

Minutes of the July 13, 2020
Regular Meeting of the Yancey County Board Of Commissioners
Held at 6:00 pm in the Yancey County Courtroom
Yancey County Courthouse, Burnsville North Carolina

Present at the meeting held July 13, 2020 were Chairman Jeff Whitson, Commissioner Mark Ledford, Commissioner David Grindstaff, Commissioner Jill Austin, Commissioner Johnny Riddle, County Manager Lynn Austin, County Finance Officer Brandi Burleson, County Attorney Donny Laws, Clerk to the Board Sonya Morgan. A member the general public attended the meeting.

Call to Order

Chairman Whitson called the meeting to order and welcomed those in attendance.

Invocation and Pledge of Allegiance to the Flag

Commissioner Ledford delivered the invocation. Commissioner Riddle led the Pledge of Allegiance to the Flag.

Approval of the Agenda

Chairman Whitson asked for a motion to approve the agenda. Commissioner Riddle made a motion to approve the agenda. Commissioner Ledford seconded the motion. By unanimous vote the agenda was approved. (Attachment A)

Consent Agenda

Chairman Whitson read through the items on the consent agenda as follows:

- Approval of June 8, 2020 Regular Meeting Minutes
- Approval of June 8, 2020 Closed Session Minutes
- Approval of Fiscal Year 2020-21 Budget Work Sessions Minutes
- Approval of June 22, 2020 Closed Session Minutes
- Approval of Road Naming Request (Attachment B)
- Approval of Voting Delegate and Alternate for Annual Business Session of NCACC Annual Conference (Attachment C)
- Approval of Anchor QEA Contract for Water Quality Environmental Monitoring at Landfill (Attachment D)
- Approval of Pruitt Home Health Lease Agreement Amendment (Attachment E)
- Approval of End of Term 2019-20 Annual Settlement for Unpaid Real Property Taxes and End of Term 2019-20 Annual Settlement for Unpaid Personal Property Taxes (Attachment F)
- June 2020 Tax Collection Reports – Informational (Attachment G)
- Educational Letter of Agreement between Yancey County and ASU – Informational (Attachment H)

Chairman Whitson asked for a motion to approve the items on the consent agenda. Commissioner Ledford made a motion to approve the consent agenda, which was seconded by Commissioner Grindstaff. By unanimous vote the consent agenda was approved.

County Manager's Report

County Manager Austin began her report by giving an update on the new county EMS department, which began providing service July 1, 2020. She reported that EMS received approximately 100 calls in the first week of service. County Manager Austin distributed a supply charge list to the Board, which was prepared by the third party billing vendor, EMS MC. (Attachment I) The list details EMS charges for supplies billed for other EMS MC clients. County Manager Austin indicated the list was provided for informational purposes and explained that the county could consider charging similar rates for supplies. Commissioner Ledford asked if the supply costs could be tracked through December. County Manager Austin indicated supply costs would be monitored and the county could consider adding the charges at a later date, possibly

annually, but could add them at any time. County Manager Austin then asked the Board to consider allowing the employees with EMS to accrue vacation and sick leave commensurate with their years of service while employed by HCA in Yancey County. County Attorney Laws advised the county personnel policy did not provide for length of service for contractors, as is the case with the former HCA/EMS employees. Mr. Laws advised in order to consider years of service by contractors working in Yancey County that a policy would need to be adopted to do so. A discussion ensued regarding following current personnel policies.

County Manager Austin then provided a list of the proposed Yancey County Building Inspection Rates, with comparisons from neighboring counties and last revision dates and a copy of the county's cell phone ordinance. (Attachment J & K respectively) She indicated additional revenues would be used to employ another building inspector, as there is currently only one full time inspector with Yancey County who is also contracted with the Town of Burnsville. County Manager Austin asked the Board to approve the proposed rates and indicated a 30-day notice would be given to the public of the new fee schedule. Commissioner Riddle made a motion to approve the proposed Yancey County Building Inspection Fees with Commissioner Grindstaff seconding the motion. By unanimous vote the motion was approved.

Next, County Manager Austin asked the Board to consider an EMS franchising ordinance. She indicated a franchising ordinance would ensure outside emergency medical services would not pick up our patients when Yancey County EMS is available. County Manager Austin asked the Board to authorize her and County Attorney Laws to draft the proposed EMS franchising ordinance. Commissioner Riddle made a motion to authorize County Manager Austin and County Attorney Laws to draft a proposed EMS franchising ordinance with Commissioner Ledford seconding the motion. By unanimous vote the motion was approved. County Manager Austin asked the Board to consider EMS mutual aid agreements with EMS services in neighboring counties. She indicated details of services, billing, and expectations should be in writing. Commissioner Ledford made a motion to authorize County Manager Austin and County Attorney Laws to develop EMS mutual aid agreements for Board consideration. Commissioner Riddle seconded the motion. By unanimous vote the motion was approved.

County Manager Austin invited Board members to a drop-in appreciation reception to be held July 28 at 4:00 pm for Jerry Moody, who served as the interim director at the Cooperative Extension. County Manager Austin reported that the slope in the transfer station floor at the landfill would be ground and smoothed by the contractor. She also reiterated Avery County had helped tremendously in receiving the waste from Yancey County. She also reported that the lights at Cane River Park were installed and scheduled to be operational by July 15 and that the berm restoration at the park was under review by FEMA. County Manager Austin reported that the Ray Cort Park stream restoration was completed and the construction and renovation of the park was posted for bids. County Manager Austin also reported to the Board the county would be receiving an additional allocation of COVID-19 funding bringing the total amount to approximately \$800,000, with 25% to be allocated to the Town of Burnsville as required. County Manager Austin said that the county is keeping track of costs and is responsible for reporting use of funds. She also reported some of the funds would be used to cover the cost of housing inmates in other counties, repairing the ventilation system in the control room, and to cover the cost of the deep cleaning at the jail facility.

County Manager Austin then reported that SEARCH had reached out to county management and wants to help with the census. SEARCH has requested the county provide a letter of support and intends to apply for a grant to be used in their efforts to ensure that everyone is counted in the census. County Manager Austin said that she would draft a letter of support and include it on the consent agenda for the August 2020 regular meeting.

County Manager Austin presented Amendment #3 to the Withers & Ravenel contract for the East Yancey Water & Sewer project, which increases the amount to \$50,000. (Attachment L) She reported that ARC was good with the environmental piece, but wanted the additional funds for any potential issues that may arise. Commissioner Ledford made a motion to approve Amendment #3 to the Withers & Ravenel contract with Commissioner Grindstaff seconding the motion. By unanimous vote the motion was approved.

County Commissioners Report

Commissioner Riddle asked for update on lease agreement for the property currently being used by RHA and Yancey Residential. County Manager Austin indicated that Building A would be leased to RHA as previously decided to continue to provide services to the clients. She reported that Yancey Residential had expressed interest in Building B. A discussion ensued regarding leasing Building B to Yancey Residential with provisions for limited use, insurance, and no reassigning or subletting of the lease. Commissioner Ledford asked about liability. Mr. Laws said that the county would require the entity to have liability insurance with the county named as additional insured. Commissioner Grindstaff made a motion to authorized County Manager Austin to negotiate the terms of a lease with Yancey Residential for Building B, including the storage building and dog lot, and bring to the Board for approval. Commissioner Ledford seconded the motion. By unanimous vote the motion was approved. Mr. Laws said that the county could draft an agreement for the non-profit with provisions for reimbursable accountability.

Public Comment

There were no public comments.

County Attorney's Report

County Attorney Laws did not have anything to report to the Board this month.

Adjournment

Having no further business, Commissioner Ledford made a motion to adjourn with Commissioner Riddle seconding the motion. The Board of Commissioners voted unanimously to adjourn.

Approved and authenticated this the 10th day of August 2020.

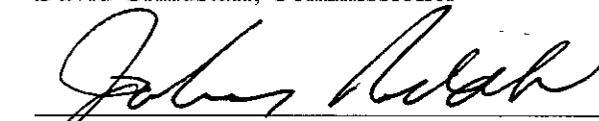

Jeff Watson, Chairman

Mark Ledford, Vice Chairman


Jill Austin, Commissioner


Sonya Morgan, Clerk to the Board


David Grindstaff, Commissioner


Johnny Riddle, Commissioner





Attachment A

**AGENDA
YANCEY COUNTY BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING
JULY 13, 2020
6:00 PM**

- I. Call to Order – Chairman Jeff Whitson**
- II. Invocation and Pledge of Allegiance to the Flag**
- III. Approval of the Agenda**
- IV. Consent Agenda**
 - a. Approval of June 8, 2020 Regular Meeting Minutes**
 - b. Approval of June 8, 2020 Closed Session Minutes**
 - c. Approval of Fiscal Year 2020-21 Budget Work Sessions Minutes**
 - d. Approval of June 22, 2020 Closed Session Minutes**
 - e. Approval of Road Naming Request**
 - f. Approval of Voting Delegate and Alternate for Annual Business Session of NCACC Annual Conference**
 - g. Approval of Anchor QEA Contract for Water Quality Environmental Monitoring at Landfill**
 - h. Approval of Pruitt Home Health Lease Agreement Amendment**
 - i. Approval of End of Term 2019-20 Annual Settlement for Unpaid Real Property Taxes and End of Term 2019-20 Annual Settlement for Unpaid Personal Property Taxes**
 - j. June 2020 Tax Collection Reports – Informational**
 - k. Educational Letter of Agreement between Yancey County and ASU – Informational**
- V. County Manager’s Report – Lynn Austin**
 - a. EMS Supply Charge List**
 - b. Yancey County Building Inspection Rates**
 - c. EMS Franchising Agreement**
 - d. EMS Mutual Aid Agreements**
- VI. County Commissioners’ Report**
- VII. County Attorney’s Report – Donny Laws**
- VIII. Public Comments**
- IX. Adjourn**

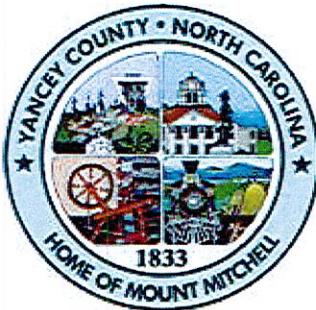
TO THE COUNTY COMMISSIONERS,

6/23/2020

Under the Yancey County Addressing and Road Naming Ordinance Section 2.27 "Notice of Action for All Roads." The said land owners of the Jacks Creek Community have met or exceeded the Yancey County 911 Road Naming requirements for their driveway under Section 2.26 Road Naming Procedures for Private Roads. All the land owners adjacent to the shared driveway that comes off of Jacks Creek Rd would like to name their roadway: Black Snake Curve Dr.

Sincerely,

Mark Thomas
Yancey County
Address Coordinator
GIS Technician
110 Town Sq Rm 7
Burnsville, NC 28714
828-682-1813
Mark.Thomas@yanceycountync.gov





STREET NAME APPLICATION FORM

Yancey County Addressing and Mapping Department

email: addressing@yanceycountync.gov

110 Town Sq Room 7

Burnsville, NC 28714

Phone: 828-682-1813

Proposed Name of Road: Black Snake Curve Drive

Beginning at (cross street): JACKS CREEK RD - SR 1336

Is this street in a subdivision? Yes If yes, subdivision name: River View Estates

*Note: If a developer is supplying the road signs they are responsible for the cost of materials and installation of the new 911 street name signs. All 911 street signs and installations will follow the Yancey County Addressing and Road Naming Ordinance and the North Carolina Department of Transportation guidelines.

Applicant's Name: Adam Silvers

Address: 15 Elkins Lane Burnsville NC 28714

Telephone: 208-5300

I am in favor of the proposed street name change.

