT CONSISTENCY AND REASONABLENESS STATEMENT

On August 5, 2024, the Valdeese Town Council met to consider Rezoning Petition 2-6-24 and received a recommendation from the Valdeese Planning Board. After considering the Plan (defined below), ordinances, maps, recommendations, and other materials presented, the Valdeese Town Council makes the following findings and conclusions:

1. In 2014, the Town of Valdeese adopted a comprehensive land use plan entitled “The Valdeese Vision: A Land Use Action Plan for the Future” (hereinafter the “Plan”). The Plan identifies the type of community that Valdeese wants to become in the future and the strategies that the Town will use to guide development and land use activities.
2. The Town of Valdeese submitted a Rezoning Petition recommended by the Town of Valdeese Planning Board requesting to rezone the following nineteen properties (the “Properties”) from B-1 Central Business District to B-2 General Business District:  
  
405-636 Main Street East, 161 Laurel Street NE, 454 Laurel Street NE, 725 Eldred Street SE and further identified by parcel ID numbers: 2743149654, 2743144676, 2743148636, 2743142677, 2743145991, 2743140771, 2743142885, 2743157022, 2743143886, 2743144883, 2743049773, 2743140817, 2743146604, 2743144607, 2743141676, 2743142855, 2743143806, 2743142805, 2743144995.
3. The purpose of Central Business District (B-1) is to accommodate and encourage further expansion and renewal in the historic/business core of the Town of Valdeese. A variety of business, retail, professional, financial, cultural, and other related services are encouraged in an effort to provide the mix of activities necessary to shoppers.
4. The General Business District (B-2) is to encourage the establishment of areas for general business that do not require a central location. Businesses in this district are generally located along major radial highways leading out of town, providing retail goods and services to the traveling public and local residents.
5. The Properties are comprised of retail, sales and services, medical or professional services, a public park, a restaurant, a personal care establishment, a convenience store, and residential, all of which are allowed in the B-2 General Business District.
6. Rezoning Petition 2-6-24 is intended to appropriately zone B-2-related uses to the periphery of the Downtown corridor to accommodate and encourage further expansion

providing retailing goods and services to the traveling public and local residents and the renewal of the historic/business core of the Town of Valdese.

7. North Carolina General Statute 160D-605(a) provides, in pertinent part, as follows:

When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive or land-use plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment, the governing board was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive or land-use plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required. A plan amendment and a zoning amendment may be considered concurrently.

8. Text Amendment 2-6-24 is consistent with and supports several Plan priorities, including, but not limited to, the following:
  - (a) To ensure that the scale and design of commercial development is consistent with the unique small town character of Valdese;
  - (b) Rezoning properties in the downtown area to promote expansion of the Central Business District into several additional blocks and create a relevant new zoning district.
  - (c) Evaluate the Town's existing zoning ordinance to determine where amendments are necessary to encourage and enable more compact, mixed-use development.
9. The Town of Valdese's request for amendment was duly considered at a meeting of the Town of Valdese Planning Board. The Planning Board found the Town of Valdese's request to amend the Town's Zoning Map around the Properties from their designated zoning to B-2 General Business District *consistent* with the Plan.
10. The Planning Board, at their June 17, 2024 meeting, voted five to zero to recommend that the Town Council amend the Town's Zoning Map regarding the Properties from B-1 Central Business District to B-2 General Business District.
11. The Valdese Town Council hereby finds Rezoning Petition 2-6-24 regarding rezoning the Properties from their currently designated zoning to B-2 General Business District to be *consistent* with the Plan.

12. North Carolina General Statute 160D-605(b) provides, in pertinent part, as follows:

When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

13. The Town Council finds that the zoning amendment is reasonable and in the public interest based on the following:

- a. The total acreage of the Properties is sufficient not to be construed as “spot” zoning.
- b. The surrounding zoning designations are industrial, residential, and commercial properties to the north (animal hospital). The properties to the South are medical or professional and residential. The properties to the East are commercial and church. The properties to the West are manufacturing and manufacturing parking
- c. To the extent to which zoning will detrimentally affect properties in the general vicinity of the nineteen properties, the requested B-2 General Business District permits the zoning uses of the B-1 Central Business District.
- d. The B-2 General Business District is intended to encourage the establishment of areas of general business that do not require a central location. Uses in the B-2 General Business District are generally located along major radial highways leading out of town, providing retail goods and services to the traveling public and residents.
- e. The extent to which the proposed amendment (zoning map) will cause public services to fall below acceptable levels, public services are in place and serve the parcels. These include public water, sewer infrastructure, and police and fire protection.

Based upon the recommendation of the Valdese Planning Board and the findings from the public hearing, the Valdese Town Council, having found Rezoning Petition 2-6-24 in regards to rezoning the Properties from B-1 Central Business District to B-2 General Business District to be **consistent** with the Plan and approves Rezoning Petition 2-6-24 and the recommendation from

the Valdese Planning Board to amend the Town's Zoning Map regarding the Properties from B-1 Central Business District to B-2 General Business District.

Based on those above and the findings from the public hearing, the Valdese Town Council further finds Rezoning Petition 2-6-24 reasonable and approves Rezoning Petition 2-6-24.

The Town Council, therefore, approves Rezoning Petition 2-6-24.

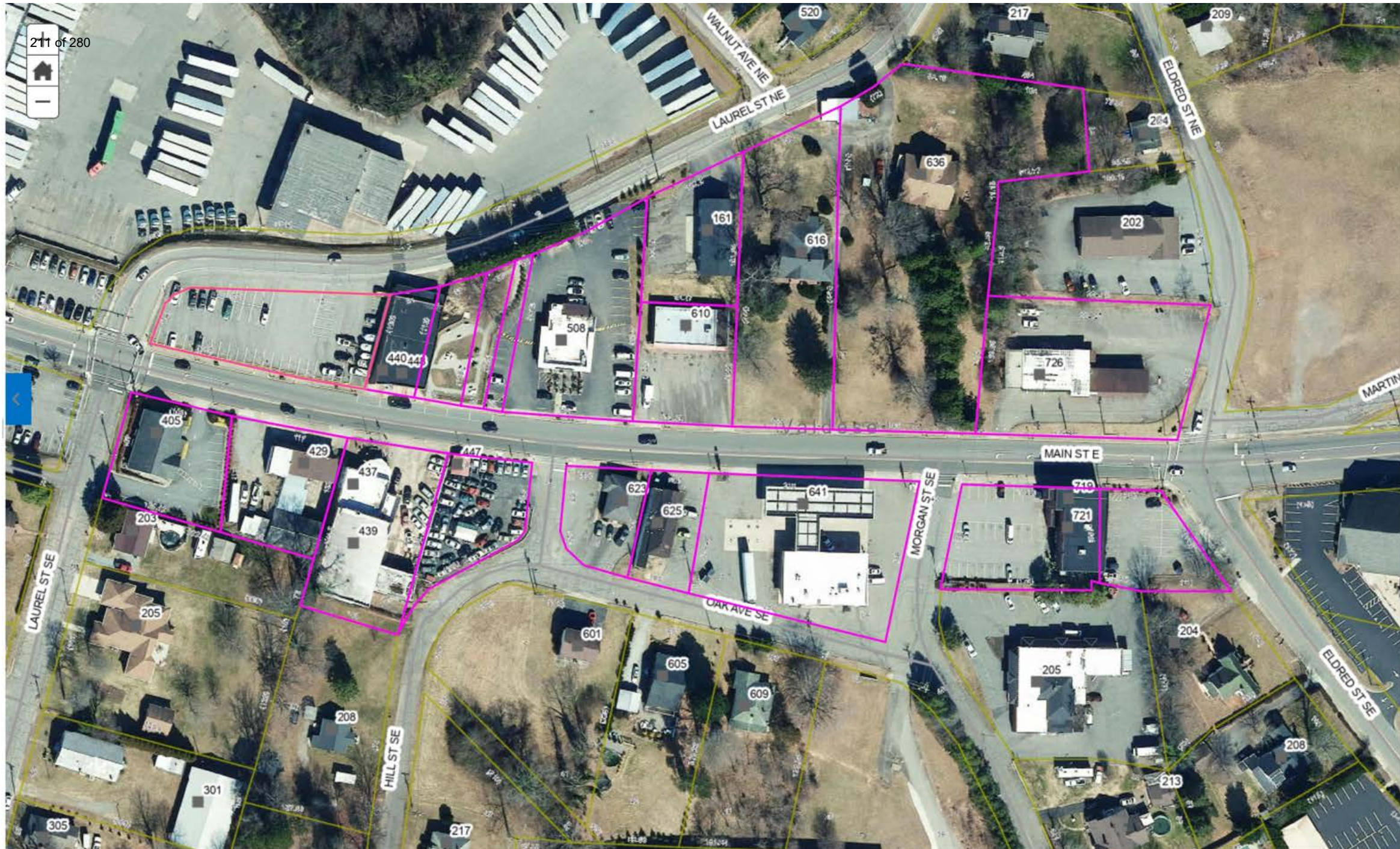
THE TOWN OF VALDESE,  
a North Carolina Municipal Corporation

ATTEST:

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

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





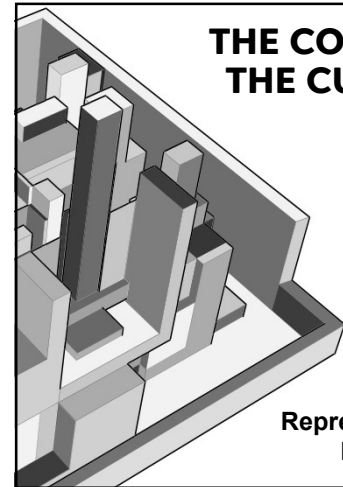




**FACILITIES REVIEW  
COMMITTEE UPDATE**

**VALDESE TOWN COUNCIL  
AUGUST 5, 2024**

1



**THE COMMITTEE FULLY SUPPORTS  
THE CURRENT CONSIDERATIONS**

Tessa Collinson  
Jerry Hyde  
Roger Heavner  
Greg Refour  
Glenn Harvey

Representing 150 years of Construction and  
Facilities Management Experience

3

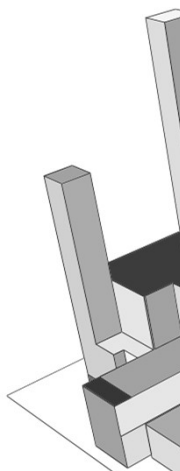
**TOPICS**

**Priority #1 Has Been Met**

- All Employees are now in a Safe Location

**New Opportunities Being Considered**

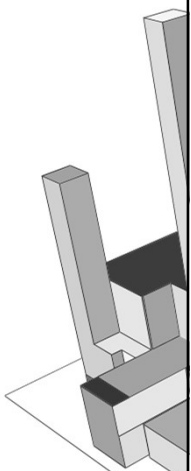
- Police Station on Main Street
- New Fire Station on Massel
- Reduced Timeline and Costs



