

**Town of Valdese  
Town Council Meeting  
Valdese Town Hall  
102 Massel Avenue SW, Valdese  
Monday, January 9, 2023  
6:00 P.M.**

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

**4. Informational Items:**

- A. Communication Notes
- B. Reading Material

**5. Open Forum/Public Comment**

- A. Oath of Office – Tim Barus(Ward 1)
- B. Recognition of Diane Searcy
- C. 2023 Year of the Trail Proclamation
- D. Update from Old Colony Players

**6. Consent Agenda**

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

- A. Approval of Regular Meeting Minutes of December 5, 2022
- B. Approval of Closed Session Minutes of December 5, 2022
- C. Appointments/Reappointments to Boards & Commissions

**7. New Business**

- A. Introduction of New Employee
- B. Public Hearing – Rutherford College & Town of Valdese Annexation Agreement
- C. Burke County Property Tax Revaluation Presentation
- D. Agreement between Burke County & Town of Valdese – Tax Collection
- E. Approval of FY 23-24 Audit Contract – Lowdermilk Church & Co., LLP
- F. Approval of the Town of Valdese Action Plan
- G. Lease Contract between Duke Energy Carolinas, LLC & Town of Valdese - Canoe/Kayak Launch
- H. Approval of Creating Outdoor Recreation Economy (CORE) Strategic Services
- I. Budget Amendment

**8. Manager's Report**

- A. Bluegrass at the Rock presents: Volume Five, Saturday, January 14, 2023 at 7:30 p.m.
- B. Town Offices Closed Monday, January 16, 2023 in Observance of Martin Luther King Day
- C. OCP Production: Beauty and the Beast, Show Dates January 20-21 & 26-28, 2023, 7:30 p.m., and January 22 & 29, 2023, 3:00 p.m.; visit [www.oldcolonyplayers.com](http://www.oldcolonyplayers.com) for more information and to purchase tickets.
- D. Bluegrass at the Rock presents: Darin & Brooke Aldridge, Saturday, February 4, 2023 at 7:30 p.m.

E. Next Regular Council meeting scheduled for Monday, February 6, 2023, 6:00 p.m.

**9. Mayor and Council Comments**

**10. Adjournment**

## COMMUNICATION NOTES

**To:** Mayor Watts  
Town Council

**From:** Seth Eckard, Town Manager

**Date:** January 6, 2023

**Subject:** Monday, January 9, 2023 Council Meeting

6. Consent Agenda:

- A. Approval of Regular Meeting Minutes of December 5, 2022**
- B. Approval of Closed Session Minutes of December 5, 2022**
- C. Appointments/Reappointments to Boards & Commissions**

Staff Liaisons contacted representatives with expiring terms on the Town's Boards and Commissions; most everyone agreed to be reappointed. Staff contacted replacement representatives who chose not to be reappointed, with recommendations for replacements included on the list in the agenda packet.

7. New Business:

**A. Introduction of New Employee**

Public Works Director Allen Hudson will introduce Utility Field Technician Nicholas David.

**B. Public Hearing – Rutherford College & Town of Valdese Annexation Agreement**

Enclosed in the agenda packet is a memo from Rutherford College Town Manager/Finance Director Jessica Bargsley requesting the Valdese Town Council to consider granting Rutherford College permission to annex a property across Castle Bridge Road. Larry Davis of Public Works Properties, LLC, at 5784 Long Bay Dr., Granite Falls, owns the property. The Town of Valdese is closer to the parcel and must give Rutherford College permission to annex. Also included in the agenda packet is a location map. Council would need to approve an ordinance approving the annexation agreement and the annexation agreement. Planning Director Larry Johnson and Rutherford College Planner Scott Berson from WPCOG, will be at the meeting to present.

**Requested Action:** Staff recommends that Council approve the ordinance approving the annexation agreement and the annexation agreement for Rutherford College to annex the property, as presented.

**C. Burke County Property Tax Revaluation Presentation**

John Bridgers, Burke County Tax Administrator, will be at the meeting to discuss the BC property tax reevaluation.

#### **D. Agreement between Burke County & Town of Valdese – Tax Collection**

Enclosed in the agenda packet is a memo from Assistant Town Manager/CFO Bo Weichel and an agreement with Burke County to move the tax billing and collections to the County effective July 1, 2023. Citizens would receive one tax bill with County and Town taxes listed and pay at the Burke County tax office. Any current tax foreclosures and delinquent accounts in the process would stay with the Town. Mr. Weichel will be at the meeting to discuss this.

**Requested Action:** Staff recommends that Council approve the tax agreement with Burke County, as presented.

#### **E. Approval of FY 23-34 Audit Contract – Lowdermilk Church & Co, LLP**

Enclosed in the agenda packet is a memo from Assistant Town Manager/CFO Bo Weichel and a contract with Lowdermilk Church & Co., LLP, to audit the Town's accounts for FY23, in the amount of \$17,300.00. The contract price last year was \$16,800.00. This price reflects a \$500.00 increase over the prior year.

**Requested Action:** Staff recommends that Council approve the FY23 audit contract in the amount of \$17,300.00.

#### **F. Approval of the Town of Valdese Action Plan**

Enclosed in the agenda packet is the 2022 Action Plan. This plan was drafted after the November 1, 2022, strategic planning session held at the Western Piedmont Council of Governments' office.

**Requested Action:** Staff recommends that Council adopt the Town of Valdese Action Plan, as presented.

#### **G. Lease Contract between Duke Energy Carolinas, LLC & Town of Valdese – Canoe/Kayak Launch**

Enclosed in the agenda packet is a memo from Parks & Recreation Director David Andersen and a lease contract with Duke Energy. The lease agreement represents the agreement between the Town of Valdese and Duke Energy granting permission to build the approved canoe/kayak launch and fishing pier at the Valdese Lakeside Park.

**Requested Action:** Staff recommends that Council approve the lease contract with Duke Energy, as presented.

#### **H. Creating Outdoor Recreation Economy (CORE) Strategic Planning Services**

Enclosed in the agenda packet are a memo from Parks & Recreation Director David Andersen, an MOU CORE project, and a resolution requesting CORE services. The Parks and Recreation Department and Friends of the Valdese Rec sought out CORE strategic planning assistance from the Appalachian Regional Commission and the NC Department of Commerce to assist with

planning for future parks and recreation infrastructure. The Town was selected for these services, and a State Tourism Grant made possible through the US Economic Development Administration will cover the cost. Mr. Andersen will be at the meeting to discuss this.

**Requested Action:** Staff recommends that Council approve the MOU CORE Project and the Resolution, as presented. (In the form of two, separate votes.)

#### **I. Budget Amendment**

Enclosed in the agenda packet is a memo from Water Resources Director Greg Padgett and a Budget Amendment prepared by Assistant Town Manager/CFO Bo Weichel. This amendment for increasing the Water Plant chemical budget will move funds to the appropriate account. Water Plant Superintendent Eric Wilson will be at the meeting to discuss this.

**Requested Action:** Staff recommends that Council approve the Budget Amendment as presented.

# READING MATERIAL

## Town of Valdese Personnel Report

<u>Employee Name</u>	<u>Position</u>	<u>Previous Position</u>	<u>Department</u>	<u>Date of Event</u>
<b><i>Promotions</i></b>				
<b><i>New Hires</i></b>				
Nicolas David	Utility Field Technician		Public Works	11/28/2022
<b><i>Transfers</i></b>				

**VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT****November 1st-30th, 2022**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF NOVEMBER, 2022. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>MONTHLY TOTAL</u>	
STATION DUTY	112 HOURS	
VEHICLE DUTY	94 HOURS	
EQUIPMENT DUTY	36 HOURS	
EMERGENCY RESPONSES (ON DUTY)	81 HOURS	
TRAINING (ON DUTY)	2 HOURS	
FIRE ADMINISTRATION	137 HOURS	
TRAINING ADMINISTRATION	1 HOURS	
MEETINGS	11 HOURS	
FIRE PREVENTION ADMINISTRATION	76 HOURS	
FIRE PREVENTION INSPECTIONS	54 HOURS	
<u>TYPE</u>	<u>NUMBER OF INSPECTIONS</u>	<u>VIOLATIONS</u>
ASSEMBLY	3	3
BUSINESS	5	19
DAYCARE	0	0
EDUCATIONAL	1	BCFM Report
FACTORY	0	0
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	6	53
RESIDENTIAL	0	0
STORAGE	4	22
FOSTER HOME	0	0
REINSPECTIONS	8	6
<b>TOTAL:</b>	<b>27</b>	<b>103</b>
PUBLIC RELATIONS		2 HOURS
HYDRANT MAINTENANCE		0 HOURS
SAFETY ADMINISTRATION		39 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS		2 HOURS
EXTRA DUTY FIRES		17 HOURS
NON-DEPARTMENTAL DUTIES		6 HOURS
EXTRA DUTY TRAINING		20 HOURS
EXTRA DUTY FIRE/MED STANDBY		10 HOURS
PHYSICAL TRAINING		30 HOURS
EXTRA DUTY MEDICAL RESPONSES		40 HOURS
VOLUNTEER FIREFIGHTER TRAINING		148 HOURS
<b>TOTAL TRAINING MANHOURS:</b>		<b>170 HOURS</b>

**FIRE DEPARTMENT EMERGENCY RESPONSES:**

<b><u>FIRE:</u></b>	<b><u>MONTHLY TOTAL</u></b>
FIRE ALARM	5
CARBON MONOXIDE ALARM	0
STANDBY	2
MUTUAL AID TO STATION 63	1
STRUCUTRE FIRE	1
OUTSIDE FIRE	1
SUSPICIOUS ODOR	1
SMOKE INVESTIGATION	1
SERVICE CALL	5
OTHER ENTRAPMENT	1
TREE DOWN	<u>2</u>
	<b>20</b>
<b><u>MEDICAL:</u></b>	
ABDOMINAL PAIN	0
ALLERGIC REACTION	0
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	0
BACK PAIN	0
CANCELLED ENROUT	1
CARDIAC	1
CHEST PAIN	0
CHOKING	0
CODE BLUE	1
DIABETIC	0
DOA	1
FAINTING	0
FALL	9
HEADACHE	0
HEMORRHAGE	0
MOTOR VEHICLE ACCIDENT	2
MEDICAL STANDBY	0
OTHER	6
OVERDOSE/INTOXICATED	1
PREGNACY	0
PSYCHIATRIC	2
RESPIRATORY	6
SEIZURE	4
SICK	8
STROKE	1
TRAUMATIC	1
UNCONSCIOUS	2
UNKNOWN	<u>0</u>
	<b>46</b>
<b><u>TOTAL RESPONSES:</u></b>	<b><u>66</u></b>

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GREG STAFFORD, CHIEF  
VALDESE FIRE DEPARTMENT

## Community Affairs & Tourism Monthly Stats

### December 2022

#### Tourism Statistics

*visitvaldese.com Visits (reported from Dec 1-11 )* 13,086

*townofvaldese.com Visits (reported from Dec 1-11)* 5,864

*Top Pages Viewed (last 7 days): Utilities, Career, Fitness Center, Water Department*

#### Facebook

*# of followers* 15,631

*Post Engagement (last 28 days)* 25,450

*Post Reach (last 28 days)* 50,250

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

Positive: 99.6%

Negative: .4%

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

*Approximate # of Visitors to the Tourism/CA Office* 488

#### Community Affairs Stats

##### Old Rock School Rental Breakdown

AUDITORIUM	5
TEACHER'S COTTAGE	11
WALDENSIAN ROOM	10
CLASSROOMS	0
MAJOR EVENT (ENTIRE SCHOOL)	2
<b>Major Events Held at the Old Rock School</b>	<b>Average Number of Attendees</b>
East Burke Gideons Birthday Party for Jesus	200
<b>Monthly Old Rock School Rentals</b>	<b>28</b>
<b>Old Rock School Total Attendance</b>	<b>4,650</b>

##### CA Summary for December 2022

Community Affairs wrapped up 2022 events in December with the Christmas parade, bluegrass concert, Santa breakfast, and multiple holiday contests. The parade took place December 3rd and saw a record number of participants. The following evening, Sideline took the Old Rock School stage with ticket sells reaching nearly 200. The department was disappointed to have to cancel the Hatley Memorial Tree Lighting Ceremony due to inclement weather, however the next day proved successful with an excellent turn out for Mingle with Kringle Breakfast, sponsored by the Fire Department. Over 150 tickets were sold to this event, in addition to several walk ins. Engagement remained high in the Home Decorating and Merchant Window Decor contests, awarding gift cards to each of the lucky winners. Employee appreciation gifts were also distributed to each department this month. Monthly rentals remained steady throughout the weeks leading to the holidays, with 28 total rentals for December. Day to day operations included bluegrass promotions, planning for the next calendar year, and brainstorming for 2023.

# VALDESE POLICE DEPARTMENT

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

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

January 3, 2023

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

Progress reports: Boots on the Ground

<u>Location:</u>	<u>Officer Visits:</u>
McGalliard Falls	96 Visual Checks / Walk around
Old Rock School	77 Visuals Checks / Walk around
Children's Park	69 Visual Checks / Walk around
Community Center	94 Visual Checks / Walk around
Lakeside Park	57 Community Contact
Main St Extra Patrol	Nightly Door Checks
Business/Residential Contact	32 Community Policing
Family Fun Night	0 Community policing
Myra's Car show	N/A

Our officer have logged 424 residential/business security checks, 629 extra patrols and 32 community policing contacts in 33 days for a total of 1085 events related to the safety, security and public interest. These checks and extra patrols include all of the standard residential checks, business, and boots on the ground CAD logs.



## 2023 YEAR OF THE TRAIL PROCLAMATION

WHEREAS, The Town of Valdese's natural beauty is critical to its residents' quality of life, health, and economic wellbeing; and

WHEREAS, the trails and walkways that span across our community are an integral part of the recreational and transportation possibilities of our area and promote an enjoyment of scenic beauty by our residents and our visitors; and

WHEREAS, the parks, greenways, trails and natural areas in our community are welcoming to all and provide a common ground for people of all ages, abilities, and backgrounds to access our rich and diverse natural, cultural, and historic resources; and

WHEREAS, the Town of Valdese's natural assets and resources are integral to disaster recovery and resiliency to climate change for future generations; and

WHEREAS, the Town of Valdese's abundance of trails vary from the natural surface Hoyle Creek Trail meandering from Lovelady Road along Hoyle Creek to the Valdese Lakeside Park Parking Area, the Story Trail at Valdese Lakeside Park to the Meditation Point Lookout, the short path to McGalliard Falls in McGalliard Falls Park, the longer Valdese Greenway spanning multiple parks via the McGalliard Creek Bridge, the Wilderness Gateway Trail making its way over Mineral Spring Mountain and along Main Street, the River Trail of Burke County joining Valdese with other Burke County communities, and other trails; and

WHEREAS, trails offer quality-of-life benefits to all as expressions of local community character and pride, as outdoor workshops for science education, as tools for economic revitalization, as free resources for healthy recreation, as accessible alternative transportation, and as sites for social and cultural events; and

WHEREAS, individual and corporate members of the community, the Town of Valdese Parks and Recreation Department, and the Friends of the Valdese Rec have engaged in trail building, trail maintenance, and have promoted the growth of the trail system and outdoor recreation economy; and

WHEREAS, the North Carolina General Assembly designated 2023 as the Year of the Trail in North Carolina to promote and celebrate the state's extensive network of trails that showcase our state's beauty, vibrancy and culture; and

WHEREAS, North Carolina is known as the "Great Trails State;"

NOW, THEREFORE, I, Charles Watts, Mayor, do hereby proclaim 2023 as "THE YEAR OF THE TRAIL" in The Town of Valdese, and commend its observance to all people.

This 9<sup>th</sup> day of January 2023.

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



Performing since 1967  
Artfully

# Old Colony Players

*Old Colony Players  
A Year In Review*

Artfully  
Performing since 1967

# Old Colony Players

*The mission of Old Colony Players is to  
preserve Waldensian cultural heritage, promote  
quality theatre,  
and celebrate diverse artistic expression.*

*Old Colony Players is a 501-c3 non-profit corporation*

# OUR 2022 SEASON



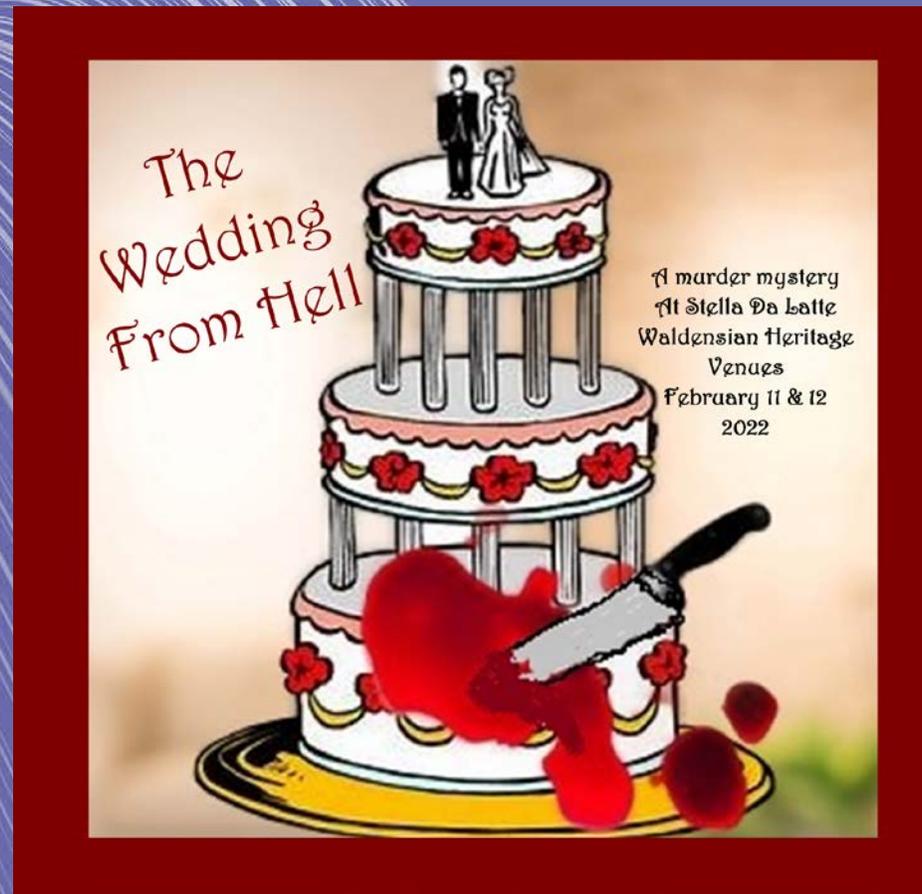
## Steel Magnolias

January 2022

At the Old Rock School

4 performances | 165 patrons

13 cast and crew | 3 new to OCP



February 2022

A murder mystery dinner done in conjunction with  
Waldensian Heritage Venues  
2 sold out performances



## The Hunchback of Notre Dame April 2022

At the Amphitheatre  
7 performances | 541 patrons  
57 cast and crew | 19 new to OCP

## OCP Summer Camp- You in the Spotlight June 2022

4 teachers | 16 students



# July/ August From This Day Forward 2022

9 performances | 737 patrons  
45 cast and crew | 10 new to the OCP family



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography



© Morgan Hatley's True Photography

*This was our 45<sup>th</sup> consecutive year of producing  
From This Day Forward, making us the longest  
consecutive running outdoor drama in the nation.  
(The Lost Colony did not produce in 2020)*

## September 2022

### Cyrano De Bergerac

At the Amphitheatre

5 performances | 193 patron

32 cast and crew | 5 new to OCP



## October 2022

### Sweeney Todd

At the Amphitheatre

8 performances | 557 patrons

38 cast and crew | 5 new to OCP



## December 2022

### A Christmas Carol

At the Old Rock School

7 performances | 588 patrons

22 cast and crew | 3 new to OCP



- Where do our audiences come from?

