



**Town of Valdese  
Town Council Meeting  
Valdese Town Hall  
102 Massel Avenue SW, Valdese  
Tuesday, September 8, 2020  
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**

**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 August 3, 2020
- B. Set Public Hearing for Re-Zoning Application #2-8-20 – Lake Vista Phase IV
- C. Lease Agreement at Old Rock School with P&W Railroad Club
- D. Lease Agreement at Old Rock School with David Harmon Studios, LLC

**7. New Business**

- A. New Employee/Promotion – Public Works
- B. Architect Firm for Public Safety Building Project Presentation & Approval
  1. Approval of Letter of Engagement
  2. Approval of Contract
- C. Valdese ABC Store Presentation
- D. Annual Property Tax Collection Report
- E. Change of Official Depository
- F. Amended Offer and Acceptance for Bleach Conversion
- G. Water AIA Contract
- H. Resolution for Offer to Purchase Town-Owned Property Located at 1492 Drexel Rd.
- I. Sub-Division Housing Updates
- J. Capital Project Ordinance Amendments
- K. Code Enforcement Abatement

**8. Manager's Report**

- A. Next Regular Council meeting scheduled for Monday, October 5, 2020, 6 p.m.
- B. NC 2020 Census Reminder - Deadline: September 30, 2020

**9. Mayor and Council Comments**

**10. Adjournment**

## COMMUNICATION NOTES

**To:** Mayor Black  
Town Council

**From:** Seth Eckard, Town Manager

**Date:** September 4<sup>th</sup>, 2020

**Subject:** Tuesday, September 8, 2020 Council Meeting

### 6. Consent Agenda

#### **A. Approval of Regular Meeting Minutes of August 3, 2020**

#### **B. Set Public Hearing for Re-Zoning Application #2-8-20 – Lake Vista Phase IV-Bragg Property**

Enclosed in the packet is a memo and a location map from the Planning Department requesting that Council set a public hearing date on Monday, October 5, 2020, for the re-zoning of Application #2-8-20, Lake Vista Phase IV.

#### **C. Lease Agreement at Old Rock School with P&W Railroad Club**

Enclosed in the agenda packet is an annual lease agreement at Old Rock School with P&W Railroad Club. As per the lease agreement, payment in the amount of \$230 is due monthly. The monthly rate for the prior year was \$230 per month.

#### **D. Lease Agreement at Old Rock School with David Harmon Studios, LLC**

Enclosed in the agenda packet is an annual lease agreement at Old Rock School with David Harmon Studios, LLC. As per the lease agreement, payment in the amount of \$305 is due monthly. The monthly rate for the prior year was \$305 per month.

### 7. New Business

#### **A. Introduction of New Employee/Promotions at Public Works**

Public Service Director Greg Padgett will introduce Assistant Public Works Director Allen Hudson and Utility Field Service Technician Darren Haynes.

#### **B. Approval for Architect Firm for Public Safety Building Project & Presentation**

Enclosed in your agenda packet is a Letter of Engagement and Contract from CBSA Designs, Inc. Through a competitive selection process based on qualifications, this firm was selected by the Architectural Review Committee for architectural and engineering design of the Public Safety building. Base services include architectural, civil, structural, mechanical, and electrical engineering design and construction drawings; as well as construction administration. The contract also includes supplemental service fees that staff have selected and reviewed with

recommendation to be included in the contract. Total contract cost is \$444,600.00. This amount will be an eligible expense as part of a USDA loan for the project which will be secured as the project progresses. Finance Director Bo Weichel and CBSA Designs, Inc. Architect Marty Beal will be at the meeting to present.

**Requested Action:** Staff recommends that Council approve the Letter of Engagement and Contract with CBSA Designs, Inc.

#### **C. Valdese ABC Store Presentation**

Karen Caruso, Manager of the Valdese ABC store, will be presenting the Town with a \$25,000.00 distribution check. For the first time in its history, the Valdese ABC store is in a strong enough financial position that it can now make annual distributions. Ms. Caruso will be available to answer any questions regarding the ABC store, future distributions, the store's finances, the status of the debt, and any other questions you may have.

#### **D. Annual Property Tax Collection Report**

Enclosed in the agenda packet is a memo and report from Tax Collector Kimberly Cline concerning property tax collection for the previous fiscal year. Ms. Cline will be at the meeting to present this report to Council.

#### **E. Change of Official Depository**

Enclosed in the agenda packet is a memo from Finance Director Bo Weichel and a Resolution designating First Citizens Bank as an official depository and identifying authorized signers for the Town's accounts. Mr. Weichel desires to bank with a local institution and First Citizens is the only local bank approved by the Local Government Commission with similar rates and services. Mr. Weichel is recommending Council approve a resolution to designate First Citizens Bank as an official depository for town funds. Mr. Weichel will be at the meeting to discuss this matter and answer any questions.

**Requested Action:** Staff recommends that Council approve the Resolution Designating First Citizens Bank an Official Depository, as presented.

#### **F. Amended Offer and Acceptance for Bleach Conversion**

Enclosed in your agenda packet is a memo from Public Service Director Greg Padgett and an amended "Funding Offer and Acceptance" for the conversion of the water plant disinfection source from chlorine gas to liquid bleach. The original offer needs to be amended due to bids coming in higher than originally estimated. The new loan is in the amount of \$718,398.00. The previous loan was in the amount of \$493,725.00. Mr. Padgett and R.J. Mozeley, with McGill Associates, P.A. will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council approve the amended Offer and Acceptance for Bleach Conversion, as presented.

#### **G. Water AIA Contract**

Enclosed in the agenda packet is a memo from Public Service Director Greg Padgett and a Water AIA Contract from McGill & Associates. The Contract is for a grant in the amount of \$150,000.00. The Town is required to provide a 5% match in the project but this amount will be met with labor. Mr. Padgett will be at the meeting to discuss.

**Requested Action:** Staff recommends that Council approve the Water AIA Contract, as presented.

#### **H. Resolution for Offer to Purchase Town-Owned Property Located at 1492 Drexel Rd.**

The Town received an offer from Brandon & Michelle Settlemyre in the amount of \$325,000.00 to purchase the property located at 1492 Drexel Rd. The property value is \$328,126.00. Enclosed in the agenda packet is a memo from Planning Director Larry Johnson, and a Resolution for the sale of Town-owned property. The property will be advertised for upset bid. Mr. Johnson will be at the meeting to present the offer. Finance Director Bo Weichel will be at the meeting to update Council on the Deed of Trust.

**Requested Action:** Staff recommends that Council adopt a Resolution accepting the offer from Mr. & Mrs. Settlemyre in the amount of \$325,000.00 and allow staff, pursuant to NC General Statue 160A-266, to advertise for the upset bid process.

#### **I. Sub-Division Housing Updates**

Planning Director Larry Johnson will be at the meeting to provide updates on Sub-Division housing in the Town.

#### **J. Capital Project Ordinance Amendment**

Enclosed in the agenda packet are three Capital Project Ordinance Amendments prepared by Finance Director Bo Weichel. These amendments will move funds to appropriate accounts. Mr. Weichel will be at the meeting to present these amendments.

**Requested Action:** Staff recommends that Council approve the Capital Project Ordinance Amendments as presented.

#### **K. Code Enforcement Abatement**

If Order to Repair is not completed at 708 Church Street by September 7<sup>th</sup>, 2020, Code Enforcement Officer Todd Justice will be at the meeting to discuss and request abatement.



# READING MATERIAL

**VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT****JULY 1st-31st, 2020**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF JULY, 2020. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<b><u>ACTIVITY / FUNCTION</u></b>	<b><u>MONTHLY TOTAL</u></b>
STATION DUTY	194 HOURS
VEHICLE DUTY	119 HOURS
EQUIPMENT DUTY	82 HOURS
EMERGENCY RESPONSES (ON DUTY)	45 HOURS
TRAINING (ON DUTY)	330 HOURS
FIRE ADMINISTRATION	176 HOURS
TRAINING ADMINISTRATION	9 HOURS
MEETINGS	8 HOURS
FIRE PREVENTION ADMINISTRATION	6 HOURS
FIRE PREVENTION INSPECTIONS	0 HOURS

<b><u>TYPE</u></b>	<b><u>NUMBER OF INSPECTIONS</u></b>	<b><u>VIOLATIONS</u></b>
ASSEMBLY	0	0
BUSINESS	0	0
DAYCARE	0	0
FACTORY/INDUSTRIAL	0	0
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	0	0
RESIDENTIAL	0	0
STORAGE	0	0
UTILITY/MISC	0	0
REINSPECTIONS	0	0
<b>TOTAL:</b>	<b>0</b>	<b>0</b>

PUBLIC RELATIONS	11 HOURS
HYDRANT MAINTENANCE	7 HOURS
SAFETY ADMINISTRATION	40 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS	2 HOURS
EXTRA DUTY FIRES	18 HOURS
NON-DEPARTMENTAL DUTIES	0 HOURS
EXTRA DUTY TRAINING	0 HOURS
EXTRA DUTY FIRE/MED STANDBY	0 HOURS
PHYSICAL TRAINING	50 HOURS
EXTRA DUTY MEDICAL RESPONSES	43 HOURS
VOLUNTEER FIREFIGHTER TRAINING	76 HOURS
<b>TOTAL TRAINING MANHOURS:</b>	<b>406 HOURS</b>

**FIRE DEPARTMENT EMERGENCY RESPONSES:**

<b><u>FIRE:</u></b>	<b><u>MONTHLY TOTAL</u></b>
FIRE ALARM	3
ODOR/SMOKE INVESTIGATION	1
MUTUAL AID TO STATION 66	1
VEHICLE FIRE	1
STRUCTURE FIRE	1
OUTSIDE FIRE	0
STANDBY	0
SERVICE CALLS	2
TREE DOWN	1
ILLEGAL BURN	<u>1</u>
	<b>11</b>
<b><u>MEDICAL:</u></b>	
ABDOMINAL PAIN	2
ALLERGIC REACTION	2
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	2
BACK PAIN	0
CANCELLED ENROUTE	1
CARDIAC	0
CHEST PAIN	3
CHOKING	1
CODE BLUE	1
DIABETIC	2
DOA	0
FAINTING	3
FALL	4
GUNSHOT	0
LACERATION/HEMORRAGE	1
OTHER	4
OVERDOSE/INTOXICATED	3
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	4
SEIZURE	0
SICK	1
STABBING	0
STROKE	2
TRAUMATIC INJURY	2
UNCONSCIOUS	<u>1</u>
	<b>39</b>
<b><u>FIRE AND MEDICAL:</u></b>	
CARRY OUT	1
MOTOR VEHICLE ACCIDENT	<u>5</u>
	<b>6</b>
<b><u>TOTAL RESPONSES:</u></b>	<b><u>56</u></b>

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GREG STAFFORD, CHIEF  
VALDESE FIRE DEPARTMENT

***VALDESE ABC BOARD***

Financial Statements, Supplemental Schedules, Management's  
Discussion and Analysis, and Independent Auditors' Report  
For the Years Ended June 30, 2020 and 2019

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

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**VALDESE ABC BOARD**

**June 30, 2020 and 2019**

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Seth Eckard, Chairman

John Heilman, Vice Chairperson

W.T. Sorrell, Secretary/Treasurer

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**VALDESE ABC BOARD**

(A Component Unit of the Town of Valdese)  
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**June 30, 2020 and 2019**

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

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

**Independent Auditors' Report**

To the Board of Commissioners of the  
Valdese ABC Board  
Valdese, North Carolina

We have audited the accompanying financial statements of the business-type activities of the Valdese ABC Board, (a component unit of the Town of Valdese) as of and for the years ended June 30, 2020 and 2019, and the related notes to the financial statements, which collectively comprise the Board's basic financial statements as listed in the table of contents.

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

**Auditors' Responsibility**

Our responsibility is to express opinions on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

**Opinions**

In our opinion, based on our audits, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Valdese ABC Board as of June 30, 2020 and 2019, and the respective changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

## Other Matters

### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis and the Local Government Employees' Retirement System Schedules of the Proportionate Share of the Net Pension Liability (Asset) and Contributions, on pages 3–6 and 21–22, be presented to supplement the 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. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about 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 do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### *Supplementary and Other Information*

Our audits were conducted for the purpose of forming opinions on the financial statements that collectively comprise the Valdese ABC Board's basic financial statements. The budgetary schedules and other schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The budgetary schedules and other schedules are the responsibility of management and were derived from, and relate directly to, the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements, and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements, or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, based on our audit, the procedures performed as described above, the budgetary schedules and other schedules are fairly stated, in all material respects, in relation to the basic financial statements as a whole.

*Low Smith Church & Co., L.L.P.*

Morganton, North Carolina  
August 24, 2020



## **Management's Discussion and Analysis**

This section of the Valdese ABC Board's (the Board) financial report represents our discussion and analysis of the financial performance of the Board for the year ended June 30, 2020. This information should be read in conjunction with the audited financial statements included in this report.

### **Financial Highlights**

- Compared to the previous year's income, retail sales increased 25%, mixed beverage sales decreased 23%, and mixer sales increased 30%, for a total increase of 22%.
- First time local distribution payment of \$25,000.
- No monies were expended for law enforcement or alcohol education.

### **Overview of the Financial Statements**

The audited financial statements of the Valdese ABC Board consist of three (3) components. They are as follows:

- Management's Discussion and Analysis
- Basic Financial Statements
- Additional Information Required by the ABC Commission

The Basic Financial Statements are prepared using the full accrual basis of accounting. They consist of three (3) statements. The first statement is the Statement of Net Position. Assets and liabilities are classified between current and long-term. This statement provides a summary of the Board's investment in assets and obligations to creditors. Liquidity and financial flexibility can be evaluated using the information contained in this statement.

The next statement is the Statement of Revenues, Expenses, and Changes in Net Position. This statement is used in evaluating whether the Board has recovered all of its costs through sales. This information is used in determining credit worthiness.

The final required statement is the Statement of Cash Flows. This statement reports cash inflows and outflows in the following categories: operating, investing, and financing activities. Based on this data, the user can determine the sources of cash, the uses of cash, and the changes in cash.

The Notes to the Financial Statements provide more detailed information about, and should be read in conjunction with, the statements.

The ABC Commission requires some schedules in addition to the information required by generally accepted accounting principles. They include a Schedule of Store Expenses, Administrative Expenses, Revenues and Expenditures - Budget and Actual and Highlights.

## Financial Analysis of the Valdese ABC Board

Net position is an indicator of the fiscal health of the Board. Assets exceeded liabilities by \$192,385 in 2020. Inventory was 38.77% of total assets. Following is a summary of the Statement of Net Position:

**Table 1**  
**Condensed Statement of Net Position**

	<u>6/30/2020</u>	<u>6/30/2019</u>	<u>6/30/2018</u>
Current assets	\$ 389,081	\$ 273,820	\$ 188,417
Capital assets	<u>62,468</u>	<u>78,286</u>	<u>90,081</u>
Total assets	<u>\$ 451,549</u>	<u>\$ 352,106</u>	<u>\$ 278,499</u>
Deferred outflows of resources	<u>17,709</u>	<u>4,730</u>	<u>-</u>
Current liabilities	\$ 202,986	\$ 138,583	\$ 73,702
Non-current liabilities	<u>73,887</u>	<u>105,775</u>	<u>162,775</u>
Total liabilities	<u>\$ 276,873</u>	<u>\$ 244,358</u>	<u>\$ 236,477</u>
Net investment in capital assets	\$ (19,338)	\$ (36,003)	\$ (35,809)
Restricted net position	-	-	-
Unrestricted net position	<u>211,723</u>	<u>148,481</u>	<u>77,831</u>
Total net position	<u>\$ 192,385</u>	<u>\$ 112,478</u>	<u>\$ 42,022</u>

Income from operations increased \$33,736 from the prior year. Following is a summary of the Statement of Revenues, Expenses, and Changes in Net Position:

**Table 2**  
**Condensed Statement of Revenues, Expenses and Changes in Net Position**

	<u>6/30/2020</u>	<u>6/30/2019</u>	<u>6/30/2018</u>
Operating revenues	\$1,367,340	\$1,122,746	\$1,050,371
Less: Taxes on gross sales	<u>309,833</u>	<u>256,255</u>	<u>240,448</u>
Net sales	1,057,507	866,491	809,924
Cost of sales	<u>708,660</u>	<u>581,269</u>	<u>542,920</u>
Gross profit	348,847	285,223	267,004
Less: Operating expenses	<u>239,009</u>	<u>209,120</u>	<u>210,981</u>
Income (loss) from operations	109,838	76,102	56,023
Nonoperating expenses	<u>(4,931)</u>	<u>(5,647)</u>	<u>(6,482)</u>
Change in net position, before profit distribution	104,907	70,456	49,541
Distribution to Town of Valdese	<u>(25,000)</u>	<u>-</u>	<u>-</u>
Change in net position	79,907	70,456	49,541
Net position, beginning	<u>112,478</u>	<u>42,022</u>	<u>(7,519)</u>
Net position, ending	<u>\$ 192,385</u>	<u>\$ 112,478</u>	<u>\$ 42,022</u>

Following is a breakdown of sales by source:

	<u>6/30/2020</u>	<u>6/30/2019</u>	<u>6/30/2018</u>
Retail liquor sales	\$1,310,287	\$1,045,480	\$ 967,599
Mixed beverage sales	54,034	74,939	80,675
Retail mixers and wine sales	<u>3,019</u>	<u>2,327</u>	<u>2,097</u>
Total sales	<u>\$1,367,340</u>	<u>\$1,122,746</u>	<u>\$1,050,371</u>

#### Capital Assets and Debt Administration

##### Capital Assets

Investment in Capital Assets as of June 30, 2020 was \$62,468 (net of depreciation).

Equipment of \$-0- and \$4,001 was added during the years ended June 30, 2020 and 2019, respectively.

	<u>6/30/2020</u>	<u>6/30/2019</u>	<u>6/30/2018</u>
Leasehold improvements	\$ 156,914	\$ 156,914	\$ 156,914
Store equipment	<u>45,019</u>	<u>45,019</u>	<u>41,018</u>
Total	<u>\$ 201,933</u>	<u>\$ 201,933</u>	<u>\$ 197,932</u>

Additional information on Capital Assets can be found in Note 1.F of the Basic Financial Statements.

##### Debt Administration

Long-term debt consists of a note payable.

	<u>6/30/2020</u>	<u>6/30/2019</u>	<u>6/30/2018</u>
Notes payable	<u>\$ 105,775</u>	<u>\$ 147,775</u>	<u>\$ 162,775</u>

##### Economic Factors:

The general economic health of the geographic area through February was in good condition. Before the COVID-19 pandemic arrived in March, the county unemployment rate was 3.5%. In April, the rate jumped to 15.4%, and has dropped to 7.3% as of June 30. The Town has seen a historic rise in sales tax revenue in recent years. While it has declined roughly 10% since the pandemic, the drop puts the revenue at the level of 2017 highs. The Board has seen a steady increase in sales for many years. However, since March, and especially during the stay-at-home order, liquor sales have risen at an unprecedented level and continue to break records.

Valdese businesses, retailers, and restaurants have suffered adverse effects from the pandemic, but none have closed. Several new businesses have opened downtown in the past year, including a clothing consignment store, a dog groomer, and a thrift store. Several storefront facade updates were completed, enhancing the overall appearance of downtown. While long delayed, a building just off the center of downtown Main Street will be renovated next year for a butcher shop featuring locally sourced meats and other specialty items.

In the shopping center where the ABC store is located the business occupying the largest space closed in November due to supply chain issues. It's still vacant, but the rest of the building is fully occupied, including a takeout Mexican restaurant in the former Domino's space.

No new industries have opened, but Meridian Industries \$8 million expansion was completed at their location very near the ABC store, and 25 new jobs were added as a result. It's estimated that local industrial production dropped 50% in March and April, but by the end of June, has leveled to about 80% of pre-pandemic levels.

Atrium Health had major plans at the Valdese campus that included demolition of an existing building and the construction of a new facility. However, plans are ongoing that will likely include using the existing building with expansion construction for a new cancer treatment and ambulatory surgery center.

While delayed from an August 2021 opening, North Carolina will open its second School of Science and Math campus in neighboring Morganton. This is expected to lead to greater economic and residential development for the region and Valdese is expected to benefit.

On the housing and residential side, three properties are under consideration for multi-family homes, but only one will be developed, depending on which is awarded the tax-credit financing. Lakefront property continues to be developed on both sides of the lake with new home construction underway. A significant portion is on the Burke County side in the Valdese town limits. Apartments above a downtown retailer are being renovated and will be ready for occupancy later in the year.

Two years ago, the Town completed the purchase of 300 acres of lakefront property for its newest park. Funding has been granted for amenities that include bathrooms, paved parking, a picnic area, kayak launch, dog park, wildlife viewing area, greenway, and walking trails. Fund-raising efforts are underway for mountain bike trails and a bridge that will link the park with another Town park. Legislation passed last year that will eventually link both to area State parks. This creates greater opportunities for grants to add more amenities as well as sidewalks and other infrastructure that will help increase tourism.