2

**TEMPORARY RELOCATION OF  
PUBLIC SAFETY EMPLOYEES**

- Police Department – Temporarily in Town Hall
- Fire Department – Safe in North side of Existing Public Safety Building



4



### 215 MAIN STREET UNDER CONSIDERATION



#### PROPOSED POLICE STATION

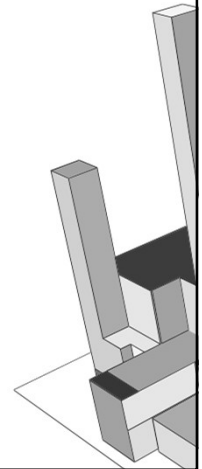
- Main Street Presence
- Double the Present Space
- Can be Renovated to Current Codes and Standards
- Total Cost May be Less Than Alternative Options

5

## AND SO

### IF 215 MAIN STREET EAST BECOMES POLICE STATION

### 200 MASSEL AVE SW CAN BECOME NEW FIRE STATION



7

### PROPOSED RENOVATION

FIRST FLOOR - 2275 SF OF OFFICE SPACE  
GROUND FLOOR - 2275 SF UNFINISHED



#### 215 MAIN WOULD NEED

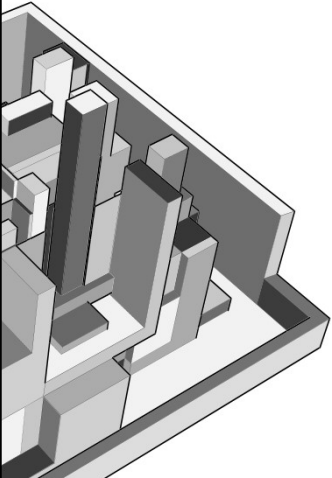
- Completion of Site Plan
- Renovation Such as
- New Facade
- Extensive, 40-Year (New Building) Life-span

6

### NEXT TO TOWN HALL



8



**THE SCHEDULE AHEAD**

**Aug 5 – Council Considers**

- 215 Main Street East
- Architect’s Scope of Work

**Sept 9 – Council Considers**

- Update on Police Station
- Update on Fire Station

9

**THANK YOU FOR THE OPPORTUNITY  
TO SERVE OUR TOWN**

**FACILITIES REVIEW COMMITTEE**

- Tessa Collinson
- Jerry Hyde
- Roger Heavner
- Greg Refour
- Glenn Harvey



10

MARC MITCHELL, P.A.

W. HAROLD MITCHELL†  
MARCUS W.H. MITCHELL, JR.  
† 1925-2014

ATTORNEY AT LAW  
215 MAIN STREET, EAST  
VALDESE, NORTH CAROLINA 28690

MAILING ADDRESS:  
Post Office Drawer 69  
Valdese, N.C. 28690-0069

EMAIL: marcmitchell@mbmlawfirm.net

TELEPHONE: (828) 874-2271  
FACSIMILE: (828) 879-1623

July 18, 2024

Timothy D. Swanson  
Young, Morphis Bach & Taylor  
858 2<sup>nd</sup> Street NE, #200  
Hickory, NC 28601

RE: Sale of Office Building from WHM Properties, LLC to  
Town of Valdese

Dear Tim:

I am enclosing two copies of the purchase agreement that I have signed on behalf of the seller. It is my understanding that this agreement will be presented to the town council at its August 5, 2024, meeting. Assuming that the council approves the purchase, I would appreciate it if you would send me an original of the purchase agreement after it has been executed on behalf of the town. If you need anything else from me in the meantime, please let me know.

Sincerely,



Marcus W.H. Mitchell, Jr.

MM/sbo  
Enclosures



AGREEMENT FOR PURCHASE AND SALE OF IMPROVED REAL PROPERTY

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between

TOWN OF VALDESE, a North Carolina municipal corporation ("Buyer"), and

WHM PROPERTIES, LLC, a North Carolina limited liability company ("Seller").

(NOTE: If the Buyer or Seller is an entity, in order to form a binding agreement and complete a transaction, the entities listed as Buyer or Seller in this Agreement should be validly formed and in good standing with the Secretary of State in the State of formation of the entity.)

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Property": (Address) 215 East Main Street, Valdese, NC 28690

Plat Reference: Lot(s) \_\_\_\_\_, Block or Section \_\_\_\_\_, as shown on Plat Book or Slide \_\_\_\_\_ at Page(s) \_\_\_\_\_, Burke County, consisting of 0.29 acres.

[X] If this box is checked, "Property" shall mean that property described on Exhibit A attached hereto and incorporated herewith by reference,

(For information purposes: (i) the tax parcel number of the Property is: 2743041998 / REID 30953; and, (ii) some or all of the Property, consisting of approximately 0.29 acres, is described in Deed Book 2217, Page No. 650, Burke County.)

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on Exhibit A-1.

\$360,000.00 (b) "Purchase Price" shall mean the sum of Three Hundred Sixty Thousand and 00/100 Dollars (\$360,000.00), payable on the following terms:

\$ \_\_\_\_\_ (i) "Earnest Money" shall mean \_\_\_\_\_ Dollars or terms as follows: \_\_\_\_\_

The Earnest Money shall be deposited in escrow with \_\_\_\_\_ (name of person/entity with whom deposited- "Escrow Agent") within five (5) calendar days of the Contract Date, to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein. Should Buyer fail to deliver the Earnest Money by the date required hereunder, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice of such dishonor to deliver cash, official bank check, wire transfer or electronic transfer to the Escrow Agent. If Buyer fails to deliver the required funds within one (1) banking day after written notice, then Seller may terminate this



This form jointly approved by: North Carolina Bar Association's Real Property Section North Carolina Association of REALTORS®, Inc.

STANDARD FORM 580-T Revised 7/2023 © 7/2023 293348

Buyer Initials \_\_\_\_\_ Seller Initials M M





Acting as:  Seller's Agent;  Dual Agent  
and \_\_\_\_\_ ("Selling Agency"),  
\_\_\_\_\_ ("Selling Agent"- License # \_\_\_\_\_)

Acting as:  Buyer's Agent;  Seller's (Sub)Agent;  Dual Agent

(g) "Seller's Notice Address" shall be as follows:

P.O. Drawer 69, Valdese, NC 28690

e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_

except as same may be changed pursuant to Section 12.

(h) "Buyer's Notice Address" shall be as follows:

P.O. Box 339, Valdese, NC 28690

\_\_\_\_\_ e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_

except as same may be changed pursuant to Section 12.

- (i) If this block is marked, additional terms of this Agreement are set forth on Exhibit B attached hereto and incorporated herein by reference. (Note: Under North Carolina law, real estate agents are not permitted to draft conditions or contingencies to this Agreement.)
- (j) If this block is marked, additional terms of this Agreement are set forth on the Additional Provisions Addendum (Form 581-T) attached hereto and incorporated herein by reference.
- (k) If this block is marked, additional terms of this Agreement are set forth on the Back Up Agreement Addendum (Form 581A-T) attached hereto and incorporated herein by reference.

**Section 2. Sale of Property and Payment of Purchase Price:** Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

**Section 3. Proration of Expenses and Payment of Costs:** Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached Exhibit B, and/or Exhibit C, as applicable, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law, any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Agreement other than those fees required to be paid by Buyer in this Section 3 below, and the following:

\_\_\_\_\_

Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement, charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, any costs or charges for determining restrictive covenant compliance, and the following:

\_\_\_\_\_

Each party shall pay its own attorney's fees.

**Section 4. Deliveries:** Seller agrees to use best efforts to deliver to Buyer, as soon as reasonably possible after the Contract Date, copies of all material information relevant to the Property in the possession of Seller, including but not limited to: title insurance policies (and

Buyer Initials \_\_\_\_\_ Seller Initials   M  M



copies of any documents referenced therein), surveys, soil test reports, environmental surveys or reports, site plans, civil drawings, building plans, maintenance records and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all hard copy materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request, following release of the Earnest Money, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof. Notwithstanding the above provisions regarding delivery and return of information and documentation, should there exist a separate non-disclosure, confidentiality, or similar agreement between Buyer and Seller, the terms of which conflict with this provision insofar as delivery and return of information and documentation, then the terms of such non-disclosure, confidentiality, or similar agreement shall control as to the delivery and return of information and documentation.

**Section 5. Evidence of Title:** Seller agrees to convey fee simple insurable title to the Property without exception for mechanics' liens, free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) Leases (as defined in Section 7, if applicable) and (c) specific instruments on the public record at the Contract Date agreed to by Buyer (not objected to by Buyer prior to the end of the Examination Period), which specific instruments shall be enumerated in the deed referenced in Section 11 (items 5(a), 5(b) and 5(c) being collectively "Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on **Exhibit A**) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

**Section 6. Conditions:** This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

(a) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(b) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(c) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, conducting timber cruises, and surveying the Property; provided, however, that Buyer shall not conduct any invasive testing of any nature without the prior express written approval of Seller as to each specific invasive test intended to be conducted by Buyer. Buyer shall conduct all such on-site inspections, examinations, testing, timber cruises and surveying of the Property in a good and workmanlike manner, at Buyer's expense, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours Seller's or any tenant's business is open to the public. Buyer shall provide Seller or any tenant (as applicable) reasonable advance notice of and Buyer shall cause its agents or representatives and third party service providers (e.g. inspectors, surveyors, etc.) to give reasonable advance notice of any entry onto the Property. Buyer shall be obligated to observe and comply with any terms of any tenant lease which conditions access to such tenant's space at the Property. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law, and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall

Buyer Initials \_\_\_\_\_ Seller Initials   M     M



obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself and its agents or representatives in exercising its rights under this Section 6(c) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Except as provided in Section 6(b) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

**Section 7. Leases (Check one of the following, as applicable):**

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

If this box is checked, Seller discloses that there are one or more leases affecting the Property ("Leases"), and the following provisions are hereby made a part of this Agreement.

