



**LINCOLNTON
AGENDA
March 6, 2025
7:00 PM**

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

1. AGENDA APPROVALS

1a Approval of REGULAR AGENDA

1b Approval of CONSENT AGENDA

- February 6, 2025 - Regular Meeting Minutes
- Lincoln County Tax Department - Request for Release for January 16, 2025 - February 15, 2025
- Retirement Recognitions - Effective March 1, 2025

William C. Harrelson, Jr. - 33 Years of Service - Waste Water Treatment Plant

Dennis R. Harris - 21 years of Service - Police Department

William K. Lovingood - 12 Years of Service - Electric Department

- Resolution to surplus LPD Captain Dennis Harris's Service Gun and Badge
- Proclamation
"Women's History Month" 2025

PUBLIC COMMENT

Speakers will be limited to three (3) minutes to address Mayor and City Council. You must sign in with the City Clerk to be eligible to speak

2. PUBLIC HEARINGS

2a ZTA-1-2025 Zoning Text Amendments to Chapter 153 Unified Development Ordinance

Jean Derby, Planning Director

**114 WEST SYCAMORE STREET • P.O. BOX 617 • LINCOLNTON, NORTH CAROLINA 28093-0617
PHONE (704) 736-8980**

3. REGULAR AGENDA

3a Contract for Engineering and Surveying Services - TGS Engineers

Jean Derby, Planning Director

3b IT-003 Ocean10 "Tsunami" 3 Yr Proposal

Chris Jones, Technology & Innovation Director

3c IT-004 Uplink Logistics-142 Ross St.-3 Yr Proposal- Uplink

Chris Jones, Technology & Innovation Director

4. REGULAR AGENDA

4a Budget Amendment to the Annual Budget Ordinance for Fiscal Year ending June 30, 2025

Pamela McBryde, Finance Director

4b Request to Approve a Proposed Uniform Guidance Procurement Policy

Pamela McBryde, Finance Director

4c Prequalification Resolution for bidders on construction & repair projects.

David Ramsey, Business Services Director

5. OTHER BUSINESS

5a Administrative Policy #25 Pregnant Workers Fairness Act

Tanya Osborne, Human Resources Director

5b Manager's Report / Activity Update

Ritchie Haynes, City Manager

NEWS MEDIA

6. CLOSED SESSION

In accordance with G.S. 143-318.11(a)(5) to establish or instruct staff or agent concerning the negotiation of a price and terms of a contract concerning the acquisition of real property

ADJOURNMENT

REGULAR MEETING – FEBRUARY 6, 2025

The Lincolnton City Council met in Regular Session on Thursday, February 6, 2025, at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC.

The following Council members were present and accounted for:

DEMENY JOHNSON TIPTON JETTON

Prior to leading the pledge of allegiance, Mayor Ed Hatley acknowledged the unexpected loss of Ms. Johnny McClain, an almost twenty-year city employee, asking that she be remembered during the moment of silence.

Councilmember Roby Jetton made a motion to approve the REGULAR AGENDA as presented. Members voted 4-0 in favor of the motion.

Councilmember Kevin Demeny made a motion to approve the CONSENT AGENDA items as follows:

- January 9, 2025 – Regular Meeting Minutes
- January 15, 2025 – Minutes from the Joint Meeting with Lincoln County and LEDA
- Lincoln County Tax Department – Request for Release for December 16th – January 15, 2025
- Approval of Records Retention and Disposition Schedules – Program Records & General Records Schedule
- Resolution Adopting Cleveland Gaston Lincoln Regional Hazard Mitigation Plan

Members voted 4-0 in favor of the motion.

PUBLIC COMMENT

Mayor Ed Hatley opened the public comment. Mr. Frank Keenan commended the utilities department/electric crew for their quick response to a concern regarding a low electric line. City Manager Ritchie Haynes responded to his request for an update on the City Park project and if an consideration has been given to renaming the park. Mr. Allen Hoyle addressed council during this portion of the meeting and posed a question to the members of the board. He express his view on a variety of issues reigning from the controversy over genders to individuals that have been adversely affected by taking the COVID shot.

SPECIAL PRESENTATION

Chief Brian Greene and Major Robert McAllister presented Officer John Delany with his Intermediate Certificate. Chief Greene spoke to the amount of work and dedication that goes into obtaining this certificate. The certificate is offered through the North Carolina Criminal Justice Education and Training Standards Commission and requires a combination of education, training and experience.

Mayor Ed Hatley presented the following proclamation to Mr. Jamel Farley and Mary Frances White celebrating February as Black History Month 2025:

**CELEBRATING FEBRUARY as
BLACK HISTORY MONTH 2025**

WHEREAS, during Black History Month we honor the extraordinary contributions made by African Americans through the history of our Republic, and we renew our commitment to liberty and justice for all; and

WHEREAS, during Black History Month we recognize the achievements of African Americans and their role in shaping history along with the contributions that African Americans have made to enhance the economic, cultural, spiritual and political development of our Country; and

WHEREAS, during Black History month we recognize the essential role of African Americans in shaping the story of America and honor their courage and contributions; and

WHEREAS, the omission of much of the history and contributions of African Americans from textbooks and other literature has impeded awareness and appreciation; and

WHEREAS, the celebration of Black History Month is a positive way of recognizing the culture and history of African Americans as vital to the core beliefs and values of this society; and

WHEREAS, observing Black History Month provides opportunities to gain a deeper understanding of African American history and acknowledge the centuries of struggles for equality and freedom.

NOW, THEREFORE, THE LINCOLNTON CITY COUNCIL does hereby proclaim and declare the month of February as “Black History Month” in Lincolnton, North Carolina, and further encourages all citizens to observe the month with appropriate programs, ceremonies, and activities.

Adopted on this 6th day of February, 2025.

PUBLIC HEARING

CZ-1-2025

Application from William Clayton/Sentry Rentals requesting a conditional district rezoning of approximately 1.94 acres of land from Neighborhood Business (NB) to General Manufacturing and Commercial (GMC) for the purpose of constructing a warehouse. The subject property is located on the north side of East NC 27, approximately 1000 ft east of the intersection of East Main Street & East NC 27 Highway (Parcel ID 87879,23626, 26773 and 24900)

Mayor Ed Hatley opened the public hearing and recognized Jean Derby, Planning Director, to speak to the item.

Ms. Jean Derby reviewed the details of the application explaining the existing zoning as Neighborhood Business (NB), and stating that the property is located on NC Hwy. 27. Ms. Derby informed that the proposed zoning is General Manufacturing and Commercial Conditional District (GMC-CD), for a warehouse for storage and delivery of incontinence and nutrition products throughout North Carolina.

Ms. Derby provided an aerial view, as well as several street views of the property, noting the left side being predominantly commercial and the right side predominantly residential. She explained how the current land use plan shows the property and that staff does not recommend amending the land use plan, since they feel that it is consistent. A site plan was provided as Ms. Derby communicated the details of the proposed building and site. She also disclosed the proposed business days and hours.

Ms. Derby spoke to the various conditions of approval from the Staff Review Committee. She noted that since this would be a conditional zoning, it will have an expiration date of 5 years from the date of approval, and that any adjustments to the conditions of approval that do not affect the overall layout of the site plan and that are technical in nature, can be approved by the department making the comment/condition.

REGULAR MEETING – FEBRUARY 6, 2025

Ms. Derby reviewed the statements of proposed consistency and reasonableness for both approval and denial. She informed that the Planning Board voted 6-0 in favor of recommended approval and the following actions:

- Recommend approval of rezoning of the property from NB to GMC(CD)
- Approve the statement of consistency and reasonableness for approval of the rezoning request
- Zoning be effective upon receipt of signed conditions of approval

There was one question regarding the difference between the current zoning and the proposed zoning. The applicant was in attendance but did not wish to speak unless there were questions from council.

Councilmember Jill Tipton made a motion to close the public hearing. Members voted 4-0 in favor of the motion.

Councilmember Kevin Demeny made a motion to approve as recommended by the staff. Members voted 4-0 in favor of the motion.

REGULAR AGENDA

Consideration of a Request to Adopt and Economic Incentive Grant Agreement between the City of Lincolnton and SPANTEK

Mr. John Dancoff with the Lincoln Economic Development Association addressed the Council to present a request for a Lincolnton Economic Incentive Grant. Mr. Dancoff informed that he was representing SPANTEX, existing industry within the city. He provided some general information about the company, and explained that the request would be used for the construction of a 20,000 ft warehouse addition, the installation of a new 10ft expanded metal grading line and a new stamping press. He also read a portion of the agreement into their hearing. The resolution to adopt an economic incentive grant agreement with SPANTEK was presented as follows:

WHEREAS, the Lincolnton City Council verily believes that it is in the best interests of the citizens of the City of Lincolnton to encourage and support economic development within the City of Lincolnton through the recruitment of new industries to the City and the expansion of existing industries in the City; and

WHEREAS, Spantek, have developed plans for expansion of the manufacturing facility in the City of Lincolnton; and

WHEREAS, the City Council wishes to encourage such development by

REGULAR MEETING – FEBRUARY 6, 2025

means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln City Council hereby approves the City of Lincoln Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among City of Lincoln and Spantek.

2. The Mayor of the City of Lincoln and the Clerk to the Council are hereby authorized to sign all necessary documents on behalf of the City of Lincoln in order to effectuate this transaction.

3. This resolution shall become effective upon adoption.

This 6th day of February, 2025.

Councilmember Roby Jetton made a motion to adopt the resolution to approve the agreement. Members voted 4-0 in favor of the motion.

Councilmember Kevin Demeny made a motion to approve the agreement as submitted. Members voted 4-0 in favor of the motion.

Presentation of the Fiscal Year 2023-2024 Audit Report

Ms. Carol Avery with Lowdermilk Church & Co., was in attendance to present the prior year's audit.

Ms. Avery began by informing council members that the City's audit had been sent to, and approved by the LGC. She stated that the City received the required unqualified opinion. Ms. Avery reviewed the highlights as follows:

CITY OF LINCOLN

Financial Highlights Years Ended June 30, 2024 and 2023

REGULAR MEETING – FEBRUARY 6, 2025

	2024 Summarized Budget	2024	2023
<u>General Fund (Includes Powell Bill Funds)</u>			
Total assets		\$ 16,086,978	\$ 14,035,048
Fund balance		\$ 14,081,447	\$ 11,490,337
Fund balance - Reserved for Streets - Powell Bill (included in total fund balance)		\$ 437,048	\$ 361,415
Total revenue	\$ 18,800,280	\$ 19,757,640	\$ 15,228,964
Total expenditures	\$ 20,232,051	\$ 18,589,044	\$ 15,001,482
Revenues over (under) expenditures before other financing sources (uses)		\$ 1,168,596	\$ 227,482
Other income (expense)	\$ 1,431,776	\$ 1,415,371	\$ 4,278,871
Increase (decrease) in fund balance		\$ 2,583,968	\$ 4,506,353
Increase (decrease) in inventory		\$ 7,140	\$ (1,910)
Ad valorem taxes collected		\$ 7,948,518	\$ 5,801,889
Percent of taxes collected - current year levy		98.71%	98.41%
Investment income		\$ 668,183	\$ 338,920
Fund Balance Available - without Powell Bill			
Available Fund Balance		\$ 12,138,905	\$ 9,776,733
Expenditures and other financing sources and uses		17,288,137	13,657,280
Available Fund Balance % - without Powell Bill		70.22%	71.59%
Fund Balance Available			
Available Fund Balance		\$ 12,575,953	\$ 10,138,148
Expenditures and other financing sources and uses		17,577,123	13,927,004
Available Fund Balance %		71.55%	72.79%
Minimum threshold - 25%			
Average for similar units		46%	46%

* 8.33% represents enough fund balance to cover one month of expenditures

REGULAR MEETING – FEBRUARY 6, 2025

<u>Water and Sewer Fund</u>	<u>2024</u>	<u>2023</u>
Total assets	\$ 34,655,793	\$ 33,679,884
Net position	\$ 30,143,106	\$ 29,154,366
Operating revenue	\$ 8,765,754	\$ 8,136,842
Operating expenses	\$ 8,212,526	\$ 7,721,494
Operating income (loss)	\$ 553,228	\$ 415,348
Nonoperating revenue (expenses)	\$ 804,610	\$ 220,732
Transfers (to) from	\$ (369,099)	\$ (389,222)
Change in net position	\$ 988,740	\$ 246,858
Accounts receivable - customers	\$ 694,866	\$ 699,049
Investment income	\$ 399,667	\$ 248,825
Days sales in accounts receivable	32.21	33.09
<u>Funds Balance Available</u>		
Available fund balance	\$ 8,575,874	\$ 6,866,455
Expenditures and other financing sources and uses	8,625,160	8,168,888
Available fund balance %	99.43%	84.06%
<u>Electric Fund</u>		
Total assets	\$ 12,329,096	\$ 11,015,945
Net position	\$ 10,481,825	\$ 9,429,493
Operating revenue	\$ 7,933,220	\$ 7,701,699
Operating expenses	\$ 7,143,358	\$ 6,926,574
Operating income (loss)	\$ 789,862	\$ 775,125
Nonoperating revenue	\$ 296,822	\$ 136,943
Transfers (to) from	\$ (34,351)	\$ (30,465)
Change in net position	\$ 1,052,332	\$ 881,602
Accounts receivable - customers	\$ 582,394	\$ 524,842
Investment income	\$ 297,494	\$ 156,780
Days sales in accounts receivable	31.09	28.89
<u>Funds Balance Available</u>		
Available fund balance	\$ 6,168,193	\$ 4,908,027
Expenditures and other financing sources and uses	7,178,381	6,957,403
Available fund balance %	85.93%	70.54%
	<u>2024</u>	<u>2023</u>
<u>Component Unit</u>		
Lincolnton Tourism Development Authority		
Total assets	\$ 568,584	\$ 637,285
Net position	\$ 568,584	\$ 636,959
<u>Cash and Investments</u>		
Cash	\$ 30,271,442	\$ 25,159,669
Restricted Cash	916,096	1,124,073
Total cash	<u>\$ 31,187,538</u>	<u>\$ 26,283,742</u>
Total cash includes:		
Special Revenue Fund/State	\$ -	\$ 312,697

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There was some discussion regarding the City's current financial condition and income from investments. Ms. Avery commended the Pam McBryde, the Finance Director, and the City's finance department for the excellent work they do that makes her job easier.

BA-02-25

Request for Amendment to the Annual Budget Ordinance for fiscal year ending June 30, 2025

Finance Director Pamela McBryde presented a budget amendment as follows:

BE IT ORDAINED by the Governing Board of the City of Lincolnton, North Carolina, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2025.

Section 1: To amend the General Fund, the expenditures are to be changes as follows:

General Expense	\$	60,159
Police	6,681	
Solid Waste	560	
Planning/Zoning	1,475	
	\$	68,875

Section 2: To amend the General Fund, the revenues are to be changed as follows:

PD: Controlled Substance Tax	\$	6,681
SW: Rollout Fees	560	
General: Cemetery Lot Sales	2,375	
P&Z: Zoning Department Fees	1,475	
General: Interest	56,149	
General: Insurance Settlement	1,635	
	\$	68,875

General Fund: NCDOR Controlled Substance Tax, Misc Revenues for the P&Z and Solid Waste departments, Interest income, Insurance/Repair Settlements from: (1) NC Farm Bureau-Trash Receptable damage; (2)State Farm-Flint Street Pole damage &

Section 3: To amend the Powell Bill Fund, the expenditures are to be changes as follows:

Powell Bill Construction/Other	\$	104,228
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Section 4: To amend the Powell Bill Fund, the revenues are to be changed as follows:

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Powell Bill Allocation	102,259	
Investment Income	\$	1,969
	\$	104,228

Powell Bill Fund: Record interest income earned & final installment true-up.

Section 5: To amend the Water and Sewer Fund, the expenditures are to be changes as follows:

Distribution and Collection	\$	2,010
Wastewater Treatment Plant	34,678	
	\$	36,688

Section 6: To amend the Water and Sewer Fund, the revenues are to be changed as follows:

Investment Income	\$	34,628
Connection Charges	2,010	
Other Operating Revenues	50	
	\$	36,688

Water and Sewer Fund: Freedom Equals Realty Group LLC connection fees, miscellaneous water fee, and Interest income earned.
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Section 7: To amend the Electric Fund, the expenditures are to be changes as follows:

Electric Operations	\$	36,346
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Section 8: To amend the Electric Fund, the revenues are to be changed as follows:

Investment Income	\$	26,488
Other Operating Revenue	9,858	
	\$	36,346

Electric Fund: Interest income earned, Electric meter charges, and Insurance settlement from State Farm-Flint Street pole damage.
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Section 9: To amend the Special Revenue Fund, the expenditures are to be changed as follows:

AIA Grants-Water-D-ARP-0243	\$	2,400
	\$	2,400

Section 10: To amend the Special Revenue Fund, the revenues are to be changed as follows:

AIA Grants-Water-D-ARP-0243	\$	2,400
	\$	2,400

Special Revenue Fund: Record NCDEQ-AIA Grant Reimbursements for WasteWater.

Section 17: Copies of this Budget Ordinance shall be furnished to the Clerk to the Governing Board and to the Budget Officer and Finance Director to be kept on file by them for their direction in the disbursement of funds.

Adopted this 6th day of February, 2025

Councilmember Jill Tipton made a motion to approve the budget amendment. Members voted 4-0 in favor of the motion.

Councilmember Jill Tipton made a motion to approve the policy. Members voted 4-0 in favor of the motion.

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REGULAR MEETING – FEBRUARY 6, 2025

Mr. Trent Mason, Chair of the Young Adult Committee, gave a detailed update on the success of the Apple Drop Event. Mr. Mason provided both images and statistics of the event, and emphasized what a great investment it was for the City. He spoke to all of the positive feedback received regarding all of the different component that were included. He acknowledged everything done and all of the work that went into making it a success. He also spoke to the vast number of people that helped. Young Adult Committee members, DDA members, SAC members, City employees and volunteers.

Mr. Mason did a comparison of the event, from the very first Apple Drop that took place in 2018 to present. He pointed out the differences each year, highlighting the growth regarding both attendance/participation and the event itself. Mr. Mason mentioned the City's investment into Pacer AI, which allowed them to obtain the data necessary to show the number of people where in the downtown at that time and where they are coming from. He also spoke to the monetary donation that will be given to the Lincoln County Animal Services and the Hesus House made possible because of the cash donations raised in the history of the event.

Mr. Mason provided an overview of the many free activities attendees could choose to enjoy, and he stressed what a "hit" Lincoln Express train was. He informed that two restaurants and five retail stores expended their hours and were open for the event, and that there was no "give away's" left at the end of the night. He provided some of the social media feedback received from some of those that attended the event.