Another consequence of the pandemic is the impact on local tourism. All Town sponsored public activities and events have been canceled through the end of the year. The Independence Day celebration and fireworks show and the Waldensian Festival brought thousands of people to town. Large crowds also gathered each Friday during the summer months for the Family Fun Night musical performances.

Sales from most of our mixed beverage customers decreased by 23%, due to the Governor's phase one executive order prohibiting in person dining in March. While still in phase two, by the end of the fiscal year only three of the five MXB customers reopened, but others will do so when conditions allow. The former Lakeside Landing restaurant on Lake Hickory in Rhodhiss is still for sale after closing in September of 2018. The bar there accounted for a significant percentage of past MXB sales.

Retail revenue growth at the Valdese ABC was an unprecedented 25%. It more than offset the decline in MXB sales and created conditions for the first-time local distribution. The collective effect of all the economic factors covered in this report still make Valdese an attractive place to visit, live, and work despite the new normal we are experiencing during this pandemic. Even with all of the uncertainty in the world, the Valdese ABC Board is cautiously optimistic its growth will continue.

#### Requests for Information

This report is intended to provide a summary of the financial condition of the ABC Board. Questions, or requests for additional information, should be addressed to:

Valdese ABC Board  
1018 Main Street, West  
Valdese, N. C. 28690

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**VALDESE ABC BOARD**
**Exhibit A****(A Component Unit of the Town of Valdese)****Statements of Net Position****June 30, 2020 and 2019**


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	<u>Notes</u>	<u>2020</u>	<u>2019</u>
<b><u>Assets</u></b>			
Current assets:			
Cash and cash equivalents	1	\$ 213,997	\$ 113,078
Inventory	1	<u>175,084</u>	<u>160,742</u>
Total current assets		<u>389,081</u>	<u>273,820</u>
Capital assets (at cost, net):	1		
Property and equipment		201,932	201,932
Less accumulated depreciation		<u>(139,464)</u>	<u>(123,646)</u>
Net capital assets		<u>62,468</u>	<u>78,286</u>
Total assets		<u>\$ 451,549</u>	<u>\$ 352,106</u>
Deferred outflows of resources - pension		<u>\$ 17,709</u>	<u>\$ 4,730</u>
<b><u>Liabilities and Net Position</u></b>			
Current liabilities:			
Current portion of long-term debt		48,000	42,000
Accounts payable		109,865	80,964
Liquor sales tax payable		8,761	6,149
Town distribution payable		25,000	-
Accrued liabilities		<u>11,360</u>	<u>9,470</u>
Total current liabilities		<u>202,986</u>	<u>138,583</u>
Noncurrent liabilities:			
Net pension		16,112	-
Long-term debt		<u>57,775</u>	<u>105,775</u>
Total noncurrent liabilities		<u>73,887</u>	<u>105,775</u>
Total liabilities		<u>276,873</u>	<u>244,358</u>
Net position:			
Net investment in capital assets	1	(19,338)	(36,003)
Unrestricted	1	<u>211,723</u>	<u>148,481</u>
Total net position		<u>192,385</u>	<u>112,478</u>
Total liabilities and net position		<u>\$ 469,258</u>	<u>\$ 356,836</u>

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*See accompanying notes to financial statements.*

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**VALDESE ABC BOARD**
**Exhibit B**

(A Component Unit of the Town of Valdese)  
**Statements of Revenues, Expenses and Changes in Net Position**  
**For the Years Ended June 30, 2020 and 2019**

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	<u>Notes</u>	<u>2020</u>	<u>2019</u>
Liquor sales		\$ 1,310,287	\$ 1,045,480
Mixed beverage sales		54,034	74,939
Mixers and wine sales		3,019	2,327
Total gross sales		<u>1,367,340</u>	<u>1,122,746</u>
Less taxes on gross sales:			
State excise tax	3	299,780	245,163
Mixed beverage tax (revenue)	3	5,092	6,623
Mixed beverage tax (Human Resources)	3	509	662
Rehabilitation tax (county)	3	4,452	3,807
Total taxes		<u>309,833</u>	<u>256,255</u>
Net sales		1,057,507	866,491
Deduct cost of sales:			
Cost of goods sold		<u>708,660</u>	<u>581,269</u>
Gross profit on sales		<u>348,847</u>	<u>285,223</u>
Operating expenses:			
Store expenses		140,303	124,407
Administration expenses		82,889	68,919
Depreciation expense		15,817	15,795
Total operating expenses		<u>239,009</u>	<u>209,120</u>
Income (loss) from operations		<u>109,838</u>	<u>76,102</u>
<b>Nonoperating Revenues (Expenses):</b>			
Interest expense		(4,931)	(6,156)
Other income		-	509
Total nonoperating revenues (expenses)		<u>(4,931)</u>	<u>(5,647)</u>
Change in net position before profit distributions		104,907	70,456
<b>Profit Distributions:</b>			
Town of Valdese, profit from normal operations		<u>(25,000)</u>	<u>-</u>
Change in net position		79,907	70,456
Net position - beginning of year		<u>112,478</u>	<u>42,021</u>
Net position - end of year		<u>\$ 192,385</u>	<u>\$ 112,478</u>

*See accompanying notes to financial statements.*

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**VALDESE ABC BOARD**
**Exhibit C****(A Component Unit of the Town of Valdese)****Statements of Cash Flows****For the Years Ended June 30, 2020 and 2019**


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	<u>2020</u>	<u>2019</u>
<b>Cash Flows from Operating Activities:</b>		
Cash received from customers	\$ 1,367,340	\$ 1,122,746
Cash paid to suppliers and employees	(909,657)	(769,565)
Other income	-	509
Excise and rehabilitation taxes paid	(309,833)	(256,255)
Net cash provided by operating activities	<u>147,850</u>	<u>97,435</u>
 <b>Cash Flows from Capital and Related Financing Activities:</b>		
Purchase of equipment	<u>-</u>	<u>(4,000)</u>
 <b>Cash Flows from Financing Activities:</b>		
Principal payments on long-term debt	(42,000)	(15,000)
Interest expense	(4,931)	(6,156)
Net cash provided (used) by financing activities	<u>(46,931)</u>	<u>(21,156)</u>
 Net increase (decrease) in cash	100,919	72,279
Cash, beginning of year	<u>113,078</u>	<u>40,799</u>
 Cash, end of year	<u><u>\$ 213,997</u></u>	<u><u>\$ 113,078</u></u>
 <b>Reconciliation of Profit Before Distributions and Restitution Funds to Net Cash Provided (Used) by Operating Activities:</b>		
Operating income (loss)	<u>\$ 109,838</u>	<u>\$ 76,102</u>
 Adjustments to reconcile profit before distributions and restitution funds to net cash provided (used) by operating activities:		
Depreciation	15,818	15,795
Other income	-	509
Changes in assets and liabilities:		
(Increase) decrease in inventory	(14,342)	(13,124)
(Increase) decrease in deferred outflows of resources	(12,979)	(4,730)
Increase (decrease) in accounts payable	28,901	21,619
Increase (decrease) in liquor sales taxes payable	2,612	213
Increase (decrease) in net pension liability	16,112	-
Increase (decrease) in accrued expenses	1,890	1,051
Total adjustments	<u>38,012</u>	<u>21,333</u>
 Net cash provided by operating activities	<u><u>\$ 147,850</u></u>	<u><u>\$ 97,435</u></u>

*See accompanying notes to financial statements.*

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**VALDESE ABC BOARD**

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**(A Component Unit of the Town of Valdese)  
Notes to the Financial Statements  
For the Years Ended June 30, 2020 and 2019**

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**1. Summary of Significant Accounting Policies****A. Principles Used in Determining the Scope of the Entity for Financial Reporting**

The Valdese ABC Board, a component unit of the Town of Valdese, is a corporate body with powers outlined by G.S. 18B-701. The Town's governing body appoints the Alcoholic Beverage Control Board.

The ABC Board is required by State Statute to distribute its surpluses to the general fund of the Town which represents a financial benefit to the Town. Therefore, the Valdese ABC Board is reported as a discretely presented component unit in the Town of Valdese's financial statements.

**B. Organizational History**

The Board was organized under the provisions of General Statutes Chapter 18B-601(c), and was implemented by a town wide election held March 2, 2010. The Town Council appointed three individuals to serve on the Board with terms of three years, two years and one year.

The Board, as provided by North Carolina Alcoholic Beverage Control laws, operates one liquor store, and through its law enforcement division, investigates violations of such laws. North Carolina General Statute 18B-805(c)(2)(3) requires that the Board expend at least 5% of profits for law enforcement and at least 7% of the same profits for alcohol education and rehabilitation purposes.

**C. Basis of Presentation**

All activities of the Board are accounted for within a single proprietary (enterprise) fund. Proprietary funds are used to account for operations that are: (a) financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the cost of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or (b) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or the change in net position is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.

**D. Basis of Accounting**

The financial statements have been prepared using the accrual basis of accounting. All sales are made by cash, check, or credit card and are recorded at the time of sale. Other revenues are recorded when earned. Expenses are recognized when incurred.



## **E. Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the statement of net position date, and reported amounts of revenues and expenses during the reporting period. Estimates are used to determine depreciation expense, and certain claims and judgment liabilities, among other accounts. Actual results may differ from those estimates.

## **F. Assets, Liabilities and Net Position**

### **Deposits**

All deposits of the Valdese ABC Board are made in Board-designated, official depositories and are collateralized as required by State law G.S. 159-31. The Board may designate as an official depository any bank or savings association whose principal office is located in North Carolina. Also, the Board may establish time deposit accounts such as NOW and SuperNOW accounts, money market accounts, and certificates of deposit.

All of the Board's deposits are either insured or collateralized by using one of two methods. Under the Dedicated Method, all deposits that exceed the federal depository insurance coverage level are collateralized with securities held by the Board's agent in the Board's name. Under the Pooling Method, which is a collateral pool, all uninsured deposits are collateralized with securities held by the State Treasurer's agent in the name of the State Treasurer. Since the State Treasurer is acting in a fiduciary capacity for the Board, these deposits are considered to be held by the Board agent in the Board's name. The amount of the pledged collateral is based on an approved averaging method for non-interest bearing deposits and the actual current balance for interest bearing deposits. Depositories using the Pooling Method report to the State Treasurer the adequacy of their pooled collateral covering uninsured deposits. The State Treasurer does not confirm this information with the Board or the escrow agent. Because of the inability to measure the exact amount of collateral pledged for the Board under the Pooling Method, the potential exists for under collateralization, and this risk may increase in periods of high cash flows. However, the State Treasurer of North Carolina enforces strict standards of financial stability for each depository that collateralizes public deposits under the Pooling Method.

At June 30, 2020, the ABC Board's deposits had a carrying amount of \$213,997 and a bank balance of \$207,684. All of the bank balance was covered by federal depository insurance.

At June 30, 2019, the ABC Board's deposits had a carrying amount of \$113,078 and a bank balance of \$102,072. All of the bank balance was covered by federal depository insurance.

### **Cash and Cash Equivalents**

For purposes of the statements of cash flows, the Board considers all highly liquid investments (including restricted assets) with a maturity of three months or less when purchased to be cash equivalents.

### **Inventory Valuation**

The inventory is stated at the lower of FIFO cost or market.

### Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, Deferred Outflows of Resources, represents a consumption of net position that applies to a future period and so will not be recognized as an expense or expenditure until then. The Board has one item that meets this criterion, pensions. In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, Deferred Inflows of Resources, represents an acquisition of net position that applies to a future period and so will not be recognized as revenue until then. The Board has no items that meet this criterion.

### Property and Equipment

Property and equipment are stated at cost and are being depreciated over their useful lives on a straight-line basis as follows:

	2020			
	<u>Beginning Balances</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balances</u>
Capital assets being depreciated:				
Leasehold improvements	\$156,914	\$ -	\$ -	\$156,914
Furniture and equipment	41,936	-	-	41,936
Computers	<u>3,083</u>	<u>-</u>	<u>-</u>	<u>3,083</u>
Total capital assets being depreciated	<u>201,933</u>	<u>-</u>	<u>-</u>	<u>201,933</u>
Less accumulated depreciation for:				
Leasehold improvements	89,989	10,461	-	100,450
Furniture and equipment	30,641	5,304	-	35,945
Computers	<u>3,016</u>	<u>52</u>	<u>-</u>	<u>3,068</u>
Total accumulated depreciation	<u>123,646</u>	<u>15,817</u>	<u>-</u>	<u>139,464</u>
Total capital assets being depreciated, net	<u>\$ 78,286</u>	<u>\$(15,817)</u>	<u>\$ -</u>	<u>\$ 62,468</u>
	2019			
Capital assets being depreciated:				
Leasehold improvements	\$156,914	\$ -	\$ -	\$156,914
Furniture and equipment	37,935	4,001	-	41,936
Computers	<u>3,083</u>	<u>-</u>	<u>-</u>	<u>3,083</u>
Total capital assets being depreciated	<u>197,932</u>	<u>4,001</u>	<u>-</u>	<u>201,933</u>
Less accumulated depreciation for:				
Leasehold improvements	79,528	10,461	-	89,989
Furniture and equipment	25,359	5,282	-	30,641
Computers	<u>2,964</u>	<u>52</u>	<u>-</u>	<u>3,016</u>
Total accumulated depreciation	<u>107,851</u>	<u>15,795</u>	<u>-</u>	<u>123,646</u>
Total capital assets being depreciated, net	<u>\$ 90,081</u>	<u>\$(11,794)</u>	<u>\$ -</u>	<u>\$ 78,286</u>

When an asset is disposed of, the cost of the asset and the related accumulated depreciation are removed from the books. Any gain or loss on disposition is reflected in the earnings of the period.

## Net Position

Net position consists of the following:

- a. Net investment in capital assets - This component of net position consists of capital assets, including any restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds is not included in the calculation of invested in capital assets, net of related debt. Rather, that portion of the debt is included in the same net position component as the unspent proceeds.
- b. Restricted for law enforcement - This applies only when the ABC Board employs its own Alcoholic Beverage Control officer.
- c. Restricted for capital improvements - State law G.S. 18B-805(d) requires approval of the appointing authority to establish this account, outside of working capital for specific capital improvements.
- d. Restricted for working capital - North Carolina Alcoholic Beverage Control Commission Rule .0902 defines working capital as the total of cash, investments and inventory less all unsecured liabilities. An Alcoholic Beverage Control Board shall set its working capital requirements at not less than two weeks' average gross sales of the last fiscal year or greater than four months' average gross sales of the last fiscal year. Average gross sales means gross receipts from the sale of alcoholic beverages, less distributions required by State law G.S. 18B-805(b), (2), (3), and (4).
- e. Unrestricted net position - This component of net position consists of net position that does not meet the definition of restricted or net investment in capital assets.

## 2. Stewardship Compliance and Accountability

We noted no instances that the Valdese ABC Board had not complied with all Alcoholic Beverage Control laws and local legislation with regards to law enforcement and education and rehabilitation distributions and net profit distributions to the Town of Valdese.

Noncompliance with North Carolina General Statutes:

Excess of expenditures over appropriations - as shown in Schedule 3, three line items exceeded budgeted appropriations for the year ended June 30, 2020:

Retirement fund	<u>\$ 406</u>
Other	<u>\$ 249</u>

### 3. Detail Notes on All Funds

#### A. Pension Plan

##### Local Government Employees' Retirement System

*Plan Description.* In April 2018, the Board became a participating employer in the statewide Local Governmental Employees' Retirement System (LGERS), a cost-sharing, multiple-employer defined benefit pension plan administered by the State of North Carolina. LGERS membership is comprised of general employees and local law enforcement officers (LEOs) of participating local governmental entities. Article 3 of G.S. Chapter 128 assigns the authority to establish and amend benefit provisions to the North Carolina General Assembly. Management of the plan is vested in the LGERS Board of Trustees, which consists of 13 members – nine appointed by the Governor, one appointed by the State Senate, and one appointed by the State House of Representatives, and the State Treasurer and State Superintendent, who serve as ex-officio members. The Local Governmental Employees' Retirement System is included in the Comprehensive Annual Financial Report (CAFR) for the State of North Carolina. The State's CAFR includes financial statements and required supplementary information for LGERS. That report may be obtained by writing to the Office of the State Controller, 1410 Mail Service Center, Raleigh, North Carolina 27699-1410, by calling (919) 981-5454, or at [www.osc.nc.gov](http://www.osc.nc.gov).

*Benefits Provided.* LGERS provides retirement and survivor benefits. Retirement benefits are determined as 1.85% of the member's average final compensation times the member's years of creditable service. A member's average final compensation is calculated as the average of a member's four highest consecutive years of compensation. Plan members are eligible to retire with full retirement benefits at age 65 with five years of creditable service, at age 60 with 25 years of creditable service, or at any age with 30 years of creditable service. Plan members are eligible to retire with partial retirement benefits at age 50 with 20 years of creditable service or at age 60 with five years of creditable service. Survivor benefits are available to eligible beneficiaries of members who die while in active service, or within 180 days of their last day of service and who have either completed 20 years of creditable service regardless of age or have completed five years of service and have reached age 60. Eligible beneficiaries may elect to receive a monthly Survivor's Alternate Benefit for life or a return of the member's contributions. The plan does not provide for automatic post-retirement benefit increases. Increases are contingent upon actuarial gains of the plan.

*Contributions.* Contribution provisions are established by General Statute 128-30 and may be amended only by the North Carolina General Assembly. The Board's employees are required to contribute 6% of their compensation. Employer contributions are actuarially determined and set annually by the LGERS Board of Trustees. The Board's contractually required contribution rate for the year ended June 30, 2020, was 8.95% of compensation for general employees, actuarially determined as an amount that, when combined with employee contributions, is expected to finance the costs of benefits earned by employees during the year. Contributions to the pension plan from the Board were \$5,626 and \$4,730 for the years ended June 30, 2020 and 2019, respectively.

*Refunds of Contributions.* Board employees who have terminated service as a contributing member of LGERS, may file an application for a refund of their contributions. By State law, refunds to members with at least five years of service include 4% interest. State law requires a 60 day waiting period after service termination before the refund may be paid. The acceptance of a refund payment cancels the individual's right to employer contributions or any other benefit provided by LGERS.

### Pension Liabilities and Deferred Outflows of Resources Related to Pensions

At June 30, 2020, the ABC Board reported a liability of \$16,112 for its proportionate share of the net pension liability. The net pension liability was measured as of June 30, 2019. The total pension liability used to calculate the net pension liability was determined by an actuarial valuation as of December 31, 2018. The total pension liability was then rolled forward to the measurement date of June 30, 2019 utilizing update procedures incorporating the actuarial assumptions. The ABC Board's proportion of the net pension liability was based on a projection of the Board's long-term share of future payroll covered by the pension plan, relative to the projected future payroll covered by the pension plan of all participating LGERS employers, actuarially determined.

At June 30, 2019, the Board's proportion was 0.00059%, which was an increase of 0.00059% from its proportion measured as of June 30, 2018.

For the year ended June 30, 2020, the Board recognized pension expense of \$8,759.

At June 30, 2020, the Board reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	<b><u>Deferred Outflows of Resources</u></b>	<b><u>Deferred Inflows of Resources</u></b>
Differences between expected and actual experience	\$ 2,759	\$ -
Change in assumptions	2,626	-
Net difference between projected and actual earnings on pension plan investments	393	-
Changes in proportion and differences between the Board contributions and the proportionate share of contributions	6,305	-
Board contributions subsequent to the measurement date	<u>5,626</u>	<u>-</u>
Total	<u>\$17,709</u>	<u>\$ -</u>

\$5,626, reported as deferred outflows of resources related to pensions resulting from Board contributions subsequent to the measurement date, will be recognized as a decrease of the net pension liability in the year ending June 30, 2021. Other amounts, reported as deferred inflows of resources related to pensions, will be recognized in pension expenses as follows:

2021	\$ 4,455
2022	2,466
2023	3,138
2024	<u>2,023</u>
	<u>\$ 12,082</u>

*Actuarial Assumptions.* The total pension liability in the December 31, 2018 actuarial valuation was determined using the following actuarial assumptions, applied to all periods included in the measurement:

Inflation	3.0 percent
Salary increases	3.50 to 8.10 percent, including inflation and productivity factor
Investment rate of return	7.00 percent, net of pension plan investment expense, including inflation

The plan currently uses mortality tables that vary by age, gender, employee group (i.e., general, law enforcement officer) and health status (i.e., disabled and healthy). The current mortality rates are based on published tables and based on studies that cover significant portions of the U.S. population. The healthy mortality rates also contain a provision to reflect future mortality improvements.

Valuations were based on the results of an actuarial experience study for the period January 1, 2010 through December 31, 2014.

Future ad hoc COLA amounts are not considered to be substantively automatic and are therefore not included in the measurement.

