

# MACON COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

### **CATEGORY – REPORTS/PRESENTATIONS**

**MEETING DATE: MARCH 9, 2021**

9A. Department of Social Services (DSS) Director Patrick Betancourt and Senior Services Administrative Officer Jennifer Hollifield will present a request for the board to recognize April 18-24, 2021 as “Macon County Volunteer Week.” A copy of the resolution is included in the packet.

9B. Anne Hyder, the Chair of the Folk Heritage Association of Macon County, will present a request for the county’s financial support of the Women’s History Trail sculpture project entitled *Sowing the Seeds of the Future*. Please see the accompanying letter included in the packet, which asks that the board match the \$15,000 contribution made by the Town of Franklin. The board members may recall the PowerPoint presentation on this project from the November 2020 regular meeting.

9C. Todd Gibbs, the Personnel Director for Macon County Schools, will provide the board with an update regarding the situation with the thermal well system at Iotla Valley Elementary School.

# Macon County



## **Resolution in Recognition of Macon County Crawford Senior Center Volunteers**

WHEREAS, Macon County is a community rich in volunteers that dedicate their valuable time and resources to the John L. and Dorothy R. Crawford Senior Center, making significant and positive outcomes, great and small; and

WHEREAS, volunteers have donated 4,386 hours at the Crawford Senior Center during calendar year 2020; and

WHEREAS, the spirit of volunteerism provides even more evidence that Macon County's greatest resource is its people; and

WHEREAS, volunteering one's time has been a significant part of our County heritage; and it is critical that we continue such a tradition to preserve and improve the quality of life for our citizens of our community; and

WHEREAS, experience teaches us that government alone cannot meet all the needs of our county; and

WHEREAS, we continue to rely on the efforts of volunteers to enrich our community.

NOW, THEREFORE, be it resolved that the Macon County Board of County Commissioners do, hereby thank and honor the volunteers at the Crawford Senior Center by proclaiming April 18-24, 2021 as Macon County Volunteer Week.

Adopted this 9<sup>th</sup> day of March, 2021

BOARD OF COMMISSIONERS FOR MACON COUNTY, NORTH CAROLINA

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Chairman

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Attest



# FOLK HERITAGE ASSOCIATION OF MACON COUNTY

P.O. Box 1416 • Franklin, North Carolina 28744 • (828) 524-6564

**FHAMC:** [www.folkheritageassociation.org](http://www.folkheritageassociation.org)

**Franklin Folk Festival:** [www.franklinfolkfestival.com](http://www.franklinfolkfestival.com)

## 2020 OFFICERS

### CHAIRMAN

Anne Hyder

### VICE CHAIRMAN

Marty Greeble

### SECRETARY

Becky Barr

### TREASURER

Theresa Ramsey

### MEMBERS AT LARGE

Susan McCaskill

Mark West

### DIRECTOR EMERITUS

Betty Ann Bryant

### BOARD OF DIRECTORS

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Tina Bottomley

Charles Bryant

Gregg Clark

Jenny Collins

Matt Corbin

Claudette Dillard

Farrell Jamison

Kirk Mathis

Barbara McRae

Sherry Miller

Mary Polanski

Ron Schott

Claire Suminski

George Taylor

### Cowee School Arts & Heritage Center

Bob McCollum

### Macon Co Historical Museum Rep

Mac Bryant

### Scottish Tartans Museum

Jim Akins

*FHAMC is a 501(c)3  
Non-Profit Organization*

November 10, 2020

Macon County NC Board of Commissioners

Court House Annex

5 West Main Street

Franklin, NC 28734

Dear Commissioners,

The Folk Heritage Association of Macon County (FHAMC) requests the financial support of Macon County for the Women's History Trail sculpture project, *Sowing the Seeds of the Future*. The sculpture, which is being created by artist Wesley Wofford, depicts three women whose lives intertwined in the early years of Macon County.

The Town of Franklin has contributed \$15,000 toward the project. FHAMC respectfully requests that Macon County match that donation.

Sincerely,

The Leadership Team of the Women's History Trail and FHAMC Board Members:

Mary Polanski

Barbara McRae

Marty Greeble, FHAMC Vice-Chair

Anne Hyder, FHAMC Chair

Theresa Ramsey, FHAMC Treasurer

# MACON COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

### **CATEGORY – NEW BUSINESS**

**MEETING DATE: March 9, 2021**

11A. Stacy Guffey, the director of the Cowee School Arts and Heritage Center, or possibly Bob McCollum, will make a request regarding matching funds to help resurface the basketball court at the center. Mr. Guffey has said that either he or Mr. McCollum will provide a summary of the center's recreation needs and the match proposal and to be on hand for any questions.

11B. Sean Gibson, the Vice President and General Manger for 104.1 WNCC, is seeking an amendment to the sublease agreement with Sutton Broadcasting Corporation regarding use of space on the communications tower at the Cowee Bald Communications site and the use of the associated transmitter building. Copies of the resolution and agreement the board approved in July of 2015, as well as the proposed amendment to the agreement, are included in this packet. Mr. Gibson or a representative of Sutton Broadcasting can provide additional details at the meeting.

11C. Jack Morgan, the Director of Planning, Permitting and Development, will be at the meeting to (1) present information on a plan to install a well and an upgrade to the water feature at Wesley's Park along the Little Tennessee River Greenway and (2) present a recommendation regarding the award of a construction bid concerning the greenway connector project, and those bids are scheduled to be opened at 4 p.m. on Monday, March 8.

11D. There are two items from Solid Waste Director Chris Stahl, and both involve resolutions exempting engineering and geotechnical services with a cost of less than \$50,000 from the Request For Proposal (RFP) process. Mr. Stahl has provided details on each one, as follows, beginning with the Carson Center Project:

Attached, you will find a proposal from McGill Associates to perform various engineering tasks relating to the relocation of a new Convenience Center for the

Cartoogechaye/Carson Communities. This property was donated to the County by Mr. & Mrs. Phil Drake for this purpose on December 31, 2020. As the property was donated; the County did not perform the normal due diligence investigation related to construction and use of a Convenience Center at this site. As such, and at my request; McGill Associates has provided the attached proposed scope of work and cost estimate to perform this process on behalf of the County.

As referenced in the proposal, this due diligence investigation is to include:

- NCDOT – ingress and egress from the existing driveway.
- Investigation in to reuse of existing well and septic system at the Center.
- Investigate any historical preservation concerns.
- Assist with design issues related to above.

**I am requesting that the Board of Commissioners approve** this exemption and authorize the County Manager to execute the proposal from McGill Associates so that we can confirm desired usage and begin the construction process for a new Convenience Center.

Secondly, there is a proposal concerning the replacement and expansion of the Recycling Processing Center (RPC), as follows:

Attached, you will find a proposal from Bunnell Lammons to perform a geotechnical investigation relating to the replacement and expansion of the Recycling Processing Center (RPC). As you will remember, several support beams in this structure have been damaged, and the Board has previously authorized the funds to construct a replacement building that would give full-span clearance of the working area; eliminating the existing supports.

You may or may not also be aware that this building was constructed over an agricultural lagoon, which was filled with castings from a local mica plant. As the new structure will require new footings to carry the increased weight of the building, I feel that it is in the best interest of the Department to confirm the sub-soil conditions prior to design and construction of a new structure. Most notably, without this investigation, the costs of this project could be increased 50-100% or more to construct a suitable foundation under the building. I would also add that we are experiencing undercutting in the northeast corner of the current structure, and failure of the working floor in that same area.

**I am requesting that the Board of Commissioners approve** this exemption and authorize the County Manager to execute the proposal from Bunnell Lammons so that we may begin this project.

11E. Finance Director Lori Carpenter has requested that the board consider a lease agreement between the county and the Macon County Board of Education regarding Macon Middle School, as the county is required to hold fee simple title to the property as part of the financing for the planned

improvements to the school. A copy of the lease, which was approved by the school board on February 22<sup>nd</sup>, is included in the packet, and Lori Carpenter can provide additional details at the meeting.

11F. County Manager Derek Roland will present information on a grant agreement with Balsam West to expand broadband services in the county, and a copy of that document will be provided either via a separate email or at the meeting on Tuesday.

11G. Mr. Roland will also provide information on the two draft lease agreements with Southwestern Community College (SCC), one for the former National Guard Armory facility and the other for an adjoining tract of land upon which the new "burn building" will be constructed. Copies of both lease agreements will be included in the packet. A PDF of the survey of the properties will be attached to the email packet as a separate item.

11H. Mr. Roland will also provide information on the proposed Macon Transit Facility Expansion project. Included in the packet is a proposal from Ritter Architecture for services related to the project. Additionally, two drawings provided by Mr. Ritter will be attached to the email packet as separate items.

11I. Andy Russell, the District Engineer for the North Carolina Department of Transportation (NCDOT), has submitted a request for the abandonment of a portion of the old Dowdle Mountain Road (SR 1659) from the NCDOT Secondary Road System. Mr. Russell has submitted a packet of information that includes a cover letter outlining the request, a resolution for the board's consideration, and some site maps of the area in question, and it will be included in the packet and attached to the email packet as a separate item, so as to make the maps more readable.

11J. Per Chairman Tate, he would like to have discussion regarding a possible change in the board's agenda format that would call for closed sessions to be held at a different time. The board's current rules of procedure call for closed sessions to be held at the end of regular meetings after all other business has been conducted.

STATE OF NORTH CAROLINA  
COUNTY OF MACON

**RESOLUTION OF THE MACON COUNTY BOARD OF COUNTY COMMISSIONERS  
DECLARING PROPERTY TO BE SURPLUS AND APPROVING SUBLEASE OF THE  
SAME BY MACON COUNTY TO SUTTON BROADCASTING CORPORATION.**

THAT WHEREAS, Macon County leases certain real property being described in the Sublease Agreement to Sutton Broadcasting Corporation, a South Carolina Business Corporation, a copy of which is attached hereto; and

WHEREAS, Macon County does not presently have a use for the same and will not need the same for and during the term of the attached sublease; and

WHEREAS, Macon County desires to declare the same to be surplus for and during the term of the sublease and authorize the entry of the Sublease to Sutton Broadcasting Corporation, a South Carolina Business Corporation, a copy of which is attached hereto; and

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-272, Macon County is authorized to enter into the Sublease to Sutton Broadcasting Corporation, a South Carolina Business Corporation, a copy of which is attached hereto, upon the passing of a Resolution authorizing the same and duly advertising notice of its intent to enter the same at this Regular Meeting.

NOW THEREFORE, upon Motion of Commissioner Beale,  
seconded by Commissioner Tate, and duly approved, be it  
hereby resolved by the Macon County Board of County Commissioners as follows:

RESOLVED, that Macon County does hereby declare the real property described in the Sublease to Sutton Broadcasting Corporation, a South Carolina Business Corporation, a copy of which is attached hereto and incorporated herein by reference, to be surplus property and it will not be needed by Macon County during the term of the Sublease; and


RESOLVED, that Macon County does hereby authorize the entry into the Sublease to Sutton Broadcasting Corporation, a South Carolina Business Corporation, a copy of which is attached hereto and incorporated herein by reference; and

RESOLVED, that Derek Roland, Macon County Manager, is hereby authorized and directed to fill in any blanks upon the same and execute said Sublease to Sutton Broadcasting Corporation, a South Carolina Business Corporation, on behalf of Macon County; and

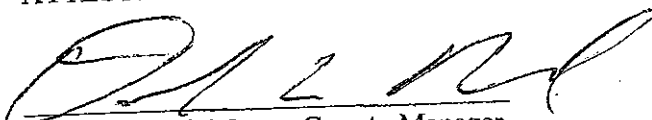


RESOLVED, that Macon County gave due notice of its Intent enter into such Sublease as required by N.C. Gen. Stat. § 160-272.

Adopted at the July 14, 2015, Regular Meeting of the Macon County Board of Commissioners.

  
Kevin Corbin, Chairman, Macon County Board of  
County Commissioners

ATTEST:

  
Derek Roland, Macon County Manager  
and Clerk to the Board



STATE OF NORTH CAROLINA  
COUNTY OF MACON

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

This Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement is made and entered into this the 30<sup>th</sup> day of July, 2015, by and between Macon County, North Carolina, a North Carolina County and Body Politic ( hereinafter referred to as the "Sublessor" ), and Sutton Radiocasting Corporation, a South Carolina Business Corporation ( hereinafter referred to as the "Sublessee").

THAT WHEREAS, Sublessee presently holds the Federal Communication Commission (FCC) licenses for Class A FM Station WNCC-FM (FCC Facility Identification Number 14551) assigned to the community of Franklin, North Carolina, FM Translator Station W289CC (FCC Facility Identification Number 155806) assigned to the community of Franklin, North Carolina, and FM Translator Station ~~W~~W267AD (FCC Facility Identification Number 30442) assigned to the community of Cherokee, North Carolina, ( hereinafter referred to as the "Stations"); and

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

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

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

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

1. SUBLEASEHOLD INTEREST. Sublessor sublets to Sublessee, and the Sublessee subleases from Sublessor the following:
  - A. Those sections of the Tower ( which Tower is colored in yellow on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above ) which

are not being used by either Macon County or Jackson County and which are necessary for operation by Sublessee's Stations and such related equipment as is required for the efficient and effective operation of the Stations, and which are specifically approved of by Sublessor and, to the extent necessary, which are specifically approved of in writing by the United State of America, acting through the Forest Service, Department of Agriculture. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signals or other rights of existing users of the Cowee Bald Communications Site;

- B. The non-exclusive right-of-way space on said Tower and non-exclusive right-of-way space to and from the Transmitter Building ( which Building is numbered "1" and is colored in orange on the Cowee Bald Communication Site Plan attached to the Lease Agreement referenced above ) for the connection, and passage by cables, wires and transmission lines and any transmission equipment required for the operation of the Stations. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signal or rights of existing users of the Cowee Bald Communications Site;
- C. The non-exclusive access to said Tower and said Transmitter Building for the purpose of operating broadcast equipment owned or operated by Sublessee located there. Such rights of use by Sublessee shall be non-exclusive and shall in no way interfere with the broadcast signal or other rights of existing users of the Cowee Bald Communications Site;
- D. Sublessor and Sublease recognize and agree that the Cowee Bald Communication Site is primarily an emergency communication site and as such, Sublessor specifically reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement, without liability, should it hereafter determine within its discretion the need to do so in order to maintain and use the Cowee Bald Communication Site as an emergency communications site. Sublessee acknowledges that Sublessor is constructing another communications tower adjacent to the one subject to this Sublease, and it further acknowledges and agrees that none of its uses hereunder shall in any way interfere with any of Sublessor's uses of such new adjacent tower. Sublessor reserves the right to immediately terminate this Sublease without liability if Sublessee's use hereunder in any way interferes with Sublessor's use of the new tower adjacent to this one. Furthermore, Sublessor reserves the right to cancel this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement without liability should it determine within its discretion that the use made or to be made by Sublessee interferes or will interfere with the rights of existing users of the Cowee Bald Communications Site;

- E. If Sublessee does cause inference with the broadcast signal of existing users of the Cowee Bald Communications Site, then Sublessor shall have the right to immediately terminate this Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement;
  - F. Sublessee shall operate its Station in full compliance with all FCC Rules and Regulations;
  - G. It is agreed and understood that Sublessee shall, at its sole cost, undertake a tower study/engineering study prior to the installation of any of its equipment hereunder to determine if the same will interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. The same must show that all planned use by Sublessee hereunder will not interfere with the broadcast signal of existing users of the Cowee Bald Communications Site. A copy of the same shall be delivered unto Sublessor upon completion. All use by Sublessee hereunder must be in full compliance with FCC Rules and Regulations, all other State and Federal Regulations, and approved by the United States Forestry Service if such approval is necessary;
2. **TERM OF SUBLEASE.** Upon all the terms and conditions of this Sublease, Sublessee shall have and hold the non-exclusive rights provided for herein for the period extending from the September 1, 2015, to and including midnight, on December 31, 2021, unless this Sublease is sooner terminated as specifically hereinafter provided. Prior to the end of the Term of this Sublease, Sublessee shall cause all of its fixtures and property to be removed from the subleased premises at its sole expense and shall cause any and all repairs that are necessary to retore the subleased premises to the conditions which existed immediately preceding the beginning of this sublease, reasonable wear and tear excepted;
3. **RENT.** Sublessee shall pay the Sublessor rent in the amount of one thousand dollars (\$1,000.00) upon entry of this Sublease and the sum of \$500.00 per month on the first date of each month beginning October 1, 2015, and thereafter during the term of this lease. The parties hereto do understand and agree that the United States Forest Service reserves the right to change what it charges unto Macon County in connection with its Lease with the United States of America as above-referenced. As a consequence, the parties hereto agree that the monthly rent of \$500.00 per month provided for herein may be and shall be adjusted upward during the term hereof in the event that the United States Forest Service or other agent of the United States of America assesses a fee to Macon County for the use by Sublessee hereunder which exceeds the sum of \$6,000.00 per year. In this event, the monthly rental to be paid by Sublessee hereunder shall be increased by 1/12 of the amount that the annual sum assessed to Macon County for the use of the Sublessee hereunder which exceeds \$6,000.00 per year.
4. **ASSIGNMENT.** The Sublessee shall have no right to assign this Sublease and its rights under the Sublease to any affiliate or subsidiary of the Sublessee or subsequent owner of

Sublessee's Stations, without the consent of Sublessor and the United States of America, acting through the Forest Service, Department of Agriculture;

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

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

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

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

10. EMINENT DOMAIN. If the Tower subject to this Sublease and/or the Transmitter Building Parcel subleased hereunder shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Sublease shall be terminated as of the date of such taking and Sublessee shall thereupon be released from any further liability hereunder. The date of such taking shall be the date on which legal title shall vest in the condemning authority;

11. ACCESS TO LEASED PREMISES. It is mutually understood and agreed between the parties that Macon County, Jackson County and Sublessee may maintain broadcast apparatus on the Tower subject to this Sublease. Sublessor, Sublessee and all others having the right to use such Tower shall have the right to non-exclusive access to such Tower for the purpose of operating, maintaining, inspecting and repairing such broadcast apparatus;
12. USE OF TOWER. Sublessee shall not take any action which will cause or permit electrical interference to the broadcast signal of any existing electronic communications apparatus on the Tower subject to this Sublease or otherwise interfere with the broadcast signal or rights of any of the existing users of the Cowee Bald Communications Site. Sublessee shall be liable to Sublessor and shall indemnify Sublessor for any loss or damage to Sublessor's equipment, or for destructive electrical interference to the communications signals of Sublessor, consequential or otherwise, occasioned by, growing out of, or arising from any act or failure to act by Sublessee, its agents or employees, including such acts or failures to act which Sublessee shall suffer to exist or continue to exist on the real property of Sublessor or such Tower.