In conclusion, Mr. Mason thanked Mayor Hatley and the City Council members for allowing and supporting the event. He thanked Betty Flohr, DDA Director for her guidance, the Young Adult Committee, LTDA, City Street and Electric Department, Local Roots, Untapped, Recreation Department, Student Advisory Council, City Police, Fire Department, and all others that helped.

Resolution Ordering the Lincoln County Tax Administrator to Advertise Tax Liens for 2024

City Manager Ritchie Haynes presented the following resolution to be adopted. He explained this action will give the Lincoln County Tax Administrator the authority to advertise any delinquent city taxes in the Lincoln Times Newspaper. Resolution read as follows:

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WHEREAS, pursuant to N.C.G.S. §105-369 (a), in February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property; and

WHEREAS, the County tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February, and upon receipt of that report, the governing body must order the tax collector to advertise the tax liens; and

WHEREAS, pursuant to N.C.G.S. §105-369(b), after the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the record owner of each affected parcel of property, as determined as of the date the taxes became delinquent and said notice must be sent to the owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published; and

WHEREAS, Lincoln County and the City of Lincolnton have entered into an Interlocal Agreement for Tax Collection wherein the City of Lincolnton is required to appoint the Lincoln County Tax Administrator as the Tax Administrator for the City of Lincolnton; and

WHEREAS, the City of Lincolnton has duly appointed the Lincoln County Tax Administrator as the Tax Administrator, serving as the tax collector, for the City of Lincolnton; and

WHEREAS, the Lincoln County Tax Administrator has submitted to the Lincolnton City Council the total amount of unpaid taxes for the 2024 year in the amount of \$485,321.13; and

WHEREAS, the Lincolnton City Council, following receipt of the above-mentioned report, must order the Lincoln County Tax Administrator to advertise the tax liens; and

NOW THEREFORE, BE IT RESOLVED by the Lincolnton City Council that that Lincoln County Tax Administrator shall advertise the tax liens for 2024 and shall further comply with the requirements of N.C.G.S. §105-369.

This the 6th day of February 2025.

**Councilmember Kevin Demeny made a motion to approve Resolution .
Members voted 4-0 in favor of the motion.**

OTHER BUSINESS

Introduction of New Fire Setter Intervention Program

Assistant Chief Rusty Reynolds introduced Terry Ratts, who gave a brief overview of a new Youth Fire Setter Intervention Program. Asst. Chief Reynolds spoke to the amount of time and effort that has been put into getting the program off the ground. He stated that the purpose of the presentation was to bring awareness to the program.

Terry Ratts gave a brief description of the youth fire cent prevention and intervention program. He informed that the program is a community initiative aimed at addressing the fire-setting behaviors of children and adolescents. This program focuses on preventing future incidents by offering education, counseling, and support to both the youth and their families. The program seeks to reduce future fire-related incidents, protect the community, and promote long-term behavioral changes. Mr. Ratts recognized representatives from the Child Advocacy Center and the Lincoln County Health Department as being a hug assets and partner. He also recognized the involvement of Lincoln County School System and the Cooperative Extension 4H.

Mayor Hatley thanked Terry and the other cooperating partners involved in making the program a success.

Consideration of Request from ABC Board Regarding Surplus Property

City Manager Ritchie Haynes spoke to the governing body regarding a request for surplus property. Mr. Haynes explained that the ABC Board is in the process of hiring it's own part-time ABC Enforcement Officer and is in need of a vehicle. He informed that Chief Brian Greene has no objection to this exchange, however he does strongly recommend that the vehicle be re-wrapped with the ABC Boards logo in an effort to prevent confusion among the public. A resolution approving conveyance of the property was presented as follows:

WHEREAS, the City of Lincolnton owns 2014 Dodge Charger; **and**

WHEREAS, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; **and**

WHEREAS, the City of Lincolnton has determined that it is in the best interest of the city to convey the 2014 Dodge Charger to the Lincolnton ABC Board, and deems it wise to do so for sale for \$3,200.00.

NOW, THEREFORE, the LINCOLNTON CITY COUNCIL resolves that:

1. The City of Lincolnton hereby conveys to the Lincolnton ABC Board the aforementioned property
2. The property herein described shall be conveyed for sale for \$3,200.00.
3. The City Manager of Lincolnton is authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.

Adopted this the 6th day of February. 2025.

Councilmember Kevin Demeny made a motion to approve the recommendation. Members voted 4-0 in favor of the motion.

Manager's Report / Activity Update

City Manager Ritchie Haynes reminded council members of various upcoming dates and events. Mr. Haynes mentioned some of the highlights in the City Page, and a number of recent promotions. He talked about the reduction of incidents and charges stated on the homeless report. He also spoke to the upcoming meeting with the architects on what will hopefully be the final design for the new public service center. The final design will require councils' approval, after which, it will be bid out. The City Park project was also mentioned, as well as the ADA compliance work being done on the city sidewalks. Mr. Haynes reported that he has begun work on the budget and will continue until the April 11th budget work session.

In conclusion, City Manager Ritchie Haynes introduced/ recognized Mr. Scott Clark, the new Assistant City Manager. Mr. Clark briefly addressed the council, expressing his excitement and appreciation for the opportunity. Mayor Ed Hatley encouraged members to come by and visit with him

CLOSED SESSION

REGULAR MEETING – FEBRUARY 6, 2025

Councilmember Roby Jetton made a motion to go into closed session. Members voted 4-0 in favor of the motion.

City Attorney John Friguglietti cited the statute N.C. General Statute 143-318.11(a)(5) – to establish or instruct the staff or agent concerning the acquisition of real property and N.C. General Statute 143-318.11(a)(3) – to consult with the attorney to protect the attorney-client privilege.

Staff reporter Mike Powell requested a copy of the audit highlights and the full name of the auditor. He also inquired as to the last time there was an assistant city manager.

ADJOURNMENT

Upon returning to open session, Councilmember Roby Jetton made motion to adjourn. Members voted 4-0 in favor of the motion.

**DAPHNE INGRAM, CMC
CITY CLERK**

**ED HATLEY
MAYOR**

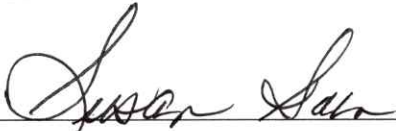
PERIOD COVERED
January 16, 2025 through February 15, 2025

CITY RELEASES LESS THAN \$100

NAME	YEAR	DIST	A/C NO	AMOUNT	REASON
Atlantic Bay Mortgage Group	2024-2023	22	0259463	\$80.80	Closed 2022
David E Thome DDS	2024	22	0262099	\$33.02	Closed location 2023

Total \$113.82

SUBMITTED BY:

 DATE: 2-21-25
SUSAN SAIN , TAX ADMINISTRATOR

APPROVED BY:

DATE: _____
RICHARD HAYNES , CITY MANAGER

PERIOD COVERED

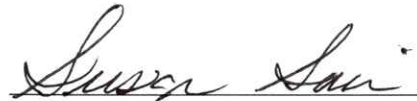
January 16, 2025 through February 15, 2025

CITY RELEASES \$100 AND OVER

<u>NAME</u>	<u>YEAR</u>	<u>DIST</u>	<u>A/C NO</u>	<u>AMOUNT</u>	<u>REASON</u>
Fenters Inc	2015-2016	22	0218772	\$693.50	Closed in 2015
Leblon Franchising	2025	22	0291013	\$3,109.12	created discovery bills erroneously

Total \$3,802.62

SUBMITTED BY:



DATE: 2-21-25

SUSAN SAIN , TAX ADMINISTRATOR

APPROVED BY:

DATE: _____

RICHARD HAYNES , CITY MANAGER

*City of Lincoln
In Appreciation of*

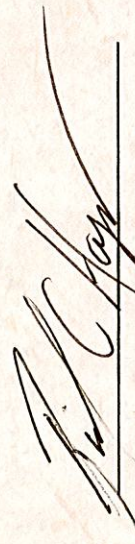
William C. Harrelson Jr.

*Upon His Retirement On
March 01, 2025*

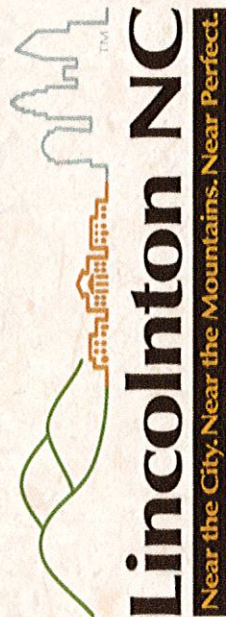
*The City of Lincoln recognizes the employees of the City are its
greatest strength, and honors their dedication and contributions to the
City and its citizens.*

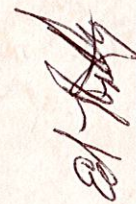
*May you be proud of the work you have done, the person you are, and
the difference you have made.*

33 Years of Service for the Citizens of Lincoln



City Manager





Mayor

*City of Lincolnton
In Appreciation of*

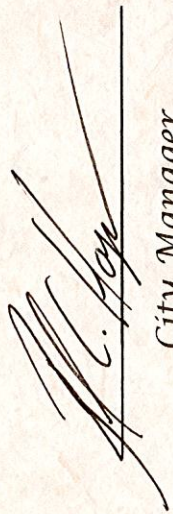
Dennis R. Harris

*Upon His Retirement On
March 01, 2025*

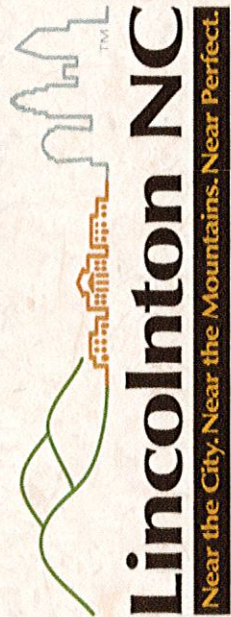
*The City of Lincolnton recognizes the employees of the City are its
greatest strength, and honors their dedication and contributions to the
City and its citizens.*

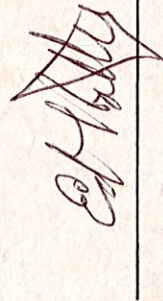
*May you be proud of the work you have done, the person you are, and
the difference you have made.*

21 Years of Service for the Citizens of Lincolnton



City Manager





Mayor

*City of Lincolnnton
In Appreciation of*

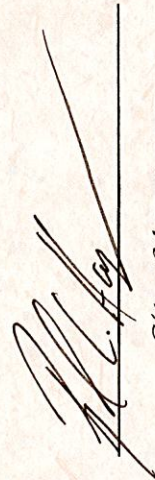
William K. Lovingood

*Upon His Retirement On
March 01, 2025*

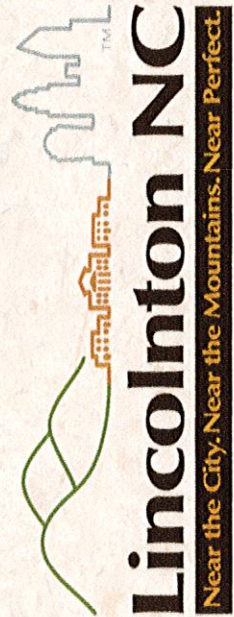
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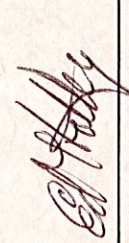
*May you be proud of the work you have done, the person you are, and
the difference you have made.*

12 Years of Service for the Citizens of Lincolnnton



City Manager





Mayor

CITY COUNCIL

Ed L. Hatley, Mayor
Kevin Demeny, Mayor Pro Tem
Mark Johnson
Jill Tipton
Roby Jetton



CITY MANAGER

Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
[dingram@lincolntonnc.org](mailto:d Ingram@lincolntonnc.org)
CITY ATTORNEY
John M. Friguglietti, Jr.

RESOLUTION

WHEREAS, pursuant to G.S. 160A-265 the City of Lincolnton may dispose of personal property in the discretion of the City Council; and

WHEREAS, the City of Lincolnton has the following items of personal property issued to the below named City Police Officer:

Captain Dennis Harris – Glock Model 45 Pistol
Serial # CAEU9224 and Duty Badge

WHEREAS, the City Manager shall be authorized to dispose of the property by the direction of the City Council and in accordance with City policy, \$410.00 will be deducted from the \$_____ that he is eligible to receive per City policy;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincolnton that the above mentioned property become surplus and be presented to the above named retiree in honor of their tenure and dedication to the City of Lincolnton.

ADOPTED this the 6th day of March 2025.

PROCLAMATION
“WOMEN’S HISTORY MONTH”
2025

WHEREAS, American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways; and

WHEREAS, American women have played and continue to play critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home; and

WHEREAS, American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation; and

WHEREAS, American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation; and

WHEREAS, American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement; and

WHEREAS, American women have served our country courageously in the military; and

WHEREAS, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

WHEREAS, despite these contributions, the role of American women in history has been consistently overlooked and undervalued, in the literature, teaching and study of American history:

NOW, THEREFORE, BE IT RESOLVED by the Lincolnnton City Council, that March is designated as **“Women’s History Month”**. The Mayor, by virtue of the authority vested in him, encourages all citizens to celebrate with appropriate programs, ceremonies, and activities.

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, City Clerk

MEMO TO: Mayor and City Council

FROM: Planning Staff

SUBJECT: ZTA-1-2025 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

DATE: March 6, 2025

Background

Occasionally, minor errors in the text or changes in circumstances necessitate amendments to the Unified Development Ordinance (UDO). To enhance the UDO's enforceability and effectiveness, it is essential to modify, update, or add specific sections of the ordinance. Proposed changes are highlighted in yellow, while language intended for removal is indicated with a strikethrough. Below are the sections that require modification.

Proposed Amendment Sections: (see attached redlined/highlighted sheet for all changes)

§ 153.057 Accessory Structures

Staff Comment: Residential and commercial requirements were grouped respectively, and repetitive language was removed.

Proposed Amendment Section:

§ 153.091 Establishment of Zoning Districts

Staff Comment: Inconsistent wording was updated (e.g., "One-family" to "Single Family"), unnecessary language was deleted, and the title/abbreviation for "Highway Business" was corrected to "Highway Commercial."

Proposed Amendment Sections:

§ 153.110 Residential Office District

Staff Comment: Grammatical errors were corrected. Remove multi-family from minimum lot width, multi-family as a use was removed during the 160D update in 2021.

Proposed Amendment Section:

§ 153.115.1 Highway Commercial District

Staff Comment: (B)(3) regarding Planned Unit Developments was removed. PUDs are conditional districts and should **not** be listed as a use to prescribed standards and allowed with the issuance of a zoning permit. A section number was corrected, and section titles were added beside section number links. A link to Off-street parking requirements was added. The editor's note was moved to the top of the ordinance in (A)(1) along with the square footage limit allowed in HC.

Proposed Amendment Sections:

§ 153.127 Application Requirements, Review Procedures And Watershed Overlay Cluster Developments.

Staff Comment: Section titles were added beside any section number links. The timeframe for formal application submittals was corrected to align with other sections of the ordinance and our policy.

Proposed Amendment Sections:

§ 153.129 CC Commercial Center District

Staff Comment: Section titles were added beside any section number links. The timeframe for the sketch plan and formal submittals was corrected to align with other sections of the ordinance and our policy.

Proposed Amendment Sections:

§ 153.142 Nonconforming Manufactured Home Parks

Staff Comment: Section numbers were added next to section titles. Links to sections that were removed during the 160D rewrite in 2021 were deleted.

Proposed Amendment Sections:

§ 153.277 Variances

Staff Comment: The updated language regarding Variance expiration is intended to create a more efficient process. Section titles were added beside any section number links.

Planning Board Recommendation: changing the expiration date to 2 years and deleting section F.

Proposed Amendment Sections:

§ 153.118 ROS Residential Office Single-Family

Staff Comment: The section pertaining to ROS zoning has been present in the ordinance since before 2004, yet it has never been utilized. There are currently no properties with a ROS zoning designation. Furthermore, all permitted uses under ROS zoning are also allowed in other districts, rendering this section unnecessary.

Proposed Amendment Sections:

§ 153.383 Submission And Review Procedure For Major Subdivisions Sketch Plan

Staff Comment: Sections 153.383 and 153.127 both list sketch plan requirements, but they do not match. The requirements were adjusted so they were the same. Timeframes were corrected to align with other sections of the ordinance and our policy.

Proposed Amendment Sections:

§ 153.109 RMF Residential Multi-Family District

Staff Comment: Reorganized section and added links for screening, landscaping, parking, and Water Supply Watershed Overlay District.

Proposed Amendment Sections:

§ 153.137 Nonconforming Structures

Staff Comment: Reorganized section for clarity and extended the timeframe to allow destroyed residential structures to obtain a building permit within one year.

Planning Board Recommendation: allowing reconstruction within 2 years, and if the two years expires, the applicant would need to appeal to the Board of Adjustment for an extension.

Zoning Amendment
Staff's Proposed Statement of Consistency for
APPROVAL of Application

Case No. ZTA-1-2025

Applicant: City of Lincolnnton Planning Department

Request: ZTA-1-2025 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

Proposed Consistency and Reasonableness Statement:

The proposed amendment is **consistent** with the adopted Lincolnnton Land Use Plan in that it is not contrary to the goals and objectives outlined by the Plan and **approval of the amendment is reasonable and in the public interest.**

CONSISTENT: Because it updates text language to match current procedures and best practices and it provides additional direction to assist citizens in understanding the regulations.

Staff Recommendation:

Approve ZTA-1-2025 as written.

Planning Board Recommendation:

Approve ZTA-1-2025 with the modifications recommended by the Planning Board.

Motions:

Motion to approve with Staff recommendations

Or

Motion to approve with Planning Board recommendations

§ 153.057 ACCESSORY STRUCTURES.

(A) Within any Residential (R) District, accessory structures shall be located as follows.

(1) Except as herein provided, no portion of any accessory structure shall be located within any front yard. Exceptions are:

(a) ~~Water wells on any lot~~ Water wells may be located in any front, side or rear yard; and

(b) ~~Garages used primarily to house automobiles.~~ Automobile garages designed to accommodate no greater than three automobiles may be located in any front yard other than in the required front setback. Any garage shall also observe the minimum dwelling side setback requirement for the zoning district in which it is located.

~~(2) Water wells may be located in any front, side or rear yard.~~

~~—(3) Automobile garages designed to accommodate no greater than three automobiles may be located in any front yard other than in the required front setback. Any garage shall also observe the minimum dwelling side setback requirement for the zoning district in which it is located.~~

(2) Accessory structures are allowed in any side yard, provided they observe a setback of ten foot side yard from any side yard lot line.