The projected long-term investment returns and inflation assumptions are developed through review of current and historical capital markets data, sell-side investment research, consultant whitepapers, and historical performance of investment strategies. Fixed income return projections reflect current yields across the U.S. Treasury yield curve and market expectations of forward yields projected and interpolated for multiple tenors and over multiple year horizons. Global public equity return projections are established through analysis of the equity risk premium and the fixed income return projections. Other asset categories and strategies' return projections reflect the foregoing and historical data analysis. These projections are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. The target allocation and best estimates of arithmetic real rates of return for each major asset class as of June 30, 2019 are summarized in the following table:

<u>Asset Class</u>	<u>Target Allocation</u>	<u>Long-Term Expected Real Rate of Return</u>
Fixed Income	29.0%	1.4%
Global Equity	42.0%	5.3%
Real Estate	8.0%	4.3%
Alternatives	8.0%	8.9%
Credit	7.0%	6.0%
Inflation Protection	<u>6.0%</u>	4.0%
Total	<u>100%</u>	

The information above is based on 30 year expectations developed with the consulting actuary for the 2018 asset, liability and investment policy study for the North Carolina Retirement Systems, including LGERS. The long-term nominal rates of return underlying the real rates of return are arithmetic annualized figures. The real rates of return are calculated from nominal rates by multiplicatively subtracting a long-term inflation assumption of 3.00%. All rates of return and inflation are annualized.

*Discount rate.* The discount rate used to measure the total pension liability was 7.00%. The projection of cash flows used to determine the discount rate assumed that contributions from plan members will be made at the current contribution rate and that contributions from employers will be made at statutorily required rates, actuarially determined. Based on these assumptions, the pension plan's fiduciary net position was projected to be available to make all projected future benefit payments of the current plan members. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability.

*Sensitivity of the Board's proportionate share of the net pension liability to changes in the discount rate.* The following presents the Board's proportionate share of the net pension asset calculated using the discount rate of 7.00 percent, as well as what the Board's proportionate share of the net pension asset or net pension liability would be if it were calculated using a discount rate that is one-percentage-point lower (6.00 percent) or one-percentage-point higher (8.00 percent) than the current rate:

	<u>1% Decrease (6.00%)</u>	<u>Current Discount Rate (7.00%)</u>	<u>1% Increase (8.00%)</u>
Board's proportionate share of the net pension liability (asset)	<u>\$36,852</u>	<u>\$16,112</u>	<u>\$(1,126)</u>

*Pension plan fiduciary net position.* Detailed information about the pension plan's fiduciary net position is available in the separately issued Comprehensive Annual Financial Report (CAFR) for the State of North Carolina.

## B. Long-Term Debt

**First Citizens Bank** - Line of credit payable to bank with total availability of \$49,000. Bears interest at the prime rate, plus .75%, with a minimum rate of 4% and a maximum rate of 18%. The total amounts outstanding on this line of credit at June 30, 2020 was \$-0-. Secured by all personal property.

**Town of Valdese** - On November 4, 2013, the Board obtained a loan from the Town of Valdese. The note provides for an initial disbursement to the Board of \$72,775 on November 15, 2013. Additional disbursements from the Town to the ABC Board were as follows:

\$30,000 - November 15, 2014  
 \$30,000 - November 15, 2015  
 \$30,000 - November 15, 2016

The total disbursements under this note were \$162,775. The note bears interest at a rate of 4.0% with interest to be paid annually. The principal on the note is to be paid in annual payments.

	<u>2020</u>	<u>2019</u>
Town of Valdese	\$105,775	\$147,775
Less current maturities	<u>48,000</u>	<u>42,000</u>
Total long-term debt	<u>\$ 57,775</u>	<u>\$105,775</u>

Scheduled principal payments on long-term debt are as follows:

Year ending June 30,	
2021	\$ 48,000
2022	<u>57,775</u>
Total	<u>\$105,775</u>

Interest expense for the years ended June 30, 2020 and 2019 was \$4,931 and \$6,156, respectively.

**C. Vacation and Sick Leave Compensation**

The Valdese ABC Board full time employees may accumulate up to thirty days earned vacation, and such leave is fully vested when earned. Accumulated earned vacation at June 30, 2020 and 2019 was \$6,520 and \$4,494, respectively, and is included as accrued expenses on the statements of net position. The current portion of accumulated vacation pay is not considered material.

Full time employees can accumulate an unlimited amount of sick leave. Sick leave may be used in the determination of length of service for retirement benefit purposes. Since the Board has no obligation for accumulated sick leave until it is actually taken, no accrual for sick leave has been made.

**D. Distributions of Income**

The Board has made distributions since inception as follows:.

	<u>Current Year</u>	<u>Total to Date</u>
Town of Valdese	<u>\$25,000</u>	<u>\$25,000</u>

State law [G.S. 18B-805] requires that the minimum distribution set aside in (c)(1), and any profit remaining after deducting amounts required for law enforcement and alcohol education and retaining proper working capital, be paid quarterly to the appointing authority.

**E. Law Enforcement and Alcoholic Education Expenses**

The Board is required by law to expend at least 5% of its total profits for law enforcement and not less than 7% of its profits for alcohol education. Profits are defined by law for these calculations as change in net position before law enforcement and educational expenses, less the 3 1/2% markup provided in G.S. 18B-804(b)(5) and the bottle charge provided for in G.S. 18B-804(b)(6b).

The Valdese ABC Board was not required to incur any expenditures for law enforcement or alcohol education for the years ended June 30, 2020 and 2019.

**F. Disbursement of Taxes Included in Selling Price**

A State excise tax at the rate of 30% on the retail (net sales) price is charged monthly on liquor sales (excluding wine sales). Transactions for this account for the years 2020 and 2019 are summarized as follows:

	<u>2020</u>	<u>2019</u>
Taxes collected during the year	\$299,780	\$245,163
Taxes remitted to the Department of Revenue	<u>(271,348)</u>	<u>(224,486)</u>
Taxes payable June 30	<u>\$ 28,432</u>	<u>\$ 20,677</u>



The accrued North Carolina excise tax at June 30, 2020 was remitted to the North Carolina Department of Revenue in July 2020.

The excise tax is computed in accordance with G.S. 18B-805(i).

A bottle charge of one cent on each bottle containing 50 milliliters or less, and five cents on each bottle containing more than 50 milliliters, is collected and distributed monthly to the County Commissioners for alcohol education and rehabilitation. For the 2020 and 2019 years, payments to the County were based on the following bottle sales:

<u>2020</u>		<u>2019</u>	
Regular bottles - 76,943 @ 5 cents	\$3,847	63,539 @ 5 cents	\$3,177
Mixed beverage bottles - 2,337 @ 5 cents	117	3,262 @ 5 cents	163
Miniature bottles - 48,801 @ 1 cent	<u>488</u>	46,679 @ 1 cent	<u>467</u>
Total	<u>\$4,452</u>		<u>\$3,807</u>

A "mixed beverage" tax at the rate of \$20 per 4 liters is charged on the sale of liquor to be resold as mixed beverages. One half of the mixed beverage tax is submitted monthly to the Department of Revenue. Five percent of the mixed beverage tax is submitted monthly to the Department of Health and Human Services.

The mixed beverage tax for the 2020 and 2019 years was:

	<u>2020</u>	<u>2019</u>
Department of Revenue (50%)	\$ 5,090	\$ 6,623
Department of Health and Human Services	509	662
Profit retained (45%)	<u>4,581</u>	<u>5,954</u>
Total	<u>\$10,180</u>	<u>\$13,239</u>

#### **G. Surcharge Collected**

The total amount of surcharge collected for the fiscal years 2020 and 2019 was \$9,701 and \$8,714, respectively. The bailment surcharge rate was \$1.15, per case.

#### **H. Liquor Sales Tax**

The total amount of sales tax collected by the Board and remitted to the Department of Revenue for the fiscal year was \$91,880 and \$73,338 for 2020 and 2019, respectively. The sales tax rate is 7%.

#### **I. Working Capital Requirements**

The Valdese ABC Board is required by the Alcoholic Beverage Control Commission rule .0902 to set its working capital requirements at not less than two weeks average gross sales of the last fiscal year, nor greater than four months' average gross sales of the last fiscal year. Gross sales are gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), and (4).

The Valdese ABC Board's position on this requirement is as follows:

	<u>2020</u>	<u>2019</u>
Minimum amount	\$ 40,673	\$ 33,327
Maximum amount	352,502	288,830
Actual working capital	234,095	177,237

#### 4. Leases

The ABC Board has an operating lease for its retail store space. The lease requires monthly payments of \$1,800 until December 31, 2020. Lease payment for the years ended June 30, 2020 and 2019 totaled \$21,600, per year. In June 2020 the Board approved a new lease which calls for monthly payments of \$1,800 through June 2021, \$1,900 for the period of July 1, 2021 until June 30, 2023 and \$2,000 for the period of July 1, 2023 until June 30, 2025. Future minimum lease payments are as follows:

<u>Year</u>	
2021	\$ 21,600
2022	22,800
2023	22,800
2024	24,000
2025	<u>24,000</u>
Total	<u>\$115,200</u>

#### 5. Risk Management

The Valdese ABC Board is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Board has commercial property, general liability, auto liability, workman's compensation and employee health coverage. The Board also has liquor legal liability coverage.

There have been no significant reductions in insurance coverage from coverage in the prior year, and settled claims have not exceeded coverage in any of the past three fiscal years.

In accordance with G.S. 18B-700(i), each Board member and the employees designated as the general manager and finance officer are bonded in the amount of \$50,000 secured by a corporate surety.

#### 6. Related Party Transactions

A Valdese ABC Board member is also the Town Manager for the Town of Valdese.

#### 7. Subsequent Events

With the recent outbreak of the COVID-19 virus, the Board has experienced an increase in its revenues in the retail sales area. The overall impact cannot be measured at this time.

The Board has evaluated subsequent events through August 24, 2020, the date which the financial statements were available to be issued. During the period from the end of the year, and through this date, no circumstances occurred that require recognition or disclosure in these financial statements.

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**VALDESE ABC BOARD**
**Schedule 1**

**(A Component Unit of the Town of Valdese)**  
**ABC Board's Proportionate Share of Net Pension Liability (Asset)**  
**Required Supplementary Information**  
**Last Two Fiscal Years\***  
**Local Government Employees' Retirement System**

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	<u>2020</u>	<u>2019</u>
ABC Board's proportion of the net pension liability (asset) (%)	0.00059%	0.00000%
ABC Board's proportion of the net pension liability (asset) (\$)	\$ 16,112	\$ -
ABC Board's covered payroll	\$ 61,036	\$ -
ABC Board's proportionate share of the net pension liability (asset) as a percentage of its covered-employee payroll	26.39%	0.00%
Plan fiduciary net position as a percentage of the total pension liability**	90.86%	91.63%

\* The amounts presented for each fiscal year were determined as of the prior fiscal year ending June 30.

\*\* This will be the same percentage for all participant employers in the LGERS plan.

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**VALDESE ABC BOARD**
**Schedule 2****(A Component Unit of the Town of Valdese)****ABC Board's Contributions****Required Supplementary Information****Last Two Fiscal Years****Local Government Employees' Retirement System**


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	<u>2020</u>	<u>2019</u>
Contractually required contribution	\$ 5,626	\$ 4,730
Contributions in relation to the contractually required contribution	<u>5,626</u>	<u>4,730</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>\$ -</u>
ABC Board's covered-employee payroll	<u>\$ 62,863</u>	<u>\$ 61,036</u>
Contributions as a percentage of covered-employee payroll	8.95%	7.75%

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**VALDESE ABC BOARD**
**Schedule 3**

**(A Component Unit of the Town of Valdese)**  
**Schedules of Store Expenses**  
**For the Years Ended June 30, 2020 and 2019**

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	<u><b>2020</b></u>	<u><b>2019</b></u>
Salaries	\$ 59,584	\$ 59,790
Contract help	17,404	5,346
Rent	21,600	21,600
Payroll taxes	4,496	4,526
Telephone	1,870	1,775
Utilities	4,749	4,838
Supplies and postage	4,222	4,100
Repairs and maintenance	6,076	5,790
Insurance - general	5,639	5,780
Security	836	489
Credit card charges	13,723	10,457
Other	<u>104</u>	<u>(84)</u>
Total store expenses	<u><u>\$ 140,303</u></u>	<u><u>\$ 124,407</u></u>

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**VALDESE ABC BOARD**
**Schedule 4**

**(A Component Unit of the Town of Valdese)  
Schedules of Administrative Expenses  
For the Years Ended June 30, 2020 and 2019**

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	<u><b>2020</b></u>	<u><b>2019</b></u>
Salaries	\$ 46,958	\$ 46,026
Payroll taxes	3,571	3,433
Dues and subscriptions	1,156	1,246
Professional fees	4,786	4,723
Employee benefits	15,039	4,007
Travel	1,480	1,061
Bank service charges	934	790
Training	670	200
Insurance - health	<u>8,295</u>	<u>7,433</u>
Total administrative expenses	<u><u>\$ 82,889</u></u>	<u><u>\$ 68,919</u></u>

## VALDESE ABC BOARD

Schedule 5

(A Component Unit of the Town of Valdese)  
**Schedule of Revenues and Expenditures - Budget and Actual**  
**For the Year Ended June 30, 2019**

	Original	Final		Variance
	Budget	Budget	Actual	With Final Budget
				Positive
				(Negative)
<b>Revenues:</b>				
Sales	\$ 1,121,100	\$ 1,365,000	\$ 1,367,340	\$ 2,340
Total revenues	1,121,100	1,365,000	1,367,340	2,340
<b>Expenditures:</b>				
Taxes based on revenue	256,125	311,450	309,830	1,620
Cost of sales	581,200	710,150	708,660	1,490
<b>Operating expenses:</b>				
Salaries and wages	114,750	122,250	121,919	331
Payroll taxes	8,300	8,300	8,067	233
Retirement fund	4,400	11,500	11,906	(406)
Repairs and maintenance	5,750	6,209	6,076	133
Utilities	5,600	4,750	4,749	1
Telephone	1,850	1,870	1,870	-
Insurance general	6,000	5,639	5,639	-
Insurance health	8,800	8,600	8,295	305
Credit card charges	11,000	14,000	13,723	277
Supplies	4,500	4,500	4,225	275
Travel expense	1,500	1,500	1,480	20
Professional services	4,800	4,786	4,786	-
Dues and subscriptions	1,400	1,156	1,156	-
Education and training	750	670	670	-
Rent	21,600	21,600	21,600	-
Security	500	836	836	-
Bank service charges	950	950	934	16
Board member per diem	750	-	-	-
Board member travel	150	-	-	-
Other	(50)	(145)	104	(249)
Interest	5,911	4,931	4,931	-
Debt principal	42,000	42,000	42,000	-
Contingencies	5,000	-	-	-
Total operating expenses	256,211	265,902	264,966	936
Total expenditures	1,093,536	1,287,502	1,283,456	4,046
<b>Distributions</b>				
Town distributions	-	25,000	25,000	-
Total distributions	-	25,000	25,000	-
Revenues over (under) expenditures	\$ 27,564	\$ 52,498	58,884	\$ 6,386
<b>Reconciliation from budgetary basis (modified accrual) to full accrual:</b>				
<b>Reconciling items</b>				
Depreciation			(15,817)	
Increase in accrued vacation pay			(2,027)	
Increase in deferred outflows of resources			12,979	
Increase in net pension liability			(16,112)	
Debt principal			42,000	
Change in net position			\$ 79,907	

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**VALDESE ABC BOARD**
**Schedule 6****(A Component Unit of the Town of Valdese)****Highlights****For the Years Ended June 30, 2020 and 2019**


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	<u><b>2020</b></u>	<u><b>2019</b></u>
Sales (net of taxes)	\$ 1,057,507	\$ 866,491
Change in net position	\$ 79,907	\$ 70,456
Operating expenses	\$ 239,009	\$ 209,120
Gross profit percentage	32.98%	32.91%
Net profit percentage from operations	10.38%	8.78%
Ratio of current assets to current liabilities	1.92 to 1	1.97 to 1
Number of bottles sold	128,081	113,480
Number of bottles in inventory	27,624	28,509
Inventory	\$ 175,084	\$ 160,742



**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
AUGUST 3, 2020**

The Town of Valdese Town Council met on Monday, August 3, 2020, 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 John F. "Chip" Black, Jr., Councilman Keith Ogle, Councilwoman Frances Hildebran, Councilwoman Susan Stevenson, Councilman J. Andrew Thompson, and Councilman Roy F. Sweezy. Also present were: Town Attorney Marc Mitchell, Town Manager Seth Eckard, Deputy Town Clerk Jessica Lail, and various department heads.

Absent: None.

A quorum was present.

Mayor Black 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:** No comments

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

**APPROVED REGULAR MEETING AND CLOSED SESSION MINUTES OF JUNE 29, 2020**

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

***End Consent Agenda***

**ITEMS REMOVED FROM CONSENT AGENDA:** None

**WPCOG CODE ENFORCEMENT UPDATE:** Code Enforcement Officer Todd Justice updated Council on 401 Bass Street. Mr. Justice shared a re-cap starting back on February 19<sup>th</sup>, 2020 when Ronnie Carver was issued a Notice of Violation for nuisance, unsanitary stagnate water, plant overgrowth, construction materials, trash/waste, and three junk vehicles. Mr. Carver cannot read so Mr. Justice worked with his son as well, walking through the property showing them what needed to be completed. Mr. Justice gave the Carver's until March 18<sup>th</sup>, 2020 to get everything cleaned up. After that deadline had passed, Mr. Justice issued the Carver's with an Order to Remove on March 19<sup>th</sup>, 2020. Mr. Carver had ten days to comply and/or appeal to the Town. On March 21<sup>st</sup>, 2020, Mr. Carver did appeal with Planning Director Larry Johnson. Mr. Justice shared that on May 28<sup>th</sup>, 2020, the Board of Adjustments met for the hearing. The Board of Adjustments voted to uphold the order to remove items from the property. Mr. Justice began the process to find a contractor to clean up the property. Mr. Justice put up a notice on the cars that were going to be towed. After the Carver's saw that, they chained the gates to the property. Mr. Justice went to the Burke County Magistrates office and got an Administrative search warrant to enter the property to confirm or deny that the owner of the property had complied. Mr. Justice shared they worked five-six hours on Friday and Saturday cleaning up the property. The Carver's wanted to save some of the items for scrap metal and Mr. Justice made a deal with them and gave more time for them to clean. The items were never cleaned up so Mr. Justice had the contractor come back and remove. Mr. Justice shared that if it hadn't been for the COVID crisis this process would have been completed in a more timely manner. Mr. Justice shared that if he would have to do it over, he would have included the house, pond, and the backside of the property.

Councilman Ogle shared that the Carver's have moved a lot of items to 708 Church Street. Mr. Justice shared that he has started the process on that property. Councilman Ogle shared that there was no power going from the house at 708 Church Street to the small shack behind it that the Carver's are living in. Councilman Ogle asked if that was legal and Mr. Justice did not know the answer. Mr. Justice will find out.

Councilwoman Hildebran asked for an update on the 909 Main Street property. Mr. Justice shared that Richard Deal sold the property to a Mr. Johnson in Virginia who passed away two weeks after he bought the property. The property is now in an estate. Mr. Johnson's sister is going through the process to sell the property. Mr. Justice explained that we cannot do anything with the property until it has a new owner.