(a) A list of all Leases shall be set forth on **Exhibit C**. Seller represents and warrants that, as of the Contract Date, there are no other Leases, oral or written, recorded or not, nor any subleases affecting the Property, except as set forth on **Exhibit C**. Unless written consent is given by Buyer, Seller will not enter in to any Lease affecting the Property nor terminate any Lease in Exhibit C during the effectiveness of this Agreement. Buyer agrees to take no action which would affect any lease in Exhibit C prior to Closing;

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that, as of the Contract Date, there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant, could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date; and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease). Seller agrees to deliver an assignment of any Lease at or before Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at or before Closing. The assignment shall provide: (i) that Seller shall defend, indemnify and hold Buyer harmless from claims, losses, damages and liabilities (including, without limitation, court costs and attorneys' fees) asserted against or incurred by Buyer which are caused by or the result of any default by Seller under any Lease prior to the date of Closing, and (ii) that Buyer shall defend, indemnify and hold Seller harmless from claims, losses, damages and liabilities (including, without limitation, court costs and attorneys' fees) asserted against or incurred by Seller which are caused by or the result of any default by Buyer under any Lease after the date of Closing.

(e) Seller also agrees to work diligently to obtain any tenant signatures on any estoppel certificates in such form as Buyer may reasonably request and to work diligently to obtain any subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

**Section 8. Environmental:** Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to: those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as

Buyer Initials \_\_\_\_\_ Seller Initials   M  W



may have been disposed of or stored on neighboring tracts.

**Section 9. Risk of Loss/Damage/Repair:** Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

**Section 10. Earnest Money Disbursement:** In the event that any condition hereto is not satisfied, then the Earnest Money shall be refunded to Buyer. In the event of breach of this Agreement by Seller, the Earnest Money shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Agreement by Buyer, the Earnest Money shall be paid to Seller as liquidated damages and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Section 6(c) or Section 22 of this Agreement. It is acknowledged by the parties that payment of the Earnest Money to Seller in the event of a breach of this Agreement by Buyer is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of such breach. The payment of the Earnest Money to Seller shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach.

NOTE: In the event of a dispute between Seller and Buyer over the disposition of the Earnest Money held in escrow, a licensed real estate broker is required by state law (and Escrow Agent, if not a broker, hereby agrees) to retain the Earnest Money in the Escrow Agent's trust or escrow account until Escrow Agent has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, if a broker or an attorney licensed to practice law in North Carolina is holding the Earnest Money, the broker or attorney may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A- 12.

Seller and Buyer hereby agree and acknowledge that the Escrow Agent assumes no liability in connection with the holding of the Earnest Money pursuant hereto except for negligence or willful misconduct of Escrow Agent. Escrow Agent shall not be responsible for the validity, correctness or genuineness of any document or notice referred to under this Agreement. Seller and Buyer hereby agree to indemnify, protect, save and hold harmless Escrow Agent and its successors, assigns and agents pursuant to this Agreement, from any and all liabilities, obligations, losses, damages, claims, actions, suits, costs or expenses (including attorney fees) of whatsoever kind or nature imposed on, incurred by or asserted against Escrow Agent which in any way relate to or arise out of the execution and delivery of this Agreement and any action taken hereunder; provided, however, that Seller and Buyer shall have no such obligation to indemnify, save and hold harmless Escrow Agent for any liability incurred by, imposed upon or established against it as a result of Escrow Agent's negligence or willful misconduct.

**Section 11. Closing:** At or before Closing, Seller shall deliver to Buyer a special warranty deed unless otherwise specified on **Exhibit B** and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty listed on **Exhibit A**, an owner's affidavit, lien waiver forms (and such other lien related documentation as shall permit the Property to be conveyed free and clear of any claim for mechanics' liens) and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall cause to be delivered the funds necessary to pay to Seller the Purchase Price. The Closing shall be conducted by Buyer's attorney or handled in such other manner as the parties hereto may mutually agree in writing. Possession shall be delivered at Closing, unless otherwise agreed herein. The Purchase Price and other funds to be disbursed pursuant to this Agreement shall not be disbursed until the Buyer's attorney's (or other designated settlement agent's) receipt of authorization to disburse all necessary funds.

**Section 12. Notices:** Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing (which shall include electronic mail) and shall be deemed to have been properly given and received (i) on the date delivered in person or (ii) the date deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller, and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith, (iii) at such time as the sender performs the final act to send such transmission, in a form capable of being processed by the receiving party's system, to any electronic mail address or facsimile number, if any, provided in Section 1(g) as to Seller, and in Section 1(h) as to Buyer or (iv) on the date deposited with a recognized overnight delivery service, addressed to the addresses set out in Section 1(g) as to Seller, and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith. If a notice is sent by more than one method, it will be deemed received upon the earlier of the dates of receipt pursuant to this Section.

**Section 13. Counterparts; Entire Agreement:** This Agreement may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Agreement may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement

Buyer Initials \_\_\_\_\_ Seller Initials   M     M



shall be construed and enforced as if such invalid provisions were not included.

**Section 14. Enforceability:** This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that notice given in accordance with Section 12 is not required for effective communication for the purposes of this Section 14. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

**Section 15. Adverse Information and Compliance with Laws:**

(a) **Seller Knowledge/Assessments:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows (Insert "None" or the identification of any matters relating to (i) through (iv) above, if any):

---

**Note:** For purposes of this Agreement: (i) a "special assessment" is defined as a charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property; a special assessment may be either pending or confirmed; (ii) a "confirmed" special assessment is defined as an assessment that has been approved by a governmental agency or an owners' association for the purpose(s) stated, whether, at the time of Closing, it is payable in a lump sum or future installments; (iii) a "pending" special assessment is defined as an assessment that is under formal consideration by a governmental agency or an owners' association but which has not been approved prior to Closing. Seller shall pay, in full at Closing, all confirmed governmental or association special assessments, provided that the amount thereof can be reasonably determined or estimated. The payment of such determined or estimated amount shall be the final payment between Buyer and Seller as to any confirmed special assessments. If the amount of any special assessment cannot be reasonably determined or estimated, the special assessment shall be deemed a pending special assessment. Buyer shall take title subject to all pending special assessments disclosed by Seller herein, if any.

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

(c) **Owners' Association:** If the Property is subject to regulation by an owners' association, Seller shall deliver the following information to Buyer pursuant to Section 4 as if the same were listed therein (or Seller shall state that Seller does not have same in their possession or that such item is not applicable): (i) the name of the owners' association; (ii) the amount of regular assessments (dues); (iii) the name, address and telephone number of the president of the owners' association or of the association manager or management company; (iv) the owners' association website address; (v) the Seller's statement of account; (vi) the master insurance policy showing the coverage provided and the deductible amount; (vii) copies of any Declaration and/or Restrictive Covenants; (viii) the Rules and Regulations, (ix) the Articles of Incorporation and Bylaws of the owners' association; (x) the current financial statement and budget of the owners' association; (xi) the parking restrictions and information; and (xii) the architectural guidelines. Seller authorizes and directs any owners' association, any management company of the owners' association, any insurance company and any attorney who has previously represented the Seller to release to Buyer, Buyer's agents, representative, closing attorney or lender true and accurate copies of the foregoing items affecting the Property, including any amendments thereto.

**Section 16. Survival of Representations and Warranties:** All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

**Section 17. Applicable Law:** This Agreement shall be construed under the laws of the state in which the Property is located. This

Buyer Initials \_\_\_\_\_ Seller Initials   M     M



form has only been approved for use in North Carolina.

**Section 18. Assignment:** This Agreement is freely assignable unless otherwise expressly provided on **Exhibit B**.

**Section 19. Tax-Deferred Exchange:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

**Section 20. Memorandum of Contract:** Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

**Section 21. Authority:** Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

**Section 22. Brokers:** Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

**Section 23. Attorneys Fees:** If legal proceedings are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorneys fees and court costs incurred in connection with the proceeding.

**EIFS/SYNTHETIC STUCCO:** If the adjacent box is checked, Seller discloses that the Property has been clad previously (either in whole or in part) with an "exterior insulating and finishing system" commonly known as "EIFS" or "synthetic stucco". Seller makes no representations or warranties regarding such system and Buyer is advised to make its own independent determinations with respect to conditions related to or occasioned by the existence of such materials at the Property.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

**BUYER:**

**SELLER:**

**The TOWN OF VALDESE**

**WHM PROPERTIES, LLC**

\_\_\_\_\_  
(Name of Entity)

\_\_\_\_\_  
(Name of Entity)

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

By: \_\_\_\_\_ *Marc Mitchell*

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

Name: \_\_\_\_\_ *Marc Mitchell*

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

Title: \_\_\_\_\_ *Member / Manager*

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

Date: \_\_\_\_\_ *7/17/24*

### WIRE FRAUD WARNING

**To Buyers:** Before sending any wire, you should call the closing agent's office to verify the instructions. If you receive wiring instructions for a different bank, branch location, account name or account number, they should be presumed fraudulent. Do not send any funds and contact the closing agent's office immediately.

**To Sellers:** If your proceeds will be wired, it is recommended that you provide wiring instructions at closing in writing in the presence of the closing agent. If you are unable to attend closing, you may be required to send an original notarized directive to the closing agent's office containing the wiring instructions. This directive may be sent with the deed, lien waiver and tax forms if those documents are being prepared for you by the closing agent. At a minimum, you should call the closing agent's office to provide the wire instructions. The wire instructions should be verified over the telephone via a call to you initiated by the closing agent's office to ensure that they are not from a fraudulent source.