(3) Accessory structures are allowed in any rear yard provided that all accessory structures observe a ten foot setback from any rear lot line.

(B) On any lot containing a principal residential use, the aggregate area of all accessory structures (excluding barns, farm-related structures and satellite dish antennas) shall not cover more than 30% of the required rear yard nor exceed the height of the principal building. All lots, however, shall be allowed to have an accessory garage of no greater than 500 square feet provided that the garage:

(1) Meets all required setbacks; and

(2) Is designed primarily to house automobiles.

(C) For all nonresidential uses, no off-street parking or loading areas shall be located within 12 feet of any street right-of-way line.

(D) Within any NB, CB, CBT, GB, CC, HB, PB, GMC or GI District, accessory structures shall be located as follows.

(1) Except as herein provided, no accessory structure shall be located in any required front or side setback. A water well may be located in any front, side or rear yard.

(2) Accessory structures are allowed within with rear principal building setback area provided that no accessory structure (except as provided in division (B)(1) above of this section) shall be allowed within ten feet of a rear or side yard line or within 20 feet in the case of any rear or side yard line which abuts a Residential (R) District.

~~(C) On any lot containing a principal residential use, no accessory structure shall be permitted that involves or requires any construction features which are not primarily residential in nature or character; provided, however, this requirement shall not apply in the R-25 District to structures erected for agricultural purposes.~~

~~(D) (D) On any lot containing a principal residential use, the aggregate area of all accessory structures (excluding barns, farm-related structures and satellite dish antennas) shall not cover more than 30% of the required rear yard nor exceed the height of the principal building. All lots, however, shall be allowed to have an accessory garage of no greater than 500 square feet provided that the garage:~~

~~—(1) Meets all required setbacks; and~~

~~—(2) Is designed primarily to house automobiles.~~

(E) For all nonresidential uses, no off-street parking or loading areas shall be located within 12 feet of any street right-of-way line.

(F) Outpatient wellness centers, medical education centers, nursing care facilities and helistops are permitted as accessory uses to hospitals and health centers.

(G) Accessory structures of a bona fide farm are exempt from the North Carolina State Building Code in accordance with G.S § 160D-903.

(Prior UDO, § 5.13) (Ord. O-10-19, passed 11-7-2019; Ord. passed - -) Penalty, see § 153.999

§ 153.091 GENERAL ZONING DISTRICTS.

General zoning districts are designated throughout the zoning jurisdiction and include numerous uses that are allowed by right subject to those uses meeting yard and height regulations. In addition, some zones allow for uses subject to prescribed standards. The following general zoning districts are hereby established.

(A) R-25 Rural Residential District. This district is intended to accommodate very low-density residential and agricultural uses in fringe areas of the zoning jurisdiction that generally are non-intensely developed. This district is established to accommodate very low-density development where public utilities are nonexistent or partially existent. ~~and to accommodate greater densities where services are present, therefore, density levels are variable to the existence of the facilities.~~ The continuance of agricultural operations is encouraged within this district.

(B) R-15 Single-Family Residential District. This district is established to provide areas consisting primarily of single-family residences located in both urban and suburban settings. Generally, public water and sewer are available or are readily available. Permitted residential uses consist solely of single-family residences and the minimum lot size shall be 15,000 square feet. In addition to single-family residences, a limited number of private and public community uses are allowed.

(C) R-10 Residential District. This district is established to provide primarily for single-family residences. The minimum lot size for single-family dwellings on a use by right basis is established at 10,000 square feet. These areas are served by water and sewer. Certain public and private community ~~uses are allowed facilities are also allowed.~~

(D) R-8 Residential District.

(1) This district is established to accommodate single-family dwellings on 6,000 minimum square foot lots and two-family dwellings on 12,000 minimum square foot lots. These districts are located where water and sewer are present. The district accommodates both ~~one-~~ single and two-family residences.

(2) A limited number of private and public community uses are allowed or may be allowed where certain criteria specified in this chapter are met.

(E) RMF Residential Multi-Family District. This district is intended primarily as a residential district for the location of detached single-family dwellings, two-family dwellings, and multi-family dwellings along with their customary accessory uses ~~so as~~ to establish areas where development patterns are somewhat more dense than surrounding areas. A limited number of private and public community uses are allowed.

(F) RO Residential Office District. This district allows for single- ~~one~~ and two- ~~and multi-~~ family residential uses and certain commercial, office, and institutional uses which would create an area convenient for both residential and employment purposes. In

certain areas this district is also established to provide a transition between purely residential areas and primarily commercial areas. In order to enhance the district's residential character, the R-O District, for purposes of this chapter is deemed a residential district. This classification does require screening and buffering from all new uses in adjacent commercial and industrial districts. Small offices, certain community facilities, and single-~~one~~ and two-family residences are permitted by right.

(G) O-I Office Institutional District. This district is established to allow for a wide variety of offices, certain commercial uses having minor impacts, certain community facilities, professional and medical service and certain institutions. Single-family and two-family residences are permitted, but unlike the R-O District Zone, the emphasis of this zone is on nonresidential uses. This zone may also be established in certain areas to provide an orderly transition between residential areas and more intensive commercial uses.

(H) N-B Neighborhood Business District. ~~—(1)~~ This district is designed primarily for local business centers for retailing of merchandise such as groceries, drugs, and household items and for furnishing certain personal, business, and professional services. Unlike some of the other commercial zones, this district is established to serve local neighborhoods and other relatively small trading areas. The standards established for these business areas are designed to promote sound, permanent business development and also to protect abutting or surrounding residential areas from undesirable aspects of nearby business developments. These districts are located at accessible places with respect to traffic circulation in order to conveniently serve the trading population and to promote the grouping of several places of business at locations so designated. Since this district is established to provide for small neighborhood oriented businesses, limitations on gross floor areas are established for certain uses. A Neighborhood Business District is typically a relatively small area. ~~but shall consist of at least two lots in separate ownership or at least two acres regardless of ownership.~~ Off-street parking, landscaping and yard requirements are established for the NB District.

~~—(2) Unlike the CB District, off-street parking, landscaping and yard requirements are established for the NB District.~~

(I) C-B Central Business District. The purpose of this district is to permit concentrated development of a wide variety of retail establishments, personal services, and professional and non-professional offices. In light of the concentrated amount of a development normally found in a downtown area, yard regulations are minimal. Given the lack of space for off-street parking, this requirement has also been eliminated.

(J) CBT Central Business Transitional District. The purpose of this district is to permit concentrated development of a wide variety of retail establishments, personal services, and professional and non-professional offices. Like the Central Business District, yard regulations are minimal. However, unlike the Central Business District, off-street parking standards must be met for all uses permitted in the district. The number of off-street parking spaces required for uses in the Central Business Transitional District is less

than that for other Business and Commercial Districts since land size limitations restrict parking area availability. Land in this district exhibits some of the same characteristics as land within the Central Business District but is generally not developed in the same concentrations as the Central Business District.

(K) G-B General Business. The purpose of this district is to provide an array of retail, wholesale and service uses to serve the entire community and with access to the uses being primarily by automobile. The districts are located along major arterial and collector streets. ~~and adjacent to the Central Business District in order to have a minimal effect on residential neighborhoods.~~

(L) H-B C Highway Business Commercial. The purpose of this district is to provide an array of highway-oriented retail, wholesale and service uses to serve the entire community and with access to the uses being primarily by automobile. The districts are generally located along major arterial and collector streets in order to have a minimal effect on residential neighborhoods.

(M) P-B Planned Business. The purpose of this district is to promote orderly and aesthetic commercial development along major highways and entranceways in the Lincoln area.

(N) GMC General Manufacturing and Commercial. This district is designed primarily for general commercial and industrial land uses, including manufacturing, processing and assembling of parts and products; distribution of products at wholesale outlets, retail outlets; transportation terminals; various public and utility uses; and a broad variety of specialized commercial and industrial operations.

(O) GI General Industrial. This district is designed primarily for general and heavy commercial and industrial land uses, including outdoor storage.

~~—(P) ROS Residential Office Single-Family. This district is established to accommodate both single-family residential uses and other light office and institutional uses in older areas of the city that have developed in a manner that includes those uses. It is important that areas zoned ROS exist in harmony with adjacent established single-family areas. Like the OR District, the ROS District is a residential district. This classification requires screening and buffering from all new uses in adjacent commercial and industrial districts.~~

Remove ROS from the following sections:

- 153.118 ROS
- 153.168 Signs
- 153.046 Screening
- 153.315 Amendments
- 153.047 Landscaping

(Prior UDO, § 6.2) (Ord. passed - - ; Ord. passed 6-29-2023) Penalty, see § 153.999

§ 153.110 R-O RESIDENTIAL OFFICE DISTRICT.

(B) Yard regulations.

(1) Minimum lot size.

- (a) Single-family dwelling: 8,000 square feet.
- (b) Two-family dwellings: 12,000 square feet.
- (c) Private residential quarters: no additional lot size beyond that required for the principal dwelling.
- (d) Essential services: none.
- (e) All other principal uses: one acre.
- (f) Churches: 20,000 square feet.
- (g) Office buildings: 9,000 square feet.

(2) Minimum front setback (as measured from the edge of the street right-of-way line).

- (a) All uses: 30 feet.

(3) Minimum side yard setback (an additional ten feet shall be provided on all side yards which abut a public street).

- (a) Single- and two-family dwellings: ten feet.
- (b) Public and private elementary and secondary schools: 20 feet.
- (c) Churches: 20 feet.
- (d) All other uses: 15 feet.

(4) Minimum rear yard setback. All uses: 25 feet.

(5) Minimum lot width (as measured at the required front setback); at least 35 feet of lot width measured at the street right-of-way line shall be required except as noted.

- (a) ~~Multi-family dwelling, church,~~ Churches, schools: 100 feet with at least 50 feet at the street right-of-way line.
- (b) Two-family dwellings: 80 feet.
- (c) Churches and schools: 120 feet with at least 50 feet at the street right-of-way line.
- (d) All Other uses: 70 feet.

§ 153.115.1 HC HIGHWAY COMMERCIAL DISTRICT.

(A) Permitted uses. The following uses are permitted by right.

(1) All uses as permitted in § 153.115(A) and (B) *General Business* of this chapter up to 85,000 square feet. Any retail use in excess of 85,000 square feet is subject to § 153.129 *Commercial Center District*.

(2) Retail uses.

- (a) Automobile, truck and motorcycle sales and related service and repair;
- (b) Automobile wash establishment;
- (c) Express fuel/mini-mart;
- (d) Shopping center;
- (e) Building materials, hardware and related sales with outdoor storage, and outdoor storage of building materials by contractors;
- (f) Flea markets;
- (g) Garden center, commercial greenhouse and horticultural nursery;
- (h) Restaurant; and
- (i) Tavern.

(3) Service uses.

- (a) Assembly halls, coliseums, ballrooms and similar uses;
- (b) Bowling alleys and skating rinks;
- (c) Office buildings;
- (d) Essential services, Class 1, 11 or 111;
- (e) Family theme parks, carnivals, circuses, tent assemblies, and similar commercial and charitable uses;
- (f) Jails;
- (g) Hotel, motel or motor lodge;
- (h) Moving and storage services;
- (i) Machining of metals shop (machine shop);
- (j) Postal and parcel service processing facility;
- (k) Outdoor recreation, baseball hitting or golf driving ranges;

- (l) Outdoor storage of materials by contractors;
- (m) Publicly operated alcohol beverage control (ABC) store;
- (n) Road, grading, and utility contractors; and
- (o) Tattoo studio

(B) Uses subject to prescribed standards. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 *Administrator* through ~~153.259~~ **153.258 Site Plan Requirements** of this chapter and subject to the associated below prescribed standards.

(1) Adult establishments subject to § 153.130(B) *Supplementary Requirements of Certain Uses* of this chapter;

(2) Arcade or amusement center or game room subject to § 153.130(B) of this chapter and approval of a license in accordance with Chapter 111 *Poolrooms and Bowling Alleys*;

~~—(3) Planned unit developments (mixed uses) in accordance with § 153.216 of this chapter and provided the uses within the development are otherwise listed as permitted uses or uses subject to in the HC District and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

(4) Accessory apartments in commercial structures provided all building and fire codes are met, living quarters do not exceed 30% of the total square footage of the structure and occupancy is limited to employees of the business located in the commercial structure on the premises;

(5) Indoor shooting range subject to § 153.130(B); and

(6) Outdoor shooting range subject to § 153.130(B).

(C) Yard requirements.

(1) Minimum lot size: none.

(2) Minimum lot width: 70 feet (as measured at the required front setback).

(3) Minimum front setback: 40 feet (as measured from the edge of the street right-of-way line).

(4) Minimum side setback: ten feet, except 20 feet shall be required on all corner lots and lots whose side yard abuts any Residential (R) District.

(5) Minimum rear setback: 20 feet, except 30 feet shall be required on all lots whose rear yard abuts any Residential (R) District.

(D) Screening and landscaping.

(1) Screening when required by § 153.046(A) **Screening** of this chapter, shall be installed pursuant to § 153.046 of this chapter. Any outdoor storage is to be screened from abutting properties in accordance with § 153.046(A).

(2) Where applicable, landscaping shall be provided in accordance with § 153.047 **Landscaping** of this chapter.

(E) Off-street parking and loading in accordance with § 153.185 *Off Street Parking Requirements* through 153.188 of this chapter;

(Ord. passed - -; Ord. O-5-23, passed 4-6-2023)

Editor's note:

~~—Any retail use in excess of 85,000 square feet is subject to § 153.129.~~

UPDATED FROM PB

§ 153.127 APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND WATERSHED OVERLAY CLUSTER DEVELOPMENTS.

All planned developments are established through the conditional district rezoning process. The conditional district rezoning application and review procedures, therefore, serve as the primary procedures for **the** review of planned developments. There are, however, additional submissions required for planned developments and one additional step in the review procedure (sketch plan review by the Administrator). A separate fee, as established by the City Council, must also be submitted for planned developments. The purpose of this section is to set forth the special application and review procedures for planned developments.

(A) Sketch plan submission. Prior to **the** formal submission of the full planned development plan, a sketch plan shall be submitted **in accordance with § 153.383 Submission and Review Procedures for Sketch Plans.** ~~to the Administrator. The sketch plan shall be prepared by a registered architect, engineer or land surveyor currently licensed and registered by the appropriate state board. At a minimum the sketch plan shall contain or be accompanied by the following:~~

(1) Once all comments have been corrected, the applicant may proceed with the formal plan submission.

- ~~— (1) A sketch vicinity map including north arrow showing the location of the planned development in relation to neighboring tracts, subdivisions, roads, and waterways;~~
- ~~— (2) The boundaries of the tract and the portion of the tract proposed to be in the planned development;~~
- ~~— (3) The total acreage of the planned development;~~
- ~~— (4) Locations of any existing public streets or utilities and rights-of-way of the facilities;~~
- ~~— (5) The existing and proposed uses of the land within the planned development and the existing uses of land adjoining it;~~
- ~~— (6) General locations of existing natural features of the site, such as wooded areas, water features, and significant topographic features;~~
- ~~— (7) The proposed street layout with approximate pavement and right-of-way width;~~
- ~~— (8) Existing property lines and approximate (sketch) locations of proposed property lines within the development showing all proposed lots or other divisions of land;~~
- ~~— (9) Sketch of conceptual building locations;~~
- ~~— (10) The name, address, and telephone number of the owner;~~
- ~~— (11) The name, if any, of the proposed planned development;~~

~~—(12) Streets and lots of adjacent developed or platted properties; and~~

~~—(13) The zoning classification of the tract and of adjacent properties.~~

~~—(B) Sketch plan review procedures. The sketch plan should be submitted at least 30 days prior to the date the applicant expects to submit his or her formal application for the planned development/ conditional district rezoning.~~

~~—(1) The Administrator shall, within 21 days of receipt of the sketch plan, review the sketch plan for general compliance with the requirements of this chapter.~~

~~—(2) The Administrator shall advise the applicant or his or her authorized agent of the regulations pertaining to the proposed planned development and the procedures to be followed in the preparation and submission of the formal application. One copy of the sketch plan shall be retained as a part of the record of the Administrator with another copy being returned to the applicant or his or her authorized agent along with any comments made by the Administrator.~~

(C) Formal plan submission. ~~Following the Administrator's review and submission of comments on the sketch plan, or after 21 days following submission of the sketch plan has elapsed without the Administrator having submitted his or her comments to the applicant,~~ the applicant may submit his or her the formal plan and application for the planned development and application for conditional district rezoning. The formal application which must be submitted to the Administrator at least 15 days prior to the Planning Board meeting at which it is to be reviewed, or his or her designee, by the application deadline on the City's website, to be reviewed at the meetings corresponding to the schedule. Timing of the submission and waivers of submission deadlines shall in all respects conform to the requirements set forth in § 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* of this chapter.

(1) The formal plan shall contain all of the information set forth in § 153.316 of this chapter, and in addition, shall contain or be accompanied by the following information:

(a) Title block containing development name, name of owner, date or dates plan was plan was prepared, a scale drawing in feet per inch listed in words or figures, north arrow, the name of the applicant;

(b) A sketch vicinity map with a north arrow showing the relationship between the proposed planned development and the surrounding area;

(c) The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the planned development;

(d) The registration numbers and seals of the professional engineers, land surveyors, and/or architects;

(e) Locations of proposed property lines and proposed divisions of land within the development;

(f) The names of owners of adjoining properties;

(g) For all proposed public streets and private streets proposed within or adjoining the development the following information:

1. Rights-of-way, location and dimensions;
2. Pavement widths;
3. Approximate grades;
4. Design engineering data for all corners and curves;
5. Typical street cross-sections; and
6. Road names and whether to be public or private.

(h) The location and dimensions of existing and proposed utilities;

(i) Location of any proposed recreation or facilities and other areas designated as, and meeting the requirement of, improved common open space as set forth in § 153.123(D)(14) **PRD District, Project Requirements, Multi-Family Units** of this chapter (area in square feet of each area shall be provided);

(j) The future users and ownership (dedicated or reservation for public use to a governmental body, for owners' use to duly constituted homeowner's association, or for tenants' use and remaining in developer's ownership) of recreation and open space lands;

(k) Location and proposed use of any existing wooded areas within the development site;

(l) Existing and proposed topography at minimum two-foot elevation intervals;

(m) Marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds, and any other natural features affecting the site;

(n) Average calculations for the entire planned development, for each proposed division of land within the development, for each phase of the development, and by general land use within each phase; and

(o) The name and location of any site or buildings within the proposed development or within any contiguous property that is listed on the U.S. Department of Interior's National Register of Historic Places, or is designated as a local historic property by the county, or is within the HO-Historic Overlay Zone as set forth in this chapter.