## JULY 2020 - CODE ENFORCEMENT ACTIONS TRACKER

CEO Todd Justice, 828-485-4264, todd.justice@wpcog.org

	Address	Status	Mailed NOV/Cit/Order	Category	Violation	Current Status	Latest Activity/Date	Next Suspense
1	822-Cline-Ave		Y/N/N	Nuisance	Junk-and-Debris	Resolved	-	-
2	330 Sterling St		Y/N/N	Min Housing	Min Housing	On hold per order of TM	New renters on property	-
3	808 Colonial ST		Y/Y/N	Nuisance, AJNMV	Junk and Debris, Junk Vehicles	Cited, 28 FEB deadline. TM ordered bids on cleanup	Will remind owner of Order to Remove and begin bid process for cleanup	-
4	161-Laurel-Ave		Y/N/N	Non-Res-Min	Min-Standards-for-roof	Resolved	-	-
5	401 Bass St		Y/N/Y	Nuisance, AJNMV	Junk and Debris, Junk Veh	Currently in Abatement	Cert Receipt 8APR	-
6	708-Church-St		Y/N/N	Nuisance	Junk-and-Debris	Resolved	-	-
7	708-Church-St		Y/N/N	AJNMV	2-junk-vehicles	Resolved	-	-
8	909-Main-St		Y/N/N	Nuisance	Overgrown	Resolved	-	-
9	909 Main St		Y/N/Y	Min Housing	Min Housing	Waiting to determine new owner	-	-
10	804-Carolina-St		Y/N/N	Nuisance, AJNMV	Junk-and-Debris, Junk-Veh	Resolved	-	-
11	1300-Carolina-St		Y/N/N	Nuisance	Junk-and-Debris	Resolved	-	-
12	1436 Main St		Y/N/N	Nuisance	Junk and Debris	NOV Issued	26MAY, still requires sig clean up	Deadline 3APR2020
13	1436 Main-St		Y/N/N	AJNMV	Junk-Vehicle	Resolved	-	-
14	735-Tron-Ave		Y/N/N	AJNMV	2-Junk-Vehicles	Resolved	-	-
15	1017-Prairie-St-SW		Y/N/N	Nuisance	Junk-and-Debris	Resolved	-	-
16	805 Carolina St		Y/N/N	Non-Res Min	Dilapidated outbuildings	Pending demolish	Waiting on COVID restrictions	-
17	520 Walnut Ave		Y/N/N	Min Res	Needs roof/paint	NOV mailed	Town will handle	-
18	102-Meyre-Ave		Y/N/N	Nuisance	Overgrowth	Resolved	-	-
19	321-Becker-St		Y/N/N	Nuisance	Overgrowth	Resolved	-	-
20	3305 Holly Hill		Y/N/N	Nuisance	Junk and Debris	NOV Issued	-	21AUG2020
21	216 Columbo St		Y/N/N	Nuisance	Junk and Debris	NOV Issued	-	21AUG2020
22	216 Columbo St		Y/N/N	AJNMV	Junk Vehicles	NOV Issued	-	21AUG2020
23	708 Church St		Y/N/N	Nuisance	Junk and Debris	NOV Issued	-	20AUG2020
24	708 Church St		Y/N/N	Res Min Housing	No Power	NOV Issued	-	20AUG2020
25	630 Perkins Rd		Y/N/N	Nuisance	Junk-and-Debris	Resolved	-	-
26	616 Lincoln St		Y/N/N	AJNMV	Junk Vehicle	NOV Issued	-	21AUG2020
<b>Key</b>								
			Resolved/Abated	NOV = Notice of Violation				
			Owner Notified, proceeding	Cit = Citation, usually \$50 a day for 15 days				
			New violation	Order = Order to Remove, Repair or Demolish				

**APPROVED UPDATED BBP WATER TANK INTERLOCAL AGREEMENT:** President of Burke Development Alan Wood shared with Council that the bids for the water tank are in and before they can be executed the partners in the Burke Business Park would have to approve this updated interlocal agreement. The interlocal agreement covers the building of the tank and what happens after. Mr. Wood shared that if they get started in August with the construction it would be completed by November 2021.

### NORTH CAROLINA BURKE COUNTY

### INTERLOCAL AGREEMENT CONCERNING CONSTRUCTION AND OPERATION OF A WATER TANK FOR THE BURKE BUSINESS PARK

THIS INTERLOCAL AGREEMENT is made and entered into this 21st day of July, 2020, by and between the COUNTY OF BURKE, a body politic and corporate and a political division of the State of North Carolina (hereafter, the "County"); and the CITY OF MORGANTON, a municipal corporation organized and existing under the laws of the State of North Carolina (hereafter, the "City"); and also the BURKE PARTNERSHIP FOR ECONOMIC DEVELOPMENT, INC., the TOWN OF VALDESE, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter, "Valdese"), the TOWN OF RUTHERFORD COLLEGE, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter, "Rutherford College"), and the TOWN OF DREXEL, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter, "Drexel"), join as additional parties to this Agreement;

8. Funds Generated From the Project. The parties agree that income may be generated from the Water Tank by leasing space on the tank for third-party placement of antennas, or from similar placements upon the tank. Any such income so generated, shall be considered and used to reimburse the Governmental Partners for payments advanced for the Project in the same way and in the same ratio as BPED unrestricted funds, proceeds from the sale of Burke Business Park lots, and ad valorem property taxes are pledged to be used for reimbursement pursuant to the Amendment to Interlocal Development Agreement for Burke Business Park dated November 22, 2019 (the "BBP Amendment"). Upon reimbursement in full of the participating Governmental Partners, funds so generated shall be placed in the Common Fund for such uses as provided in the BBP Agreement.

Any funds generated from the sale or rental of the tank, or from scrapping the tank or other components, shall likewise be used to reimburse the participating Governmental Partners. Upon reimbursement in full of the participating Governmental Partners, funds so generated shall be placed in the Common Fund for such uses as provided in the BBP Agreement.

9. Rights and Obligations of the County. In addition to the foregoing, the County:

- (a) Agrees to continue to serve as applicant and owner for this Grant and any other grants for the Project;
- (b) Agrees to receive and accept all Grant funds as set forth above and to apply the same to the completion of the Project as required under the terms of the Grant;
- (c) Agrees to provide its share of any local matching funds required by the terms of the Grant received in connection with the Project;
- (d) Agrees that the City shall become the owner of the real property on which the Project is constructed, including the 500,000 gallon elevated water storage tank and associated infrastructure, upon completion of the Project, and with the written consent of the other local government owners of BDI, as evidenced by their execution of this Agreement. Title shall be as a fee simple determinable, subject to defeasance if said property ceases to be used as the location of the Water Tank.

10. Rights and Obligations of the City. In addition to the foregoing, the City:

- (a) Agrees to perform all its responsibilities under the West agreements; and to make the County a party to the West agreements, or assign to the County such rights thereunder as the County may request, to complete the Project;
- (b) Agrees, upon completion of the Project, to accept transfer of ownership of the Project, including the elevated water tank and all necessary and related infrastructure;
- (c) Agrees, upon completion of the Project, to be responsible for all operation, repairs and maintenance and costs associated therewith of the elevated water tank and associated infrastructure (except for the placement or replacement of any marketing messages upon the water tank), and for removal and/or replacement of the tank and other infrastructure when appropriate; to maintain the elevated water tank and associated infrastructure in proper working order and good repair so that fire protection and water service for the Burke Business Park is always available; to maintain insurance upon the elevated water tank and associated infrastructure to its full insurable value, with BDI being named as an additional insured; and
- (d) Agrees to provide its share of any local matching funding required by the terms of the Grant received in connection with the Project, which "match" may be in the form of the value of any services provided by City employees or agents, and at least \$75,000 of which shall be its payment to West Consultants, PLLC, for design work and contract management; and
- (e) Agrees to collaborate and cooperate with the County in all matters pertaining to the County's Grant set forth above, on all matters pertaining to the Project prior to completion of the same and for the close out of any above-referenced grant and subsequent transfer of ownership to the City; and to keep the County and BDI fully informed of all income sources and revenues set forth in Section 8, above; and to promptly turn over to BDI all such funds for distribution as provided in Section 8 and the BBP Amendment; and

11. Rights and Obligations of BDI. In addition to the foregoing, BDI:

- (a) Agrees, immediately upon completion of the Project and receipt of the written consent of the other local government owners of BDI, to convey to the City, by warranty deed, title in fee simple determinable to a tract of approximately one and one-half (1Y2) acres of real property, upon

which the elevated water tank is located. The exact dimensions of the tract to be conveyed, which shall be sufficient in size to fully accommodate the tank and any associated ground structures, shall be established by survey and incorporated into the deed description.

(b) Agrees to collaborate and cooperate with the County and the City in all matters pertaining to the obligations of the County or the City set forth above, on all matters pertaining to the Project prior to and after completion of the same, and for the close-out of the above-referenced grant and subsequent transfer of ownership to the City.

IN WITNESS WHEREOF, the parties hereto have caused this Interlocal Agreement to be executed by their authorized representatives and sealed by their authorized officers, and by the authority duly given, the day and year first above written.

This the 3<sup>rd</sup> day of August, 2020.

TOWN OF VALDESE

By: /s/ Mayor

Attest: /s/ Clerk

Councilman Ogle made a motion to approve the aforementioned resolution, seconded by Councilman Thompson. The vote was unanimous.

**AWARD OF BID – STREET PAVING PROJECT:** Public Service Director Greg Padgett presented the following bid tabulation prepared by West Consultants for the Street Paving Project of the following streets: Springwood Dr. NE & Oakland Ct NE, Ervin Ave NE, and Becker Ave NE. The lowest bidder was Midstate Contractors Inc., Hickory NC, in the amount of \$431,974.50. Other bids were:

Line Item	Description	Quantity	Unit	Midstate Contractors, Inc. Hickory, NC	Maymead, Inc. Mountain City, TN	JT Russell & Sons, Inc. Conover, NC	Tri-County Paving West Jefferson, NC	JLS Company, LLC Skyland, NC	Evans Construction Connelly Springs, NC	Carolina Paving of Hickory, Inc
<b>Base Bid - Springwood Drive NE &amp; Oakland Court NE</b>										
1	Milling/Removal of Ex. Asphalt	1	LS	\$17,168.50	\$25,000.00	\$14,230.00	\$14,479.00	\$38,000.00	\$40,014.00	\$30,000.00
2	Minor Grading/Undercutting	950	CY	\$20.50	\$20.00	\$33.75	\$10.00	\$15.30	\$20.00	\$15.00
3	ABC Stone for Undercut	1,600	TN	\$30.00	\$30.00	\$32.65	\$30.00	\$30.50	\$35.00	\$28.00
4	3" 50 SC Asphalt	2,650	TN	\$72.00	\$72.41	\$81.25	\$99.00	\$105.00	\$100.00	\$115.00
5	Bonds and Mobilization (Max. 7%)	1	LS	\$9,900.00	\$9,840.00	\$5,000.00	\$1,061.48	\$11,224.55	\$11,400.00	\$7,500.00
<b>Total Base Bid</b>				<b>\$303,983.50</b>	<b>\$303,508.35</b>	<b>\$337,220.00</b>	<b>\$365,207.48</b>	<b>\$388,809.55</b>	<b>\$391,518.00</b>	<b>\$299,000.00</b>
<b>Total as Shown on Bid Form</b>				<b>\$300,003.50</b>						
<b>Alternate Bid A - Laurel Street SE</b>										
A1	Milling/Removal of Ex. Asphalt	1	LS	\$9,456.00	\$10,000.00	\$10,000.00	\$9,780.00	\$13,278.00	\$13,008.00	\$7,500.00
A2	3" 50 SC Asphalt	620	TN	\$75.00	\$76.91	\$84.75	\$99.90	\$105.00	\$101.00	\$115.00
A3	Steepling	1	LS	\$1,450.00	\$600.00	\$600.00	\$2,500.00	\$625.00	\$350.00	\$2,500.00
A4	Traffic Loop	1	LS	\$5,900.00	\$1,500.00	\$5,000.00	\$3,500.00	\$2,100.00	\$2,500.00	\$3,500.00
A5	Bonds and Mobilization (Max. 7%)	1	LS	\$1,400.00	\$1,883.33	\$2,000.00	\$2,331.54	\$2,433.00	\$3,350.00	\$1,800.00
<b>Total Alternate Bid A</b>				<b>\$16,606.00</b>	<b>\$16,889.33</b>	<b>\$17,145.00</b>	<b>\$19,049.54</b>	<b>\$19,536.00</b>	<b>\$19,838.00</b>	<b>\$16,600.00</b>
<b>Alternate Bid B - Ervin Avenue NE</b>										
B1	Milling/Removal of Ex. Asphalt	1	LS	\$10,220.00	\$10,000.00	\$7,350.00	\$6,054.00	\$10,375.00	\$7,350.00	\$15,000.00
B2	Minor Grading/Undercutting	140	CY	\$22.50	\$20.00	\$41.50	\$10.00	\$15.30	\$20.00	\$100.00
B3	ABC Stone for Undercut	325	TN	\$33.00	\$40.00	\$17.00	\$30.00	\$30.50	\$15.00	\$30.00
B4	3" 50 SC Asphalt	500	TN	\$75.00	\$76.91	\$87.00	\$99.90	\$105.00	\$104.50	\$115.00
B5	Grading/Clearing/Raise Utilities for Eave	1	LS	\$6,000.00	\$5,000.00	\$40,000.00	\$5,000.00	\$9,200.00	\$4,000.00	\$10,000.00
B6	ABC Stone for Extension	400	TN	\$32.00	\$30.00	\$40.00	\$30.00	\$30.50	\$30.00	\$30.00
B7	Remove 12" CMP & Reinstall new (5' x 5')	1	LS	\$2,380.00	\$3,000.00	\$6,000.00	\$1,200.00	\$3,200.00	\$2,000.00	\$2,000.00
B8	Bonds and Mobilization (Max. 7%)	1	LS	\$7,480.00	\$7,767.65	\$1,000.00	\$1,500.00	\$2,285.89	\$2,700.00	\$2,400.00
<b>Total Alternate Bid B</b>				<b>\$36,258.00</b>	<b>\$39,022.65</b>	<b>\$124,980.00</b>	<b>\$87,914.62</b>	<b>\$109,215.39</b>	<b>\$94,258.00</b>	<b>\$123,600.00</b>
<b>Alternate Bid C - Magnolia Avenue NE</b>										
C1	Milling/Removal of Ex. Asphalt	1	LS	\$8,040.00	\$10,000.00	\$8,200.00	\$6,234.00	\$7,802.00	\$6,580.00	\$5,000.00
C2	Minor Grading/Undercutting	175	CY	\$22.00	\$20.00	\$33.75	\$10.00	\$15.30	\$20.00	\$10.00
C3	ABC Stone for Undercut	200	TN	\$33.25	\$40.00	\$36.00	\$30.00	\$30.50	\$35.00	\$30.00
C4	3" 50 SC Asphalt	400	TN	\$75.00	\$76.91	\$89.00	\$99.90	\$105.00	\$108.63	\$115.00
C5	Bonds and Mobilization (Max. 7%)	1	LS	\$1,500.00	\$1,627.92	\$1,760.00	\$1,663.32	\$1,803.14	\$1,850.00	\$1,200.00
<b>Total Alternate Bid C</b>				<b>\$11,782.50</b>	<b>\$15,891.92</b>	<b>\$16,666.25</b>	<b>\$17,187.32</b>	<b>\$19,067.64</b>	<b>\$18,423.60</b>	<b>\$14,450.00</b>
<b>Alternate Bid D - Becker Avenue NE</b>										
D1	Milling/Removal of Ex. Asphalt	1	LS	\$7,386.00	\$10,000.00	\$6,850.00	\$5,781.00	\$7,196.00	\$6,062.00	\$5,000.00
D2	Minor Grading/Undercutting	120	CY	\$23.00	\$20.00	\$36.50	\$10.00	\$15.30	\$20.00	\$10.00
D3	ABC Stone for Undercut	200	TN	\$34.00	\$40.00	\$38.25	\$30.00	\$30.50	\$35.00	\$30.00
D4	3" 50 SC Asphalt Reinforcing	340	TN	\$75.00	\$76.91	\$94.00	\$99.90	\$105.00	\$105.10	\$115.00
D5	Bonds and Mobilization (Max. 7%)	1	LS	\$1,270.00	\$1,396.48	\$1,525.00	\$1,408.41	\$1,524.96	\$1,535.00	\$1,000.00
<b>Total Alternate Bid D</b>				<b>\$13,714.00</b>	<b>\$17,045.88</b>	<b>\$16,365.00</b>	<b>\$14,835.41</b>	<b>\$16,286.96</b>	<b>\$15,731.00</b>	<b>\$12,340.00</b>
<b>Total as Shown on Bid Form</b>				<b>\$375,945.88</b>						
<b>Total Base Bid</b>				<b>\$549,083.00</b>	<b>\$564,418.53</b>	<b>\$654,781.25</b>	<b>\$638,784.37</b>	<b>\$689,125.63</b>	<b>\$683,734.60</b>	<b>\$722,000.00</b>

I, Todd J. Potter, PE, do hereby certify that this is a true and correct tabulation of bids received by the Town of Valdese for the Town of Valdese 2021 Street Improvements Project on Thursday, June 18, 2020 at 2:00 PM.

Todd J. Potter  
Professional Engineer  
Seal 26605  
6/18/20  
TODD J. POTTER

Mr. Padgett shared that the streets chosen to be paved were identified by the paving committee and the roads picked fit within the budget. Councilwoman Hildebran expressed concern with the condition of Harris Ave. that goes to the proposed Subdivision Edelweiss. Councilwoman Hildebran felt the road needed to be resurfaced if a subdivision would go there. Mr. Padgett shared the next cycle of roads to be paved would be in three years.

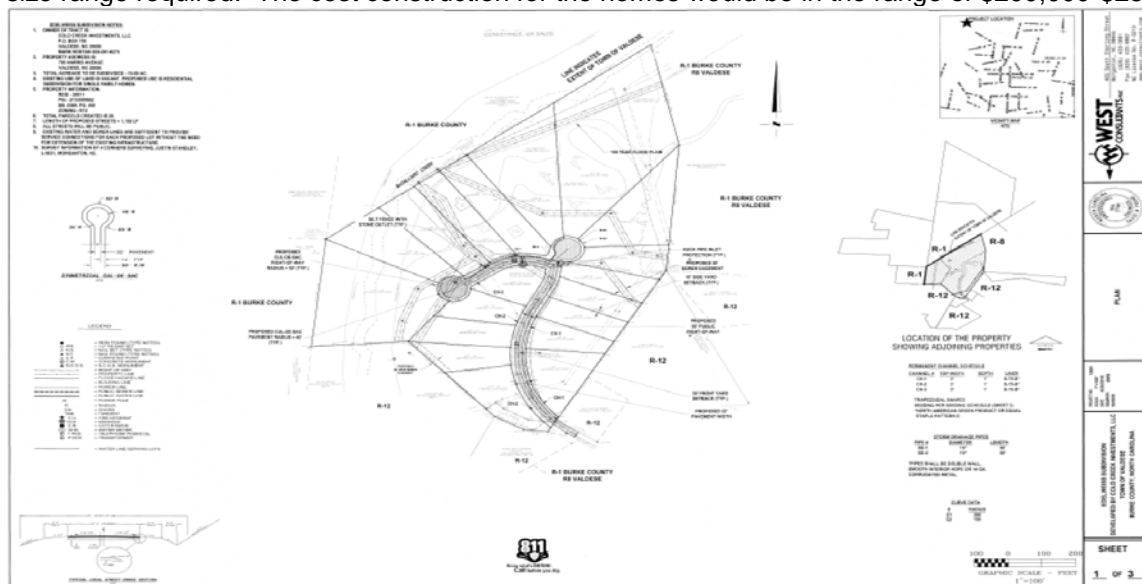
Councilman Ogle made a motion to award the bid to the lowest bidder, Midstate Contractors Inc., Hickory, NC, in the amount of \$431,974.50, seconded by Councilwoman Hildebran. The vote was unanimous.

**DISCUSSION OF TRIPLE COMMUNITY PROPERTY, 1492 DREXEL RD.:** Public Service Director Greg Padgett discussed the idea of selling the Triple Community Property and taking some of the funds to put into the IA building, located at 305 Church St. NW, to get it in usable condition. The IA building may be used for Public Works storage and the upstairs could be used by other departments. Mayor Black explained the process of selling the property. Councilwoman Hildebran asked if the debt of \$541,000 on the property had been paid off. Mr. Padgett explained it was not specifically on the property but the waterlines. Finance Director Bo Weichel shared that the remaining debt on the waterlines was \$295,000. There is no debt on the building. Councilwoman Hildebran asked if we should put some of the money into our current Public Works facility. Mr. Padgett explained that there is no room to grow at the current facility. All of the equipment has been moved out of the property. Attorney Marc Mitchell asked staff to look into the Deed of Trust.

Councilman Ogle made a motion to surplus the property, seconded by Councilwoman Hildebran. The vote was unanimous.

**FINAL PLAT APPROVAL EDELWEISS SUBDIVISION:** Planning Director Larry Johnson presented the final plat approval for Edelweiss Subdivision; preliminary plat approval was given at the June 3, 2019, Council meeting. Mr. Johnson explained to Council the process of Plat Approval. Mr. Johnson shared that the street (Harris) will be resurfaced to meet the street requirements for a Subdivision. This will be a public street. Mr. Johnson shared that the cost estimate for construction would be \$113,800. This would include the widening of the street, adding cul-de-sacs, and asphalt overlay. Mr. Johnson explained that Cold Creek Investments would be presenting the Town with a performance guarantee cash deposit of \$145,000. This amount represents 125% of the total infrastructure cost based on the Town's Engineer calculations. The agreement states that the competition date would be April 30, 2021. Mr. Johnson explained the Deed Restrictions for the Edelweiss Subdivision.

Mark Rostan with Cold Creek Investments shared with Council that construction, if approved, would start possibly this fall. Mr. Rostan explained that the houses can be different styles but have to stay within the size range required. The cost construction for the homes would be in the range of \$200,000-\$250,000.



Councilman Ogle made a motion to approve Edelweiss Subdivision Final Plat as presented, seconded by Councilwoman Stevenson. The vote was unanimous.

**BUDGET AMENDMENT:** Finance Director Bo Weichel presented the following budget amendment to Council:

Valdese Town Council Meeting

Monday, August 3, 2020

Budget Amendment #

1

Subject: Solar radar speed sign

Description: Location of sign will be on Laurel St near Forest Dr.