Whether you are a buyer or a seller, you should call the closing agent's office at a number that is independently obtained. To ensure that your contact is legitimate, you should not rely on a phone number in an email from the closing agent's office, your real estate agent or anyone else.

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**The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.**

---

(Name of Escrow Agent)

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

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

Escrow Agent's contact/notice information is as follows:

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

e-mail address: \_\_\_\_\_ fax number: \_\_\_\_\_

except as same may be changed pursuant to Section 12.



**EXHIBIT A****PROPERTY****Legal Description**

BEING all that certain lot or parcel of land situated in the Town of Valdese, Lovelady Township, Burke County, North Carolina and more particularly described as follows:

BEGINNING on an iron pipe located on the south edge of 6-foot concrete sidewalk, BB&T northwest corner (formerly Crow property) and runs thence with the south edge of concrete walk North 70° 00' West 31.10 feet to an iron pipe; thence the same course North 70° 00' West 3.90 feet to a point in brick wall intersecting said walkway; thence continuing with the south edge of the walkway North 70° 00' West 20.00 feet to an iron pipe; thence North 70° 00' West 15.00 feet to an iron pipe located in the south edge of said concrete walk; thence continuing with the south edge of the concrete walk North 70° 00' West 18.00 feet to an iron pipe, corner of Village Properties tract; thence with the east line of Village Properties South 14° 39' 28" West 137.02 feet to an iron pipe located in the north right of way of a 20-foot alley known as Janeval A venue SE; thence with the north right of way of said 20-foot alley South 73° 14' 00" East 18.00 feet to a nail southwest corner of 15.00-foot tract; thence South 73° 14' 00" East 15.00 feet to an iron pipe, southwest corner of 20-foot tract; thence South 73° 14' 00" East 20.00 feet to an iron pipe southwest corner of original Mitchell and Martinat tract; thence South 73° 14' 00" East 35.00 feet to an iron pipe BB&T corner (formerly Crowe property); thence with the BB&T west line North 14° 31' East 132.07 feet to the point of BEGINNING, the same being all of that property described in Deed Book 743, page 958; Deed Book 540, page 663; Deed Book 683, page 80; Deed Book 847, page 1563 and Deed Book 865, page 683, Burke County Registry.

BACK REFERENCE: Book 1892, Page 851, Burke County Registry.

SUBJECT TO a joint driveway agreement dated August 29, 1995, and recorded in Book 847, Page 1567, Burke County Registry.

**EXHIBIT A-1**

**PERSONAL PROPERTY**

All personal property not removed from the Property before Closing, including, but not limited to any furniture, books, and equipment.

**EXHIBIT B**

**NA**

**EXHIBIT C**

**LEASES**

Oral lease between WHM Properties, LLC and attorney Marc Mitchell of Mitchell, Blackwell & Mitchell, P.A., which shall automatically terminate effective as of the Closing Date.





ADDITIONAL PROVISIONS ADDENDUM

Seller: WHM PROPERTIES, LLC, a North Carolina limited liability company

Buyer: TOWN OF VALDESE, a North Carolina municipal corporation

Property: 215 East Main Street, Valdese, NC 28690; 2743041998 / REID 30953

NOTE: This Additional Provisions Addendum is attached to and a part of the (check one box below)

- Agreement for Purchase and Sale of Improved Real Property (Form 580-T), or
Agreement for Purchase and Sale of Land (Form 580L-T)

between the parties referenced above ("Agreement"). All of the following provisions which are marked with an "X" shall apply to the Agreement. Those provisions marked "N/A" or not marked shall not apply.

- 1. ADDITIONAL EARNEST MONEY: Not later than the expiration of the Examination Period...
2. PURCHASE PRICE: shall mean the sum of \$ per gross acre ("Price Per Acre")...
3. ACREAGE VARIANCE: The assumed area of the Property is acres ("Stated Acreage")...
4. CONFIDENTIALITY: Buyer and Seller agree that a material consideration of this Agreement...
5. SEPTIC SYSTEM EVALUATION: Buyer has been advised that the Property does not presently have a connection to a public sewer system...
Buyer hereby waives the right to have a soils evaluation completed and releases Seller from any claims which may arise directly or indirectly related to the condition of the soil at the Property.



This form jointly approved by:
North Carolina Bar Association's Real Property Section
North Carolina Association of REALTORS, Inc.

STANDARD FORM 581-T
Revised 7/2020
© 7/2023
293349

Buyer Initials Seller Initials

- Buyer elects to have a licensed soils scientist evaluate the suitability of the soils at the Property for a future septic system, but Buyer does not intend to obtain an improvement permit or written evaluation from the County Health Department ("County") prior to Closing.
- As a part of the Buyer's due diligence, Buyer intends to obtain an improvement permit or written evaluation from the County for a (check only ONE)  conventional or  other \_\_\_\_\_ ground absorption sewage system. All costs and expenses of obtaining such permit or written evaluation shall be borne by Buyer unless otherwise agreed. Buyer, its agents or representatives shall have the right to enter upon the Property to undertake tests and inspections related to obtaining such permit or written evaluation. Seller agrees to reasonably cooperate with Buyer in connection with such tests, inspections and any applications for a permit hereunder.

6. \_\_\_\_\_ **INTENDED USE:** shall mean the use of the Property for the following purpose: \_\_\_\_\_ (state with specificity any intended use). Seller represents that to its actual knowledge, without independent investigation, there are not any changes contemplated in any applicable laws, ordinances or restrictions affecting the Property or private use restrictions or governmental regulations that would prohibit the Intended Use at the Property.

7. \_\_\_\_\_ **INTERDEPENDENT BUSINESS ASSET PURCHASE AGREEMENT:** Buyer's obligations under this Agreement are expressly conditional upon Buyer simultaneously acquiring the assets of \_\_\_\_\_ (state name of seller under asset purchase agreement- "Asset Seller") pursuant to the terms and conditions of that Asset Purchase Agreement between Buyer (or an affiliate of Buyer) and Asset Seller dated \_\_\_\_\_, 202\_\_ ("Asset Purchase Agreement"). It is expressly agreed that all of Buyer's duties and obligations under this Agreement are expressly conditional upon Asset Seller performing all of its duties and obligations under the Asset Purchase Agreement, and it is expressly agreed that a breach by Asset Seller under the Asset Purchase Agreement shall constitute a breach of this Agreement by Seller, and shall excuse Buyer's performance under this Agreement and entitle Buyer to all remedies against Seller for a breach of this Agreement unless and until such breach is waived by Buyer in writing or promptly cured to Buyer's satisfaction.

8.  X  **SHARED DRIVEWAY AGREEMENT:** W. Harold Mitchell and wife, Patsy M. Mitchell and Village Properties, LLP executed a Joint Driveway Agreement dated August 29, 1995, recorded in Book 847, Page 1567, Burke County Registry. Both Seller and Buyer acknowledge the centerline of the twenty-four (24) foot driveway will need to be surveyed prior to Closing to verify its location. Upon receipt of said survey, Seller agrees negotiate in good faith with Village Properties, LLC and take all steps necessary to amend and update the Joint Driveway Agreement to reflect the actual location of the twenty-four (24) foot driveway prior to Closing.

IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, THIS ADDENDUM SHALL CONTROL.

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Buyer Initials \_\_\_\_\_ Seller Initials  M M



BUYER: <sup>231 of 280</sup>

SELLER:

The TOWN OF VALDESE

WHM PROPERTIES, LLC

\_\_\_\_\_  
(Name of Entity)

\_\_\_\_\_  
(Name of Entity)

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

By: \_\_\_\_\_ *[Signature]*

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

Name: \_\_\_\_\_ *Marc Mitchell*

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

Title: \_\_\_\_\_ *member/manager*

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

Date: \_\_\_\_\_ *7/17/24*



# AIA® Document B101® – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the fourteenth day of July in the year two-thousand twenty-four  
(*In words, indicate day, month and year.*) ( 14 July 2024)

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

TOWN OF VALDESE  
102 Massel Ave SW  
PO Box 339  
Valdese, NC 28690

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

TALLEY & SMITH ARCHITECTURE, INC  
409 E Marion St  
(PO Box 518, 28151)  
Shelby, NC 28150

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

RENOVATE BUILDING FOR POLICE DEPARTMENT  
215 Main St E, Valdese, NC 28690

### General Scope of Renovations:

- existing building, 2-story, approximately 7,520 total sf
- new finishes, electrical and HVAC systems
- update building to match current NC Building Codes and HC Accessibility Codes
- modify floor plan as necessary for police department use
- create a new front façade that removes deteriorated materials and that indicates that this is the Valdese Police Department
- add a sully port to the rear of the building
- other miscellaneous improvements as needed or as directed by Owner

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
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7	COPYRIGHTS AND LICENSES
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11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

Building Program to be developed in meeting(s) with Police Chief and other Town Staff or Representatives.

§ 1.1.2 The Project's physical characteristics:

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

Renovate existing two-story, 7,520sf office building to be the new location for the Valdese Police Department. The building address is 215 Main St E, Valdese, NC 28960. It is the former office of Mitchell, Blackwell & Mitchell, P.A. Attorneys. Burke County GIS lists it as parcel PIN #2743041998, 0.29 acres. The owner, prior to being purchased by the Town, is legally listed as WHM Properties LLC.

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

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

To be determined.

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

.1 Design phase milestone dates, if any:

To be determined.

.2 Construction commencement date:

To be determined.

.3 Substantial Completion date or dates:

To be determined.

.4 Other milestone dates:

N/A

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

Traditional Design-Bid-Build.