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

13. INDEMNIFICATION OF PARTIES. Sublessor shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference, caused by Sublessee its agents, or employees, and Sublessee will indemnify and save Sublessor harmless from any loss, damage or liability, consequential or otherwise occasioned by, growing out of, or arising, or resulting in connection with, Sublessee or any act or failure to act by Sublessee, its agents, or employees. Sublessee shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or electrical interference caused by Sublessor;
14. AUTHORIZATION. Sublessor and Sublessee respectively represent and warrant to the other that all necessary approvals and/or corporate action has been duly taken to authorize the execution and delivery of this Sublease and the performance or observance of the provisions of this Sublease. Additionally, Sublessor represents and warrants to the Sublessee that the necessary consent and/or approval of this Sublease have been obtained from the United States of America, acting through the Forest Service, Department of Agriculture, owner of the real property in which such tower and transmitter building parcel are situate. Absence of the landowner's consent and/or approval at anytime during the Term shall grant the Sublessor and the Sublessee the right to immediately terminate the Lease without further liability;

15. NO WAIVER. Failure or delay on the part of either Sublessor or Sublessee to exercise any right, power, or privilege hereunder shall not operate as a waiver thereof;
16. NOTICE. Any and all notices, demands or other communications required by this Lease or by law, or desired to be given hereunder, by any party shall be in writing and shall be validly given or made to another party if served either personally or if deposited in the United States mail, certified, postage prepaid, return receipt requested. If such notice, demand or other communication be given by mail, such shall be conclusively deemed given as of the date shown on the return receipt if the same is deposited in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as hereinafter set forth:

*If to Sublessor:*

*Macon County*

*Attention: County Manager*

*5 West Main Street Franklin, North Carolina 28734*

*If to Sublessee:*

*Georgia-Carolina Radiocasting Companies*

*Attention: Douglas M. Sutton, Jr.*

*Post Office Drawer E*

*Toccoa, Georgia 30577*

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

17. AGENTS AND PARTIES. From time to time Sublessor or Sublessee by notice as aforesaid may appoint one or more agents to act for them;
18. ATTACHMENTS, SCHEDULES AND EXHIBITS. All Exhibits, Appendices and Schedules attached to this Lease shall be deemed part of this Lease and incorporated herein, where applicable, as if fully set forth herein.
19. THAT THE LEASE BETWEEN THE UNITED STATES OF AMERICA, ACTING THROUGH THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AND MACON COUNTY, AND THE TERMS AND CONDITIONS THEREOF, A COPY OF SAID LEASE BEING ATTACHED HERETO ARE INCORPORATED HEREIN BY REFERENCE AS IF MORE FULLY SET FORTH HEREIN. TO THE EXTENT THAT ANY OF THE FOREGOING TERMS AND CONDITIONS OF THIS USE OF SPACE ON COMMUNICATIONS TOWER AND USE OF ASSOCIATED TRANSMITTER BUILDING SUBLEASE AGREEMENT CONFLICT WITH OR ARE INCONSISTENT WITH SAID LEASE AGREEMENT, THEN THE TERMS OF

**SAID LEASE AGREEMENT SHALL PREVAIL, IT BEING THE SPECIFIC INTENT OF BOTH PARTIES HERETO NOT TO SUBLEASE INCONSISTENTLY WITH SAID LEASE.**

20. **ADDITIONAL RESPONSIBILITIES OF THE SUBLESSEE.**

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



States Forest Service or authorized official of the Federal Communication Commission (FCC) determines that the Sublessee's use interferes with existing equipment, the Sublessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer of the United States Forest Service or FCC official;

- F. When requested by the Authorized Officer of the United States Forest Service, the Sublessee will furnish technical information concerning the equipment located on the property;

21. OTHER PROVISIONS.

The provisions of Paragraph "V. OTHER PROVISIONS" as contained in the Lease between Macon County and the United States of America, acting through the Forest Service, Department of Agriculture, a copy of which is attached hereto and incorporated herein by reference, shall apply to the Sublessee named herein and Sublessee shall at all times be bound by, subject to and comply with the same.

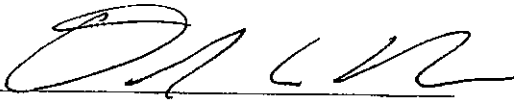
22. LIABILITIES.

- A. The Sublessee assumes all risk of loss to the authorized improvements by Sublessee;
- B. The Sublessee shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment on the property made by Sublessee or its agents hereunder;
- C. The Sublessee shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Sublessee's use or occupancy of the property. The Sublessee's indemnification of the United States shall include any loss of personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this Sublease. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this lease, regardless of cause;


- D. The United States Forest Service has no duty, either before or during this Sublease term, to inspect the property or to warn of hazards and, if the United States Forest Service inspects the property, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph shall survive the termination or revocation of this lease, regardless of cause;
  - E. The Sublessee has an affirmative duty to protect from damage the land, property, and interests of the United States;
  - F. In the event of any breach of the sublease by the Sublessee, the Authorized Officer of the United States Forest Service may, on reasonable notice cure the breach for the account at the expense of the Sublessee. If the United States Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Sublessee to the United States Forest Service on the first day of the month following such election;
23. COUNTERPARTS. This Sublease may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.
24. HEADINGS. The headings of the paragraphs of this Sublease are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Sublease or the intent of any paragraph hereof.
25. ENTIRE AGREEMENT. This Sublease is the only Agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof.
26. MODIFICATION OR AMENDMENT. No amendment, change or modification of this Sublease shall be effective unless in writing stating that it amends this document and signed by each of the parties hereto.
27. GOVERNING LAW. This Sublease shall be construed in accordance with the laws of the State of North Carolina.

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

SUBLESSOR: Macon County

By: 

SUBLEESSEE: Sutton Radiocasting Corporation

By:   
Douglas M. Sutton, Jr.  
President/CEO

## AMENDMENT

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

This Amendment to the Use of Space on Communications Tower and Use of Associated Transmitter Building Sublease Agreement is made and entered into this ~~5<sup>th</sup>~~ day of February 2021, by and among Macon County, a North Carolina County and Body Politic (hereafter referred to as the "Sublessor"), Sutton Radiocasting Corporation, a South Carolina Business Corporation (hereafter referred to as "Sublessee 1") and Blue Ridge Broadcasting, a North Carolina Non-Profit Corporation (hereafter referred to as "Sublessee 2").

THAT WHEREAS, Sublessor presently has a Lease with the United States of America, acting through the Forest Service, Department of Agriculture, for the Cowee Bald Communications Site. A copy of this lease is incorporated into this Agreement as Schedule C.

WHEREAS, Sublessee 1 presently holds the Federal Communications (FCC) licenses for Class A FM station WNCC 104.1 MHz (FCC Facility Identification Number "FIN" 14551), FM translator station W285FD 104.9 MHz (FCC FIN 155806), and through a wholly owned subsidiary, Tugart Properties, L.L.C. FM translator station W267AD(FM)101.3 MHz (FCC FIN 30442).

On July 14, 2015, Sublessee 1 entered into an agreement with Sublessor (hereafter referred to as the "Master Sublease") which permitted the location of four antennae and associated coax cable on the Sublessor tower shown in labeled photographs incorporated into this agreement as Schedule A (1) and Schedule A (2); and space for an equipment rack which contains Sublessee 1 equipment inside Sublessor transmitter building shown in a labeled photograph incorporated into this agreement as Schedule B. A copy of the Master Lease is incorporated into this agreement as Schedule D.

WHEREAS, Sublessee 1 and Sublessee 2 have entered into a Restated Asset Purchase Agreement dated February ~~2<sup>nd</sup>~~ 2021, whereby Sublessee 1 will sell and assign to Sublessee 2, and Sublessee 2 will purchase and assume from Sublessee 1, FM translator station W267AD (FM)101.3 MHz (FCC FIN 30442). The FCC has authorized this sale. A copy of the FCC authorization is incorporated into this Agreement as Schedule E.

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

1. Sublessee 2 will become a party to the Master Sublease with all rights, privileges, terms, conditions and obligations in and to the Sublessor.
2. Upon closing of the sale, Sublessee 2 will become the owner of equipment on the tower and in the transmitter building as listed on Schedule A (3).
3. Sublessee 1 will continue to pay Sublessor \$500 per month for its use of the tower and transmitter building. Sublessee 2 will pay \$250 per month for its use of the tower and transmitter building.
4. This amendment will become effective upon the closing of the sale authorized by the FCC and by joint written notification to the Macon County Manager by Sublessee 1 and 2.

5. The parties' respective mailing addresses for purposes of notice arising out of this Agreement is:

Sublessor:

Macon County  
Attn: County Manager  
5 West Main Street  
Franklin, NC 28734

Sublessee 1:

Sutton Radiocasting Corporation  
Attn: Douglas M. Sutton, Jr.  
Post Office Drawer E  
Toccoa, GA 30577

Sublessee 2:

Blue Ridge Broadcasting  
Attn: Jim Kirkland  
Post Office Box 159  
Black Mountain, NC 28711

with a copy to:


Billy Graham Evangelistic Association  
Attn: Justin T. Arnot, General Counsel  
1 Billy Graham Parkway  
Charlotte, NC 28201

ACCEPTED AND AGREED:

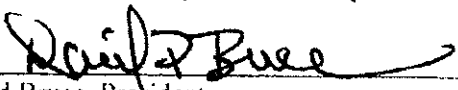
SUBLESSOR: Macon County, North Carolina

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

SUBLEESSEE 1: Sutton Radiocasting Corporation

By:   
Douglas M. Sutton, Jr., President  
Date: 2/5/2021

SUBLEESSEE 2: Blue Ridge Broadcasting

By:   
David Bruce, President  
Date: 2/11/2021



**RESOLUTION EXEMPTING ENGINEERING SERVICES FOR MACON COUNTY  
SOLID WASTE CARSON CENTER PROJECT IN MACON COUNTY, NORTH  
CAROLINA, FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE  
NORTH CAROLINA GENERAL STATUTES**

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

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

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

**WHEREAS**, Macon County is now in need of engineering services for the proposed Carson Convenience Center Project in Macon County, North Carolina; and

**WHEREAS**, the estimated professional engineering fees for the required work for the proposed relocation of the Carson Convenience Center in Macon County, North Carolina is in an amount less than fifty thousand (\$50,000) dollars.

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

Adopted this 9<sup>th</sup> day of March, 2021.

\_\_\_\_\_  
James Tate, Chairman  
Macon County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Clerk to the Board

(COUNTY SEAL)



February 9, 2021

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

RE: General Services Proposal  
Macon County Solid Waste  
Macon County, North Carolina

Dear Mr. Stahl:

McGill Associates is pleased to submit our proposal to provide technical engineering guidance to Macon County Solid Waste as requested during 2021. Below are examples of potential items that we may assist with:

### SCOPE OF SERVICES

Technical engineering consulting guidance for Macon County can include, but is not limited to, the following tasks.

1. Meet with County staff on an as needed basis to discuss ongoing solid waste operations in the County relative to Phase 1 & 2 closure, Solid Waste Rule updates, etc.
2. Assist the County with addressing applicable compliance issues i.e. stormwater permit map updates, discussions with agency personnel, etc.
3. Provide engineering support and guidance for GPS coordinates for Phase 3 Cell 1 waste fill and intermediate cover.
4. Provide assistance with existing convenience centers to address operational issues or provide conceptual layouts and evaluate cost of potential improvements or new convenience centers. Specifically, for the proposed Carson Center, we will evaluate existing well and septic and determine possibility of reuse, evaluate ingress/egress issues via Driveway Permit with NCDOT, provide preliminary wetlands evaluation, and determine the need for archaeological study.

### PROPOSED FEES

Based on the above proposed scope of services, we propose to perform the above services on an **hourly basis**. For budgeting purposes, we recommend an allowance of **\$10,000,000** be established for these services. Invoices will be submitted monthly based on the actual time spent and will be calculated in accordance with the attached Basic Fee Schedule.

## **ASSUMPTIONS**

We have based our proposal on the following assumption:

1. This proposal is to cover general consultation, meetings, technical guidance, and assistance for Macon County with miscellaneous engineering tasks. We will develop a separate scope and proposed fee for any specific projects that are identified as necessary via consultation with County staff.

Thank you for the opportunity to continue to assist with engineering tasks for Macon County. If you have any questions concerning this proposal or any element of our work, please do not hesitate to contact me at (828) 252-0575. If the above is acceptable to you, please sign and return the attached Consulting Services Agreement to our office as your notice to process.

Sincerely,  
**McGILL ASSOCIATES, P.A.**



**Mark Cathey, PE**  
Asheville Office Manager

Attachments: Consulting Services Agreement  
Basic Fee Schedule

CC: Scott Burwell, PE, McGill Associates, PA  
Ben Cathey, PE, McGill Associates, PA



# CONSULTING SERVICES AGREEMENT

This contract entered into this 29<sup>th</sup> day of January, 2021 by and between Macon County Solid Waste, hereinafter called the Client, and McGill Associates, PA;

Witnesseth that: Whereas, the Client desires to engage McGill Associates to provide consulting services; and, Whereas, the Client finds that the attached Scope of Services and terms of this agreement are acceptable; and, Whereas, McGill Associates desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth. Now, therefore, the parties hereto do mutually agree as follows:

1. **Scope of Services:** McGill Associates shall provide the services attached hereto in the Contract Proposal "Scope of Services" of this Agreement, hereinafter called services. Fees for additional services will be negotiated with the Client prior to proceeding with the work.

2. **Standard of Care:** McGill Associates will perform its services using that degree of skill and diligence normally employed by professional engineers or consultants performing the same services at the time these services are rendered.

3. **Authorization to Proceed:** Execution of this Consulting Services Agreement will be considered authorization for McGill Associates to proceed unless otherwise provided for in this Agreement.

4. **Changes in Scope:** The Client may request changes in the Scope of Services provided in this Agreement. If such changes affect McGill Associates cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this Agreement.

5. **Compensation:** The Client shall pay the compensation to McGill Associates set forth in the Contract Proposal "Basis of Compensation" attached hereto. Unless otherwise provided in the Basis of Compensation, McGill Associates shall submit invoices to the Client monthly for work accomplished under this agreement and the Client agrees to make payment to McGill Associates within thirty (30) days of receipt of the invoices. It is also mutually agreed that should the Client fail to make prompt payments as described herein, McGill Associates reserves the right to immediately stop all work under this agreement until disputed amounts are resolved.

6. **Personnel:** McGill Associates represents that it has, or will secure at their own expense, all personnel required to perform the services under this agreement and that such personnel will be fully qualified and adequately supervised to perform such services. It is mutually understood that should the scope of services require outside subcontracted expertise McGill Associates may employ such services at their discretion.

7. **Opinions or Estimates of Cost:** Any costs estimates provided by McGill Associates shall be considered opinions of probable costs. These along with project economic evaluations provided by McGill Associates will be on a basis of experience and judgment, but, since McGill Associates has no control over market conditions or bidding procedures, McGill Associates cannot warrant that bids, ultimate construction cost, or project economics will not vary from these opinions.

8. **Termination:** This Agreement may be terminated for convenience by either the Client or McGill Associates with fifteen (15) days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such non-performance within five (5) days of written notice and diligently complete the correction thereafter. On termination, McGill Associates will be paid for all authorized work performed up to the termination date plus reasonable project closeout costs.

9. **Limitation of Liability:** McGill Associates liability for Client's damages will, in aggregate, not exceed the total fees paid by the Client for the Scope of Services referenced herein or \$50,000 whichever is greater. This provision takes precedence over any conflicting provision of this Agreement or any

documents incorporated into it or referenced by it. This limitation of liability will apply whether McGill Associates liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include McGill Associates' directors, officers, employees and subcontractors. At additional cost, Client may obtain a higher limit prior to commencement of services.

10. **Assignability:** This agreement shall not be assigned or otherwise transferred by either McGill Associates or the Client without the prior written consent of the other.

11. **Severability:** The provisions of this Consulting Services Agreement shall be deemed severable, and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this consulting services agreement is deemed unenforceable for any reason whatsoever, such provision shall be appropriately limited, and given effect to the extent that it may be enforceable.

12. **Ownership of Documents:** All documents, calculations, drawings, maps and other items generated during the performance of services shall be considered intellectual property and remain the property of McGill Associates. Client agrees that the deliverables are intended for the exclusive use and benefit of and may be relied upon for this project only by the Client and will not be used otherwise. Client agrees that any prospective lender, buyer, seller or third party who wishes to rely on any deliverable must first sign McGill Associates' Secondary Client Agreement.

13. **Excusable Delay:** If performance of service is affected by causes beyond McGill Associates control, project schedule and compensation shall be equitably adjusted.