Over 75% of our audiences are from outside of Valdese, making OCP a destination attraction for those who do not know our wonderful town.

For the Outdoor drama, we have had people from all over the country and even overseas.

For our other productions, patrons regularly come from as far as Asheville, Winston Salem and Charlotte and every point inbetween.

- Where do our actors come from?  
Our actors are a diverse group.

Actors travel from Hickory, Lenoir, Boone, Marion, Cherryville, Lincolnton, Shelby and Statesville as well as many people in our local acting community.

We have a wonderful core group who work with almost every show, but we have had 45 people this year alone who have joined our casts and crews who had never worked with Old Colony Players before.

As a community theatre, all actors and most of the crew are volunteers. Each of them give at least 150 hours of their time at the theatre per production.

From This Day Forward and the murder mysteries are the only productions for which actors are paid.

Pay range is from \$150-\$400 for the whole summer and \$50 for 2 mystery dinners.

- How much does it cost to put on a production?  
Depending on the production, the rights run anywhere from \$120-\$285 per performance.

The average cost of rights/music for a major musical is over \$3500.

Add to that the cost of production staff, costuming, sets, musicians, and props, and productions cost anywhere from \$3000- \$8,000 to produce.

On top of show costs, of course the regular costs of doing business still apply. Revenues from shows only pay a portion of our operating costs, so we are incredibly grateful to our community for all the support from individuals, businesses and grants which keep us going.

## What's new at OCP

We have done a major upgrade to our sound system thanks to a generous grant from the Rostan Family Foundation and Derek Long Productions

We are constantly upgrading the Amphitheatre to make it safe and accessible.

We are expanding our season and including more opportunities for young people in the community with a "Jr." show. We are also looking into doing workshops in audition techniques, dance, costuming and other aspects of theatre to build the community and build confidence for those who may want to become part of our theatre community.

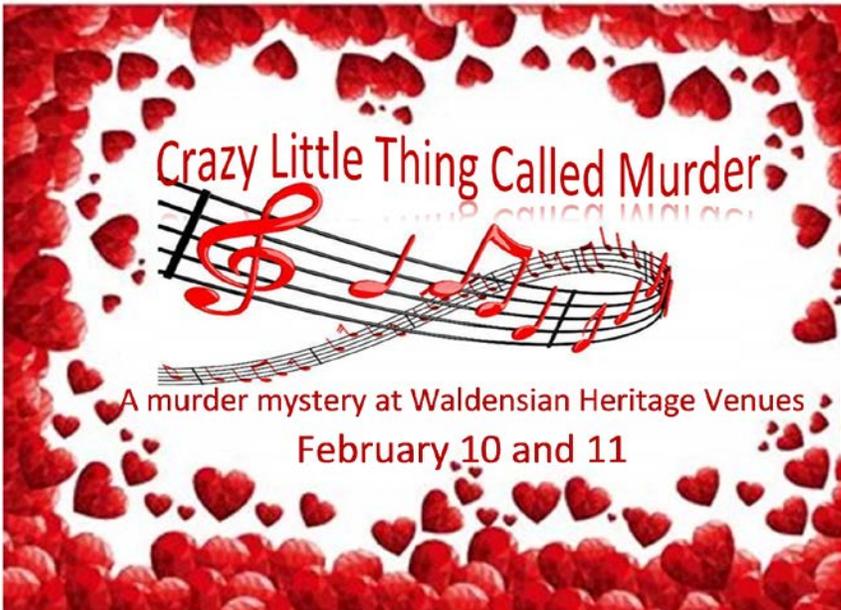
# What's Coming Up in 2023

Disney  
**BEAUTY AND THE BEAST**  
 © Disney

January 20, 21, 26  
 27 & 28 at 7:30 PM  
 January 22 & 29  
 at 3 PM



*Crazy Little Thing Called Murder*



A murder mystery at Waldensian Heritage Venues  
 February 10 and 11

DREAMWORKS THEATRICALS

**SHREK**  
 The  
**MUSICAL**

April 21, 22, 27, 28, 29 and May 4, 5 & 6  
 at the Fred B Cranford Amphitheatre

OLD COLONY PLAYERS PRESENTS

**THE TEMPEST**  
*By William Shakespeare*



June 9, 10, 15, 16, 17  
 8 PM at the  
 Fred B Cranford Amphitheatre

Directed by Rachel Wyatt

55<sup>th</sup> Consecutive Season

*From This Day Forward*  
 Historic Outdoor Drama

Presented by Old Colony Players  
 Fridays and Saturdays  
 July 14 through  
 August 12

You in the Spotlight Summer Camps  
 Date TBA- June/July

October show  
 TBA  
 At the Amphitheatre October 14-28

Christmas Show  
 TBA  
 December 8-17



*Thank You*

*To the Town Council,*

*The town employees*

*The Old Rock School and Tourism department Staff*

*And especially, our community for all your support.*

*Without you, our “Dreams” would not be possible  
and our stories would remain silent.*

*YOU are the community in community theatre.*

*OldColonyPlayers.com*

December 5, 2022, MB#32

**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
DECEMBER 5, 2022**

The Town of Valdese Town Council met on Monday, December 5, 2022, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The following were present: Mayor Charles Watts, Mayor Pro Tem Frances Hildebran, Councilwoman Rexanna Lowman, Councilman Tim Skidmore, and Councilman Paul Mears. Also present were: Town Attorney Tim Swanson, Town Manager Seth Eckard, Town Clerk Jessica Lail, and various Department Heads.

Absent: Ward 1 Vacant Seat

A quorum was present.

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

**OPEN FORUM/PUBLIC COMMENT:** Mayor Pro Tem Frances Hildebran read the Rules & Procedures for Public Comment.

**Rule 5. Public Comment**

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

No comments from the public.

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

**APPROVED REGULAR MEETING MINUTES OF NOVEMBER 7, 2022**

**APPROVED SPECIAL MEETING MINUTES OF NOVEMBER 15, 2022**

**APPROVED RESOLUTION ADOPTING 2023 TOWN COUNCIL MEETING SCHEDULE:**

**TOWN OF VALDESE  
RESOLUTION ADOPTING 2023 TOWN COUNCIL MEETING SCHEDULE**

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

<b>January 9, 2023</b>	
<b>February 6, 2023</b>	
<b>March 6, 2023</b>	
<b>March 23, 2023</b>	Annual Budget Retreat - Old Rock School - Waldensian Room Day 1: 9:00 a.m.
<b>March 24, 2023</b>	Annual Budget Retreat - Old Rock School - Waldensian Room Day 2: 9:00 a.m.
<b>April 3, 2023</b>	
<b>April 6, 2023</b>	Council Budget Workshop 1 Dinner Town Hall – Community Room, 6:00 p.m.
<b>April 18, 2023</b>	Council Budget Workshop 2 (If needed) Town Hall – Community Room, 6:00 p.m.
<b>May 1, 2023</b>	
<b>June 5, 2023</b>	Budget Public Hearing
<b>July 10, 2023</b>	

December 5, 2022, MB#32

<b>August 7, 2023</b>	
<b>September 5, 2023</b>	Tuesday, due to Labor Day Holiday
<b>October 2, 2023</b>	
<b>November 6, 2023</b>	
<b>November 14, 2023</b>	Tuesday, Annual Dinner Meeting with Valdese Merchants Association
<b>December 4, 2023</b>	

NOW, THEREFORE, BE IT RESOLVED that the Town of Valdese Town Council adopts the following Meeting Schedule for 2023:

This 5<sup>th</sup> day of December, 2022.

/s/ Charles Watts, Mayor

ATTEST: /s/ Town Clerk

**APPROVED APPOINTMENTS/REAPPOINTMENTS TO BOARDS AND COMMISSIONS:**

**2023 Board and Commission Appointments/Reappointments**

**Parks and Recreation Commission (3-year terms)**

1. Reappointment of Robert Murray

**Planning Board & Board of Adjustment (4-year terms)**

1. Reappointment of Carlton Caruso
2. Reappointment of Elizabeth Braswell - Ms. Braswell will be moving from Alternate Member to Board Member, replacing John Rostan, whose term expires at the end of the year.
3. New Appointment of Cindy Stephens(Alternate Member)

**New Appointee Bio:**

Cindy Stephens is a lifetime resident of Valdese as a teacher, mentor, and leader in the community. She graduated from East Burke High School, received her Bachelor of Science in Special Education from Appalachian State University, and received her Masters in Education from Appalachian State as well. She retired from teaching after 30 years of service and served as a leader and mentor to new teachers. Cindy is an active member of Cornerstone Baptist Church as a deacon, leads vacation bible school, and has taught Sunday school for 20 years. She loves the Town of Valdese and desires a more active role in making our small town thrive.

**APPROVED RESOLUTION ADOPTING REVISED RECORD RETENTION & DISPOSITION SCHEDULE:  
GENERAL RECORDS:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF VALDESE APPROVING THE NORTH CAROLINA GENERAL RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES RECORDS RETENTION AND DISPOSTION SCHEDULE GENERAL RECORDS ISSUED OCTOBER 1, 2021**

**WHEREAS**, the North Carolina Division of Archives and History of the Department of Cultural Resources is responsible for assisting local governments in records management, including the destruction of obsolete records and the protection of essential records as provided by Chapters 121 and 132 of the General Statutes of North Carolina, and;

**December 5, 2022, MB#32**

**WHEREAS**, the municipal records management program provides advice, service and training in the control, maintenance, preservation and disposal of official public records in the custody of local governmental units, and;

**WHEREAS** "Public Record" means any document, paper, letter, map, book, photograph, film, sound recording, magnetic or other tape, electronic data processing record, artifact or other documentary material made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of the North Carolina government or its subdivisions, and;

**WHEREAS**, the Department of Cultural Resources has issued an amendment to the Records Retention Schedule date October 1, 2021, and;

**WHEREAS**, the General Records Schedule for Local Government Agencies Retention and Disposition Schedule is endorsed by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch;

**NOW, THEREFORE, BE IT RESOLVED** by the Town of Valdese Town Council that the Council adopts the North Carolina General Records Schedule for Local Government Agencies Retention and Disposition Schedule, as updated by the North Carolina Department of Cultural Resources in accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, dated October 1, 2021, a copy of which is on file in the office of the Town Clerk.

**BE IT FURTHER RESOLVED** this schedule is to remain in effect from the date of approval until it is reviewed and updated.

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF VALDESE, NORTH CAROLINA**, on this, the 5<sup>th</sup> day of December 2022; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

/s/ Charles Watts, Mayor

ATTEST: /s/ Town Clerk

**APPROVED RESOLUTION ADOPTING REVISED RECORD RETENTION & DISPOSITION SCHEDULE: PROGRAM RECORDS:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF VALDESE APPROVING THE NORTH CAROLINA PROGRAM RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES RECORDS RETENTION AND DISPOSITION SCHEDULE PROGRAM RECORDS ISSUED OCTOBER 1, 2021**

**WHEREAS**, the North Carolina Division of Archives and History of the Department of Cultural Resources is responsible for assisting local governments in records management, including the destruction of obsolete records and the protection of essential records as provided by Chapters 121 and 132 of the General Statutes of North Carolina, and;

**WHEREAS**, the municipal records management program provides advice, service and training in the control, maintenance, preservation and disposal of official public records in the custody of local governmental units, and;

**WHEREAS** "Public Record" means any document, paper, letter, map, book, photograph, film, sound recording, magnetic or other tape, electronic data processing record, artifact or other documentary material made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of the North Carolina government or its subdivisions, and;

**December 5, 2022, MB#32**

**WHEREAS**, the Department of Cultural Resources has issued an amendment to the Records Retention Schedule date October 1, 2021, and;

**WHEREAS**, the Program Records Schedule for Local Government Agencies Retention and Disposition Schedule is endorsed by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch;

**NOW, THEREFORE, BE IT RESOLVED** by the Town of Valdese Town Council that the Council adopts the North Carolina Program Records Schedule for Local Government Agencies Retention and Disposition Schedule, as updated by the North Carolina Department of Cultural Resources in accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, dated October 1, 2021, a copy of which is on file in the office of the Town Clerk.

**BE IT FURTHER RESOLVED** this schedule is to remain in effect from the date of approval until it is reviewed and updated.

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF VALDESE, NORTH CAROLINA**, on this, the 5<sup>th</sup> day of December 2022; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

/s/ Charles Watts, Mayor

ATTEST: /s/ Town Clerk

**APPROVED PUBLIC HEARING DATE FOR RUTHERFORD COLLEGE & TOWN OF VALDESE ANNEXATION AGREEMENT ON MONDAY, JANUARY 9, 2023, 6:00 P.M., VALDESE TOWN HALL**

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

***End Consent Agenda***

**ITEMS REMOVED FROM CONSENT AGENDA:** None

**PRESENTATION OF FISCAL YEAR ENDING JUNE 30, 2022, FINANCIAL UPDATE:** Phil Church with Lowdermilk Church, & Co., shared that the audit went very well and that they appreciate the staff. Mr. Church said they gave a clean, unmodified opinion, which the Local Government Commission looks for. Mr. Church also shared that they gave a clean, unmodified opinion on our compliance and A133 audit. Mr. Church introduced Rick Hammer with Lowdermilk Church & Co., who reviewed the following highlight sheet:

---

**TOWN OF VALDESE**
**Financial Highlights**  
**Years Ended June 30, 2022 and 2021**


---

<b>General Fund (Includes Powell Bill Funds)</b>	<b>2022 Summarized Budget</b>	<b>2022</b>	<b>2021</b>
Cash, cash equivalents and investments		\$ 6,143,028	\$ 4,464,257
Total assets		\$ 7,282,651	\$ 5,504,828
Fund balance		\$ 7,089,573	\$ 5,286,477
Fund balance - Reserved for Streets - Powell Bill (included in total fund balance)		\$ 67,700	\$ 38,562
Total revenue	\$ 5,003,661	\$ 5,567,307	\$ 5,226,030
Total expenditures	\$ 5,513,762	\$ 4,757,145	\$ 4,589,002
Revenues over (under) expenditures before other financing sources (uses)		\$ 810,162	\$ 637,028
Other income (expense)	\$ 510,101	\$ 992,933	\$ 121,000
Increase (decrease) in fund balance		\$ 1,803,095	\$ 758,028
Ad valorem taxes collected		\$ 2,387,436	\$ 2,313,313
Percent of taxes collected - current year levy		97.97%	97.81%
Investment income		\$ 12,137	\$ 4,357
<b>Fund Balance Available</b>			
Unassigned Fund Balance		<u>5,569,974</u>	<u>4,299,677</u>
Expenditures and other financing sources and uses		4,907,145	4,589,002
Unassigned Fund Balance Percentage		113.50%	93.69%

\* Local Government Commission minimum recommended general fund balance should be at least 8% of general fund expenditures at the end of the fiscal year.

<b>Water and Sewer Fund</b>	<b>2022</b>	<b>2021</b>
Cash, cash equivalents and investments	\$ 2,432,618	\$ 1,381,860
Total assets	\$28,989,827	\$28,098,972
Net position	\$22,596,413	\$22,478,620
Operating revenue	\$ 5,398,063	\$ 5,130,346
Operating expenses	\$ 5,387,234	\$ 5,237,551
Operating income (loss)	\$ 10,829	\$ (107,205)
Nonoperating revenue (expenses)	\$ (49,918)	\$ 126,506
Transfers (to) from	\$ 39,088	\$ (221,000)
Capital Contributions	\$ 117,881	\$ 2,049,398
Change in net position, includes \$1,262,820 of depreciation expense 2022	\$ 117,793	\$ 1,847,699
Accounts receivable - customers	\$ 649,200	\$ 582,893
Investment income	\$ 1,336	\$ 222
Days sales in accounts receivable	43.89	41.46
<b>Fund Balance Available</b>		
Unrestricted Fund Balance	<u>\$ 2,845,266</u>	<u>\$ 1,678,904</u>
Expenditures and other financing sources and uses	5,656,834	5,237,551
Unrestricted Fund Balance Percentage	50.29%	32.05%

**December 5, 2022, MB#32**

Councilman Mears references page eight in the audit report, which states, "Governmental activities increased the Town's net position by \$1,927,138. Key elements of this increase are anticipated, and unanticipated events as follows: Exceptional growth in sales tax revenues, Revenues higher than anticipated, Expenditures lower than anticipated, and ½ of ARPA funds received." Councilman Mears said it looked like the increase in the fund balance was \$1,803,000, but if we took out ARPA monies of \$703,000, we would still have an increase of 1.2 million dollars. Mr. Hammer said that was correct. Councilman Mears asked if he would consider this an exceptional fund balance. Mr. Hammer said yes, the fund balance had increased substantially over the last few years. Councilman Mears complimented management on this achievement. Councilman Mears does not want this comment to reflect negatively on previous management but wants to express his appreciation. Councilwoman Hildebran shared that citizens hear rumors that we are in financial crisis and asked Mr. Church to explain what an unassigned fund balance is. Mr. Church explained that the Town's assets lessen your liabilities and give you your total fund balance. The fund balance in a governmental entity has certain restrictions on it, like stabilization by State Statute that you cannot use to budget. Mr. Church said if you take all these restrictions and set them aside, it leaves the unassigned fund balance, and you can use that on whatever governmental activity you want. Councilwoman Hildebran asked, with an increase in the fund balance, does this mean the Town has enough funds to cover our current expenses and have some leftovers that can be used for future projects. Mr. Hammer said yes, we have more than enough right now. Councilwoman Hildebran asked why the fund balance has been increasing. Mr. Hammer shared that the sales tax revenues have increased, we have good tax collection rates, management has budgeted well, and overall good management. Councilwoman Hildebran asked Town Manager Seth Eckard if staff in the future could provide Council and citizens with a presentation explaining this in layperson's terms. Mr. Eckard said yes, we would make that presentation after the first of the year. Mr. Church reminded Council that the Local Government Commission heavily regulates the Town and would not let us borrow money if they think you cannot pay it back.

**APPOINTMENT TO FILL WARD 1 VACANCY:** Mayor Watts shared that Council sought applications to fill Ward 1 vacancy from interested citizens that reside in Ward 1 of the newly adopted Ward Map. Mayor Watts said that six valid applications were received, all six applicants were contacted for an interview, and Council interviewed five.

Councilwoman Lowman shared that the candidates interviewed were outstanding and felt each candidate brought a unique, different skill set with engaging ideas, making this a difficult decision. Councilwoman Lowman reminded the citizens that the person appointed would have to re-run at the November 2023 election and encouraged any applicants to consider filing next year. Town Manager Seth Eckard shared that the applicants were interviewed by two members of Council at a time, which does not violate public meeting laws.

Councilwoman Lowman made a motion to nominate Tim Barus to fill the vacancy of Ward 1, seconded by Councilman Tim Skidmore. The vote was unanimous.