(2) The Planning Board and City Council shall review the application in accordance with the procedures set forth in §§ 153.315 **Amendments to Text and Map** and 153.316 **Additional Provisions Pertaining to Conditional Zoning Amendments** of this chapter.

(3) Upon completion of the project (or each phase thereof) a complete set of "as-built" drawings shall be furnished to the city.

(D) Planned developments in Water Supply Watershed Overlay District; cluster developments.

(1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in § 153.121 **WSW Water Supply Overlay District** of this chapter. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or the protected area, whichever applies.

(2) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(3) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owner's association, the title of open space area shall be conveyed to the association for management. Where a property owner's association is not incorporated, a maintenance agreement shall be filled with the property deeds.

(Ord. passed - -)

§ 153.129 CC COMMERCIAL CENTER DISTRICT.

(A) A request for rezoning to the CC district may be approved by the City Council subject to §§ 153.315 *Amendments to Text and Map* and 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* and only after having first been reviewed by the Planning Board.

(B) The Planning Board shall consider the request only after a completed application has been submitted to the Administrator. Prior to the formal submission of the site plan and application, the applicant ~~must~~ *is encouraged to* submit a preliminary sketch plan for review by the Administrator *and the Technical Review Committee.*

(C) Sketch plan review procedures. ~~The sketch plan should be submitted at least 30 days prior to the date the applicant expects to submit his or her formal application for the planned development/ conditional district rezoning.~~ Prior to the formal submission, the subdivider shall submit three paper copies and a digital version of the sketch plan for the proposed subdivision to the Administrator along with a completed application by the application deadline on the City's website, to be reviewed at the meetings corresponding to the schedule.

~~—(1) The Administrator shall, within 21 days of receipt of the sketch plan, review the sketch plan for general compliance with the requirements of this chapter.~~

(2) The Administrator shall advise the applicant or his or her authorized agent of the regulations pertaining to the proposed planned development and the procedures to be followed in the preparation and submission of the formal application. One copy of the sketch plan shall be retained as a part of the record of the Administrator with another copy being returned to the applicant or his or her authorized agent along with any comments made by the Administrator.

(D) Formal plan submission. Following the Administrator's review and submission of comments on the sketch plan, ~~or after 21 days following submission of the sketch plan has elapsed without the Administrator having submitted his or her comments to the applicant,~~ the applicant may submit his or her formal application for the planned development and application for conditional district rezoning. ~~The formal application must be submitted to the Administrator at least 15 days prior to the Planning Board meeting at which it is to be reviewed.~~ The Planning Board shall consider no application unless it has been properly completed and submitted to the Administrator, or his or her designee, by the application deadline on the City's website, to be reviewed at the meetings corresponding to the schedule. Timing of the submission and waivers of submission deadlines shall in all respect conform to the requirements set forth in § 153.316 *Additional Provisions Pertaining to Conditional Zoning Amendments* of this chapter. The formal plan shall contain all of the information set forth in § 153.258 *Site Plan Review Requirements* of this chapter.

(E) Permitted uses.

(1) All uses permitted in § 153.115 *General Business District* of this chapter.

(2) Uses subject to prescribed standards.

(a) Any individual retail use of 85,000 or more gross floor area (GFA) subject to division (G) of this section.

(b) Any individual retail use that existed at the time of adoption of this chapter and expands by a factor of 50% or greater and as a result of the expansion, the GFA of the structure equals or exceeds 85,000 square feet GFA subject to divisions (F) and (G) of this section.

(F) Applicability. For purposes of this section, any retail establishment with a gross floor area of 85,000 plus square feet GFA shall be identified as a large retail establishment. The following standards shall apply to any large retail establishment. Notwithstanding, if a large retail establishment or a shopping center that contained a large retail establishment existed at the time of adoption of these regulations, the regulations contained in this section will only apply to an addition to the large retail establishment if the addition constitutes an increase in gross floor area by a factor of greater than 50% and, as a result of the expansion, the large retail expansion has a GFA of 85,000 plus square feet. The addition shall, to the greatest degree feasible and practical, be made to meet the supplemental regulations contained below.

(G) Development standards for all large retail establishments.

(1) (a) Principal buildings shall be substantially parallel to the public road upon which they front. For the purposes of this standard, the term FRONT relates to the relationship between the building plane and the street or streets and not the arrangement or orientation of the structure and its entrances on the site. When more than one principal building is located on site, the regulation shall apply to the principal building closest to the adjacent public road. When located on a corner lot, the building shall be parallel with the road with the greatest traffic volumes.

(b) This standard may be waived by the City Council where, due to practicalities, it would be more suitable to face the building(s) to the lesser traveled road.

(c) 1. Buildings located on outparcels within a shopping center must substantially address (i.e., be parallel to) the adjoining non-limited access highway and be readily accessed via sidewalks and/or walkways from that adjoining road.

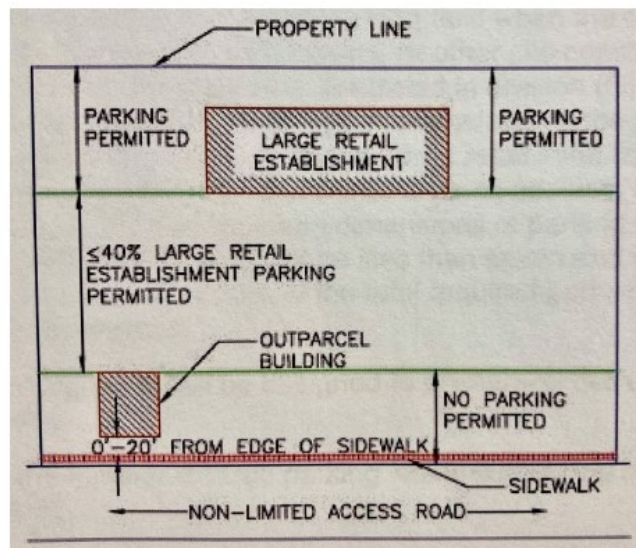
2. All buildings occupying the outparcel lots shall have their architectural fronts facing the roads and shall have a usable door providing access to pedestrians. The fronts all buildings located on outparcels shall have a setback no greater than 20 feet as measured from the edge of the adjoining sidewalk.

3. Any setback areas shall be geared for pedestrian as opposed to automobile use. No off-street parking or loading shall be allowed in this area.

4. Outdoor storage of retail goods (during daylight hours) shall be permitted, as shall outdoor seating areas.

Figure F

Figure F



(2) A sidewalk and plant strip shall be placed parallel to all public roads which the development fronts upon and where pedestrians could be reasonably expected to access the development. (For instance, if the development adjoined a limited access highway where there was no feasible means for pedestrian access, the rule could be waived.) The sidewalk and plant strip shall be constructed in accordance with § 153.395 of this chapter.

(3) Street trees shall be planted along and parallel to the public road. The trees shall be planted within 25 feet of the edge of the road right-of-way, between the right-of-way and any buildings on the lot. The number of trees to be planted shall be as prescribed in § 153.047(B). Large trees may not be planted under any utility lines. The distribution of trees shall generally be proportionate to the street frontage. While an equal interval between trees is not required, it is the intent of this chapter to not have long intervals without trees. Waivers to these regulations may be granted where the adherence of these regulations would interfere or have the potential to interfere with any utility lines.

(4) Large expanses of off-street parking readily visible from an adjoining public road are strongly discouraged. Rather, off-street parking in the interior of the development (i.e., behind building façades) or in screened portions of the side yard is recommended. Notwithstanding, upwards of 40% of the amount of off-street parking provided for the large retail establishment (or the multi-tenant development) may be located in the front yard of the large retail establishment. The remainder of the parking may be placed in the rear of the development or in screened portions of the side yard. The side-yard screening need not be in full compliance with the screening options provided in § 153.046(C), but rather shall serve as a means of significantly shielding the parking from the view of motorists and pedestrians from adjacent roads. Alternative

techniques such as changes in elevation or from the street and sidewalk can be used to augment the landscaping. The location of parking may be shifted to a combination of front, side, and rear yard parking in a single parking field when the shape and/or configuration of the site, limited access locations, or other site constraints would prevent a typical configuration of the site such as is illustrated in division (G)(1) above. In order to minimize the impact of the parking field, and notwithstanding the provisions of § 153.185(K), the standard for parking for these "large retail establishments" shall be one space for each 250 square feet of gross floor area. In addition, and notwithstanding the provisions of § 153.185(F), the minimum dimensions of parking spaces in parking lots for large retail establishments shall not be less than seven and one-half feet in width nor 17 feet in length. No more than 20% of the total required parking may be built utilizing the minimum dimensions.

(5) Off-street parking lots shall be designed to encourage pedestrian mobility. This can be accomplished by:

(a) Reducing the number of large parking lots and breaking parking into separate smaller areas of parking;

(b) Locating parking facilities as close as possible to entrance areas into the large retail establishment; and

(c) Other suitable alternative methods.

(6) The following regulations are designed to create visually distinct and aesthetically appealing structures. To the greatest degree feasible and practical, exterior architectural characteristics shall be designed to differentiate the structures from similar structures containing the same uses) which may be found outside the city. Accordingly, the external appearances of the front of all buildings (and including any building sides that are oriented to any public street right-of-way as required in division (G)(1) above whether located within the development or not) shall be governed as follows:

(a) Seventy-five percent plus of the area below the fascia of the building shall be comprised of: brick, brick veneer, decorative concrete block, pre-cast or field poured tilt concrete panels with texture; stone or stone veneer, flush architectural metal panels; stucco or artificial stucco; glass, wood, or wood materials, or similar decorative materials. Notwithstanding, not more than 50% of the exterior building materials shall include smooth-faced concrete block, or smooth faced tilt-up concrete panels.

(b) Façades of buildings having a horizontal length of 150 feet or greater shall have an articulated wall plane that incorporated plane projections or recesses to create an interesting and attractive architectural design which is comprised of more than flat walls with minimal features. Any wall offsets designed to meet this requirement shall have a minimum projection or recess depth of two feet and a minimum width of two feet.

(c) Rooflines should consist of one or more sloped planes. However, flat roofs may be allowed so long as they are concealed from view by a parapet. The parapet shall not be of a constant height for greater than 150 linear feet. Rooftop HVAC

equipment shall be concealed by a parapet or via an enclosure consisting of materials outlined in division (G)(6)(a) above.

(d) External ground-level mechanical appurtenances and dumpsters shall be similarly screened.

(e) Those portions of any roof that is visible from a public road shall not have a shiny surface appearance similar to aluminized or galvanized metal. Notwithstanding, anodized, baked or other nonreflective roof material shall be allowed.

(f) Off-street loading docks and facilities shall not be visible from any adjoining public road located entirely outside the lot(s) containing the large retail structure (i.e., the requirement shall not apply to roads, public or private, located entirely within the development containing the large retail structure).

(g) There shall not be any overnight external (i.e., not contained within a fully or partially enclosed structure) storage of retail goods visible from any adjoining public road not located within the development.

(h) Ground floor façades that face public streets shall have arcades, clear display windows and entry areas along no less than 40% of their horizontal space.

(i) Façade colors shall be of low reflectance, subtle or neutral earth tone colors. High intensity colors, metallic colors, black or fluorescent colors are prohibited.

(7) Large retail establishments shall provide at least one outdoor space or site amenity to beautify the site and to enhance the vehicular and pedestrian entryways to the site and any other buildings on the site. A preferred option (although other options may be considered and approved) include a public plaza or courtyard that contains furniture items such as seating walls, benches, drinking and/or decorative fountains, clock towers and other features that are designed to external aesthetics of the site. The outdoor spaces can be located in the front yard (and, if so, can be designed to be accessed exclusively through the development rather than from the adjoining street) or in the interior portion of the development.

(8) When located on a lot fronting two or more streets, the primary access to the large retail establishment shall be from the more "auto-oriented street" (i.e., normally considered to be the street with the higher traffic volume). A secondary access point may be provided from the other street. The second access point may be denied when it is deemed that an undue or unsafe amount of traffic will be generated on the secondary street or if the traffic will have a negative impact on surrounding residentially developed neighborhoods.

(9) Due to the nature of large scale development, the complexity of design, the development design and review process, economic cycles and market conditions, and the time necessary to complete the necessary transactions to secure the property and commence construction, it is recognized that it is appropriate and necessary to allow for additional time for such developments to be commenced. Therefore, and notwithstanding other provisions of the Zoning Ordinance, developments that include large retail establishments may be granted a five-year vesting under the provisions of

G.S. § 160D-108 if such request is included and approved as part of the application for such development. In addition, the time limit for the issuance of a building permit shall be the same as the vesting period that is proposed and approved for the development of the site.

(H) Reuse/compartmentalization. As part of the conditional district rezoning review process, any large retail establishment constructed after the adoption of this chapter shall be designed to include specific elements for adaptation to multi tenant re-use. The elements may include but are not limited to the following:

(1) Compartmentalized constructions include plumbing, electrical service, heating, ventilation, and air conditioning to the extent possible per all applicable codes;

(2) Building design shall also allow for the interior subdivision of the structure into separate tenancies;

(3) Façades shall be readily adaptable to multiple entrances;

(4) Parking lot schemes shall be designed to enable users of any future tenants to readily walk from their vehicles to the storefront; and

(5) Other design elements that facilitate the multi-tenant re-use of the building.

(Ord. passed - -)

§ 153.142 NONCONFORMING MANUFACTURED HOME (MOBILE HOME) PARKS.

(A) (1) Any manufactured home park which is not constructed in accordance with the standards set forth in § 153.128(C) **Standards** of this chapter and/or is a use which is not a use permitted in the district in which it is located, shall be allowed to continue in operation for a period of ten years following the effective date of this chapter.

(2) Thereafter, the manufactured home parks shall either:

(a) Cease operation and all manufactured homes shall be removed;

(b) Be reconstructed to conform to the following requirements:

1. Space dimensions and sizes shall be dictated by on-site sewage disposal standards contained in county's environmental health regulations. Otherwise no setback, minimum lot size or other dimensional requirements shall apply; and

2. No manufactured home shall be placed in a manufactured home park unless it meets the standards of either Class A manufactured home or Class B manufactured home as defined in § 153.031 **Definitions** of this chapter.

(c) The location of each manufactured home stand must be at an elevation, distance and angle in relation to the adjacent access drive so that placement and removal of the manufactured home is practical by means of customary moving equipment. All manufactured homes shall have a continuous brick, cinder block, concrete block, stucco, stone or other masonry-type underpinning or other skirting specifically manufactured for manufactured homes, or pressure treated wood (but plain standard surface pressure treated plywood is not acceptable), unpierced except for required ventilation and an access door. The underpinning and skirting shall be installed under all elements of the manufacture home. Each manufactured home in the park shall conform to the State Department of Insurance Standards for tie-down requirements. All replacement skirting in nonconforming manufactured home parks shall be of a nonreflective type;

(d) Section 153.128(C)(10) **Steps and Patios** ~~(manufactured home parks)~~ shall apply;

(e) Each manufactured home park shall have a space number affixed either to the manufactured home or on a post or stand made of durable material. The number shall be set at a location as to clearly indicate the space to which it is assigned;

(f) Interior streets must be sufficient to carry normal traffic entering and leaving the manufactured home park;

(g) Sections ~~s 153.202(P) and~~ 153.128(C)(16) **Parking** ~~(manufactured home parks)~~ shall apply;

(h) Sections ~~153.202(Q) and~~ 153.128(C)(17) (*Trash Facilities*) (~~manufactured home parks~~) shall apply;

(i) Sections ~~153.202(BB) and~~ 153.128(C)(27) *Recreation Areas* and (28) *Maintenance* (~~manufactured home parks~~) shall apply; and

(j) Where a manufactured home park is adjacent to a public street or road, street landscaping shall be required as follows:

1. The landscaping shall be provided in a designated landscaped area, which shall include, as width, at least the first 12 feet of the front yard and side yard as measured from the street right-of-way line;

2. Landscaping shall consist of, at a minimum, four small trees and 12 shrubs or four large trees per 100 linear feet of lot frontage on street right-of-way. No part of the landscaped area shall be left as bare soil; or

3. In the event that unusual topography or size of a parcel to be developed would make strict adherence to these requirements serve no meaningful purpose or would make it physically impossible to install and/or maintain the required screen, the provisions of § 153.046(D) *Relief to screening requirements* of this chapter shall apply.

(3) A manufactured home park that is a nonconforming use may continue after the ten-year period only if it conforms or is improved to conform to the requirements of § ~~153.128~~ ~~153.202~~ of this chapter. Provided however, no manufactured home park, as long as it remains a nonconforming use, shall be allowed to occupy lands beyond the boundaries of the tract on which it was located at the time it became nonconforming except to comply with the requirements of § ~~153.128~~ ~~153.202~~ of this chapter. In no case shall any nonconforming manufactured home park either nonconforming as a use or nonconforming due to the standards of this chapter be allowed an increase in the number of manufactured home spaces unless it shall first become both a conforming use and conforming to the standards of § ~~153.128~~ ~~153.202~~ of this chapter.

(4) In meeting the requirements of § ~~153.128~~ ~~153.202~~ certain requirements in that section are waived for nonconforming manufactured home parks in bringing them into conformance with this chapter. Those requirements waived are as follows:

(a) Section 153.128(C)(1), *Occupancy*;

(b) Sections ~~153.202(B) and~~ 153.128(C)(2), *Minimum Park Area*;

(c) Sections ~~153.202(L) and~~ 153.128(C)(12), *Public Road Frontage of Park*; and

(d) Sections ~~153.202(M) and~~ 153.128(C)(13), *Ingress and Egress*.

(B) During the period nonconforming manufactured home parks are allowed to continue in operation as provided for in this section the following requirements shall be met:

(1) Any expansion of the manufactured home parks (this is only permitted where a manufactured home park is a conforming use) shall conform to § 153.128(C) **Standards** of this chapter;

(2) If the park ceases operation for a period of greater than 90 days it shall only be re-established in accordance with § 153.128(C) **Standards** of this chapter (cessation of operation occurs when either all manufactured homes have been removed or when a manufactured home park is closed by a public authority due to violation of law); and

(3) When a space vacancy occurs or when one manufactured home is replaced with another manufactured home, the replacement manufactured home shall meet the requirements of either Class A or Class B manufactured homes as defined in § 153.031 **Definitions** of this chapter.

(Prior UDO, § 8.8) (Ord. passed - -) Penalty, see § 153.999

§ 153.277 VARIANCES.

(A) When practical difficulties, special conditions or unnecessary hardships would result from carrying out the strict letter of this chapter, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this chapter relating to the construction or alteration of buildings or structures or the use of land. Waivers and modifications associated with the approval of a subdivision plat shall be subject to the provisions of § [153.378](#) *Waivers and Modifications*, rather than this section.