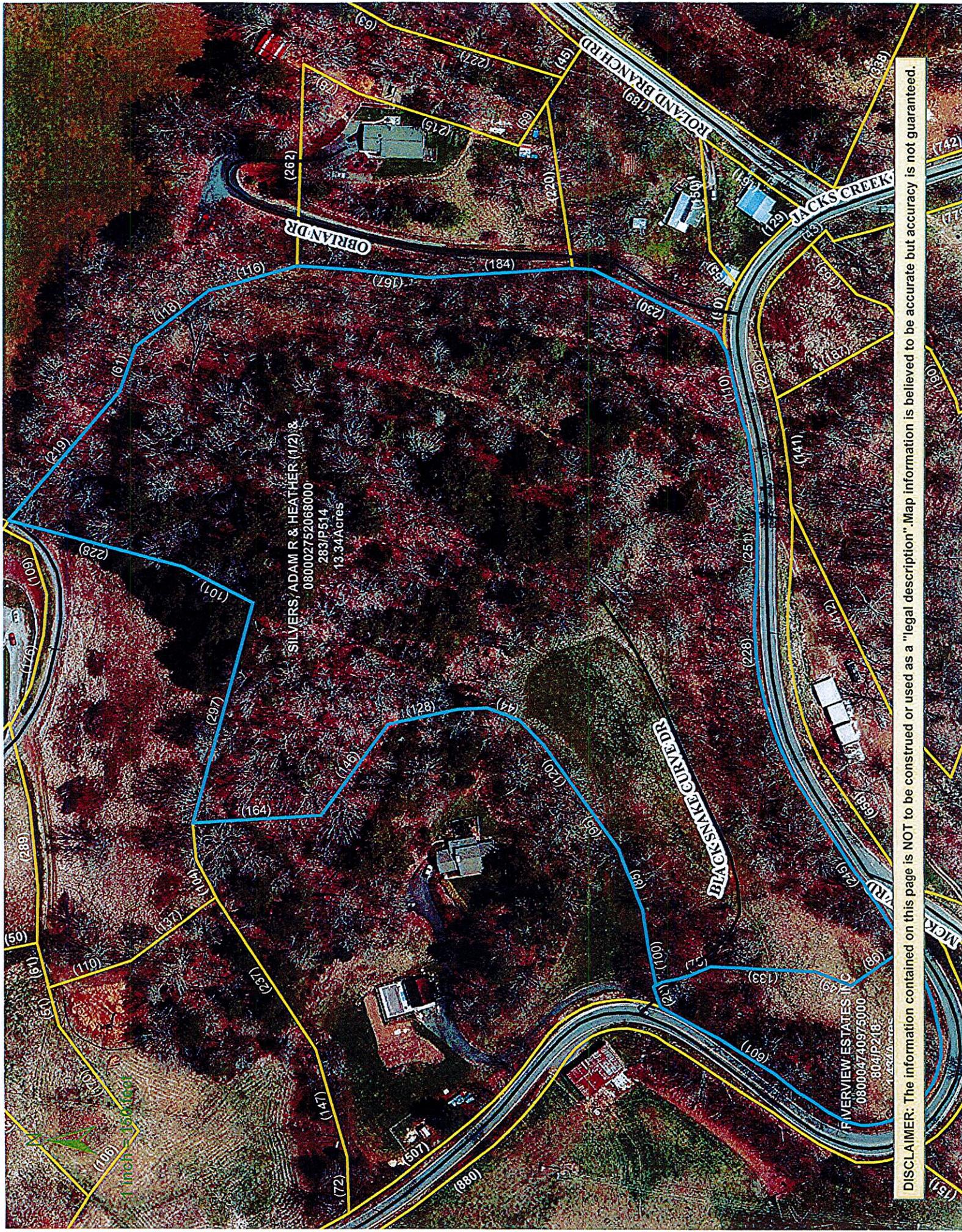
Printed Name	Address	Day Phone	Signature & Date
Adam Silvers	15 Elkins Lane	208-5300	Adam Silvers 6-17-20
Kenny Wilson	3080 Possum Trot	775-3589	Kenny Wilson 6-17-20
Dillon Lundy	678 Jacks Creek Rd	515 777 8660	Dillon Lundy 6-18-20
Jamie Lundy	678 Jacks Creek Rd	515 231 6452	Jamie Lundy 6/18/20

*Note: The applicant is responsible for recording development plats, including any associated fees.

*Note: If street name(s) are being requested for a new subdivision the applicant must submit a full sized printed and digital legible plan for the subdivision. If the subdivision is a multiphase subdivision a copy of the master plan will be required as well. Addresses will not be given until the subdivision plat is approved by the governing authority.

Application Requirements: A Street Name Application must be circulated among affected property owners. The Street Name Application must contain names, addresses, and signatures of all affected property owners. An affected property owner is one who owns an interest in property adjacent to the street. At least 80% of the affected property owners, must sign the application in order to initiate the street name process as deemed by Yancey County Addressing and Road Name Ordinance. Applications must be completed with signatures of the affected property owners in order for the application process to be presented to the County Commissioners for final approval.

Return completed application and petition of property owners to:
Yancey County Addressing and Mapping Department



SILVERS, ADAM R & HEATHER (1/2) &
080002752068000
283/P514
13.34 Acres

FIVERVIEW ESTATES, INC
080004740975000
804/P246
12.56 Acres

DISCLAIMER: The information contained on this page is NOT to be construed or used as a "legal description". Map information is believed to be accurate but accuracy is not guaranteed.



Designation of Voting Delegate to NCACC Annual Conference

I, Jeff Whitson, hereby certify that I am the duly designated voting delegate for Yancey County at the 113th Annual Conference of the North Carolina Association of County Commissioners to be held during the **virtual*** Annual Business Session on August 6, 2020, at 11 a.m.

Voting Delegate Name: Jeff Whitson

Title: Chairman, Yancey County Board of Commissioners

In the event the designated voting delegate is unable to attend, Johnny Riddle has been selected as Yancey County's alternate voting delegate.

Alternate Voting Delegate Name: Johnny Riddle

Title: Commissioner, Yancey County Board of Commissioners

Article VI, Section 2 of our Constitution provides:

“On all questions, including the election of officers, each county represented shall be entitled to one vote, which shall be the majority expression of the delegates of that county. The vote of any county in good standing may be cast by any one of its county commissioners who is present at the time the vote is taken; provided, if no commissioner be present, such vote may be cast by another county official, elected or appointed, who holds elective office or an appointed position in the county whose vote is being cast and who is formally designated by the board of county commissioners. These provisions shall likewise govern district meetings of the Association. A county in good standing is defined as one which has paid the current year's dues.”

Please return this form to Alisa Cobb via email by **Monday, August 3, 2020** close of business:

Email: alisa.cobb@ncacc.org

***Please note – due to the COVID-19 pandemic, the 113th NCACC Annual Conference will be held virtually with voting taking place via an electronic platform.**

Anchor QEA of North Carolina, PLLC
231 Haywood Street
Asheville, North Carolina 28801
828.281.3350



March 16, 2020

Ms. Lynn Austin
Yancey County Manager
110 Town Square
Burnsville, North Carolina 28714

Re: Proposed Water Quality Environmental Monitoring Services Budget for Fiscal Year 2020-2021

tr

Dear Ms. Austin,

Anchor QEA of North Carolina, PLLC (Anchor QEA), is pleased to submit the following budget and Standard Agreement for solid waste services associated with the Closed Yancey County Sanitary Landfill (Permit No. 100-01) and the Closed Construction and Demolition Debris (C&D) Landfill (Permit No. 100-02) located at 555 Landfill Road in Burnsville, North Carolina. A breakdown of costs is included in Table 1.

Scope of Services

Anchor QEA will perform the following scope of services subject to the attached Standard Agreement:

- 1. Quarterly Landfill Gas (LFG) Screening, Indoor Air Monitoring, and Reporting – \$ 7,200
Measurements will be collected and reported during August 2020, November 2020, February 2021, and May 2021 at the following locations:
 - Closed Yancey County Sanitary Landfill – Eight screening locations consisting of MSW-1, MSW-2, MSW-3, MSW-4, MSW-5, MSW-6, MSW-7, and MSW-8
 - Closed Yancey County C&D Landfill – Screening locations consisting of CD-1, CD-2, CD-3, CD-4, CD-5, and CD-6
 - Indoor Locations – Seven indoor locations consisting of the visitor’s center, clay studio, glass studio, gallery, transfer station building, scale house, and boiler building

After the LFG measurements are collected, Anchor QEA will prepare a brief letter report that includes figures showing the measurement locations as well as a summary table of the measurements. The letter report will compare measured values to thresholds published by the North Carolina Department of Environmental Quality (DEQ).

2. Sanitary Landfill, Water Quality Sampling and Reporting – Anchor QEA will collect groundwater and surface water samples for laboratory analysis. Once the laboratory analytical results are received, we will prepare and submit a report to the DEQ, Division of Waste Management, Solid Waste Section (SWS). \$ 19,996

Sampling events will be scheduled to be completed in September 2020 and March 2021. Prior to sampling, the water level will be measured in each monitoring well to determine purge volumes and direction of groundwater flow. During purging, pH, specific conductivity, dissolved oxygen, oxidation-reduction potential, turbidity, and temperature will be collected.

The following locations will be sampled for Appendix I (as defined in Appendix I of 40 Code of Federal Regulations [CFR], Part 258) volatile organic compounds (VOCs); 1,4-dioxane; and eight Resource Conservation and Recovery Act (RCRA) metals using appropriate laboratory methods:

- Monitoring wells MW-AR, MW-B, MW-2, and MW-3

One trip blank will be analyzed for Appendix I VOCs, only.

3. C&D Landfill, Water Quality Sampling and Reporting – Anchor QEA will collect groundwater and surface water samples for laboratory analysis. Once the laboratory analytical results are received, we will prepare and submit a report to the DEQ, Division of Waste Management, SWS. \$ 18,784

Sampling events will be scheduled to be completed in September 2020 and March 2021 (to be performed concurrently with the sampling event at the Closed Yancey County Sanitary Landfill). Prior to sampling, the water level will be measured in each monitoring well to determine purge volumes and direction of groundwater flow. During purging, pH, specific conductivity, dissolved oxygen, oxidation-reduction potential, turbidity, and temperature will be collected.

The following locations will be sampled for Appendix I VOCs; 1,4-dioxane; and Appendix I metals, as well as sulfate, chloride, alkalinity, and total dissolved solids, using appropriate laboratory methods:

- Monitoring wells MW-H, MW-I, and MW-J
- Surface water sampling locations SW-1 (upstream of the C&D Landfill) and SW-2 (downstream of the C&D Landfill). Surface water samples will also be analyzed for hardness.

Three trip blanks will be analyzed for Appendix I VOCs, only.

4. Quarterly Landfill Inspections, Closed Yancey County Sanitary And C&D Landfills – \$ 4,672
These inspections will be based on the inspection checklist that was developed based on post-closure requirements contained in the landfill permits. These inspections will be completed concurrently with the LFG screening events. After each landfill inspection is complete, a brief report of the inspection results will be provided to Yancey County. Each landfill inspection report will include recommendations for repairs and improvements, as applicable.

Assumptions

Completion of the scope of services described herein, in accordance with the total budget of \$50,652 and schedule, is based on the following assumptions:

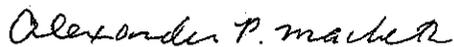
- Weather will not delay completion of sampling events.
- This scope of services does not include additional responses to the DEQ for violations or other deficiencies.

Schedule

Anchor QEA will begin working on the scope of services upon receiving the signed Standard Agreement (Attachment 1).

Thank you again for the continued opportunity to serve Yancey County. If you have any questions or would like to discuss this proposal, please call or email me at 251-375-5281 or amacbeth@anchorgea.com at your convenience.

Sincerely,



Alec Macbeth
Project Manager

Attachments

- Table 1 Summary of Costs
Attachment 1 Standard Agreement

Table 1

Table 1
Summary of Costs

1.0 Landfill Gas Monitoring and Reporting				
1.1 Landfill Gas Monitoring (Each Event)				
Staff Scientist 1	4 hours at		\$ 110.00 per hour	\$ 440
Staff Scientist 2	4 hours at		\$ 137.00 per hour	\$ 548
Billable Equipment	\$70 lump sum		1 no markup	\$ 70
Rental Equipment	\$250 lump sum		1 10% markup	\$ 275
				Subtotal \$ 1,333
1.2 Quarterly Landfill Gas Monitoring Report (Each Report)				
Staff 1	2 hours at		\$ 110.00 per hour	\$ 220
Technical Editor/Project Administrator	1 hour at		\$ 81.00 per hour	\$ 81
Senior Scientist	1 hour at		\$ 166.00 per hour	\$ 166
				Subtotal \$ 467
				Task Total (4 events) \$ 7,200
2.0 Sanitary Landfill--Semiannual Sampling and Reporting (Each Event)				
2.1 Project Preparation and Coordination				
Staff 1 Scientist	4 hours at		\$110.00 per hour	\$440.00
Staff 2 Scientist	2 hours at		\$137.00 per hour	\$274.00
				Subtotal \$714.00
2.2 Sample Collection (includes travel and equipment)				
Staff 1 Scientist	12 hours at		\$110.00 per hour	\$1,320.00
Staff 2 Scientist	12 hours at		\$137.00 per hour	\$1,644.00
*Billable Equipment	\$ 459.00 lump sum		1 no markup	\$459.00
Equipment Rental	\$200.00 lump sum		1 no markup	\$200.00
				Subtotal \$3,623.00