14. **Indemnification:** Client agrees to indemnify, defend and hold McGill Associates, its agents, employees, officers, directors and subcontractors harmless from any and all claims, and costs brought against McGill Associates which arise in whole or in part out of the failure by the Client to promptly and completely perform its obligations under this agreement, and as assigned in the Contract Proposal "Scope of Services" or from the inaccuracy or incompleteness of information supplied by the Client and reasonably relied upon by McGill Associates in performing its duties or for unauthorized use of the deliverables generated by McGill Associates. Furthermore, McGill agrees to indemnify, defend and hold the Client harmless from any claims brought against the Client as a result of McGill's work.

15. **Choice of Law:** This Agreement shall be governed by the Internal laws of the State of North Carolina.

16. **Entire Agreement:** This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements, whether oral or written, and may only be modified or amended as herein provided; and as mutually agreed.

17. **Attachments to this document:**

1. Contract Proposal Including Scope of Services and Basis of Compensation.

Client: Macon County Solid Waste

Authorized Signature:

Print Name: Chris Stahl

Title: Director

Address: 109 Sierra Drive  
Franklin, North Carolina 28734

McGill Associates, P.A.



Print Name: Mark Cathey, PE

Title: Asheville Office Manager

Address: 55 Broad Street  
Asheville, North Carolina 28801

**BASIC FEE SCHEDULE**
**JANUARY 2020**

<b>PROFESSIONAL FEES</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>
Senior Principal	\$225			
Principal – Regional Manager – Director	\$190	\$205	\$210	\$215
Practice Area Lead	\$160	\$170	\$195	\$210
Senior Project Manager	\$170	\$185	\$195	\$200
Project Manager	\$155	\$165	\$175	\$180
Project Engineer	\$110	\$125	\$140	\$145
Engineering Associate	\$95	\$100	\$110	\$115
Planner- Consultant – Designer	\$100	\$115	\$135	\$150
Engineering Technician	\$90	\$105	\$115	\$120
CAD Operator – GIS Analyst	\$80	\$85	\$95	\$100
Construction Services Manager	\$130	\$145	\$155	\$160
Construction Administrator	\$95	\$110	\$120	\$125
Construction Field Representative	\$85	\$90	\$95	\$100
Environmental Specialist	\$85	\$95	\$100	\$105
Surveyor	\$90	\$95	\$100	\$105
Surveying Associate	\$70	\$75	\$80	\$85
Survey Technician	\$75	\$80	\$85	\$90
Survey Field Technician	\$60	\$65	\$70	\$75
Administrative Assistant	\$70	\$75	\$80	\$85

**1. EXPENSES**

- a. Mileage - \$0.65/mile
- b. Robotics/GPS Equipment - \$25/hr.
- c. Survey Drone - \$100/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

**2. ASSOCIATED SERVICES -**

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

**RESOLUTION EXEMPTING GEOTECHNICAL ENGINEERING SERVICES FOR  
MACON COUNTY SOLIDWASTE RECYCLING PROCESSING CENTER  
PROJECT IN MACON COUNTY, NORTH CAROLINA, FROM THE PROVISIONS OF  
ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**

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

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

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

**WHEREAS**, Macon County is now in need of geotechnical engineering services for the proposed improvements to the Recycling Processing Center in Macon County, North Carolina; and

**WHEREAS**, the estimated professional engineering fees for the required work for the proposed improvements to the Recycling Processing Center in Macon County, North Carolina is in an amount less than fifty thousand (\$50,000) dollars.

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

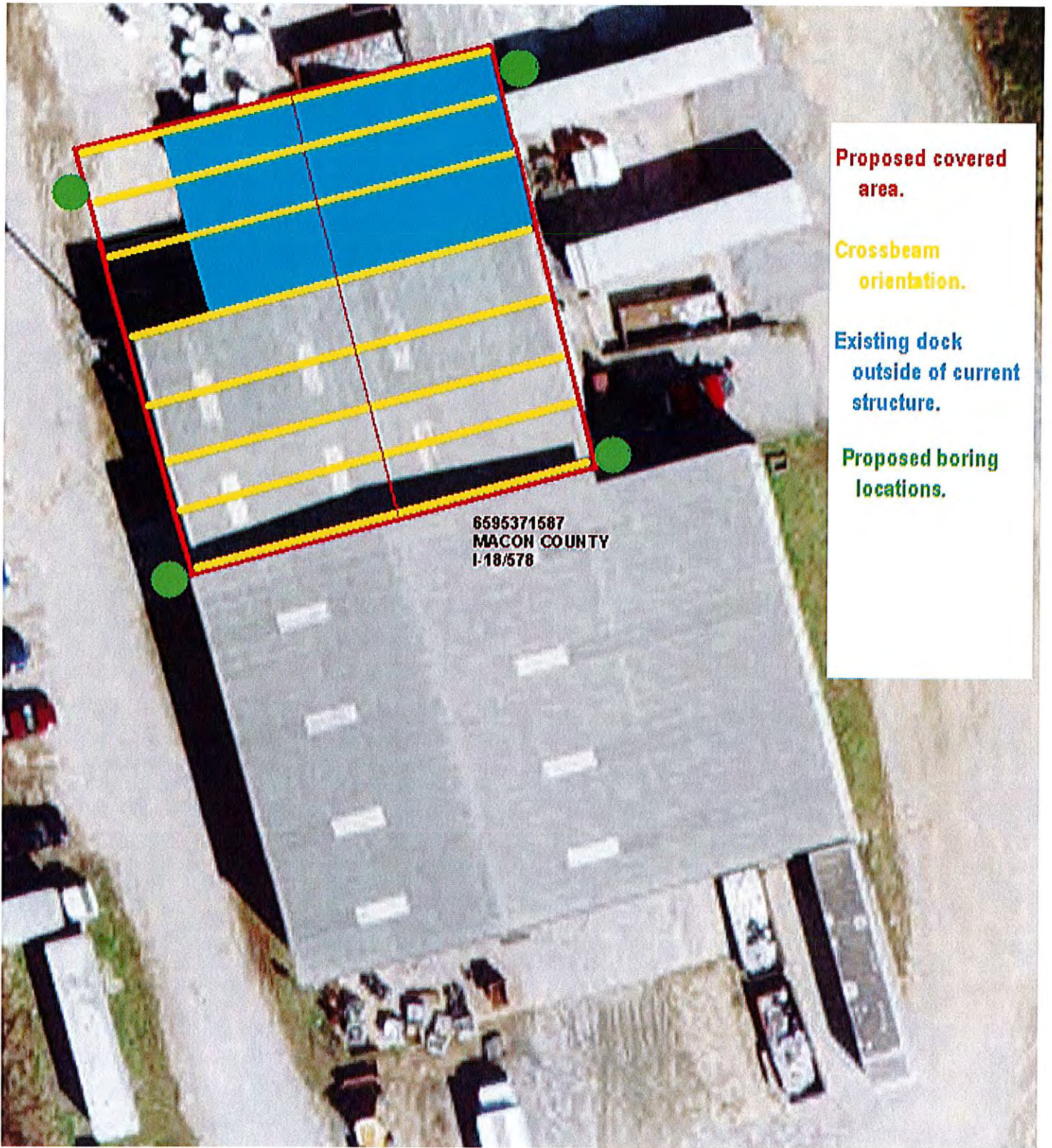
Adopted this 9<sup>th</sup> day of March, 2021.

\_\_\_\_\_  
James Tate, Chairman  
Macon County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Clerk to the Board

(COUNTY SEAL)



**Proposed covered area.**

**Crossbeam orientation.**

**Existing dock outside of current structure.**

**Proposed boring locations.**

6595371587  
MACON COUNTY  
1-18/578



**BUNNELL  
LAMMONS  
ENGINEERING**

January 25, 2021

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

Attention: Mr. M. Chris Stahl  
Director

Subject: **Contract for Geotechnical Exploration – RPC Building Expansion**  
Macon County Landfill  
Franklin, North Carolina  
Permit No. 5703-MSWLF-1997  
BLE Contract Number J21-1101-17

Dear Mr. Stahl:

Bunnell-Lammons Engineering, Inc. (BLE) is pleased to submit this contract to Macon County Landfill to provide geotechnical services associated with the subject Macon County facility. The purpose of the scope of services is to conduct a geotechnical exploration in support of the planned building expansion. Included herein is a brief description of the background project information, a general description of our contract scope of services with related fee estimate, and authorization information.

### BACKGROUND INFORMATION

The project information below was provided by Macon County via telephone call between Mr. Chris Stahl (Macon County) and our Mr. Andrew Alexander and via email on January 14 through 19, 2021. Additional information was obtained from our project records from previous work performed by BLE at the site.

Macon County owns and operates a recycling center and solid waste disposal facility at 1448 Lakeside Drive in Franklin, North Carolina. The facility includes a Subtitle D municipal solid waste (MSW) landfill, convenience center, waste treatment and processing facility, material recycling facility and an environmental education center. The facility is bordered by to the west and to the north by the Little Tennessee River (Lake Emory).

The recycling and processing center (RPC) building is located near the center of the Macon County facility. The ground surface around the building appears to be mostly gravel and intended for tractor trailer traffic and container storage. Concrete pads and ramps are located north of the building in a trailer parking, material storage, and loading dock area.

The RPC building is an approximately 80-ft wide, 110-ft long, 30-ft tall, fabricated metal building with a smaller enclosed addition on the north edge. The addition is approximately 50-ft wide, 80-ft long, and 20-ft tall. We understand that the current addition is planned to be demolished in preparation for construction of a larger building expansion in the same area. The proposed building expansion is approximately 90-ft wide, 90-ft long, and 30-ft tall to meet the same roof elevation of the RPC building.



6024 Ponders Court, Greenville, SC 29615 ☎ 854.288.1265 📠 854.288.4430 ✉ info@blecorp.com

**BLECORP.COM**



The expansion is assumed to be free-spanning with a double-pitch roof and metal framing and siding. We assume, for the purposes of this proposal, that column and wall loads will not exceed 50 kips and 3 kips per linear foot, respectively.

Historical topographic records indicate that a surface water feature (stream) was present in the area where the RPC building is constructed. It appears the stream flow was from the south to the north through the approximate center of the RPC building. The stream was relocated east of the building and the former stream bed was backfilled for the construction of the RPC building. The pre-construction ground conditions, fill type, and fill placement methods are unknown.

Macon County has requested that BLE develop and geotechnical exploration plan and prepare a contract to perform the work.

### SCOPE OF SERVICES

The objective of this project is to perform a geotechnical exploration for the planned building expansion. The specific scope of services will include:

- Contacting the North Carolina One Call Center to locate underground utilities.
- A site reconnaissance and establishment of boring locations by a geoscience or engineering staff, using existing site features and estimating distances.
- Mobilization of a drill rig to the site. Borings will be placed in locations readily accessible the drill rig.
- BLE proposes to explore subsurface conditions at the site by performing four (4) soil test borings at the approximate corners of the planned building expansion. Borings will be advanced to depths ranging from 20 to 40 feet below the ground surface. A total linear footage of 100 feet is proposed for this project. The soil test borings will be drilled in general accordance with ASTM D 1586. Borings will be advanced to their specified depths or until refusal, whichever occurs first.
- Based on site reconnaissance photos provided by Mr. Stahl, two boring locations may be located on concrete pavement near the trailer parking and loading dock area. Offset locations in gravel areas (if available) will be considered to minimize the disturbance of the concrete pavement however, these offset locations are recommended to remain close to the footprint of the planned foundation.
- Measurements of groundwater depths (if encountered) will be obtained after borings are complete. The borings will be backfilled after groundwater measurements have been made. Measurements will be time of boring and may not be stabilized.



- All borings will be backfilled with soil cuttings and patched at the surface with like material (concrete or soil). It should be noted that these backfill soils and patched boreholes might eventually settle, thereby creating a depression at the surface and possibly creating a trip hazard. It is beyond the scope of our services to return to the site to adjust the backfill level in boreholes.
- We will transport the samples to our laboratory where they will be examined by a geoscience professional and visually classified at the completion of drilling. Two soil samples will be selected for laboratory classification testing consisting of grain size distribution and Atterberg-limits.
- Preparation of an engineering report that will generally include the following, in addition to the items outlined above:
  1. A summary of our understanding of the proposed construction,
  2. A summary of the exploration and encountered subsurface conditions,
  3. Assessment of subsurface conditions with respect to site grading and excavation,
  4. Recommendations for subgrade preparation for the planned asphalt and concrete pavement,
  5. Recommended general design and construction criteria for the project foundations and retaining walls (if planned) considering the provided site and structural information,
  6. Seismic site class per International Building Code (IBC 2009) with North Carolina State Building Code 2012 Amendments, and
  7. Recommendations for construction observation and testing.

Please note the assessment of site environmental conditions for the presence of pollutants in the soil, rock or groundwater of the site is beyond the proposed scope of this exploration.

### **CLIENT RESPONSIBILITIES**

BLE respectfully requests that persons knowledgeable of any private or site-specific utilities that would not be located through the 811 NC One Call service be made available to review the boring locations. We also understand that coordination to access the site will be made prior to BLE mobilizing to the project site and that BLE/drill rig personnel will have reasonable access to the subject area such that site-related field activities may be conducted without significant interruption or require remobilization.

### **PLACEMENT OF BORINGS**

The borings locations will be established using a hand-held GPS unit, and referencing existing on-site features and estimated distances. We have not made provisions to locate proposed boring locations or record as-built locations with survey-grade accuracy. If this is required, please contact us so that we can plan and incorporate the cost into our budget. Some of the borings may require offsetting from the locations shown on the attached figure to avoid utilities or other types of infrastructure, existing waste, or soil mounds/stockpiles.



### ANTICIPATED SCHEDULE FOR GEOTECHNICAL EXPLORATION

Based on our present schedule, we can begin work on this project after we receive your authorization to proceed. Our anticipated implementation schedule is shown below:

Public Utility Location	3 weeks
Drilling Services	0.5 weeks
Geotechnical Laboratory Testing	2 weeks
Preparation and Submittal of Geotechnical Report	<u>2 weeks</u>
Project completion	7.5 weeks

The final project deliverables can be prepared and submitted within approximately 7.5 weeks after authorization. Receipt of the data from all parties (including survey data, if necessary) is required for schedule compliance.

### FEE ESTIMATE

BLE will complete the scope of services outlined in this proposal for a lump sum fee of \$11,700. Invoices for services rendered will be issued monthly on a percentage complete basis.

### AUTHORIZATION

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

Any exceptions to this contract or special requirements not covered in the contract should be attached to the returned acceptance copy for the mutual consideration of both parties. Please note that the Terms and Conditions are a part of this contract. Any Purchase Order issued to authorize this project should reference this document (J21-1101-17).





*Contract for Geotechnical Exploration – RPC Building Expansion  
Macon County Landfill, Franklin, North Carolina*

*January 25, 2021  
BLE Project Number J21-1101-17*

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

Sincerely,  
**BUNNELL-LAMMONS ENGINEERING, INC.**

Jonathan D. Vastag, E.I.T.  
Staff Engineer

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

CC: Tyler W. Moody, PE - BLE

Attachments: Proposal Acceptance Sheet with Terms and Conditions

*\\blegvlr1\solidwasteprojects\macon county landfill, nc\1101-17 rpc building expansion geotech\1 proposal contract for mc\rpc building geotech 1101-17.docx*

**ACCEPTANCE SHEET WITH  
TERMS AND CONDITIONS**





#### TERMS AND CONDITIONS

WHEREAS, CLIENT is seeking engineering and/or environmental or other consulting services in regards to services associated with a property or properties ("Subject Property") and/or services associated with a specific activity or activities; and Bunnell-Lammens Engineering, Inc., (hereinafter "BLE") is an independent consultant. Therefore, CLIENT and BLE (collectively, the "Parties") agree as follows (the "Agreement").

1. **SERVICES TO BE PROVIDED.** BLE through and by its officers, employees and subcontractors, is an independent consultant and agrees to provide Client, for its sole benefit and exclusive use, consulting services set forth in BLE's proposal. No third party beneficiaries are intended by this agreement.

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

3. **STANDARD OF CARE.** BLE will perform its services using that degree of care and skill ordinarily exercised under similar conditions by reputable members of BLE's profession practicing in the same or similar locality at the time of service. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY BLE'S PROPOSAL OR BY BLE'S ORAL OR WRITTEN REPORTS. Nothing in this agreement or in the services provided by BLE is intended to create, nor shall it be construed to create, a fiduciary relationship owed by either party to one another.

4. **INSURANCE.** BLE maintains insurance coverage as follows:

- a. Worker's Compensation Insurance.
- b. Employer's Liability Insurance.
- c. Commercial General Liability Insurance.
- d. Professional Errors and Omissions Insurance.

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

5. **PROFESSIONAL LIABILITY.** FOR ADDITIONAL CONSIDERATION FROM BLE OF \$10.00, RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, CLIENT AGREES THAT BLE'S LIABILITY, AND THAT OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONTRACTORS, TO CLIENT OR ANY THIRD PARTY DUE TO ANY NEGLIGENT PROFESSIONAL ACTS, ERRORS OR OMISSIONS OR BREACH OF CONTRACT BY BLE WILL BE LIMITED TO AN AGGREGATE OF \$50,000 OR BLE'S TOTAL CHARGES, WHICHEVER IS GREATER. IF CLIENT PREFERS TO HAVE HIGHER LIMITS OF PROFESSIONAL LIABILITY, BLE AGREES TO INCREASE THE AGGREGATE LIMIT, UP TO A MAXIMUM OF \$100,000, UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTING BLE'S PROPOSAL, PROVIDED CLIENT AGREES TO PAY AN ADDITIONAL CONSIDERATION OF 5% OF TOTAL CHARGES, OR \$500, WHICHEVER IS GREATER. THE ADDITIONAL CHARGE FOR THE HIGHER LIABILITY LIMIT IS BECAUSE OF THE GREATER RISK ASSUMED BY BLE AND IS NOT A CHARGE FOR ADDITIONAL PROFESSIONAL LIABILITY INSURANCE. IN ADDITION, CLIENT FURTHER AGREES THAT NEITHER BLE NOR ITS MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND/OR SUBCONTRACTORS SHALL BE LIABLE TO CLIENT FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR OTHERWISE. THE LIMITATIONS SET OUT HEREIN SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

6. **SITE OPERATIONS.** Client will arrange for right-of-entry to the property for the purpose of performing project management, studies, tests and evaluations pursuant to the agreed services. Client represents that it possesses necessary permits and licenses required for its activities at the site.