(B) The request for a variance for a use expressly, or by inference, prohibited in the district involved, shall not be granted.

(C) The Board of Adjustment may grant a variance only after having first held a public hearing on the matter. When unnecessary hardships would result from carrying out the strict letter of these zoning regulations, the Board of Adjustment shall vary any of the provisions of the zoning regulations upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the zoning regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance, such that public safety is secured and substantial justice is achieved.

(D) The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this chapter provided the conditions are reasonably related to the variance. Violation of the conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in § [153.999](#) *Penalty* of this chapter.

(E) Unless otherwise authorized by the Board of Adjustment, any order of the Board of Adjustment in granting a variance shall expire, **one year from the date of the Board of Adjustment's decision if either:** ~~a building permit or certificate of occupancy (for a use if a building permit is not required) has not been obtained within one year from the date of the Board of Adjustment's decision.~~

(1) A required permits have not been obtained within the one-year time frame; or

(2) A plat notating the variance was not recorded according to the procedures set forth in 153.382(C)(5) *Procedure for Review of Minor Subdivisions*.

(F) If the variance has expired, the zoning administrator shall have the authority to either:

(1) Issue the permit or approve the plat if the zoning administrator determines that, based upon the board's decision, the circumstances for the granting of the variance have not changed and no changes to the ordinance would affect that decision; or

(2) Advise the applicant to reapply for a variance to be heard by the Board of Adjustment.

~~§ 153.118 ROS RESIDENTIAL OFFICE SINGLE FAMILY.~~

- ~~—(A) Permitted uses. The following principal uses are permitted by right.~~
- ~~—(1) All permitted uses allowed in the R-15 District;~~
- ~~—(2) Office buildings containing 2,000 square feet or less of gross floor area;~~
- ~~—(3) Churches including customary accessory uses. Church owned and maintained cemeteries as an accessory use are permitted;~~
- ~~—(4) Public and private elementary and secondary schools and/or school district administrative offices;~~
- ~~—(5) Family care homes;~~
- ~~—(6) Customary home occupations in accordance with § 153.045 of this chapter;~~
- ~~—(7) Day care center, small group;~~
- ~~—(8) Private residential quarters, provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the two off-street parking spaces required for the principal dwelling;~~
- ~~—(9) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof; and~~
- ~~—(10) Public safety stations.~~
- ~~—(B) Uses subject to prescribed standards. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ 153.255 through 153.259 of this chapter and subject to the associated below prescribed standards.~~
- ~~—(1) Essential services, Class II provided that the use is screened from any adjoining property located in a residential district in accordance with § 153.046;~~
- ~~—(2) Essential services, Class III provided that the use is screened from any abutting street and any abutting property in accordance with § 153.046;~~
- ~~—(3) Rest homes, nursing care facilities and continuing care communities provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~
- ~~—(4) Day care centers provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(5) Florists provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(6) Copying service provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(7) Museums provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(8) Bed and breakfast inns provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(9) Office buildings containing over 2,000 square feet of gross floor area provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(10) Travel agency provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(11) Art and photography studios provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(12) Tailor and alteration shop provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(13) Libraries provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046;~~

~~—(14) Barber shop/beauty shop provided the site is located a minimum of 100 feet from any residential use, vehicular access is not provided by a local residential road and the use is screened from any abutting property located in a residential district in accordance with § 153.046; and~~

~~—(15) Off-street parking for a principal use not listed as a permitted use or use subject to prescribed standards in a Residential (R) district subject to the provisions outlined in § 153.188(B).~~

~~—(C) Yard requirements:~~

~~—(1) Minimum lot size:~~

~~—(a) Bed and breakfast inn: 12,000 square feet.~~

~~—(b) Churches: 20,000 square feet.~~

~~—(c) Copy service: 10,000 square feet.~~

~~—(d) Day care centers: 10,000 square feet.~~

~~—(e) Florists: 10,000 square feet.~~

~~—(f) Museum: 21,780 square feet.~~

~~—(g) Office buildings: 10,000 square feet.~~

~~—(h) Rest homes, nursing care facilities and continuing care communities: 20,000 square feet.~~

~~—(i) Travel agency, art/photography studio, tailor/alteration shop and library: 10,000 square feet.~~

~~—(j) Other uses: same as in the R-10 District.~~

~~—(2) Minimum front setback:~~

~~—(a) Single-family dwellings, family care homes, bed and breakfast inns: 30 feet.~~

~~—(b) Cemeteries and essential services, Class II: 20 feet.~~

~~—(c) Office buildings containing 2,000 square feet or less of gross floor area: 30 feet; except for any structure existing at the time this chapter is enacted, the actual setback of the structure shall be allowed for any office use provided there are no further encroachments into the 30-foot front yard.~~

~~—(d) All other uses: 40 feet.~~

~~—(3) Minimum side yard setback (an additional ten feet shall be provided on all side yards which abut a public street):~~

~~—(a) Museum, office buildings, florist, copying service, travel agency, art and photography studios, tailor and alteration shop, library: 15 feet.~~

~~—(b) Other uses: same as the RMF District.~~

~~—(4) Minimum rear yard setback. All uses: 25 feet.~~

~~—(5) Minimum lot width (as measured at the required front setback). At least 35 feet of lot width measured at the street right-of-way line shall be required except as noted.~~

~~—(a) Office buildings, museums, libraries, florist, copy service, church, schools: 100 feet with at least 50 feet at the street right-of-way line.~~

~~—(b) Churches and schools: 120 feet with at least 50 feet at the street right-of-way line.~~

~~—(c) Other uses: 80 feet.~~

~~—(6) Maximum building height. All uses: 40 feet, except as provided in § 153.054 of this chapter.~~

~~—(D) Screening and landscaping.~~

~~—(1) Screening, when required by § 153.046(A) of this chapter, shall be installed pursuant to § 153.046 of this chapter.~~

~~—(2) Where applicable, landscaping shall be provided in accordance with § 153.047 of this chapter.~~

~~(Prior UDO, § 7.13) (Ord. passed ---) Penalty, see § 153.999~~

§ 153.383 SUBMISSION AND REVIEW PROCEDURE FOR ~~MAJOR SUBDIVISIONS~~
SKETCH PLANS.

(A) ~~Prior to the preliminary plat submission, the subdivider shall submit to the Administrator two or more copies of a sketch plan of the proposed subdivision containing the following information:~~

Prior to the preliminary plat submission, the subdivider shall submit three paper copies and a digital version of the sketch plan for the proposed subdivision to the Administrator along with a completed application by the application deadline on the City's website, to be reviewed at the meetings corresponding to the schedule. The sketch plan shall be prepared by a registered architect, engineer, or land surveyor licensed and registered by the appropriate state board. At a minimum, the sketch plan shall contain or be accompanied by the following:

- ~~— (1) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;~~
- ~~— (2) The boundaries of the lot(s) to be subdivided;~~
- ~~— (3) The total acreage to be subdivided;~~
- ~~— (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;~~
- ~~— (5) The proposed street layout with approximate pavement and right-of-way widths, lot layout and size of lots;~~
- ~~— (6) The name, address and telephone number of the owner(s) of the tract to be subdivided;~~
- ~~— (7) The name of the proposed subdivision;~~
- ~~— (8) The zoning classification of the lot(s) to be subdivided and of adjacent properties, if applicable; and~~
- ~~— (9) Parcel identification number (PIN) of the lot(s) to be subdivided.~~

(1) A sketch vicinity map including north arrow showing the location of the planned development in relation to neighboring tracts, subdivisions, roads, and waterways;

(2) The boundaries of the tract and the portion of the tract proposed to be in the subdivision;

(3) The total acreage of the lot to be subdivided;

(4) Locations of any existing public streets or utilities and rights-of-way of the facilities;

- (5) The existing and proposed uses of the land within the major subdivision and the existing uses of land adjoining it;
- (6) General locations of existing natural features of the site, such as wooded areas, water features, and significant topographic features;
- (7) The proposed street layout with approximate pavement and right-of-way width;
- (8) Existing property lines and approximate (sketch) locations of proposed property lines within the subdivision showing all proposed lots or other divisions of land;
- (9) Sketch of conceptual building locations;
- (10) The name, address, and telephone number of the owner;
- (11) The name, if any, of the proposed subdivision;
- (12) Streets and lots of adjacent developed or platted properties; and
- (13) The zoning classification of the tract and of adjacent properties.

(B) The Administrator and Technical Review Committee shall review the sketch plan for general compliance with the requirements of these regulations and any applicable zoning or other ordinance requirements. The Administrator shall advise the subdivider or his or her authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(C) One copy of the sketch plan shall be retained as a part of the city's record by the Administrator, with a copy the other copy(ies) being returned to the subdivider or his or her authorized agent along with any comments made by the Administrator concerning the proposed plat.

(D) ~~The Administrator shall have 21 days from the receipt of sketch plan to review and make comments. If comments are not forwarded during the period, the subdivider may submit his or her preliminary plat for review having not received comments from the Administrator on the sketch plan.~~ Once the comments are corrected, the subdivider may submit a preliminary plat containing all of the information set forth in § 153.384 of this chapter.

(Prior UDO, § 17.13) Penalty, see § 153.999

§ 153.109 RMF RESIDENTIAL MULTI-FAMILY DISTRICT.

(A) *Permitted uses.* The following uses are permitted by right. The following uses are allowed upon the issuance of a zoning permit by the Zoning Administrator in accordance with §§ [153.255](#) through [153.256](#).

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Multi-family dwellings **with additional requirements (see section (C) below);** ~~with a gross density of up to six units per acre;~~
- (4) Churches with a maximum sanctuary seating capacity of not greater than 500 seats. Customary accessory uses shall also be permitted. Church owned and maintained cemeteries as an accessory use are permitted;
- (5) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof;
- (6) Private residential quarters provided there is sufficient off-street parking to accommodate the private residential quarters in addition to the two off-street spaces required for the principal dwelling;
- (7) Public and private elementary and secondary schools;
- (8) Day care centers, small group;
- (9) Customary home occupations in accordance with § [153.045](#) of this chapter;
- (10) Family care homes;
- (11) Essential services, Class I and II;
- (12) Accessory structures in accordance with § [153.057](#) of this chapter;
- (13) Signs in accordance with §§ [153.160](#) through [153.172](#) of this chapter;
- (14) Off-street parking in accordance with §§ [153.185](#) through [153.188](#) of this chapter; and
- (15) Publicly owned and operated outdoor recreation facility one acre or less in size and not containing a swimming pool.

(B) *Yard regulations.*

- (1) *Minimum lot size.*
 - (a) Single-family dwelling: 8,000 square feet.
 - (b) Two-family dwellings: 12,000 square feet.
 - (c) Multi-family dwellings: minimum site size shall be 25,000 square feet but gross density shall not exceed six units per acre.

(d) Private recreation facilities constructed pursuant to a permit authorizing the construction of some residential development and intended primarily for the use and enjoyment of the residents thereof: none.

(e) Private residential quarters: no additional lot size beyond that required for the principal dwelling.

(f) Essential services: none.

(2) *Minimum front yard setback (as measured from the edge of the street right-of-way line):*

(a) All residential uses: 30 feet.

(b) Cemeteries and essential services, Class I and II: 20 feet.

(c) All other uses: 40 feet.

(3) *Minimum side yard setback (an additional ten feet shall be provided on all side yards which abut a public street).*

(a) Single- and two-family dwellings: ten feet.

(b) Multi-family dwellings: 12 feet.

(c) Public and private elementary and secondary schools: 20 feet.

(d) Church: 20 feet.

(e) All other uses: 15 feet.

(4) *Minimum rear yard setback.* All uses: 25 feet.

(5) *Maximum building height.* All uses: 40 feet, except as provided in § [153.054](#) of this chapter.

(6) *Minimum lot width (as measured at the required front yard setback).*

(a) Single-family dwelling: 70 feet at front yard setback; 35 feet at street right-of-way.

(b) Two-family dwelling: 80 feet at front yard setback; 35 feet at street right-of-way.

(c) Multi-family developments: 100 feet at the street right-of-way.

(d) All other uses: 100 feet.

(C) ~~Screening and landscaping.~~ **Additional Requirements for Multi-Family Dwellings**

(1) Screening, as provided in § [153.046](#) of this chapter shall be required for ~~the following uses and for any other circumstances required by § 153.046(A) of this chapter.~~

~~—(a)~~ Multi-family developments where abutting properties zoned or used for single- or two-family residential use.

(2) Where applicable, landscaping shall be provided in accordance with § [153.047](#) of this chapter.

(3) Off-street parking, as provided in 153.185

(D) Other requirements (if applicable)

(1) Water Supply Watershed Overlay District, as provided in 153.121

(Prior UDO, § 7.5) (Ord. passed - - ; Ord. passed 6-29-2023; Ord. O-5-2024, passed 6-6-2024) Penalty, see § [153.999](#)

§ 153.137 NONCONFORMING STRUCTURES.

(A) A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

(C) A nonconforming structure may not, under any circumstances, be enlarged or altered in a way that increases its nonconformity.

(D) Destruction – rebuilt structures shall be placed in a manner most in conformance with all applicable regulations contained in this chapter. If the structure can be placed on the lot in a conforming manner, it shall.

(1) **Nonresidential** - If a nonresidential nonconforming structure is destroyed to an extent of more than 60% of its replacement cost at the time of destruction, it may be rebuilt in a nonconforming manner only if a permit for construction has been issued by the Board of Adjustment in accordance with § [153.279](#) of this chapter. ~~A residential structure which is destroyed to an extent of more than 60% of its replacement cost at the time of destruction may be reconstructed on the lot. If the structure can be placed on the lot in a conforming manner, it shall.~~

(2) **Residential** - ~~Otherwise, the residential structure shall be placed in a manner most in conformance with all applicable regulations contained in this chapter.~~ A building permit for reconstruction must be secured no later than ~~180 days~~ **one year** from the date of destruction of the residential structure.

(E) Should a nonconforming structure be moved for any distance on the lot of record, it shall be placed in a manner most in conformance with this chapter.

(Prior UDO, § 8.3) Penalty, see § [153.999](#)



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: March 6, 2025
From: Jean Derby, Planning Director
Subject: Contract for Engineering and Surveying Services - TGS Engineers

Summary:

Contract for the updated engineering plans to install a sidewalk on East Main Street over 321.

Background:

The sidewalk connector project started in 2015. The engineering phase was completed in 2019. In late 2023, we were awarded additional CMAQ funds for construction costs. However, NCDOT requires that the engineering plans be updated to 2024 standards.

Fiscal Impact:

The cost to update the plans is \$12,000.00.

Recommendation:

Staff recommend approving the contract.

Attachments:

1. TGS Engineering Agreement C-5606I (2)



*TGS Engineers
804-C North Lafayette Street
Shelby, NC 28150
704-476-0003 (phone)
704-476-0024 (fax)*

February 3, 2025

CONTRACT FOR ENGINEERING AND SURVEYING SERVICES

Client Name: City of Lincolnton
Contact Name Jean Derby, Planning Director
Address: 114 West Sycamore Street
Post Office Box 617
Lincolnton, NC 28093
Phone #: (704)736-8930

Project: C-5606I Highway 27 Sidewalk Connector

Introduction

Thank you for the opportunity to provide this contract for engineering and surveying services for the above referenced project.

Project Overview

It is our understanding that the TGS will update all previous documents for this project to current standards. All of the final documents were approved by NCDOT back in 2019 so there should not be any design changes. But if NCDOT does require design revisions, there would be additional engineering cost.

Also, it is our understanding that TGS will not be responsible for the construction contract, letting the project, contract administration or construction inspection.

Scope of Work

See Exhibit A in attached contract.

Sincerely,

B. Chad Houser

B. Chad Houser PE, PLS
TGS Engineers
201 W. Marion St.
Suite 200,
Shelby NC 28150
(704)476-0003 Ext. 311



**AGREEMENT BETWEEN OWNER
AND
(ENGINEERING FIRM)
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made as of this _____ day of _____, 2025, between the City of Lincolnton (“OWNER”), with principal offices at 14 West Sycamore Street, Post Office Box 617, Lincolnton, NC 28093 and TGS Engineers, (“ENGINEER”), with principal offices at 201 W. Marion St Street, Suite 200, Shelby, NC, 28150 for services in connection with the project known as C-5606I (“Project”)

WHEREAS, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services (“Services”) in connection with the Project; and

WHEREAS, ENGINEER desires to render these Services as described in SECTION I, Scope of Services.

NOW, THEREFORE, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

SECTION I. SCOPE OF SERVICES

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The “Terms and Conditions,” which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

SECTION III. RESPONSIBILITIES OF OWNER

The OWNER shall provide the information set forth in paragraph 6 of the attached Terms and Conditions for Professional Services.

SECTION IV. COMPENSATION

Compensation for ENGINEER'S services under this Agreement shall be on the basis of lump sum. The amount of the lump sum is Twelve Thousand Dollars (\$12,000.00). (See Exhibit A for cost breakdown)

The amount of any sales tax, excise tax, value added tax (VAT), or gross receipts tax that may be imposed on this Agreement shall be added to the ENGINEER'S compensation as Reimbursable Expenses.

Compensation terms are defined as follows:

Lump Sum shall mean a fixed amount which shall be the total compensation agreed upon in advance for Scope of Services.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the time period(s) described in Exhibit A.

Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, such as Acts of God, Delay attributed solely to Owner or unforeseeable delay related to Regulatory Agency, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation may be equitably adjusted, as agreed to in writing.

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

City of Lincolnton "OWNER

SIGNATURE: _____

PRINT NAME: _____

DATE: _____

TITLE: _____

ADDRESS: 114 West Sycamore Street
Post Office Box 617
Lincolnton, NC 28093

(ENGINEERING FIRM)
"ENGINEER"

BY:

B. Chad Houser

NAME: B. Chad Houser

DATE: 2/03/2025

TITLE: Project Manager

ADDRESS: 201 W. Marion St. Suite 200
Shelby, NC 28150

EXHIBIT A
SCOPE OF SERVICES

- Update CE Document
- Update Natural Resources Report
- Update Structures Special Provisions
- Update Roadway Special Provisions
- Update Construction Estimate
- Update Roadway Plans
- Update Structures Plans
- Update Traffic Control Plans
- Update Pavement Marking Plans

SCHEDULE

Work shall begin upon notice to proceed and shall be completed within 60 days of the notice to proceed.

FEE SCHEDULE

TOTAL LUMP SUM FEE = \$12,000.00

TERMS AND CONDITIONS

Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$2,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER

shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement.