Table 1
Summary of Costs

2.3 Sample Analyses					
	Parameter	Analytical Method	Unit Cost	No. of Samples	
	App I VOCs	EPA Method 8260B - low level	\$65.00	8	\$520.00
	1,4-dioxane	EPA Method 8260B SIM	\$75.00	8	\$600.00
	RCRA Metals	EPA Method 6020/7470	\$85.00	8	\$680.00
	Cooler shipping charges				\$150.00
	Subtotal with 10 percent markup				\$2,145.00
2.4 Semiannual Monitoring Report					
	Principal	1 hour at	\$190.00 per hour		\$190.00
	Staff 1 Scientist	15 hours at	\$110.00 per hour		\$1,650.00
	Technical Editor/Project Administrator	4 hour at	\$87.00 per hour		\$348.00
	Senior Scientist	8 hours at	\$166.00 per hour		\$1,328.00
	Subtotal				\$3,516.00
	Task Total (2 Events)				\$19,996.00
3.0 C&D Landfill--Semiannual Sampling and Reporting (Each Event)					
3.1 Project Preparation (Equipment and Travel)					
	Staff 1 Scientist	4 hours at	\$110.00 per hour		\$440.00
	Staff 2 Scientist	2 hours at	\$137.00 per hour		\$274.00
	Subtotal				\$714.00
3.2 Sample Collection					
	Staff 1 Scientist	10 hours at	\$110.00 per hour		\$1,100.00
	Staff 2 Scientist	10 hours at	\$137.00 per hour		\$1,370.00
	*Billable Equipment	\$459.00 lump sum		1	\$459.00
	Subtotal				\$2,929.00

Table 1
Summary of Costs

3.3 Sample Analyses				
Parameter	Analytical Method	Unit Cost	No. of Samples	
App I VOCs	EPA Method 8260B - low level	\$65.00	8	\$520.00
1,4-dioxane	EPA Method 8260B SIM	\$75.00	6	\$450.00
App I Metals	EPA Method 6020/7470	\$85.00	5	\$425.00
Alkalinity	SM2320 B	\$12.00	5	\$60.00
Chloride	EPA Method 9056A	\$15.00	5	\$75.00
Iron	EPA Method 6020B	\$6.00	5	\$30.00
Manganese	EPA Method 6020B	\$6.00	5	\$30.00
Mercury	EPA Method 7470/7471	\$28.00	5	\$140.00
Sulfate	EPA Method 9056A	\$15.00	5	\$75.00
TDS	SM2540C	\$15.00	5	\$75.00
				Cooler shipping charges
				\$150.00
				Subtotal with 10 percent margin
				\$2,233.00
3.4 Semiannual Monitoring Report				
Principal	1 hour at	\$190.00	per hour	\$190.00
Staff 1 Scientist	15 hours at	\$110.00	per hour	\$1,650.00
Technical Editor/Project	4 hour at	\$87.00	per hour	\$348.00
Senior Scientist	8 hours at	\$166.00	per hour	\$1,328.00
				Subtotal
				\$3,516.00
				Task Total (2 Events)
				\$18,784.00

Table 1
Summary of Costs

4.0 Quarterly Landfill Inspection and Reporting				
4.1 Landfill Inspection (Each Event)				
Staff Scientist 1	3 hours at		\$ 110.00 per hour	\$ 330
Staff Scientist 2	3 hours at		\$ 137.00 per hour	\$ 411
Billable Equipment	\$ 70.00 lump sum		1 no markup	\$ 70
Rental Equipment	lump sum		1 10% markup	\$ -
				Subtotal \$ 811
4.2 Report (Each Report)				
Staff 1	1 hour at		\$ 110.00 per hour	\$ 110
Technical Editor/Project Administrator	1 hour at		\$ 81.00 per hour	\$ 81
Senior Scientist	1 hour at		\$ 166.00 per hour	\$ 166
				Subtotal \$ 357
				Task Total (4 events) \$ 4,672
				Grand Total \$ 50,652
Notes:				
* Billable Equipment includes Health and Safety Equipment (safety glasses, steel-toed boots, sun protection, fire extinguisher, first-aid kit, etc.), calibration buffers and gases, decontamination equipment, company vehicle mileage, turbidity meter, multi-parameter meter, tubing, and sampling equipment.				

Attachment 1
Standard Agreement



STANDARD AGREEMENT

This agreement is entered into on the full execution date indicated on the signature page by and between Anchor QEA of North Carolina, PLLC, a North Carolina Professional Limited Liability Company with a location at 231 Haywood Street, Asheville, North Carolina 28801, and affiliated companies, hereinafter referred to as "Anchor QEA," and Yancey County, 110 Town Square, Burnsville, North Carolina 28714, hereinafter called "CLIENT."

This AGREEMENT is for the Water Quality Environmental Monitoring Services for Fiscal Year 2020-2021 project.

PROVISIONS

ARTICLE 1: TERMS OF PAYMENT

A. Invoicing

Monthly invoices will be issued to the CLIENT for payment and will represent the value of the Scope of Services completed to date.

B. Payment

Payment is due within 30 calendar days of date of the invoice for the entire invoice amount. Any invoice not paid within 30 days shall bear interest at the equivalent of 18 percent per year.

C. Final Payment

Final payment of any balance will be made upon completion of the Scope of Services, and receipt of all deliverables and all PROJECT-related documents and data that are required to be furnished under this AGREEMENT.

ARTICLE 2: OBLIGATION OF ANCHOR QEA

A. Independent Contractor

Anchor QEA is an independent contractor and will maintain complete control of and responsibility for its employees, agents, and operations.

B. Lower Tier Subcontracts

Anchor QEA shall not subcontract or assign any of the work covered by this Agreement, except with the prior written approval of the CLIENT and in compliance with the terms, provisions, and conditions of this Agreement. Anchor QEA will bind all Lower Tier Subconsultants to the Provisions of this AGREEMENT.

Neither this AGREEMENT nor any Lower Tier subcontract will create any contractual relationship between any Lower Tier Subconsultant and the CLIENT nor any liability of the CLIENT to any Lower Tier Subconsultant.

C. Standard of Care

In providing services under this Agreement, Anchor QEA will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

D. Notice of Delay

The time schedule for the performance of services as set forth under this Agreement is based on Anchor QEA's anticipation of the orderly and continuous progress of the project. If Anchor QEA is delayed in the performance of services by conditions that are beyond its control, Anchor QEA shall notify the CLIENT in writing of the cause of delay and the amount of delay anticipated. Such notice shall be delivered to the CLIENT within five (5) days of the time Anchor QEA is aware of the delay.

E. Insurance

Anchor QEA will maintain throughout this AGREEMENT the following insurance and will submit certificates verifying such to the CLIENT when requested:

- (1) Worker's compensation insurance as required by the state or province where the work is performed and Employers Liability as follows:

- \$1,000,000 each accident
- \$1,000,000 each employee
- \$1,000,000 disease aggregate

- (2) Comprehensive automobile liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.

- (3) Commercial general liability insurance covering claims for injuries arising out of any negligent act or omission of Anchor QEA or of any of its employees, agents, or subconsultants, with \$1,000,000 per occurrence/general aggregate.
- (4) Professional liability insurance of \$1,000,000, per claim and in the aggregate.

Anchor QEA will give the CLIENT thirty (30) days notice of any cancellation of the policies.

F. Limitation of Liability

To the maximum extent permitted by law, the CLIENT agrees to limit Anchor QEA's liability for the CLIENT's damages and legal costs to Anchor QEA's fees for the services provided under this AGREEMENT.

G. Indemnification

Anchor QEA and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability, or cost, including reasonable attorneys' fees and costs of defense, arising from their own negligent acts, errors or omissions in the performance of their services under this AGREEMENT, to the extent that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

H. Consequential Damages

Notwithstanding any other provision of this AGREEMENT, and to the fullest extent permitted by law, neither the CLIENT nor Anchor QEA, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this AGREEMENT. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and Anchor QEA shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

I. Permits, Licenses, and Fees

Anchor QEA will obtain and pay for all permits and licenses required by law that are associated with Anchor QEA's performance of the Scope of Services and will give all necessary notices.

J. Access to Records

Anchor QEA will maintain accounting records, in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. Said records will be available for examination by the CLIENT during Anchor QEA's normal business hours for a period of 3 years after the final invoice to the extent required to verify the costs incurred hereunder.

K. Ownership

CLIENT retains ownership of all instruments of professional service developed by Anchor QEA under this AGREEMENT. Anchor QEA shall not be liable for any reuse or modification of these work products for purposes not anticipated by Anchor QEA under this AGREEMENT.

L. Equal Employment Opportunity

Anchor QEA, with regard to the work performed by it after approval and/or award and prior to completion of this contract, shall comply with all applicable provisions of Executive Agreement 11246 of September 24, 1965, as amended, the terms of which are incorporated herein by this reference and made a part of this AGREEMENT. Anchor QEA will provide equal employment opportunity and adhere to federal, state and local laws pertaining thereto. Appropriate action will be taken by Anchor QEA, with respect to itself and any of its subconsultants, vendors and suppliers to ensure compliance with such laws. All federal, state and local equal opportunity and affirmative action requirements with regard to race, gender, creed, color, age, religion, national origin, disability or veteran status are incorporated into this AGREEMENT by reference. Anchor QEA will give all notices, pay all fees and take all other action which may be necessary to conduct its business in accordance with all applicable statutes, ordinances, rules and regulations including, without limitation, the above stated standards and acts, any statutes regarding qualification to do business and any statutes prohibiting discrimination among employees because of race, creed, color, national origin, age, or sex.

ARTICLE 3: GENERAL PROVISIONS

A. Waivers

No waiver by either party of any default by the other party in the performance of any provision of this AGREEMENT will operate as, or be construed as, a waiver of any future default, whether like or different in character.

B. Force Majeure

Neither party to this AGREEMENT will be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect costs resulting from such delays, that may result from labor strikes, riots, war, acts of governmental

authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

C. Authorization to Proceed

Execution of the AGREEMENT by the CLIENT will be authorization for Anchor QEA to proceed with the Scope of Services, unless otherwise provided for in this AGREEMENT.

D. No Third Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than Anchor QEA and the CLIENT and has no third-party beneficiaries.

E. Jurisdiction

The laws of the state in which the project is located shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it; venue of any lawsuit shall also be in the jurisdiction of that office location.

F. Disputes

In the event of any dispute arising out of this Agreement, the parties agree to submit the dispute to non-binding mediation and binding arbitration under the then prevailing rules of the American Arbitration Association (AAA) for construction industry disputes, provided that no party objects to arbitration within 30 days after a demand for arbitration is filed with AAA. In any action brought for such dispute, the prevailing party shall be entitled to recover its reasonable costs and attorney fees.

G. Severability and Survival

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, unenforceability will not affect any other provision of this AGREEMENT. The provisions of this AGREEMENT shall survive its termination and completion of services.

H. Termination/Cancellation

The CLIENT will have the right to terminate this AGREEMENT for its convenience. After termination, Anchor QEA will be reimbursed for services rendered and necessary expenses incurred to the termination date upon submission to the CLIENT of detailed supporting invoices.

I. Complete Agreement

This AGREEMENT constitutes the complete and final understanding between the parties. The CLIENT may adjust the Scope of Services by either adding to or deleting from the services to be performed. If such adjustment increases or decreases the cost or time required for Anchor QEA's Scope of Services, adjusting compensation and/or time will be mutually agreed upon in writing. Additional Services provided by Anchor QEA will be entitled to additional compensation or extension of time only as authorized in writing by the CLIENT.

This Agreement represents the entire agreement between the parties, supersedes all prior agreements and understandings, and may be changed only by written amendment executed by both parties.

Approved for Anchor QEA

Accepted for CLIENT

By: James Robert Howell
Name: Rob Howell, PG
Title: Partner
Date: March 16, 2020

By: Lynn Austin
Name: Lynn Austin
Title: County Manager
Date: 7-13-20

AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT TO LEASE AGREEMENT (the "Amendment") is made and entered into as of the 1st day of July, 2020, by and between Yancey County (the "Lessor"), and PruittHealth Home Health, Inc. (the "Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee originally entered into that certain Lease Agreement dated as of the 1st day of July, 2019 for the lease of the real property located at 200 Medical Campus Drive, Burnsville, Yancey County, NC 28714 (the "Premises"); and

WHEREAS, Lessor and Lessee desire to extend the Lease Agreement for one year; and

WHEREAS, Lessor has a transition in County Manager.

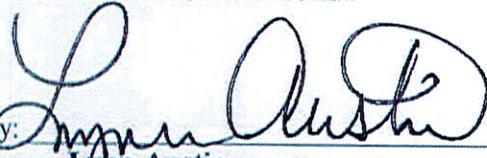
NOW, THEREFORE, it is hereby agreed:

1. the Lease Agreement shall be extended until 11:59 pm on the 30th day of June, 2021; and
2. **Paragraph 19** of the Lease Agreement is modified to recognize Lynn Austin as Yancey County Manager.