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, 2021:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3990.000	Fund Balance Appropriated		3,450
Total		\$0	\$3,450

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.5600.330	Supplies & Equipment	3,450	
Total		\$3,450	\$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.

Councilwoman Hildebran asked why the sign was being placed at Forest Dr. because the issue was coming from the curve on Laurel close to Main Street. Chief of Police Jack Moss explained that the sign can go anywhere on Laurel that Forest was only a suggestion. After a brief discussion, Town Manager Seth Eckard suggested that Planning Director Larry Johnson and Public Service Director Greg Padgett find the appropriate place to put the sign.

Councilman Sweezy made a motion to approve the aforementioned budget amendment, seconded by Councilwoman Hildebran. The vote was as follows: Thompson - Aye, Hildebran - Aye, Sweezy - Aye, Stevenson - Aye, and Ogle - Nay.

**CAPITAL PROJECT ORDINANCE AMENDMENT:** Finance Director Bo Weichel presented the following capital project ordinance amendment to Council:

Valdese Town Council Meeting

Monday, August 3, 2020

Capital Project Ordinance Amendment # 1-35

Subject: Public Safety building

Description: To amend capital project ordinance Fund 35  
This recognizes \$100,000 reserved in the operating budget to be transferred into the project fund. These funds will be used to help pay for architect fees and other upfront costs associated with the 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
35.3480.000	Transfer to Project		100,000
	Total	\$0	\$100,000

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
35.5300.040	Professional Services	100,000	
	Total	\$100,000	\$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.

Councilwoman Hildebran made a motion to approve the aforementioned capital project ordinance amendment, seconded by Councilman Ogle. The vote was unanimous.

**WATER & WAST WATER PLANT PROJECT UPDATES:** Public Service Director Greg Padgett presented the following update:

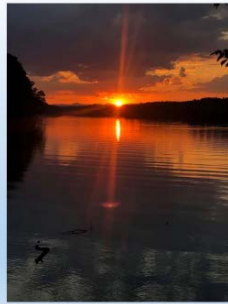
## Current Projects August 2020

Project Name	Estimated Total Project Cost (\$)	Grant/Principal Forgiveness Amount (\$)	Loan Amount (\$)	Loan Rate (%)	Type of Funding	Target Completion Date
Hydraulic Model - Tool to review system	\$ 45,000	\$ -	N/A	N/A	Budget	completed
AMI Meter Replacement - Watersmart user interface should be ready in October, users can sign up and use	\$ 2,265,386	\$ 566,347	\$ 1,699,039	0.00%	SRP	Sep-20
2018 Water System Line Replacements - Consist of lines in Lakeview Acres Rd., Eastwood Subdivision, Logan Dr., Hill Dr., Zion Rd.	\$ 1,181,700	\$ 500,000	\$ 398,805	0.00%	DWSRF	Apr-20
AIA Sewer Assessment (I&I) - Identifies areas with inflow or infiltration issues.	\$ 150,000	\$ 150,000		-		Oct-20
Centrifuge Project - Replaces all the electrical and electronics that power and control the centrifuge.	\$ 300,000	\$ -	N/A	N/A	Budget	Mar-21
Replace Water Line Main Street - This line has had many breaks and is necessary to replace based on its age.	\$ 2,838,609	\$ 1,000,000	\$ 1,782,950	0.00%	DWSRF	Apr-21
Conversion to Sodium Hypochlorite - Safer for staff and the public.	\$ 882,973	\$ 164,575	\$ 718,398	0.00%	SRP	Oct-21
AIA Water Assessment - Tool to identify problem water areas.	\$ 150,000	\$ 150,000				Nov-21
WTP MCC Replacements - Outdated and obsolete electrical panels that control the raw and finish pumps.	\$ 858,770	\$ 210,692	\$ 648,078	0.00%	SRP	Jan-22
<b>Totals</b>	<b>\$ 8,672,438</b>	<b>\$ 2,741,614</b>	<b>\$ 5,247,270</b>			

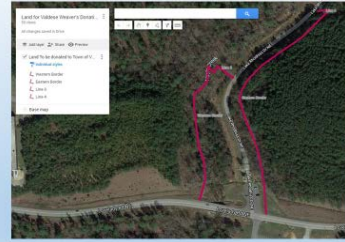


**PARKS & RECREATION PROJECT UPDATES:** Parks and Recreation Director Doug Knight presented the following presentation update:

### Valdese Lakeside Park Update



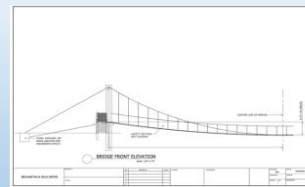
### Street right of Way – Lake Rhodhiss Dr. NE (Land Donated by Valdese Weavers)



### Donated Land from Caldwell Timbers to connect Lakeside Park to MFP



### Bridge Update



### Trails update (free phone app available)



### Trail built by FVR Trail Blazers Club



### RTP Grant Application – (5 miles of mountain bike trails)





Bathrooms –  
(Port-a-Jon  
provided by  
Farris  
Insurance  
until October  
31st)



### Phase 1 amenities

- Site prep
- Parking
- Restrooms
- Dog Park
- Picnic Areas
- Nature viewing platform
- Canoe/Kayak launch
- 4000' Greenway trail

### Phase 1 construction

- Plan is for project to go out to bid in September
- Come to Council in October or November to approve plan
- Break ground approximately 30 days after contract is awarded.

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

Town offices will be closed on Monday, September 7, 2020 in Observance of Labor Day.

The 45th Annual Waldensian Festival and the Family Friday Night Summer Concert Series have been officially canceled for the year.

**MAYOR AND COUNCIL COMMENTS:** Councilwoman Hildebran asked what the Town did with the surplus money that was reported in the reading material. Town Manager Seth Eckard shared that it goes into the General Fund, fund balance.

**ADJOURNMENT:** At 7:39 p.m., there being no further business to come before Council, Councilman Ogle made a motion to adjourn, seconded by Councilwoman Stevenson. The vote was unanimous.

The next regular Council meeting scheduled for Tuesday, September 8, 2020, 6 p.m., due to Labor Day Holiday.

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Town Clerk

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Mayor

jl



# TOWN OF VALDESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2124

FAX (828) 879-2139

OFFICE OF THE PLANNING DIRECTOR

## Memorandum

To: John Black, Mayor  
Town Council Members

From: Larry Johnson, Planning Director

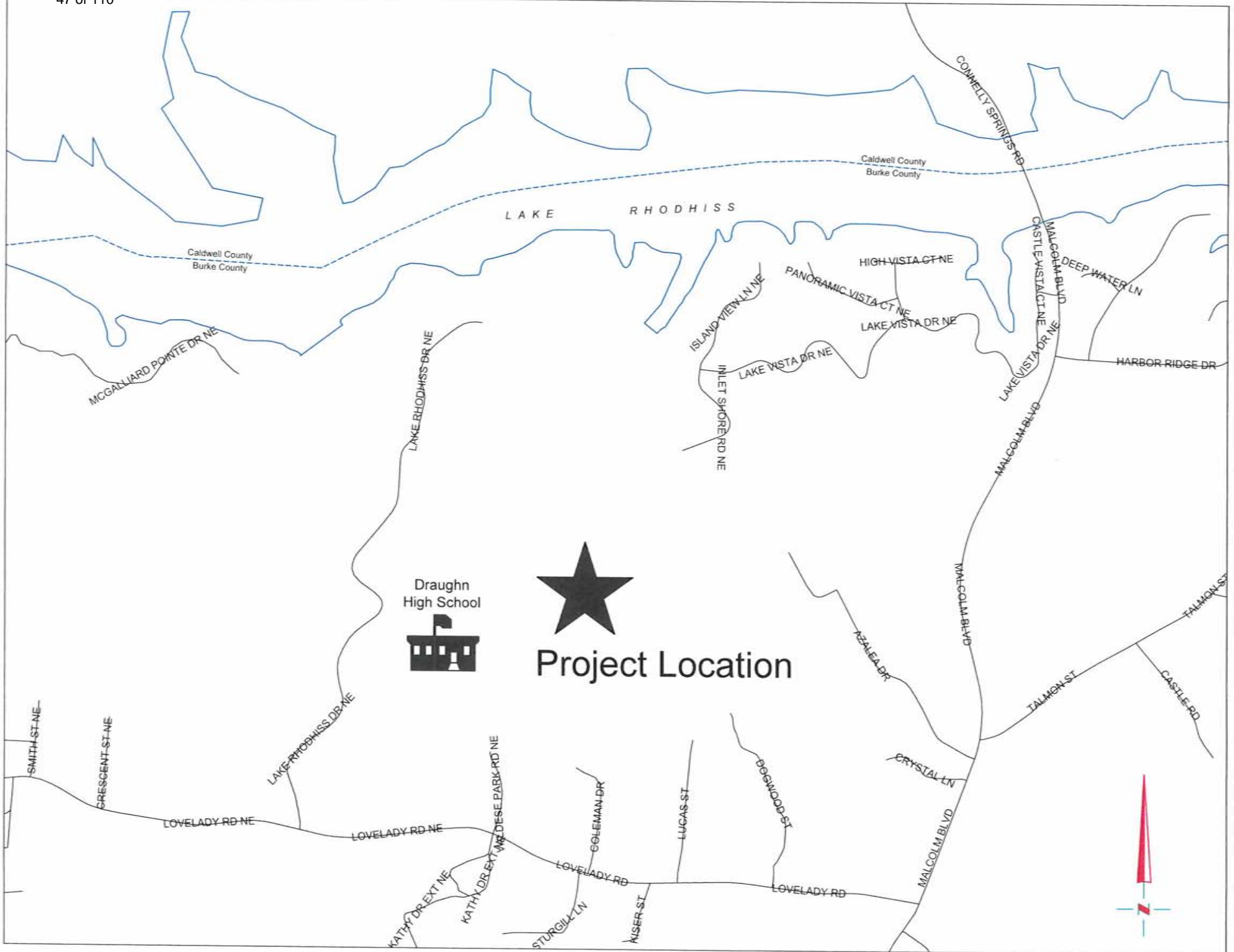
Date: August 26, 2020

Subject: Set Public Hearing Date  
Zoning Map Amendment 2-8-2020

The Town of Valdease has received a petition from Natural Land Alliance Incorporated (Lake Vista Phase IV) requesting the property located on Valdease Park Road NE and adjacent to Draughn High School be rezoned from R-12A Residential to R-8 Residential. Any change in the zoning map requires a public hearing by Town Council.

Staff respectfully request that Valdease Town Council set October 5, 2020 as the date to hold a public hearing for an amendment of the Valdease Zoning Map (rezoning). Staff will present the recommendation of the Valdease Planning Board during at the public hearing. A location map is attached for your review.

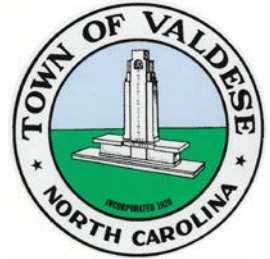
Meanwhile, please contact me if you have comments or questions.





# State of North Carolina – County of Burke

## Town of Valdese Lease Agreement



THIS AGREEMENT, made and entered into this **First** day of **October 2020** by and between the TOWN OF VALDESE, hereinafter called “Lessor” and **P&W Railroad Club** hereinafter called “Lessee”; Lessor and Lessee are hereinafter referred to collectively as the “Parties”.

### ARTICLE 1.00

#### **Creation of Tenancy, Term and General Conditions**

- 1.01 **DEMISE OF PREMISES:** Lessor, for and in consideration of the rentals hereinafter provided and in further consideration of the covenants, conditions, and provisions hereinafter contained, does hereby demise and lease unto Lessee the property (hereinafter called “Premises”) located in that building known as the Valdese Old Rock School, Main Street, Valdese, Burke County, North Carolina, and being Suite(s) **23, 26, 30, 27, 28, & Workshop** as described on the attached Exhibit “A,” together with the right of access and use to the common areas of the building and parking, subject to the restrictions hereinafter set out.
- 1.02 **TERM:** The Lessee shall have and hold the premises for a period of time commencing the **First** day of **October 2020** and extending to the **30<sup>th</sup>** day of **September 2021**.
- 1.03 **RENT:** Lessee agrees to pay Lessor a monthly rent of **\$230.00**. The first month’s rent shall be due and payable at the time of execution of this Lease, with each subsequent monthly rent being due and payable on the first day of the month for each and every month thereafter during the Lease term. In addition, the Lessee shall pay to the Lessor a deposit in the sum equal to one month’s rent. Said sum will be held by the Lessor and applied as a payment or partial payment of any damages that might occur by reason of a default under this agreement.
- 1.04 **UTILITIES:** During the term of this Lease the Lessor shall provide heating and air conditioning Monday through Friday of each week from 8:00 A.M. until 5:00 P.M., and such other times in the Lessor’s sole discretion. The Lessee shall be responsible for all other utilities, including electricity (other than lights) and telephone.
- 1.05 **TAXES:** During the term of this Lease the Lessor shall pay any taxes which might come due on the real property, however, the Lessee shall be responsible for all taxes on the personalty located on the premises.

1.06 <sup>49 of 110</sup> **GENERAL CONDITIONS:** This Lease is made by Lessor and accepted by Lessee subject to the following:

1.01.1 All zoning regulations affecting the premises now or hereafter in force.

1.01.2 All ordinances, statutes, and regulations, and any presently existing violations thereof, whether or not of record.

1.01.3 The existing condition and state of repair of the premises.

## **ARTICLE 2.00**

### **Use of Premises**

#### **2.01 CHARACTER OF USE:**

2.01.1 The premises shall be used by the Lessee for a **Railroad Museum** and shall not be used by Lessee for any other purpose without the prior written consent of the Lessor.

2.01.2 Lessee covenants and agrees to comply with all legal requirements of the City, County, State and Federal Governments respecting any operation conducted, or any equipment installations or property located at the premises, and Lessee further covenants and agrees not to create or permit the creation of any nuisance on the premises, or to make any other offensive use thereof.

**2.02 IMPROVEMENT AND ALTERATION OF PREMISES:** Lessee shall not make, and shall not have the right to make any alterations, changes or improvements, structural, or otherwise in or to the premises without Lessor's prior written consent, provided, that if such consent is given, all such alterations, changes, and improvements shall be at Lessee's expense and shall become the property of Lessor at the termination of the Lease. The granting or denial of consent as provided for in this section shall be the subject of Lessor's sole and absolute discretion.

**2.03 TRADE FIXTURES:** Lessee will be permitted to install trade fixtures on the premises without necessity of written consent by Lessor, and shall be permitted to remove such fixtures upon the expiration of the Lease term, provided that the removal of such fixtures will not permanently damage the premises, and provided that Lessee shall return the premises to their condition at the commencement of this Lease.

## **ARTICLE 3.00**

### **Condition of Premises**

**3.01 ACCEPTANCE OF PREMISES:** Lessee acknowledges that the act of taking possession of the premises shall constitute conclusive evidence that Lessee has inspected and examined the premises, and that the same were and are in good and satisfactory condition.

- 3.02** ~~5096119~~ **MAINTENANCE:** Lessee covenants and agrees to maintain said premises in their present condition, reasonable wear and tear excepted, during the term of this Lease or any extension thereof at Lessee's own cost and expense. Lessor shall maintain the roof, exterior walls, plumbing, heating and electrical system except to the extent that the same shall be damaged by the negligence, misuse or overuse by Lessee in which case Lessee shall make said repairs.
- In addition, the Lessor shall be responsible for and maintain all common areas in the building, which shall consist of halls and restrooms. The Lessee and its guests may use such common areas, but will make no business use of or store any property in any common areas.
- 3.03** **PARKING:** The Lessee and its guests and/or customers, may use the parking lot adjacent to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday, and such other times subject to regulations and restrictions as may be determined by the Lessor.
- 3.04** **ACCESS:** The Lessee shall have access to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday (except on Holidays) and such other times subject to regulations and the Lessor may determine restrictions. The Lessor reserves the right to secure and lock the building and otherwise limit access, as it should determine advisable during other hours.
- 3.05** **CONDITIONS UPON TERMINATION:** Upon the expiration, termination or acceleration of Lessee's obligations under this Lease, Lessee shall return the premises to a condition at least as good as their condition upon the commencement of this Lease, ordinary wear and tear accepted.

## **ARTICLE 4.00**

### **Insurance, Liability of Parties**

- 4.01** **CASUALTY INSURANCE:** Lessor shall carry, at Lessor's expense, fire insurance with extended coverage insuring loss or damage to the premises. Lessee shall be responsible for insuring Lessee's personal property on the premises.
- 4.02** **LIABILITY INSURANCE:** Throughout the continuance of this Lease, Lessee shall keep the premises insured, at Lessee's sole cost and expense, against claims for personal injury or property damage under a policy of general liability insurance, with a single limit of at least \$500,000.
- 4.03** **INDEMNIFICATION:** The Lessee will protect, indemnify, save and hold harmless the Lessor, its officers, agents, servants, and employees, from and against any and all claims, demands, expense, and liability, arising out of injury or property which may occur on or in the demised premises or which may arise, or in any way grow out of any act or omission of the Lessee, its (his) agents, subcontractors, servants, and employees of the use and occupancy of the demised premises by the Lessee or anyone using or occupying said premises as a guest, patron, or invitee of Lessee.
- 4.04** **WAIVERS:** Insofar as it may be permitted by the terms of the fire or extended coverage insurance policy carried by the Lessor or Lessee, each party hereby releases the other with respect to any claim

51 of 118  
(including a claim for negligence) that it might have against the other party for loss, damage or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the term of this Lease. In the event one or both of the parties' insurance policies do not permit this waiver, such party will immediately give notice of such denial to the other party and upon such request shall cause the other party to be named in such policy or policies as one of the name insured.

## **ARTICLE 5.00**

### **Termination, Default, Remedies**

- 5.01 HOLDOVER TENANCY:** In the event that Lessee remains in possession after the expiration of the term hereof or the validly commenced extension thereof and without the execution of a new Lease, Lessee shall not acquire any right, title or interest in or to the premises and in such event Lessee shall occupy the premises as Lessee from month to month and be subject to all conditions, provisions, and obligations of this Lease in so far as the same shall be applicable.
- 5.02 DEFAULT OR BREACH OF COVENANT:** If Lessee shall fail to timely make any payment of rent herein provided for, or promptly perform any other covenant or obligation imposed upon it hereunder and shall fail to make good such Default within ten (10) days after written notice from the Lessor to Lessee, Lessor may enter the premises and expel Lessee therefrom without prejudice to any and all other remedies that may be available to Lessor under the laws.
- 5.03 REMEDIES ARE CUMULATIVE:** To the extent that the remedies provided for under this Lease are not clearly inconsistent, they shall be cumulative, and Lessor shall be entitled to pursue all or any part of the remedies provided herein. The remedies specified in this Lease are in addition to, and not in lieu of any remedies otherwise available to Lessor by law or in equity. Pursuit of any remedy by Lessor shall not constitute a binding election of such remedy or prevent Lessor from seeking other relief.
- 5.04 COSTS AND ATTORNEYS FEES:** In addition to any other damages sustained by Lessor as a result of Lessee's Default, Lessor shall be entitled to recover of Lessee all reasonable attorneys fees and costs incurred in pursuit of Lessor's remedies.
- 5.05 ACCEPTANCE OF SURRENDER:** No act or conduct of Lessor, including without limitation, the acceptance of the keys to the premises shall constitute an acceptance of the surrender of the premises by Lessor before the expiration of the term. Only a Notice from Lessor to Lessee shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

## **ARTICLE 6.00**

### **Destruction of Taking of Premises**

**6.01** <sup>53 of 119</sup> **DAMAGE BY CASUALTY OR FIRE:** If said premises should be damaged or destroyed by casualty, explosion or fire, as to be unfit for Lessee's continued use, then this Lease shall thereupon be terminated and the rent for the month in which the damage occurred shall be apportioned and refunded to Lessee; but if said premises should be damaged or destroyed by casualty, explosion or fire, however caused or by the elements, or any cause or happening and still be fit for Lessee's continued use, then the same shall be promptly restored by Lessor to their previous condition and a just and fair proportion of the rent herein reserved shall abate until the same have been completely restored, and a like proportion of any rent unpaid in advance shall be refunded to Lessee.

The Lessor may, following damage as above provided, elect to terminate this Lease by providing the Lessee with written notice of its election within ninety (90) days of the occurrence of the damage.

## **ARTICLE 7.00**

### **Additional Provisions**

- 7.01 ASSIGNMENT AND SUBLETTING:** Lessee shall not have the right to assign or sublet the within Lease or sublet the premises in whole or in part without first obtaining the written consent of the Lessor. No approval of assignment or subletting shall be effective until the prospective assignee or Sublessee shall have given Lessor Notice acknowledging familiarity with the terms of this Lease and evidencing agreement to be bound thereby. Any assignment or subletting in violation of this provision shall be void and the discretion of the Lessor as to whether to permit such assignment or sublease is absolute.
- 7.02 RIGHT OF ENTRY:** Lessor shall have the right at all reasonable times to enter and inspect the premises, and to take any action which Lessor reasonably believes to be necessary to protect the premises from damage.