BLE's field personnel are trained to initiate field testing, drilling and/or sampling within a reasonable distance of each designated location. BLE's field personnel will avoid hazards or utilities which are visible to them at the site. If BLE is advised in writing of the presence or potential presence of underground or above ground obstructions, such as utilities, BLE will give special instructions to BLE's field personnel. BLE is not responsible for any damage or loss due to undisclosed or unknown surface or subsurface conditions owned by Client or third parties, except to the extent such damage or loss is a result of BLE's negligence. Otherwise, Client agrees for the additional consideration of \$1.00, the receipt and sufficiency being hereby acknowledged, to defend, indemnify and hold BLE, its directors, officers, employees, agents and subcontractors harmless, from any such claims, suits or losses, including related reasonable attorney's fees.

BLE will take reasonable precautions to minimize damage to the property caused by its operations. Unless otherwise stated in BLE's proposal, BLE's charges do not include cost

of restoration due to any related damage which may result. If Client requests BLE to repair such damage, BLE will do so at an appropriate additional cost.

Field tests or boring locations described in BLE's report or shown on sketches are based on specific information furnished by others or estimates made in the field by BLE personnel. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in BLE's proposal or report.

7. **FIELD REPRESENTATIVE.** The presence of BLE or its subcontractor's field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation and/or field testing of specific aspects of the project as authorized by Client. Should a contractor(s) not retained by BLE be involved in the project, Client will advise such contractor(s) that BLE's services do not include supervision or direction of the means, methods or actual work of the contractor(s), its employees or agents. Client will also inform contractor that the presence of BLE's field representative for project administration, assessment, observation or testing will not relieve the contractor of its responsibilities for performing the work in accordance with the plans and specifications.

If a contractor (not a subcontractor of BLE) is involved in the project, Client agrees, in accordance with generally accepted construction practices, that the contractor will be solely and completely responsible for working conditions on the job site and/or Subject Property, including security and safety of all persons and property during performance of the work, and compliance with all Client safety requirements and OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that BLE will not be responsible for job or site safety or security on the project, other than for BLE's employees and subcontractors, and that BLE does not have the duty or right to stop the work of the contractor, the Client or other third parties.

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

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

9. **SAMPLE DISPOSAL.** Test specimens or samples generally are consumed or substantially altered during testing and any remnants are disposed of immediately upon completion of test. Remaining drilling samples and other specimens are disposed of 30 days after submission of BLE's report. In the event that test samples contain toxic or hazardous constituents as defined by applicable law, upon completion of any testing and temporary storage by BLE and per Client's stated preference, BLE will return such samples to Client for proper disposal.

10. **WASTE DISPOSAL.** If Client requests BLE to containerize drilling waste; and/or fluids produced by BLE's activity ("Wastes"), Client will provide a secure temporary storage location at or near the project site to prevent tampering with such containerized Wastes. Non-hazardous Wastes will be disposed of by BLE for an additional charge at an appropriately licensed facility. Any hazardous Wastes will be disposed of under manifest executed by Client at any properly licensed facility selected by Client with BLE's assistance. At no time will BLE take title to such hazardous Wastes.

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



12. \*ENVIRONMENTAL INDEMNITY. In connection with toxic or hazardous substances or constituents and to the maximum extent permitted by law and for separate and valuable consideration of \$1.00, the receipt and sufficiency being hereby acknowledged, Client agrees to defend, hold harmless and indemnify BLE from and against any and all claims, liabilities, or judgments, except to the extent finally determined as being caused by BLE's negligence or willful misconduct, resulting from:

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

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

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

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

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

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

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

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

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

c. Client agrees that all documents furnished to Client or Client's agent or designee, if not paid for, will be returned upon demand and will not be used by Client or any other entity for any purpose whatsoever. Client further agrees that documents produced by BLE pursuant to this Agreement will not be used for any project not expressly provided for in this Agreement without BLE's prior written approval.

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

e. Upon Client's request, BLE's work product may be provided on magnetic media or submitted electronically. By such request, Client agrees that the written copy retained by BLE in its files shall be the official base document. BLE makes no warranty or representation to Client that the magnetic/electronic copy is accurate or complete, but will correct in good faith any omissions or errors brought to BLE's attention by Client. Any modifications of such magnetic copy/electronic by Client shall be at Client's risk and

without liability to BLE. Such magnetic copy/electronic is subject to all other conditions of this Agreement.

15. CLAIMS. The parties agree to attempt to resolve any dispute without resort to litigation, including use of mediation, prior to filing of any suit, including use of mediation, prior to filing of any suit. However, in the event that a claim results in litigation, then the prevailing party shall be entitled to recover from the non-prevailing party the prevailing party's reasonable legal fees and expenses associated with such litigation. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

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

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

18. CONFIDENTIALITY. BLE will maintain as confidential any documents or information provided by Client and will not release, distribute or publish same to any third party without prior permission from Client, unless compelled by law or order of a court or regulatory body of competent jurisdiction.

19. GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of South Carolina.

20. PRIORITY OVER FORM AGREEMENT/PURCHASE ORDERS. The Parties agree that the provisions of these terms and conditions shall control over and not be superseded by any provisions of any other documents or writings and may be amended only by written instrument signed by both Client and BLE. Client may issue purchase orders to BLE to satisfy Client's purchasing requirements. It is agreed that the terms and conditions included in such purchase orders shall be considered deleted in their entirety and such terms and conditions shall be void.

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

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

23. ASSIGNMENT. This Agreement may not be assigned by either party without the prior permission of the other.

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

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

26. FORCE MAJEURE. Any failure of performance under this Agreement shall not constitute breach if said failure of performance is due to an event or events beyond the reasonable control of the Parties or either of them; such events of force majeure shall include, but not be limited to, acts of God, natural disaster, war and strikes.

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



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

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

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

28. **INDEMNITY.** If CLIENT or any of its directors, officers, shareholders, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "CLIENT Affiliates") become subject to any liabilities, obligations, claims, losses, damages, penalties, actions, judgments, suits, costs and expenses (including, without limitation, fees and disbursements of attorneys and consultants) (collectively, "Claims"), arising from, related to or in connection with:

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

BLE shall indemnify and hold harmless CLIENT and its Affiliates from and against any and all Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions, but this indemnification shall only extend to the proportional extent of BLE's violation of law, breach, negligence or willful misconduct.

If BLE or any of its directors, officers, employees, agents, attorneys, successors, assigns and affiliates (collectively, the "BLE Affiliates") become subject to any liabilities, obligations, claims, losses, damages, penalties, actions, judgments, suits, costs and expenses (including, without limitation, fees and disbursements of attorneys and consultants) (collectively, "Claims"), arising from, related to or in connection with:

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

CLIENT shall indemnify and hold harmless BLE and its Affiliates from and against any and all Claims. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions, but this indemnification shall only extend to the proportional extent of CLIENT's violation of law, breach, negligence or willful misconduct.

29. **NON-EXCLUSIVITY.** BLE recognizes and agrees that its services hereunder are to be provided on a non-exclusive basis.

30. **WAIVER.** Waiver by either Party of any term, provision or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement.

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

**NOTES:**

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

For work in the State of Georgia, delete the words "or any third party" as such words appear in Paragraph 5

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**END OF DOCUMENT**

PAS revision 8.2 - 08/11/2020

**LEASE**

by and between

**THE COUNTY OF MACON, NORTH CAROLINA**

as Lessor

and

**THE MACON COUNTY BOARD OF EDUCATION**

as Lessee

Dated as of March 1, 2021

## LEASE

**THIS LEASE**, dated as of March 1, 2021, and entered into by and between the **COUNTY OF MACON, NORTH CAROLINA**, a political subdivision of the State of North Carolina, as lessor (the "*County*"), and **THE MACON COUNTY BOARD OF EDUCATION**, a body corporate which has general control and supervision of all matters pertaining to the public schools in the Macon County School Administrative Unit, its school administrative unit, and is duly organized and existing under the laws of the State of North Carolina (the "*Board of Education*").

### WITNESSETH:

**WHEREAS**, the County and the Board of Education have determined to cooperate in a plan to finance the cost to provide for improvements to the Macon County Schools and to cause the construction of such improvements, including the construction of improvements to Macon Middle School (the "*Project*"), which has been found to be necessary and desirable to provide for improved public school facilities and improved public education in the County;

**WHEREAS**, as a part of such plan, the County has entered into various agreements requiring the County to hold fee simple title to the property for financing, jurisdictional and other purposes, such that the County's Board of Commissioners may act as the agent of the Board of Education in carrying out the Project; and

**WHEREAS**, the County hold fee title ownership of the site of the Project and all improvements thereon, as shown in the following two deeds, to-wit: that deed from Leonard Horn and wife, Leota M. Horn to the County, dated October 8, 1973, recorded in the Office of the Register of Deeds for Macon County in Deed Book W-9, page 161, and that deed from the Board of Education to the County, dated August 29, 1994, recorded in the Office of the Register of Deeds for Macon County in Deed Book O-20, pages 160-163, and the County proposes to lease the site and the improvements thereon (collectively, the "*Leased Property*") to the Board of Education and the Board of Education has determined to lease the Leased Property from the County;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS; RULE OF CONSTRUCTION

All capitalized terms used in this Lease and not otherwise defined herein have the meanings assigned to them in the Agency Agreement and the Contract, unless the context clearly requires otherwise. In addition, the following terms have the meanings specified below, unless the context clearly requires otherwise:

"*Board Representative*" means the Chairman of the Board of Education, the Superintendent of the Macon County Schools or any other person at the time designated, by a written certificate furnished to the County and signed on the Board of Education's behalf by its Chairman, to act on the Board of Education's behalf for the purpose of performing any act under this Lease.



“*Conveyance Date*” means the date that the deed conveying the Leased Property from the Board of Education to the County was accepted for registration by the Register of Deeds for Macon County.

“*County Representative*” means any person at the time designated, by a written certificate furnished to the Board of Education and signed on the County’s behalf by the Chairman of its Board of Commissioners, to act on the County’s behalf for the purpose of performing any act under this Lease.

“*Event of Default*” means one or more events of default as defined in Section 12.1.

“*Lease*” means this Lease, as it may be duly amended.

“*Lease Term*” means the term of this Lease as determined under Article IV.

“*Lease Year*” means, initially, from the Conveyance Date through the succeeding June 30, and, thereafter, means the twelve-month period of each year commencing on July 1 and ending on the next June 30.

“*Memorandum of Agreement*” or “*MOA*” means the Memorandum of Understanding and Agency Agreement between the County and the Board of Education spelling out the roles and responsibilities of the parties in carrying out the Project.

All references to articles or sections are references to articles or sections of this Lease, unless the context clearly indicates otherwise.

## **ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES**

The County and the Board of Education each represent, covenant and warrant for the other’s benefit as follows:

(a) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, results or will result in a breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a default under any of the foregoing.

(b) To the knowledge of each party, there is no litigation or proceeding pending or threatened against such party (or against any other person) affecting the rights of such party to execute or deliver this Lease or to comply with its obligations under this Lease. Neither the execution and delivery of this Lease by such party, nor compliance by such party with its obligations under this Lease, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

## **ARTICLE III DEMISING CLAUSE**

**Section 3.1** *Conveyance of leasehold.* The County hereby leases the Leased Property to the Board of Education and the Board of Education hereby leases the Leased Property from the County, in accordance with the provisions of this Lease, to have and to hold for the Lease Term.

**Section 3.2** *Priority of Deed of Trust.* Notwithstanding anything in this Lease to the contrary, the Board of Education's rights to possession of the Leased Property and all its other rights under this Lease are subordinate to the rights of the beneficiary under the Deed of Trust dated as of March 1, 2021, granted by the County to secure its financing obligations with respect to the Project. Any judicial sale of, or foreclosure on, the Leased Property pursuant to the Deed of Trust terminates all the Board of Education's rights under this Lease.

#### ARTICLE IV LEASE TERM

**Section 4.1.** *Commencement.* The Lease Term commences on the Conveyance Date.

**Section 4.2** *Termination.* The Lease Term terminates on the earlier of the following dates or events:

(a) the later of either (i) the date on which the improvements are completed as agreed by the parties, or (ii) the date on which the County has paid or made provision for all Installment Payments (as defined in the Contract) and all other payments due under the Contract in accordance with its terms; or

(b) an Event of Default and termination of this Lease under Article XII.

#### ARTICLE V QUIET ENJOYMENT; TRANSFER

**Section 5.1** *Quiet Enjoyment; Transfer.* The County hereby covenants that the Board of Education shall, during the Lease Term, peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble or hindrance from the County, except as expressly required or permitted by this Lease. The County shall not interfere with the quiet use and enjoyment of the Leased Property during the Lease Term. The County shall, at the Board of Education's request, join and cooperate fully in any legal action in which the Board of Education asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the Board of Education may at its own expense join in any legal action affecting its possession and enjoyment of the Leased Property, and shall be joined (to the extent legally possible and at the Board of Education's expense) in any action affecting its liabilities hereunder.

The provisions of this Section 5.1 are subject to rights to inspect the Leased Property granted to parties under a contract for financing, if any, and to the right hereby reserved to the County to inspect the Leased Property at any reasonable time.

**Section 5.2** *Transfer Upon Lease Termination.* At the end of the Lease Term under Section 4.2(a), the County hereby agrees to execute, deliver and record a Limited Warranty Deed transferring title to the Leased Property to the Board of Education, together with such other documents as are necessary to convey to the Board of Education good and marketable title to the Leased Property, subject only to (a) Permitted Encumbrances and (b) any encumbrance or imperfection caused by or attributable to the Board of Education.

#### ARTICLE VI CONSIDERATION FOR LEASE

**Section 6.1** *Use of Leased Property; Assumption of Obligations.* The Board of Education hereby agrees to use the Leased Property for public education purposes in fulfillment of its obligation, shared by the County, to provide for improved public school facilities and improved public education in the County. In addition, in consideration of its rights under this Lease, the Board of Education undertakes the obligations imposed on it hereunder, including those imposed by Section 8.1.

**ARTICLE VII**  
**CONSTRUCTION AND OTHER ACCOMPLISHMENT OF THE**  
**PROJECT AND CERTAIN RELATED COVENANTS**

**Section 7.1** *Construction and Other Accomplishment of the Project.* The County has provided in the Memorandum of Agreement for the construction and other accomplishment of the Project by the County, working as the Board of Education's agent. Pursuant to the Memorandum of Agreement, the parties shall in good faith review and approve all provisions concerning the construction and other accomplishment of the Project. The Board of Education shall take possession of the Leased Property on the Conveyance Date of this Lease. Title to the Leased Property shall be held by the County, subject only to Permitted Encumbrances.

**Section 7.2** *Maintenance, Repair, Taxes and Assessments.*

(a) *Maintenance; Repair.* The Board of Education shall use, or cause to be used, the Leased Property in a careful and proper manner, in compliance with all applicable laws and regulations, and, at its sole expense, shall service, repair, maintain and insure, or cause to be serviced, repaired, maintained and insured, the Leased Property so as to keep the Leased Property in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted.

(b) *Taxes and Assessments.* The Board of Education shall also pay, or cause to be paid, all taxes and assessments, as applicable, including, but not limited to, utility charges, of any type or nature levied, assessed or charged against any portion of the Leased Property, provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Board of Education shall be obligated to pay only such installments as are required to be paid as and when the same become due.

(c) *Contests.* The Board of Education may, at its sole expense and in its name, in good faith contest any such taxes, assessments, utility and other charges, as applicable, and, if any such contest occurs, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, but before such nonpayment it shall consult with the County and, if the County requires, furnish the County with the opinion of a counsel acceptable to the County, to the effect that, by nonpayment of any such items, the interest of the County in the Leased Property will not be materially endangered and that the Leased Property will not be subject to loss or forfeiture. The County will cooperate fully in such contest on the request and at the expense of the Board of Education.

**Section 7.3** *Modification of Leased Property, Liens.*

(a) *Additions, Modifications and Improvements.* The Board of Education shall, at its own expense, have the right to make, or cause to be made, additions, modifications and improvements to any portion of the Leased Property if such additions, modifications or improvements are necessary or beneficial for the use of such portion of the Leased Property. Such additions, modifications and improvements shall thereafter comprise part of the Leased Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage any portion of

the Leased Property or cause it to be used for purposes other than those authorized under the provisions of State and federal law or in any way which would cause the interest components of the Installment Payments to be includable in gross income for purposes of federal income taxation under Section 103 of the Internal Revenue Code of 1986, as amended.

(b) *Liens.* The Board of Education will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any additions, modifications or improvements made by the Board of Education under this Section, but if any such lien is filed or established and the Board of Education first notifies, or causes to be notified, the County of the Board of Education's intention to do so, the Board of Education may in good faith contest any lien filed or established against the Leased Property and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the County with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the County. The County will cooperate fully in any such contest on the request and at the expense of the Board of Education.