All other terms and conditions of the Lease Agreement shall remain in full force and effect.

LESSOR:

**Yancey County, a Body Politic and Corporate
of the State of North Carolina**

By: 
Lynn Austin
Yancey County Manager

LESSEE:

PruittHealth Home Health, Inc.

By: 
Neil L. Pruitt, Jr.
Chairman and CEO

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF YANCEY

1 JULY 2019

THIS LEASE AGREEMENT is made and entered into on this the day and year first above written, by and between, **YANCEY COUNTY, a Body Politic and Corporate of the State of North Carolina**, hereinafter referred to as Lessor, and **PRUITT HEALTH HOME HEALTH, INC., a Georgia Corporation**, hereinafter referred to as Lessee; thus

WITNESSETH

THAT WHEREAS the Lessor is a political subdivision of the State of North Carolina and is presently providing property located in Yancey County, North Carolina being more particularly referred to hereinbelow as "demised premises" to Pruitt Health Home Health, Inc., to provide home health care services to the residents of Avery, Mitchell and Yancey Counties; and

WHEREAS the Lessor has determined that in the best interests of the residents of Avery, Mitchell and Yancey Counties that this Lease Agreement be entered into for the purpose to provide high quality patient care and for the efficient delivery of home health services in these counties; and

NOW THEREFORE, in consideration of the mutual benefits given and received by the parties hereto, the receipt of which is hereby acknowledged, the Lessor does hereby let and lease unto the Lessee the demised premises upon the following terms and provisions:

- 1) **Term:** The term of this Lease shall be for twelve (12) months commencing on 1 July 2019 and terminating on 30 June 2020. The Lease terms are specifically subject to the default provisions and termination provisions as set forth in paragraph 11 below.
- 2) **Basic Rent:** Rents hereunder shall be payable as follows: All payments shall be made on or before the first day of each calendar month over the term of this Lease and shall be in an amount of ten dollars (\$10.00) per square foot per year based on a total space of 3,536.75 square feet for a monthly payment of \$2,947.29.
- 3) **Demised Premises:** The Premises shall be those lands located at 200 Medical Campus Drive in Burnsville Township and more fully set forth in Exhibit "A" attached hereto.

- 4) Covenants Regarding Use of Property and Indemnification: The Demised Premises shall be used only for the purposes of providing office space to assist in providing home health services as permitted under the Lessee's license. The Lessee will keep and maintain and comply with all ordinances, laws and regulations of authorities regarding the use of the property. The Lessee does hereby further covenant and agree to and with the Lessor that it shall indemnify the Lessor against and shall hold the Lessor harmless from any and all liability which it may or might incur as a result of any damages at law or in equity as to the loss of person or property which might incur by reason of the Lessee's occupation of the demised premises or the acts or omissions of the Lessee, its employees, agents, and/or invitees.
- 5) Covenant of Title and Quiet Enjoyment: The Lessor covenants and warrants to the Lessee that the Lessor has full right and lawful authority to enter into this Lease for the term hereof and that provided the Lessee is not in default hereunder, Lessee's quiet and peaceable enjoyment of the premises shall not be disturbed by anyone claiming through the Lessor.
- 6) Inspection: The Lessor shall have the right at all times to enter and inspect the demised premises upon reasonable notice to Lessee.
- 7) Insurance: The parties hereto do hereby covenant and agree that the Lessor has and shall maintain upon the demised premises insurance against loss from fire and hazard. The Lessee covenants to and with the Lessor that it shall maintain a policy of general liability insurance in the amount of \$1,000,000 per occurrence which shall insure against damage or loss to person or property pertaining to the use of the demised premises by the Lessee, specifically naming the Lessor as an additional loss-payee on any such policy of insurance. The Lessee further covenants to and with the Lessor that it shall main adequate insurance coverage upon any and all personal property, chattels, and inventory and products on hand so as to insure the same against damage or loss from fire or hazard.
- 8) Responsibilities of Lessee: The Lessee shall be responsible for any and all damages which occur on or about the facility as a result of its negligence; to make no additions or alterations to the facility without the express prior written approval of the Lessor; to keep the premises in as good condition, including routine maintenance and cleaning, and to return the premises to the Lessor at the termination of this agreement in as good a condition as it was received at the commencement hereof, ordinary wear and tear excepted.
- 9) Fire or Casualty: If the building or the demised premises or any portion thereof shall be damaged or destroyed by fire or other casualty, the Lessor or Lessee shall have the right to terminate this Lease effective as of the date of such damage or destruction. If the Lessor and Lessee do not elect to terminate this Lease, then the rentals shall abate during the period of reconstruction.

10) Assignment or Subletting: The Lessee shall not have the right to assign this Lease or to sublet the demised premises in whole or in part, without the prior written consent of the Lessor.

11) Default and Termination:

a) Each and every one and all of the following events shall constitute an event of default:

- i) If the Lessee fails to pay any sum due from it in strict accordance with the provisions of this Lease, and does not make such payment within five days of such payment being due as herein provided. For the purposes hereof all sum due from the Lessee shall constitute rentals whether denominated as rentals or otherwise elsewhere herein.
- ii) If the Lessee fails to fully perform and comply with each and every condition and covenant of this Lease Agreement and such failure of performance continues for a period of fifteen days after notice thereof.
- iii) If the Lessee vacates or abandons the demised premises.

b) Upon the occurrence of any event of default as set forth herein above, the Lessor shall have the right, at its option, to utilize any one or more of the following rights:

i) To cancel and terminate this Lease Agreement and all interests of the Lessee hereunder by giving notice of such cancellation and termination not less than ten days prior to the effective date of such termination. Upon the expiration of such ten day period, the Lessee shall have no further rights under this Lease Agreement.

ii) To re-let the demised premises or any part thereof for any term, with or without terminating the Lease, and at such rentals and on such other terms as the Lessor may elect, and to alter and repair the premises as the Lessor shall deem necessary.

iii) All other rights and remedies provided by law to Lessor with a defaulting Lessee, including all such money damages as the Lessor shall be entitled pursuant to the law of damages.

c) In the event of any conflict between any of the provisions hereof regarding the amount of time that must elapse without cure after notice of breach

before the same constitutes an event of default, then the provisions establishing the greatest amount of time to cure after notice shall prevail

d) Termination: This Lease shall automatically terminate on 30 June 2019.

12) Binding Effect & Complete Terms: The terms, covenants, conditions, and agreements herein contained shall be binding upon and inure to the benefit of and shall be enforceable by the Lessor and the Lessee and by their respective heirs, successors, and assigns. All negotiations and agreements of the Lessor and the Lessee are merged herein. No modification hereof or other purported agreement of the parties shall be enforceable unless the same is in writing and signed by the Lessor and Lessee.

13) Construction of Lease: This lease shall not be construed more strictly against either party regardless of which party is responsible for the preparation of the same.

14) Maintenance and Utility Costs: Except for damages resulting from the negligence of the Lessee as set forth herein above the Lessor shall be responsible for all repairs and maintenance of the demised premises, including without limitation, maintenance of the structural integrity of the building, roof, heating and cooling systems and water and sewer systems.

Lessor shall also be responsible for all utility costs for heating and cooling services, water and sewer services, landscaping/yard maintenance and snow and ice removal.

15) Taxes: The demised premises are owned by the Lessor and no ad valorem taxes are due and payable on the demised premises. The Lessee shall be responsible for and timely pay all taxes due on all business personal property located upon the demised premises.

16) Waiver: No failure by the Lessor to exercise any rights hereunder to which the Lessor may be entitled shall be deemed a waiver of the Lessor's right to subsequently exercise the same. The Lessee shall gain no rights nor become vested with any power to remain in default under the terms hereof by virtue of the Lessor's failure to timely assert its rights. No acceleration of rentals, regardless of how often occurring, which the Lessor chooses to ignore by thereafter accepting rental or other performance by the Lessee shall constitute a waiver of the right to thereafter accelerate rentals.

17) Notices: All notices required by this Agreement shall be forwarded to:

Lessee: PruittHealth Home Health, Inc.
ATTN: Legal Department
1626 Jeurgens Court
Norcross, GA 30093

Lessor: Yancey County
ATTN: Yancey County Manager
110 Town Square, Room 11
Burnsville, NC 28714

Notices, demands, and requests which shall be served upon the Lessor and Lessee in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder.

- 18) Integration Clause: Any stipulations, representations, or agreements, parol or written, made prior to or contemporaneously with this Agreement, shall have no legal or equitable consequences, and the only agreement made and binding on the parties hereto is contained herein and it is the complete and total integration of the intent and understanding of the Lessor and Lessee.
- 19) Statutory Authorization: That as stated herein above this Lease is made and entered into pursuant to NCGS 160A-272 and the authority to enter into this Lease has been appropriately delegated to Nathan R. Bennett as Yancey County Manager by Resolution duly adopted and appearing in the minutes of the Yancey County Board of County Commissioners.

IN TESTIMONY WHEREOF the parties hereto have hereunto set their hands and have affixed their respective seals on this the day and year first above written.

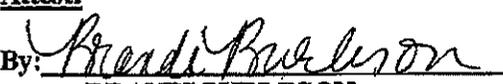


YANCEY COUNTY, a Body Politic and
Corporate of the State of North Carolina,
Lessor

By: 

LYNN AUSTIN
Title: County Manager



Attest:
By: 

BRANDI BURLESON
Finance Officer

FRUITTHEALTH HOME HEALTH,
INC., Lessee

By: 

Title: Chairman + CEO

COUNTY MANAGER
Nathan Bennett



COMMISSIONERS
Jill Austin
Mark Ledford
Johnny Riddle
John Stallings
Jeff Whitson

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

May 25, 2018

Ms. Lanecia Spann
PruittHealth
1626 Jeurgens Court
Norcross, GA 30093

**RE: Lease Agreement
Yancey County – PruittHealth
Subletting Authorization**

Dear Ms. Spann and/or Authorized PruittHealth Official:

Pursuant to your request by electronic mail dated May 24, 2018 please accept this letter as written consent required by the lease agreement, paragraph 10, "Assignment or Subletting" between Yancey County and PruittHealth to authorize PruittHealth to sublet a portion of the demised property identified in that lease to your affiliate PruittHealth Home First consistent with the terms of that lease agreement.

I appreciate the opportunity to assist you in providing your services to Yancey County citizens. Please let me know should you require further information from my office.

Sincerely,

NATHAN R. BENNETT,
Yancey County Manager

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF YANCEY

1 JULY 2018

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WITNESSETH

THAT WHEREAS the Lessor is a political subdivision of the State of North Carolina and is presently providing property located in Yancey County, North Carolina being more particularly referred to hereinbelow as "demised premises" to PruittHealth Home Health, Inc., to provide home health care services to the residents of Avery, Mitchell and Yancey Counties; and

WHEREAS the Lessor has determined that in the best interests of the residents of Avery, Mitchell and Yancey Counties that this Lease Agreement be entered into for the purpose to provide high quality patient care and for the efficient delivery of home health services in these counties; and

NOW THEREFORE, in consideration of the mutual benefits given and received by the parties hereto, the receipt of which is hereby acknowledged, the Lessor does hereby let and lease unto the Lessee the demised premises upon the following terms and provisions:

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- 3) Demised Premises: The Premises shall be those lands located at 200 Medical Campus Drive in Burnsville Township and more fully set forth in Exhibit "A" attached hereto.

- 4) Covenants Regarding Use of Property and Indemnification: The Demised Premises shall be used only for the purposes of providing office space to assist in providing home health services as permitted under the Lessee's license. The Lessee will keep and maintain and comply with all ordinances, laws and regulations of authorities regarding the use of the property. The Lessee does hereby further covenant and agree to and with the Lessor that it shall indemnify the Lessor against and shall hold the Lessor harmless from any and all liability which it may or might incur as a result of any damages at law or in equity as to the loss of person or property which might incur by reason of the Lessee's occupation of the demised premises or the acts or omissions of the Lessee, its employees, agents, and/or invitees.
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- 6) Inspection: The Lessor shall have the right at all times to enter and inspect the demised premises upon reasonable notice to Lessee.
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- 19) Statutory Authorization: That as stated herein above this Lease is made and entered into pursuant to NCGS 160A-272 and the authority to enter into this Lease has been appropriately delegated to Nathan R. Bennett as Yancey County Manager by Resolution duly adopted and appearing in the minutes of the Yancey County Board of County Commissioners.

IN TESTIMONY WHEREOF the parties hereto have hereunto set their hands and have affixed their respective seals on this the day and year first above written.