## **ARTICLE 8.00**

### **Special Provisions**

- 8.01 RELATIONSHIP OF PARTIES:** It is specifically understood that the parties hereto have created a Lessor-Lessee relationship with respect to the demised premises and that the Lessor shall in no way control or be responsible for the acts of the Lessee with respect to the operations carried out on the demised premises. The Lessee specifically agrees to indemnify and hold harmless the Lessor from any loss by reason of operation on the premises and it is further agreed to erect a suitable sign to be placed in a visible located on the demised premises indicating the name and ownership of the business being rented upon the property and further the Lessee agrees not to take any action that might in any way indicate any involvement by Lessor in the Lessee's business except as hereinafter set out.

## **ARTICLE 9.00**

### **Interpretation, Execution**



- 53061410
- 9.01 GOVERNING LAW:** The laws and decisions of the State of North Carolina will govern and control the construction, enforceability, validity, and interpretation of this Lease and of all agreements, instruments and documents heretofore, now or hereafter executed by Lessee and delivered to Lessor pertaining or relating to this Lease or the transaction contemplated herein.
- 9.02 MODIFICATION:** This Lease, together with the schedules and exhibits attached hereto, contains the full, final and exclusive statement of the Lease between Lessor and Lessee relating to the leasing of the premises and cannot be amended, altered, modified or terminated except by a written agreement signed by both Lessor and Lessee. The parties hereto specifically relinquish any rights they may have to orally rescind or otherwise terminate this Lease and acknowledge that they will not rely upon any such oral agreements.
- 9.03 SEVERABILITY:** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of extensions thereof, in that event it is the intention of the Parties hereto that the remainder of this Lease shall not be affected thereby.
- 9.04 CAPTIONS:** The caption of each Section is added as a matter of convenience only, and shall be considered of no effect in the construction of any provision of this Lease.
- 9.05 WORD USAGE:** Throughout this Lease, the masculine gender shall include the plural and vice versa, wherever the context requires such construction.
- 9.06 EFFECT UPON SUCCESSORS:** This Lease shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, conservators, guardians, or other legal representatives and assigns of each party.
- 9.07 MULTIPLE SIGNATURES:** If there is more than one signer (exclusive of Lessor) of this Lease, whether as Lessee or a co-signer, their obligations will joint and several, and term "Lessee" will include each such party, jointly and severally.
- 9.08 QUIET ENJOYMENT:** The Lessor agrees that Lessee on paying the stipulated rental and keeping and performing the agreement and covenants herein contained, shall hold and enjoy the premises for the term aforesaid, subject however to the terms of this Lease, and further warrants that the use of the premises called for herein do not violate the terms of any zoning affecting the premises.

X\_\_\_\_\_

*Town of Valdese*

Seth Eckard, Town Manager

Lessor

X\_\_\_\_\_

*P&W RR Museum Representative*

Lessee

X\_\_\_\_\_

Witness (Attest)

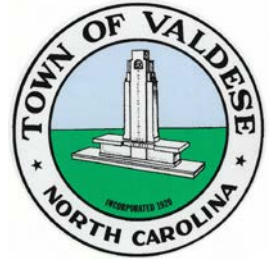
X\_\_\_\_\_

Witness



# State of North Carolina – County of Burke

## Town of Valdese Lease Agreement



THIS AGREEMENT, made and entered into this **First** day of **November 2020**, by and between the TOWN OF VALDESE, hereinafter called “Lessor” and **David Harmon Studios, LLC**, hereinafter called “Lessee”; Lessor and Lessee are hereinafter referred to collectively as the “Parties”.

### ARTICLE 1.00

#### **Creation of Tenancy, Term and General Conditions**

- 1.01 **DEMISE OF PREMISES:** Lessor, for and in consideration of the rentals hereinafter provided and in further consideration of the covenants, conditions, and provisions hereinafter contained, does hereby demise and lease unto Lessee the property (hereinafter called “Premises”) located in that building known as the Valdese Old Rock School, Main Street, Valdese, Burke County, North Carolina, and being Suite(s) **141** as described on the attached Exhibit “A,” together with the right of access and use to the common areas of the building and parking, subject to the restrictions hereinafter set out.
- 1.02 **TERM:** The Lessee shall have and hold the premises for a period of time commencing the **First** day of **November 2020** and extending to the **31<sup>st</sup>** day of **October 2021**.
- 1.03 **RENT:** Lessee agrees to pay Lessor a monthly rent of **\$305.00**. The first month’s rent shall be due and payable at the time of execution of this Lease, with each subsequent monthly rent being due and payable on the first day of the month for each and every month thereafter during the Lease term. In addition, the Lessee shall pay to the Lessor a deposit in the sum equal to one month’s rent. Said sum will be held by the Lessor and applied as a payment or partial payment of any damages that might occur by reason of a default under this agreement.
- 1.04 **UTILITIES:** During the term of this Lease the Lessor shall provide heating and air conditioning Monday through Friday of each week from 8:00 A.M. until 5:00 P.M., and such other times in the Lessor’s sole discretion. The Lessee shall be responsible for all other utilities, including electricity (other than lights) and telephone.
- 1.05 **TAXES:** During the term of this Lease the Lessor shall pay any taxes which might come due on the real property, however, the Lessee shall be responsible for all taxes on the personalty located on the premises.
- 1.06 **GENERAL CONDITIONS:** This Lease is made by Lessor and accepted by Lessee subject to the following:

- 1.01.1<sup>55 of 110</sup> All zoning regulations affecting the premises now or hereafter in force.
- 1.01.2 All ordinances, statutes, and regulations, and any presently existing violations thereof, whether or not of record.
- 1.01.3 The existing condition and state of repair of the premises.

## **ARTICLE 2.00**

### **Use of Premises**

#### **2.01 CHARACTER OF USE:**

- 2.01.1 The premises shall be used by the Lessee for a **Photography/Architecture Studio** and shall not be used by Lessee for any other purpose without the prior written consent of the Lessor.
- 2.01.2 Lessee covenants and agrees to comply with all legal requirements of the City, County, State and Federal Governments respecting any operation conducted, or any equipment installations or property located at the premises, and Lessee further covenants and agrees not to create or permit the creation of any nuisance on the premises, or to make any other offensive use thereof.

**2.02 IMPROVEMENT AND ALTERATION OF PREMISES:** Lessee shall not make, and shall not have the right to make any alterations, changes or improvements, structural, or otherwise in or to the premises without Lessor's prior written consent, provided, that if such consent is given, all such alterations, changes, and improvements shall be at Lessee's expense and shall become the property of Lessor at the termination of the Lease. The granting or denial of consent as provided for in this section shall be the subject of Lessor's sole and absolute discretion.

**2.03 TRADE FIXTURES:** Lessee will be permitted to install trade fixtures on the premises without necessity of written consent by Lessor, and shall be permitted to remove such fixtures upon the expiration of the Lease term, provided that the removal of such fixtures will not permanently damage the premises, and provided that Lessee shall return the premises to their condition at the commencement of this Lease.

## **ARTICLE 3.00**

### **Condition of Premises**

**3.01 ACCEPTANCE OF PREMISES:** Lessee acknowledges that the act of taking possession of the premises shall constitute conclusive evidence that Lessee has inspected and examined the premises, and that the same were and are in good and satisfactory condition.

**3.02 MAINTENANCE:** Lessee covenants and agrees to maintain said premises in their present condition, reasonable wear and tear excepted, during the term of this Lease or any extension thereof at Lessee's own cost and expense. Lessor shall maintain the roof, exterior walls, plumbing, heating and electrical

System except to the extent that the same shall be damaged by the negligence, misuse or overuse by Lessee in which case Lessee shall make said repairs.

In addition, the Lessor shall be responsible for and maintain all common areas in the building, which shall consist of halls and restrooms. The Lessee and its guests may use such common areas, but will make no business use of or store any property in any common areas.

- 3.03 PARKING:** The Lessee and its guests and/or customers, may use the parking lot adjacent to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday, and such other times subject to regulations and restrictions as may be determined by the Lessor.
- 3.04 ACCESS:** The Lessee shall have access to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday (except on Holidays) and such other times subject to regulations and the Lessor may determine restrictions. The Lessor reserves the right to secure and lock the building and otherwise limit access, as it should determine advisable during other hours.
- 3.05 CONDITIONS UPON TERMINATION:** Upon the expiration, termination or acceleration of Lessee's obligations under this Lease, Lessee shall return the premises to a condition at least as good as their condition upon the commencement of this Lease, ordinary wear and tear accepted.

## **ARTICLE 4.00**

### **Insurance, Liability of Parties**

- 4.01 CASUALTY INSURANCE:** Lessor shall carry, at Lessor's expense, fire insurance with extended coverage insuring loss or damage to the premises. Lessee shall be responsible for insuring Lessee's personal property on the premises.
- 4.02 LIABILITY INSURANCE:** Throughout the continuance of this Lease, Lessee shall keep the premises insured, at Lessee's sole cost and expense, against claims for personal injury or property damage under a policy of general liability insurance, with a single limit of at least \$500,000.
- 4.03 INDEMNIFICATION:** The Lessee will protect, indemnify, save and hold harmless the Lessor, its officers, agents, servants, and employees, from and against any and all claims, demands, expense, and liability, arising out of injury or property which may occur on or in the demised premises or which may arise, or in any way grow out of any act or omission of the Lessee, its (his) agents, subcontractors, servants, and employees of the use and occupancy of the demised premises by the Lessee or anyone using or occupying said premises as a guest, patron, or invitee of Lessee.
- 4.04 WAIVERS:** Insofar as it may be permitted by the terms of the fire or extended coverage insurance policy carried by the Lessor or Lessee, each party hereby releases the other with respect to any claim (including a claim for negligence) that it might have against the other party for loss, damage or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the term of this Lease. In the event one or both of the

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parties' insurance policies do not permit this waiver, such party will immediately give notice of such denial to the other party and upon such request shall cause the other party to be named in such policy or policies as one of the name insured.

## **ARTICLE 5.00**

### **Termination, Default, Remedies**

- 5.01 HOLDOVER TENANCY:** In the event that Lessee remains in possession after the expiration of the term hereof or the validly commenced extension thereof and without the execution of a new Lease, Lessee shall not acquire any right, title or interest in or to the premises and in such event Lessee shall occupy the premises as Lessee from month to month and be subject to all conditions, provisions, and obligations of this Lease in so far as the same shall be applicable.
- 5.02 DEFAULT OR BREACH OF COVENANT:** If Lessee shall fail to timely make any payment of rent herein provided for, or promptly perform any other covenant or obligation imposed upon it hereunder and shall fail to make good such Default within ten (10) days after written notice from the Lessor to Lessee, Lessor may enter the premises and expel Lessee therefrom without prejudice to any and all other remedies that may be available to Lessor under the laws.
- 5.03 REMEDIES ARE CUMULATIVE:** To the extent that the remedies provided for under this Lease are not clearly inconsistent, they shall be cumulative, and Lessor shall be entitled to pursue all or any part of the remedies provided herein. The remedies specified in this Lease are in addition to, and not in lieu of any remedies otherwise available to Lessor by law or in equity. Pursuit of any remedy by Lessor shall not constitute a binding election of such remedy or prevent Lessor from seeking other relief.
- 5.04 COSTS AND ATTORNEYS FEES:** In addition to any other damages sustained by Lessor as a result of Lessee's Default, Lessor shall be entitled to recover of Lessee all reasonable attorneys fees and costs incurred in pursuit of Lessor's remedies.
- 5.05 ACCEPTANCE OF SURRENDER:** No act or conduct of Lessor, including without limitation, the acceptance of the keys to the premises shall constitute an acceptance of the surrender of the premises by Lessor before the expiration of the term. Only a Notice from Lessor to Lessee shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

## **ARTICLE 6.00**

### **Destruction or Taking of Premises**

- 6.01 DAMAGE BY CASUALTY OR FIRE:** If said premises should be damaged or destroyed by casualty, explosion or fire, as to be unfit for Lessee's continued use, then this Lease shall thereupon be terminated and the rent for the month in which the damage occurred shall be apportioned and refunded to Lessee; but if said premises should be damaged or destroyed by casualty, explosion or fire, however caused or

58 of 110  
by the elements, or any cause or happening and still be fit for Lessee's continued use, then the same shall be promptly restored by Lessor to their previous condition and a just and fair proportion of the rent herein reserved shall abate until the same have been completely restored, and a like proportion of any rent unpaid in advance shall be refunded to Lessee.

The Lessor may, following damage as above provided, elect to terminate this Lease by providing the Lessee with written notice of its election within ninety (90) days of the occurrence of the damage.

## **ARTICLE 7.00**

### **Additional Provisions**

- 7.01 ASSIGNMENT AND SUBLETTING:** Lessee shall not have the right to assign or sublet the within Lease or sublet the premises in whole or in part without first obtaining the written consent of the Lessor. No approval of assignment or subletting shall be effective until the prospective assignee or Sublessee shall have given Lessor Notice acknowledging familiarity with the terms of this Lease and evidencing agreement to be bound thereby. Any assignment or subletting in violation of this provision shall be void and the discretion of the Lessor as to whether to permit such assignment or sublease is absolute.
- 7.02 RIGHT OF ENTRY:** Lessor shall have the right at all reasonable times to enter and inspect the premises, and to take any action which Lessor reasonably believes to be necessary to protect the premises from damage.

## **ARTICLE 8.00**

### **Special Provisions**

- 8.01 RELATIONSHIP OF PARTIES:** It is specifically understood that the parties hereto have created a Lessor-Lessee relationship with respect to the demised premises and that the Lessor shall in no way control or be responsible for the acts of the Lessee with respect to the operations carried out on the demised premises. The Lessee specifically agrees to indemnify and hold harmless the Lessor from any loss by reason of operation on the premises and it is further agreed to erect a suitable sign to be placed in a visible located on the demised premises indicating the name and ownership of the business being rented upon the property and further the Lessee agrees not to take any action that might in any way indicate any involvement by Lessor in the Lessee's business except as hereinafter set out.

## **ARTICLE 9.00**

### **Interpretation, Execution**

- 9.01 GOVERNING LAW:** The laws and decisions of the State of North Carolina will govern and control the construction, enforceability, validity, and interpretation of this Lease and of all agreements, instruments and documents heretofore, now or hereafter executed by Lessee and delivered to Lessor pertaining or relating to this Lease or the transaction contemplated herein.

- 59-06119
- 9.02 MODIFICATION:** This Lease, together with the schedules and exhibits attached hereto, contains the full, final and exclusive statement of the Lease between Lessor and Lessee relating to the leasing of the premises and cannot be amended, altered, modified or terminated except by a written agreement signed by both Lessor and Lessee. The parties hereto specifically relinquish any rights they may have to orally rescind or otherwise terminate this Lease and acknowledge that they will not rely upon any such oral agreements.
- 9.03 SEVERABILITY:** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of extensions thereof, in that event it is the intention of the Parties hereto that the remainder of this Lease shall not be affected thereby.
- 9.04 CAPTIONS:** The caption of each Section is added as a matter of convenience only, and shall be considered of no effect in the construction of any provision of this Lease.
- 9.05 WORD USAGE:** Throughout this Lease, the masculine gender shall include the plural and vice versa, wherever the context requires such construction.
- 9.06 EFFECT UPON SUCCESSORS:** This Lease shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, conservators, guardians, or other legal representatives and assigns of each party.
- 9.07 MULTIPLE SIGNATURES:** If there is more than one signer (exclusive of Lessor) of this Lease, whether as Lessee or a co-signer, their obligations will joint and several, and term "Lessee" will include each such party, jointly and severally.
- 9.08 QUIET ENJOYMENT:** The Lessor agrees that Lessee on paying the stipulated rental and keeping and performing the agreement and covenants herein contained, shall hold and enjoy the premises for the term aforesaid, subject however to the terms of this Lease, and further warrants that the use of the premises called for herein do not violate the terms of any zoning affecting the premises.

X\_\_\_\_\_

*Town of Valdese*

Seth Eckard, Town Manager

Lessor

X\_\_\_\_\_

*David Harmon Studios, LLC.*

David Harmon, Owner

Lessee

X\_\_\_\_\_

Witness (Attest)

X\_\_\_\_\_

Witness

## 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>				
Allen Hudson	Assistant Public Works Director	Utility Crew Leader	Public Works	3/30/2020
<b><i>New Hires</i></b>				
Darren Haynes	Utility Field Service Tech		Public Works	2/24/2020
<b><i>Transfers</i></b>				





July 20, 2020

August 28, 2020 Revised

Mr. Seth Eckard, Town Manager  
Town of Valdese  
113 West Main Street  
Maiden, NC 28650

**Re:     Town of Valdese**  
          **Public Safety Building**  
          **Professional Design Fee**  
          **Letter of Engagement for Architectural Services**

Dear Mr. Eckard:

Please find the following explanation of proposed fees. The base service is divided into various phases of work along with their respective percentage of the base service. We are providing a brief summary for each of the various phases of work of the base service. Also we are providing an explanation of supplemental services based upon your request.

**A.     Base Services**

Base services include architectural, civil engineering, structural engineering, mechanical engineering and electrical engineering design and construction drawings prepared by professionals licensed within the State of North Carolina for the purpose of bidding and constructing the project within the parameters set forth by the Owner. Base services include interior design for interior finish and color coordination and security evaluation and planning for video surveillance and access control. Base services are provided within the five (5) following phases.

**1.    Schematic Design (15%)**

During Schematic Design we evaluate the Owner's building program and develop a preliminary floor plan. A site plan is developed to address the site and strategically locate the building on the site. We evaluate the building footprint and how it relates to site boundaries, topography, utilities and any other site constraints. Access to the site and circulation within the site are also addressed from a pedestrian as well as vehicular

point of view. Based upon information created by the schematic floor plan and site plan the preliminary budget is updated.

## **2. Design Development (20%)**

Design Development continues to refine the floor plan and site plan in more detail. Design of site grading and drainage begin. Exterior building elevations are developed. Materials and colors are studied and determined. Building systems such as structural, mechanical, electrical, and plumbing are identified and developed. We work with Owner and building users to identify and locate communication and data systems. We work with Owner to identify and gather information for specialty systems such as information technology. The schematic design budget is updated with information gathered during the design development phase.

## **3. Construction Documents (40%)**

Construction Document Phase provides the detail design of all building elements and systems. Site design, architectural, structural, mechanical, electrical, and plumbing design drawings are detailed, coordinated, and completed. Specifications for building products and systems are coordinated with drawings and completed. A complete set of bid documents are created for review by local building inspector as well as provide adequate information for qualified contractors to prepare competitive bid prices and construct the project accordingly. The design development budget is updated with information gathered during the construction document phase. Construction Documents are assimilated and submitted to all authorities having jurisdiction over the project for plan review and approval.

## **4. Project Procurement (5%)**

During Project Procurement CBSA assists the Owner with preparing a legal advertisement for bid to be published for public notice. Construction documents are printed and issued to plan rooms and qualified bidders expressing interest to bid the project. CBSA Architects entertains questions from contractors planning to bid the project. We issue addenda as required to clarify and/or answer questions. We conduct a Pre Bid Conference to discuss the procedure for bidding the project and discuss any project particulars. We assist Owner in receiving bids. We review all bids and provide Owner with the certified bid tabulation. We assist the Owner in evaluating the bids and help recommend a successful contractor to the Owner for construction of the project. Upon selection of a contractor we prepare the Contract for Construction between Owner and General Contractor.

## **5. Construction Administration (20%)**

Construction Administration begins once the Contract for Construction between Owner and General Contractor is executed. We begin with a Preconstruction Conference where Owner, Architect, Engineers, Contractor and Subcontractors are introduced and meet to discuss the project and review the objectives for construction. We visit the site during construction on a weekly basis based upon work in progress to review progress of work and verify that work is compliant with design documents. We file written and photographic field reports to document our site visits. We review shop drawings for compliance with design documents. We review Contractor's monthly applications for payment and certify the validity of these pay requests to the Owner for payment. We

conduct monthly construction conferences and issue meeting minutes. Bulletin Drawings are prepared and issued to answer requests for information (RFI) from contractor. At completion of the project we prepare a prefinal review to prepare a punch list and conduct a final review of the work to verify that all punch list items have been completed correctly. Project Closeout consists of reviewing and approving all closeout documents submitted by contractor, processing final application for payment and turning all documentation over to Owner.

**B. Supplemental Services**

The following Supplemental Services are proposed based upon your request. These supplemental services are provided by architect, associate architect and civil engineer.

**1. Site Survey**

Civil Engineer will provide an electronic site survey of the property to include site boundaries, structures, streets, utilities, topography and any other information necessary for site development and a building design project.