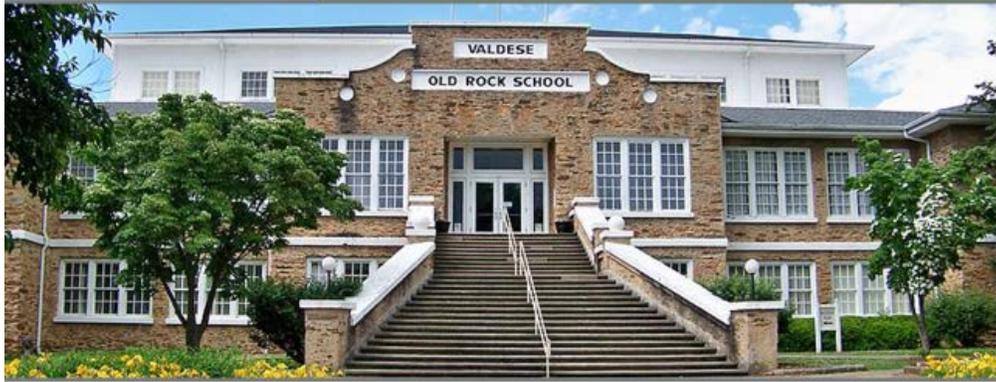
Mayor Watts thanked all the applicants and encouraged them to be involved in the community and file for the 2023 election.

**APPROVED AGREEMENT BETWEEN TOWN OF VALDESE & SGA DESIGN FOR OLD ROCK SCHOOL RENOVATIONS:** Community Affairs Director Morrissa Angi introduced Chris Coleman and Doug Burns with SGA Design. Mr. Burns shared that SGA Design is a 50-year-old company with 150 employees and five offices located in Charlotte, NC. Mr. Burns shared that the company does architecture, planning, interior design, and landscape architecture. Mr. Burns and Mr. Coleman shared a PowerPoint highlighting previous work the firm has completed and the steps of the design process with the Old Rock School renovations.

December 5, 2022, MB#32



# OLD ROCK SCHOOL RENOVATIONS



Wednesday, September 28, 2022

## OUR MISSION



We're **COMMITTED** to **COLLABORATING** with our clients to bring their **VISIONS** to life.



## SGA|NW AT A GLANCE

- 50** Years
- 61** Employees
- 5** Offices
- 4** Disciplines

Our Charlotte, NC office will be providing services for this project.



PROJECT TEAM



**DOUG BURNS**  
Principal-in-Charge



**CHRIS COLEMAN**  
Project Manager



**Audrey Shaw**  
Interior Designer

**CONSULTANTS**

**CIVIL ENGINEERING, STRUCTURAL ENGINEERING, & LANDSCAPE ARCHITECTURE**  
Stewart, Inc.

**MEP ENGINEERING**  
SKA Consulting Engineers

**BUILDING ENVELOPE**  
Walter P. Moore

**COST ESTIMATING**  
Palacio Collaborative

**DEVELOPER CONSULTANT**  
Diane Rivers

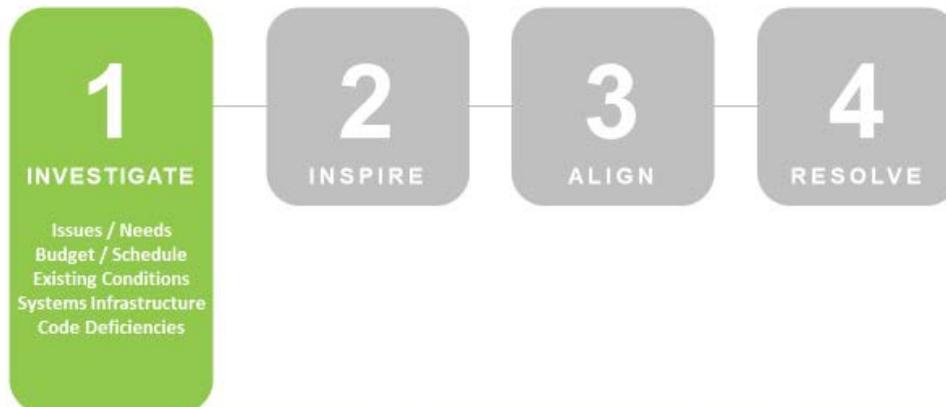


PROJECT UNDERSTANDING

- **ADA access** onto the stage from the auditorium
- **Elevator option** to access 3rd floor as offices
- **Replace seats** in auditorium
- **Pedestrian path/sidewalk** to connect Main Street to walking trail
- **Create an "order of magnitude"** for all items based on code compliance, cost, enhancement to facility operations and revenue generation.
- Convert existing catering space to commercial kitchen
- Advanced Planning Space Utilization/**Community Engagement**
- Repurpose under-utilized space
- Is a regional/state draw for pageants, conferences, events
- ADA access levels B, 1, 2, and the 3rd floor if space to be converted to office space.
- Remove parking along the historic low wall
- Front Entrance Drive
- Floor finishes-multiple areas.
- Consider the Delivery Method: Design-Bid-Build, Design-Build, CM@Risk



DESIGN PROCESS



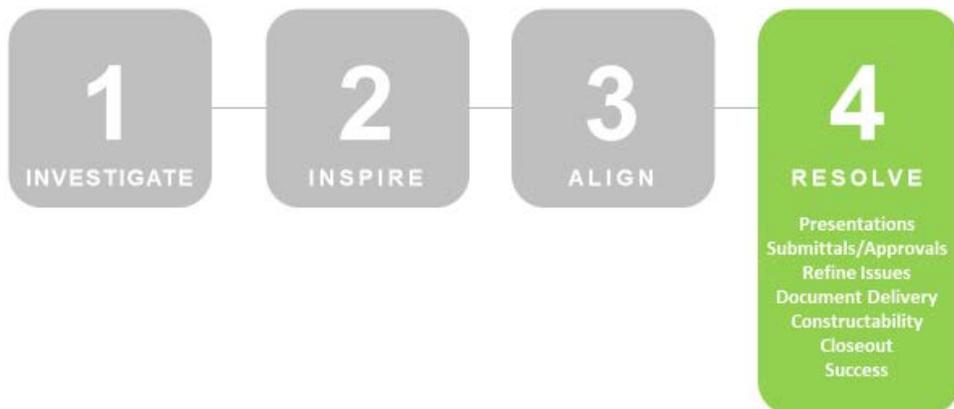
DESIGN PROCESS



DESIGN PROCESS



DESIGN PROCESS

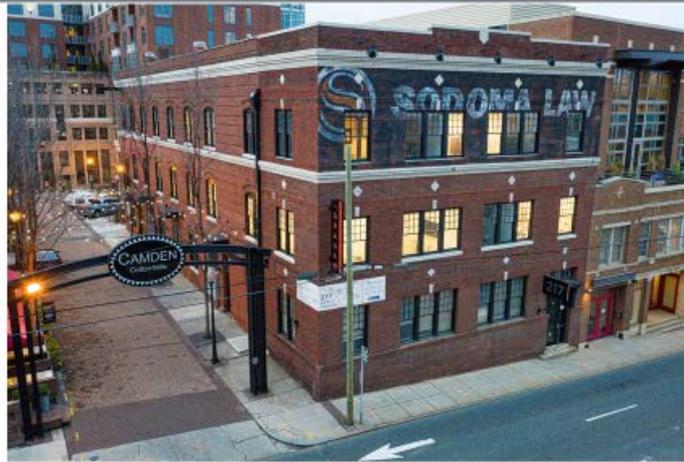


HISTORIC EXPERIENCE



SGA | NW  
A SGP Design Company

217 N. GRAHAM STREET



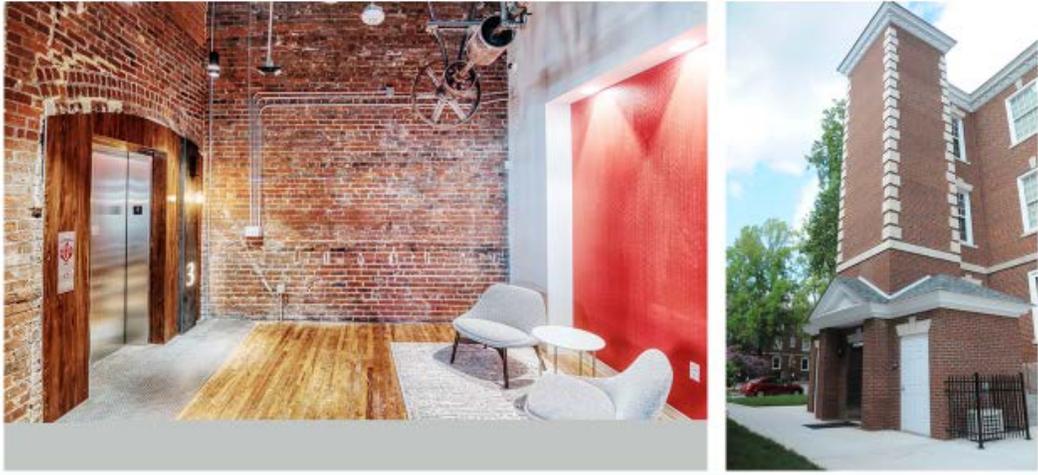
SGA | NW  
A SGP Design Company

NCA&T STATE UNIVERSITY, DUDLEY HALL



SGA | NW  
A SGP Design Company

ELEVATOR ACCESS



SGA | NW  
SGF Design Company

OFFICE SPACE



SGA | NW  
SGF Design Company

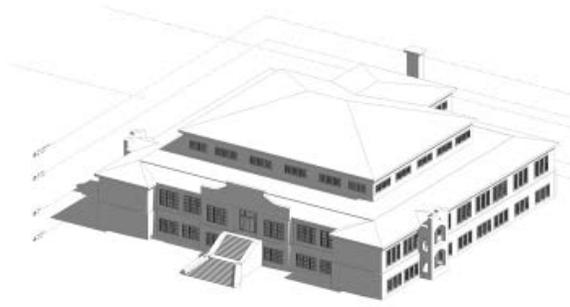
GALLERY SPACE



SGA | NW  
SGF Design Company

## CURRENT PROJECT STANDING

- Multiple site visits
- Scope conformation
- Review of grant submissions and budget items
- Development of Revit model for existing renovation conditions / review of existing drawings
- Start of schematic design layouts
- Schedule date for A/E team to visit site to confirm schematic design direction



Our team begins with **YOU.**



Mr. Burns shared that they are very excited about this project and look forward to being a part of the team. Councilwoman Lowman shared that she was a part of the interview panel that chose this firm and that they were very impressed with this team and felt this is an excellent group to work with. Mayor Watts shared that they interviewed three different groups, and SGA Design was the only group that came out and looked at the Old Rock School.

# AIA® Document B101™ – 2017

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 30 day of November in the year 2022  
*(In words, indicate day, month and year.)*

BETWEEN the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

Town of Valdese – Office of Community Affairs  
400 Main St W  
Valdese NC 28690

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

SGANW Design, a GF Design Company  
2459 Wilkinson Blvd – Suite 120  
Charlotte NC 28208

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

Old Rock School Renovations  
400 Main St W  
Valdese NC 28690

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

init.

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User Notes: (1936410200)

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
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4	SUPPLEMENTAL AND ADDITIONAL SERVICES
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6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
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10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Building Renovations – Project scope & order of magnitude to be determined with Town of Valdese & SGAINW

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Existing former school built in 1923, with various renovations over time serves as a multi-use facility. Currently the facility has a 300 seat auditorium, 4 classrooms, 4 private business, 3 nonprofit organizations, art studios, large event space, and Town of Community Affairs & Tourism. The facility is located at 400 Main St W.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

\$850,000 Eight Hundred Fifty Thousand Dollars

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

.1 Design phase milestone dates, if any:

init.

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To be determined – architect to submit a preliminary schedule for review post scope meeting for owner review in compliance with any grant requirements.

.2 Construction commencement date:

To be determined – architect to submit a preliminary schedule for review by owner in compliance with any grant requirements

.3 Substantial Completion date or dates:

To be determined – architect to submit a preliminary date for review by owner in compliance with any grant requirements

.4 Other milestone dates:

n/a

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Design – Bid - Build

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)*

n/a

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreement with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

Morrissa Angi – Director of Community Affairs & Tourism  
828-879-2129  
mangi@valdesenc.gov

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

To be confirmed by Town of Valdese

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

.1 Geotechnical Engineer:

init.

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n/a

.2 Civil Engineer:

n/a

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

n/a

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Chris Coleman – Project Manager + Designer  
Doug Burns - Principal  
Sarah Marion - Interior

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Stewart Inc  
101 N Tryon Street – Suite 1400  
Charlotte NC 28202

.2 Mechanical Engineer:

SKA Consulting Engineers, Inc.  
4651 Charlotte Park Drive – Suite 150  
Charlotte NC 28217

.3 Electrical Engineer:

SKA Consulting Engineers, Inc.  
4651 Charlotte Park Drive – Suite 150  
Charlotte NC 28217

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User Notes: (1826410200)

- .4 Plumbing Engineer:  
SKA Consulting Engineers, Inc.  
4631 Charlotte Park Drive – Suite 130  
Charlotte NC 28217
- .5 Building Envelope:  
Walter P. Moore  
227 West Trade Street – Suite
- .6 Civil & Landscape Engineering  
Stewart Inc  
101 N Tryon Street – Suite 1400  
Charlotte NC 28202
- .7 Cost Estimating  
Palacio Collaborative  
400 Galleria Pkwy SE, Suite 1500  
Atlanta, GA 30339

§ 1.1.11.2 Consultants retained under Supplemental Services:

n/a

§ 1.1.12 Other Initial Information on which the Agreement is based:

n/a

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

init.

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§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000 ) for each occurrence and two million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of these motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits, only through the actual payment by the underlying insurer.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000 ) each accident, one million (\$ 1,000,000 ) each employee, and one million (\$ 1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than five million (\$ 5,000,000 ) per claim and five million (\$ 5,000,000 ) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall

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provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

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§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 Procurement Phase Services

#### § 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,

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- 4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

**§ 3.6.3 Certificates for Payment to Contractor**

§ 3.6.3.1 The Architect shall review and certify the amount due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

**§ 3.6.4 Submittals**

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. In no event shall Architect have less than ten (10) business days, to review and respond to any submissions, including but not limited to shop drawings, product data or samples, change orders and request for payment. For submissions that require review of a consultant, not less than fifteen (15) days be allotted.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such

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requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

1. conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
2. issue Certificates of Substantial Completion;
3. forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
4. issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the Facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service.*

*Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect with owner assistance
§ 4.1.1.2 Multiple preliminary designs	No
§ 4.1.1.3 Measured drawings	Owner – Existing facility drawings to be provided
§ 4.1.1.4 Existing facilities surveys	Architect – to confirm existing drawings & conditions
§ 4.1.1.5 Site evaluation and planning	Architect – limited to pedestrian sidewalk along stone wall
§ 4.1.1.6 Building Information Model management responsibilities	No
§ 4.1.1.7 Development of Building Information Models for post construction use	No
§ 4.1.1.8 Civil engineering	No
§ 4.1.1.9 Landscape design	No
§ 4.1.1.10 Architectural interior design	Architect – as applicable to confirmed scope
§ 4.1.1.11 Value analysis	No
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	No
§ 4.1.1.13 On-site project representation	No
§ 4.1.1.14 Conformed documents for construction	No
§ 4.1.1.15 As-designed record drawings	No
§ 4.1.1.16 As-constructed record drawings	No
§ 4.1.1.17 Post-occupancy evaluation	No
§ 4.1.1.18 Facility support services	No
§ 4.1.1.19 Tenant-related services	No
§ 4.1.1.20 Architect's coordination of the Owner's consultants	No
§ 4.1.1.21 Telecommunications/data design	No
§ 4.1.1.22 Security evaluation and planning	No
§ 4.1.1.23 Commissioning	No
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	No
§ 4.1.1.25 Fast-track design services	No
§ 4.1.1.26 Multiple bid packages	No
§ 4.1.1.27 Historic preservation	Architect – limited as needed related to project
§ 4.1.1.28 Furniture, furnishings, and equipment design	No
§ 4.1.1.29 Other services provided by specialty Consultants	No
§ 4.1.1.30 Other Supplemental Services	No
4.1.1.31 Destructive testing of existing conditions	No

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below:

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

1. Existing facility surveys: Architect to review provided existing facility drawings for near accuracy to develop existing template for design team as related to overall project renovation scope.

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2. Historic Preservations: design team to provide preservation as needed with respect to existing history and building conditions. Owner to confirm if building is on National Historic Registry.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

1. Measured drawings: Town of Valdese to provide all existing drawings and other building documentation for design team

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

1. Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
2. Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
3. Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
4. Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
5. Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
6. Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
7. Preparation for, and attendance at, a public presentation, meeting or hearing;
8. Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
9. Evaluation of the qualifications of entities providing bids or proposals;
10. Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
11. Assistance to the Initial Decision Maker, if other than the Architect

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

1. Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
2. Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and

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- comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Weekly ( ) visits to the site by the Architect during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; right-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements, and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, or contingencies for changes in the Work, or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimates of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

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§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

1. give written approval of an increase in the budget for the Cost of the Work;
2. authorize rebidding or renegotiating of the Project within a reasonable time;
3. terminate in accordance with Section 9.5;
4. in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
5. implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such use. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedure in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

*(Paragraphs deleted)*

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedule shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedule shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fee:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

n/a

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.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

n/a

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively

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for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
*(Insert amount)*  
  
n/a
- .2 Percentage Basis - % value reflective of updated confirmed \$850,000 budget per 11/30/22 phone meeting  
*( )*  
  
Eleven & eight tenths (11.8 %) of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.  
Total Fee for Architecture & Engineering: \$100,300
- .3 Other  
*(Describe the method of compensation)*  
  
n/a

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

n/a

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

Hourly fee per rate schedule or stipulated sum amount to be agreed upon by Owner and Architect

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twelve and one half percent (12.5 %), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

n/a

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen percent (	15	%)
Design Development Phase	Twenty percent (	20	%)

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Construction Documents Phase	Thirty percent (	30 %)
Procurement Phase	Five percent (	05 %)
Construction Phase	Thirty percent (	30 %)
<b>Total Basic Compensation</b>	<b>one hundred percent (</b>	<b>100 %)</b>

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate (\$0.00)
Senior Principal	\$250/hr
Principal	\$200/hr
Project Manager	\$175/hr
Project Architect	\$160/hr
Architectural Designer	\$110/hr
Administrative	\$85/hr

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred. Reimbursable expenses identified in 11.8.1 shall be billed towards an allowance in the base fee Not To Exceed Amount of \$4,000 (Four thousand dollars)

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§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

n/a

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of n/a ( \$ n/a ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

*(Paragraph deleted)*

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid n/a ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

0 % zero

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

n/a

- .3 Exhibits:

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

[ n/a ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:

*(Insert the date of the E204-2017 incorporated into this agreement.)*

init.