5. CONTROLLING LAW

This Agreement is to be governed by the state of NC. Jurisdiction and Venue shall lie with the courts of County, NC.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS AND ASSIGNS

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. RE-USE OF DOCUMENTS

Upon payment of all amounts rightfully owed by Owner to the Engineer for services rendered with respect to the Services provided under this Agreement, all plans, drawings, specifications, elements of design, models, reports, submissions, mock-ups and other documents and materials that are produced by the Engineer as part of its performance of such Services hereunder (hereinafter the "Design Documents"), with the exception of those documents that constitute standard details, specifications, and/or other data and/or materials that are regularly used by the Engineer and/or the professional design industry in the normal course of business, shall be deemed to be the property of Owner. Any reuse or

modification of such documents for purposes other than those intended by the Engineer shall be at the Owner's sole risk and without liability to the Engineer.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving ten (10) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments within 30 days in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of receipt by OWNER. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after ten (10) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such

situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment may be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

ENGINEER shall comply with NC's e-verify program.

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by,

arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

agreement/contract any subcontractor that is identified on the List. The List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and should be updated at least every 180 days.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER and ENGINEER have evaluated the risks and rewards associated with this project, including ENGINEER'S fee relative to the risks assumed, and agree to allocate certain of the risks, so, to the fullest extent permitted by law, the total aggregate liability of Engineer (and its related corporations, sub consultants, and employees) to OWNER and third parties granted reliance is limited to the greater of \$(_____) or its fee, for any and all injuries, damages, claims, losses, or expenses (including attorney and expert fees) arising out of ENGINEER's services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity, or other recovery. This limitation shall not apply to the extent the damage is paid under Engineer's commercial general liability insurance policy.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party or negligent in the performance of services rendered, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked.

20. PROFESSIONAL LICENSURE

All work shall be sealed by a properly licensed design professional in North Carolina doing business in the state of North Carolina. These shall include but not be limited to: Engineer, Landscape Architect, Surveyor, Architect, Geologist, etc.

21. IRAN DIVESTMENT ACT

By executing this Agreement/Contract, Contractor hereby certifies that Contractor is not listed on the Iran Final Divestment List ("List") created by the State Treasurer pursuant to N.C.G.S. 147-86.58, Iran Divestment Act ("Act"). In compliance with the Act's requirement and N.C.G.S. § 147-86.59, Contractor shall not utilize in the performance of this



LINCOLNTON AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: March 6, 2025
From: Chris Jones, Technology & Innovation Director
Subject: Ocean10 "Tsunami" 3 Yr Proposal

Summary:

Scope of Agreement

Ocean 10 Security LLC agrees to provide **TSUNAMI 360° Surveillance Systems** and optional **Monsoon Pack** (PTZ cameras) to the Customer on a subscription basis. The subscription includes:

- Equipment
- **Uncapped internet connectivity**
- **Technical support**
- **Warranty and maintenance**
- **Software updates**
- **Routine technology upgrades**

Internet Connectivity

- **Hardline Connection:** Ocean 10 installs the necessary connection.
- **4G Data Plan:** Government/public safety-grade data plan without throttling.
- **Existing Internet:** If available, can be used as the primary connection.

Technology & Hardware Upgrades

- Software upgrades provided remotely at no cost.
- Hardware replacements occur upon renewal or when a component reaches the end of life.

Subscription Terms & Payments

- Minimum contract term with an **option to renew**.
- **Annual subscription fees** vary based on the number of TSUNAMI units, Monsoon Packs, and optional License Plate Recognition (LPR) cameras.
- Payment is due **30 days after invoice receipt**.

Delivery & Installation

- Ocean 10 covers **initial shipping costs**.
- The **Customer is responsible for return shipping** at contract termination.
- The **Customer must provide power (110V)** and any necessary mounting infrastructure.

Support & Maintenance

- Ocean 10 provides **unlimited remote tech support**.
- **Superusers** will be trained to access and retrieve footage.
- On-site maintenance may be performed after events like severe weather.
- **Warranty** covers manufacturing defects, with repairs handled remotely or via shipped components.

Customer Responsibilities

- **Compliance:** Must follow all legal regulations on equipment use.
- **Damage/Loss:** Responsible for vandalism or “acts of God”; insurance covers total loss with a deductible.
- **Non-payment Consequences:** 1.5% late fee per month and potential repossession.

Termination & Default

- Ocean 10 can terminate the agreement if the **Customer fails to meet obligations**.
- The Customer may **terminate for unresolved manufacturer defects**, provided proof of issue reports is available.

Legal Considerations

- **Jurisdiction:** The Customer’s county laws apply.
- **Assignment:** The contract **cannot be transferred** without Ocean 10’s approval.
- **HUD Compliance:** HUD-specific terms override any conflicting provisions.

Background:

The agreement establishes a long-term subscription for 26 TSUNAMI 360° Surveillance Systems deployed across downtown areas and remote sites, ensuring continuous monitoring with unlimited internet connectivity, real-time streaming, and full technical support. These cameras are covered under a comprehensive maintenance and warranty plan, including daily remote diagnostics, software updates, and hardware replacements as needed. Ocean 10 Security LLC guarantees uninterrupted service by offering both hardline and 4G backup internet options, with Superuser training provided for footage retrieval and system management. The Customer is responsible for power supply and infrastructure, while Ocean 10 handles installation, network integration, and ongoing technical support to maintain optimal system performance.

Fiscal Impact:

\$184,000 Yearly for 3 year term with option to renew and new hardware

Recommendation:

The staff recommends approval of this ongoing agreement, citing significant security and operational benefits for both the downtown corridor and rail trail. During the initial contract term, the system was widely adopted and effectively utilized, demonstrating its value in enhancing public safety, improving situational awareness, and supporting law enforcement efforts. The surveillance network has provided critical visibility, allowing officials to record and analyze incidents in real-time, ensuring accurate documentation of events and emergency responses. Additionally, the system has played a key role in evidence collection, aiding in liability mitigation and financial recovery by helping the city recoup damages that may have otherwise gone unresolved. Given these proven advantages, continued investment in the TSUNAMI system will further strengthen public safety, crime deterrence, and incident accountability throughout the city's key areas.

Attachments:

1. T5 VS T4
2. HA Presentation 2025
3. TSUNAMI Subscription Agreement -2024 -



T5



5 x Fixed Verifocal 4K Turret Cameras

8 x Motorized Zoom on each Camera

200% to 300% increase in Nightvision capabilities

Upgraded glass lens and hood for rain protection

25 x Long Range Monsoon available as needed

Armor Plated protection up to a .45 caliber bullet

30 Days of Storage with 360 Degree Coverage

TSUNAMI Version 5 (T5)

09-23-2023 23:10:23



Test conducted during low-light rainy conditions

Resolution and Spec Comparison-

Upgraded TSUNAMI T5 vs T4

T4

4 x Fixed 4K Turret Cameras

Non Motorized Camera Lens

Nightvision susceptible to intermittent weather

Dome lens Camera case

Always Includes 25 x Long Range Monsoon

Armor Plated protection up to a .45 caliber bullet

30 Days of Storage with 360 Degree Coverage

TSUNAMI Version 4 (T4)



Test conducted during low-light rainy conditions



Housing Authorities



Government

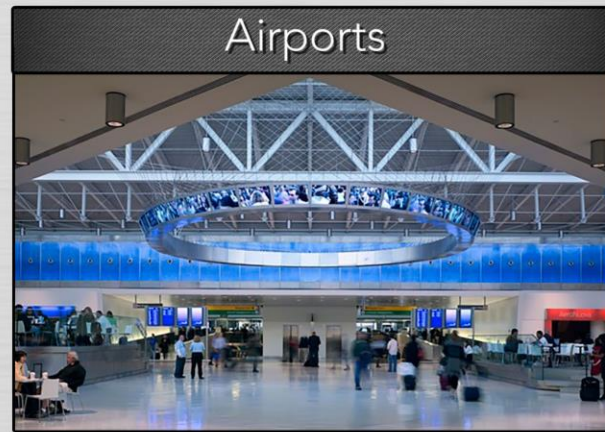


Made in Asheville USA by

Ocean10
Security 10



Military



Airports



Worry Free Lease. [Piggyback contract available!](#) HUD Approved, GSA listed, NDAA compliant



Future Proof: Each system is replaced with completely [new equipment every 3 years](#)



[Full 360-degree viewing on 4 cameras](#) with a Pan-Tilt-Zoom Long-Range Camera included at no charge



100+ feet of [infrared night-vision](#) second to none. See slide for comparison



30+ days of full throttle, 24/7 recording on internal hard drive. [No office server required](#)



[Remote viewing](#) from any smart device or computer, or have us pull footage for you



Includes on-board, cellular internet connection. [No office required](#)



[Armor-plated](#) interior capable of stopping a .45 caliber bullet



 **TSUNAMI**

VS

The Other Guys

Images taken at the
exact time, exact place,
under minimal lighting
conditions.



TSUNAMI



Plug and Play Installation

No extensive infrastructure required

Rapid-Deployment

Record within minutes of adding power

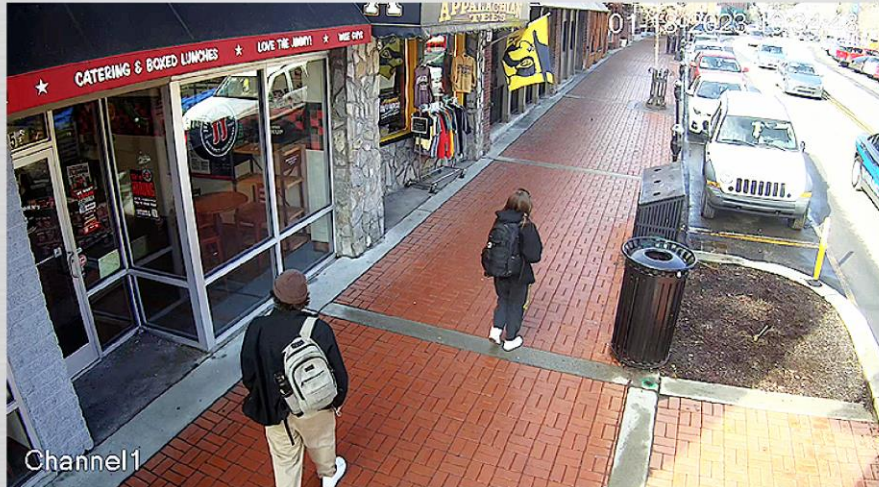
Diverse customers such as NASA, U.S. Military, Housing Authorities, Cities, Police Departments and Universities.





360° Live View & Historical Playback in 4K (One System replaces 5 conventional Cameras)

(note: image resolution reduced for email transmission, only 4 of 5 images shown)





TSUNAMI



License Plate Recognition

(optional add on)

Capture and store License Plate Numbers AND record full vehicle images from TSUNAMI

Records an incredible 60 frames per second (FPS) to capture vehicles up to 100MPH

Capable of integrating with NCIC national criminal database for hotlist alerts

Works effectively both day and night up to 100' distances

2 points of redundancy: Local Video Storage, License Plate Image Server (20+ days)

WEB SERVICE ver 6.0

Live Playback Query Setting Alarm Logout

Main Stream Sub Stream Protocol TCP Fluency Default

637Mbps 2688x1528

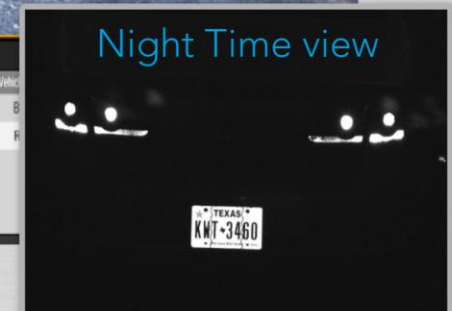
Time: 10-25-2023 15:13:45.946-Plate: HJS4269

Obtain Plate Info

HJS4269

Real Plate Info

Index	Event Type	Capture Time	Lane	Plate	Vehicle
2	ALPR	2023-10-25 15:13:45	3	HJS4269	B
1	ALPR	2023-10-25 15:13:20	1	No Plate	P



Ocean 10 Security LLC**TSUNAMI Equipment & Service Contract**

This Equipment Contract (the "Agreement") is made and entered on Jan 24 2025 by and between:

Ocean 10 Security LLC

329 Gashes Creek Road, Asheville, NC 28803 ("Ocean 10")

and

City of Lincolnton, NC

P.O. Drawer 617, Lincolnton, NC, 28092 ("Customer")

(collectively referred to as the "Parties"). The Parties agree as follows:

1. EQUIPMENT: Ocean 10 hereby provides to Customer the following equipment:

Twenty-Six (26) TSUNAMI 360° Surveillance Systems with unlimited and/or "uncapped" internet connectivity (see section 2).

Five (5) Monsoon Pack (2 long-range PTZ cameras + enclosure and integration equipment). At least one TSUNAMI is required for each Monsoon Pack subscription.

Five (5) Monsoon PTZ cameras

OPTIONAL ADD ON

[x] Two (2) License Plate Recognition Cameras (LPR). At least one TSUNAMI system is required for each LPR subscription.

(Collectively referred to as the "Equipment").

Subscription includes Equipment, unlimited internet connectivity*, tech support, full warranty and maintenance plan, unlimited software downloads, and routine technology upgrades.

2. UNLIMITED OR UNCAPPED INTERNET CONNECTIVITY: Ocean 10 Security will ensure an internet connection which enables livestreaming without any data caps/limitations. Various options can be used (see below).

- a. **Hardline Internet Connection:** Connect each TSUNAMI to a hardline internet source for 24/7 livestreaming of video data. In situations where an Internet Service Provider hardline connection needs to be installed, Ocean 10 will install that source and absorb that cost. All antennas used to connect TSUNAMIs will be fully supported during the contract. Hardline data usage is subject to local ISPs' respective regulations.
 - b. **4G Data Plan:** Ocean 10 Security has access to public safety / government-only 4G data plans that enable uncapped 4G data and no "throttling of speeds" (reduction of speeds after a certain data threshold is reached). While the data is uncapped, if a customer chooses to stream the TSUNAMIs to a TV monitor 24/7 a hardline internet connection should be used for that purpose (office internet or a new Internet Service Provider hardline connection). Ocean 10 cannot guarantee 4G speeds as this is dictated by the provider and the area it exists in. Ocean 10 will run speed tests once completed to ensure that they are stable and acceptable within the confines that equipment operates in.
 - c. **Existing Hardline Internet Connection:** When an existing internet source is available and has feasible speeds, Ocean 10 will connect the TSUNAMIs to that source. A 4G data plan is always included as a backup connection for diagnosing issues. Local access points are a further redundancy in the event that the internet connection goes out. All antennas used to connect TSUNAMIs will be fully supported during the contract.
3. **TECHNOLOGY UPGRADES:** During the contract, Ocean 10 will be performing technological software upgrades. These upgrades will occur as they become available and can be completed remotely by Ocean 10. This will also include all software upgrades to any networking equipment supplied and installed by Ocean 10. These upgrades will come at no applicable cost to the customer as Ocean 10 seeks to provide equipment that operates as optimally as possible. Hardware upgrades will occur during the renewal process, in the event that an hardware item has reached end of life and has no replacement, then the items will be replaced with a newer model.
4. **SUBSCRIPTION TERM:** The Subscription will start on May 01 2025 (begin date) and will end on May 01 2028 (3 years). Subscription term is MINIMUM 3 years with option to renew after initial term.
5. **SUBSCRIPTION PAYMENTS:** Customer agrees to pay Ocean 10 \$ 7000 (plus tax, if applicable) for the TSUNAMI subscription per TSUNAMI per year.

6. Customer agrees to pay Ocean 10 \$ 2000

(plus tax, if applicable) for the Monsoon Pack subscription per Monsoon Pack per year. Includes 5 x Monsoon PTZs at no charge

IF LPR add on is selected, Customer agrees to pay an additional \$ 3000

(plus tax, if applicable) per LPR per year. 2 x TSUNAMIS at no charge

Total Annual Payments for 26 TSUNAMIS, 5 Monsoon Packs and 2 LPR Systems are: + 5 x Monsoon PTZs

\$ 184,000 (plus tax, if applicable)

Total Value for Subscription Term:

\$ 552,000 (plus tax, if applicable)

Payment shall be paid to Ocean 10 at:

329 Gashes Creek Road, Asheville, NC 28803

or at any other address designated by Ocean 10. Payments may also be sent to Ocean 10's assigned distributor if applicable.

Invoice is sent after poles, electrical infrastructure, and Equipment have been delivered and installed. Payment is due 30 days from receipt of invoice. Power is the responsibility of the Customer and power company; payment must be made regardless of power status.

7. LATE CHARGES: Full payment is due 30 days from receipt of invoice. All past due invoices will be subject to a finance charge of 1.50% per month, annual rate of 18.00%.

8. DELIVERY: Ocean 10 shall be responsible for all expenses and costs at the beginning of the Subscription Term; shipping the Equipment to Customer's premises. The customer shall be responsible for all expenses and costs at the end of the Subscription Term; shipping the Equipment back to Ocean 10's premises.

9. INSTALLATION: Physical installation of the Equipment will be completed in terms agreed upon by both Ocean 10 and Customer. Customer agrees to supply 110V electrical connectivity at their expense and any special mounting surfaces, devices,

and all associated costs. Movement of Equipment is the responsibility of the Customer.

10. **DEFAULTS:** If Customer fails to perform or fulfill any obligation under this Agreement, Customer shall be in default of this Agreement. Subject to any statute, ordinance or law to the contrary, Customer shall have seven (7) days from the date of notice of default by Ocean 10 to cure the default. In the event Customer does not cure a default, Ocean 10 may at Ocean 10's option (a) cure such default and the cost of such action may be added to Customer's financial obligations under this Agreement; or (b) declare Customer in default of the Agreement. If Customer shall become insolvent, cease to do business as a going concern or if a petition has been filed by or against Customer under the Bankruptcy Act or similar federal or state statute, Ocean 10 may immediately declare Customer in default of this Agreement. In the event of default, Ocean 10 may, as permitted by law, re-take possession of the Equipment. Ocean 10 may, at its option, hold Customer liable for any difference between the Rent that would have been payable under this Agreement during the balance of the unexpired term and any rent paid by any successive Customer if the Equipment is re-let minus the cost and expenses of such reletting. In the event Ocean 10 is unable to re-let the Equipment during any remaining term of this Agreement, after default by Customer, Ocean 10 may at its option hold Customer liable for the balance of the unpaid rent under this Agreement if this Agreement had continued in force.
11. **POSSESSION AND SURRENDER OF EQUIPMENT:** Customer shall be entitled to possession of the Equipment upon delivery by Ocean 10. At the expiration of the Subscription Term, Customer will have the option to continue the Subscription with term and rate to be determined by Ocean 10 and Customer. If the Subscription is not continued, the Customer shall surrender the Equipment to Ocean 10 by delivering the Equipment to Ocean 10 in good condition and working order, ordinary wear and tear accepted.
12. **USE OF EQUIPMENT:** Customer shall only use the Equipment in a careful and proper manner and will comply with all laws, rules, ordinances, statutes and orders regarding the use, maintenance, and storage of the Equipment. Ocean 10 will be the sole determinate of maintenance and error troubleshooting, including but not limited to replacement of Equipment as determined necessary for its proper function.
13. **SUPPORT:** Ocean 10 provides unlimited remote tech support to the Customer inclusive in the contract price. It is important to note that Ocean 10 does provide IT Support, but ONLY to issues that are directly related to/caused by the Equipment.