**2. Programming**

The Project Architect and Associate Architect will be responsible for meeting with the Owner and designated individuals to discuss project needs, space requirements and develop a building program to become the basis for a building design.

**3. USDA Assistance**

The Project Architect and Civil Engineer will assist the Owner with preparation of information and documentation required for applying, obtaining and maintaining USDA financing through construction.

**4. Additional Owner Meetings**

The Project Architect will provide up to six (6) additional meetings and Civil Engineer will provide up to six (6) additional meetings for preparation and meeting with Owner for the purpose of informing public forums.

**5. Interior Furnishings**

Interior Designer and Project Architect will work with Owner and provide space planning, layout, specification, solicitation and procurement of interior furnishings for the building. Interior furnishings will be a separate bid price provided by interior furnishing vendors.

**6. Landscape Design**

Civil Engineer will provide Landscape Design as part of the construction documents to be included within the project bid price.

**7. Additional Construction Site Visits**

It has been determined that there will be no additional site visits beyond the base service of one visit per week based upon the work in progress during construction by Civil Engineer or Project Architect.

**8. Coordinate Geo-technical and Special Inspection Services**

Project Architect will assist Owner with procuring and coordinating services of a third party Geo-technical and Special Inspections Testing Firm for the project.

**9. As-Constructed Record Drawings**

Project Architect and consulting engineers will provide record drawings based upon bulletin drawings issued during construction and red line drawings provided by General Contractor indicating deviations made from the construction documents. As-constructed drawings will be prepared during Project Closeout.

**C. Expenses**

The following expense allowances are proposed within the fee unless otherwise noted. Expense allowances are provided as a not to exceed allowance and include a mark-up of 1.15 times the expense.

**1. Travel Expense**

Travel expense includes mileage to travel to and from scheduled meetings with Owner in the Town of Valdese and travel to and from scheduled construction site visits. Travel expense includes travel to and from Raleigh, NC to obtain plan review approval in order to obtain a local building permit. Travel expense includes economy air travel, lodging and meals for Associate Architect to make scheduled site visits during construction. Travel expense includes base and supplemental service expenses.

**2. Drawing Reproduction & Shipping Expense**

Drawing reproduction and shipping expense includes document plotting, scanning, printing, shipping and postage for reproducing documents for the purposes of plan review, bidding, construction and record drawings. Drawing reproduction and shipping expense includes base and supplemental service expenses.

**3. Plan Review Fee Expense**

Plan review fees include fees required to submit drawings to local authorities having jurisdiction over the project for plan review and approval. Building Permit fees will be paid by general contractor. Erosion Control Permit fees will be paid by Owner.

**4. Legal Advertising Expense**

Cost for legal advertising will be paid by Owner.

**D. Summary of Design Fee**

The proposed fee is composed of a base service fee including architectural/engineering services and a supplemental service fee. The base service design fee proposal is based upon an anticipated construction cost of \$5,650,000. We propose a stipulated sum fee of 6.0% of the anticipated construction cost. The supplemental service design fee is based upon the sum of each stipulated supplemental service. The fee is itemized by each phase of work for your review.

**Base Service Fee**

Schematic Design	(15%)
Design Development	(20%)
Construction Documents	(40%)
Bidding & Negotiation	(5%)
Construction Administration	(20%)
Total Basic Service Fee (6.0% of \$5,650,000)	\$339,000.00 (100%)

**Supplemental Service Fee**

Programming	\$16,200.00
Interior Furnishings Design	\$15,000.00
USDA Assistance (Allowance)	\$30,000.00
Additional Owner Meeting (Allowance)	\$ 5,400.00
Electronic 3D Model Rendering	\$ 3,000.00
Electronic Site Survey	\$ 6,500.00
Landscape Design	\$ 5,800.00
As-Constructed Record Drawings (Allowance)	\$ 7,000.00
Additional Construction Site Visits	\$ 0.00
Coordinate Geo-Tech & Special Inspections	\$ 3,300.00
Proposed Supplemental Service Fee	\$92,200.00

**Expense Allowance**

Mileage Expense	\$ 2,100.00
Travel Expense	\$ 4,800.00
Drawing Reproduction & Shipping	\$ 5,500.00
Plan Review Fees	\$ 1,000.00
Proposed Expense Allowance	\$13,400.00

**Total Fee Proposal \$444,600.00**

As compensation for any other additional services as requested by the Client the fee will be negotiated and agreed upon in writing by Owner and Architect or based on our current hourly rate schedule.

Architect – Principal/Project Manager	\$135.00
Architect – Principal/Project Architect	\$135.00
Architect – Consultant	\$130.00
Architect – Registered	\$105.00
Interior Designer	\$100.00
Senior CAD Technician	\$ 85.00
Graphic Designer	\$ 80.00
Intern Designer	\$ 75.00
CAD Technician	\$ 75.00
Administrative Assistant	\$ 60.00

Compensation to CBSA Architects for additional services provided by our consulting engineers and associate architect shall be billed at a rate of 1.15 times the amount invoiced to CBSA Architects.

We hope this provides an adequate explanation of our fee structure based upon services we understand you request. We are excited about the opportunity of working with you and the Town of Valdese. We hope this proposal is acceptable. If you are in agreement, please keep one copy for your records and return a signed copy to this office. Based upon your acceptance of the terms of this proposal we will prepare a Standard Form Agreement Between Owner and Architect (AIA Document B101-2017) for your review and execution.

Please call with any questions.

Kindest Regards,

**CBSA Architects**



Marty A. Beal, AIA, **LEED AP BD+C**  
President

**Town of Valdese**

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Signature

---

Printed Name

---

Date



# AIA® Document B101™ – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Eighth) day of September in the year Two Thousand Twenty (2020)

*(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  
Post Office Box 339  
Valdese, North Carolina 28690

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

CBSA Designs, Inc.  
dba CBSA Architects  
Post Office Box 1239  
Hickory, North Carolina 28603

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

Town of Valdese  
Public Safety Building  
Valdese, NC 28690

A new facility will be approximately 20,000 square feet or as agreed upon between Owner and Architect. The project will be designed to accommodate a combination Police and Fire Public Safety Building.

Separated spaces and shared spaces between the two departments are planned to be included within the building design. The fire department shall include either four (4) drive through bays or eight (8) back-in bays or as determined and agreed upon by between Owner and Architect.

Site work includes developing a 2.3 acre parcel of property located at 203 Eldred Street NE in Valdese, NC currently identified by the Town of Valdese as the project site.

CBSA Project No 2020.009

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

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

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



## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
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11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

## ARTICLE 1 INITIAL INFORMATION

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

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")* This agreement is based upon an initial Letter of Engagement between Owner and Architect dated July 20, 2020 summarizing and identifying the scope of work to be included within this formal agreement.

§ 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.)*

The program is unknown at the time of execution and will be developed as a part of the services provided within this contract.

§ 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.)*

Not Applicable

§ 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.)*

The Owner's project budget is determined to be \$6,500,000.00 unless otherwise agreed upon in writing by both Owner and Architect.

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

Init.



## .1 Design phase milestone dates, if any:

Not Applicable

## .2 Construction commencement date:

Construction commencement date is unknown at the time of execution.

## .3 Substantial Completion date or dates:

Substantial Completion is unknown at time of execution.

## .4 Other milestone dates:

Not Applicable

§ 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.)*

Single Prime Competitive Bid

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

Not Applicable

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

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

Mr. Seth Eckard, Town Manager  
 Town of Valdese  
 P.O. Box 339  
 Valdese, North Carolina 28690  
 Phone: 828-879-2116  
 Email: seckard@valdesenc.org

§ 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.)*

Not Applicable

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

## .1 Geotechnical Engineer: Geotechnical Technical Engineer is not yet determined by Owner.

.2

- .3 Other, if any:  
*(List any other consultants and contractors retained by the Owner.)*

Special Inspections Engineer/Testing Company is not yet determined by Owner.

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

Marty A. Beal  
 P.O. Box 1239  
 Hickory, North Carolina 28603  
 Phone: 828-322-3403, Ext: 306  
 Email: mbeal@cbsa-architects.com

§ 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 Associate Architect:

Moyer Associates, Inc.  
 Mr. Fred Moyer, FAIA, ALA, NCARB  
 950 Skokie Boulevard Suite 200  
 North Brook, Illinois 60062  
 Phone: 847.559.8500 X23

- .2 Structural Engineer:

Taylor & Viola Structural Engineers, PC  
 Mr. Kirk Viola, PE  
 Post Office Box 2616  
 Hickory, North Carolina 28603  
 Phone: 828.328.6331

- .3 Mechanical Engineer:

Brittain Engineering, Inc.  
 Mr. Donald Brittain, PE  
 P.O. Box 939  
 Hickory, North Carolina 28603  
 Phone: 828-328-1813

- .4 Electrical Engineer:

Brittain Engineering, Inc.  
 Mr. Darrell Gettys, PE  
 P.O. Box 939  
 Hickory, North Carolina 28603  
 Phone: 828-328-1813

- .5 Civil Engineer:

Mr. Doug Chapman, PE

Init.

McGill Associates, PA  
 1240 19<sup>th</sup> Street Lane  
 Hickory, North Carolina 28601  
 Phone: 828-328-20241

- .6 Interior Designer:  
 CBSA Interiors  
 Mrs. Laura Nine, ASID, CID  
 P.O. Box 1239  
 Hickory, NC 20603  
 Phone: 828.322.3403

§ 1.1.11.2 Consultants retained under Supplemental Services:

- .1 Associate Architect:  
 Moyer Associates, Inc.  
 Mr. Fred Moyer, FAIA, ALA, NCARB  
 950 Skokie Boulevard Suite 200  
 North Brook, Illinois 60062  
 Phone: 847.559.8500 X23
- .2 Civil Engineer:  
 Mr. Doug Chapman, PE  
 McGill Associates, PA  
 1240 19<sup>th</sup> Street Lane  
 Hickory, North Carolina 28601  
 Phone: 828-328-20241
- .3 Interior Designer:  
 CBSA Interiors  
 Mrs. Laura Nine, ASID, CID  
 P.O. Box 1239  
 Hickory, NC 20603  
 Phone: 828.322.3403

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

Not Applicable

§ 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.

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

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

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

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

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

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

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000 ) each accident, Ten Thousand (\$ 10,000 ) each employee, and Two Million (\$ 2,000,000 ) 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 One Million (\$ 1,000,000 ) per claim and Two (\$ 2,000,000 ) 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 civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

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

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

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

### § 3.2 Schematic Design Phase Services

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

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

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

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

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



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

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

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

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

### § 3.3 Design Development Phase Services

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

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

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

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the 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. The Construction Documents shall comply with the laws of the State of North Carolina and the Ordinances of the Town of Valdese.

§ 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. At the Owner's request, the Architect shall produce all agreements, including consultant or any other agreement relating to the Architect's performance on the project.

### § 3.5.2 Competitive Bidding

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

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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

### § 3.5.3 Negotiated Proposals

§ 3.5.3.1 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 contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

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

## § 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 and for the negligent acts or omissions of the Architect's consultants and subcontractors and for the failure of the Architect and the Architect's consultants and subcontractors to comply with the requirements of this Agreement, but shall not have control over or charge of, and



shall not be responsible for, acts or omissions of any other persons or entities performing portions of the Work, including the Contractor and the Contractor's subcontractors.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 Evaluations of the Work

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

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

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

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

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

### § 3.6.3 Certificates for Payment to Contractor

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

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



or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

#### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

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

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

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

#### § 3.6.5 Changes in the Work

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

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

#### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,



- 4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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

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

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

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

#### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

##### § 4.1 Supplemental Services

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

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided (See 4.1.1.13)
§ 4.1.1.14 Conformed documents for construction	Architect

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Architect
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Owner
§ 4.1.1.22 Security evaluation and planning	Architect
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Architect
§ 4.1.1.31 Site Survey	Architect
4.1.1.32 Special Inspections and Geo-technical Services	Owner

#### § 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.)*

##### 4.1.1.1 Programming:

Architect shall provide programming as a supplemental service in order to describe needs and scope of work for the project.

##### 4.1.1.2 Multiple Preliminary Designs:

Architect shall provide up to three (3) preliminary floor plan designs and up to three (3) preliminary elevation designs during Schematic Design phase. If multiple designs are required and if necessary, the design schedule shall be adjusted accordingly and agreed to in writing by both parties. If greater than three (3) floor plans and or elevations are required by the Owner, the Architect's fee shall be adjusted accordingly and agreed to in writing by both parties for the additional work.

##### 4.1.1.8 Civil Engineering:

Architect shall provide civil engineering as a basic service.

##### 4.1.1.9 Landscape Design:

Architect shall provide landscape design as a supplemental service.

##### 4.1.1.10 Architectural Interior Design:

Architect shall provide Architecture Interior Design as a basic service to include selection and coordination of interior finishes and colors.



**4.1.1.13 Onsite Project Representation:**

No additional site visits during construction beyond construction site visits indicated in Section 4.2.3.2 will be provided.

Civil Engineer shall provide twelve (12) additional visits to the site during construction to review site development work.

**4.1.1.14 Conformed Documents for Construction:**

Architect shall provide Conformed Documents for Construction as a basic service. Conformed Documents shall include all addenda information issued prior to commencement of construction.

**4.1.1.16 As-Constructed Record Drawings:**

Architect shall provide As-Constructed Record Drawings as a supplemental service. Architect shall provide drawings to include bulletin information issued during construction and deviations in the work based upon red line marked drawings prepared by Contractor during construction.

**4.1.1.20 Architect's Coordination of the Owner's Consultants:**

Architect shall provide coordination with Owner, Owner's Consultants for Telecommunication/Data design, Geo-technical and Special Inspections as a supplemental service.

**4.1.1.22 Security Evaluation & Planning:**

Architect and Associate Architect shall evaluate, coordinate, plan and design security systems and security equipment related to this project as a supplemental service. Architect and Associate Architect shall coordinate locations and types of security equipment with Owner.

**4.1.1.28 Furniture, Furnishings and Equipment Design:**

As a supplemental service Architect shall coordinate interior furnishings and layout with Owner. Architect shall prepare bid documents and specify interior furnishings and assist Owner in soliciting, receiving bids and procuring interior furnishings from vendors and suppliers.

**4.1.1.30 Other Supplemental Services:**

Architect shall provide up to six (6) additional meetings, and Civil Engineer shall provide up to six (6) additional meetings for preparation and meeting with Owner for the purpose of informing public forums.

Architect shall provide an electronic 3D model rendering of the proposed building to be used by Owner for presentation and promotional purposes.

**4.1.1.31 Site Survey**

Civil Engineer shall provide an electronic site survey of the site as a part of supplemental services. Survey shall describe physical characteristics, legal limitations, rights-of-way, easements, encroachments, zoning, deed restrictions such as but not excluding structures, parking, streets, utilities, topography, boundaries, etc.

**§ 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.)*

**4.1.1.21 Telecommunications/Data Design:**

Owner shall coordinate, design, purchase and install all telecommunications/data design related to this project. Owner shall coordinate locations of telecommunications/data equipment and future locations of equipment with Architect so that utilities may be designed accordingly.

**4.1.1.23 Special Inspections and Geo-technical Services:**

Owner shall contract with a third party special inspection firm to provide material testing and special inspections as required by the North Carolina Building Code, current edition.

Owner shall contract with a third party Geo-technical Engineering firm to provide geo-technical exploration and subsurface test report.



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

#### § 4.2 Architect's Additional Services

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

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

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

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

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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



- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Twenty-four (24) visits to the site by the Architect during construction, Twenty (20) visits to the site by Civil Engineer during Construction. Additional visits to the site during construction will be made according to Section 4.1.1.13.
- .3 One (1) 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 One (1) inspections for any portion of the Work to determine final completion.
- .5 One (1) Pre-construction Conference.
- .6 Eleven (11) Monthly Construction Conferences.

§ 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 twenty-four ( 24 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

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

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

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

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

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

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

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



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

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

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

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service; provided, however, Owner shall have no obligation to investigate for the purpose of becoming aware or false, defects, errors, omissions, or inconsistencies.

§ 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 Not Used.

## 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 does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar



conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

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

§ 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.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of



action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

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

### § 8.1.3

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

### § 8.2 Mediation

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

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

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

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

*(Check the appropriate box.)*

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

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

**§ 8.3 Arbitration Not Used.**

*(Paragraph deleted)*

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**§ 8.3.1.1 Not Used.**

**§ 8.3.2 Not Used.**

**§ 8.3.3 Not Used.**

**§ 8.3.4 Consolidation or Joinder Not Used.**

**§ 8.3.4.1 Not Used.**

**§ 8.3.4.2 Not Used.**

**§ 8.3.4.3 Not Used.**

**§ 8.4 Not Used.**

**ARTICLE 9 TERMINATION OR SUSPENSION**

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

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

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

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

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

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

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

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

.1 Termination Fee:

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

A licensing fee shall be negotiated between Owner and Architect if Owner continues to use the Architect's instruments of service following termination of this agreement. The fee shall be determined upon the amount of work remaining to fully complete the project.

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

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

§ 10.10 The Architect hereby agrees to indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgements arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligations to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Agreement shall be limited to the available proceeds of the insurance coverage required by this 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)

Fixed Fee - \$444,600.00. The Fixed Fee includes Basic Services, Supplemental Services and Reimbursable Expenses related to Basic and Supplemental Services.

The Fixed Fee for Basic Services will not exceed the proposed fee for Basic Services of \$339,000.00 without written approval by both Owner and Architect.

The Fixed Fee for Supplemental Services will not exceed the proposed fee for Supplemental Services of \$92,200.00 without written approval by both Owner and Architect.

Reimbursable Expenses related to Base and Supplemental Services are included within the Fixed Fee as an allowance of \$13,400. Reimbursable Expenses will not be billed in excess of Basic and Supplemental Services. Reimbursable expenses related to any Additional Services will be billed in excess of the Additional Services as stipulated in 11.8.1 and 11.8.2 unless otherwise agreed upon in writing between Owner and Architect.

**.2** Percentage Basis  
(Insert percentage value)

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

**.3** Other  
(Describe the method of compensation)

**§ 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.)

Compensation for the Architect's Supplemental Services are included within Section 11.1.1 Stipulated Sum.

**§ 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.)

Additional Services may be negotiated as a Fixed Fee on a case by case basis or upon the hourly rate schedule listed in Section 11.7.

If additional site visits are required beyond what is described within Construction Administration and described within Section 4.2.3, fees for site visits are as follows.

Architect	\$400.00/per visit
Civil Engineer	\$400.00/per visit
Structural Engineer	\$500.00/per visit
PME Engineer	\$400.00/per visit

**§ 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 times Fifteen percent ( 15 %), or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

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

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	forty	percent (	40	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	nineteen	percent (	19	%)
Closeout Phase	one	percent (	1	%)
Total Basic Compensation	one hundred	percent (	100	%)

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

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on



those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

Hourly rates as listed in Section 11.3.

Employee or Category	Rate (\$0.00)
Principal – Project Manager	\$135.00
Principal – Project Architect	\$135.00
Architect – Consultant	\$130.00
Architect – Senior Registered	\$115.00
Architect – Registered	\$105.00
Interior Designer	\$100.00
Senior CAD Technician	\$85.00
Graphic Designer	\$80.00
CAD Technician	\$75.00
Administrative Assistant	\$60.00

**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are included within compensation for Basic and Supplemental Services.

Reimbursable expenses for Additional Services 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 times fifteen percent (15 %) of the expenses incurred.

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

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

## § 11.10 Payments to the Architect

### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0 \) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 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 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

8% % per annum

§ 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.)

NA

- .3 Exhibits:  
(Check the appropriate box for any exhibits incorporated into this Agreement.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this agreement.)

☐ 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.)

Init.



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

X Architect's Letter of Engagement dated July 20, 2020 and revised August 28, 2020.

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

OWNER *(Signature)*

Seth Eckard  
 Town Manager

*(Printed name and title)*

ARCHITECT *(Signature)*

Marty A. Beal, AIA, LEED AP BD+C  
 President

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

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

Finance Director

Date



**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Kim Cline, Tax Collector  
**Date:** September 8, 2020  
**Re:** 2019 Tax Collection

**REQUEST**

No action requested. Informational item only.

**BACKGROUND**

Each September, the Town's Tax Collector reports to the board tax collection figures of Real and Personal property for the most recent ending fiscal year.

In FY18 and FY19, the town saw a collection percentage of 96.09% and 96.94% respectively.

Entering the prior fiscal year (FY20) the Town had \$437,527 of outstanding taxes owed cumulatively across the previous 10 years.

**ANALYSIS**

As shown on the supporting Tax Collector report, the FY20 collection rate increased to 98.12% for Real and Personal property.

The Tax Collector is putting forth a concerted effort and instituting additional collection methods with the goal to once again increase the collection rate for FY21.

The large amount of outstanding taxes was actively addressed over the prior year and continues to be on staff's radar. During the prior year, staff is proud to report that \$170,674 of back taxes were collected.