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[ n/a ] Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

1. Initial basic services design proposal to Town of Valdese, dated October 10, 2022
2. Updated listing of projects & funding to be considered for overall project scope from 10/19/22 meeting

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

- See attached Signature Page-

\_\_\_\_\_  
OWNER *(Signature)*

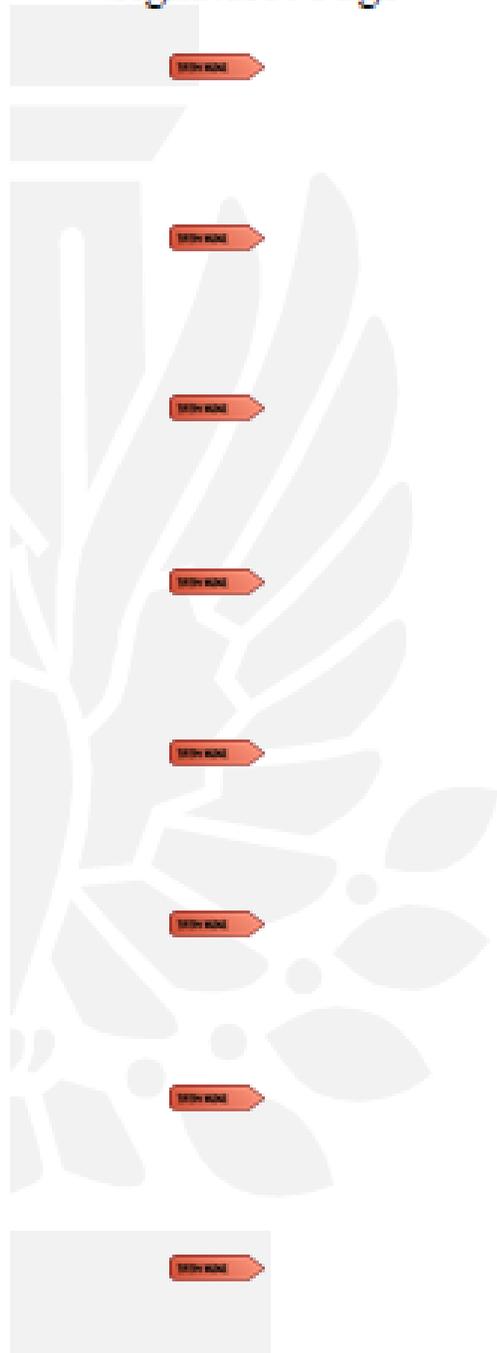
\_\_\_\_\_  
*(Printed name and title)*

- See attached Signature Page-

\_\_\_\_\_  
ARCHITECT *(Signature)*

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

# Signatures Page



ink.

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User Notes: (1826410200)

## Additions and Deletions Report for AIA® Document B101™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:38:05 ET on 11/30/2022.

### PAGE 1

AGREEMENT made as of the 30 day of November in the year 2022

...

Town of Valdese – Office of Community Affairs  
400 Main St W  
Valdese NC 28690

...

SGAINW Design, a GF Design Company  
3439 Wilkinson Blvd – Suite 120  
Charlotte NC 28208

...

Old Rock School Renovations  
400 Main St W  
Valdese NC 28690

### PAGE 2

Building Renovations – Project scope & order of magnitude to be determined with Town of Valdese & SGAINW

...

Existing former school built in 1923, with various renovations over time serves as a multi-use facility. Currently the facility has a 500 seat auditorium, 4 classrooms, 4 private business, 3 nonprofit organizations, art studios, large event space, and Town of Community Affairs & Tourism. The facility is located at 400 Main St W.

...

\$850,000 Eight Hundred Fifty Thousand Dollars

### PAGE 3

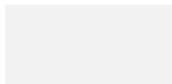
To be determined – architect to submit a preliminary schedule for review post scope meeting for owner review in compliance with any grant requirements.

...

To be determined – architect to submit a preliminary schedule for review by owner in compliance with any grant requirements.

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User Notes: (1936410200)

...



To be determined – architect to submit a preliminary date for review by owner in compliance with any grant requirements

...

n/a

...

Design – Bid - Build

...

n/a

...

Morrissa Angi – Director of Community Affairs & Tourism  
828-879-2129  
mangi@valdesenc.gov

...

To be confirmed by Town of Valdese  
PAGE 4

n/a

...

n/a

...

n/a

...

Chris Coleman – Project Manager + Designer  
Doug Burns - Principal  
Sarah Marston - Interiors

...

Stewart Inc  
101 N Tryon Street – Suite 1400  
Charlotte NC 28202



...

SEA Consulting Engineers, Inc.  
4631 Charlotte Park Drive – Suite 150  
Charlotte NC 28217

...

.3 Electrical Engineer:

SKA Consulting Engineers, Inc.  
4651 Charlotte Park Drive – Suite 150  
Charlotte NC 28217

.4 Plumbing Engineer:

SKA Consulting Engineers, Inc.  
4651 Charlotte Park Drive – Suite 150  
Charlotte NC 28217

.5 Building Envelope:

Walter P. Moore  
227 West Trade Street – Suite

.6 Civil & Landscape Engineering

Stewart Inc  
101 N Tryon Street – Suite 1400  
Charlotte NC 28202

.7 Cost Estimating

Palacio Collaborative  
400 Galleria Place SE, Suite 1500  
Atlanta, GA 30339

PAGE 5

n/a

...

n/a

PAGE 6

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000 ) for each occurrence and two million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.5.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000 ) each accident, one million (\$ \$1,000,000 ) each employee, and one million (\$ \$1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than five million (\$ 5,000,000 ) per claim and five million (\$ 5,000,000 ) in the aggregate.

PAGE 9

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~~§ 3.5.3 Negotiated Proposals~~

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:~~

- ~~1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;~~
- ~~2 organizing and participating in selection interviews with prospective contractors;~~
- ~~3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractor in the form of addenda; and~~
- ~~4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

~~§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions, and prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

PAGE 10

~~§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. In no event shall Architect have less than ten (10) business days, to review and respond to any submissions, including but not limited to shop drawings, product data or samples, change orders and request for payment. For submissions that require review of a consultant, not less than fifteen (15) days be allotted.~~

PAGE 12

§ 4.1.1.1 Programming	<u>Architect with owner assistance</u>
§ 4.1.1.2 Multiple preliminary designs	<u>No</u>
§ 4.1.1.3 Measured drawings	<u>Owner – Existing facility drawings to be provided</u>
§ 4.1.1.4 Existing facilities surveys	<u>Architect – to confirm existing drawings &amp; conditions</u>
§ 4.1.1.5 Site evaluation and planning	<u>Architect – limited to pedestrian sidewalk along stone wall</u>
§ 4.1.1.6 Building Information Model management responsibilities	<u>No</u>
§ 4.1.1.7 Development of Building Information Models for post construction use	<u>No</u>
§ 4.1.1.8 Civil engineering	<u>No</u>
§ 4.1.1.9 Landscape design	<u>No</u>
§ 4.1.1.10 Architectural interior design	<u>Architect – as applicable to confirmed scope</u>
§ 4.1.1.11 Value analysis	<u>No</u>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	<u>No</u>
§ 4.1.1.13 On-site project representation	<u>No</u>
§ 4.1.1.14 Conformed documents for construction	<u>No</u>
§ 4.1.1.15 As-designed record drawings	<u>No</u>
§ 4.1.1.16 As-constructed record drawings	<u>No</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>No</u>
§ 4.1.1.18 Facility support services	<u>No</u>
§ 4.1.1.19 Tenant-related services	<u>No</u>

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User Notes:

(1936410200)

§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>No</u>
§ 4.1.1.21 Telecommunications/data design	<u>No</u>
§ 4.1.1.22 Security evaluation and planning	<u>No</u>
§ 4.1.1.23 Commissioning	<u>No</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	<u>No</u>
§ 4.1.1.25 Fast-track design services	<u>No</u>
§ 4.1.1.26 Multiple bid packages	<u>No</u>
§ 4.1.1.27 Historic preservation	<u>Architect - limited as needed related to project</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>No</u>
§ 4.1.1.29 Other services provided by specialty Consultants	<u>No</u>
§ 4.1.1.30 Other Supplemental Services	<u>No</u>
4.1.1.31 Destructive testing of existing conditions	<u>No</u>

...

1. Existing facility surveys: Architect to review provided existing facility drawings for near accuracy to develop existing template for design team as related to overall project renovation scope.

2. Historic Preservations: design team to provide preservation as needed with respect to existing history and building conditions. Owner to confirm if building is on National Historic Registry.

PAGE 13

1. Measured drawings: Town of Valdese to provide all existing drawings and other building documentation for design team

PAGE 14

1. Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
2. Weekly ( ) visits to the site by the Architect during construction
3. Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
4. Two ( 2 ) inspections for any portion of the Work to determine final completion.

...

§ 4.25 If the services covered by this Agreement have not been completed within ( 18 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 18

[ X ] Litigation in a court of competent jurisdiction

...

### § 8.3 Arbitration

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

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User Notes:

(1026410200)

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with no additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

~~§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.~~

...

PAGE 19 n/a

PAGE 20 n/a

n/a

.2 Percentage Basis - % value reflective of updated confirmed \$850,000 budget per 11/30/22 phone meeting  
(insert percentage value(s))

~~(Eleven & eight tenths (11.8%)) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

Total Fee for Architecture & Engineering: \$100,300

...

n/a

...

n/a

...

Hourly fee per rate schedule or stipulated sum amount to be agreed upon by Owner and Architect

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twelve and one half percent ( 12.5 %), or as follows:

...

n/a

...

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Thirty</u>	percent (	<u>30</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>05</u>	%)
Construction Phase	<u>Thirty</u>	percent (	<u>30</u>	%)

PAGE 21

<u>Senior Principal</u>	<u>\$250/hr</u>
<u>Principal</u>	<u>\$200/hr</u>
<u>Project Manager</u>	<u>\$175/hr</u>
<u>Project Architect</u>	<u>\$160/hr</u>
<u>Architectural Designer</u>	<u>\$110/hr</u>
<u>Administrative</u>	<u>\$85/hr</u>

...

§ 11.8.2 For Reimbursable Expenses: the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent ( 0 %) of the expenses incurred. Reimbursable expenses identified in 11.8.1 shall be billed towards an allowance in the base fee Not To Exceed Amount of \$4,000 (Four thousand dollars)

PAGE 22

n/a

...

§ 11.10.1.1 An initial payment of n/a (\$ n/a ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid n/a ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

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0. % 2022

---

n/a

PAGE 23

[ n/a ] AIA Document E2047™-2017, Sustainable Projects Exhibit, dated as indicated below:

[ n/a ] Other Exhibits incorporated into this Agreement:

---

- 1. Initial basic services design proposal to Town of Valdese, dated October 10, 2022
- 2. Updated listing of projects & funding to be considered for overall project scope from 10/19/22 meeting



### ***Certification of Document's Authenticity***

#### ***AIA® Document D401™ – 2003***

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:36:05 ET on 11/30/2022 under Order No. 2114312571 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

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

\_\_\_\_\_  
*(Dated)*

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User Notes: (18206410200)

Councilwoman Lowman made a motion to approve the Contract Agreement with SGA Design, seconded by Councilwoman Hildebran. The vote was unanimous.

**December 5, 2022, MB#32**

Councilman Mears asked how much we had budgeted for this project. Ms. Angi explained that the Rural Transformation Fund Grant was for \$850,000, and this contract is based on that amount. Ms. Angi shared that there is a pending application with ARC for \$120,000, with \$60,000 of that being matched by the Rostan Family Foundation, but the application has not yet been approved. Ms. Angi shared that the grant applications focus is bringing the Old Rock School up to ADA needs and expanding the restrooms. Town Manager Seth Eckard asked what the timeline for this project is. Ms. Angi said the tentative timeline is three years, which is required by the grant.

**CAPITAL PROJECT ORDINANCE:** Assistant Town Manager/CFO Bo Weichel presented the following Capital Project Ordinance for the Old Rock School renovations:

TOWN OF VALDESE  
OLD ROCK SCHOOL RENOVATIONS  
CAPITAL PROJECT ORDINANCE

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

Section 1. The project authorized is the Old Rock School Renovations. Project proposes repairs and upgrades to select areas. The project is to be financed by grant funds.

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

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

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Rural Transformation Grant	\$ 850,000	38.3970.000
	-----	
	\$ 850,000	
	=====	

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

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Renovations	\$ 707,200	38.6250.150
Professional Services	100,300	38.6250.040
Contingency	42,500	38.6200.900
	-----	
	\$ 850,000	
	=====	

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

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

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

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

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

Adopted this 5th day of December 2022.

/s/ Charles Watts, Mayor

December 5, 2022, MB#32

ATTEST: /s/ Town Clerk

Councilman Mears made a motion to approve the aforementioned Capital Project Ordinance, seconded by Councilwoman Lowman. The vote was unanimous.

**CAPITAL PROJECT ORDINANCE AMENDMENT:** Assistant Town Manager/CFO Bo Weichel presented the following Capital Project Ordinance Amendment:

Valdese Town Council Meeting

Monday, December 5, 2022

Capital Project Ordinance Amendment # 4-34

Subject: Lakeside Park Kayak Launch / Fishing Pier

Description: Per the agreement with NC Wildlife adopted at the November Town Council meeting, this amendment transfers donations from the McGalliard Bridge project to Lakeside Park project.

**Proposed Action:**

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

**Section I:**

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

Account	Description	Decrease/ Debit	Increase/ Credit
33.3970.001	Donations	19,858.18	
34.3970.003	Donations		19,858.18
Total		\$19,858	\$19,858

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
33.6200.900	Contingency		19,858.18
34.6200.760	Construction	19,858.18	
Total		\$19,858	\$19,858

**Section II:**

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

Councilwoman Hildebran made a motion to approve the aforementioned Capital Project Ordinance Amendment, seconded by Councilwoman Lowman. The vote was unanimous.

Town Manager Seth Eckard asked Parks & Recreation Director David Andersen if we had an anticipated start date on the kayak launch/fishing pier project. Mr. Andersen shared that we have received the first draft of a contract with Duke Energy for a lease, which will come before Council at the January 2023 meeting, and then Wildlife can start. Mr. Andersen does not know how long it will take Wildlife to complete the project.

Mayor Watts noted that Beth Heile gave him the Lakeside Park attendance; on weekdays, it's 250 each day, and on weekends it's 350-450 people that visit the park.

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

Mr. Eckard shared that the repairs made to the Water Plant in the amount of \$225,000 will be paid fully by the insurance company minus the deductible.

**December 5, 2022, MB#32**

Letters to Santa can be placed in the mailbox at the Old Rock School.

Submissions for the Home Holiday Decorating contest are due by Monday, December 7, 2022. Winners will be announced on Monday, December 12, 2022

Council and Department Head Dinner, Thursday, December 8, 2022, at 6:30 p.m.

Christmas in Valdese, Hatley Memorial Tree-Lighting and Christmas Carols by Valdese Elementary School at the Old Rock School, Hot Chocolate & Santa Visits, Friday, December 9, 2022, at 6:00 p.m.

OCP Production: A Christmas Carol, Show Dates December 9-10 and 15-17, 2022, 7:30 p.m., and December 11 & 18, 2022, 3:00 p.m.; visit [www.oldcolonyplayers.com](http://www.oldcolonyplayers.com) for more information and to purchase tickets.

Mingle with Kris Kringle, Saturday, December 10, 2022, at the Old Rock School, Sponsored by the Valdese Fire Department

Town Offices Will Be Closed December 23, 26 & 27, 2022, in Observance of Christmas and January 2, 2023, for New Year's Day

**MAYOR AND COUNCIL COMMENTS:** Councilwoman Lowman expressed her appreciation for the audit and all the work put in behind it. All of the Council members agreed.

Mayor Watts thanked everyone involved in helping with the Christmas Parade, Craft Show, Ward 1 vacancy process, and the Merchants Dinner. Mayor Watts shared that he has been on Council for a year and feels like Council has made great progress. Mayor Watts thanked Councilwoman Hildebran for her leadership, being the longest-served Council member on the current board.

**CLOSED SESSION:** Mayor Watts called for a motion to recess into Closed Session pursuant to NC General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. At 6:45 p.m., Councilwoman Hildebran made a motion to recess into Closed Session pursuant to NC General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. Seconded by Councilwoman Lowman. The vote was unanimous.

At 7:09 p.m., Councilwoman Lowman made a motion to return to Open Session, seconded by Councilman Mears. The vote was unanimous.

**ADJOURNMENT:** At 7:10 p.m., there being no further business to come before Council, Councilwoman Hildebran made a motion to adjourn, seconded by Councilwoman Lowman. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, January 9, 2023, 6:00 p.m., Valdese Town Hall.

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

\_\_\_\_\_  
Mayor

jl

## **2023 Board and Commission Appointments/Reappointments**

### **VEDIC (3-year terms)**

1. Appointment of Tim Barus – Valdese Town Council Representative  
Mr. Barus will be filling the unexpired term of Keith Ogle whose term expired July 1, 2024.
2. Appointment of Lily Laramie – WWPC Small Business Center Director  
Ms. Laramie will be filling the unexpired term for Forrest Fleming who term expires July 1, 2025.

#### **Bio for Lily Laramie:**

I started my professional journey early in life. My parents have always been entrepreneurial, so my first experience with business came when I was 10 years old helping to package and ship plants. I was homeschooled up until I joined Caldwell Early College High School where I got on the fast track to being the first person in my family to go to college. I went to UNC Asheville for my bachelor's degree and after two years I graduated Summa Cum Laude with my bachelor's in Arts, Management, and Entrepreneurship. I paid my way through college by operating my own photography business. After graduation, I completed my masters in Business Administration with a focus on Entrepreneurship in the Charles M. Snipes College of Business and Economics at Lenoir-Rhyne University, and now, I work at Western Piedmont Community College as the Small Business Center Director helping local businesses grow and expand. I also work on my own as a photographer and web designer in all my free time!

### **Planning Board & Board of Adjustment (4-year terms)**

1. Reappointment of Barry Zimmerman

# TOWN OF RUTHERFORD COLLEGE

MAYOR  
*Yates Jensen, Jr.*

Post Office Box 406 \* 980 Malcolm Blvd.  
Rutherford College, NC 28671  
828.874.0333 \* [www.rutherfordcollegenc.us](http://www.rutherfordcollegenc.us)

TOWN MANAGER  
*Jessica S. Bargsley*



January 3, 2023

Dear Mayor Watts,

A petition was submitted on September 20, 2022 by Larry Davis of Public Works Properties to be annexed in to Rutherford College. Since the Town of Valdese limits extend up to Castle Bridge, Valdese is closer to the parcel and must give permission for Rutherford College to annex this property. Therefore, on behalf of the Town Council of Rutherford College, I would like to ask the Valdese Town Council to consider granting Rutherford College permission to annex this property. The property information is listed below, and a map of the parcel is attached.

Owner Information

Public Works Properties LLC  
5784 Long Bay Dr  
Granite Falls, NC 28630

Account Information

NCPIN: 2754096052  
Parcel ID: 170108

Property Information

Calculated Acreage: 7.82  
Legal: BK 2003 PG 2183 YR 20 ST 1000.00 PLAT 38/53 2022

If you have any questions regarding this request, please contact our Planner Scott Berson 828-485-4287.

Sincerely,

A handwritten signature in cursive script that reads "JBargsley".

Jessica Bargsley  
Town Manager/ Finance Director  
828-874-0333 ext. 206  
[townmanager@rutherfordcollegenc.us](mailto:townmanager@rutherfordcollegenc.us)



**AN ORDINANCE APPROVING A  
TOWN OF RUTHERFORD COLLEGE / TOWN OF VALDESE  
ANNEXATION AGREEMENT**

WHEREAS, in order to enhance orderly planning by municipalities and the residents and property owners in areas adjacent to such municipalities, Chapter 160A, Article 4A, Part 6 of the North Carolina General Statutes authorizes municipalities to enter into binding agreements to annexation by one or more of the participating municipalities; and

WHEREAS, all of the prerequisites to adoption of this ordinance as prescribed in Chapter 160A, Article 4A, Part 6 of the North Carolina General Statutes have been met; and

WHEREAS, the Councils of the Town of Rutherford College and the Town of Valdese, in compliance with the aforementioned General Statutes, held public hearings on the matter of said municipalities entering into an agreement concerning annexation; and

WHEREAS, the Council of the Town of Valdese has taken into consideration the statements presented at the Town public hearing; and

WHEREAS, the Council of the Town of Valdese finds it to be in the best interest of the citizens and residents of the Town to enter into the proposed Annexation Agreement attached to this ordinance; and

NOW THEREFORE BE IT ORDAINED, by the Council of the Town of Valdese, that:

Section 1. The proposed Annexation Agreement between the Town of Rutherford College and the Town of Valdese is hereby approved and ratified, and the Mayor is directed to execute this same.