(SEAL)

YANCEY COUNTY, a Body Politic and Corporate of the State of North Carolina,
Lessor

By: 

NATHAN R. BENNETT

Title: County Manager

Attest:

By: 

BRANDI BURLESON

Finance Officer

PRUITTHEALTH HOME HEALTH,
INC., Lessee

By: 

Title: Chairman + CEO

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF YANCEY

1 JULY 2017

THIS LEASE AGREEMENT is made and entered into on this the day and year first above written, by and between, YANCEY COUNTY, a Body Politic and Corporate of the State of North Carolina, hereinafter referred to as Lessor, and PRUITTHEALTH HOME HEALTH, INC., a Georgia Corporation, hereinafter referred to as Lessee; thus

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- 3) Demised Premises: The Premises shall be those lands located at ^{200 A.G.} 202 Medical Campus Drive in Burnsville Township and more fully set forth in Exhibit "A" attached hereto.
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- 5) Covenant of Title and Quiet Enjoyment: The Lessor covenants and warrants to the Lessee that the Lessor has full right and lawful authority to enter into this Lease for the term hereof and that provided the Lessee is not in default hereunder, Lessee's quiet and peaceable enjoyment of the premises shall not be disturbed by anyone claiming through the Lessor.
- 6) Inspection: The Lessor shall have the right at all times to enter and inspect the demised premises upon reasonable notice to Lessee.
- 7) Insurance: The parties hereto do hereby covenant and agree that the Lessor has and shall maintain upon the demised premises insurance against loss from fire and hazard. The Lessee covenants to and with the Lessor that it shall maintain a policy of general liability insurance in the amount of \$1,000,000 per occurrence which shall insure against damage or loss to person or property pertaining to the use of the demised premises by the Lessee, specifically naming the Lessor as an additional loss-payee on any such policy of insurance. The Lessee further covenants to and with the Lessor that it shall main adequate insurance coverage upon any and all personal property, chattels, and inventory and products on hand so as to insure the same against damage or loss from fire or hazard.
- 8) Responsibilities of Lessee: The Lessee shall be responsible for any and all damages which occur on or about the facility as a result of its negligence; to make no additions or alterations to the facility without the express prior written approval of the Lessor; to keep the premises in as good condition, including routine maintenance and cleaning, and to return the premises to the Lessor at the termination of this agreement in as good a condition as it was received at the commencement hereof, ordinary wear and tear excepted.
- 9) Fire or Casualty: If the building or the demised premises or any portion thereof shall be damaged or destroyed by fire or other casualty, the Lessor or Lessee shall have the right to terminate this Lease effective as of the date of such damage or destruction. If the Lessor and Lessee do not elect to terminate this Lease, then the rentals shall abate during the period of reconstruction.

10) Assignment or Subletting: The Lessee shall not have the right to assign this Lease or to sublet the demised premises in whole or in part, without the prior written consent of the Lessor.

11) Default and Termination:

a) Each and every one and all of the following events shall constitute an event of default:

i) If the Lessee fails to pay any sum due from it in strict accordance with the provisions of this Lease, and does not make such payment within five days of such payment being due as herein provided. For the purposes hereof all sum due from the Lessee shall constitute rentals whether denominated as rentals or otherwise elsewhere herein.

ii) If the Lessee fails to fully perform and comply with each and every condition and covenant of this Lease Agreement and such failure of performance continues for a period of fifteen days after notice thereof.

iii) If the Lessee vacates or abandons the demised premises.

b) Upon the occurrence of any event of default as set forth herein above, the Lessor shall have the right, at its option, to utilize any one or more of the following rights:

i) To cancel and terminate this Lease Agreement and all interests of the Lessee hereunder by giving notice of such cancellation and termination not less than ten days prior to the effective date of such termination. Upon the expiration of such ten day period, the Lessee shall have no further rights under this Lease Agreement.

ii) To re-let the demised premises or any part thereof for any term, with or without terminating the Lease, and at such rentals and on such other terms as the Lessor may elect, and to alter and repair the premises as the Lessor shall deem necessary.

iii) All other rights and remedies provided by law to Lessor with a defaulting Lessee, including all such money damages as the Lessor shall be entitled pursuant to the law of damages.

c) In the event of any conflict between any of the provisions hereof regarding the amount of time that must elapse without cure after notice of breach before the same constitutes an event of default, then the provisions establishing the greatest amount of time to cure after notice shall prevail

d) **Termination:** This Lease shall automatically terminate on 30 June 2018.

12) **Binding Effect & Complete Terms:** The terms, covenants, conditions, and agreements herein contained shall be binding upon and inure to the benefit of and shall be enforceable by the Lessor and the Lessee and by their respective heirs, successors, and assigns. All negotiations and agreements of the Lessor and the Lessee are merged herein. No modification hereof or other purported agreement of the parties shall be enforceable unless the same is in writing and signed by the Lessor and Lessee.

13) **Construction of Lease:** This lease shall not be construed more strictly against either party regardless of which party is responsible for the preparation of the same.

14) **Maintenance and Utility Costs:** Except for damages resulting from the negligence of the Lessee as set forth herein above the Lessor shall be responsible for all repairs and maintenance of the demised premises, including without limitation, maintenance of the structural integrity of the building, roof, heating and cooling systems and water and sewer systems.

Lessor shall also be responsible for all utility costs for heating and cooling services, water and sewer services, landscaping/yard maintenance and snow and ice removal.

15) **Taxes:** The demised premises are owned by the Lessor and no ad valorem taxes are due and payable on the demised premises. The Lessee shall be responsible for and timely pay all taxes due on all business personal property located upon the demised premises.

16) **Waiver:** No failure by the Lessor to exercise any rights hereunder to which the Lessor may be entitled shall be deemed a waiver of the Lessor's right to subsequently exercise the same. The Lessee shall gain no rights nor become vested with any power to remain in default under the terms hereof by virtue of the Lessor's failure to timely assert its rights. No acceleration of rentals, regardless of how often occurring, which the Lessor chooses to ignore by thereafter accepting rental or other performance by the Lessee shall constitute a waiver of the right to thereafter accelerate rentals.

17) Notices: All notices required by this Agreement shall be forwarded to:

Lessee: PruittHealth Home Health, Inc.
ATTN: Legal Department
1626 Jeurgens Court
Norcross, GA 30093

Lessor: Yancey County
ATTN: Yancey County Manager
110 Town Square, Room 11
Burnsville, NC 28714

Notices, demands, and requests which shall be served upon the Lessor and Lessee in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder.

18) Integration Clause: Any stipulations, representations, or agreements, parol or written, made prior to or contemporaneously with this Agreement, shall have no legal or equitable consequences, and the only agreement made and binding on the parties hereto is contained herein and it is the complete and total integration of the intent and understanding of the Lessor and Lessee.

19) Statutory Authorization: That as stated herein above this Lease is made and entered into pursuant to NCGS 160A-272 and the authority to enter into this Lease has been appropriately delegated to Nathan R. Bennett as Yancey County Manager by Resolution duly adopted and appearing in the minutes of the Yancey County Board of County Commissioners.

IN TESTIMONY WHEREOF the parties hereto have hereunto set their hands and have affixed their respective seals on this the day and year first above written.

YANCEY COUNTY, a Body Politic and
Corporate of the State of North Carolina,
Lessor

By: 

NATHAN R. BENNETT

Title: Yancey County Manager

Attest:

By: 

J. JASON ROBINSON

Clerk to the Board

(SEAL)

PRUITTHEALTH HOME HEALTH,
INC., Lessee

By: 

Title: Chairman and CEO

Memorandum

To: Yancey County Board of Commissioners
From: Fonda Thomas, Tax Collector
Date: July 01, 2020
Re: END OF TERM 2019-2020 ANNUAL SETTLEMENT FOR UNPAID REAL PROPERTY TAXES BY THE YANCEY COUNTY TAX COLLECTOR/FONDA THOMAS AS OF 06/30/2020

As required by G.S. 105-373 (c) (list of persons owning real property whose taxes remain unpaid available upon request), I present the Annual Settlement at End of Term of Tax Collector for unpaid Real Property Taxes for Fiscal Year 2019-2020

<u>Billed</u>	<u>Net Collected</u>	<u>% Collected</u>	<u>% Uncollected</u>
\$12,763,313.65	\$12,468,868.96	97.70%	2.30%

Memorandum

To: Yancey County Board of Commissioners

From: Fonda Thomas, Tax Collector

Date: July 01, 2020

Re: END OF TERM 2019-2020 ANNUAL SETTLEMENT FOR UNPAID
PERSONAL PROPERTY TAXES BY THE YANCEY COUNTY TAX
COLLECTOR/FONDA THOMAS AS OF 06/30/2020

As required by G.S. 105-373 (c) (list of persons owning personal property whose taxes remain unpaid available upon request), I present the Annual Settlement at End of Term of Tax Collector for unpaid Personal Property Taxes for Fiscal Year 2019-2020

<u>Billed</u>	<u>Net Collected</u>	<u>% Collected</u>	<u>% Uncollected</u>
\$970,666.96	\$950,203.97	97.89%	2.11%

Attachment G

JUNE 2020 MONTH END REPORTS FOR BIS AND ALPHA

Fonda Thomas <Fonda.Thomas@yanceycountync.gov>

Wed 7/1/2020 2:04 PM

To: Sonya Morgan <Sonya.Morgan@yanceycountync.gov>; Lynn Austin <Lynn.Austin@yanceycountync.gov>

Cc: Brandi Burlison <Brandi.Burlison@yanceycountync.gov>; Lindsay Smith <Lindsay.Smith@yanceycountync.gov>

📎 3 attachments (39 KB)

ALPHA JUNE 2020 END OF MONTH BREAKOUT OUTSTANDING BALANCES.pdf; JUNE 2020 BIS FINANCE REPORT.pdf; CDCPercentageReport BIS COLLECTION RATE AS OF 06 30 2020.pdf;

Attached are the Alpha/Vehicles and BIS/Property June 2020 Monthly Reports.

There is only one Alpha/Vehicles Report(ALPHA JUNE 2020 END OF MONTH BREAKOUT OUTSTANDING BALANCES REPORT) due to the fact that there were no vehicle payments taken in the month of June 2020; so there wasn't any End of Month Breakout Report to attach.

Please let me know if you have any questions.

Thanks,

Fonda Thomas
Yancey County Tax Collector
110 Town Square, Room 1
Burnsville, NC 28714

Phone: (828) 682-2197

Fax: (828) 682-4817

E-Mail: fonda.thomas@yanceycountync.gov

PENSACOLA FIRE DISTRICT Vehicle Tax				\$356.56
	\$136.96	\$141.90	\$77.70	
PRICES CREEK FIRE DISTRICT Vehicle Tax				\$273.26
	\$4.86	\$28.70	\$65.53	\$174.17
County Vehicle Interest				\$5,517.27
	\$321.44	\$1,075.91	\$2,520.32	\$1,599.60
TOWN OF BURNSVILLE Vehicle Interest				\$113.40
		\$30.57	\$70.77	\$12.06
BURNSVILLE FIRE DISTRICT Vehicle Interes				\$147.78
	\$16.23	\$20.07	\$94.66	\$16.82
CANE RIVER FIRE DISTRICT Vehicle Interes				\$34.44
		\$9.94	\$22.78	\$1.72
EGYPT FIRE DISTIRCT Vehicle Interest				\$11.35
		\$4.47	\$6.87	\$0.01
RAMSEYTOWN FIRE DISTRICT Vehicle Interes				\$1.16
		\$0.28	\$0.02	\$0.86
GREEN MOUNTAIN FIRE DISTRICT Vehicle Int				\$25.64
		\$9.85	\$15.40	\$0.39
JACKS CREEK FIRE DISTRICT Vehicle Intere				\$34.51
	\$11.78	\$2.82	\$9.26	\$10.65
BRUSH CREEK FIRE DISTRICT Vehicle Intere				\$11.13
		\$2.94	\$8.19	
CRABTREE FIRE DISTRICT Vehicle Interest				\$68.10
	\$4.21	\$21.78	\$30.77	\$11.34
SOUTH TOE FIRE DISTRICT Vehicle Interest				\$39.40
	\$1.07	\$17.20	\$17.01	\$4.12
PENSACOLA FIRE DISTRICT Vehicle Interest				\$59.52
		\$9.97	\$25.20	\$24.35
PRICES CREEK FIRE DISTRICT Vehicle Inter				\$76.23
	\$0.30	\$4.39	\$14.03	\$57.51
DMV Vehicle Interest				\$597.51
	\$185.10	\$60.73	\$190.65	\$161.03