Ocean 10 is not responsible for tech support pertaining to Customer's local internet, networking, power, or other technology related issues that may affect the Equipment's usability. Users must have administrator rights enabled on their computers to effectively utilize software.

Ocean 10 will train two "Superusers" to access TSUNAMI footage, retrieve footage, adjust management settings, etc. The Superusers are responsible for accessing and retrieving footage at their discretion. The Superusers are responsible for training all other users from that point forward. Ocean 10 is only responsible for providing tech support to the designated Superusers. Ocean 10 should only be contacted for technical malfunctions or troubleshooting.

14. **MAINTENANCE:** Remote diagnostics on every TSUNAMI are performed daily. Ocean 10 may conduct unscheduled on-location inspections and maintenance following triggering events, such as extreme inclement weather, etc.
15. **WARRANTY:** Ocean 10 is described as the Original Equipment Manufacturer (OEM) whereby Ocean 10 is responsible for the functionality of the Equipment during the Subscription Term; whereby functionality is described as manufacturing or program defects. In the event of a malfunction of the system, Ocean 10 Security (via remote access) and the Customer will work together to diagnose the issue and make corrective action by program or firmware corrective action. The Customer is responsible for taking any diagnostic action that is requested by Ocean 10 Security (such as verifying that power is going to the system by confirming that power indication lights on the modem are lit).

In the event of a diagnosed hardware malfunction determined to be a manufacturing error, the Customer will be responsible for retrieving the Equipment or parts from Equipment that need repair and shipping parts to:

329 Gashes Creek Road, Asheville, NC 28803

or other designated address given by Ocean 10. Ocean 10 will perform diagnostics and repairs in shop. Ocean 10 will ship repaired or new parts (depending on diagnostics) back to Customer. It is the responsibility of the Customer to reinstall the repaired/new parts onto the Equipment. The Equipment is engineered for all major components to be "quick detach" and/or "hot swap" in the event of a necessary hardware replacement.

Ocean 10 will provide training to Customer for hardware replacement. It is the responsibility of the Customer to position the Equipment in a manner in which the Customer may easily access the system in the event of an issue. It is important that the Customer be aware that high elevation mounting may restrict or hinder their

own access. It is noted that many issues are derived from a power loss to the Equipment via a breaker/GFI trip feeding power to the device and this issue shall be the sole responsibility of the Customer.

Ocean 10 will also assist in non-warranty malfunctions derived from issues such as vandalism and/or “acts of God” but the expense of replaced parts shall be the responsibility of the Customer. See sections 15 and 16 for more information.

16. DAMAGE AND LOSS: In the event that Equipment is lost, stolen, or damaged beyond repair due to an “act of God” or vandalism, outside of a warranty issue, Customer is responsible for the damage incurred to the equipment. For more information, refer to the additional documents “TSUNAMI Insurance Information” and “Replacement Tier Detail Sheet”, which have been provided with this contract.

17. INSURANCE: Customer shall be responsible for the Equipment with losses payable to Ocean 10 against fire, theft, collision, vandalism, and other such risks as are appropriate and specified by Ocean 10.

Ocean 10 Security holds insurance on every TSUNAMI device and Customer will be responsible for no more than \$ 2500 per TSUNAMI unit in event of total loss. A new TSUNAMI unit would be delivered upon receipt of payment. For more information, refer to the additional documents “TSUNAMI Insurance Information” and “Replacement Tier Detail Sheet”, which have been provided with this contract.

18. ENCUMBRANCES, TAXES AND OTHER LAWS: Customer shall keep the Equipment free and clear of any liens or other encumbrances and shall not permit any act where Ocean 10’s title or rights may be negatively affected. Customer shall be responsible for complying with and conforming to all laws and regulations relating to the possession, use or maintenance of the Equipment. Furthermore, Customer shall promptly pay all taxes, fees, licenses and governmental charges, together with any penalties or interest thereon, relating to the possession, use or maintenance of the Equipment.

19. OCEAN 10 REPRESENTATIONS: Ocean 10 represents and warrants that he/she has the right to provide the Equipment as provided in this Agreement and that Customer shall be entitled to quietly hold and possess the Equipment, and Ocean 10 will not interfere with that right as long as Customer pays the Rent in a timely manner and performs all other obligations under this Agreement.

20. ACCESSIBILITY: During the Subscription term, Ocean 10 may require physical access to the Equipment to conduct maintenance, troubleshooting, repair, or upgrades, and will subsequently provide notice to the Customer of the need for access. Ocean 10 reserves the exclusive right to maintain the Equipment and may

license outside contractors to also provide service to the Equipment. Ocean 10 may also permit the Customer to access the Equipment at Ocean 10's discretion for minor system needs.

- 21. SEVERABILITY:** If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.
- 22. ASSIGNMENT:** Neither this Agreement nor Customer's rights hereunder are assignable except with Ocean 10's prior, written consent.
- 23. BINDING EFFECT:** The covenants and conditions contained in the Agreement shall apply to and bind the Parties and the heirs, legal representatives, successors and permitted assigns of the Parties.
- 24. GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the state and county laws of the Customer's location.
- 25. JURISDICTION:** Should the need arise, a venue located in Customer's county shall be agreed upon by both parties
- 26. TERMINATION:** If at any point during the term of the Subscription, the Equipment is not functioning as described because of manufacturer defect and the problem continues to be unresolved, the Customer may terminate the contract with written notice to Ocean 10. Customer must have proof of communications requesting resolution to Equipment malfunction with a lack of response. Such notice must be written and mailed with a certified return receipt requested to be delivered to:

Ocean 10 Security LLC, 329 Gashes Creek Road, Asheville, NC 28803

Ocean 10 may change such address by providing notice to Customer at beginning of annual billing period. If Customer does NOT receive delivery receipt, Customer must contact Ocean 10 for updated address.

- 27. MANDATORY HUD TERMS:** Parties acknowledge and agree that Form HUD-5370-C General Conditions for Non-Construction Contracts Section I (and Section II if applicable), Form HUD-52158, and Section 3 documents contain the mandatory terms prescribed by the United States Department of Housing and Urban Development and that said terms are incorporated into this Agreement and may not be modified or amended. All limitations and provisions contained in TSUNAMI Equipment & Services contract that conflict with the terms set forth in Form HUD-

5370-C General Conditions for Non-Construction Contracts Section I (and Section II) are void and unenforceable.

28. **CUMULATIVE RIGHTS:** Ocean 10's and Customer's rights under this Agreement are cumulative and shall not be construed as exclusive of each other unless otherwise required by law.
29. **WAIVER:** The failure of either party to enforce any provisions of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The acceptance of Rent by Ocean 10 does not waive Ocean 10's right to enforce any provisions of this Agreement.

Stephen Teachout

Jan 24 2025 13:04 EST

Date

Page 91 of 124

Service Order

Conterra Networks
5301 77 Center Drive
Charlotte, NC 28217
Phone 704.936.1800
www.conterra.com

Quote #: 50652-Q-41315
Date: February 21, 2025
Valid Until: March 22, 2025

Legal Business Name:	City of Lincolnton	Conterra Contact
Contact: Chris Jones Phone: +1 704-736-8980 E-Mail: cjones@lincolntonnc.org Address: 114 W Sycamore St Lincolnton, North Carolina 28092 United States		Rep: Andrew Baird Phone: E-Mail: abaird@conterra.com

Contract Term: 36 Months

Location: 142 Ross Street Lincolnton NC 28092 Location Status: Near-Net

Description	QTY	Unit MRC	Total NRC	Total MRC
Premier Internet - 1 Gb	1.00	\$605.00		\$605.00
Premier Internet Service Plan	1.00	\$45.00		\$45.00
Internet - Symmetrical Install Charge, Managed DDoS, Static IP Address - Stand Alone				
Sub Total:			0	\$650.00

Quote Totals

Total NRC	Total MRC
\$0.00	\$650.00

Order

This Order Form ("Order") is entered into by and between Conterra Ultra Broadband, LLC, a South Carolina liability company ("Conterra Networks") on behalf of itself and for the benefit of itself and its Affiliates, and Customer.

This Order is subject to and controlled by the **Terms and Conditions set forth at <https://conterra.com/terms-and-conditions/>**, which are incorporated herein by reference (collectively, the Order and the Terms and Conditions shall be referred to as the "Agreement"). Customer's signature constitutes acceptance of the Order and its agreement to the Terms and Conditions.

SERVICE, TERM AND RATES: Conterra agrees to provide, and Customer agrees to accept the services (hereinafter, the "Service(s)") beginning on the In-Service Date and continue for the Term and the rates contained above. Conterra and Customer shall use commercially reasonable efforts to provide services on or about the Requested Service Date.

IN WITNESS WHEREOF, the Parties hereto have caused this Order to be executed by their duly authorized officers or representatives.

Notes

1. Customer will provide rack space and power at no cost to Conterra.
2. Pricing is exclusive of taxes and fees.
3. Pricing and availability are contingent upon the credit approval, final site survey and engineering.
4. Customer is responsible for ensuring access to the property where Service will be provided. Customer agrees as follows (check one):

☐

Customer warrants that it is the Building/Property owner or otherwise has the authority to, and shall, allow Conterra, its agents, contractors, and Affiliates to install and maintain all equipment necessary to provide Services to the Customer at the Customer's premises, including, but not limited to access to the roof. Customer shall be responsible for arranging access to any of the rights of way, conduit, and equipment space necessary to provide the Service on the Customer's premises so that Conterra may install, repair, maintain, inspect, replace, or remove any and all facilities associated equipment provided by Conterra; or

☐

Customer is not the Building/Property owner. Customer understands installation will not be completed until the Building/Property owner or their agent or designee has authorized access to the property by Conterra. The Customer will be required to provide contact information for the Building/Property Owners, or their agents, or designees.

CONTERRA

City of Lincolnton

By:

Name: _____

Title: _____

Date: _____

By:

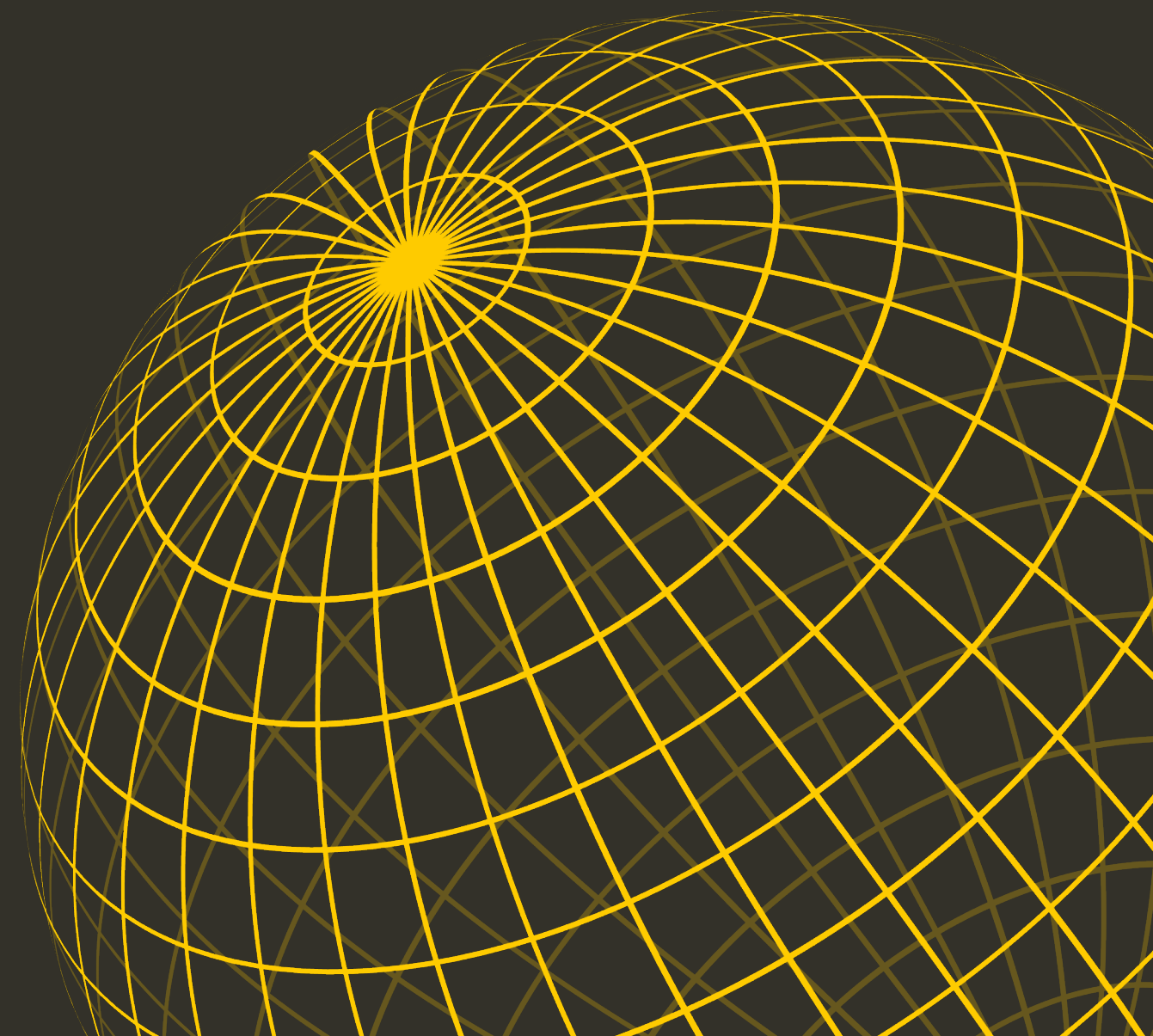
Name: _____

Title: _____

Date: _____



Fiber Driven. People Powered.

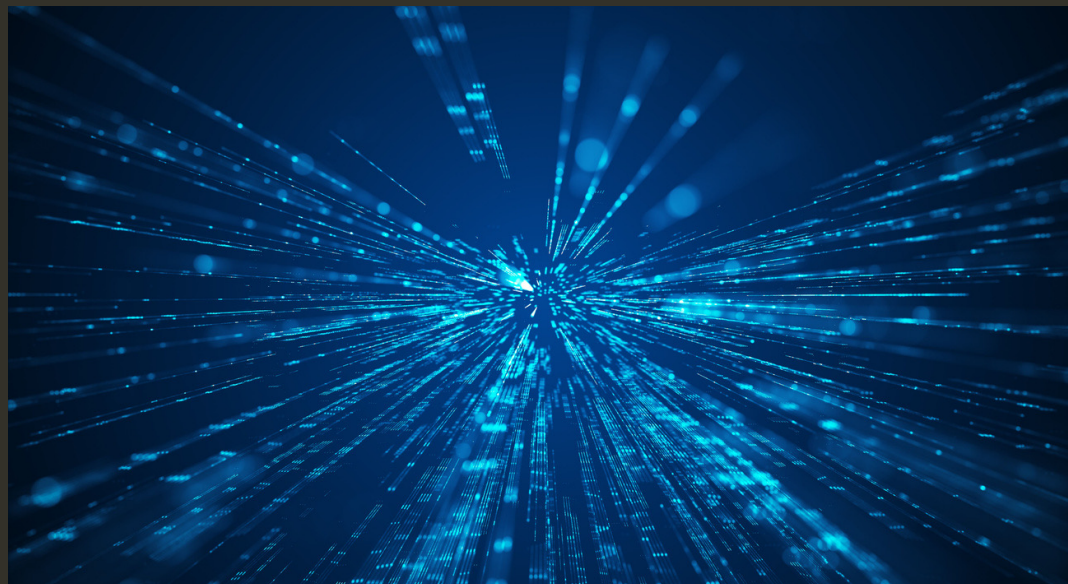


Conterra Networks

Our Mission

Fiber Driven. People Powered.

Our customer-centric focus is at the core of everything we do. By delivering state-of-the-art, fiber-based solutions with a superior customer experience, thousands of businesses and organizations have enjoyed the benefits of our world-class fiber optic network and local customer service teams.



Conterra Networks is Headquartered in

CHARLOTTE, NC



Conterra is Headquartered in Charlotte, we also have offices in Louisiana and Texas.