Section 2. The Annexation Agreement is attached to this ordinance and is incorporated herein; and this ordinance and the executed Annexation Agreement shall be attached to the minutes of this meeting.

Section 3. This approving ordinance is effective upon adoption.

**ADOPTED** this 9<sup>th</sup> day of January 2023. \_\_\_\_\_

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

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

**TOWN OF RUTHERFORD COLLEGE/TOWN OF VALDESE  
ANNEXATION AGREEMENT**

WHEREAS, the Town of Rutherford College and the Town of Valdese, (the "participating governmental units"), duly incorporated municipalities under the laws of the State of North Carolina, each desires to enhance the orderly planning of their respective municipalities, desires to eliminate uncertainty among residents and property owners in unincorporated areas adjacent to them, and desires to improve planning by public and private interests in such areas; and

WHEREAS, Chapter 143 of the 1989 Session Laws of the North Carolina General Assembly (hereinafter referred to as the "Act") authorizes municipalities to enter into binding agreements concerning future annexation in order to enhance orderly planning by such municipalities as well as residents and property owners in areas adjacent thereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein; and further in accordance with the authority granted each of the parties under North Carolina General Statutes Chapter 160A, Article 4A, Part 6, the participating governmental units agree as follows:

1. This Annexation Agreement ("Agreement") is executed pursuant to the authority of the Act, codified as Article 4A, Part 6 of the General Statutes Chapter 160A.
2. This Agreement shall terminate twenty (20) years after its effective date unless earlier terminated in accordance with the provisions of Paragraph 7 herein.
3. A. The Town of Valdese hereby defers their statutory right by proximity to annex the following described area: See Exhibit A (attached survey map), further designated by the NCPIN: 2754096052  
  
B. In so deferring their statutory right to annex the area described in this agreement, specifically NCPIN: 2754096052, the Town of Valdese thereby grants the Town of Rutherford College the right to annex by this agreement for the satellite annexation area described in this agreement pursuant to G. S. 160A-58.24(a)(5).
4. The effective date of this Annexation Agreement is \_\_\_\_\_, this Agreement having been entered into after Public Hearings held by the governing Councils of the participating governmental units, and passage of an ordinance approving the Agreement by each of the participating governmental units.
6. This Agreement may be modified or terminated by subsequent written agreement(s) entered into by the participating governmental units; however, any subsequent agreement(s) shall be approved by Ordinance only after public hearings as provided in N.C.G.S. 160A-31(c).
7. This Agreement may be terminated unilaterally by either participating governmental unit, or either participating governmental unit may withdraw from this Agreement, by repealing the

Ordinance which approved this Agreement and providing not less than five years' written notice to the other participating governmental unit. Upon the expiration of the five-year period, this Agreement shall terminate.

8. From and after the effective date of this Agreement, neither participating governmental unit shall adopt an annexation ordinance as to all or, any portion of an area in violation of the Act or this Agreement.

9. Nothing in the Act nor this Agreement shall be construed to authorize the annexation of any area which is not otherwise subject to annexation under applicable law by either of the participating governmental units.

I 0. Nothing in the Act nor this Agreement shall be construed to prevent the annexation of any area which is not subject to this Agreement by either of the participating governmental units.

11. Either participating governmental unit which shall believe that a violation of the Act or this Agreement has occurred, shall have available to it all remedies and relief authorized by the Act in addition to such remedies or relief as are authorized by other applicable law.

12. All notices, requests, and other communications hereunder shall be deemed to have been given when deposited in the United States mail in a sealed envelope, postage prepaid, certified mail, and addressed as follows:

Town of Rutherford College

PO Box 406

Rutherford College NC 28671

Town of Valdese

P.O. Box 339

Valdese, NC 28690

13. This writing contains the entire agreement between the participating governmental units, and there is merged herein all prior and collateral representations, promises, and conditions in connection with the Agreement

IN WITNESS WHEREOF, the Mayors of the Town of Rutherford College and the Town of Valdese, the participating governmental units, by and under the authority granted by their respective municipalities in Ordinances Approving this Agreement, have hereunder executed this Agreement to become effective as provided in paragraph 4 above.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**(Seal)**

Town of Rutherford College

ATTEST

\_\_\_\_\_  
Jessica Bargsley, Town Clerk

\_\_\_\_\_  
Yates Jensen, Mayor

**(Seal)**

Town of Valdese

ATTEST

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

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

**COUNCIL AGENDA MEMO**

**From:** Bo D. Weichel, Assistant Town Manager  
**Agenda:** January 9, 2023

**REQUEST**

Approve the agreement with Burke County for tax billing and collections effective July 1, 2023.

**BACKGROUND**

Currently the Town handles property taxes separately from the County. A rapidly growing trend for municipalities is an agreement to have the County handle billing and collection of taxes. We can see this locally as currently all Catawba County municipalities have property taxes billed and collected at the County level.

In Burke County, we have:

- Glen Alpine                      Since    2003
- Rhodhiss                         Since    2006
- Long View                        Since    2014
- Connelly Springs                Since    2014
- Hildebran                         Since    2018

We asked for feedback from these local governments and each provided very high compliments of the County process. It made it simpler for their citizens to understand and pay property taxes.

**ANALYSIS**

The County consistently maintains a slightly better collection rate than Valdese. After meeting with the County staff, we were able to get the collection fee to 1.5% guaranteed for five years – although they have never gone up on this fee since they started doing these type of agreements over a decade ago.

The agreement with the County would begin billing and collection of property taxes on July 1, 2023. Any current tax foreclosures and delinquent accounts in process would stay with the Town, while all others moving forward will be handled by the County.

Citizens would receive one tax bill, from Burke County, that will have County and Town taxes listed. They will pay at the County or online, and the County will then disburse the payment to the Town. Citizens do not have to pay both taxes at the same time, they may split up payment however they need, but will still need to adhere to due dates shown on the invoice.

**RECOMMENDATION**

Staff respectfully recommends that Council approve the agreement with Burke County.

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

Is a Budget Amendment required?

Yes

No

STATE OF NORTH CAROLINA

AGREEMENT

BURKE COUNTY

THIS AGREEMENT, made and entered into this the \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the County of Burke, (hereinafter referred to as "the County") a political subdivision of the state of North Carolina, and the Town of Valdese, (hereinafter referred to as "the Town"), a municipal corporation under the laws of the State of North Carolina.

WITNESSETH:

THAT WHEREAS, the Town desires for Burke County, by and through its duly appointed Tax Administrator, to list and assess municipal properties, both personal and real, for the purpose of levying taxes; and

WHEREAS, the Town desires for Burke County, by and through its duly appointed Tax Administrator, to bill and collect current and delinquent municipal taxes by methods set forth in Chapter 105 of the North Carolina General Statutes (hereinafter, "Chapter 105"); and

WHEREAS, the Town by action of the Town Council dated the \_\_\_\_ day of \_\_\_\_\_ 2023, requested Burke County to list, assess, bill, and collect current and delinquent ad valorem municipal property taxes; and

WHEREAS, Burke County, by action of the Board of Commissioners, has agreed to list, assess, bill, and collect current and delinquent municipal taxes; and

WHEREAS, the County and the Town have reached an agreement concerning the listing, assessment, billing, and collection of the Town ad valorem property taxes by the County and desires to reduce this agreement to writing;

NOW, THEREFORE, in consideration of the payment hereafter mentioned, the mutual promises herein contained and the mutual benefits to result there from, the County and the Town agree as follows:

Pursuant to the provisions of Article 20 of Chapter 160A of the General Statutes of North Carolina, and N.C.G.S. 153A-445 (a) (1), the County and the Town agree:

1. The term of this contract shall be from July 1, 2023, until June 30, 2028, and shall be renewed automatically thereafter for five-year periods unless terminated in writing by either party on or before the 31<sup>st</sup> day of July of the year prior to the termination.
2. The Town agrees to pay to the County for its services in billing and collecting, a fee of 1.5 percent of all current and delinquent taxes, assessments, penalties, and interest collected for the Town. The County agrees to review this fee not more than once every five years and to notify the Town of any increases by July 31 prior to the next July 1 effective date.

3. Said fees described in Paragraph Number 2 shall be retained by Burke County each month as the 1.5 percent of each month's receipts collected on behalf of the Town.
4. In the event parcels are annexed or split by an annexation, the Town shall provide a complete listing of such parcels complete with maps. This information shall indicate the name of the owner, the parcel number, the amount of property within the Town limits and be recorded at the Register of Deeds as required by statute.
5. The Town agrees that when annexation of property is made after the beginning of the fiscal year and resulting in a discovery of Town taxes outside the normal billing cycle, the Town will provide completed discovery abstracts for such properties to the County for billing. The Town also agrees that discoveries for current and prior years made as a result of failure to properly code Town properties will be handled in the same manner, with the Town providing completed discovery abstracts for each year. The Town further agrees to reimburse the County for postage and staff costs associated with unanticipated multiple discoveries due to annexation or coding.
6. The Burke County Tax Administrator shall have complete responsibilities for the collection of ad valorem property taxes for the Town, both current and delinquent. The County Tax Administrator shall exercise the general duties on behalf of the Town as set forth in Chapter 105-350 (General Duties of Tax Collector) and further have the right to use all remedies as set forth in Article 26 of Chapter 105.
7. When real property is sold at foreclosure sale for the collection of ad valorem taxes, the County agrees to use reasonable efforts to assure that the opening bid is sufficient to pay both the County and Town ad valorem property taxes including penalties, interest and such cost as accrued prior to the institution of the foreclosure action. In the event the property is sold for an amount not sufficient to satisfy both the County and the Town taxes, including penalties, interest and cost, the money shall be distributed as follows:

Burke County shall first be reimbursed for accrual expenses and disbursements made by it in connection with the foreclosure action, including the cost of advertising, legal fees and other necessary legal expenses, and any balance remaining after the payment of these expenses shall be distributed to the County and Town in proportion to their respective interests.

In the event that the County shall become the purchaser at foreclosure sale, the property shall be held and disposed of pursuant to Chapter 105-376 (a) & (b).

8. The Town agrees that the Burke County Tax Administrator shall be authorized to use all lawful means to collect the ad valorem property taxes on behalf of the Town. The Town agrees to extend full cooperation from its officials, agents and employees in the collection of these taxes and further agrees to take no action on behalf of any Town taxpayer that is influenced by personal or political friendships or obligations.

The County agrees that in collecting ad valorem taxes for the Town that, pursuant to Chapter 105-354, these taxes shall be treated in the same manner as taxes of Burke County. The Tax Collector agrees as to these taxes to follow all procedures set forth in Article 26 (Collection and Foreclosure of Taxes), for the delivery of receipts, releases, and prepayment. Therefore, the County agrees to pay the Town every 30 days

- at the close of the month's books, the amount collected less the County's fee. The County agrees to provide a monthly summary of all transactions and also a status report showing all outstanding accounts as requested by the Town.
9. In the event the taxpayer asserts taxpayer's remedies pursuant to Chapter 105-381, including a demand for release or a request for a refund, the County will handle those as follows: releases and or refunds of Town taxes for reasons of value changes will be handled in the same manner as the release of County taxes. Release records will be available for inspection by the Town as requested. Releases and/or refunds requested by reason of situs within the Town will be referred to the Town for confirmation and then released by the County. Any refund requested for taxes of years prior to this agreement will be referred to the Town for decision by the governing body and issued by the Town. The County and the Town agree to handle all refunds, releases, and compromises under the provisions of Article 27 (Refund and Remedies) of Chapter 105, and agrees not to release, refund, or compromise all or any taxes except as provided in Article 27.
  10. The parties agree that the collection shall be subject to an audit by a certified public accountant to be selected by Burke County.
  11. The County agrees to print and mail delinquent notices each year on or before July 1.
  12. The parties agree that there shall be at least one advertisement of tax liens on real property for failure to pay taxes pursuant to Chapter 105-369. The time of the advertisement shall be selected by the County.
  13. The parties agree that all fiscal month closings shall be on the last day of each month, with the exception of when the last day falls on a weekend. When the last day falls on a weekend, the fiscal month shall close on the preceding day prior to the weekend except that June 30 shall be the closing for both the fiscal year and the fiscal month, and December 31 which shall be the close of the fiscal month and the calendar year.
  14. The Town agrees to provide the County with a tax rate, in writing, for the new fiscal year by June 30 annually.
  15. The parties agree that there shall be one tax bill for County bills and Town bills. The bill shall indicate a separate total for the County and a separate total for the Town, and in addition, shall state a grand total of the County and Town ad valorem taxes.
  16. In the event a taxpayer makes a partial payment, the County Tax Collector shall divide the payment proportionally between the County ad valorem taxes due and the Town ad valorem taxes due, except when the taxpayer directs that the money be applied on another basis.
  17. The Town agrees to encourage all taxpayers to make payment of both the Town and County ad valorem taxes to the Burke County Tax Collector.
  18. This Agreement shall be effective upon its adoption by a majority vote of the members of the governing board of the County and Town and its execution by the proper officials of each unit of government, and minutes of each unit of government shall be spread upon the minutes of the County and the Town.

- 19. The Town agrees to take such action as may be required by North Carolina General Statutes to give the Burke County Tax Administrator, his assistants and clerks the authority to administer the collection of Town ad valorem taxes and to carry out the provisions of this Agreement.
- 20. The Town agrees to pay the County the actual cost of transitioning any current or delinquent accounts from the Town's records to the County's tax system. The Town will be responsible for completing any foreclosure actions begun prior to remitting delinquent files to the County. All other delinquent files not in foreclosure will be remitted to the County for collections.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed, in their respective names, by their proper officials, all by authority of a resolution of the governing bodies of each of the taxing units, duly adopted.

BURKE COUNTY

BY: \_\_\_\_\_  
 Scott Mulwee, Chairman  
 Burke County Board of Commissioners

Attest:

\_\_\_\_\_  
 Kay Honeycutt Draughn, CMC, NCMCC  
 Clerk to the Board

TOWN OF VALDESE

BY: \_\_\_\_\_  
 Charles Watts, Mayor  
 Town of Valdese

Attest:

\_\_\_\_\_  
 Jessica Lail  
 Valdese Town Clerk

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo Weichel / Assistant Town Manager  
**Agenda:** 1/9/2023

**REQUEST**

Accept and approve the audit contract for FY23 with Lowdermilk Church & Co., LLP.

**BACKGROUND**

The Town has utilized the services of Lowdermilk Church & Co. for the past several years with excellent results. This firm was also contracted to produce the Town's Financial Statements.

**ANALYSIS**

The North Carolina Local Government Commission (LGC) does not enforce formal bid requirements for auditing services due to the professional relationship formed between auditors and clients over an extended work history. The Secretary of the Local Government Commission approves all local government contracts for audit or audit-related work.

Lowdermilk Church & Co. offers a competitive rate for their services and is widely known for their professional staff and service throughout the local government community. The proposed fees for the Town for fiscal years ending June 30, 2022 is \$17,300. This price reflects a \$500 increase over the prior year.

**RECOMMENDATION**

Staff recommends approval to accept the contract for auditing services with Lowdermilk Church & Co.

**BUDGET ANALYSIS:**

***Budgetary Action***

Is a Budget Amendment required?

Yes

No

**Lowdermilk Church & Co., L.L.P.**  
*Certified Public Accountants*

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121 North Sterling Street  
Morganton, North Carolina 28655  
Phone: (828) 433-1226  
Fax: (828) 433-1230

December 6, 2022

To the Honorable Mayor and Members of  
the Town Council  
Town of Valdese  
Valdese, North Carolina

We are pleased to confirm our understanding of the services we are to provide for Town Valdese for the year ended June 30, 2023.

**Audit Scope and Objectives**

We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information, including the disclosures, which collectively comprise the basic financial statements, of Town Valdese as of and for the year ended June 30, 2023. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Town of Valdese's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Town Valdese's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient appropriate evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis.
- 2) Budgetary Comparison Information.
- 3) Law Enforcement Officers' Special Separation Allowance Schedules of Changes in Total Pension Liability and Total Pension Liability as a Percentage of Covered Payroll.
- 4) Local Government Employees' Retirement System Schedule of the Proportionate Share of Net Pension Liability (Asset) and Schedule of Contributions.
- 5) Schedule of Changes in the Total OPEB Liabilities and Related Ratios.

We have also been engaged to report on supplementary information other than RSI that accompanies Town Valdese's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements.

- 1) Schedule of expenditures of Federal and State awards.
- 2) Combining and Individual Fund Financial Statements.
- 3) Budgetary Schedules.
- 4) Other Schedules.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

### **Auditors' Responsibilities for the Audit of the Financial Statements and Single Audit**

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of

laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

We have identified the following significant risk(s) of material misstatement as part of our audit planning:

- Improper revenue recognition.
- Management override of controls.

The significant risks above were identified in the prior-period audit and we believe they are still relevant. However, Planning has not been concluded and modifications may be made.

### **Audit Procedures—Internal Control**

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major Federal or State award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Town Valdese's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of Town Valdese's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on Town Valdese's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

### **Other Services**

We will also assist in preparing the financial statements, schedule of expenditures of Federal and State awards, and related notes of Town Valdese in conformity with accounting principles generally accepted in the United States of America and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of Federal and State awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statements, schedule of expenditures of Federal and State awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, the schedule of expenditures of Federal and State awards, and related notes and that you have reviewed and approved the financial statements, the schedule of expenditures of Federal and State awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

### **Responsibilities of Management for the Financial Statements and Single Audit**

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of Federal and State awards, and all accompanying information in conformity with accounting principles generally

accepted in the United States of America; and for compliance with applicable laws and regulations (including federal statutes), rules, and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of Federal and State awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of Federal and State awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal and State awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of Federal and State awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of Federal and State awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of Federal and State awards. You also agree to [include the audited financial statements with any presentation of the schedule of expenditures of Federal and State awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of Federal and State awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of Federal and State awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of Federal and State awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles (GAAP). You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to [include the audited financial statements with any presentation

of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon]. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of Federal and State awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the Town; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Lowdermilk Church & Co., L.L.P. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Lowdermilk Church & Co., L.L.P. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Local Government Commission. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Phillip E. Church is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

To ensure that Lowdermilk Church & Co., L.L.P.'s independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Our audit ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$17,300. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will keep you informed of any problems we encounter and our fees will be adjusted accordingly. We are required to inform you that we charge interest at a rate of 18% per annum on all invoices over 30 days old.

## Reporting

We will issue written reports upon completion of our Single Audit. Our reports will be addressed to management and the Town Council of the Town Valdese. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

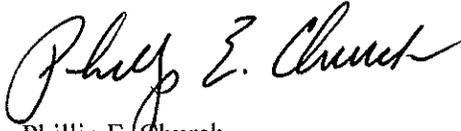
If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue reports, or withdrawing from the engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

You have requested that we provide you with a copy of our most recent external peer review report and any subsequent reports received during the contract period. Accordingly, our 2022 peer review report accompanies this letter.

We appreciate the opportunity to be of service to Town Valdese and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the attached copy and return it to us.

Very truly yours,



Phillip E. Church  
Partner

RESPONSE:

This letter correctly sets forth the understanding of the Town Valdese.

Management signature: \_\_\_\_\_

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

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

Governance signature: \_\_\_\_\_

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

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



## Bernard Robinson & Company, L.L.P.

### Report on the Firm's System of Quality Control

November 2, 2021

To the Partners of Lowdermilk, Church & Co., L.L.P.  
and the Peer Review Committee of the Coastal Peer Review, Inc.