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

N/A

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

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

Bryan Steen, Interim Town Manager  
828-879-2116  
bsteen@valdesenc.gov  
or other representative as designated by the Town Council

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

To be determined by the Town of Valdese

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

.1 Geotechnical Engineer:

N/A

**.2 Civil Engineer:**

N/A

**.3 Other, if any:**

*(List any other consultants and contractors retained by the Owner.)*

N/A

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

Robert L. Smith III, Project Architect & Project Manager for Design & Construction Phase  
Steve C. Fender, Construction Phase Administration

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

**§ 1.1.11.1 Consultants retained under Basic Services:**

**.1 Structural Engineer:**

To be determined

**.2 Mechanical Engineer:**

To be determined

**.3 Electrical Engineer:**

To be determined

**.4 Civil Engineer:**

West Consultants, PLLC  
 405 S Sterling St  
 Morganton, NC 28655  
 828-433-5662

**§ 1.1.11.2** Consultants retained under Supplemental Services:

N/A

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

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

**§ 1.3** The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

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

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

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

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

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

**§ 2.5.1** Commercial General Liability with policy limits of not less than one million (\$ 1,000,000 ) for each occurrence and two million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

**§ 2.5.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.



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

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than five hundred thousand (\$ 500,000 ) each accident, five hundred thousand (\$ 500,000 ) each employee, and five hundred thousand (\$ 500,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than five hundred thousand (\$ 500,000 ) per claim and one million (\$ 1,000,000 ) in the aggregate.

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

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

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

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

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

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

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

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

### § 3.2 Schematic Design Phase Services

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

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

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

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

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

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

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

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

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

### § 3.3 Design Development Phase Services

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

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

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

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the

Init.

further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

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

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

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

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 General**

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

#### **§ 3.5.2 Competitive Bidding**

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

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

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

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

#### **§ 3.5.3 Negotiated Proposals**

**§ 3.5.3.1** Not Applicable.

*(Paragraphs deleted)*

### **§ 3.6 Construction Phase Services**

#### **§ 3.6.1 General**

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

**§ 3.6.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or

procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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

**§ 3.6.2 Evaluations of the Work**

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

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

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

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

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

**§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from

Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

**§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. In no event shall Architect have less than ten (10) business days to review and respond to submittals, including but not limited to shop drawings, product data, samples, change orders and requests for payment. For submittals that require review by a consultant, the time period shall be not less than fifteen (15) business days.

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

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

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

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

**§ 3.6.5 Changes in the Work**

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

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

**§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;

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

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

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

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

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

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

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

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	A & O
§ 4.1.1.2 Multiple preliminary designs	NP
§ 4.1.1.3 Measured drawings	A
§ 4.1.1.4 Existing facilities surveys	A if a specific issue is discovered (general inspection included in Basic Services)
§ 4.1.1.5 Site evaluation and planning	NP
§ 4.1.1.6 Building Information Model management responsibilities	NP
§ 4.1.1.7 Development of Building Information Models for post construction use	NP
§ 4.1.1.8 Civil engineering	(included in Basic Services)
§ 4.1.1.9 Landscape design	NP
§ 4.1.1.10 Architectural interior design	A if furnishings are added (building product selections included in Basic Services)
§ 4.1.1.11 Value analysis	NP
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	NP

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.13 On-site project representation	NP
§ 4.1.1.14 Conformed documents for construction	NP
§ 4.1.1.15 As-designed record drawings	NP
§ 4.1.1.16 As-constructed record drawings	NP
§ 4.1.1.17 Post-occupancy evaluation	NP
§ 4.1.1.18 Facility support services	NP
§ 4.1.1.19 Tenant-related services	NP
§ 4.1.1.20 Architect's coordination of the Owner's consultants	NP
§ 4.1.1.21 Telecommunications/data design	NP
§ 4.1.1.22 Security evaluation and planning	O
§ 4.1.1.23 Commissioning	NP
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	NP
§ 4.1.1.25 Fast-track design services	NP
§ 4.1.1.26 Multiple bid packages	NP
§ 4.1.1.27 Historic preservation	NP
§ 4.1.1.28 Furniture, furnishings, and equipment design	NP
§ 4.1.1.29 Other services provided by specialty Consultants	NP
§ 4.1.1.30 Other Supplemental Services	NP

#### § 4.1.2 Description of Supplemental Services

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

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

1. Included in Basic Services, Architect will perform a general survey of the existing building. If significant or critical issues are discovered, a more thorough, specialized inspection will be a supplemental/additional service.
2. Included in Basic Services, Architect will perform limited interior design for the colors, products and selection of building products and finishes. Owner shall assist with preferences and approval of selections as applicable. If interior design services for furnishings, artwork or other selections is requested, it shall be a supplemental/additional service.
3. The Owner and Police Department staff shall provide Security Evaluation and Planning services and will coordinate with the Architect on items that impact the building design, products, materials or other selections. If Owner requests that the Architect provide security systems design or consulting, such services will be a supplemental/additional service.

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

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

See List in Section 4.1.2.1.

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

**§ 4.2 Architect's Additional Services**

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

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

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

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

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

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

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor



- .2 Three ( 3 ) visits to the site each month by the Architect during construction phase when active construction is occurring
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

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

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

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

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

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

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

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

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

the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

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

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

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

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

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

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

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

## ARTICLE 6 COST OF THE WORK

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

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

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

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

Init.

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

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

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

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

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

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

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

### § 8.2 Mediation

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

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

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

**§ 8.3 Arbitration**

**§ 8.3.1 Article deleted.**

*(Paragraphs deleted)*

**ARTICLE 9 TERMINATION OR SUSPENSION**

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

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

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

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

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

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

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

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

**.1 Termination Fee:**

Owner shall pay Architect for services completed as of the date of termination.

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

Owner shall pay Architect for services completed as of the date of termination plus 20% times the fee amount remaining. Architect will provide Owner with a liability release form that must be approved and signed by the Owner if the Owner intends to continue using the Architect's Instruments of Service.

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

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

Init.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

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

## ARTICLE 11 COMPENSATION

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

**.1 Stipulated Sum**  
*(Insert amount)*

One Hundred fifty-four thousand, seven hundred fifty-five

\$174,755

**.2 Percentage Basis**  
*(Insert percentage value)*

N/A ( N/A ) % of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 11.6.

**.3 Other**  
*(Describe the method of compensation)*

N/A

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

Hourly rates and reimbursable expenses or, if the scope of work is clearly defined, the Owner and Architect may agree to a stipulated sum. For reimbursable expenses see Section 11.8.

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

Hourly rates and reimbursable expenses or, if the scope of work is clearly defined, the Owner and Architect may agree to a stipulated sum. For reimbursable expenses see Section 11.8.

**§ 11.4** Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twenty percent ( 20 %), or as follows:  
*(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)*

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

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	forty	percent (	40	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	twenty	percent (	20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent

budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

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

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

<b>Employee or Category</b>	<b>Rate (\$0.00)</b>
Principal/Project Architect/Engineer	\$200/hr
Project Manager/Designer	\$175/hr
Construction Administrator	\$150/hr
Staff Architect/Engineer	\$135/hr
Engineer/Architect In Training	\$125/hr
AutoCAD Drafter	\$100/hr
Administrative/Clerical	\$85/hr

**§ 11.8 Compensation for Reimbursable Expenses**

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents; (printing of signed and sealed drawings and final project manual specifications shall be a reimbursable expense; progress and review drawings are included in Basic Services)
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; (a rendering and digital file of the front facade is included in Basic Services)
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

Compensation for Reimbursable Expenses is limited to \$4,000.

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent ( 20 %) of the expenses incurred.

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



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

## § 11.10 Payments to the Architect

### § 11.10.1 Initial Payments

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

### § 11.10.1.2 .

### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

one % ( 1% ) applied monthly

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

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

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 Building Information Modeling Exhibit, if completed:

N/A

- .3 Exhibits:

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

[ N/A ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:

*(Insert the date of the E204-2017 incorporated into this agreement.)*

[ N/A ] Other Exhibits incorporated into this Agreement:

*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

- .4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

Included are the following Town of Valdese Contract Provisions:

Notwithstanding any other term or provision in the agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign or governmental immunity or other State or federal constitutional or statutory provision or principle that otherwise would be available to the Client under applicable law.

Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with North Carolina Session Law 2013-418's E-Verify requirements to contract with local governments. E-Verify is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. A completed E-Verify affidavit is required to enter into any contract with the Owner and shall be included as a condition to the Owner's execution of this agreement.

The Architect certifies that, as of the acceptance date of this contract, it is not on the "Final Divestment List" (FDL) or the "Iran Parent and Subsidiary Guidance" (P&S) created by the State Treasurer pursuant to N.C.G.S. § 147-86.58. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. §147-86.59, the Architect shall not utilize in the performance of the contract any subcontractor that is identified on the FDL or the P&S. These lists can be found at: <https://www.nctreasurer.com/about/transparency/commitment-transparency/divestment-and-do-not-contractrules#IranDivestmentandDo-Not-ContractResources-546>.

If at any time the Architect is added to the FDL or the P&S, while under contract with the Owner, the Owner shall have the option to terminate the contract immediately.

During the performance of the Contract, the Architect agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation or affection, national origin, ancestry, or physical or mental impairment.

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

\_\_\_\_\_  
OWNER *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
ARCHITECT *(Signature)*

Robert L. Smith III, NC #8102 Firm President  
*(Printed name, title, and license number, if required)*

## **Additions and Deletions Report for**

**AIA® Document B101® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:13:16 ET on 07/24/2024.

### **PAGE 1**

**AGREEMENT** made as of the fourteenth day of July in the year two-thousand twenty-four  
(In words, indicate day, month and year.) ( 14 July 2024)

...

TOWN OF VALDESE  
102 Massel Ave SW  
PO Box 339  
Valdese, NC 28690

...

TALLEY & SMITH ARCHITECTURE, INC  
409 E Marion St  
(PO Box 518, 28151)  
Shelby, NC 28150

...

RENOVATE BUILDING FOR POLICE DEPARTMENT  
215 Main St E, Valdese, NC 28690

#### General Scope of Renovations:

- existing building, 2-story, approximately 7,520 total sf
- new finishes, electrical and HVAC systems
- update building to match current NC Building Codes and HC Accessibility Codes
- modify floor plan as necessary for police department use
- create a new front façade that removes deteriorated materials and that indicates that this is the Valdese Police Department
- add a sully port to the rear of the building
- other miscellaneous improvements as needed or as directed by Owner

### **PAGE 2**

Building Program to be developed in meeting(s) with Police Chief and other Town Staff or Representatives.