Except as provided in this Article and except as the County may consent thereto, which consent shall not be unreasonably withheld, the Board of Education shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than the respective rights of the Board of Education and the County as herein provided. Except as provided in this Article or otherwise with the County's consent, the Board of Education shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim for which it is responsible, if the same shall arise at any time; provided that the Board of Education may contest such liens, charges, encumbrances, or claims if it desires to do so. The Board of Education shall reimburse the County for any expense incurred by the County in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

## ARTICLE VIII BOARD OF EDUCATION'S ASSUMPTION OF COUNTY'S OBLIGATIONS

**Section 8.1** *Assumption of Obligations.* The Board of Education agrees to maintain general liability and casualty insurance with respect to the Leased Property; provided, however, that this term shall be satisfied as to general liability, at the Board of Education's election to so participate, by virtue of the Board of Education's participation in the North Carolina School Boards Trust or equivalent non-insurance risk pool; and as to casualty insurance it shall be satisfied through the North Carolina School Insurance Fund. It is expressly understood that the Board of Education shall not assume the County's obligation under current or future financing contracts involving the Leased Property, if any, to pay the Installment Payments and that the Board of Education shall not indemnify the County or any other party to such contracts for third-party claims asserted against any party to same relating to the payment of installment payments.

**Section 8.2** *Transfer of Obligations.* The Board of Education shall carry out the County's obligations under applicable contracts with respect to the construction of the Project as set forth in the Memorandum of Agreement.

**Section 8.3** *Board of Education's General Covenant.* The Board of Education further undertakes not to take or omit to take any action the taking or omission of which would cause the County to be in default in any manner under applicable contracts, including as applicable making any use of the Leased Property that would cause the County's obligations to make installment payments under such contracts to be "*private activity bonds*" within the meaning of the Internal Revenue Code of 1986, as

amended. If the Board of Education takes or omits to take any such action, then the Board of Education shall proceed with all due diligence to take such action as may be necessary to cure such default.

**Section 8.4** *County's Cooperation.* The County shall cooperate fully with the Board of Education in filing any proof of loss or taking any other action under this Lease. Neither the County nor the Board of Education may voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Leased Property without the other's written consent.

**Section 8.5** *Advances; Performance of Obligations.* If the Board of Education fails to pay any amount required to be paid by it under this Lease, or fails to take any other action required of it under this Lease, then the County may (but is under no obligation to) pay such amount or perform such other obligation. The Board of Education agrees to reimburse the County for any such payment or for its costs incurred in connection with performing such other obligation.

## ARTICLE IX DISCLAIMER OF WARRANTIES; OTHER COVENANTS

**Section 9.1** *Disclaimer of Warranties.* THE COUNTY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR A PARTICULAR USE OF THE LEASED PROPERTY OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PART THEREOF. The County is not liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by anyone of any item, product or service provided for herein.

**Section 9.2** *Further Assurances; Corrective Instruments.* The Board of Education and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention hereof.

**Section 9.3** *Board of Education and County Representatives.* Whenever under the provisions hereof the approval of the Board of Education or the County is required to take some action at the request of the other, unless otherwise provided, such approval or such request is to be given for the Board of Education by the Board Representative and for the County by the County Representative, and the Board of Education and the County are authorized to act on any such approval or request of such representative of the other.

**Section 9.4** *Compliance with Requirements.* During the Lease Term, the Board of Education and the County shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof (or be diligently and in good faith contesting such orders), and all current and future requirements of all insurance companies' written policies covering the Leased Property or any portion thereof.

## ARTICLE X TITLE TO LEASED PROPERTY; LIMITATIONS ON ENCUMBRANCES

Except for personal property purchased or leased by the Board of Education at its own expense, title to the Leased Property and any and all additions and modifications to or replacements of any portion of the Leased Property shall be held in the County's name, subject only to Permitted Encumbrances, until conveyed as provided in this Lease, notwithstanding (a) the occurrence of any event of damage,

destruction, condemnation or construction or title defect or (b) the violation by the County of any provision of this Lease.

The Board of Education has no right, title or interest in the Leased Property or any additions and modifications to or replacements of any portion of the Leased Property, except as expressly set forth in this Lease.

## ARTICLE XI SUBLEASING AND INDEMNIFICATION

**Section 11.1 *Board of Education's Subleasing.*** The Board of Education may not assign or sublease the Leased Property, in whole or in part, without the prior written consent of the County, which consent shall not be unreasonably withheld.

**Section 11.2 *Indemnification.*** Except as provided in Section 8.1, to the extent permitted by law, the Board of Education agrees to indemnify and save the County, its officers, employees and agents harmless against and from all claims by or on behalf of any person, firm, corporation or other legal entity arising from the operation or management of the Leased Property by the Board of Education during the Lease Term, including any claims arising from: (a) any condition of the Leased Property, (b) any act of negligence of the Board of Education or of any of its agents, contractors or employees or any violation of law by the Board of Education or breach of any covenant or warranty by the Board of Education hereunder; or (c) the incurrence of any cost or expense in connection with the construction and other accomplishment of the Project in excess of the moneys available for the School Project in the Acquisition and Construction Fund. The Board of Education shall be notified promptly by the County of any action or proceeding brought in connection with any claims arising out of circumstances described in (a), (b) or (c) above.

## ARTICLE XII EVENTS OF DEFAULT

**Section 12.1 *Events of Default.*** Each of the following is an "*Event of Default*" under this Lease and the term "*Default*" means, whenever it is used in this Lease, any one or more of the following events:

(a) The Board of Education's or the County's failure to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the defaulting party by the non-defaulting party, unless the non-defaulting party agrees in writing to an extension of such time before its expiration; but if the failure stated in such notice cannot be corrected within the applicable period, the non-defaulting party shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the defaulting party within the applicable period and diligently pursued until such failure is corrected and, further, if by reason of any event or occurrence constituting force majeure the defaulting party is unable in whole or in part to carry out any of its agreements contained herein (other than its obligations contained in Section 6.2 or 8.1 hereof), the defaulting party shall not be deemed in default during the continuance of such event or occurrence.

(b) The dissolution or liquidation of the Board of Education, the Macon County Schools or the County or the voluntary initiation by the Board of Education or the County of any proceeding under any federal or state law relating to bankruptcy,

insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Board of Education or the County of any such proceeding which shall remain undismissed for 60 days, or the entry by the Board of Education or the County into an agreement of composition with creditors or the Board of Education's or the County's failure generally to pay its debts as they become due.

**Section 12.2 Remedies on Default.** Whenever any Event of Default has happened and is continuing, the non-defaulting party may terminate this Lease or take whatever action at law or in equity may appear necessary or desirable, including the appointment of a receiver, to collect the amounts then due, or to enforce performance and observance of any obligation, agreement or covenants under this Lease.

**Section 12.3 No Remedy Exclusive.** No remedy herein conferred on or reserved is intended to be exclusive, and every such remedy is cumulative and in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing on any default impairs any such right or power, and any such right and power may be exercised from time to time as may be deemed expedient. It is not necessary to give any notice in order to be entitled to exercise any remedy reserved in this Article XII, other than such notice as may be required in this Article XII.

**Section 12.4 Waivers.** If any agreement contained herein is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

**Section 12.5 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.** The Board of Education and County agree, to the extent permitted by law, that in the case of a termination of the Lease Term by reason of an Event of Default, neither the Board of Education nor the County nor any one claiming through or under either of them shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of any remedy provided hereunder; and the Board of Education and the County, for themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of such laws.

### ARTICLE XIII MISCELLANEOUS

**Section 13.1 Notices.** All notices, certificates or other communications hereunder are sufficiently given if given by United States mail in certified form, postage prepaid, and will be deemed to have been received five business days after deposit in the United States mail in certified form, postage prepaid, as follows:

- (a) If intended for the County, addressed to it at the following address:

County of Macon, North Carolina  
5 West Main Street  
Franklin, North Carolina 28734  
Attention: County Manager

- (b) If intended for the Board of Education, addressed to it at the following address:

Macon County Schools

1202 Old Murphy Road  
Franklin, North Carolina 28734  
Attention: Superintendent

**Section 13.2 *Binding Effect.*** This Lease is binding on and inures to the benefit of the Board of Education and the County, subject, however, to the limitations contained in Article XI.

**Section 13.3 *Net Lease.*** This Lease is a “net lease,” and the Board of Education shall pay absolutely net during the Lease Term all other payments required hereunder, free of any deductions, and without abatement or setoff.

**Section 13.4 *Payments Due on Non-Business Days.*** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, is not a business day, such payment may be made or act performed or right exercised on the next succeeding day that is a business day with the same force and effect as if done on the nominal date provided in this Lease.

**Section 13.5 *Severability.*** If any provision of this Lease, other than the requirement of the County to provide quiet enjoyment of the Leased Property, is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 13.6 *Execution in Counterparts.*** This Lease may be simultaneously executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

**Section 13.7 *Applicable Law.*** This Lease is governed by and to be construed in accordance with the laws of the State of North Carolina.

**Section 13.8 *Captions.*** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

**Section 13.9. *Amendments and Further Instruments.*** The County and the Board of Education may, from time to time, execute and deliver such amendments to this Lease and such further instruments as may be required or desired for carrying out the expressed intention of this Lease, to the extent such amendments are in compliance with contracts pertaining to use of the Leased Property for financing purposes, if any.

**Section 13.10. *Memorandum of Lease.*** The County and the Board of Education shall, on or before the Conveyance Date, file this Lease or a memorandum of this Lease legally sufficient to comply with the relevant provisions of the North Carolina General Statutes with the Macon County Register of Deeds.

**Section 13.11 *Effective Date.*** This Lease is effective as of the Conveyance Date.

***IN WITNESS WHEREOF,*** the parties hereto have caused this Lease to be executed in their corporate names by their duly authorized officers, all as of the day and year first above written.

***[Remainder of Page Intentionally Left Blank]***







## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE SITE**

BEING all of that property comprising the Macon Middle School property, described in the following deeds, to-wit: that deed from Leonard Horn and wife, Leota M. Horn to the County, dated October 8, 1973, recorded in the Office of the Register of Deeds for Macon County in Deed Book W-9, page 161, and that deed from the Board of Education to the County, dated August 29, 1994, recorded in the Office of the Register of Deeds for Macon County in Deed Book O-20, pages 160-163, to which deeds reference is hereby made for a more particular description.

This conveyance is made subject to any easements of record for utilities and public roads.

STATE OF NORTH CAROLINA

**LEASE AGREEMENT**

COUNTY OF MACON

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of March, 2021 by and between the Macon County, a body politic and corporate of the State of North Carolina, hereinafter called "County" and the Trustees of Southwestern Community College, a body corporate, which has general control and supervision of all matters pertaining to Southwestern Community College with its principal place of business located in Sylva, North Carolina (referred to herein as "SCC").

**WITNESSETH:**

WHEREAS, The County and the Community College have previously agreed to cooperate in a plan (the "Project") for the purpose of providing space for SCC to house and carry on educational and training for EMS, Fire/Rescue, Basic Law Enforcement(BLET), National Park Service Park Ranger Law Enforcement Academy (NPS-PRLEA), Detention Officer Certification Course (DOCC), In-service Training/Continuing Educations, and Specialized Training programs for the citizens of Macon County and Western North Carolina (hereafter "Project").

WHEREAS, Pursuant to N.C. Gen. Stat. §153A-158.2 the County proposes to lease the Armory property, as described on Exhibit A (the "Premises") under the following terms to SCC, so that SCC can operate the Project.

WHEREAS, SCC has indicated a desire to accept the lease upon the terms hereof.

WHEREAS, the County and SCC desire to enter into the Lease Agreement to outline their respective rights and responsibilities in the use of the Premises for the Project.

NOW THEREFORE for and in consideration of the mutual promises and agreements hereinafter set forth to be done and performed, it is understood and agreed as follows:

**I. GENERALLY.**

**A. Use. Ownership. Access.**

1. County hereby grants to SCC a Lease of the Premises for the purposes of and upon the condition that SCC conducts its educational and training of and for EMS, Fire/Rescue, Basic Law Enforcement (BLET), National Park Service Park Ranger Law Enforcement Academy (NPS-PRLEA), Detention Officer Certification Course (DOCC), In-service Training/Continuing Educations, and Specialized Training programs. SCC is prohibited from using the property in any other manner unless it is specifically approved by the County.

2. County is the owner in fee simple of all property comprising the Premises and shall have reasonable access at all times to the buildings and premises subject to the right of quiet enjoyment of SCC.

**B. Term.** The term of this Lease shall be for a period commencing on \_\_\_\_\_, 2021 (the "commencement date") and terminating at midnight on the same date twenty-five (25) years from the commencement date, unless otherwise terminated before that date as set hereinafter.

**C. Independent Contractor.**

SCC is an independent contractor, and not as an employee, partner, or agent of County. Nothing contained herein, shall be deemed to create a relationship of employment, association, partnership or joint venture between SCC and County. SCC shall have no authority hereunder to take any action, create any obligation, make any commitment, incur any indebtedness, or enter into any contract on behalf of County without County's express prior written consent.

**D. Termination.** Termination of this Lease shall be at the earlier of any of the following events, at which time SCC shall immediately surrender possession of the Premises to the County:

1. The end of the term as set out in paragraph B hereinabove; or
2. By the mutual written consent of the Parties; or
3. At least 180 days from prior written notice to the other in the event of a breach of the terms of this Agreement; provided that the breaching party shall have been given notice of the alleged breach and shall have 120 days in which to cure such breach, if curable; or
4. At least 120 days from the date that the Premises are not used by SCC for the purposes specifically set out herein.

**II. RESPONSIBILITIES OF COUNTY.**

It shall be the responsibility of the County to:

- A. **Renovations:** The County shall provide for and complete the renovations of the Armory Building in the ways and in the manner the County deems necessary and reasonable for SCC's use of the Premises for the purposes stated hereinabove.
- B. **Condition of Property, Maintenance and Repairs:** County shall be responsible for reasonable and necessary maintenance of the Premises, including, but not limited to HVAC maintenance and repair; however, SCC shall reimburse the County for the cost of any repairs resulting from actions, or failures to act, or intentional acts of SCC, its agents, employees, servants and invitees.
- C. **Utilities:** The County shall be responsible for the normal and customary utilities necessary and reasonable for SCC's use and purposes stated herein.

D. During the term of the Lease, County shall, at its sole expense, obtain and maintain the following commercial insurances:

1. Fire insurance for the structure(s), fixtures, and equipment owned by the County;
2. Workers' compensation coverage at the statutory limits in compliance with applicable state and federal laws for its own employees related to work to be performed in the two preceding paragraphs;
3. Liability coverage with policy limits of \$1,000,000.
4. Nothing herein shall constitute a waiver of governmental immunity under North Carolina law.

### III. RESPONSIBILITIES OF SCC.

It shall be the responsibility of SCC to:

- A. SCC will be responsible to pay for items required for its training programs associated with its stated Emergency Services Academic Program, including, but not limited to, teachers, burn materials, training materials/books, etc.
- B. Alterations and Improvements. SCC may, at SCC's expense, have the right, upon being granted County's express prior written consent, and which consent may be denied for any or no reason, to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Premises from time to time as SCC may deem desirable, provided that the same are made in a workmanlike manner and utilizing good quality materials. County may, at its sole discretion, require public bidding for contracts and/or require performance and payment bonds for the project.

Any such additions, improvements and replacements of and to all or any part of the Premises shall become and be considered a part of the Premises and shall become the property of County, its successors and/or assigns. Provided, however, such additions, improvements and repairs shall not be subject to county's maintenance obligations.

- C. SCC shall have the right to place and install personal property, equipment and other temporary installations associated with its Emergency Services Academic Program in and upon the Premises. All personal property, equipment, and temporary installations, whether acquired by SCC at the commencement of the Lease term or placed or installed in the Premises by SCC thereafter, shall remain SCC's property free and clear of any claim by County. SCC shall have the right to remove the same at any time during the term(s) of this Agreement provided that all damage to the Premises caused by such removal shall be repaired by SCC at SCC's expense.
- D. During the term of the Lease, SCC shall, at its sole expense, obtain and maintain the following commercial insurances:
  1. Workers' compensation coverage at the statutory limits in compliance with applicable state and federal laws for SCC employees. SCC shall ensure that any

subcontractors also have workers compensation coverage at the statutory limits. Employer's liability coverage with minimum limits of \$1,000,000 each accident/\$1,000,000 disease each employee/\$1,000,000 disease policy limit;

2. Commercial general liability insurance covering all operations performed by SCC with minimum policy limits of \$1,000,000 per occurrence and \$3,000,000 aggregate;
  3. Business Automobile liability insurance for all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit per occurrence shall be \$1,000,000 and if applicable, shall include uninsured/underinsured motorist coverage per NCGS 20-279-21;
  4. Professional liability insurance covering SCC's acts, errors, or omissions on a claims-made basis with a minimum limit of \$1,000,000 and \$3,000,000 aggregate;
  5. SCC shall provide the County with certificates of insurance evidencing the above amounts. All liability certificates shall name Macon County as additional insured under the policies;
  6. SCC shall not be obligated to maintain property insurance on its furnishing, fixtures, equipment and personal property. All furnishings, fixtures, equipment, and property of every kind and description of SCC and of persons claiming by, through or under SCC which may be on the Premises grounds or in or about Premises shall be at the sole risk and hazard of SCC and no part of loss or damage to such property from whatever cause shall be charged to, or borne by, County.
- E. SCC shall maintain the Premises in a clean, neat and orderly condition, including but not limited to: general housekeeping, operation and maintenance of Premises to insure that the property will appear attractive and inviting to the public; keeping the interior and exterior of the building in a clean and orderly condition; provide for trash collection and removal; insure that all recyclable materials including but not limited to plastic bottles and aluminum cans are separated from the regular trash and placed in the appropriate recycling receptacle; cleaning of all restrooms and furnish supplies.
- F. The County may notify the SCC of any objectionable or unsightly conditions with regard to the Premises and SCC shall have three (3) working days following notification to correct the deficiency.
- G. It is understood and agreed that if the property becomes idle and unused for any period of time exceeding 120 days, this Agreement shall become null and void.
- H. SCC agrees its use of the Premises during the term of this Agreement shall be done in compliance with all federal, state and local laws.