We have reviewed the system of quality control for the accounting and auditing practice of Lowdermilk, Church & Co., L.L.P. (the firm) in effect for the year ended May 31, 2021. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

#### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

#### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

#### Required Selections and Considerations

Engagements selected for review included an engagement performed under Government Auditing Standards, including a compliance audit under the Single Audit Act.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

#### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Lowdermilk, Church & Co., L.L.P. in effect for the year ended May 31, 2021, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Lowdermilk, Church & Co., L.L.P. has received a peer review rating of *pass*.

*Bernard Robinson & Company, L.L.P.*

BERNARD ROBINSON & COMPANY, L.L.P.

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[brccpa.com](http://brccpa.com)

The of and	Governing Board Town Council
	Primary Government Unit Town of Valdese
	Discretely Presented Component Unit (DPCU) (if applicable) N/A

*Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)*

and	Auditor Name Lowdermilk Church & Co., LLP
	Auditor Address 121 North Sterling Street, Morganton, NC 28655

*Hereinafter referred to as Auditor*

for	Fiscal Year Ending	Date Audit Will Be Submitted to LGC
	06/30/23	10/31/23

*Must be within four months of FYE*

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.
2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards (GAGAS)* if the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period. The auditor shall perform a Single Audit if required by Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F (Uniform Guidance)* or the State Single Audit Implementation Act. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

Effective for audits of fiscal years beginning after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee based upon federal criteria in the Uniform Guidance §200.520(a), and (b) through (e) as it applies to State awards. In addition to the federal criteria in the Uniform Guidance, audits must have been submitted timely to the LGC. If in the reporting year, or in either of the two previous years, the unit reported a Financial Performance Indicator of Concern that the audit was late, then

the report was not submitted timely for State low-risk auditee status. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.
4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.  
If the audit engagement is not subject to *Government Auditing Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.
7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.
15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.
16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.
17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.
18. Special provisions should be limited. Please list any special provisions in an attachment.
19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.
20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.
21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.
22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitted-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

**FEEES FOR AUDIT SERVICES**

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by:  Auditor  Governmental Unit  Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

<b>Name:</b>	<b>Title and Unit / Company:</b>	<b>Email Address:</b>
Bo Weichel	Assistant Town Manager/CFO	bweichel@valdesenc.gov

OR Not Applicable  (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

**PRIMARY GOVERNMENT FEES**

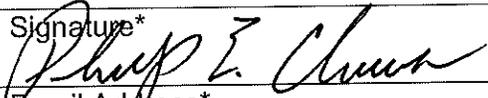
Primary Government Unit	Town of Valdese
Audit Fee	\$ 12,110
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$ 5,190
All Other Non-Attest Services	\$

**DPCU FEES (if applicable)**

Discretely Presented Component Unit	N/A
Audit Fee	\$
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$

## SIGNATURE PAGE

## AUDIT FIRM

Audit Firm* Lowdermilk Church & Co., LLP	
Authorized Firm Representative (typed or printed)* Phillip E Church	Signature* 
Date* 12-7-22	Email Address* phil.church@lowdermilkchurchcpa.com

## GOVERNMENTAL UNIT

Governmental Unit* Town of Valdese	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)* Charles Watts	Signature*
Date	Email Address mayor@valdesenc.gov

Chair of Audit Committee (typed or printed, or "NA") N/A	Signature
Date	Email Address

## GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

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

Primary Governmental Unit Finance Officer* (typed or printed) Bo Weichel	Signature*
Date of Pre-Audit Certificate*	Email Address* bweichel@valdesenc.gov

**SIGNATURE PAGE – DPCU  
(complete only if applicable)**

**DISCRETELY PRESENTED COMPONENT UNIT**

DPCU* N/A	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

**DPCU – PRE-AUDIT CERTIFICATE**

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).  
Not applicable to hospital contracts.

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

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all required signatures prior to submission.

**PRINT**

# Town of Valdese

## 2022 Action Plan



**Adopted:**  
**January 9, 2023**

Prepared by Western Piedmont Council of Governments  
Alison Adams, Community and Regional Planning Director  
Rachel Wooster, Community and Regional Planner

The Town Council acknowledges its role in Vision and Action Planning for the future of the Town and pledges that this document will be a living, changing, and evolving document to help guide the Town's path to the future.

## **Mayor**

Charles Watts

## **Mayor Pro-Tem**

Frances Hildebran (Ward 4)

## **Council Members**

Tim Barus (Ward 1)

Paul Mears (Ward 2)

Rexanna Lowman (Ward 3)

Tim Skidmore (Ward 5)

## **Town Manager**

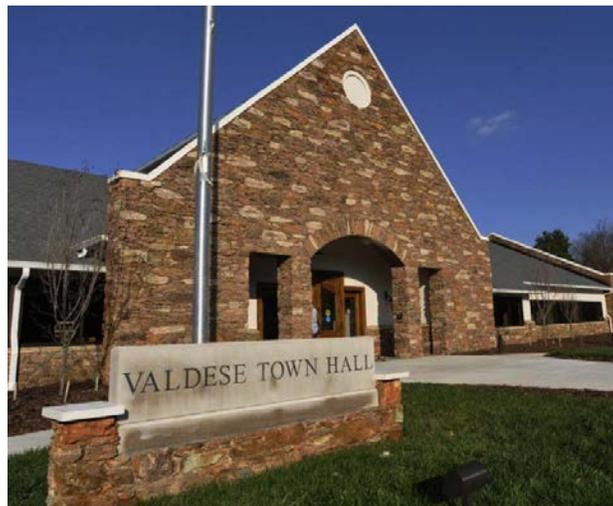
Seth Eckard

## **Assistant Town Manager/CFO**

Bo Weichel

## **Town Clerk/Human Resources Director**

Jessica Lail



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# Introduction

A Council Action Plan is a formal statement of the Council’s top priorities for the upcoming budget year and if applicable, the following years. This plan is not a comprehensive, detailed work plan for all municipal operations, nor is it a comprehensive list of all of the issues and initiatives that the Council will undertake throughout the entire year. The purpose of the Council Action Plan is to articulate to both the community and to municipal staff the Town Council’s collective focus as it begins governing duties. This plan will also direct Town staff in the achievement of key deliverables that the Council members deem to be in the community’s highest interest.

# Background

On November 1, 2022, the Town of Valdese held a strategic planning meeting. The Town Council, Manager, Assistant Manager, and Town Clerk, along with staff from the Western Piedmont Council of Governments evaluated past major accomplishments, as well as identified issues, organizational effectiveness, priorities, and future concerns. These items were used to set specific actions, goals, and programs to guide the Town over the next several years.

# Planning Process

The joint group was taken through a process to identify concerns/obstacles/challenges, then opportunities/projects/priorities, next to devise a list of policies and actions for the Town’s focus. *Attendees: WPCOG Facilitator Executive Director Anthony Starr, Community, and Regional Planning Director Alison Adams, and Community and Regional Planner Rachel Wooster.*

The topics listed received the most votes over the course of the planning session. The number of votes is shown in parentheses.

# Role of the Council

The primary functions of a municipal Council are to establish administrative policy, to adopt bylaws governing matters delegated to local government through the North Carolina General Statutes and the Town’s Official Charter, for the protection of the public, and to levy taxes for these purposes. The municipal Council represents the citizens of the Town of Valdese. Council provides community leadership by serving as the legislative and policy-making body. The Mayor and Council approve policy and budgets and provide direction to the Town Manager. Council is responsible for providing ethical oversight related to municipal operations and assets, and for providing services, facilities, and other items considered necessary or desirable for taxpayers. Council shall continue to foster the current and future economic, social, and environmental well-being of the Town.



## Accomplishments

The Town completed many of the actions put forth in past Action Plans. Listed below are a few of the Action Plan items that were completed. Town Manager Seth Eckard presented improvements that were implemented by the Town within the past five years. Mr. Eckard organized these accomplishments in five areas of focus – Parks and Recreation, Community Affairs – public communication, housing development – subdivisions, utilities – grants and maintenance, and Public Safety – Police, Code Enforcement, and Animal Control.

Council members were then given an opportunity to vote on which accomplishments they felt were most important for the Town of Valdese to undertake. These accomplishments are shown below, with the total number of votes received in parentheses.

- **Housing Growth** - Workforce housing, apartment developments, and planned unit developments (4)
- **Water and Sewer upgrades** - \$11 million of capital investment in utility system and \$5 million of which was funded with grant money (4)
- **Upgrades and upkeep of public facilities** - including parks and the Community Center renovations of the pool, locker rooms, lobby area, and gym. The Old Rock School LED stage lighting conversion project was also completed for the auditorium. (3)
- **Investments** that have proven Valdese is a valuable and attractive community for further investments (2)
- **Fund Balance Increase** (1)
- **Valdese Lakeside Park** - opened in November 2021 and was fully funded through private donations and grants. The park provides a dog park, kayak launch, fishing pier, hiking trails, picnic areas, parking, and restrooms. (1)



### Other accomplishments mentioned:

#### Utilities and infrastructure

- Transportation and transit infrastructure

**Recreation**

- Grant and money awarded for public projects and facilities
- Downtown Family Splash Park amenities including an exercise building, playground, splash pad, and shelter

**Intergovernmental Relations**

- Collaborations that led to the establishment of the NC School of Math and Science
- Partnerships that built assets in the community

**Public Safety**

- Strong and proactive Code Enforcement and Animal Control
- Code Enforcement and Police Department are able to provide excellent service and increase public safety

**Community Affairs**

- Increased public communication through multiple online, paper, and in-person resources
- Outdoor stage pavilion at Temple Field constructed in the Spring of 2022 and was funded by local contributions and sponsorships. The stage features raised concrete covered stage area equipped with electrical upgrades including lighting and fans. The pavilion while constructed specifically for the summer concert series has been used during the Fall football season as well.

**Investment Attraction**

- Increased citizen confidence in Valdese because of Central Business District revitalizations and local business successes downtown



## Evaluation of the Town’s Mission Statement

After Council reviewed the Town’s recent accomplishments, Council members were given the opportunity to review the Town’s current mission statement and evaluate the need for changes. It is the role of the Council to uphold the Town of Valdese’s mission statement. In the past year, citizens have elected a majority of new council members, who now represent and provide a voice for the Town.

### **Current - Town of Valdese Mission Statement:**

**The Town of Valdese welcomes growth and diversity to enhance, while preserving, our existing neighborhoods, natural amenities and rich history for current residents and future generations.**

Two suggestions were made to revise the mission statement. The first change suggested was to include the word “stakeholders” in addition to residents and future generations. The reason for this suggestion was that there are individuals who work, visit, and support the Town of Valdese who are not residents of the Town. Secondly, it was suggested that the phrase “welcomes growth and diversity” be changed to “facilitates or invests in growth and diversity”. Council members agreed that with the mentioned changes the mission statement is strong and still upholds the values of Valdese.

### **Revised - Town of Valdese Mission Statement**

**The Town of Valdese facilitates in enhancing growth, diversity, and investments for residents and stakeholders, while preserving our existing neighborhoods, natural amenities, and rich history for all.**



Following the discussion of accomplishments and the revision of the mission statement, Council worked together on a modified Strengths, Weakness, Opportunities, and Threats (SWOT) analysis. The SWOT process was used to identify future opportunities, projects and priorities – as well as concerns, obstacles, and challenges for the upcoming budget year.

## COUNCIL PRIORITIES & COUNCIL ACTION PLAN 2022-2023

The goal of the Town of Valdese Council Retreat was to help set the stage for the upcoming year, provide an opportunity to share information and to engage in planning exercises. The retreat resulted in productive discussions, and provided an opportunity for team building and collaboration between the Council members and Town staff. The planning exercises consisted of the identification of concerns, obstacles and challenges, as well as opportunities, projects, and priorities. From the exercises, the participants devised a list of policies and action items for the Town to focus on. The priorities can be found below.

In the sections that follow, more specific deliverables (and their proposed timelines) are laid out within each priority area. It should be noted that these deliverables do not constitute a full work plan for all municipal operations, nor is it a comprehensive list of all of the issues and initiatives that the Council will undertake over the next few years. The purpose of the Council Action Plan is to articulate to both the community and to municipal staff the Council's current collective focus as it begins governing duties.

Council provided their insights regarding challenges, obstacles, and concerns. These are shown below, with the total number of votes provided by the Council in parentheses.

### Challenges/Obstacles/Concerns:

- Keeping up with street maintenance and street paving (5)
- Recruitment and retention of qualified employees (4)
- Misinformation about the Town being circulated (4)
- Lack of young families (4)
- Keeping downtown viable (3)
- Seeing businesses leave town (e.g. banks) (1)
- Not enough industrial development (1)
- The next economic recession's impact on the town (1)
- A need to evaluate the types of industries that would be viable in town (1)

After discussing these challenges, Council was then asked to provide their insights regarding opportunities, projects, and priorities. These insights are shown below, with the total number of votes provided by the Council in parentheses.

**Opportunities/Projects/Priorities:**

- Downtown Revitalization (5)
- Maintain Utility Capital Improvement Plan (4)
- Street maintenance and paving (4)
- Complete public safety building (3)
- Community Togetherness (2)
- Refurbish Tiger Gym (1)
- Assist in the completion of housing projects (1)
- Build a sense of community (1)
- Improve communication of the town's successes (1)
- Wilderness Gateway Trail (1)
- Promote the schools (1)

Other items mentioned, but not receiving votes:

Attract and retain young families, review employee benefits, promote the healthcare services in the area, and effectively involve the Planning Board in projects

After identification of the Challenges, Obstacles, Concerns, Opportunities, Projects, and Priorities Council then determined that the top five priority areas to focus on within the next year would be downtown revitalization, maintaining the utility capital improvement plan, street maintenance and paving, completion of the public safety building, and community togetherness.

**Priority Area 1: DOWNTOWN REVITALIZATION**

1. Invest in Valdese's downtown to make it viable for future development and use.
  - a. Invest in downtown beautification, landscaping, streetscape, and greenspaces
  - b. Encourage experiences/events that will increase the usage of downtown by visitors and residents such as retail and dining.
  - c. Town/wayfinding/directional signage should be consolidated into a cohesive design style that matches branding scheme and marketing strategies, allowing for quick recognition by visitors and new residents.
  - d. Redevelop entrances to town limits including, gateway signs, landscaping and lighting to enhance the Town's visual appeal.

**Priority Area 2: MAINTAIN UTILITY CAPITAL IMPROVEMENT PLAN**

1. Replace water lines as needed.
2. Continue working on the water and wastewater developments.

**Priority Area 3: STREET MAINTANENCE AND PAVING**

1. Develop and implement street paving plan
  - a. Include resources in annual budget.

**Priority Area 4: COMPLETE PUBLIC SAFETY BUILDING**

1. Provide appropriate support and resources for the Fire and Police departments.

**Priority Area 5: COMMUNITY TOGETHERNESS**

1. Build a sense of community and Town pride.
  - a. Invest in public spaces and branding efforts. Residents will be excited about the Town’s future if they see positive developments.
  - b. Develop town identity through strategic marketing.
  - c. Implement town slogan to encourage community pride to focus on attracting and retaining young people.
    - i. Use Main Street Committee and surveys sent to community organizations to guide this effort.
    - ii. Utilize the online infrastructure that been built to spread information and increase online engagement.
    - iii. Focus on regional job opportunities, low cost of living, recreation experiences, and quality of life talking points.
2. Promote the Town’s successes to residents and visitors.
  - a. Identify best methods to reach target audiences.
  - b. Use the Town’s website to highlight the positive things happening in the community.
  - c. Promote regional connections made through outdoor recreation and events.

The implementation of this plan will be dependent on both the Staff and the Town Council taking action on the recommendations outlined in this report. Staff has the responsibility to implement these goals as a part of the operations of the Town, and the Town Council must reinforce the Town’s desire to see this plan through to fruition. The staff and Town Council should update and review progress on these action points throughout the year along with an annual review prior to the beginning of the budgeting process to ensure alignment of priorities and funding.

# Memo

**To:** Jessica Lail

**From:** David Andersen

**cc:** Town Council

**Date:** December 13, 2022

**Re:** Valdese Lakeside Park –Lease with Duke Energy

---

One of the outstanding amenities for Phase 1 of Valdese Lakeside Park is the canoe/kayak launch and fishing pier. At the November 2022 council meeting, town council approved an agreement with the North Carolina Wildlife Resources Commission to construct the canoe/kayak launch and fishing pier. Upon completion of the canoe/kayak launch and fishing pier, the town will be able to close out a Parks and Recreation Trust Fund grant used to fund amenities at Valdese Lakeside Park.

In order to complete the canoe/kayak launch and fishing pier along the shoreline, the town needs and has sought permission from Duke Energy and the Federal Energy Regulatory Commission (FERC). This lease represents the agreement between the Town of Valdese and Duke Energy granting permission to build the approved canoe/kayak launch and fishing pier.

Attached is the lease contract with Duke Energy presented for council approval. The town attorney has provided feedback and revisions to the original contract, which Duke accepted. The Parks and Recreation Department recommends approval of the contract.

Prepared By: Karol P. Mack, Deputy General Counsel, Duke Energy

Site: 007326  
Land Unit: 0048798  
Project No: 007326-860580

**STATE OF NORTH CAROLINA**

**TRUE PUBLIC RECREATION LEASE**

**COUNTY OF BURKE**

**Town of Valdese**

**Lake Rhodhiss, Catawba-Wateree Hydroelectric Project (FERC Project No. 2232)**

**THIS LEASE** is made and entered into by and between **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company (“Lessor”), and **TOWN OF VALDESE**, a body politic and corporate existing under the laws of the State of North Carolina (“Lessee”); each singularly called a “Party” and collectively called the “Parties”;

**WITNESSETH:**

**WHEREAS**, Lessor owns, leases or otherwise controls substantial equity interests in that certain property described herein lying within the Project Boundary, more particularly within the lake bed and upland of the lake bed of Lake Rhodhiss (the “Lake”) in Burke County, North Carolina, which is part of Lessor’s Catawba-Wateree Hydroelectric Project (FERC Project No. 2232) (the “Project”), for which Lessor holds a license to operate (the “License”) and which Project is subject to regulatory oversight by the Federal Energy Regulatory Commission (“FERC” or “Commission”); and

**WHEREAS**, Lessee desires to use Project property described herein for the purposes described in Paragraph 2 of this Lease, and Lessor is willing to allow the use of said property pursuant to the terms and conditions recited herein.

**NOW THEREFORE**, Lessor, for and in consideration of Ten Dollars and No/100 (\$10.00) and other valuable considerations, and the covenants and agreements hereinafter expressed, to be kept and performed by Lessee, hereby grants and Lessee hereby accepts a Lease, subject to the exceptions and reservations and upon the terms and conditions and for the purposes in this instrument set out, to use the following property located in Burke County, North Carolina, hereinafter sometimes referred to as the "Leased Premises," to wit:

All that tract of land containing 0.268 ± acres, lying within and adjoining the Lake, as shown on that certain plat entitled “Pier Lease Survey for NC Wildlife Resource Commission,” dated July 11, 2022, attached hereto as **Exhibit A** and incorporated herein by reference.

1. **Term:** This Lease shall begin on \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”) and shall expire at the end of the term of the License granted to Lessor by the FERC effective November 1, 2015 (including any extension periods of the License as may be granted by the FERC through annual licenses or otherwise, but not including the next new or subsequent license the FERC may issue after the expiration of the License), unless terminated sooner pursuant to Paragraph 16 of this Lease. Lessor may terminate this Lease at any time if directed to do so by FERC or its successor agency having jurisdiction over hydroelectric reservoirs that are subject to the Federal Power Act or if necessary to comply with FERC requirements.