Totals

\$6,711.11

\$17,360.37

\$20,246.75

\$7,265.45

\$51,583.68

Billed to Date

% Collected

County Vehicle Tax 2019

\$10,865.09

48.57%

07/01/2020

Posting Report

06-01-2020 to 06-30-2020

07-01-2020

9:20 AM

I. Tax Collections + Releases

Year	General Fund	Burnsville	West Yancey	Egypt/Ramseytown	Clearmont	Double Island	Newdale	South Toe	Pensacola	TOTAL
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2015	\$298.00	\$35.76	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$333.76
2016	\$362.40	\$36.24	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$398.64
2017	\$1,637.68	\$45.30	\$51.21	\$0.00	\$0.00	\$0.00	\$11.76	\$0.00	\$0.00	\$1,745.95
2018	\$2,392.49	\$45.30	\$50.20	\$0.00	\$17.10	\$0.00	\$0.00	\$27.50	\$0.00	\$2,532.59
2019	\$70,979.68	\$329.36	\$749.95	\$85.00	\$138.79	\$155.51	\$1,623.12	\$1,090.38	\$1,906.07	\$77,057.86
TOTAL	\$75,670.25	\$491.96	\$851.36	\$85.00	\$155.89	\$155.51	\$1,634.88	\$1,117.88	\$1,906.07	\$82,068.80

II. Releases

	Current Year	Prior Year	TOTAL
General Fund	\$40.61	\$0.00	\$40.61
Burnsville	\$0.19	\$0.00	\$0.19
West Yancey	\$0.16	\$0.00	\$0.16
Egypt/Ramseytown	\$0.23	\$0.00	\$0.23
Clearmont	\$1.58	\$0.00	\$1.58
Double Island	\$0.00	\$0.00	\$0.00
Newdale	\$0.33	\$0.00	\$0.33
South Toe	\$0.43	\$0.00	\$0.43
Pensacola	\$0.40	\$0.00	\$0.40
TOTAL	\$43.93	\$0.00	\$43.93

III. Net Tax Collections

Year	General Fund	Burnsville	West Yancey	Egypt/Ramseytown	Clearmont	Double Island	Newdale	South Toe	Pensacola	TOTAL
TOTAL	\$75,629.64	\$491.77	\$851.20	\$84.77	\$154.31	\$155.51	\$1,634.55	\$1,117.45	\$1,905.67	\$82,024.87

Transaction Type Report

06-01-2020 to 06-30-2020

Year	General	Fire	Penalty	Waste	Additional Fees	Principal	Interest	Advertising Cost	Legal Cost	Total
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$153.54	\$4.00	\$0.00	\$157.54
2015	\$298.00	\$35.76	\$0.00	\$0.00	\$0.00	\$333.76	\$140.65	\$4.00	\$0.00	\$478.41
2016	\$362.40	\$36.24	\$0.00	\$0.00	\$0.00	\$398.64	\$709.49	\$8.00	\$0.00	\$1,116.13
2017	\$1,637.68	\$108.27	\$23.50	\$0.00	\$0.00	\$1,769.45	\$284.85	\$12.00	\$0.00	\$2,066.30
2018	\$2,392.49	\$140.10	\$21.89	\$0.00	\$0.00	\$2,554.48	\$337.20	\$12.00	\$0.00	\$2,903.68
2019	\$70,939.07	\$6,074.86	\$34.94	\$0.00	\$0.00	\$77,048.87	\$5,268.26	\$254.07	\$0.00	\$82,571.20
TOTAL	\$75,629.64	\$6,395.23	\$80.33	\$0.00	\$0.00	\$82,105.20	\$6,893.99	\$294.07	\$0.00	\$89,293.26

Adjustment / Release Report

06-01-2020 to 06-30-2020

Year	General	Penalty	Waste	Additional Fees	Principal	Interest	Advertising Cost	Legal Cost	Fire	Amount Due	County Net
2016	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,002.49	\$0.00	\$3,002.49	\$3,002.49
2019	\$40.61	\$0.00	\$0.00	\$0.00	\$40.61	\$123.82	\$1.93	\$0.00	\$3.32	\$169.68	\$166.36
TOTAL	\$40.61	\$0.00	\$0.00	\$0.00	\$40.61	\$123.82	\$1.93	\$3,002.49	\$3.32	\$3,172.17	\$3,168.85

Collections Receipts Report

06-01-2020 to 06-30-2020

Total general tax	\$75,629.64
Total fire tax	\$6,395.23
Total penalty	\$80.33
Total Waste Fees	\$0.00
Total Additional Fees	\$0.00
<hr/>	
Total principal	\$82,105.20
Total interest	\$6,893.99
Total cost of advertising	\$294.07
Total legal	\$0.00
Total check overpayments	\$0.00
Total Prepaid Payments	\$8,792.77
Total Prepaid Applied	\$0.00
<hr/>	
Total misc	\$15,980.83
<hr/>	
Grand total receipts	\$98,086.03

District Payment Report

06-01-2020 to 06-30-2020

Year	District Code	District Name	Amount
2014	001	BURNSVILLE FIRE DISTRICT	\$0.00
2015	001	BURNSVILLE FIRE DISTRICT	\$35.76
2016	001	BURNSVILLE FIRE DISTRICT	\$36.24
2016	008	CRABTREE FIRE DISTRICT	\$0.00
2017	001	BURNSVILLE FIRE DISTRICT	\$45.30
2017	002	CANE RIVER FIRE DISTRICT	\$14.69
2017	008	CRABTREE FIRE DISTRICT	\$11.76
2017	011	PRICES CREEK FIRE DISTRICT	\$36.52
2018	001	BURNSVILLE FIRE DISTRICT	\$45.30
2018	002	CANE RIVER FIRE DISTRICT	\$13.68
2018	006	JACKS CREEK FIRE DISTRICT	\$17.10
2018	009	SOUTH TOE FIRE DISTRICT	\$27.50
2018	011	PRICES CREEK FIRE DISTRICT	\$36.52
2019	001	BURNSVILLE FIRE DISTRICT	\$329.17
2019	002	CANE RIVER FIRE DISTRICT	\$473.94
2019	004	RAMSEYTOWN FIRE DISTRICT	\$84.77
2019	005	GREEN MOUNTAIN FIRE DISTRICT	\$69.36
2019	006	JACKS CREEK FIRE DISTRICT	\$67.85
2019	007	BRUSH CREEK FIRE DISTRICT	\$155.51
2019	008	CRABTREE FIRE DISTRICT	\$1,622.79
2019	009	SOUTH TOE FIRE DISTRICT	\$1,089.95
2019	010	PENSACOLA FIRE DISTRICT	\$1,905.67
2019	011	PRICES CREEK FIRE DISTRICT	\$275.85
TOTAL			\$6,395.23

Detailed District Payment Report

06-01-2020 to 06-30-2020

Year	District Code	District Name	Taxpayer Name	Address	Amount
TOTAL					\$0.00

Outstanding Balances Report

As of 06-30-2020

Year	Amount	County	District	Interest	Advertising	Penalties	Waste	Additional Fees
2009	\$13,539.55	\$6,564.37	\$499.26	\$6,415.92	\$60.00	\$0.00	\$0.00	\$0.00
2010	\$14,201.61	\$6,875.23	\$664.44	\$6,581.94	\$80.00	\$0.00	\$0.00	\$0.00
2011	\$22,253.06	\$11,341.18	\$1,145.09	\$9,656.94	\$92.00	\$17.85	\$0.00	\$0.00
2012	\$25,515.77	\$13,113.81	\$1,491.32	\$10,519.39	\$112.00	\$279.25	\$0.00	\$0.00
2013	\$21,496.15	\$12,194.57	\$1,136.83	\$7,966.75	\$198.00	\$0.00	\$0.00	\$0.00
2014	\$25,309.20	\$15,352.67	\$1,405.70	\$8,000.87	\$148.00	\$401.96	\$0.00	\$0.00
2015	\$28,407.00	\$17,786.56	\$1,729.34	\$8,069.18	\$200.00	\$236.88	\$0.00	\$0.00
2016	\$52,034.20	\$36,574.21	\$2,727.47	\$12,121.67	\$260.00	\$346.85	\$4.00	\$0.00
2017	\$73,320.67	\$54,254.88	\$4,582.33	\$13,370.22	\$456.00	\$657.24	\$0.00	\$0.00
2018	\$116,519.96	\$93,157.18	\$7,730.30	\$13,818.16	\$855.97	\$958.35	\$0.00	\$0.00
2019	\$342,731.75	\$295,252.18	\$25,250.29	\$18,546.25	\$2,412.00	\$1,271.03	\$0.00	\$0.00
Total	\$735,328.92	\$562,466.84	\$48,362.37	\$115,067.29	\$4,873.97	\$4,169.41	\$4.00	\$0.00

Yancey County Tax Office

County/District Collection Percentage Report

As of: 06-30-2020

Run Date: 07-01-2020

2019
County

Net Levy \$
12,763,313.65

Collections \$
12,468,868.96

Collections %
97.70

Districts

Name	Net Levy \$	Collections \$	Collections %
001 - BURNSVILLE FIRE DISTRICT	199,324.15	195,319.62	98.00
002 - CANE RIVER FIRE DISTRICT	78,921.42	77,563.69	98.28
003 - EGYPT FIRE DISTRICT	77,447.49	76,239.61	98.45
004 - RAMSEYTOWN FIRE DISTRICT	24,300.17	23,572.06	97.01
005 - GREEN MOUNTAIN FIRE DISTRICT	29,541.52	28,125.65	95.21
006 - JACKS CREEK FIRE DISTRICT	65,164.98	63,205.95	97.00
007 - BRUSH CREEK FIRE DISTRICT	40,342.01	38,937.78	96.52
008 - CRABTREE FIRE DISTRICT	172,723.12	167,965.54	97.25
009 - SOUTH TOE FIRE DISTRICT	193,121.74	188,131.34	97.42
010 - PENSACOLA FIRE DISTRICT	95,868.13	94,024.80	98.08
011 - PRICES CREEK FIRE DISTRICT	153,655.58	152,112.46	99.00

District Totals

Net Levy \$
1,130,410.31

Collections \$
1,105,198.50

Collections %
97.77

Personal Property:

Billed
970,666.96

UnCollected
20,462.99

Collected
950,203.97

Percent Collected
97.892

Percent Not Collected
2.108

EDUCATIONAL LETTER of AGREEMENT

This Educational Letter of Agreement (hereinafter "Agreement"), effective as of **August 15, 2020** ("Effective Date"), by and between **Yancey County**, (hereinafter referred to as "Sponsor"), and **Appalachian State University**, a non-profit educational institution of the State of North Carolina, on behalf of its Department of Sustainable Technology and the Built Environment (hereinafter referred to as "University").

WHEREAS, the establishment of the IDEXlab (Integrative Design Experience Laboratory) Program and the Building Science Architectural Studio III (hereinafter "Program") will further the instructional objectives of University and may derive benefits for both Sponsor and University through inventions, improvements, and/or discoveries; and

WHEREAS, the establishment of the Program will allow Student Trainees (hereinafter "Trainees") to explore future technology and design concepts, enhance their design skills, and to gain real world hands-on design experience consistent with the Program's overall goals and objectives; and

WHEREAS, the parties agree that the best way to conduct this Program is by means of individual Educational Projects (hereinafter "Projects") in which the parties outline the educational goals and objectives to be attained by Trainees.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereto agree to the following:

Article I – Goals and Objectives

1. The goal of this Agreement is to provide University Trainees with the intellectual stimulation that comes from the support of and the participation in technology design, product design, and product development projects. The Project intends to train qualified Students for technology and design practice and industry training opportunities.
2. The objective of this Agreement is to establish a mechanism in which University's Trainees explore future technology and design concepts.

As part of the Project objectives Sponsor shall:

- a) Advance new product ideas and designs for its products to participating Trainees;
- b) Explore future technology and design concepts with Trainees;
- c) In coordination with the University, Sponsor shall define the Scope of Work for the Project and a timeline for Trainee activities, which shall be attached to this Agreement as Appendix A.

As part of the Project objectives University shall:

- a) Provide a Project Director to act as liaison between the University and Sponsor and to coordinate the academic and technical experience of Trainees. The Project Director in his/her role shall coordinate activities, provide information to the Sponsor regarding the Project and make all assignments of trainees that will be involved. The Project Director will have ultimate responsibility and final authority for the educational content of the Project;
- b) Ensure that Trainees participating under this Agreement follow the defined goals and objectives of the Project and that they comply with all rules and regulations of Sponsor and the University.
- c) Offer an alternative assignment for students who elect to not participate under the terms of this agreement

Any other specific or additional duties set forth hereinafter, as well as the Project's Scope of Work are set forth in Appendix A, attached hereto and incorporated herein as if fully set out.

Article II – Term

1. The initial term of this Agreement (“Initial Term”) is from the Effective Date and continue in effect till **May 10, 2021** (the “End Date”). This Agreement is subject to renewal or earlier termination as set forth below.

Article III – Reports, Conferences and Audits

1. Written progress reports will be provided by University to Sponsor on a mutually agreed upon schedule. During the Contract Period, representatives of University will meet with Sponsor at times and places mutually agreed upon to discuss the Project’s progress and results, as well as ongoing plans, or changes therein.