#### **IV. MUTUAL INDEMNITY.**

The Parties shall, to the extent permitted by applicable law, at all times indemnify, defend, and save the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inaction of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

Nothing herein shall serve to abrogate or waive any sovereign or governmental immunity enjoyed by either or both of the Parties and if this paragraph is construed by a court of competent jurisdiction to be such, such paragraph or provision shall be void.

#### **V. FIRE OR OTHER CASUALTY.**

If, during the term of this Lease, the Premises shall be or become damaged by fire, the elements, or any other casualty, such damage shall be repaired by the County, unless the structure/building located on said Premises is destroyed to the extent that substantial alteration or reconstruction of the building shall, in the County's sole opinion, be required, at which time the County may terminate this Lease. In no event shall County be required to repair any damage to any property installed by or owned by SCC.

#### **VI. MISCELLANEOUS.**

- A. Assignment and Subleasing. SCC shall not transfer or assign all or any interest in this Agreement. SCC shall have no right to sublet all or any part of the Premises.
- B. Taxes and Assessments. County shall pay any taxes, assessments, charges, fees or Leases attributable to its use of the Premises, including any increase in real property taxes and any use, occupancy, and/or personal property taxes.
- C. Mechanics Liens. SCC shall not suffer or permit any mechanic's, laborer's, or materialman's lien to be filed against the Premises by reason or work, labor, services, of materials requested and supplies claimed to have been requested by SCC; and if such lien shall at any time be so filed, within fifteen (15) days after notice of the filing thereof, SCC shall cause it to be cancelled and discharged of record. In the event SCC does not cause such lien to be cancelled and discharged of record, County may terminate this Lease and proceed in accordance with applicable law.
- D. Ownership of Improvements: During the Term all currently existing Improvements shall be solely the property of the County. All other Improvements which may be added by SCC (which do not constitute replacements of existing Improvements) shall be the property of SCC, but at the end of the Term, all then-existing Improvements shall be the property of the County. However, upon expiration or earlier termination of this Lease, SCC shall have the right to remove all movable equipment, furniture, furnishings and other personal property that it purchased or provided and located in the Premises and other items not permanently attached to the Premises provided that SCC repairs any damages caused by the removal of such items.



E. Notice. The parties hereby acknowledge that all written notices relative to this Lease shall be served upon the parties in writing and shall be deemed properly served only when delivered by one of the following methods: hand delivered, overnight courier, or posted by certified United States mail, return receipt requested, addressed to the party to whom directed at the following addresses or at such other addresses as may be from time to time designated in writing:

To County: County of Macon  
5 West Main Street  
Franklin, NC 28734  
Attn: County Manager

To SCC: Southwestern Community College  
447 College Dr.  
Sylva, NC 28779  
Attn: \_\_\_\_\_

F. Governing Law. Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Franklin, Macon County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Macon County, North Carolina.

G. Mediation.

1. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Resident Superior Court Judge for Macon County shall name a mediator for the matter.
2. The parties shall equally share the mediator's fee. The mediation shall be held in Franklin, NC at a location designated by the mediator selected to mediate the matter.

H. Severability. Should any provision or provisions contained in this Lease be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.

I. Entirety. This Lease contains the entire Agreement of the parties and may not be modified, except by an instrument in writing and signed by both parties.



IN WITNESS WHEREOF, the parties hereto have executed and attested this Agreement by their officers thereunto duly authorized as of the day and year first written above.

[Signature Pages Follow]

This the \_\_\_\_ day of March, 2021

THE TRUSTEES OF SOUTHWESTERN  
COMMUNITY COLLEGE

[SEAL]

By: \_\_\_\_\_  
Chairperson of the Board of Trustees

Attest:

\_\_\_\_\_  
President and Ex-Officio Secretary

Approved as to Form:

\_\_\_\_\_  
Dean Shatley  
SCC Attorney

[Counterpart signature page to the Agreement]

This the \_\_\_\_ day of March, 2021

COUNTY OF MACON, NORTH CAROLINA

[SEAL]

\_\_\_\_\_  
James P. Tate  
Chairman of the Macon County Board of  
Commissioners

Attest:

\_\_\_\_\_  
Mike Decker  
Clerk to the Board of Commissioners

Approved as to Form:

\_\_\_\_\_  
Kimberly N. Carpenter  
Macon County Interim County Attorney

[Counterpart signature page to the Agreement]

Exhibit "A"  
Description of Premises

Macon Co. PIN: A portion of 6574539519  
Location: 192 Industrial Park Loop  
Franklin, NC

Macon Co. PIN: A portion of 6574539519  
Location: 192 Industrial Park Loop  
Franklin, NC

Being a portion of the property known as the "National Guard Armory" property described in a deed recorded in Deed Book O-39, Page 516, Macon County Public Registry and more particularly being the **2.98 acres, "Tract A"** as shown on a survey dated March 12, 2020, as revised on March 2, 2021 to add Tracts A and B, by Sprinkle Surveying, PA, PLS, NCBELS License No. C-1665 entitled "Survey for Macon County National Guard Armory Site PIN 6574539519" and as recorded in Plat Cabinet \_\_\_\_\_, Macon County Public Registry.

This leasehold interest is made and given subject to a right of way easement for access to and from Industrial Park Look (SR 1171) for the benefit of the leaseholder of Tract B (2.50 acres), which easement is more particularly shown and described as the "Paved Drive/Parking" areas on the above referenced recorded plat.

THE TRUSTEES OF SOUTHWESTERN  
COMMUNITY COLLEGE

---

COUNTY OF MACON, NC

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STATE OF NORTH CAROLINA

**LEASE AGREEMENT**

COUNTY OF MACON

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of March, 2021 by and between the Macon County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as "County") and the Trustees of Southwestern Community College, a body corporate, which has general control and supervision of all matters pertaining to Southwestern Community College with its principal place of business located in Sylva, North Carolina (hereinafter referred to herein as "SCC").

**WITNESSETH:**

WHEREAS, SCC has obtained an approved NCCCS 3-1 form on \_\_\_\_\_ for the purpose of the construction of a Class A/B pre-fabricated training/burn building on SCC owned property;

WHEREAS, since that time, the County pursuant to N.C. Gen. Stat. §153A-158.2 has agreed to lease lands to SCC for the purposes of the construction of and use of the above referenced training/burn building for training and educational purposes (the "Project") on the premises described in Exhibit A hereto (the "Premises") contingent upon an approved NCCCS 3-1 form for the Project upon the Premises herein described;

WHEREAS, SCC has indicated a desire to accept the lease upon the terms herein provided and contingent upon an approved NCCCS 3-1 form reflecting the approval of and funding for the construction of the training/burn building located upon the Premises referenced herein;

WHEREAS, the County and SCC desire to enter into the Lease Agreement to outline their respective rights and responsibilities in the use of the Premises for the Project.

NOW THEREFORE for and in consideration of the mutual promises and agreements hereinafter set forth to be done and performed, it is understood and agreed as follows:

**I. GENERALLY.**

**A. Use. Ownership. Access.**

1. County hereby grants to SCC a Lease of the Premises for the purposes of SCC's construction and use of a Class A/B pre-fabricated training/burn building located on the property described in Exhibit A, use of the outbuilding located thereon and to have access to said lands for training and educational purposes carried out by SCC. SCC is prohibited from using the property in any other manner unless it is specifically approved by the County.

The parties hereto understand and agree that this lease is contingent upon the appropriate approval of a NCCCS 3-1 reflecting the funding for the Project referenced herein which includes the construction of the training/burn building located upon the Premises within 180 days from the signing of this Lease Agreement.

2. County is the owner in fee simple of all property comprising the Premises and shall have reasonable access at all times to the buildings and premises subject to the right of quiet enjoyment of SCC.

**B. Term.** The term of this Lease shall be for a period commencing on \_\_\_\_\_, 2021 (the "commencement date") and terminating at midnight on the same date twenty-five (25) years from the commencement date, unless otherwise terminated before that date as set hereinafter.

**C. Independent Contractor.**

SCC is an independent contractor, and not as an employee, partner, or agent of County. Nothing contained herein, shall be deemed to create a relationship of employment, association, partnership or joint venture between SCC and County. SCC shall have no authority hereunder to take any action, create any obligation, make any commitment, incur any indebtedness, or enter into any contract on behalf of County without County's express prior written consent.

**D. Termination.** Termination of this Lease shall be at the earlier of any of the following events, at which time SCC shall immediately surrender possession of the Premises to the County:

1. The end of the term as set out in paragraph B hereinabove; or
2. By the mutual written consent of the Parties; or
3. At least 180 days from prior written notice to the other in the event of a breach of the terms of this Agreement; provided that the breaching party shall have been given notice of the alleged breach and shall have 120 days in which to cure such breach, if curable; or
4. At least 120 days from the date that the Premises are not used by SCC for the purposes specifically set out herein; or
5. Within 180 days from the signing of this Lease Agreement in the event there is no appropriate approval of a revised NCCCS 3-1 reflecting the Project contemplated herein which includes the construction of the training/burn building located upon the Premises.

**II. RESPONSIBILITIES OF COUNTY.**

It shall be the responsibility of the County to:

- A. During the term of the Lease, County shall, at its sole expense, obtain and maintain the following commercial insurances:



1. Fire insurance for the structure(s), fixtures, and equipment owned by the County;
2. Workers' compensation coverage at the statutory limits in compliance with applicable state and federal laws for its own employees related to work to be performed in the two preceding paragraphs;
3. Liability coverage with policy limits of \$1,000,000.
4. Nothing herein shall constitute a waiver of governmental immunity under North Carolina law.

### III. RESPONSIBILITIES OF SCC.

It shall be the responsibility of SCC to:

- A. SCC will be responsible construction of any and all improvements as set out in the approved NCCCS 3-1 form for the project referenced herein in accordance with the 3-1.
- B. SCC shall have the right to place and install personal property, equipment and other temporary installations associated with its use of the Premises for training and educational uses as set out herein.
- C. During the term of the Lease, SCC shall, at its sole expense, obtain and maintain the following commercial insurances:
  1. Workers' compensation coverage at the statutory limits in compliance with applicable state and federal laws for SCC employees. SCC shall ensure that any subcontractors also have workers compensation coverage at the statutory limits. Employer's liability coverage with minimum limits of \$1,000,000 each accident/\$1,000,000 disease each employee/\$1,000,000 disease policy limit;
  2. Commercial general liability insurance covering all operations performed by SCC with minimum policy limits of \$1,000,000 per occurrence and \$3,000,000 aggregate;
  3. Business Automobile liability insurance for all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit per occurrence shall be \$1,000,000 and if applicable, shall include uninsured/underinsured motorist coverage per NCGS 20-279-21;
  4. Professional liability insurance covering SCC's acts, errors, or omissions on a claims-made basis with a minimum limit of \$1,000,000 and \$3,000,000 aggregate;
  5. SCC shall provide the County with certificates of insurance evidencing the above amounts. All liability certificates shall name Macon County as additional insured under the policies;
  6. SCC shall not be obligated to maintain property insurance on its furnishing, fixtures, equipment and personal property. All furnishings, fixtures, equipment, and property of every kind and description of SCC and of persons claiming by,

through or under SCC which may be on the Premises grounds or in or about Premises shall be at the sole risk and hazard of SCC and no part of loss or damage to such property from whatever cause shall be charged to, or borne by, County.

- E. SCC shall maintain the Premises in a clean, neat and orderly condition, including but not limited to: general housekeeping, operation and maintenance of Premises to insure that the property will appear attractive and inviting to the public; keeping the interior and exterior of the building in a clean and orderly condition; provide for trash collection and removal; insure that all recyclable materials including but not limited to plastic bottles and aluminum cans are separated from the regular trash and placed in the appropriate recycling receptacle; cleaning of all restrooms and furnish supplies.
- F. The County may notify the SCC of any objectionable or unsightly conditions with regard to the Premises and SCC shall have three (3) working days following notification to correct the deficiency.
- G. It is understood and agreed that if the property becomes idle and unused for any period of time exceeding 180 days, this Agreement shall become null and void.
- H. SCC agrees its use of the Premises during the term of this Agreement shall be done in compliance with all federal, state and local laws.

#### **IV. MUTUAL INDEMNITY.**

The Parties shall, to the extent permitted by applicable law, at all times indemnify, defend, and save the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inaction of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

Nothing herein shall serve to abrogate or waive any sovereign or governmental immunity enjoyed by either or both of the Parties and if this paragraph is construed by a court of competent jurisdiction to be such, such paragraph or provision shall be void.

#### **V. FIRE OR OTHER CASUALTY.**

If, during the term of this Lease, the Premises shall be or become damaged by fire, the elements, or any other casualty, such damage shall be repaired by the County, unless the structure/building located on said Premises is destroyed to the extent that substantial alteration or reconstruction of the building shall, in the County's sole opinion, be required, at which time the County may terminate this Lease. In no event shall County be required to repair any damage to any property installed by or owned by SCC.

#### **VI. MISCELLANEOUS.**

- A. Assignment and Subleasing. SCC shall not transfer or assign all or any interest in this Agreement. SCC shall have no right to sublet all or any part of the Premises.
- B. Taxes and Assessments. County shall pay any taxes, assessments, charges, fees or Leases attributable to its use of the Premises, including any increase in real property taxes and any use, occupancy, and/or personal property taxes.
- C. Mechanics Liens. SCC shall not suffer or permit any mechanic's, laborer's, or materialman's lien to be filed against the Premises by reason or work, labor, services, of materials requested and supplies claimed to have been requested by SCC; and if such lien shall at any time be so filed, within fifteen (15) days after notice of the filing thereof, SCC shall cause it to be cancelled and discharged of record. In the event SCC does not cause such lien to be cancelled and discharged of record, County may terminate this Lease and proceed in accordance with applicable law.
- D. Ownership of Improvements: During the Term all currently existing Improvements shall be solely the property of the County. All other Improvements which may be added by SCC (which do not constitute replacements of existing Improvements) shall be the property of SCC, but at the end of the Term, all then-existing Improvements shall be the property of the County. However, upon expiration or earlier termination of this Lease, SCC shall have the right to remove all movable equipment, furniture, furnishings and other personal property that it purchased or provided and located in the Premises and other items not permanently attached to the Premises provided that SCC repairs any damages caused by the removal of such items.
- E. Notice. The parties hereby acknowledge that all written notices relative to this Lease shall be served upon the parties in writing and shall be deemed properly served only when delivered by one of the following methods: hand delivered, overnight courier, or posted by certified United States mail, return receipt requested, addressed to the party to whom directed at the following addresses or at such other addresses as may be from time to time designated in writing:

To County:                   County of Macon  
                                  5 West Main Street  
                                  Franklin, NC 28734  
                                  Attn: County Manager

To SCC:                     Southwestern Community College  
                                  447 College Dr.  
                                  Sylva, NC 28779  
                                  Attn: \_\_\_\_\_

- F. Governing Law. Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Franklin, Macon County, North Carolina, which said Court shall have

jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Macon County, North Carolina.

G. Mediation.

1. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Resident Superior Court Judge for Macon County shall name a mediator for the matter.
2. The parties shall equally share the mediator's fee. The mediation shall be held in Franklin, NC at a location designated by the mediator selected to mediate the matter.

H. Severability. Should any provision or provisions contained in this Lease be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.

I. Entirety. This Lease contains the entire Agreement of the parties and may not be modified, except by an instrument in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Agreement by their officers thereunto duly authorized as of the day and year first written above.

[Signature Pages Follow]

This the \_\_\_\_\_ day of March, 2021

THE TRUSTEES OF SOUTHWESTERN  
COMMUNITY COLLEGE

[SEAL]

By: \_\_\_\_\_  
Chairperson of the Board of Trustees

Attest:

\_\_\_\_\_  
President and Ex-Officio Secretary

Approved as to Form:

\_\_\_\_\_  
Dean Shatley  
SCC Attorney

[Counterpart signature page to the Agreement]

This the \_\_\_\_ day of March, 2021

COUNTY OF MACON, NORTH CAROLINA

[SEAL]

---

James P. Tate  
Chairman of the Macon County Board of  
Commissioners

Attest:

---

Mike Decker  
Clerk to the Board of Commissioners

Approved as to Form:

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Kimberly N. Carpenter  
Macon County Interim County Attorney

[Counterpart signature page to the Agreement]

Exhibit "A"  
Description of Premises

Macon Co. PIN: A portion of 6574539519  
Location: 192 Industrial Park Loop  
Franklin, NC

Being a portion of the property known as the "National Guard Armory" property described in a deed recorded in Deed Book O-39, Page 516, Macon County Public Registry and more particularly being the **2.50 acres, "Tract B"** as shown on a survey dated March 12, 2020, as revised on March 2, 2021 to add Tracts A and B, by Sprinkle Surveying, PA, PLS, NCBELS License No. C-1665 entitled "Survey for Macon County National Guard Armory Site PIN 6574539519" and as recorded in Plat Cabinet \_\_\_\_\_, Macon County Public Registry.

This leasehold interest is made and given together with a right of way easement for access to and from said Premises described above from Industrial Park Loop (SR 1171), over and across other lands of Macon County and more particularly shown and described as the "Paved Drive/Parking" areas on the above referenced recorded plat.