2. Permitted Uses: The Leased Premises may be used by the Lessee as a True Public Recreation area offering to the public one (1) fishing access pier with a canoe/kayak launch, as shown on the attached survey (**Exhibit A**) and as approved by FERC on November 3, 2022.

If, as a part of this Lease, Lessor has approved construction of new facilities, such facilities must be constructed within eighteen (18) months from the date of Lessor's letter notifying the Lessee that their application has been approved. A one (1) year extension may be considered if the Lessee files a written request with Lessor prior to the eighteen (18) month deadline, which sets forth the reasons the facilities will not be completed within the allotted timeframe. If an extension of time to complete construction of the facilities is requested by the Lessee and granted by Lessor, additional requirements may be placed on Lessee to meet revised regulations or shoreline development guidelines.

3. Rental: Intentionally Deleted.
4. Maintenance: Lessee recognizes that it has the continuing responsibility to ensure that the constructed facilities are maintained in good repair, including, but not limited to maintenance of all constructed facilities and any required navigation or public safety devices and required erosion control along the shoreline within the Leased Premises, and agrees to take all reasonable steps necessary to meet this responsibility. Lessee shall cause all structures within the Leased Premises to be maintained in a sound condition and in a neat appearance at no cost to Lessor.

Lessee, at no cost to Lessor, shall be responsible for the removal of any sunken boats or disabled boats within the Leased Premises.

5. Improvements: Lessee shall not make material alterations or improvements upon the Leased Premises or conduct excavation or shoreline stabilization activities within the Leased Premises without the prior written approval of Lessor. Lessee shall request Lessor's approval in writing and shall include detailed plans of all proposed material alterations, improvements, excavation or shoreline stabilization activities; including but not limited to construction plans and elevation drawings in substantial compliance with Lessor's Shoreline Management Guidelines then in effect. Proposed alterations, improvements, excavation or shoreline stabilization activities that do not require any additional entity or FERC review shall be approved or denied by Lessor in its sole discretion. Major additions and/or modifications, excavation and shoreline stabilization will typically require review and/or approval by other entities and may require approval by FERC. If the proposed alterations, improvements, excavation or shoreline stabilization activities require review and/or approval by other entities, the Lessee shall first submit draft plans to Lessor for review and initial comment. Once Lessor's initial comments, if any, have been addressed by Lessee, Lessee shall submit the revised draft plans, if any, to the other required entities for their review, comment and/or approval. Lessee shall address the additional comments received prior to submittal of the final plans to Lessor for final approval. If such plans require FERC approval, Lessor will forward such plans to FERC for review and approval. FERC will provide Lessor with its approval, approval with modifications, or denial in the form of a FERC order or letter. After receiving any applicable FERC order or letter, Lessor will provide Lessee with Lessor's final decision (i.e., approval, approval with conditions/modifications or denial - including a reasonable basis for such approval with conditions/modifications or denial.)

Lessor shall not be obligated to approve additional material alterations, improvements, excavation or shoreline stabilization activities and retains the right to conditionally approve or deny any requested alterations, improvements, excavation or shoreline stabilization activities.

6. Illegal Uses: Lessee shall not make or allow to be made any illegal use of the Leased Premises or any use thereof constituting a public nuisance, and shall keep the Leased Premises in a neat and orderly manner and shall comply with all applicable building codes and health regulations and with the rules and regulations of any relevant governmental authority. All water and sanitary sewer facilities shall be designed, installed, constructed, maintained and operated only with the approval of the applicable governmental authorities.
7. Lessee Ownership or Other Interest in Adjoining Property: This Lease is made subject to and contingent upon Lessee's owning, leasing or otherwise having an interest at all times during the term hereof in the shoreline property adjoining the Leased Premises. If Lessee, at any time during the term of this Lease, does not own, lease or otherwise have an interest in the shoreline property adjoining the Leased Premises, then in such event, Lessor may cancel this Lease (subject, however, to Lessee's right to cure the violation as set forth in Paragraph 16 hereof) and require Lessee, at its expense, to remove its marina facilities from the Leased Premises.
8. Transfer or Assignment: The Lessee may not transfer or assign this Lease or let or sublet the whole or any part of the Leased Premises to anyone without the prior written consent of the Lessor.
9. Entry by Lessor: Lessor, its agents and representatives, at all reasonable times may enter the Leased Premises to examine same and any such entry by or on behalf of Lessor shall not be or constitute an eviction, partial eviction or deprivation of any right of Lessee and shall not alter the obligations of the Lessee hereunder or create any right in Lessee adverse to the interest of Lessor.
10. Utility Easement: Lessor reserves an easement to build, construct, maintain and operate electric distribution/transmission lines on, over, along and above the Leased Premises. Lessor also reserves the right, privilege and easement to erect, construct, reconstruct, replace, maintain and use towers, poles, wires, crossarms and other appliances and fixtures for the purpose of transmitting or distributing electric power, for said Lessor's communication purposes, and for any other purpose that is in Lessor's sole discretion consistent with its business operations, together with the right to keep said lines, appliances, and fixtures free of structures, trees and other objects that may endanger or interfere with same.
11. Indemnity: To the extent permitted by law, Lessee will indemnify and save harmless Lessor, its successors and assigns, from and against any and all claims arising from any conduct, management, operation, work or thing done in or about the Leased Premises or any building, structure or equipment thereon during the period of this Lease or arising from any act or failure to act by Lessee, its agents, contractors, employees or sublessees, or arising from any accident, injury or damage whatsoever, however caused, to any person or persons or to the property of any person, persons, corporation or corporations during the period of this Lease on, in or about the Leased Premises and from and against all costs, counsel fees, expenses, liabilities and damages incurred in or about such claims or any action or proceeding brought thereon, and in case any action or proceeding be brought against Lessor, its successors or assigns, by reason of any such claim, Lessee, on notice from Lessor, shall resist and defend such action or proceeding by counsel satisfactory to Lessor. This indemnification and hold harmless is not intended to apply and shall not apply to any claims arising from any conduct, management, operation, work or thing done in or about the Leased

Premises or any building, structure or equipment thereon during the period of this Lease by Lessor, its agents, contractors or employees or arising from any act or failure to act by Lessors, its agents, contractors or employees.

Lessee hereby waives all claims against Lessor for damages to the improvements and other property that are now or hereafter placed or built on the Leased Premises caused by or resulting from intermittent flooding or drawdown of the waters of the Lake.

12. Insurance by Lessee: Lessee agrees that, at its own cost and expense, it shall obtain and maintain in force during the term of this Lease the following insurance coverage and minimum insurance limits:

- a) Commercial General Liability insurance from a reputable insurance company authorized to do business in North Carolina, providing coverage for any and all risks of liability associated with Lessee's occupancy and use of the Leased Premises and the activities authorized hereunder, with limits of at least \$1 million per occurrence.
- b) Workers' Compensation (including U.S. Longshoremen & Harbor Workers Act, if applicable) meeting statutory limits. If Lessee is not required to have Workers' Compensation coverage by the State of North Carolina (or state where work will be performed), Lessee must give Lessor a notarized letter stating that they are exempt from the law and will hold Lessor harmless from all injury except those injuries resulting from Lessor's gross negligence; if applicable.
- c) Employers' Liability Insurance (including Maritime Employers Liability) of not less than \$1 million each accident; if applicable.
- d) Automobile Liability Insurance of not less than \$1 million each occurrence. If the Lessee is required to use privately owned vehicles in performance of their contracted duties, the Lessee must hold the Lessor and Lessor's affiliates harmless for any liability associated with their operation of automobiles while performing work under this agreement.
- e) Umbrella Liability Insurance or Bumbershoot of not less than \$1 million per occurrence.

The Lessee must meet the following additional insurance-related requirements:

1. Insurance coverage must be with insurance companies with a minimum A.M. Best Rating of A-VII.
2. Lessee shall deliver to Lessor certificates of insurance prior to the beginning of the Lease and within 30 days of each insurance renewal. The certificates of insurance shall list the coverages and limits, the expiration dates and terms of policies and all endorsements whether or not required by Lessor, and listing all carriers issuing said policies. Lessor shall not be obligated to review any of Lessee's certificates of insurance, insurance policies, and/or endorsements or advise the Lessee of any deficiencies in such documents, and any receipt of copies or review by Lessor shall not relieve the Lessee from or be deemed a waiver of Lessor's right to insist on strict fulfillment of the Lessee's obligations. The Lessee shall deliver a certified copy of each insurance policy including all endorsements upon request by Lessor.
3. Lessee shall name Lessor as an additional insured, using Insurance Services Office, Inc. (ISO) additional insured (CG 20 10) or equivalent, under all required policies of liability insurance (Except Worker's Compensation Insurance). All policies shall include waivers

of any right of subrogation of the insurers using standard ISO forms. The certificate(s) of insurance shall specifically confirm the “waiver of subrogation” and “additional insured” obligations.

4. All insurance policies shall each contain a provision that coverage will not be cancelled, not renewed, or materially modified unless at least thirty (30) days' prior written notice has been given to the Lessee. In any event, if Lessee becomes aware of any such cancellation, reduction in coverage or non-renewal, Lessee shall provide written notice to Lessor of such action within ten (10) days of receipt of notice of any such action from its carrier. All policies of insurance required shall be endorsed or shall otherwise provide that Lessee's insurance shall be primary with respect to their own acts or omissions and not be in excess of, or contributing with, any insurance maintained by Lessor. Lessee will be responsible for their own respective deductibles, self-insured retentions, and self-insurance under its insurance program.
5. Should Lessee fail to provide or maintain any required insurance, Lessor shall have the right, but not the obligation, to provide or maintain any such insurance, and to invoice the cost to the Lessee whereupon Lessee shall reimburse Lessor annually within forty-five (45) days following the request for payment.
6. Upon Lessee's contracting with an entity for the purpose of constructing any facilities on the Leased Premises, Lessor shall be named as an additional insured on a policy of insurance covering the scope of such activity prior to the commencement of any activity by Lessee, its agents or contractors. All policies shall include waivers of any right of subrogation of the insurers using standard ISO forms. Any contractor or subcontractor performing work on property that is the subject of this Lease shall have in place prior to commencement of any activity and during the performance of any activity, the following types of insurance and minimum coverage limits:
  - Commercial General Liability Coverage – \$1 million per occurrence.
  - Automobile Liability – \$1 million per occurrence.
  - Workers Compensation – Within statutory limits.
  - Employer's Liability – \$1 million each accident.
  - Umbrella Liability or Bumbershoot - \$1 million per occurrence.

13. Taxes and Assessments: Except as provided herein, any fees received herein are net of all taxes. Lessee shall pay when due all taxes or assessments of any kind levied against the marina facilities or Lessee's personal property located within the Leased Premises and all ad valorem taxes on the marina facilities. On the condition that the Leased Premises, exclusive of marina facilities, remains classified and taxed as utility property at the same rate as all other land of Lessor lying within the Project Boundary, Lessor shall pay the tax thereon exclusive of taxes assessed on the marina facilities. In the event, however, that as a result of this Lease, the Leased Premises, exclusive of the marina facilities, shall be classified and taxed as non-utility property or at a higher rate than other lands of Lessor lying within the Project Boundary, then in such event Lessee shall pay such amount, if any, as is equal to the taxes assessed on the Leased Premises, exclusive of the marina facilities, minus the taxes which would have been assessed if the Leased Premises had been taxed as utility property or at a rate applicable to other lands of Lessor lying within the Project Boundary. Provided however, in such event, Lessor agrees to use reasonable efforts to assist Lessee in contesting the reclassification of the Leased Premises from utility property to non-utility

property with the applicable taxing authority. Lessee shall be solely responsible for listing the marina facilities in its name for tax and assessment purposes and filing any required tax return, to the extent such listing and return is required by applicable law. Upon written request, Lessee shall furnish Lessor with copies of paid receipts for all said taxes and assessments on or before the 31st day of December of each year to the extent Lessee is required by applicable law to pay said taxes.

14. Limitation of Liability: Lessor and Lessee agree to warrant that any and all work performed within the Leased Premises will be performed with professional thoroughness and using acceptable standard business practices. Lessor's total cumulative liability to Lessee for claims of any kind whether based on contract, tort (including strict liability and negligence except for gross negligence or willful misconduct on part of Lessor), under any warranty or otherwise, for any loss or damage relating to this Lease, shall in no case exceed the cost of completing the work in accordance with acceptable business practice, and Lessee releases Lessor from all further liability in excess of this amount for any work performed under this Lease. Lessee further releases Lessor from any and all liability resulting from any injury of any employee of Lessee or anyone performing any service at the direction of the Lessee on the Leased Premises, excluding any acts of willful misconduct by Lessor.

Neither Party shall be liable, whether based on contract, tort (including negligence and strict liability), or under any warranty or otherwise, for any consequential, indirect, special, or incidental loss or damage, or any damage (except to the extent damage resulted from willful misconduct) to or loss of any property or equipment, arising from any services or work performed relating to this Lease, for any consequential, indirect, special, or incidental loss or damage, any damage (except to the extent damage resulted from willful misconduct) to or loss of any property or equipment.

This limitation of, or protection against liability shall also protect directors, officers, employees, agents, consultants, suppliers, subcontractors, and affiliated entities and their directors, officers, employees, agents, consultants, suppliers, subcontractors, parents, subsidiaries and affiliates of Lessor and Lessee and shall apply regardless of the fault (excluding willful misconduct), gross negligence or strict liability of the respective Party.

Lessee waives and will require its insurers to waive all rights to recovery and claims of any kind, including rights and claims to which its insurers or another may be subrogated, against Lessor arising out of damage to, loss of or loss of use of any Lessee's property, located on the Lake, whether based on contract, tort (including strict liability and negligence except for gross negligence or willful misconduct on part of Lessor), under any warranty or otherwise. These waivers are effective as to all damages to or losses of use of property arising out of or relating to this Lease or deficiencies in the services provided hereunder and Lessee hereby covenants that no such action or claim shall be brought by or through Lessee on any theory whatsoever. In the event Lessee or its insurers recover damages from a third party for losses or damages to which the foregoing waivers apply, Lessee shall indemnify and hold Lessor harmless against any liability for any such losses or damages which said third party recovers from Lessee and any expenses (including attorney fees and other cost of investigation and defense) related hereto.

The limitation of liability in this provision shall apply notwithstanding any other provision of this Lease.

15. Surrender of Lease: The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Lessor, terminate all or any existing subleases or subtenancies or may at the option of Lessor operate as an assignment to it of any or all such subleases or subtenancies.

16. Termination & Waiver: It is expressly agreed and understood that this Lease may be terminated by any of the following: (1) by a written document duly approved and executed by both Parties; or (2) by written notice from Lessee of Lessee's intent to abandon the rights herein granted by Lessor; or (3) by Lessor if directed by Order of FERC (or its successor agency) or if necessary to comply with FERC requirements; or (4) by Lessor under the conditions set forth in Paragraph 7; or (5) by expiration of this Lease pursuant to Paragraph 1; or (6) by Lessor in the event of a breach of any of the covenants, conditions, terms or provisions of this Lease by Lessee, including but not limited to noncompliance with health, safety or sanitation laws, and the continuation of such breach for sixty (60) days following written notice of such breach by Lessor to Lessee; provided, that if the cure of such breach cannot reasonably be completed by Lessee within such sixty (60) day period, Lessee shall have ninety (90) days to cure such breach provided Lessee commences such cure within thirty (30) days and diligently pursues such cure; or (7) by Lessor, if at any time during the duration of this Lease (or any renewal thereof) the Lessee should be adjudged bankrupt or insolvent by any federal or state court or the Lessee shall allow a final judgment obtained against it to remain unpaid for a period of sixty (60) days.

In providing notification of a breach of covenants, conditions, terms or provisions of the Lease, as identified in Paragraph 16, Lessor will advise the Lessee of its right to present evidence regarding the claimed breach in a meeting conducted by Lessor. Notice of the meeting will be sent by Lessor to the Lessee by certified mail, return receipt requested, and include information on the date, time, and place of the meeting and possible remedies for cure. At the option of the Lessee, such a meeting will be scheduled within 60 days following the initial written notification that a breach of provisions included within this Lease has taken place.

Failure of Lessor to exercise any of said rights relating to the termination of this Lease or any other rights of Lessor under this Lease shall not be construed as a waiver or abandonment of the right thereafter to exercise any or all of same. In the event that Lessor terminates this Lease under any of the above written conditions, Lessor may enter the Leased Premises and expel the Lessee there from; or Lessor may, in lieu thereof or in conjunction therewith, pursue any other lawful right or remedy incident to the relationships created by this Lease.

Upon expiration or termination of this Lease (either at the end of the term or upon such earlier termination date as is provided herein) and notice from the Party terminating this Lease to the other Party, the Lessee shall have 180 days to submit a plan and schedule for Lessor's approval to remove the marina facilities or retire a portion of the marina facilities (e.g., shoreline stabilization, boat ramps, etc.), such approval not to be denied unreasonably. If the marina facilities are not removed or retired by the deadline approved by Lessor, the marina facilities shall become the property of Lessor and any reasonable cost of removal for those facilities that must be removed and cannot be reasonably retired shall be paid by Lessee. Lessee's obligations to remove improvements within the Leased Premises shall be limited to the marina facilities and shall not extend to removal of any improvements of Lessor or any third party. If improvements of Lessor have been installed within the Leased Premises, Lessor shall notify Lessee that Lessor will at Lessor's election either: (1) waive liability for damage to such improvements during Lessee's removal of the marina facilities; (2) remove Lessor's improvements at Lessor's sole cost prior to the removal or retirement of the marina facilities; or (3) waive any requirement that Lessee remove or retire the marina facilities at the Lessee's expense. Lessee shall use reasonable efforts to avoid damage to any improvements of Lessor or any third parties installed within the Leased Premises.

Failure to use the marina facilities for any permitted use identified in Paragraph 2 for a consecutive period of 12 months shall be deemed abandonment of the Leased Premises and shall be cause for termination pursuant to this paragraph, unless Lessee has provided notice to Lessor of its intent to continue operations within 24 months (including the 12-month abandonment period) or other mutually acceptable future date and Lessee actually resumes operations within said 24-month period or by said mutually acceptable date.

17. Remedies: In the event that any Party breaches this Lease and fails to cure the breach in accordance with the provisions of Paragraph 16, the other Party may seek compensatory damages, declaratory relief, specific performance, injunctive relief of any type, and/or sanctions for violation of any injunctive relief previously granted.
18. Parties Bound: The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of the Parties hereto; provided, however, that neither this Lease nor any interest therein may be assigned, transferred or sublet by Lessee except as provided in Paragraph 8.
19. Notices: Wherever in this Lease it shall be required or allowed that notice be given by either Party to this Lease to the other, such notice must be in writing and must be given personally or forwarded by certified mail addressed as follows:

Lessor: Duke Energy Carolinas, LLC  
Lake Services – ECII-12-Q  
526 South Church Street  
Charlotte, North Carolina 28202

Lessee: Town of Valdese  
c/o David Anderson  
Post Office Box 339  
Valdese, North Carolina 28690

Such addresses may be changed from time to time by notice given hereunder.