2. Sponsor shall have the right to audit and or inspect University’s compliance with the terms and conditions of this Agreement at reasonable times after reasonable notice at Sponsor’s sole expense.

3. Sponsor shall allow the State Auditor of North Carolina or Appalachian State University to access, inspect, examine and reproduce any and all contract, financial records or other records related to this Agreement in the custody or control of Sponsor during normal business hours or at any other time deemed reasonable by the Parties, and otherwise as required by law, including, but not limited to, North Carolina General Statutes, § 147-64.7.

Article IV - Costs and Other Support Fees

1. Payment by the Sponsor of Project costs or other Project support fees shall be agreed by the parties and set forth in Appendix A.

2. Additionally, the parties agree that University shall retain title to any equipment purchased with funds provided by Sponsor under this Agreement.

Article V – Publication and Use of Names

1. Sponsor and University agree that the results and general methodology of a Project may be publishable and that University Faculty and students engaged in the Project shall be permitted to present at symposia, or other national or regional professional meetings, and to publish in journals, theses or dissertations, such results and general methodology of a Project.

2. University reserves the right to use the results of all services provided by the University under a Project for its own teaching, research and publication purposes, provided such publication does not constitute a violation of this Article.

3. University reserves, on behalf of the Project Director and other University employees and/or students, the right to disseminate information, or to publish any material resulting from a Project, within University’s Educational Activities, without need for approval by the Sponsor.

4. The Sponsor, at its election, shall be entitled to receive in any such publication an acknowledgement of its sponsorship of the Project. It is specifically agreed that nothing contained in this Agreement will interfere with the publication or oral defense of research theses and dissertations of graduate students participating in a Project.

5. Sponsor shall not use the name or marks of the University, nor the name or likeness of any University employee or student Trainees in any publicity, advertising, news release, or for any other purpose without the prior written approval of an authorized representative of University. Likewise, University and University personnel will not use the name of Sponsor, any of Sponsor’s products, nor any employee of Sponsor, in any publicity, advertising, published article, or news release without the prior written approval of Sponsor.

6. Sponsor may create videos or take photographs of Trainees discussing or demonstrating various aspects of a

Project ("Recordings") and/or Sponsor may request that a Trainee create such Recordings. Trainees who are featured in and/or create Recordings shall execute the Publicity and Copyright release form set forth in Appendix C, attached hereto and made part hereof, and University agrees to assist Sponsor in having such forms executed.

Article VI - Grant of Rights and Intellectual Property

1. The Parties understand and agree that the primary purpose of the work to be performed under this Agreement is for University's Trainees to gain valuable experience in technology design, product design, and product development. The Parties recognize that it is anticipated that in the course of such work, due to its nature, that the University through its Trainees will discover or create inventions, methods, developments and/or discoveries related to the Project.

2. Additionally, the parties agree that any University students participating in the project shall execute the Student Trainee Intellectual Property Agreement set forth in Appendix B, attached hereto and made a part hereof, stating that they understand and agree to the disposition of Intellectual Property rights and other results as provided by the Agreement.

Article VII - Non-Disclosure

1. Both parties agree to hold in confidence and trust, and to maintain as confidential all Confidential Information pursuant to NC Gen. Stat. § 116-43.17. "Confidential Information" shall mean research data, records or information of a proprietary nature produced or collected by or for a state institution of higher learning in the conduct of research where the data, records or information have not been patented, published or copyrighted and any information that constitutes a trade secret within the meaning of NC Gen. Stat. § 132-1.2(1) and NC Gen. Stat. § 66-152(3) and any information that is an educational record as that term is defined by the Family Educational Rights and Privacy Act (FERPA). To the extent permitted by North Carolina law, the Parties agree to not disclose the Confidential Information to any third party and will treat such Confidential Information with at least the same degree of care as it does with its own Confidential Information. Confidential Information shall not include information that is (a) made public without breach of this agreement, (b) received from a third party (other than one acting with or on behalf of Sponsor) without obligation of secrecy, (c) is already in the possession of the University (and did not originate from Sponsor), (d) is developed by the recipient independently and without reference to any Confidential Information, as supported by written evidence, or (e) is required to be disclosed pursuant to a North Carolina Public Records request, law, regulation, subpoena or court order. The parties understand that University is governed by the applicable requirements of the North Carolina Public Records Act with respect to its handling of confidential information (NCGS section 132-1, et seq).

2. The Parties agree that only a court can determine whether assertedly Confidential Information is a trade secret exempt from disclosure under North Carolina law. If the University receives a Public Records Act request for disclosure of assertedly Confidential Information, the University shall notify Sponsor within three (3) business days regarding the requested disclosure, and Sponsor will have the sole responsibility of taking legal action, at its own expense, to prevent disclosure under North Carolina law.

3. University further agrees that it shall not use Confidential Information for any purpose other than those purposes specified in this Agreement. University may disclose Confidential Information to either party's employees and students requiring access thereto for the purposes of this Agreement provided, however, that prior to making any such disclosures each such employee shall be apprised of the duty and obligation to maintain Confidential Information in confidence and not to use such information for any purpose other than in accordance with the terms and conditions of this Agreement.

4. The above obligations for Confidential Information shall be in effect for a period of five (5) years from the termination of the agreement.

5. Additionally, the parties agree that any University students participating in the project shall sign a Non-Disclosure Agreement stating that they have read this Article VII and they agree to not disclose any information shared. It shall also state that the student understands the importance of maintaining the confidentiality of such information.

Article VIII - Termination

1. Either Party may terminate this Agreement upon ninety (90) days written notice to the other Party.
2. In the event that either party hereto shall commit any breach of or default in any of the terms or conditions of this Agreement, and also shall fail to remedy such default or breach within thirty (30) days after receipt of written notice thereof from the other party hereto, the party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect, and such termination shall be effective as of the date of the receipt of such notice.
3. Termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement.
4. To the extent any portions of any Project are inconsistent with this Agreement; the terms of the Agreement shall govern the conduct of the parties, except that the Scope of Work of each Project as approved by the parties shall govern the conduct of the Project's activities.

Article IX - Independent Contractor

1. The Parties to this Agreement shall be independent contractors and nothing in this Agreement shall be construed to place the parties in the role of partners, joint venturers, or in any other form of relationship other than independent contractors. And neither Party shall be deemed an agent of the other or able to enter into any obligation, contract, warranty or any other agreement on behalf of the other Party.

Article X - Warranties, Indemnification and Insurance

1. University warrants that it has, or shall have, written policies and guidelines on conflict of interest and avoidance thereof. University certifies that, to the best of its knowledge, no conflicts of interest exist for individuals participating in the Project(s) supported under this Agreement. Should this situation change during the time of this Agreement, each Party shall promptly report said changes to the other party.
2. Each party shall be solely liable for any claims, actions, demands or damages arising out of its performance of this Agreement.
3. University warrants and represents that University is entirely self-insured and that University will be self-insured throughout the term of this Agreement to the extent permitted by North Carolina law.
4. Sponsor shall maintain at its own expense adequate liability insurance to protect Sponsor from claims that may result from the performance of this Agreement.

Article XI – Force Majeure and Modifications

1. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service or employment deemed resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work interruptions by either party's employees, or any similar or dissimilar cause beyond the reasonable control of either party.
2. The invalidity or unenforceability of any terms or provisions hereof shall in no way affect the validity or enforcement of any other term provision.

Article XII – Privacy

1. Each Party respects the privacy of employees' or students' personal information and represents that any

personal information collected or received in the course of performance of this Agreement will be handled in compliance with all applicable data privacy laws and regulations.

Article XIII - Governing Law, Assignment and Modifications

1. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.
2. This Agreement shall not be assigned by either party without the prior written consent of the parties hereto, which shall not be unreasonably withheld.
3. Any agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing and approved by mutual agreement of authorized representatives of the parties hereto.
4. Notices, invoices, communications, and payments hereunder shall be deemed made if given by first-class mail, postage prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below, or such other address as may hereafter be designated by notice in writing:

If to Sponsor: **Yancey County**
Attn: Lynn Austin, County Manager
110 Town Square Room #11
Burnsville, NC 28714

If to University: Appalachian State University
Office of Research
Attn: Charna K. Howson
Director, Sponsored Programs
384 John E. Thomas Hall
287 Rivers Street
Boone, NC 28608

With copy to: Appalachian State University
Office of General Counsel
Attn: Paul Meggett
438 Academy Street
BB Dougherty Admin Bldg., 3rd Floor
Boone, NC 28608

IN WITNESS WHEREOF, the parties have caused these presents to be executed in duplicate as of the day and year first above written.

Appalachian State University

BY: DocuSigned by:
Charna Howson
F52F8AF38ECC41D...

TITLE: Director of Sponsored Programs

DATE: 6/30/2020

Yancey County

BY: DocuSigned by:
Lynn Austin
756680B4406E414...

TITLE: County Manager

DATE: 6/30/2020

Appendix A – Statement of Work

Project: Yancey County Farmer’s Market Programming and Schematic Design

Sponsor: Yancey County

Project Director(s): D. Jason Miller (PI)

Purpose: Develop programming study and schematic architectural design proposals for a farmer’s market facility with supporting functions on behalf of the sponsor, Yancey County, for Yancey County Farmer’s Market in Burnsville, NC.

Scope of Work:

Part 1 (P1): Programming Study (small group studio projects)

- Research project context (program requirements, site analysis, proposed budget)
- Research affordability and methods for cost effective design
- Catalog project program and requirements as determined by project stakeholders
- Identify project constraints and evaluate project opportunities
- Present findings to Sponsor and affiliated entities

Part 2 (P2): Concept Design (individual studio projects)

- Fit program initiatives and goals within design concept
- Develop presentation material and present concept design schemes to Sponsor

Part 3 (P3): Schematic Design Proposals (small group studio projects)

- Refine conceptual design schemes to schematic design proposals based on feedback provided
- Present preliminary cost estimate to correspond with updated design decisions
- Present schematic design proposals to Sponsor and affiliated entities

Period of Performance: 09.08.2020 –12.10.2020

Deliverable Schedule: Presentations will be delivered to the sponsor according to this tentative schedule:

09.08.2020	(P1) Project Kick-off
10.01.2020	(P1) Report: Preliminary Research, Analysis, Program, and Feasibility Study
10.20.2020	(P2) Presentation: Concept Design
12.08.2020	(P3) Presentation: Schematic Design Proposals
12.10.2020	(P3) Package: Package all proposal material and provide to the sponsor

Acceptance Criteria: Sponsor will evaluate programming studies and schematic design proposals within the project timeline and provide feedback that will be incorporated by the conclusion of the project. Sponsor may modify design criteria at any time.

Payments In support of such work to be performed by AppState students on the project, Sponsor hereby agrees to pay to AppState the sum of **one payment of \$5,000 (Five-thousand Dollars) for the academic semester** within thirty (30) days prior to Effective Date of this Agreement. Sponsor shall present a check made payable to Appalachian State University, and reference the proposal # [20-0277].

Appendix B - Student Trainee Intellectual Property Agreement

I have read the above Project and agree to perform my obligations as Student Trainee under this Agreement. I also understand and agree to the disposition of rights in inventions, discoveries, and other results as provided by the Agreement. I further understand that an alternative project assignment will be made available to me should I elect not to participate in this project or decide to opt out of the project at a later date with no penalty in my course grade.

I, (name) _____ am a _____ [undergraduate student, grad student or part-time student etc.] of _____ at Appalachian State University (hereinafter referred to as the "University"). I wish to participate in the research project titled " _____ " (hereinafter referred to as the "Project"). I understand and agree that participating in the Project is of significant value to me in furthering my educational, teaching or research goals. I understand that to participate in the Project I am required to assign ownership of any and all inventions, discoveries, ideas, know-how, data and information, including copyright therein and any associated moral rights, conceived or reduced to practice in performance of the Project (the "Technology") to the University.

By my signature below, I hereby assign, transfer and convey the Technology to the University. I further agree to complete and execute any and all documents requested by the University to perfect such assignment, at the University's expense. A copy of the University's patent and copyright policies and procedures has been made available to me, either directly or indirectly, for my review. The policy is available for review at any time at: http://policy.appstate.edu/Intellectual_Property_Transfer.

Printed Student Name

Student Signature

Date

WITNESS:

Printed Name, PI

PI Signature

Date

Appendix C - Student Trainee Publicity and Copyright Release

I, (name) _____ am a _____ [undergraduate student, grad student or part-time student etc.] of _____ at Appalachian State University (hereinafter referred to as the "University") participating in the research project titled " _____ " (hereinafter referred to as the "Project").