...

Renovate existing two-story, 7,520sf office building to be the new location for the Valdese Police Department. The building address is 215 Main St E, Valdese, NC 28960. It is the former office of Mitchell, Blackwell & Mitchell, P.A. Attorneys. Burke County GIS lists it as parcel PIN #2743041998, 0.29 acres. The owner, prior to being purchased by the Town, is legally listed as WHM Properties LLC.

...

To be determined.

**PAGE 3**

To be determined.

...

To be determined.

...

To be determined.

...

N/A

...

Traditional Design-Bid-Build.

...

N/A

...

Bryan Steen, Interim Town Manager

828-879-2116

bsteen@valdesenc.gov

or other representative as designated by the Town Council

...

To be determined by the Town of Valdese

...

N/A

**PAGE 4**

N/A

...

N/A

...

Robert L. Smith III, Project Architect & Project Manager for Design & Construction Phase

Steve C. Fender, Construction Phase Administration

...

To be determined

...

To be determined

...

.3 Electrical Engineer:

To be determined

...

.4 Civil Engineer:

West Consultants, PLLC  
405 S Sterling St  
Morganton, NC 28655  
828-433-5662

PAGE 5

N/A

...

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000 ) for each occurrence and two million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

PAGE 6

§ 2.5.5 Employers' Liability with policy limits not less than five hundred thousand (\$ 500,000 ) each accident, five hundred thousand (\$ 500,000 ) each employee, and five hundred thousand (\$ 500,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than five hundred thousand (\$ 500,000 ) per claim and one million (\$ 1,000,000 ) in the aggregate.

PAGE 8

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents. Not Applicable.~~

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

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

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

**PAGE 10**

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. In no event shall Architect have less than ten (10) business days to review and respond to submittals, including but not limited to shop drawings, product data, samples, change orders and requests for payment. For submittals that require review by a consultant, the time period shall be not less than fifteen (15) business days.

**PAGE 11**

§ 4.1.1.1	Programming	<u>A &amp; O</u>
§ 4.1.1.2	Multiple preliminary designs	<u>NP</u>
§ 4.1.1.3	Measured drawings	<u>A</u>
§ 4.1.1.4	Existing facilities surveys	<u>A if a specific issue is discovered (general inspection included in Basic Services)</u>
§ 4.1.1.5	Site evaluation and planning	<u>NP</u>
§ 4.1.1.6	Building Information Model management responsibilities	<u>NP</u>
§ 4.1.1.7	Development of Building Information Models for post construction use	<u>NP</u>
§ 4.1.1.8	Civil engineering	<u>(included in Basic Services)</u>
§ 4.1.1.9	Landscape design	<u>NP</u>
§ 4.1.1.10	Architectural interior design	<u>A if furnishings are added (building product selections included in Basic Services)</u>
§ 4.1.1.11	Value analysis	<u>NP</u>
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	<u>NP</u>
§ 4.1.1.13	On-site project representation	<u>NP</u>
§ 4.1.1.14	Conformed documents for construction	<u>NP</u>
§ 4.1.1.15	As-designed record drawings	<u>NP</u>
§ 4.1.1.16	As-constructed record drawings	<u>NP</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>NP</u>
§ 4.1.1.18	Facility support services	<u>NP</u>
§ 4.1.1.19	Tenant-related services	<u>NP</u>
§ 4.1.1.20	Architect's coordination of the Owner's consultants	<u>NP</u>
§ 4.1.1.21	Telecommunications/data design	<u>NP</u>
§ 4.1.1.22	Security evaluation and planning	<u>O</u>
§ 4.1.1.23	Commissioning	<u>NP</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>NP</u>
§ 4.1.1.25	Fast-track design services	<u>NP</u>
§ 4.1.1.26	Multiple bid packages	<u>NP</u>
§ 4.1.1.27	Historic preservation	<u>NP</u>
§ 4.1.1.28	Furniture, furnishings, and equipment design	<u>NP</u>

§ 4.1.1.29 Other services provided by specialty Consultants	<u>NP</u>
§ 4.1.1.30 Other Supplemental Services	<u>NP</u>

## PAGE 12

1. Included in Basic Services, Architect will perform a general survey of the existing building. If significant or critical issues are discovered, a more thorough, specialized inspection will be a supplemental/additional service.
2. Included in Basic Services, Architect will perform limited interior design for the colors, products and selection of building products and finishes. Owner shall assist with preferences and approval of selections as applicable. If interior design services for furnishings, artwork or other selections is requested, it shall be a supplemental/additional service.
3. The Owner and Police Department staff shall provide Security Evaluation and Planning services and will coordinate with the Architect on items that impact the building design, products, materials or other selections. If Owner requests that the Architect provide security systems design or consulting, such services will be a supplemental/additional service.

...

See List in Section 4.1.2.1.

## PAGE 13

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Three ( 3 ) visits to the site each month by the Architect during construction phase when active construction is occurring
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

## PAGE 14

§ 4.2.5 If the services covered by this Agreement have not been completed within eighteen ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## PAGE 15

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

## PAGE 16

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

## PAGE 17

Litigation in a court of competent jurisdiction

## PAGE 18

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

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

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

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

~~§ 8.3.4 Consolidation or Joinder~~

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

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

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

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

...

Owner shall pay Architect for services completed as of the date of termination.

...

Owner shall pay Architect for services completed as of the date of termination plus 20% times the fee amount remaining. Architect will provide Owner with a liability release form that must be approved and signed by the Owner if the Owner intends to continue using the Architect's Instruments of Service.

PAGE 20

One Hundred fifty-four thousand, seven hundred fifty-five

\$174,755



...

N/A ( N/A ) % of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 11.6.

...

N/A

...

Hourly rates and reimbursable expenses or, if the scope of work is clearly defined, the Owner and Architect may agree to a stipulated sum. For reimbursable expenses see Section 11.8.

...

Hourly rates and reimbursable expenses or, if the scope of work is clearly defined, the Owner and Architect may agree to a stipulated sum. For reimbursable expenses see Section 11.8.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twenty percent ( 20 %), or as follows:

...

Schematic Design Phase	<u>fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>forty</u>	percent (	<u>40</u>	%)
Procurement Phase	<u>five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>twenty</u>	percent (	<u>20</u>	%)

PAGE 21

<u>Principal/Project Architect/Engineer</u>	<u>\$200/hr</u>
<u>Project Manager/Designer</u>	<u>\$175/hr</u>
<u>Construction Administrator</u>	<u>\$150/hr</u>
<u>Staff Architect/Engineer</u>	<u>\$135/hr</u>
<u>Engineer/Architect In Training</u>	<u>\$125/hr</u>
<u>AutoCAD Drafter</u>	<u>\$100/hr</u>
<u>Administrative/Clerical</u>	<u>\$85/hr</u>

...

.4 Printing, reproductions, plots, and standard form documents; (printing of signed and sealed drawings and final project manual specifications shall be a reimbursable expense; progress and review drawings are included in Basic Services)

...

.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; (a rendering and digital file of the front facade is included in Basic Services)

...

.12 Other similar Project-related expenditures.

Compensation for Reimbursable Expenses is limited to \$4,000.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent ( 20 %) of the expenses incurred.

PAGE 22

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

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

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

one % ( 1 % ) applied monthly

...

N/A

...

[ N/A ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:

...

[ N/A ] Other Exhibits incorporated into this Agreement:

PAGE 23

*(List other documents, if any, forming part of the Agreement.)*

Included are the following Town of Valdese Contract Provisions:

Notwithstanding any other term or provision in the agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign or governmental immunity or other State or federal constitutional or statutory provision or principle that otherwise would be available to the Client under applicable law.

Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with North Carolina Session Law 2013-418's E-Verify requirements to contract with local governments. E-Verify is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. A completed E-Verify affidavit is required to enter into any contract with the Owner and shall be included as a condition to the Owner's execution of this agreement.

The Architect certifies that, as of the acceptance date of this contract, it is not on the "Final Divestment List" (FDL) or the "Iran Parent and Subsidiary Guidance" (P&S) created by the State Treasurer pursuant to N.C.G.S. § 147-86.58. In compliance with the requirements of the Iran Divestment Act and

N.C.G.S. §147-86.59, the Architect shall not utilize in the performance of the contract any subcontractor that is identified on the FDL or the P&S. These lists can be found at: <https://www.nctreasurer.com/about/transparency/commitment-transparency/divestment-and-do-not-contractrules#IranDivestmentandDo-Not-ContractResources-546>.

If at any time the Architect is added to the FDL or the P&S, while under contract with the Owner, the Owner shall have the option to terminate the contract immediately.

During the performance of the Contract, the Architect agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation or affectation, national origin, ancestry, or physical or mental impairment.

...

---

Robert L. Smith III, NC #8102 Firm President

## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, Robert L. Smith III, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:13:16 ET on 07/24/2024 under Order No. 2114549837 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*



# TALLEY & SMITH ARCHITECTURE, INC.

---

P.O. BOX 518 (28151) 409 E. MARION ST. (28150) SHELBY, NC 704-487-7082 FAX 704-482-5596 TALLEYSMITHARCH.COM

July 29, 2024

Mr. Bryan Steen, Interim Town Manager  
Town of Valdese  
102 Massel Ave SW  
Valdese, NC 28690

email: [bsteen@valdesenc.gov](mailto:bsteen@valdesenc.gov)

Re: Revised Scope for Public Safety Facility Study  
Town of Valdese, NC

Dear Mr. Steen:

As the services for the Facility Study project have progressed, the scope of the options that were originally under consideration have evolved. Due to these changes, the Town has requested that we modify the original Agreement dated April 30, 2024 to better reflect the A/E services being provided.

For reference purposes, the study had three components that were listed as:

- Option 1: Total renovation of existing public safety facility.
- Option 2: Relocation of PD and FD to a new combination facility.
- Option 3: Separation of PD and FD facilities.

Study option 1 was to explore the condition of the existing Public Safety Facility and the possibility of renovating that building. The result of our initial investigation of the building structure and review of the related documentation led us to conclude that the structural issues were too significant to make renovation a viable, cost-effective option.