20. Compliance with Federal, State and Local Laws: Lessee agrees that its use of the Leased Premises as herein provided shall be consistent with all FERC orders, regulations and requirements regarding recreational opportunities and development at licensed projects and use of Project lands and facilities, and all other applicable federal, state and local laws as well as all ordinances, rules, regulations and sanctions of any regulatory body or governmental agency (federal, state or local) having jurisdiction in the Leased Premises, and Lessee's use of the aforesaid Leased Premises shall comply with all applicable Lessor Shoreline Management Guidelines and will not endanger health, create a nuisance or otherwise be incompatible with the overall recreational use of the Project.
21. Reservation of Use: The right to use the Leased Premises which is the subject of this Lease for Project purposes is hereby reserved to the FERC Project licensee, its successors and assigns.
22. Non-Warranty, "AS IS": Lessor makes no representation or warranty, express or implied, and shall bear no responsibility as to the existing or future water quality or quantity in the Lake or the sufficiency or

suitability of the Leased Premises for the uses authorized herein. Lessee accepts the Leased Premises in “AS IS” condition.

23. Protection of Environment: All necessary precautions shall be taken during construction and subsequent operation and maintenance of the activity to protect and enhance the environmental values of any affected lands and waters of the Project.
24. Archaeological Resources: If previously unidentified archeological or historical properties are discovered during the course of excavation/construction within the Leased Premises, the Lessee shall stop all land clearing or land disturbing activity in the vicinity of the excavation/construction area and notify Lessor immediately. Lessor shall initiate the required consultation process with the State Department of Archives and History, State Historic Preservation Office and the Catawba Indians Tribal Historic Preservation Office. Lessor may be required to prepare a cultural resources management plan for approval by the FERC that includes but is not limited to the following: (i) a description of each discovered property indicating whether it is listed on, or eligible for listing on the National Register of Historic Places, (ii) a description of the potential effect, and (iii) the proposed measures for avoiding or mitigating the impacts. The Lessee shall be responsible for implementing any required cultural resource management plan. No land clearing or land disturbing activities within the Leased Premises shall resume until authorized in writing by Lessor.
25. Sanitation: A commercially manufactured marine pump-out system must be installed and be available for use by occupants of the Leased Premises if the Lessee shall allow any one of the following: 1) the sale of boat fuel within the Project Boundary; 2) a total number of boat docking locations greater than or equal to sixty-five (65); or 3) the mooring of twenty-five (25) or more watercraft with Marine Sanitation Devices (MSD) with fixed holding tanks. The Lessee may be exempted from this requirement if written proof from a state or local agency having jurisdiction regarding waste disposal provides documentation that the facility cannot be permitted to dispose of waste collected from watercraft to the satisfaction of applicable regulations. Lessee shall maintain sanitation facilities as a regular and customary service for pumping and/or deposit of waste, if required under this paragraph.
26. Sedimentation and Erosion: Lessor shall not be responsible for any sedimentation, erosion, impacts of sedimentation or impacts of erosion caused by Project operations or otherwise. Lessee agrees that any damage it may suffer as a result of such sedimentation, erosion or their impacts shall not be claimed or charged against Lessor.
27. Flooding and Drawdown: Lessor reserves the right to back, flood, or draw down the waters of the Catawba River and its tributaries from time to time and at any and all times over and upon the Leased Premises or any portion of the same, to such extent the flooding or drawdown may be necessary or convenient in connection with the practical operation of its hydroelectric or other electric generation power plants located or to be located in the future upon the Catawba River and to the extent such flooding or drawdown is consistent with Lessor’s obligations under its License, other applicable agreements, and applicable law. Lessee agrees that any damage it may suffer as a result of such flooding or drawdown shall not be claimed or charged against Lessor.
28. FERC Project Restoration: Lessor shall be under no obligation to Lessee to maintain or continue to operate the Project or Lake and should said Project or Lake be damaged, destroyed or removed, Lessor

shall be under no obligation to restore or rebuild same, and Lessee hereby waives all claims against Lessor for damages to or destruction or removal of the Project or Lake.

29. Recovery of Fees and Costs: If any action is taken by Lessor to enforce any provision, covenant or agreement contained in this Lease or if Lessor is required to retain an attorney to enforce any provision, covenant or agreement contained in this Lease (including, without limitation, the removal of an encroachment constructed on or in the vicinity of the Leased Premises in violation of this Lease) following written demand on Lessee, then Lessor shall be entitled to recover from Lessee all of Lessor's reasonable attorneys' fees and court costs incurred in such action and/or enforcement. Lessee shall be solely responsible for either performing or reimbursing Lessor for any related studies or actions that the FERC or any other federal or state agency may require of Lessor due to the Lessee's construction and subsequent operation of the marina facilities within the Project.
30. Recordation: Intentionally Deleted.
31. Integration and Amendment: It is agreed and understood that this Lease contains all agreements, promises and understandings between Lessor and Lessee and that no oral agreements, promises and understandings shall be binding upon Lessor or Lessee in any dispute, controversy or proceeding at law. Any addition, variation or modification of this Lease shall be void and ineffective unless made in writing and signed by Lessor and Lessee. It is further agreed and understood that Lessor will seek amendment to this Lease when required to comply with FERC orders, regulations and requirements and as required to ensure compliance with Paragraph 20.
32. Duty to Mitigate: If either Party breaches this Lease, then the breaching Party shall have the affirmative duty to use its best efforts to minimize any and all loss, damage or injury to the other Party as a result of such breach; provided that, the breaching Party shall not be liable in money damages for failure to mitigate damages of the other Party for which the breaching Party is not liable under Paragraph 14 of this Lease.
33. Severability of Terms: Unless provided otherwise in this Lease, should any term of this Lease or part hereof be held under any circumstances in any jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other term of this Lease or other part of such term.
34. Survival: The provisions of Paragraphs 11 and 14 of this Lease shall survive any termination or expiration of this Lease. The conditions, warranties, obligations and agreements contained in Paragraphs 4 and 16 shall survive termination of this Lease (either at the end of the term or upon such earlier termination date as is provided herein) until the removal of the marina facilities to the extent required by this Lease or such removal is waived by Lessor. Additionally, any provisions of this Lease which require performance subsequent to the termination or expiration of this Lease shall also survive such termination or expiration.
35. Existing Lease Amended and Superseded: Beginning on the Effective Date, this Lease shall amend, restate, replace and supersede all previous leases or other agreements between Lessor and Lessee, or their respective predecessors in interest, for the use of the Leased Premises, and such prior leases or other agreements are no further force or effect.

**IN WITNESS WHEREOF**, the Parties hereto have caused this instrument to be executed by their duly authorized officials, effective as of the Effective Date written above.

**LESSOR:**

**DUKE ENERGY CAROLINAS, LLC**  
a North Carolina limited liability company

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

Print Name: \_\_\_\_\_

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

**LESSEE:**

**TOWN OF VALDESE**  
a body politic and corporate existing under the laws of the  
State of North Carolina

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

Print Name: \_\_\_\_\_

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

# Memo

To: Jessica Lail

From: David Andersen

cc: Town Council

Date: January 4, 2023

Re: Creating Outdoor Recreation Economy (CORE) Strategic Planning Services

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At the end of 2022, the Town of Valdese Parks and Recreation Department, in coordination with the Friends of the Valdese Rec, sought out Creating Outdoor Recreation Economy (CORE) strategic planning assistance from the Appalachian Regional Commission and the North Carolina Department of Commerce to assist with planning for future parks and recreation infrastructure.

With the upcoming expiration of the department's 10-year plan, staff believed these services would assist in creating both a long-term, coherent plan for the department, as well as to identify potential areas where the town could benefit economically from outdoor recreation. After meeting with ARC and Commerce representatives, the town was selected for these services. A State Tourism Grant made possible through the United States Economic Development Administration covers the cost of these services.

Attached are a resolution requesting CORE services and the memorandum of understanding with the Appalachian Regional Commission and the North Carolina Department of Commerce detailing the services to be rendered. The town attorney has provided feedback and revisions to the original memorandum of understanding.

The Parks and Recreation Department recommends approval of the contract.

N.C. Department of Commerce  
 Rural Economic Development Division  
 NC Main Street & Rural Planning Center  
 Rural Planning Program



**MEMORANDUM OF UNDERSTANDING  
 CREATING OUTDOOR RECREATION ECONOMIES (CORE) PROJECT  
 Town of Valdese, NC**

This Memorandum of Understanding (MOU) is entered into by and between the North Carolina Department of Commerce, Rural Economic Development Division, Main Street & Rural Planning Center, Rural Planning Program (“Program”), and the Town of Valdese, NC, (“Town”), and together the “Parties,” for the purpose of setting out the terms and understandings between the Parties for the Program to provide Creating Outdoor Recreation Economies services to the Town.

**WHEREAS**, as part of the North Carolina Department of Commerce, the state’s lead agency for promoting economic development and prosperity, the Program provides services and assistance to add value to local community economic development efforts.

**WHEREAS**, through its American Rescue Plan Travel, Tourism & Outdoor Recreation program, the U.S. Economic Development Administration focused resources to accelerate the recovery of communities that rely on the travel, tourism, and outdoor recreation sectors. This included a non-competitive “State Tourism Grant” to help states quickly invest in marketing, infrastructure, workforce, and other projects to rejuvenate safe leisure, business, and international travel.

**WHEREAS**, as part of North Carolina’s successful request for a State Tourism Grant, the Program developed a technical assistance initiative to provide outdoor recreation economy strategic planning and asset development services to rural North Carolina communities. The initiative, Creating Outdoor Recreation Economies (“CORE”), is intended to leverage the abundant outdoor recreation assets available across the state to bolster local economic vitality.

**WHEREAS**, the Town applied to receive CORE services and subsequently met with the Program to identify the strategic planning process, asset development and other plan implementation services, and work products that would suit the Town’s needs (“CORE Project”), including the roles and responsibilities of the Parties, the involvement of other partners, as well as the projected timeframe to complete the CORE Project.

**WHEREAS**, the mission of the NC Main Street & Rural Planning Center, which includes the Program, is to work in regions, counties, cities, towns, downtown districts, and designated North Carolina Main Street communities to inspire placemaking through building asset-based economic development strategies that achieve measurable results such as investment, business growth, and jobs. To further that mission, the Program may share successful “best practices” with other communities when appropriate. In this context, relevant materials produced from the project and economic outcomes may be shared with other communities, as needed.

**The Program and the Town agree as follows:**

**1. Scope of Work**

***Primary Services***

The primary services to be provided by the Program for the Town's CORE Project include the following:

- A. Outdoor Recreation Asset Mapping – A review of any current asset mapping initiatives and relevant updates.
- B. Outdoor Recreation Economy Strategic Planning – A series of meetings with local work group and town staff to develop strategies for growing the Town's outdoor economy. Some components of this process are outlined below but may be adjusted to meet the needs of the Town.

#### Community Assessment

The Program will facilitate one or more assessment meeting(s) with a local work group to include, but not be limited to:

- 1) Presentation of general information about the outdoor recreation economic sector, as well as relevant outdoor recreation economy and other data.
- 2) Discussion of local outdoor recreation assets.
- 3) Presentation and discussion of results of interviews, surveys, other input gathered during the Community Assessment from the local work group, stakeholders, and the community regarding outdoor recreation and the economy.

#### Development of an Outdoor Recreation Economy Strategic Plan

Following the Community Assessment, the Program will work with the local work group and Town staff to develop a strategic plan focused on the local outdoor recreation economy. The Community Assessment will inform the identification and development of an outdoor recreation economy-building positioning statement/vision, strategies, goals, objectives, actions/projects, and tasks that will comprise the outdoor recreation strategic plan.

- C. Asset Development and Other Plan Implementation Services – Once the Outdoor Recreation Asset Mapping, if applicable, and the Outdoor Recreation Economy Strategic Planning have been completed, the Program will work with Town staff, the local work group, and other project partners, to determine the asset development and plan implementation services that may be the most beneficial for the community's outdoor recreation economy-building efforts, potential resources for acquiring such services, and the timeframe(s) within which the services should be pursued.

#### **Town Roles and Responsibilities**

- A. Local Work Group - The Town will be responsible for assembling a local work group to participate in the CORE Project. The local work group may include, but is not limited to, elected officials, municipal or county staff, local business owners/operators, representatives of civic organizations with an interest in the community, and/or active residents.
- B. Meetings – The Town will be responsible for providing or otherwise securing meeting space for the local work group and other activities related to the CORE Project. If local work group meetings and/or other CORE Project activities must be conducted virtually, using an internet-based video conferencing platform, for example, the Town will be responsible for ensuring participants are able to access and attend such meetings.

- C. Meeting Materials and Other Information - The Town will share meeting agenda, relevant maps and other images, documents, and plans electronically with the Program and all CORE Project participants.

### ***Project Staff***

Kyle Case, ARC Community Economic Development Planner for the Northwest Region, is the Program staff member assigned to lead the CORE Project. Other Program staff will assist with the project, as needed.

David Andersen will be the Town's primary contact for the CORE Project.

### ***Proposed Project Timeline***

The CORE Project is planned to begin in February 2023 and to be completed by June 2023.

#### *Project Schedule Tasks*

1. Asset Mapping
2. Community Assessment
3. Strategic Planning
4. Asset Development and Other Implementation Projects

### ***No Cost for Services***

The Program will provide its CORE Project services (including Program staff time, materials, and travel costs), and final project work products at no cost to the Town, thanks to the State Tourism Grant from the U.S. Economic Development Administration.

### ***Next Steps***

The CORE Project will be scheduled to begin upon receipt by the Program of this signed MOU and a signed resolution to request Program services for the CORE Project (sample resolution attached) adopted by the Valdese Town Council.

## **2. Effective Term and Termination of MOU**

This MOU will be effective on the date the last of the Parties executes it through December 31, 2025. This MOU is subject to modification at any time upon written amendment signed by the Parties. In the event of staff turnover, budget reductions, or other unforeseeable events, however, the Program may be compelled to place a project in an indefinite "hold" status until replacement staff resources can be secured. In rare cases, where very specialized staff skills are unable to be replaced, the project commitment may be terminated by the Program. Projects may also be reprioritized consistent with department or division policies.

## **3. Funding**

The Program will provide its CORE Project services, including Program staff time, labor, materials, and travel costs, as well as project work products produced by the Program, at no cost to the Town, thanks to the State Tourism Grant from the U.S. Economic Development Administration.

## **4. Auditing**

The records as they relate to this MOU shall be accessible to the North Carolina State Auditor's Office in accordance with N.C. Gen. Stat. §147-64.7 and to any other State or federal entity authorized to conduct audits with respect to activities performed pursuant to this MOU.

## **5. Information Sharing/Confidentiality**

To facilitate necessary information sharing and cooperation in fulfilling the purpose of this MOU, the Parties agree that they will protect all confidential information provided to them by the other Party in accordance with applicable state and federal statutes. Those employees who receive confidential information will be limited by the Parties to those who need access to it for the purpose of carrying out the functions outlined in this MOU and confidential information shall not be disclosed to third parties for any purpose, except that the Parties' obligation to keep information confidential shall not apply to disclosures made by the Parties to their attorneys, insurers, accountants, investors, or to the extent otherwise required by law, court order, or regulation.

## **6. Notices**

All notices given in connection with this MOU shall be in writing and, if routine, may be sent by email and, if requested, followed by first class United States mail, postage prepaid, or sent by certified mail, return receipt requested, hand delivered, or delivered by overnight courier. Notices shall be delivered to the appropriate Parties at the addresses set forth below.

### **PROGRAM:**

Karen Smith, AICP, Rural Planning Program Manager  
NC Main Street & Rural Planning Center  
48 Grove Street  
Asheville, NC 28801  
[ksmith@commerce.nc.gov](mailto:ksmith@commerce.nc.gov)

### **Town of Valdese:**

David Andersen, Recreation Director  
Town of Valdese  
102 Massel Ave SW  
Valdese, NC 28690  
[DAndersen@valdesenc.gov](mailto:DAndersen@valdesenc.gov)

## **7. Governing Law**

This MOU is governed and construed in accordance with the laws of the State of North Carolina.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)**

TEMPLATE

## 8. Signatures

The Program and Town agree to the foregoing understandings as indicated by the signatures below of their respective authorized representatives, on duplicate originals.

**NORTH CAROLINA DEPARTMENT OF COMMERCE  
RURAL ECONOMIC DEVELOPMENT DIVISION  
NC MAIN STREET & RURAL PLANNING CENTER  
RURAL PLANNING PROGRAM**

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Karen C. Smith, AICP  
Rural Planning Program Manager

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Date

**TOWN OF VALDESE, NC**

---

Charles Watts, Mayor  
Town of Valdese, NC

---

Date

**Please sign, date, and return one original, by email or U.S. mail, to:**

Karen Smith, Rural Planning Program Manager  
NC Main Street & Rural Planning Center  
48 Grove Street  
Asheville, NC 28801  
[ksmith@commerce.nc.gov](mailto:ksmith@commerce.nc.gov)

**Please also send a signed copy, by email or U.S. mail, to:**

Kyle Case  
720 E. Union St.  
Morganton, NC 28655  
[kyle.case@commerce.nc.gov](mailto:kyle.case@commerce.nc.gov)

**Resolution Requesting  
Creating Outdoor Recreation Economies (CORE) Services  
from the NC Main Street & Rural Planning Center, Rural Planning Program**

**WHEREAS**, the Town of Valdese, NC, (“Town”), Town Council believes the Town would benefit from assistance with outdoor recreation economy strategic planning and asset development; and

**WHEREAS**, the NC Main Street & Rural Planning Center’s Rural Planning Program (“Program”) has developed the Creating Outdoor Recreation Economies (“CORE”) initiative to provide outdoor recreation economy strategic planning and asset development services to rural communities in North Carolina; and

**WHEREAS**, the Town Council would like the Program to provide CORE services to the Town; and

**WHEREAS**, the Town and Program have reached agreement on the scope of work for the Town’s CORE project, as outlined in the attached Memorandum of Understanding.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council hereby requests that the Program assist the Town with its CORE project and expresses its commitment to the CORE planning process and plan implementation.

**Duly adopted by the Town of Valdese, NC, Town Council, this \_\_\_\_ day of \_\_\_\_\_, 2023.**

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**Mayor, Town of Valdese, NC**

**ATTEST:**

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**Town Clerk, Town of Valdese, NC**

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Greg Padgett, Water Resources Director  
**Date:** January 9, 2023  
**Re:** Water Plant Chemical Budget Amendment

**REQUEST**

Budget amendment to line 30-8100-322 (Chemicals) in the amount \$111,000.

**BACKGROUND**

The town, just like everyone else has seen extreme price increases for goods and services. The chemical budget covers the purchase of all chemicals required to treat our drinking water and to meet State regulations. For example, bleach alone has increased by 300% from approximately \$2000 per load in May of 2021 to \$8000 per load present. The plant requires 14 loads of bleach per year. The increase in bleach alone means an additional \$84,000 in annual cost. The plant also purchases Alum, Caustic, Fluoride, Phosphate and small quantities of a few other chemicals all required in the treatment of drinking water.

**RECOMMENDATION**

Staff recommends the budget amendment.

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

Is a Budget Amendment required?

Yes

No

Budget Amendment # 5

Subject: Water Plant chemicals

Description: Due to an increase in cost of chemicals to treat raw water greater than what we originally budgeted during the FY22-23 budget process. Original budget was \$78,500. Halfway through the budget year, 85% of this budget has been used. Anticipated costs through the remaining budget year are \$120,000.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2023:

Section I:

The following revenues available to the Town will be increased:

Account		Description	Decrease/ Debit	Increase/ Credit
30.3990.000		Utility Fund Balance Appropriated		111,000
Total			\$0	\$111,000

Amounts appropriated for expenditure are hereby amended as follows:

Account		Description	Increase/ Debit	Decrease/ Credit
30.8100.332		Chemicals	111,000	
Total			\$111,000	\$0

Section II:

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