THE TRUSTEES OF SOUTHWESTERN  
COMMUNITY COLLEGE

COUNTY OF MACON, NC

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7 February 2021

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

P.O. Box 668  
Franklin, NC 28744  
Ph: 828-369-6611  
Fax: 828-369-6619  
tom@ritterarchitecture.com

Re: **Proposed Macon Transit Facility Expansion**  
38 Pennell Lane  
Franklin, Macon County, North Carolina  
Architect's Project Number 20-92358

Attn: Mr. Jack Morgan  
Agent for Owner

Dear Mr. Morgan:

In response to your request, **RITTER ARCHITECTURE, P.A.**, is pleased to submit this proposal for comprehensive Architectural and Engineering Services relative to the aforementioned project.

**PROPOSAL/SCOPE OF WORK:**

**GENERAL:**

- 1) Meet with Owner's Representative to discuss and determine project parameters and project intent. (meeting occurred September 9, 2020)

**ARCHITECTURAL:**

- 1) Provide Comprehensive Architectural and Engineering Bid and Construction documents for the proposed 1,200 square foot, single story, facility expansion to be located on the existing Macon County Transit property in Franklin, Macon County, North Carolina.

Facility to include:

- a. Approximately 698 square foot multi-purpose/training room,
- b. Approximate 240 square foot Executive Office,
- c. Interior Storage Room,
- d. Public Toilet Room and Waiting Room for Transit patrons.
- e. Minor adjustments to appliances and cabinetry within the *existing* Breakroom.
- f. Covered Porte-Cochere for Patron Transfer Station.

- 2) Construction documentation to comply with the current version of the North Carolina State Building Code (2018)
  
- 3) Construction documentation to include:
  - a. Foundation Plan
  - b. Ground Floor plan,
  - c. Exterior Elevations,
  - d. Building Sections and Wall Sections.
  - e. Detail, General Notes, Outline Specifications, and Miscellaneous Schedules.
  - f. Structural Engineering design and detailing, as necessary, to allow load distribution from ridge to grade below. A shallow foundation system, reinforced concrete floor slab, wood framed exterior bearing walls, non-load bearing wood framed interior walls, and common pre-engineered wood roof trusses are anticipated to be included at this time.
  - g. Mechanical, Electrical and Plumbing Engineering Drawings and Specifications, as necessary, to depict design intent and product incorporation.
  
- 4.) Architect's monthly Application for Payment reviews and approvals based upon an anticipated 4 month (120 day) Construction schedule.
  
- 5.) Bid Coordination / Construction Contract Administration and shop drawings reviews based upon an anticipated 4 month (120 day) Construction Schedule.
  
- 6.) Miscellaneous:
  - A. Architect shall comply with the e-verification requirements of Article 2 of Chapter 64 of the General Statutes. Further, if it utilizes a subcontractor, Architect shall require the subcontractor to comply with the e-verification requirements of Article 2 of Chapter 64 of the General Statutes.
  
  - B. That notwithstanding anything to the contrary contained herein, the Construction Contract Documents to be provided by Architect shall include a non-binding mediation agreement which preserves the option of either party to go to court as required by N.C. Gen. Stat. § 143-128 (1) and this provision shall control.
  
  - C. Architect shall take all steps necessary to cause Owner to completely comply with the provisions of Chapter 143, Article 8 of the North Carolina General Statutes in connection with Project which is the subject matter of this Agreement and will assist Legal Counsel for Owner in making any required certifications to the N.C. Local Government Commission or Lenders in connection with the same.
  
  - D. Architect shall take all steps necessary to insure E-Verification compliance by Building Contractor in all contract documents specified by this Agreement.

**TERMS OF PROPOSAL:**

This offer shall remain outstanding, for acceptance, for a period of thirty (30) days from the date hereof.

This proposal may be terminated by either party, with cause, upon seven (7) days written notice to the other party, should such party fail to perform its obligations in accordance with the terms thereof. In the event of termination, Architect shall be compensated for services performed to termination date, including miscellaneous expenses then due.

If this proposal meets with your approval, please sign on the line provided below. This office will then prepare a formalized AIA Owner/Architect agreement, which is satisfactory to both parties hereto, for execution.

**PRE-AUDIT CERTIFICATE:**

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

This the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Macon County Finance Officer

Sincerely,

RITTER ARCHITECTURE, P.A.



Thomas E. Ritter,

President/Architect of Record

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



REVISION BY


DATE



**Britex Associates, Inc.**  
 1701 Old Dixie Rd  
 Suite 400, Raleigh, NC 27604  
 Phone: 919-876-0011  
 Fax: 919-876-0011  
 www.britexassociates.com

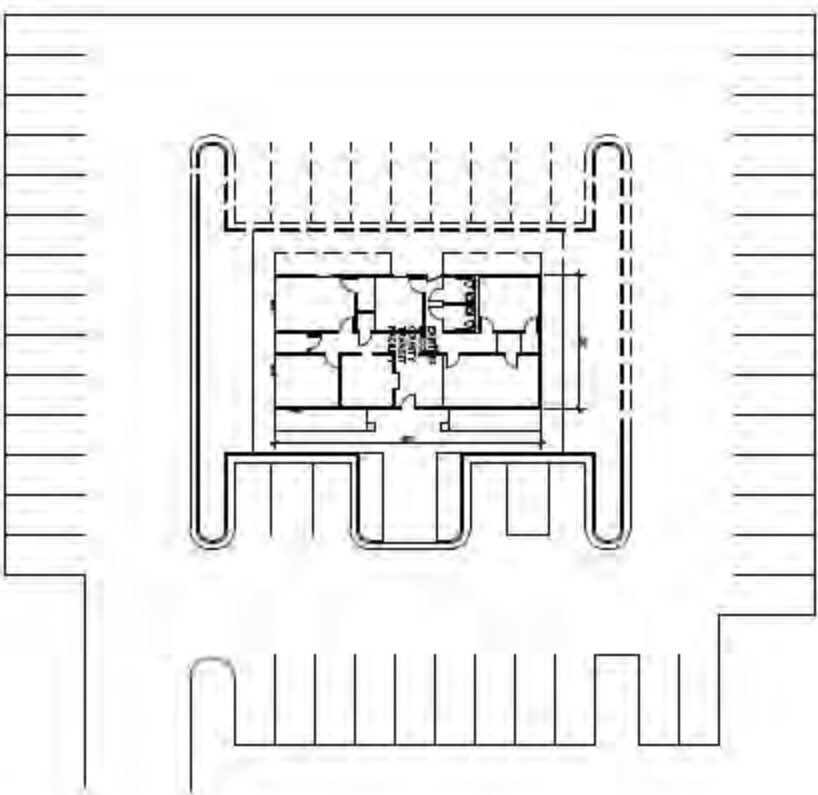


THE STATE OF NORTH CAROLINA  
 BOARD OF EXAMINERS  
 FOR PROFESSIONAL ENGINEERS  
 EXPIRES 10/1/00  
 NO. 10000

A PROPOSED FACILITY ADDITION FOR :  
**MACON COUNTY TRANSIT**  
 XXX PENNELL LANE  
 FRANKLIN,  
 MACON COUNTY, NORTH CAROLINA

**TITLE**  
 SHEET NO. 1 OF 2  
 PROPOSED SITE PLAN

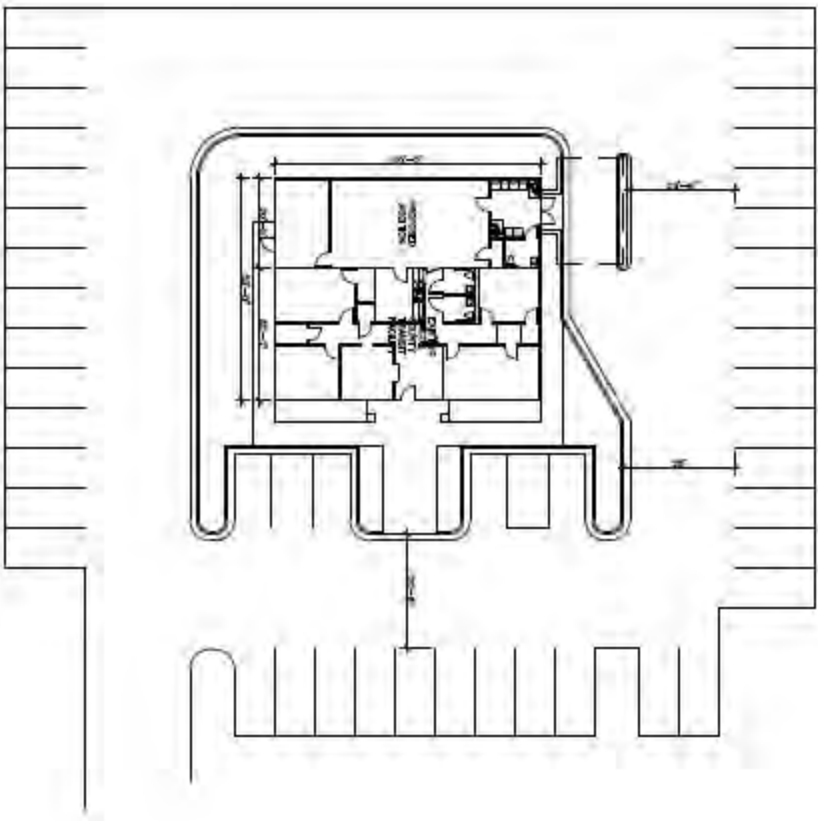
**PROJECT NO.**  
**DESIGNED BY**  
**CHECKED BY**  
**DATE**  
**SCALE**  
**SHEET**  
**SP-1**



EXISTING SITE PLAN



SCALE 1" = 40'



PROPOSED SITE PLAN



SCALE 1" = 40'





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

J. ERIC BOYETTE  
SECRETARY

March 1, 2021

Macon County Commissioners  
James Tate, Chairman  
Courthouse Annex  
5 West Main Street  
Franklin, NC 28734

Attention: Mr. James Tate

Re: SR1659, Dowdle Mtn. Rd. Proposed Abandonment

Dear Mr. Tate:

Property owner Mark Berry of BB&R LLC has contacted our Andrews District Office and requested North Carolina Department of Transportation abandon 275 feet of the old Dowdle Mountain Road, SR1659, from the State Maintained Road System in Macon County. Our office has investigated this request and found no adverse effects to the remaining and adjacent State Highway System resulting from this proposed abandonment.

I am, therefore, requesting the Macon County Board of Commissioner's consideration in adopting a resolution to abandon the proposed segment of SR1659, beginning at survey station 10+35 and ending at survey station 13+10, from the State Maintained Road System in Macon County.

Supporting documentation and mapping are attached for your reference.

Please feel free to contact me at (828) 321-4105 should you have any questions concerning this matter.

Sincerely,  
*ANDY RUSSELL, P.E.*  
Andy Russell, P.E.  
District Engineer

cc: Mrs. Wanda Austin P.E., Division Engineer  
Mr. Mitchell Bishop, P.E., Division Construction Engineer  
Mr. Mark Hill, P.E., Macon County Maintenance Engineer  
Mr. Austin Phillips, Transportation Engineering Associate

*Mailing Address:*  
NC DEPARTMENT OF TRANSPORTATION  
ANDREWS DISTRICT OFFICE  
191 ROBBINSVILLE ROAD  
ANDREWS, NC 28901

*Telephone:* (828) 321-4105  
*Fax:* (828) 321-3228  
*Customer Service:* 1-877-368-4968

*Website:* [www.ncdot.gov](http://www.ncdot.gov)

*Location:*  
191 ROBBINSVILLE ROAD  
ANDREWS, NC 28901

RESOLUTION REQUESTING ABANDONMENT OF STATE ROAD 1659  
ALSO KNOWN AS DOWDLE MOUNTAIN ROAD

North Carolina

County of Macon

Road Description: State Road 1659, Dowdle Mountain Road

WHEREAS, Mr. Mark Berry has submitted a North Carolina Department of Transportation (NCDOT) Abandonment Petition, requesting that the North Carolina Department of Transportation abandon a section of what was previously Dowdle Mountain Road and remove it from the state maintained road system; and

WHEREAS, Mr. Berry is the only property owner on this section of Dowdle Mountain Road; and

WHEREAS, pursuant to §153A-241, County Boards of Commissioners have no authority to close public roads that are under the control and supervision of the department of Transportation, and

WHEREAS, the Macon County Board of Commissioners is in support of Mr. Berry's request for the NCDOT abandonment of SR1659.

THEREFORE, the Macon County Board of Commissioners respectfully request the North Carolina Department of Transportation abandon this section of State Road 1659, Dowdle Mountain Road, and remove it from the State Maintained Road System.

Adopted by the Macon County Board of Commissioners at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2021.

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James Tate, Chairman

Macon County Board of Commissioners

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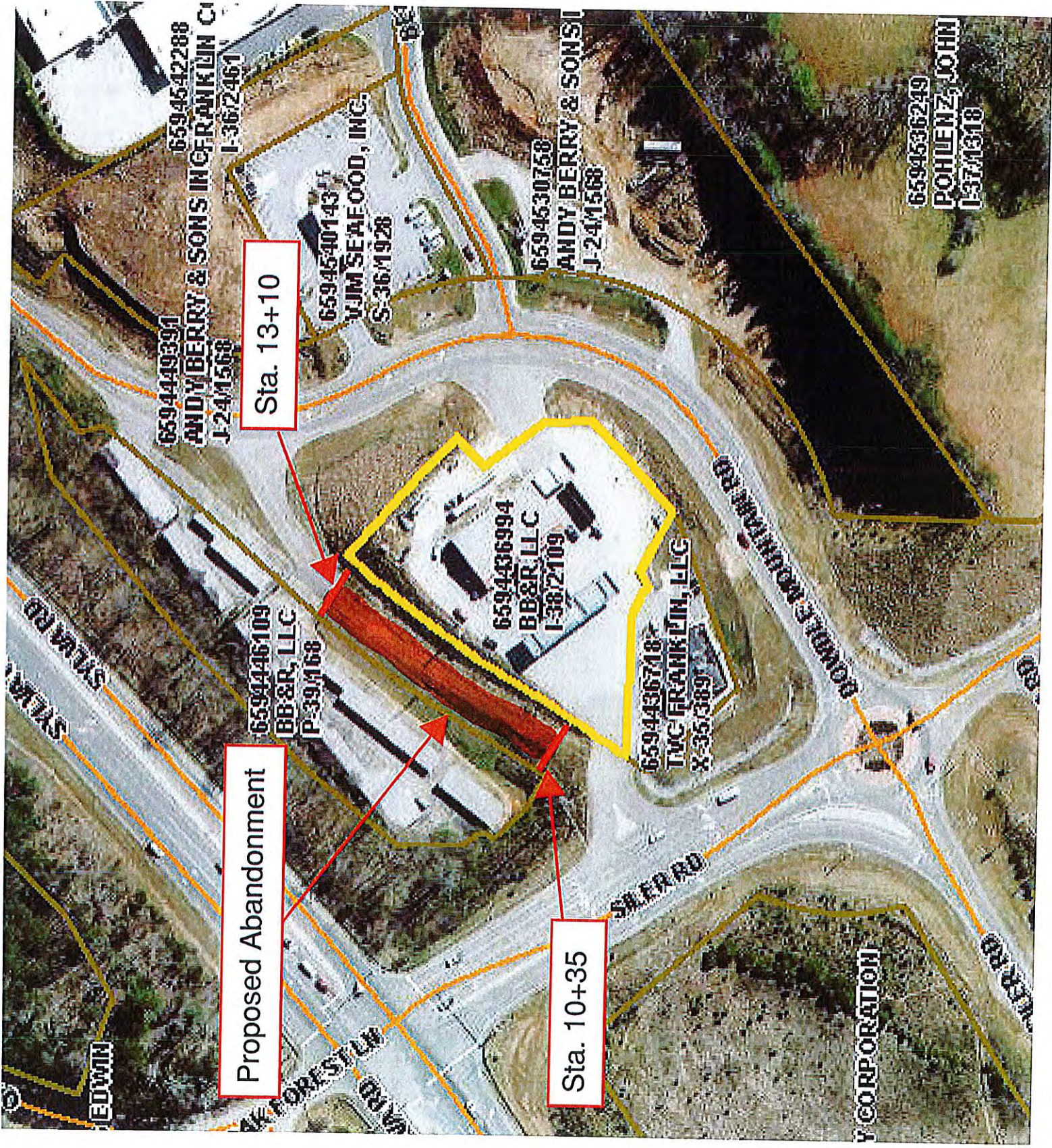
Derek C. Roland, County Manager

Official Clerk to the Board

OFFICAL SEAL







Proposed Abandonment

Sta. 13+10

Sta. 10+35

6594449391  
ANDY BERRY & SONS INC FRANKLIN CT  
J-241568  
I-362461

6594540143  
VJM SEAFOOD, INC.  
S-361928

6594530758  
ANDY BERRY & SONS  
J-241568

659436994  
BB&R, LLC  
I-382109

6594436718  
TMC FRANKLIN, LLC  
X-35389

6594536249  
POHLENZ, JOHN  
I-371318

6594446109  
BB&R, LLC  
P-391168

EDWIN

FOREST LANE

CORPORATION

SWEETWATER RD

SWEETWATER RD

SWEETWATER RD

**Macon County Parcel Information**

**BB&R LLC**  
PO BOX 1533  
FRANKLIN NC 28744  
**Property Address**  
333 DOWDLE MOUNTAIN RD  
DOWDLE MOUNTAIN PIT STOP