Study option 2 was the exploration of a new single building for both the Police Department and Fire Department. Instead of a new combined services facility, the Town is now pursuing relocating the Police Department into an existing building.

Study option 3 was to explore the possibility of relocating the Police Department and Fire Department to separate new or renovated facilities. This study option is the primary focus of the remaining A/E services to be provided.

Thus, the study services completed or underway are:

- Option 1: The investigation of the existing Public Safety Building has been completed. This is about half of the option 1 services.
- Option 2: This option is not being pursued.
- Option 3, Police Department: The study for moving the Police Department into an existing building is nearly complete. The remaining deliverables are a

Mr. Bryan Steen, Interim Town Manager  
July 29, 2024

2

schematic floor plan demonstrating that the existing building is an acceptable location for the Police Department and the preparation of a construction cost estimate for the building renovation. Further A/E services for the Police Department Project will be Phase II services as referenced in the original Agreement with the Town. A new Agreement for the Police Department Project A/E design and construction phase services has been submitted to the Town.

- Option 3, Fire Department: The services for this option are underway. The next step is to finalize the building program listing each building area and each area's ideal square footage. After that we will investigate the general size, configuration and location of a new building on the Massel Avenue site. The final deliverables for this phase will be a schematic site plan, showing the building footprint, parking and drives, and a construction cost estimate. Further A/E services for the Fire Department Project will be Phase II services as referenced in the original Agreement. These services can be established with a written amendment to the current Agreement or by issuing a new Agreement.

The Phase I study fee stated in the April 30, 2024 Agreement is: \$36,000

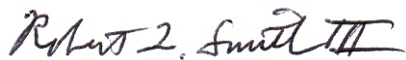
Due to the change in the scope of services as described herein, the Phase I study fee can be reduced.

Reduced Phase I study fee: \$23,400

If you have any questions, please contact me.

Sincerely,

TALLEY & SMITH ARCHITECTURE, INC.



Robert L. Smith, III, AIA, LEED AP

Capital Project Ordinance Amendment # 12-35

Subject: Public Safety Building

Description: This amendment to the project budget is for two transactions:  
 1. Purchase of existing building on Main St.  
 2. A&E contract with Talley & Smith for the Main St building  
 This does not affect General fund balance, it uses the savings already in the project budget fund #35.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the capital project ordinance for various capital projects funded from a variety of sources is hereby amended as follows.

Section I:

Revenues available to the Town to complete the projects are hereby amended as follows:

Account	Description	Decrease/ Debit	Increase/ Credit
35.3480.000	Town Contribution		9,983
35.3480.001	ABC Distributions		52,304
35.3480.004	Sale of Properties		52,500
35.3480.001	ABC Distributions		363,810
Total		\$0	\$478,597

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
35.5300.040	A&E		63,968
35.5100.040	PD A&E Services	174,755	
35.5100.050	PD A&E Reimbursable Allowance	4,000	
35.5100.150	PD Building Purchase	363,810	
Total		\$542,565	\$63,968

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

## DOT ESTIMATES - JULY 2, 2024

	miles	Ft. wide	At \$224,500/Mi
1 Anthony St	0.17	18	\$ 38,165
2 Bellview Ave Ne (Laurel to Walnut Ave)	0.16	14	\$ 35,920
3 Bellview to Clyde	0.22	18	\$ 49,390
4 Berry Ave	0.24	18	\$ 53,880
5 Bonous St Nw	0.25	18	\$ 56,125
6 Campbell Ave( bottom of hill top end)	0.18	26	\$ 40,410
7 Carter St Ne	0.19	18	\$ 42,655
8 Cline St Sw (Bertis St to Hoyle St )	0.15	36	\$ 33,675
9 Club Circle Ne	0.31	18	\$ 69,595
10 Dixie Ave Nw	0.4	20	\$ 89,800
11 Eagle Nest Lane Nw	0.12	20	\$ 26,940
12 Eldred St Ne (Main to Laurel St)	0.22	20	\$ 49,390
13 Flora Lane Ne ( Gravel Portion)	0.11	14	\$ 24,695
14 Forest Ave Ne	0.25	20	\$ 56,125
15 Forest Dr Ne	0.33	20	\$ 74,085
16 Griffin Ave Nw	0.19	20	\$ 42,655
17 <b>Harris</b> <b>NOTE-EXTRAPOLATED</b>	<b>0.35</b>	<b>18</b>	<b>\$ 78,575</b>
18 Hickory Ave Nw	0.1	18	\$ 22,450
19 Jaubert Ave Se	0.18	18	\$ 40,410
20 Katherine St Se (next to the creek)	0.21	20	\$ 47,145
21 Laurel St Ne to Gardiol Ave Ne	0.37	20	\$ 83,065
22 Louise ave Ne (Italy to end)	0.21	18	\$ 47,145
23 Morganton St Nw	0.36	18	\$ 80,820
24 Nellie St Nw	0.07	18	\$ 15,715
25 Pineburr Ave Sw ( Orchard St to Hoyle St	0.17	18	\$ 38,165
26 Pineburr Ave Sw (Carolina to Faet St)	0.36	20	\$ 80,820
27 Pineridge St SW	0.2	22	\$ 44,900
28 Tarheel Ave Ne	0.17	18	\$ 38,165
29 Tarvia Ave Ne	0.23	16	\$ 51,635
30 <b>Tron Ave</b> <b>NOTE-EXTRAPOLATED</b>	<b>0.67</b>	<b>18</b>	<b>\$ 150,415</b>
31 Vinay Ave Nw	0.14	18	\$ 31,430
32 White St Ne	0.08	18	\$ 17,960
<b>TOTALS - with average width</b>	<b>7.36</b>	18.75	<b>\$ 1,652,320</b>
<b>TOTALS - without Harris &amp; Tron</b>			<b>1,423,330</b>





# Waldensian Festival

CELEBRATING PEOPLE OF THE VALLEYS  
VALDESE, NC

## Why Do We Celebrate?

Since 1976, on the 2nd Saturday in August, Valdese has hosted an annual festival to celebrate the "Glorious Return" of the Waldenses from exile in Switzerland to their native valleys in the Cottian Alps of Italy in 1689. This celebration is mirrored around the world by other Waldensian communities.

The Waldenses founded the Town of Valdese in 1893, and each year on this special weekend, Valdese welcomes visitors and locals alike for a weekend full of special festivities. Join us for outstanding entertainment, food, tours, bocce & fun for everyone! We invite you to come dance in our streets!

## KICKOFF - AUGUST 9, 2024

- 5pm: Main Street Closes for Antique & Classic Car Cruise In
- 6pm: Beer & Wine Garden Opens - Sponsored by Burke Sunrise Rotary Club
- 6:45pm: Opening Announcements
- 7pm: Festival Headliner:



# Ace Party Band

## FESTIVAL DAY - AUGUST 10

- 8am: Waldensian Footrace - Valdese Rec
- 8am: LPDA Regional Bocce Tournament
- 9am: FREE Kids Zone Opens
- Bouncy Houses, Obstacle Courses, Waterslides
- 9am: Silver Sneakers/DanceTyme Dancers
- 9am: Information Booth Opens
- 9am: Food/Art/Craft Vendors on Main Street
- 9am: P&W Railroad Club Open House
- 9am: RSAF Open Art Competition
- 10am: Waldensian Heritage Museum Tours
- Chainsaw Art by Mountain Mike Whetstone
- 10:30am: Old Colony Singers
- 11am: Live Music By Lost Wages
- 1:30pm: Live Music By The Never B's
- 3pm: Live Music By: Fracxured
- 5pm: Festival Concludes
- 8pm: Outdoor Drama "From This Day Forward"



## PROUDLY SPONSORED BY:



VISITVALDESE.COM | 828-879-2129



McGalliard Falls Park  
McGalliard Creek Bridge

Cranford  
Amphitheatre  
Trail of Faith

CHURCH ST  
CHURCH ST

Road Closure	Vendor Parking	Chainsaw Art	Bouncy Houses & Waterslides
Main Stage Area	Train Museum	Food Vendors	Playground
Detour Route	Beer & Wine Sales	Bocce Tourney	Bocce for Kids
Restrooms	Waldensian Footrace	Water Activities	Library
Public Parking	Art Exhibit & Demo	Outdoor Drama	Free Play Activities
First Aid	Information	Attraction Tours	



Valdese Lakeside Park

LOVELADY ROAD

Old Rock School

BOOTHS 137-160

BOOTHS 99-136

BOOTHS 71-98

BOOTHS 41-70

BOOTHS 1-39

JANAVAL AVE

Waldensian  
Presbyterian  
Church

JANAVAL AVE

MAIN STREET (HWY 70)

WALDO ST

PRALEY ST

FAET ST

RODORET ST

ITALY ST

CAROLINA ST

LAUREL ST

LAUREL ST

ELDRED ST  
ELDRED ST

ST. GERMAIN AVE

ST. GERMAIN AVE

ARNAUD AVE

MASSEL AVE

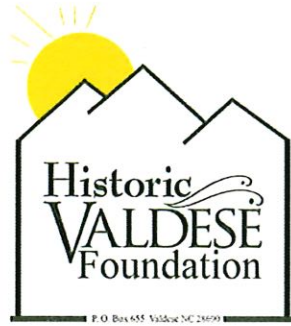
MASSEL AVE

Town Hall

REC Center

Splash Park

Festival Day - August 10th  
9am - 5pm



July 26, 2024

**Board of  
Directors**

Morrissa Angi  
President

Tammy Black  
VP/Treasurer

Marc Mitchell  
Secretary

Emma Draughn

Lu Griffin

Faith Kaplan

Butch Pascal

James Rostan

Town of Valdeese,

On behalf of the Historic Valdeese Foundation Board, we are pleased to enclose a check for the Old Rock School Auditorium Seating in the amount of \$92,202.14. This check represents one-hundred percent of funds raised as of the date of this letter. Expenses incurred for this campaign have been paid in their entirety in support of this project by Historic Valdeese Foundation.

The campaign will conclude on September 15, 2024 and any additional monies raised for this project will be sent at the conclusion.