Entering the current year, the Town now has an outstanding tax amount of \$249,231. This amount will continue to be actively pursued by the Tax Collector.

**RECOMMENDATION**

No action requested. Informational item only.

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

Is a Budget Amendment required?

Yes

☐

No

☒

**Tax Year 2019****Property Tax Statement Annual Settlement****Property Valuations**

Real Estate	300,768,451
Personal	82,815,169
Senior Citizen Exemptions	<u>(4,483,960)</u>
Total Property Valuation Subject to Tax Rate	379,099,660

**Levy**

	2,001,740
Discoveries	65,301
Late List Penalties	<u>469</u>
Total Levy	2,067,510

Less Collected as of 6/30/2019	2,016,898
Releases	11,722
Uncollected 2019	48,594
Ratio of Taxes Collected to Total Levy	<b>98.12%</b>

**Motor Vehicle**

Levy	191,701
2019 Collection by Burke County	190,583
Collection Costs	7,843

**COUNCIL AGENDA MEMO**

**To:** Town Clerk  
**From:** Bo D. Weichel / Finance Director  
**Agenda:** 09/08/2020

**REQUEST**

Approve the resolution designating First Citizens Bank an official depository.

**BACKGROUND**

Currently the Town uses Wells Fargo for banking services. This is no longer advantageous to the Town since Wells Fargo left their Valdese location.

**ANALYSIS**

The Town desires to bank with a local institution. There is only one local bank approved by the Local Government Commission for the Town to use as an official depository. After analyzing the banking services between this bank and our current bank, First Citizens proposed similar services and rates for the Town.

The Town will continue to bank with Wells Fargo for three to four months during a transition period to First Citizens.

**RECOMMENDATION**

Staff respectfully recommends that Council approve the resolution designating First Citizens Bank an official depository and other banking related services.

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

Is a Budget Amendment required?

Yes

☐

No

☒**LIST THE EXPENDITURE CODE:**

# TOWN of VALDESE

## RESOLUTION

### Designating First Citizens Bank an Official Depository

**WHEREAS**, G.S. 159-31(a) states that the governing board shall designate as its official depositories one or more banks or other financial institutions as authorized by that statute; and

**WHEREAS**, it is the desire of the Town Council that all public funds of the Town of Valdese, North Carolina (hereafter the "Town") be deposited in a secure, efficient and effective manner; and

**WHEREAS**, Wells Fargo was designated as an official depository for the town, and the town council desires to annul Wells Fargo's selection as an official depository for town funds; and

**WHEREAS**, it is the responsibility of the Finance Director, who is appointed by and serves at the pleasure of the Town Manager, to supervise the receipt, custody and disbursement of the public funds of the Town; and

**WHEREAS**, the Finance Director has evaluated proposals for Banking Services and has reviewed the financial soundness of the proposing financial institutions; and

**WHEREAS**, First Citizens Bank is qualified to be an official depository for the Town pursuant to G.S. 159-31 and has selected to secure its uninsured public deposits under the "Pooling Method", which is a collateral pool under which each public depositor's uninsured deposits are secured with securities held by the State Treasurer's agent in the name of the State Treasurer;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the Town of Valdese, North Carolina that:

**Section 1.** First Citizens Bank (hereafter the "Official Depository") is hereby designated as the official depository of the Town. The Finance Director of the Town shall be and is hereby authorized and directed to deposit funds of the Town in the Official Depository in the name and to the credit of the Town of Valdese, North Carolina.

**Section 2.** As required by G.S. 159-25(b), all checks, drafts, or orders of the Town drawn against said funds shall be authorized and signed as appropriate by the following (hereinafter the "Authorized Signers"):

- a. One of the following officers: Finance Officer, Tax Collector  
and countersigned by
- b. One of the following officers: Town Manager, Mayor, Mayor Pro Tempore,  
Treasurer

The names and signatures of the Authorized Signers shall be duly certified by the Clerk to the Town Council to the Official Depository as from time to time may be necessary and no check, draft, or order drawn against the Official Depository shall be valid unless so signed or authorized.

**Section 3.** Upon opening an account with the Official Depository, the Finance Officer must:

- a. Give written instructions that the proceeds from all checks payable to the order of the Town shall be deposited to the credit of the Town of Valdese, North Carolina and that under no circumstance may such an item be converted into cash.
- b. Verify the method currently used by the depository to collateralize the public deposits and stay informed of any change in methods as the result of conversions to a different method or as the result of merger of depositories;
- c. Execute such other forms and documentation with provisions consistent with this resolution as may be reasonably required by the Official Depository to establish the account;
- d. Report the amount of deposits and investments and such other information as may be required on the semi-annual reports on form LGC 203 required to be filed with the Local Government Commission pursuant to G.S. 159-33; and
- e. Comply with other requirements of law, regulation or sound banking practice and with any requirements described in the State Treasurer's publication, The Collateralization of Public Deposits in North Carolina.

**Section 4.** Certified copies of this resolution shall be provided to the Official Depository herein designated.

THE FOREGOING RESOLUTION IS ADOPTED THIS 8<sup>th</sup> DAY OF SEPTEMBER, 2020.

\_\_\_\_\_  
John F. Black, Jr., Mayor

ATTEST:

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

(corporate seal)



# TOWN OF VALDESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

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

## **Memorandum**

To: John Black, Mayor  
Valdeese Town Council

From: Greg Padgett, Public Service Director

Date: September 8, 2020

Subject: Amended Offer and Acceptance for Bleach Conversion

Staff is recommending the approval of the amended "Funding Offer and Acceptance" for the project to convert the water plant disinfection source from chlorine gas to liquid bleach. The offer was amended due to bids coming in higher than originally estimated. The increase in funding is a loan. The new loan amount is \$718,398. Total project cost is \$882,973, with \$164,575 being principal forgiveness. This project was identified in the 10-year capital improvements plan and approved by Council previously. This project will replace the existing chlorine gas with liquid bleach. Liquid bleach is both safer for the staff and citizens in the immediate area.

Please, feel free to email me or call with any questions or clarifications prior to the council meeting.

**STATE OF NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER INFRASTRUCTURE**

**Funding Offer and Acceptance**

**Legal Name and Address of Award Recipient**

**Project Number:**

**H-SRP-D-18-0163**

Town of Valdese  
P.O. Box 339  
Valdese, North Carolina 28690

Drinking Water	<input checked="" type="checkbox"/>	Additional Amount for	Previous Total	Total Offered
Wastewater	<input type="checkbox"/>	Funding Increases		
State Revolving Fund (SRF)	<input type="checkbox"/>			
State Reserve Loan (SRP)	<input checked="" type="checkbox"/>	\$224,673	\$493,725	\$718,398
State Reserve Grant (SRP)	<input checked="" type="checkbox"/>		\$164,575	\$164,575
State Emergency Loan (SEL)	<input type="checkbox"/>			
Asset Inventory & Assessment Grant (AIA)	<input type="checkbox"/>			
Merger/Regionalization Feasibility Grant (MRF)	<input type="checkbox"/>			

**Project Description:**

Removal of the existing gaseous chlorine disinfection equipment and replacement with sodium hypochlorite ('bleach') disinfection equipment including: a chemical storage building with overhead door, a fill station, bulk storage tanks and day tanks with appropriate secondary containment, transfer and metered-dose chemical feed pumps and related HVAC, instrumentation and control equipment.

**Total Financial Assistance Offer:**

**\$ 882,973**

**Total Project Cost:**

**\$ 882,973**

**Estimated Closing Fee\*:**

**\$ 16,837**

For Loans

**Principal Forgiveness:**

**\$ \_\_\_\_\_**

**Interest Rate:**

**0% Per Annum**

**Maximum Loan Term:**

**20 Years**

*\*Estimate closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Kim H. Colson, P.E., Director, Division of Water Infrastructure  
North Carolina Department of Environmental Quality**

Signature

Date

On Behalf of:

**Town of Valdese**

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

Signature

Date



# TOWN OF VALDESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

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

## **Memorandum**

To: John Black, Mayor  
Valdeese Town Council

From: Greg Padgett, Public Service Director

Date: September 8, 2020

Subject: Water AIA Contract

Staff recommends approval of the contract with McGill and Associates for the Water System AIA (Asset Inventory Assessment) Project. The grant is for a total of \$150,000. The town is required to provide a 5% match on the project, this amount can and will be met with labor. There will be a 1.5% grant fee that the town will be incurred as a result of the project.

Please, feel free to email me or call with any questions or clarifications prior to the council meeting.



August 25, 2020

Mr. Seth Eckard, Manager  
 Town of Valdese  
 Post Office Box 339  
 Valdese, North Carolina 28690

RE: Asset Inventory and Assessment Project  
 Engineering Assistance  
 Town of Valdese, North Carolina

Dear Mr. Eckard:

Pursuant to your request, McGill Associates is pleased to submit this proposal to provide professional services related to the Water Asset Inventory and Assessment (AIA) Grant project (No. H-AIA-D-20-0203).

We understand that this effort will assist the Town with updates to its GIS mapping system, Asset Management Plan, development of more robust protocols for water system rehabilitation and replacement, advancement of the Town's hydraulic model, and ultimately updates to the Town's Capital Improvements Plan. We also understand that certain elements of this work will require coordination with Town Staff as equipment purchases are made and also with the WPCOG as mapping updates are implemented.

In keeping with the above understanding, we propose the following scope of services:

### **Scope of Services**

- Update Water System Mapping Attributes..... \$ 25,000
  - GPS assistance with Town's field locates
  - Assist WPCOG with data updates of the Town's mapping attributes
  - Advise the Town and WPCOG on GIS database modifications for new attributes to log break histories, customer complaints and operational issues
- ***Town Task: Field Locates (Soft Digs)***
- ***Town Task: Catalog Break Histories, Customer Complaints & Operational Issues***
- Update 2010 Asset Management Plan ..... \$ 35,000
- Develop Preemptive Rehab/Replacement Protocols in GIS ..... \$ 20,000
- ***Town Task: Purchase, Install and Monitor Pressure Loggers***
- Enhance Water Distribution System Model..... \$ 35,000
- Identify Specific Improvement Projects..... \$ 20,000
- Update Town's CIP to Prioritize Water System Projects ..... \$ 15,000

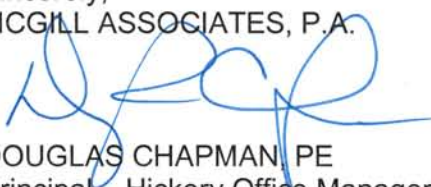
**Key Project Assumptions and Exclusions:**

- Necessary project information will be provided by the Town in a timely manner.
- Tasks noted to be performed by the Town of Valdese are anticipated to be performed in the sequence identified above. If the Town desires assistance with these "Town Tasks", we would be available to assist on an hourly basis in accordance with our Basic Fee Schedule.
- Town staff will examine all reports, estimates, and other documents presented and render decisions and comments pertaining thereto within a reasonable time so as not to delay the services.
- Payment for services shall be made monthly as work progresses.

**Basis of Compensation**

Based on the understanding, scope and assumptions stated above, McGill proposes to provide these services for a **Lump Sum Fee of \$150,000**. Our fee would be invoiced monthly based on progress. We look forward to assisting the Town with this very important effort and can begin our services within thirty days (30) of your written authorization. If you find this proposal acceptable, please return an executed copy and a consulting services agreement as your authorization to proceed.

Sincerely,  
MCGILL ASSOCIATES, P.A.

  
DOUGLAS CHAPMAN, PE  
Principal – Hickory Office Manager

Enclosures: Basic Fee Schedule  
Consulting Services Agreement

**ACCEPTANCE:**

This proposal is accepted this, the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

TOWN OF VALDESE

\_\_\_\_\_  
Seth Eckard, Town Manager

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Date



## CONSULTING SERVICES AGREEMENT

This contract entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the Town of Valdese hereinafter called the Client, and McGill Associates, P.A.;

Witnesseth that:

Whereas, the Client desires to engage McGill Associates to provide consulting services; and,

Whereas, the Client finds that the attached Scope of Services and terms of this agreement are acceptable; and,

Whereas, McGill Associates desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

Now, therefore, the parties hereto do mutually agree as follows:

**1. Scope of Services:** McGill Associates shall provide the services attached hereto in the Exhibit "Scope of Services" to this Agreement, hereinafter called services. Additional services will be invoiced in accordance with the attached rate and fee schedule.

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

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

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

**5. Compensation:** The Client shall pay the compensation to McGill Associates set forth in the Exhibit "Basis for Compensation" attached hereto. Unless otherwise provided in the Basis for Compensation, McGill Associates shall submit invoices to the Client monthly for work accomplished under this agreement and the Client agrees to make payment to McGill Associates within thirty (30) days of receipt of the invoices. Client further agrees to pay interest on all accounts invoiced and not paid or objected to for a valid cause in writing within said thirty (30) days at a rate of 1-1/2 percent per month (18 percent per annum), until paid. Client agrees to pay McGill Associates' cost of collection of the amounts due and unpaid after sixty (60) days, including but not limited to, court costs and attorney's fees. McGill Associates shall not be bound by any provision such as contained in a purchase order or wherein McGill Associates waives any rights to a mechanic's lien or any provision conditioning McGill Associates' right to receive payment for its work upon payment to the Client by any third party. These general conditions are notice, where required, that McGill Associates shall file a lien whenever necessary to collect past due amounts. The Client agrees that failure to make payment in full within thirty (30) days of receipt of the invoice shall constitute a release of McGill Associates from any and all claims of negligence which Client may have. It is also mutually agreed that should the Client fail to make prompt payments as described herein, McGill Associates reserves the right to immediately stop all work under this agreement until disputed amounts are resolved.

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

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

**8. Termination:** This Agreement may be terminated for convenience by either the Client or McGill Associates with 15 days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such non-performance within 5 days of written notice and diligently complete the correction thereafter. On termination,

Client: Town of Valdese  
Authorized Signature:

Print Name: Seth Eckard  
Town Manager  
Post Office Box 339  
Valdese, North Carolina 28690

McGill Associates will be paid for all authorized work performed up to the termination date plus reasonable project closeout costs.

**9. Limitation of Liability:** McGill Associates liability for Client's damages will, in aggregate, not exceed \$50,000. This provision takes precedence over any conflicting provision of this Agreement or any documents incorporated into it or referenced by it. This limitation of liability will apply whether McGill Associates liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include McGill Associates' directors, officers, employees and subcontractors. At additional cost, Client may obtain a higher limit prior to commencement of services.

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

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

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

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

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

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

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

**17. Attachments to this document:**

1. Proposal including Scope of Services and Basis of Compensation
2. Fee Schedule

McGill Associates, P.A.

Print Name: Douglas Chapman, PE  
Principal-Hickory Office Manager  
1240 19<sup>th</sup> Street Lane, NW  
Hickory, North Carolina 28603

## BASIC FEE SCHEDULE

JANUARY 2020

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

### 1. EXPENSES

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

### 2. ASSOCIATED SERVICES -

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

## **Memorandum**

To: John Black, Mayor  
Town Council  
Seth Eckard, Manager

From: Larry Johnson, Planning Director

Date: September 4, 2020

Subject: Triple Community Property Purchase

During the August Council meeting, Town Council agreed to surplus the Valdese Triple Community Water property. Following that decision, staff advertised and entertained offers to purchase the 2.65-acre parcel.

After receiving numerous inquiries, the staff receives only one offer. The adjoining property owners, Brandon and Michelle Settlemyre, of the Settlemyre Nursery, would like to pursue purchasing Triple property from the Town. Since 1973, a portion of the Triple property has been leased by Settlemyre Nursery. Brandon and Michelle Settlemyre have presented an offer to purchase the Triple property for \$325,000.00. The current property value \$328,126.00.

Staff recommends acceptance of the offer. If the Council supports the staff's recommendation, a resolution authorizing upset bids must be approved by the Council.



RESOLUTION AUTHORIZING UPSET BID PROCESS  
(Sale of Triple Community property)

WHEREAS, the Town of Valdese owns certain property located at 1492 Drexel Road in Valdese, NC, which is described as follows:

BEGINNING on an iron pipe on the east side of the High Peak Road, the most northern corner of the Lloyd Settlemyre lot, and runs thence North 13°27' East with the road 169.75 feet to an iron pipe on the east edge of the road; thence South 76° 19' East 263.69 feet to an iron pipe; thence South 8°50' East 453.21 feet to an iron pipe at the branch; thence up the branch South 74° 53' West 146.96 feet to a rock, an old corner of the M.L. Stamey land; thence North 84° West with the old line 52 feet to an iron pipe at the Settlemyre corner; thence with the Settlemyre line North 62° West 124 feet to the BEGINNING, containing 2.65 acres, more or less, as surveyed and platted by E.A. Mallonee on April 10, 1965; and

BACK REFERENCE: Parcel 1, Tract 1 of Book 1735, page 641, Burke County Registry.

REID NO.: 38526, PIN NO.: 2723623951

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

WHEREAS, the town has received an offer to purchase the property described above, in the amount of \$325,000, submitted by Brandon Settlemyre and Michelle Settlemyre; and

WHEREAS, Brandon Settlemyre and Michelle Settlemyre have paid the required five percent (5%) deposit of their offer;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF VALDESE RESOLVES THAT:

1. The town council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute §160A-269.
2. The town clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the town clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the town clerk shall open the bids, if any, and the highest such bid will become the new offer. If

there is more than one bid in the highest amount, the first such bid received will become the new offer.

4. If a qualifying higher bid is received, the town clerk shall cause a new notice of upset bid to be published and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the town council.

5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000 of that offer and five percent (5%) of the remainder of that offer.

6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made by cashier's check or by certified check. The town will return the deposit on any bid not accepted and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The town will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that:

(a) the town council must approve the final high offer before the sale is closed, which it will do within thirty (30) days after the final upset bid period has passed, and

(b) the buyer must pay the purchase price in certified funds at the time of closing; and

(c) the property shall be sold subject to all existing easements.

8. The town reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject all bids at any time.

THIS RESOLUTION IS ADOPTED SEPTEMBER 8, 2020.

TOWN OF VALDESE

By: \_\_\_\_\_  
John F. Black, Jr., Mayor

ATTEST:

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

(Town seal)

## Valdese Town Council Meeting

Tuesday, September 8, 2020

Capital Project Ordinance Amendment # 1-58

Subject: Water Plant Bleach Conversion

Description: To amend capital project ordinance Fund 58  
 The original CPO was approved at the January 7, 2019 meeting.  
 In accordance with the amended funding offer and acceptance from the Division of Water Infrastructure, this will increase the loan amount \$224,823 and the loan fee \$4,494. The interest rate remains at 0% for this loan.  
 This amendment is necessary due to the lowest bid coming in higher than projected for this 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
58.3970.000	Valdese Utility Fund		4,494
58.3480.001	State Reserve Loan		224,823
Total		\$0	\$229,317

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
58.8100.760	Construction	224,823	
58.8100.042	Loan Admin Fee	4,494	
Total		\$229,317	\$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.

## Capital Project Ordinance Amendment # 1-56

Subject: Water Meter Replacement project

Description: To amend capital project ordinance Fund 56  
 The original CPO was approved at the August 6, 2018 meeting  
 This is to account for change order #1 (detailed below) approved by the Division of Water Infrastructure. The amount will increase the overall approved reimbursable portion of the loan amount.

- Additional 5/8" and 1" meters to accommodate additional service points needed in the Triple service territory.
- Additional 1" meters required for Project due to unanticipated number of 1" meters in the Triple service territory.
- Additional Meter Radios (Mi.Nodes) and Through-the-Lid antennas (TTLA) to install the additional meters from above.
- Purchase of 2" Solid State meter for specific customer Icard Water Corporation, due to usage history and analysis.
- Additional 5/8", 1", 1.5", and 2" meters, associated equipment, and labor cost to finish project meter deployment. Additional meters needed due to miscalculation on material needs at the beginning of the project.
- Additional/miscellaneous parts and materials need to complete non-standard large meter installations. Parts needed to accommodate meters with different lay lengths or damaged infrastructure not accounted for as a standard like-for-like installation.

## 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
56.3480.002	SRP Loan		165,000
56.3480.000	Loan Closing Fee		44,358
Total		\$0	\$209,358

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
56.8120.041	Administration	88,358	
56.8120.760	Construction	121,000	
Total		\$209,358	\$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.

## Valdese Town Council Meeting

Tuesday, September 8, 2020

## Capital Project Ordinance Amendment # 2-35

Subject: Public Safety building

Description: To amend capital project ordinance Fund 35  
This recognizes a \$25,000 revenue distribution from the ABC Board net profits from FY 19-20. These funds will be saved to the Public Safety building project to help cover upfront costs such as architect fees.

## Proposed Action:

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

## Section I:

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

Account	Description	Decrease/ Debit	Increase/ Credit
35.3480.001	Distributions		25,000
Total		\$0	\$25,000

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
35.5300.040	Professional Services	25,000	
Total		\$25,000	\$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.