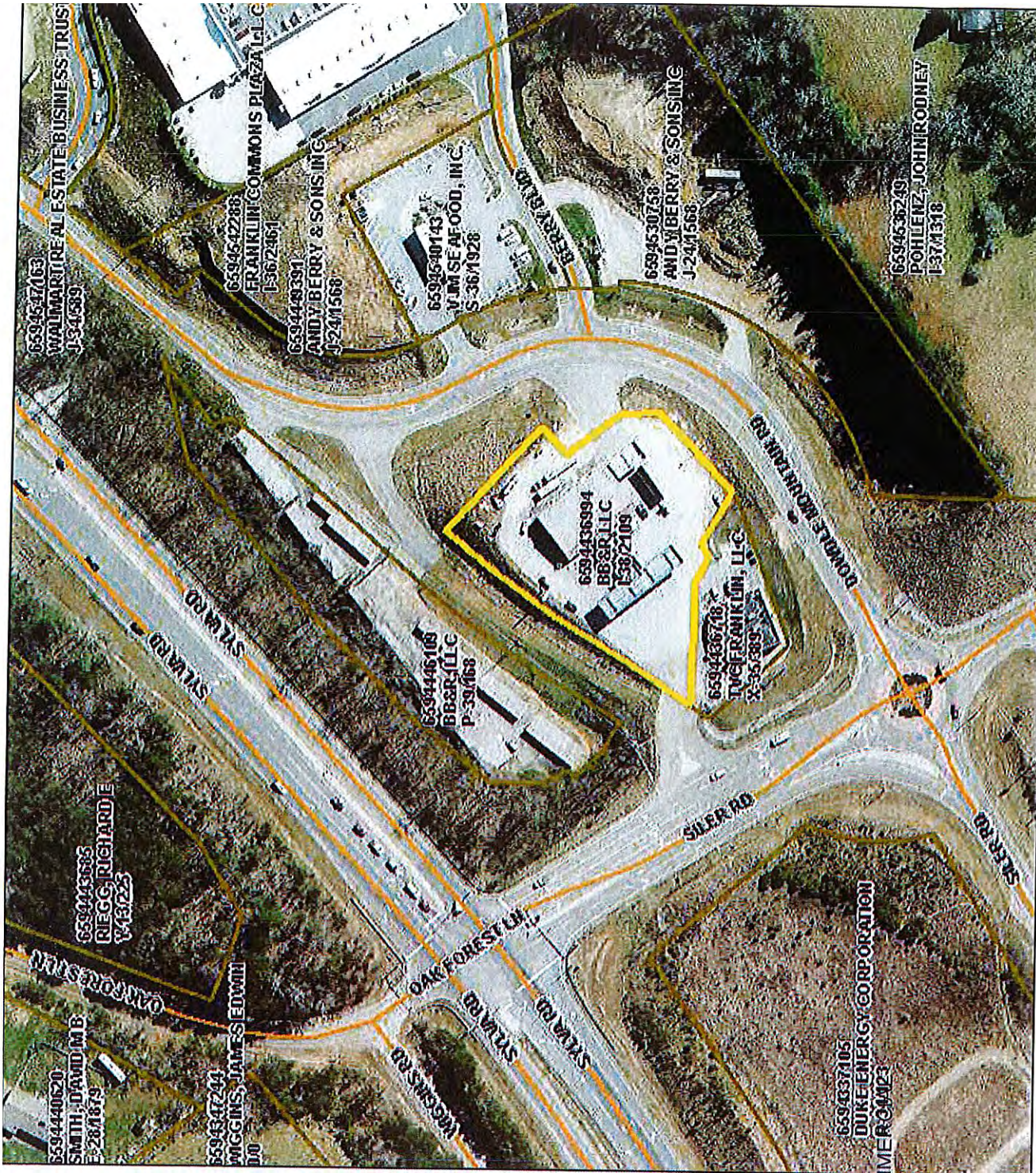
**Tax ID:** 0103968  
**PIN:** 6594436994

**Acreage:** 1.69  
**Elevation:** 2100  
**Topo Desc:** LEVEL  
**Utilities:** ALL

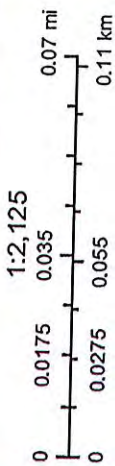
**Deed Ref:** I-38/2109  
**Date Recorded:** 12/29/2017  
**Sale Price:**

**Building Value:**  
**Land Value:**  
**Deferment:**  
**Exemption:**  
**Assessed Value:**  
**Last Appraisal:** 02/23/2018

**Fire District:** FRANKLIN FIRE DISTRICT  
**Township:** FRANKLIN CITY  
**Zoning:** FRANKLIN SECONDARY COMMERCIAL  
**Subdivision:**  
**Neighborhood:** 12103



**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.



March 1, 2021



# MACON COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

### **CATEGORY – CONSENT AGENDA**

**MEETING DATE: March 9, 2021**

Item 12A. Minutes from the February 4, 2021 continued session are attached for your review and approval. (Mike Decker)

Item 12B. Budget Amendments #185-189 are attached for your review and approval. (Lori Carpenter)

Item 12C. Approval of a refund in the amount of \$4,000 to Dr. Nathan Brenner stemming from the purchase of a panoramic X-ray machine. Mr. Roland polled the board members individually regarding this matter and received a consensus allowing the refund. Supporting documentation is attached.

Item 12D. Approval of tax releases in the amount of \$858.15 for the month of February 2021. (Teresa McDowell).

Item 12E. A copy of the ad valorem tax collection report, which shows and overall 96.17 percent collection rate as of February 28, 2021. No action is necessary. (Teresa McDowell)













## Derek Roland

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**From:** Nathan Brenner <nathanbrennerdmd@gmail.com>  
**Sent:** Sunday, January 24, 2021 3:43 PM  
**To:** Derek Roland  
**Subject:** Dental Clinic Panoramic xray  
**Attachments:** Scan\_0126.pdf

Hey Derek, as per our conversation here is some supporting documentation from Henry Schein Dental about the inability to install the panoramic xray machine I purchased from the Adult Dental Clinic. When the technicians arrived at my office, they first called the manufacturer about some technical questions before even unwrapping the unit. That is when they immediately were informed that the unit had an end of life of 12/31/19. So even if the unit could be integrated with our computers and software, there would be zero support available or any services that could be performed and no parts available. Therefore the technicians said they would absolutely not recommend trying to install or even attempt to use. So we kept everything wrapped up just as we received it and simply moved it out of the front desk area. I hope this information helps, as I am very disappointed with not being able to make use of the unit and am therefore still without one and having to look at other options. Thank you for your help with this important matter, and please let me know if you or anyone else has any questions.

Nathan Brenner, DMD

MACON COUNTY  
5 W MAIN STREET  
FRANKLIN, NC 28734

Bill of Sale Date: December 17, 2020

Asset ID:

Description of Property

Panoramic x-ray machine

Asset Information

Year: 2012      Make/Brand: CRANEX NOVUS      Model:  
Meter: N/A      Title Restriction: YES NO      VIN/Serial: 322859


Sale Information

Sale Amount: \$4,000.00  
Date Paid: 12.17.20  
Payment Method: CHECK # 5261

Buyer Information

Name: Nathan Brenner  
Address: 443 Harrison Ave., Franklin, NC 28734  
Email: nathanbrennerdmd@gmail.com  
Phone: 828-342-3236

Asset is sold as is, where is and without warranty. Once the asset is removed from the seller's premises there is no refund of monies previously paid.

Buyer/Agent Signature   
Print Name Nathan Brenner  
Date 12/17/20



SHIP TO: 01541567  
 Nathan Brenner  
 Franklin Family Dentistry  
 443 Harrison Ave  
 Franklin, NC 28734-2580

BILL TO: 01541566  
 Nathan Brenner  
 Franklin Family Dentistry  
 443 Harrison Ave  
 Franklin, NC 28734-2580

### SERVICE INVOICE

Nathan Brenner  
 Franklin Family Dentistry  
 443 Harrison Ave  
 Franklin, NC 28734-2580

**ORDER NOTES:**

SA#: SA20122801310 Date Of Service: 12/29/2020 Activity Type: Regular Service  
 Problem: Installation Cause: Installation Repair: Installation

Equipment Make: Model: Serial Number: Technician:  
 Shawn Mastroni

LINE#	ITEM#	DESCRIPTION	TAX	QTY	UNIT PRICE	TOTAL PRICE
Labor Hours: 002:03			Y			427.44

SA NOTES: Removed 2 pan xrays. installed i/o exposure switch. newer 2d pan Xray unable to be installed because the drivers were out of date and no longer supported

1	1024312	Arrival Fee		1	25.00	25.00
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SA#: SA20122801309 Date Of Service: 12/29/2020 Activity Type: Regular Service  
 Problem: Installation Cause: Installation Repair: Installation

Equipment Make: Model: Serial Number: Technician:  
 Keith Metcalf

Labor Hours : 002:00			Y			331.14
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SA NOTES: Removed Gendex 8500. could not install Cranex Pan as it is End of Life with no Drivers available

REFERENCE# 99181179  
 INVOICE# 88111492  
 INVOICE DATE 01/04/2021  
 ORDER# SR20122800880

RUN DATE: 3/2/2021 10:49 AM

RELEASES REPORT  
Macon County

NAME	BILL NUMBER	OPER	DATE/TIME	DISTRICT	VALUE	AMOUNT
952 FRANKS, E H HEIRS	2019-58	DY: RP:0000201018 LAS	12/31/9999 10:55:40 AM			
		CLERICAL ERROR		G01 ADVL TAX	2,250.00	8.43
		CLERICAL ERROR		A0 FFEFEE	2,250.00	5.00
		CLERICAL ERROR/MINERAL INTEREST REMOVED		TOTAL RELEASES:		13.43
952 FRANKS, E H HEIRS	2020-58	DY: RP:0000201018 LAS	12/31/9999 10:56:26 AM			
		CLERICAL ERROR		G01 ADVL TAX	2,250.00	8.43
		CLERICAL ERROR/MINERAL INTEREST REMOVED		TOTAL RELEASES:		8.43
100166 SHEPHERD, GARRY DALE	2011-45308	DY: PERSONAL PROPERTY ZAD	12/31/9999 2:57:53 PM			
		CLERICAL ERROR		G01 PEN FEE	66,760.00	18.63
		CLERICAL ERROR		G01 ADVL TAX	66,760.00	186.26
		CLERICAL ERROR		F05 ADVL TAX	66,760.00	37.39
		CLERICAL ERROR		F05 PEN FEE	66,760.00	3.74
		Equipment removed from Macon CO DY: PERSONAL PROPERTY		TOTAL RELEASES:		246.02
100166 SHEPHERD, GARRY DALE	2012-45308	DY: PERSONAL PROPERTY ZAD	12/31/9999 2:59:35 PM			
		CLERICAL ERROR		G01 ADVL TAX	66,760.00	186.26
		CLERICAL ERROR		F05 PEN FEE	66,760.00	3.74
		CLERICAL ERROR		G01 PEN FEE	66,760.00	18.63
		CLERICAL ERROR		F05 ADVL TAX	66,760.00	37.39
		Equipment Removed from Macon County DY: PERSONAL PROPERTY		TOTAL RELEASES:		246.02
100166 SHEPHERD, GARRY DALE	2013-45308	DY: PERSONAL PROPERTY ZAD	12/31/9999 3:00:55 PM			
		CLERICAL ERROR		F05 ADVL TAX	25,800.00	8.45
		CLERICAL ERROR		G01 ADVL TAX	25,800.00	41.98
		Equipment Removed from Macon County DY: PERSONAL PROPERTY		TOTAL RELEASES:		50.43
134214 COWART, KEITH	2020-52892	DY: PERSONAL PROPERTY ZAD	12/31/9999 3:03:01 PM			
		CLERICAL ERROR		L01 FFEFEE	5,030.00	108.00
		CLERICAL ERROR		F01 ADVL TAX	5,030.00	2.74
		CLERICAL ERROR		G01 ADVL TAX	5,030.00	18.85
		MH reposed DY: RP:6685997063		TOTAL RELEASES:		129.59
134214 COWART, KEITH	2020-75007	DY: RP:6685997063 ZAD	12/31/9999 3:04:05 PM			
		CLERICAL ERROR		L01 FFEFEE	13,100.00	108.00
		CLERICAL ERROR		G01 ADVL TAX	13,100.00	49.09
		CLERICAL ERROR		F01 ADVL TAX	13,100.00	7.14
		MH Unsound DY: RP:6685997063		TOTAL RELEASES:		164.23
NET RELEASES PRINTED:	858.15					
TOTAL TAXES RELEASED						858.15

Macon County  
Advalorem Tax Collections Report  
Year To Date February 2021 Tax Year 2020

TAX YEAR 2020 Month To Date February 2021 Tax Year 2020								
Month to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance
General Tax	1,772,335.05	1,163.32	-169.75	0.00	-17.91	1,773,310.71	-526,546.25	1,246,764.46
Fire Districts	262,575.55	256.32	-31.77	0.00	-3.45	262,796.65	-72,302.27	190,494.38
Landfill User Fee	250,862.90	0.00	-108.00	0.00	-1.68	250,753.22	-47,602.68	203,150.54
<b>TOTAL:</b>	<b>2,285,773.50</b>	<b>1,419.64</b>	<b>-309.52</b>	<b>0.00</b>	<b>-23.04</b>	<b>2,286,860.58</b>	<b>-646,451.20</b>	<b>1,640,409.38</b>

TAX YEAR 2020 Year To Date February 2021 Tax Year 2020								This Year		Last Year	
Year to Date	Beginning Balance	Levy Added	Less Releases	Less Administrative Refunds	Less Write Offs	Equals Adjusted Levy	Less Payments	Outstanding Balance	Collection Percentage Tax Year 2020 As of 2/28/2021	Collection Percentage Tax Year 2019 As of 2/28/2020	
General Tax	0.00	29,251,347.10	-15,178.65	0.00	-1172.13	29,234,996.32	-27,988,231.86	1,246,764.46	95.74%	96.37%	
Fire Districts	0.00	4,032,613.94	-2,037.21	0.00	-176.97	4,030,399.76	-3,839,905.38	190,494.38	95.27%	96.04%	
Landfill User Fee	0.00	2,920,631.00	-2,700.00	0.00	-14.17	2,917,916.83	-2,714,766.29	203,150.54	93.04%	94.02%	
<b>TOTAL:</b>	<b>0.00</b>	<b>36,204,592.04</b>	<b>-19,915.86</b>	<b>0.00</b>	<b>-1363.27</b>	<b>36,183,312.91</b>	<b>-34,542,903.53</b>	<b>1,640,409.38</b>	<b>95.47%</b>	<b>96.17%</b>	

# MACON COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

### CATEGORY – APPOINTMENTS

**MEETING DATE:** March 9, 2021

13A. **Board of Equalization and Review:** Tax Administrator Abby Braswell is recommending reappointment of the current members of the county's Board of Equalization and Review. Those members are Dwight Vinson, Donald Holland, Gary Drake, Kristine Flaig and Richard Lightner. Term of appointment is for one year.

13B. **Planning Board:** Planning, Permitting and Development Director Jack Morgan is recommending the reappointment of Glenn Hedden and Carroll Poindexter to the Macon County Planning Board. Term of appointment would be for three years. Each individual has served one term on the board. Copies of their applications are attached.

# Application for Appointment to Macon County Authorities, Boards, Commissions and Committees

The Macon County Board of Commissioners believes all citizens should have the opportunity to Participate in governmental decisions. The Board wants to appoint qualified, knowledgeable and dedicated people to serve on authorities, boards and committees. If you have an interest in being considered for an appointment to any advertised vacancy, please thoroughly complete the form below before the advertised deadline and choose from the following options.

Mail to: County Manager's Office  
5 West Main Street or FAX to: 828-349-2400  
Franklin, North Carolina 28734

Any Questions, please call the County Manager's Office at (828) 349-2025

Name of Authority, Board or Committee applying for: \_\_\_\_\_

Name GLEN W. WEDDER

Address P.O. Box 546 City FRANKLIN NC Zip 28744

Telephone: Home (928) 524-6032 Work \_\_\_\_\_

Occupation Criminal Investigator For NC

Business Address 2656 Governors Island Rd Franklin NC 28743

Email Address \_\_\_\_\_

Briefly explain any anticipated conflict of interest you may have if appointed:

NONE

Educational Background

College Graduate

Business and Civic Experiences/Skills:

OWNER of MAcon Motors Inc

Areas of Expertise and Interest/Skills:

INTAK. of LAWS & Regulations Leadership Roles to Comm.

List any Authorities, Boards, Commissions or Committees presently serving on:

Macon Co Planning Board

SIGNATURE: [Signature]

DATE: 3/3/21

# Application for Appointment to Macon County Authorities, Boards, Commissions and Committees

The Macon County Board of Commissioners believes all citizens should have the opportunity to Participate in governmental decisions. The Board wants to appoint qualified, knowledgeable and dedicated people to serve on authorities, boards and committees. If you have an interest in being considered for an appointment to any advertised vacancy, please thoroughly complete the form below before the advertised deadline and choose from the following options.

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5 West Main Street  
Franklin, North Carolina 28734

or FAX to: 828-349-2400

Any Questions, please call the County Manager's Office at (828) 349-2025

Name of Authority, Board or Committee applying for: Planning Board

Name Carroll Poindexter

Address 120 IVY Rd City Franklin NC Zip 28734

Telephone: Home 524-6751 Work 828-342-7108

Occupation Building Contractor

Business Address 120 IVY Rd Franklin NC

Email Address poindent@yahoo.com

Briefly explain any anticipated conflict of interest you may have if appointed:

None

Educational Background

Business Admin. 2yr degree SW community college  
Building Inspector in 90's

Business and Civic Experiences/Skills:

operator Contractor Business in Highlands  
own

Areas of Expertise and Interest/Skills:

accounting, Manage skills, Lic G.C. Lic Electricians  
Business, scheduling, Lic. Home Inspector

List any Authorities, Boards, Commissions or Committees presently serving on:

served on planning Board last 2 yrs

SIGNATURE: M Carroll Poindexter

DATE: 2-23-2021