We request that these funds be used only for auditorium seating at the Old Rock School to comply with all fundraising promotions.

Our organization is thrilled with the results of this campaign which has enabled us to further our mission of supporting the Valdeese community.

Sincerely,

A handwritten signature in black ink, appearing to read "Tammy M. Black".

Tammy M. Black

*Our Mission:* The Historic Valdeese Foundation is a non-profit organization that attempts to preserve and enhance the heritage and history of Valdeese, a western North Carolina town of about 5,000 people. Incorporated on February 25, 1976, the Foundation was formed with the intention of creating an umbrella organization that could fulfill the needs of the Old Colony Players, a local theatre group that produces the outdoor drama "From This Day Forward"; promote tourism for the drama and the historic points of interest in Valdeese; and improve the quality of living in Valdeese.



# Memo

**To:** Mayor & Valdese Town Council

**From:** Jessica Lail, Town Clerk/HR Director

**Date:** August 2, 2024

**Re:** Merchants Advisory Committee Appointments

---

Attached are the applications submitted for consideration to serve on the Merchants Advisory Committee. According to the Resolution approved by the Council on June 3, 2024, the initial committee will consist of seven members, with terms assigned as follows:

- Two members for a one-year term
- Two members for a two-year term
- Three members for a three-year term

The following individuals submitted their applications to the Town Clerk before August 2, 2024:

- Eddie Jolly – WSVM Radio
- Kevin Farris – Farris Insurance
- Sandra Walker – Dolls & Design by Sandi
- Danny Glenn – Twin Brother's Pizza
- Brian Thompson – 100 Main
- Otter Browning – Highlands Butchery
- Heather Ward – Town Council

Please review the attached applications for your consideration.

**TOWN OF VALDESE**

**Application for Appointment to Boards and Committees**



**Boards and Committees:**

1<sup>st</sup> Choice: [Valdese Merchants Advisory Committee](#)

2<sup>nd</sup> Choice:

**Information About Me:**

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_

Marital Status: \_\_\_\_\_ Name of Spouse: \_\_\_\_\_

Current Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

If Resident of Valdese, Ward \_\_\_\_: \_\_\_\_\_ How many years: \_\_\_\_\_

If owner or manager of Valdese property or business, please describe: \_\_\_\_\_

**Education and Employment:**

Highest Level of Education: \_\_\_\_\_

Employer: \_\_\_\_\_ Occupation \_\_\_\_\_

Business Address: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Other Organizations: \_\_\_\_\_

Return to: Town of Valdese – Town Hall  
 Attn: Clerk to the Board  
 P.O. Box 339  
 Valdese, NC 28690  
 Email: [jlail@valdesenc.gov](mailto:jlail@valdesenc.gov)

**Public Records Statement:**

*Agreement to the Public Records Statement and a Digital Signature are required to submit your application.*

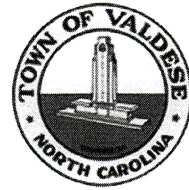
I understand that any information submitted becomes a public record, is NOT confidential, and is subject to North Carolina Public Records Law. This information will be used by the Town Council in making appointments to boards and committees, and it may be used as news release information to identify you to the community.

Upon appointment to serve as a board or committee representative, I understand that I must be impartial and responsible to the board or committee on which I serve. Any board or committee representative’s conduct deemed unacceptable by Town Council may result in the dismissal of the representative. I agree to this policy.

Signature: I certify that the facts contained in this application are true and correct to the best of my knowledge. I understand that nonattendance, without good cause, of meetings of the board or committee on which I serve may be grounds for dismissal by Town Council.

Edgar A. Jolly  
Signature

6-5-2024  
Date



**TOWN OF VALDESE**  
**Application for Appointment to Boards and Committees**

**Boards and Committees:**

1<sup>st</sup> Choice: Valdese Merchants

2<sup>nd</sup> Choice:

**Information About Me:**

Full Name: M. Kevin Farris

Age: 65

Marital Status: married

Name of Spouse: Tina

Current Address: 1161 Malcolm Blvd Rutherford College

Phone Number: 828 238 7193

Email: mkfarris@farrisins.com

If Resident of Valdese, Ward \_\_\_:

How many years:

If owner or manager of Valdese property or business, please describe:

Farris Insurance 225 Main St E Valdese

---

**Education and Employment:**

Highest Level of Education: college

Employer: Farris Insurance

Occupation owner

Business Address: 225 Main St E

Business Phone: 828 874 3250

Other Organizations: Burke Chamber

Return to: Town of Valdese – Town Hall  
 Attn: Clerk to the Board  
 P.O. Box 339  
 Valdese, NC 28690  
 Email: [jlail@valdesenc.gov](mailto:jlail@valdesenc.gov)

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Signature: I certify that the facts contained in this application are true and correct to the best of my knowledge. I understand that nonattendance, without good cause, of meetings of the board or committee on which I serve may be grounds for dismissal by Town Council.

Signature

Date





**TOWN OF VALDESE**  
**Application for Appointment to Boards and Committees**

**Boards and Committees:**

1<sup>st</sup> Choice: Merchants Advisory committee

2<sup>nd</sup> Choice:

**Information About Me:**

Full Name: Sandra Walker

Age: 70

Marital Status: married

Name of Spouse: Jerry

Current Address: 124 Main St. W. Valdese NC 28690

Phone Number: 828-893-0640

Email: sandicw@msn.com

If Resident of Valdese, Ward 5:

How many years: 20

If owner or manager of Valdese property or business, please describe:

Dolls & Designs by Sandi doll making/repair/supply shop

---

**Education and Employment:**

Highest Level of Education: 2 yrs. college

Employer: self

Occupation Doll Maker

Business Address: 122 Main St. W

Business Phone: 828-893-0640

Other Organizations: Board member Burke County Board of Elections

Return to: Town of Valdese – Town Hall  
Attn: Clerk to the Board  
P.O. Box 339  
Valdese, NC 28690  
Email: [jlail@valdesenc.gov](mailto:jlail@valdesenc.gov)

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Signature: I certify that the facts contained in this application are true and correct to the best of my knowledge. I understand that nonattendance, without good cause, of meetings of the board or committee on which I serve may be grounds for dismissal by Town Council.

Sandra Walker  
Signature

06-13-2024  
Date



TOWN OF VALDESE

Application for Appointment to Boards and Committees



Boards and Committees:

1st Choice: Merchants

2nd Choice:

Information About Me:

Full Name: Danny Glenn

Age: 56

Marital Status: Single

Name of Spouse:

Current Address: 116 Talmon St. Connelly Springs NC 28612

Phone Number: 828 781-0490

Email: dannyglenn55@gmail.com

If Resident of Valdese, Ward \_\_\_:

How many years:

If owner or manager of Valdese property or business, please describe:

Twin Brothers Pizza

Education and Employment:

Highest Level of Education: B.S. App St

Employer: Twin Brothers

Occupation owner

Business Address: 719 Main St E

Business Phone: 828 368-0767

Other Organizations:

Return to: Town of Valdese – Town Hall  
Attn: Clerk to the Board  
P.O. Box 339  
Valdese, NC 28690  
Email: [jjail@valdesenc.gov](mailto:jjail@valdesenc.gov)


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Agreement to the Public Records Statement and a Digital Signature are required to submit your application.

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Upon appointment to serve as a board or committee representative, I understand that I must be impartial and responsible to the board or committee on which I serve. Any board or committee representative's conduct deemed unacceptable by Town Council may result in the dismissal of the representative. I agree to this policy.

Signature: I certify that the facts contained in this application are true and correct to the best of my knowledge. I understand that nonattendance, without good cause, of meetings of the board or committee on which I serve may be grounds for dismissal by Town Council.

  
Signature

6-8-24  
Date



**TOWN OF VALDESE**

**Application for Appointment to Boards and Committees**



**Boards and Committees:**

1<sup>st</sup> Choice:

2<sup>nd</sup> Choice:

**Information About Me:**

Full Name:

Age:

Marital Status:

Name of Spouse:

Current Address:

Phone Number:

Email:

If Resident of Valdese, Ward \_\_\_\_:

How many years:

If owner or manager of Valdese property or business, please describe:

**Education and Employment:**

Highest Level of Education:

Employer:

Occupation

Business Address:

Business Phone:

Other Organizations:

Return to:                   Town of Valdese – Town Hall  
                                  Attn: Clerk to the Board  
                                  P.O. Box 339  
                                  Valdese, NC 28690  
                                  Email: [jlail@valdesenc.gov](mailto:jlail@valdesenc.gov)

**Public Records Statement:**

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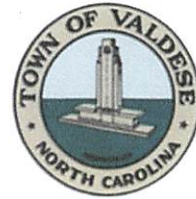
Signature: I certify that the facts contained in this application are true and correct to the best of my knowledge. I understand that nonattendance, without good cause, of meetings of the board or committee on which I serve may be grounds for dismissal by Town Council.

                                  Brian Thompson                                    
Signature

\_\_\_\_\_  
Date

**TOWN OF VALDESE**

**Application for Appointment to Boards and Committees**



**Boards and Committees:**

1<sup>st</sup> Choice: Merchants Advisory Committee

2<sup>nd</sup> Choice:

**Information About Me:**

Full Name: Lindsey "Otter" Browning

Age: 45

Marital Status: Single

Name of Spouse:

Current Address: 5827 NC 126 Neko, NC

Phone Number: 828-442-1062

Email: victorytrailfarms@gmail.com

If Resident of Valdese, Ward \_\_\_:

How many years:

If owner or manager of Valdese property or business, please describe:

Manager of Highlands Butchery & Restaurant

**Education and Employment:**

Highest Level of Education: High School

Employer: Highlands Butchery

Occupation General Manager

Business Address: 205 Rodoret St N  
Valdese, NC

Business Phone: 828-368-0385

Other Organizations:

Return to: Town of Valdese – Town Hall  
Attn: Clerk to the Board  
P.O. Box 339  
Valdese, NC 28690  
Email: [jlail@valdesenc.gov](mailto:jlail@valdesenc.gov)

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Signature

7-29-24  
Date