Conterra Networks

Executive Leaders



Craig
Gunderson

President & Chief
Executive Officer



Mike Tompkins

Executive Vice
President & Chief
Operations Officer



Michael Brady

Executive Vice
President & Chief
Revenue Officer



Christopher
Harris

Chief Technology
Officer & Chief
Security Officer



André Hall

Senior Vice
President, General
Counsel, &
Corporate Secretary

Local Support



Blake Gunn
NC Director

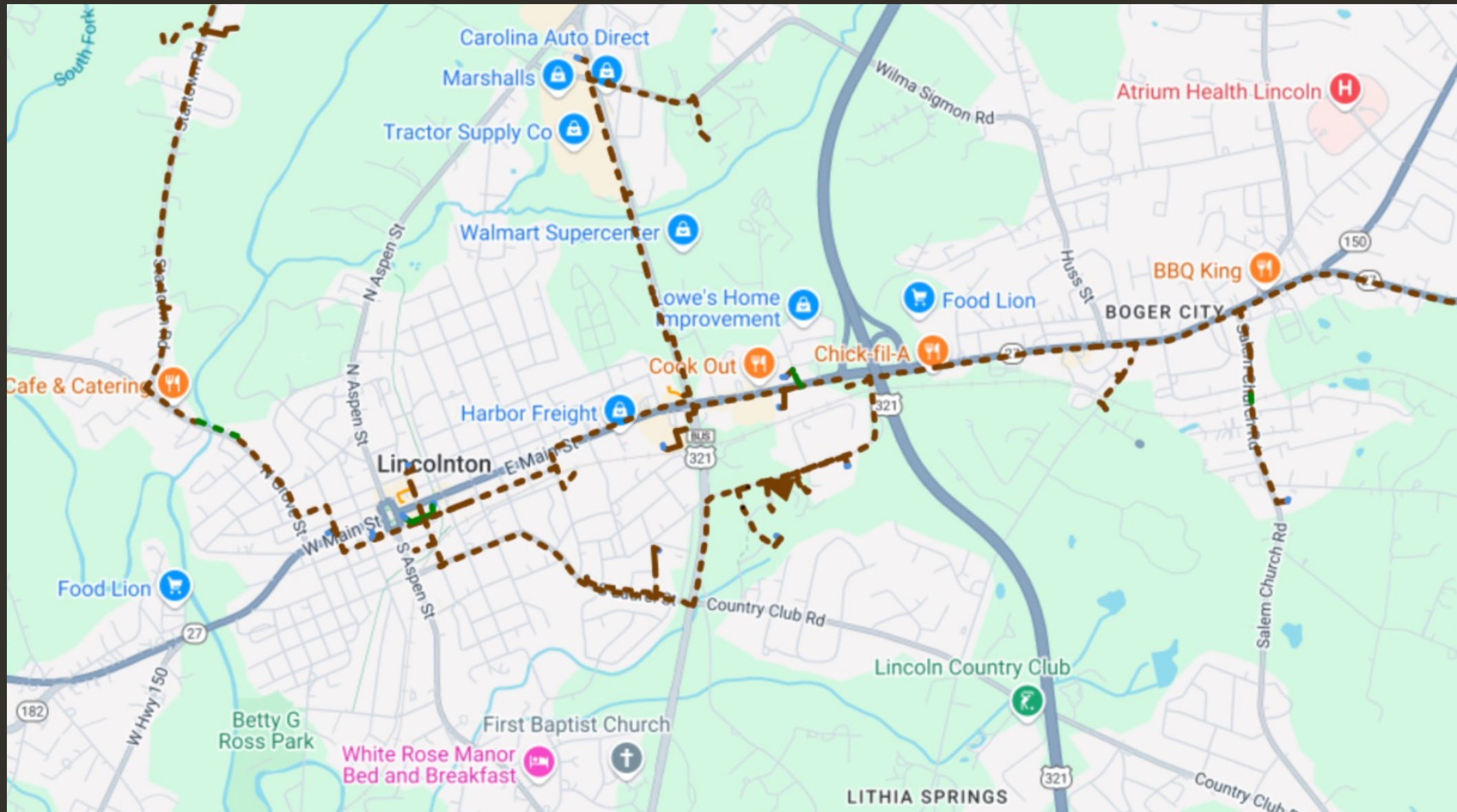


Andrew Baird
NC Account
Executive



Al Bischke
NC Sales Engineer

Conterra's 100% fiber-optic network



Our Lincolnton fiber network. Currently utilized by Lincoln County Government and many local businesses. We're ready to build new routes and support all your facilities!

Internet Access

-  **Stable Network:** Our robust fiber infrastructure ensures consistent performance, even during peak hours.
-  **Customer-Centric SLA:** Unlike other providers, we measure our 99.995% Service Level Agreement (SLA) from your location—not just within our network.
-  **Blazing Speeds:** Choose from speeds ranging from 100 Mbps to a lightning-fast 10 Gbps.



Ethernet



Carrier Ethernet for Enterprise Networks:

- Conterra's carrier Ethernet simplifies planning, deployment, and delivery across offices or locations.
- Scalable from 10 Mbps to 10 Gbps, it adapts to changing business needs.
- Offers dedicated (EPL) or virtual (EVPL) services in various topologies (point-to-point, point-to-multipoint, or multipoint-to-multipoint).



Custom Solutions:

- Conterra's experts design tailored solutions that capture your specific WAN requirements.
- Streamlined management capabilities over a simplified fiber network infrastructure.



Reliability and Support:

- Industry-leading SLAs (Service Level Agreements) with 99.995% availability.
- Prescient local support and a 24x7x365 Network Operations Center (NOC).

**LET'S
KEEP
IN TOUCH**

CONTACT US

Conterra delivers the network you need, but it is our people—and how much we care before, during, and after the build—that truly sets us apart.



www.Conterra.com



888-266-4836



5301 77 Center Dr. Charlotte, NC 28217

CITY COUNCIL

Ed L. Hatley, Mayor
 Kevin Demeny, Mayor Pro-Tem
 Roby D. Jetton
 Mark Johnson
 Jill Tipton

**CITY MANAGER**

Richard Haynes
rhaynes@lincolntonnc.org

CITY CLERK

Daphne Ingram
dingram@lincolntonnc.org

CITY ATTORNEY

John M. Friguglietti, Jr.
john@davidsonlawyers.net

BA-03-25

BE IT ORDAINED by the Governing Board of the City of Lincolnton, North Carolina, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2025.

Section 1: To amend the General Fund, the expenditures are to be changes as follows:

General Expense	\$	65,376
Solid Waste		960
Planning/Zoning		1,275
Recreation		2,300
	\$	69,911

Section 2: To amend the General Fund, the revenues are to be changed as follows:

SW: Rollout Fees	\$	960
General: Cemetery Lot Sales		4,000
P&Z: Zoning Department Fees		1,275
General: Interest		56,276
General: Insurance Settlement		5,005
General: WEX-Fuel Rebates		94
Rec: Veterans Banner Project		2,300
General: Federal Equitable Deposits		0
	\$	69,911

General Fund: Misc Revenues for the P&Z and Solid Waste departments, Interest income, Insurance/Repair Settlements from: NCLM - PD; Officer Darius Collins hit a deer, & Federal Equity Interest income.

Section 3: To amend the Powell Bill Fund, the expenditures are to be changes as follows:

Powell Bill Construction/Other	\$	2,069
--------------------------------	----	-------

Section 4: To amend the Powell Bill Fund, the revenues are to be changed as follows:

Investment Income	\$	2,069
	\$	2,069

Powell Bill Fund: Record interest income earned.

Section 5: To amend the Water and Sewer Fund, the expenditures are to be changes as follows:

Distribution and Collection	\$	24,750
Wastewater Treatment Plant		33,816
	\$	58,566

Section 6: To amend the Water and Sewer Fund, the revenues are to be changed as follows:

Investment Income	\$	33,666
Connection Charges		24,720
Other Operating Revenues		150
	\$	58,536

Water and Sewer Fund: D.R. Horton Inc, Red Cedar Homes, Carolina Elite Builder, & NRGEE Construction Services connection fees, miscellaneous fees, and Interest income earned.

Section 7: To amend the Electric Fund, the expenditures are to be changes as follows:

Electric Operations	\$	27,097
---------------------	----	--------

Section 8: To amend the Electric Fund, the revenues are to be changed as follows:

Investment Income	\$	25,527
Other Operating Revenue		1,570
	\$	27,097

Electric Fund: Interest income earned, Electric meter charges to Carolina Elite Builder & NRGEE Construction Services, and Utility receivables.

Section 16: Appropriations are authorized by fund totals. The City Manager is authorized to reallocate fund appropriations among line item objects of expenditures and revenues as necessary during the budget year.

Section 17: Copies of this Budget Ordinance shall be furnished to the Clerk to the Governing Board and to the Budget Officer and Finance Director to be kept on file by them for their direction in the disbursement of funds.

TOTAL AMENDMENT \$ 157,612

Adopted this 6th day of March, 2025

Attest:

Daphne Ingram
City Clerk

Edward L Hatley
Mayor

**CITY OF LINCOLNTON
ADMINISTRATIVE POLICY**

Subject: Uniform Guidance Procurement Policy	Manual: Administrative
Policy Number:	Effective Date:
Issued By: Pamela McBryde, Finance Director	City Manager Approval: Ritchie Haynes, City Manager

A copy of this policy must be maintained in the City of Lincolnton's Administrative Manual for each City department and division.

I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by the City of Lincolnton are more restrictive than those contained in this policy, local policies and procedures shall be followed.

II. Policy

- A. Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The City of Lincolnton will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the City of Lincolnton have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

III. General Procurement Standards and Procedures:

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

- D. Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by

which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** (except for Architectural/Engineering professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
 - 1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 - 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for Architectural/Engineering professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
 - 1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).

2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

C. Service Contracts (except for Architectural/Engineering professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

D. Service Contracts (except for Architectural/Engineering professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criterion (criteria weight) in the RFP.

4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with the most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

E. Construction and repair contracts costing less than \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. Construction and repair contracts costing \$10,000 up to \$250,000 shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. Construction and repair contracts costing \$250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publically advertise the bid solicitation for a period of time sufficient to give bidders notice of the opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.

5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for "sound documented reasons."

H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."

I. Construction or repair contracts involving a building costing \$300,000 and above must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn up for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).

3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

J. Contracts for Architectural and Engineering Services costing under \$250,000 shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

K. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate the qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.

9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
10. Award the contract to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: March 6, 2025
From: David Ramsey, Business Services Director
Subject: Prequalification Resolution for bidders on construction & repair projects.

Summary:

Background:

Fiscal Impact:

Recommendation:

Attachments:

1. Prequalification resolution

PREQUALIFICATION RESOLUTION FOR THE CITY OF LINCOLNTON

WHEREAS, N.C. General Statute 143-135.8 provides authorization for the prequalification of bidders on construction and repair projects.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincolnton that the City's prequalification policy be adopted as follows and included in the City's Procurement and Purchasing Policy:

Prequalification of Bidders for Construction Projects:

I. Purpose:

The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is qualified to bid on a construction project, including prime contracts awarded by construction managers pursuant to the Construction Manager at Risk ("CM at Risk") process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.

II. Policy:

Prequalification is not required for all construction and/or capital improvement projects. The Bid Agent shall be responsible for prequalifying individual contractors to bid on construction projects when the City believes prequalification is preferred. Prequalification is limited to construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which it has not been accepted for prequalification in accordance with this policy.

Prequalification is prohibited for contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services.

The Construction Manager at Risk shall use the process outlined in this policy for the prequalification of contractors on CM at Risk projects. The construction manager and the City shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and minimum requirement score.

Notwithstanding the fact that a contractor was prequalified, the City reserves the right to reject a contractor's bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the City from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S. 143-129. The prequalification of a contractor for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

III. Organizations Affected:

All Departments/Divisions

IV. Definitions:

Bid Agent – Person assigned the responsibility to prepare the request for qualification, bid, and contract documents, advertise bids and proposals, and open bids for contracts under the direction of the Project Manager. The Bid Agent may be a professional services consultant retained by the City under an approved contract, the City's project manager or designee, or a department head responsible for the project.

Project Manager – Employee of the City designated and responsible for a construction, repair, or purchasing project requiring a contract who shall be assigned the responsibility for managing the project and representing a department in matters relating to the project.

Construction Manager at Risk – A person, corporation, or entity that provides construction management at risk services. May also be referred to as Construction Manager.

Prequalification - A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work.

Purchasing Director - Employee designated as such or their designee responsible for the overall conduct or oversight of all procurement activities of the City.

V. Prequalification Process:

1. Each prospective bidder on contracts identified for prequalification by the Bid Agent

and all CM at Risk projects shall submit an application on the approved prequalification application form in order to become prequalified.

2. The approved prequalification application form will require information to be provided on the ownership of the firm, experience of firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work performed by the firm, and other objective criteria rationally related to the particular contract to be awarded.
3. The Bid Agent shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The notice must be posted on the City's website for a minimum of two weeks for any construction project estimated to be \$30,000 or more. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the City.

VI. Application:

1. The application shall, at a minimum, address the following items:
 - a. **Organizational Structure** – The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the Bid Agent prior to the award of a contract. Failure of the firm to comply with this requirement may result in the termination of any contract awarded by the City.
 - b. **Classification** – The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information.
 - c. **Experience** – The firm shall furnish a history documenting experience with projects of similar size, scope, or complexity involving the type(s) of work for which prequalification is requested.
 - d. **Financial** – Firms will be required to provide a minimum of one year of complete audited financial statements from the most current period available.
 - e. **Litigation/Claims** – The firm will be required to submit information regarding its litigation history, including litigation with owners and subcontractors.
 - f. **Timeliness** - Firms must provide information on its success at completing projects on time, including the payment of liquidated damages.
 - g. **Capacity** – Firms shall demonstrate sufficient bonding capacity, insurance

and resources for the project. Firms must provide relevant information on the personnel that will be directly responsible for the work, including the location of the office that will be primarily responsible for work.

- h. **Safety** - Firms shall also demonstrate an acceptable safety history. Firms must provide copies of any complaints, safety violations or reports from the North Carolina Qualifications Board, OSHA, or any other regulating agency associated with any construction project.
- i. **Legal Authorization** –The Applicant must provide a copy of their North Carolina Contractor's License, or provide a statement indicating that they are able to acquire one before submitting a bid on a project. If a statement is required, the Applicant shall identify the states in which they are licensed for this type of work.

VII. Review of Application – City Bid Projects:

- 1. **Prequalification Committee** – The Project Manager shall establish a Prequalification Committee for each project to review and score applications submitted by the firms to determine the prequalification eligibility.
- 2. **Review of Applications** – The Prequalification Committee shall use an objective assessment process and criteria for that specific project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the City. The prequalification criteria used by the Prequalification Committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.
- 3. **Notice of Decision** – The firms shall be promptly notified in writing of the Prequalification Committee's decision via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

VIII. Review of Application – CM at Risk Projects:

- 1. **Prequalification Committee** - The Construction Manager and the Project Manager shall agree upon the members of the Construction Manager's Prequalification Committee. The Prequalification Committee will review prequalification applications submitted by the firms and will determine prequalification eligibility for the CM at Risk project.

2. **Review of Applications** – The Prequalification Committee and the Project Manager shall agree upon an objective assessment process. The Construction Manager and the Project Manager shall develop prequalification criteria, including prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the Construction Manager or the Town. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.
3. **Notice of Decision** – The firms shall be promptly notified of the Prequalification Committee's decision via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

IX. Protest Procedure:

1. **Protest Procedure** – The protest procedure is as follows:
 - a. The firm may protest the denial of prequalification. A written protest must be received by the Bid Agent, or designee, within two business days of notice of denial. The written protest shall clearly identify the project and the Project Manager, clearly articulate the reasons for the protest, and attach any documents or additional information in support of the firm's position. The Bid Agent or designee, will contact the firm and set up a date and time to discuss the protest. If upon review, the Bid Agent, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Bid Agent, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.
 - b. If the firm desires further review after receiving the decision of the Bid Agent or designee, the firm may request an administrative review and final decision by the City Manager, or designee. A written request for administrative review must be received by the City Manager, or designee, within two business days of the firm's receipt of the decision from the Bid Agent, or designee. The request for administrative review shall clearly identify the project and the Project Manager, clearly articulate the reasons for the review, and attach any documents or additional information in support of the firm's position. The City Manager, or designee, will contact the firm and set up a date and time for the administrative review. If, upon review, the City Manager, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the

project and allowed to participate in the bid process. If the City Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.

- 2 **General Rules for Protests** – Firms submitting applications shall be provided an e- mail address for communication with the Bid Agent during the protest process. The firm shall provide at least two e-mail addresses for use by the Bid Agent in communicating with the firm. The bid opening cannot occur until the protest process is completed. The bid opening must be scheduled in order to allow sufficient time for a bidder that is prequalified as a result of a protest to submit a bid on that project.

ADOPTED this the 6th day of March 2025.

Ed Hatley, Mayor
City of Lincoln



LINCOLNTON
AGENDA ITEM SUMMARY

To: The Honorable Mayor and City Council
Date: March 6, 2025
From: Tanya Osborne, Human Resources Director
Subject: Administrative Policy #25 Pregnant Workers Fairness Act

Summary:

Background:

Fiscal Impact:

Recommendation:

Attachments:

1. Memo-Proposed Administrative Policy #25-Pregnant Workers Fairness Act (PWFA) 250306
2. 25 Pregnant Workers Fairness Act (PWFA) 250306

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28093-0617



Human Resources Department
Phone (704) 736-8980
FAX (704) 736-8975
www.lincolntonnc.org

MEMORANDUM

To: Mayor and City Council Members

From: Tanya Osborne, Human Resources Director

Re: Proposed Administrative Policy #25-Pregnant Workers Fairness Act (PWFA)

Date: March 6, 2025

In the last half of 2024, the EEOC issued final regulations for the Pregnant Workers Fairness Act (PWFA). The PWFA applies to private employers and public sector employers that have 15 or more employees and is in addition to the protections covered by Title VII, ADA, and FMLA. The PWFA applies only to a covered individual's right to "reasonable accommodations".

The PWFA requires a covered employer to provide a "reasonable accommodation" to a qualified employee's or applicant's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an "undue hardship". The proposed policy outlines the steps the pregnant employee and the City will follow to identify "reasonable accommodations".

Attached for your review is Administrative Policy #25 Pregnant Workers Fairness Act. This policy has been vetted through the NCLM.

At this time, I would ask for City Council's consideration of the following:

Approval of the proposed Administrative Policy #25 Pregnant Workers Fairness Act (PWFA)

Attachments: Proposed Administrative Policy #25 Pregnant Workers Fairness Act (PWFA)

CITY OF LINCOLNTON
ADMINISTRATIVE POLICY

Subject: Pregnant Workers Fairness Act (PWFA)	Manual: Administrative
	Effective Date: March 6, 2025
Policy Number: 25	Revision:
Issued By: Human Resources Department	City Manager Approval: Ritchie Haynes

Purpose

This policy outlines the procedures and guidelines for providing reasonable accommodation to pregnant employees in accordance with the Pregnancy Workers Fairness Act (PWFA).

Scope

This policy applies to all employees, regardless of employment status, who are pregnant, have recently given birth, or have related medical conditions covered under the Pregnancy Workers Fairness Act.

Definitions

Pregnancy: The condition of being pregnant, childbirth, or related medical conditions.

Reasonable Accommodation: Modifications or adjustments to job duties, schedules, work environments, or processes that enable pregnant employees and applicants to perform their job functions without causing undue hardship to the employer.

Undue Hardship: Significant difficulty or expense that would impose a disproportionate burden on the operation of the organization.

Interactive Process: The collaborative dialogue between the employer and the pregnant employee to identify and implement appropriate accommodations.

Policy

It is the employee's responsibility to notify the City of any pregnancy-related limitation and that she needs an accommodation. An employee or applicant may request an accommodation due to pregnancy, childbirth or a related medical condition by submitting the request in writing to Human Resources or to the employee's department head. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receiving a request for accommodation, the employer will engage in an interactive process with the pregnant employee to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship. The interactive process may involve discussions between the employee, their supervisor, and HR personnel. Reasonable accommodations will be determined on a case-by-case basis, considering the pregnant employee's specific needs, the organization's operational requirements, and any potential undue hardships. Information regarding an employee's pregnancy and accommodations will be treated confidentially and shared only with individuals directly involved in the accommodation process on a need-to-know basis.

The City prohibits retaliation, harassment or adverse employment action due to an individual's request for accommodation pursuant to this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

Attachments

None

A copy of this policy must be maintained in the City of Lincolnton's Administrative Manual for each City department and division.