I hereby grant to Sponsor and University and those acting under Sponsor and/or the University's authority, the right to record, film, tape, photograph, and otherwise capture and reproduce in any manner my likeness, name, voice, and performance in connection with the Project. All such images and sound captured on tape or otherwise are referred to in this Release as the recordings ("Recordings"). I agree that Sponsor and University shall jointly own all rights in the Recordings, and have the right to use the Recordings, in whole or in part, in any manner or media now known or later developed. I hereby assign to Sponsor and University all copyright rights in any Recordings that I have created, and hereby waive any moral rights I may have therein. I waive any right to inspect or approve the finished output made from Recordings.

I hereby release and discharge Sponsor and University and all persons acting under Sponsor and/or the University's authority, from any and all demands, claims, or causes of action arising out of or in connection with the use of the Recordings including, without limitation, liability by virtue of any editing, blurring, distortion, alteration, optical illusion, or use in composite form, whether intentional or otherwise, that may occur or be produced in the taking of said Recordings or in any subsequent processing thereof, as well as any publication thereof, including without limitation any claims for copyright infringement, libel or invasion of privacy.

I hereby warrant that I am of at least eighteen (18) years of age and that I have read the above authorization, release, and agreement, prior to its execution, and I am fully familiar with the contents thereof and I sign it voluntarily. This release shall be binding upon me and my heirs, legal representatives, and assigns.

Signature of Student Trainee

Date

PROJECT BUDGET PROPOSAL

Agrants File Number: 20-0277

Project Name: Yancey County Farmer's Market Programming and Schematic Design

Budget Outline:

The budget proposal provided below outlines the scope of work of the **Yancey County Farmer's Market** project for the Agreement.

The Agreement, as well as Appendix A, the Statement of Work, Appendix B, the Student Trainee Intellectual Property Agreement, and Appendix C, the Confidentiality Agreement between Sponsor and Appalachian State University outlines the budget proposed. The budget allocation covers all digital, modeling, printed, and prototyping materials, as well as travel costs associated with site visits and/or presentations associated with the Scope of Work outlined in Appendix A.

Budget Proposal:

	ITEM	BANNER CODE		COST
1	Group Materials - Printing	729900		1,143.00
2	Group Materials - Modeling	729900		3,285.00
3	Domestic Travel Allowance	731129		572.00
			TOTAL	5,000.00

Note: See Budget Discussion below for Item and Allowance description.

Budget Discussion:

Individual budget line items and allowances are described here to explain the return on investment that may be expected by Sponsor. Allowances provided above support costs associated with the production of deliverables outlined in Appendix A. All group and individual project materials shall be provided to Sponsor in a digital format.

Budget Description:

Item 1: Covers costs associated with all printing, binding, and mounting materials associated with deliverables outlined in Appendix A. Materials include but are not limited to: high quality printing and photography paper; foam board; and spray adhesives. This allowance may also be used for digital products needed to accommodate project deliverables based on shifts to hybrid or online course meeting patterns.

Item 2: Covers costs associated with all model-making supplies used for study and final models associated with deliverables outlined in Appendix A. Materials include but are not limited to: sheet goods such as chipboards, corrugated cardboards, Strathmore boards, acrylic, etc; wood products such as basswood sheets and sticks; metal products such as wire mesh and metal rod; plaster and foam products; and adhesive materials for these items. This allowance may also be used for digital products needed to accommodate project deliverables based on shifts to hybrid or online course meeting patterns.

Item 3: Covers travel costs related to project scope of work and associated with university motor pool vehicle use. Travel cost presumes (2) site visits to the project site or similar projects @ approximately 50 miles per trip using one (1) university vehicle per trip with contingency.

EMS Supply Charge List

Charge	Client A	Client B	Client C	Client D
ALS Disposable Supplies	\$ 100.00	\$ 75.00	\$ 100.00	\$ 90.00
BLS Disposable Supplies	\$ 60.00	\$ 45.00	\$ 60.00	\$ 75.00
Oxygen Disposable Supplies	\$ 10.00	\$ 40.00	\$ 50.00	\$ 20.00
IV Disposable Supplies	\$ 50.00	\$ 40.00	\$ 50.00	\$ 25.00

Attachment I

Permit Type	Yancey Proposed	Yancey Current	Madison (last revision 2019)	Mitchell (last revision 2015)	Avery (last revision 2012)
Single Family Dwelling	\$200.00	150.00/ up to 1000 sq ft	\$275.00	\$170.00	\$150.00
Over 1000 sq ft	.16 & .10	.14 sq ft heated/.07 Unheated	\$350.00	.15 & .09	.14 & .07 up to .24 & .12
Res. Additions	175.00 & .16	150.00 + .14 sq ft over 1000 sq ft	175.00-325.00	100.00 + .15 sq ft	\$100.00 for \$10,000.00 (over \$10,000 is \$4.25 per each \$1000.00 over \$ 10,000.00
Deck, Workshop, Garage, etc	\$125.00	.074 per sq ft	125.00-250.00	.12 per sq ft	100.00-150.00 over 500sq ft/ +.10 sq ft
Singlewide Mobile Home	\$125.00	\$100.00	\$100.00	\$70.00	\$30.00
Doublewide Mobile Home	Same	\$175.00 +75 W/ basement	\$130.00	\$120.00	\$80.00
Modular	\$175.00	\$150.00	Same as new construction	\$190.00	\$200.00-\$450.00
Commercial (new)	375.00 +.20	250.00 +.18 over 1000 sq ft	425.00 +.18	\$300.00 + .19	\$350.00+.14-.20sqft
Commercial (remodel)	300.00+.20	200.00 +.18 over 1000Sq ft	350.00 +.14	200.00 +.19 up to 500 sq ft	\$350.00 +3.75 per \$1,000 of cost
New Electric - up to 200 AMP	\$100.00	\$75.00	\$60.00	\$70.00	\$50.00
New Electric - over to 200 AMP	\$125.00	\$100.00	\$60.00	70.00+10.00 per 100 A	\$175.00
Reconnect Electrical	Same	\$50.00	\$60.00	\$70.00	\$50.00
Plumbing Only	Same	\$75.00	\$60.00	\$70.00	50.00-\$150.00
Mech/Plumbing Combo	\$100.00	\$75.00	\$100.00	\$125.00	\$50.00-\$125.00
Sprinkler System	\$100.00	\$75.00	\$100.00	.05 per sq ft	\$75.00
Fire Inspection	\$100.00	\$75.00	N/A	\$75.00-125.00	\$50.00-\$125.00
Swimming Pool	\$100.00	\$75.00	\$100.00	\$75.00-125.00	\$150.00-\$300.00
Flood Dev. Permit	\$75.00 Res./\$125.00 Comm.	\$100.00	\$25.00	\$125.00	\$125.00
Watershed Dev.	\$75.00	\$0.00	\$50.00 + Hearing	N/A	\$100.00
Cell / Comm Towers	\$1,500.00	\$75.00	\$600.00	\$5,000.00 min	\$500.00-\$1000.00

Attachment I

ORDINANCE NO. 49

ORDINANCE TO REGULATE THE ERECTION OF TELECOMMUNICATIONS TOWERS IN YANCEY COUNTY

Section A: Authority and Purpose

This ordinance is enacted pursuant to the general police powers granted to Yancey County by North Carolina General Statute No. 153A-121. The purpose of this ordinance is to protect the health, safety and property values of citizens of Yancey County from potential adverse effects caused by the proliferation of telecommunications towers, such as falling of towers or ice from the towers, children being injured by climbing or playing on towers, and the aesthetic harm caused to residential communities.

Section B: Definitions

The following words, terms and phrases shall have the specific meaning ascribed to them herein. All other words, terms and phrases shall have their ordinary meaning of common usage in the English language.

Board of Commissioners means the duly elected Board of County Commissioners for Yancey County.

Crest means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

Ordinance Administrator means any Yancey County employee assigned by the Board of Commissioners to enforce this Ordinance.

Permit means the permit issued by the Ordinance Administrator to an individual, corporation, partnership, or other entity applying to erect a telecommunications tower.

Protected Mountain Ridge means a ridge with an elevation higher than two thousand five hundred (2,500) feet above mean sea level and an elevation three hundred (300) feet or more above the elevation of an adjacent valley floor.

Ridge means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land within two hundred (200) feet below the elevation of any portion of such line or surface along the crest.

Telecommunications Tower means any tower exceeding twenty (20) feet in height erected for the purpose of transmitting or receiving telephonic or radio signals over the airwaves as a commercial service, but shall not include any structures erected solely for a non-commercial individual use such as residential television antennas, satellite dishes, ham radio antennas, or AM radio towers.

Tower Site means the real property which an applicant is required to have ownership of, leasehold interest in, or easement over, pursuant to Article IV (A)(2) of this ordinance.

Section C: Jurisdiction of Ordinance

The provisions of this ordinance shall be applicable to all unincorporated areas of Yancey County, but shall not be applicable to and shall not be enforceable within the corporate limits or jurisdiction of any municipality located within Yancey County.

**ARTICLE II - PERMIT REQUIRED TO ERECT
TELECOMMUNICATIONS TOWERS**

It shall be unlawful for any person, corporation, partnership or other entity to erect within the jurisdiction of this ordinance any telecommunications tower without first obtaining a permit from the Ordinance Administrator. However, a permit shall not be required for the erection of a replacement tower of no greater height, located at the same site, and within fifty (50) feet of the tower being replaced, provided the replacement tower shall not be closer to existing residences within a radius equal to the height of the tower. The tower being replaced shall be removed within ninety (90) days of activation of the replacement tower.

**ARTICLE III - APPLICATION SUBMISSION AND
REVIEW PROCESS**

Section A: Application Specifications

A completed tower permit application with all supporting documentation identified in Article IV shall be submitted to the Ordinance Administrator for review. Where applicable, the following information is required on the site plan:

- (1) Title block containing the name of the telecommunication tower owner and/or property owner, scale, North arrow, and latitude/longitude coordinates.
- (2) Existing site conditions, including contours, any unique natural or man-made features such as vegetation, ground cover, and existing structures.
- (3) Exact boundary lines of the property containing the proposed telecommunications tower construction, any associated guy wires, and height.
- (4) A plan showing the base of the tower and the foundations for all gut line anchors and support structures, all proposed buildings, and any other proposed improvements including access roads and utility connections within and to the proposed site.
- (5) Description of adjacent land use and all property owners name(s), tax parcel number(s), and mailing addresses.
- (6) A front and side elevation profile, drawn to scale, of all existing and proposed telecommunications towers, with all proposed lighting and antennas to be located on the property.

Section B: Approval and Recordation

The Ordinance Administrator shall either approve or disapprove the permit application based upon the criteria set forth in Article IV. The owner or his agent shall

record the Site Development Plan in the Office of the Yancey County Register of Deeds before issuance of a permit for the subject tower.

ARTICLE IV - CRITERIA FOR ISSUANCE OF PERMIT

Section A: Requirements

In determining whether or not to issue a permit for the erection of a telecommunications tower, the Ordinance Administrator shall act in accordance with the provisions as follows:

- (1) The applicant shall be required to provide documentation satisfactory to the Ordinance Administrator of compliance with all applicable Federal and State regulations.
- (2) The applicant must present to the Ordinance Administrator proof of either fee simple ownership, a recorded leasehold interest, or an easement from the record owner of all property within a radius of one times the height of the tower. The required area may include Department of Transportation right of way if the applicant provides written consent to that effect by the Division Engineer.
- (3) The lighting on the proposed tower shall be no more than is required by the applicable Federal and State regulations. Strobe lights shall be red at night and may be either red or white during daylight unless otherwise required by Federal or State regulations. Towers shall be light gray or another blending color, except when required by applicable Federal and State regulations.
- (4) The applicant shall identify all other possible alternatives considered within the service area for the proposed tower's antenna(s) and explain why the proposed tower is necessary and why existing towers and structures cannot accommodate the proposed antenna(s).
- (5) Tower permit approval is conditional upon the owner providing written authorization that the tower may be shared by other telecommunication facilities at customary and usual charges. The owner shall record in the Office of the Register of Deeds a letter of intent prior to the issuance of a permit. The letter of intent shall bind all subsequent owners of the approved telecommunications tower.
- (6) The proposed tower shall be designed and constructed to permit the capability for co-location of at least one other equal telecommunication use if the tower is taller than one hundred (100) feet.
- (7) The applicant must be willing to allow the County of Yancey or other public entities use of the tower under reasonable terms and conditions if a request is made for such use within thirty (30) days of the filing of the permit application, if tower loan and frequency issues are met.
- (8) The applicant must provide the Ordinance Administrator with proof of general liability insurance in the minimum amount of ONE MILLION DOLLARS AND 0/100 (\$1,000,000.00).
- (9) If the tower, or the equipment on the site, is of a type which will emit a continuous or frequent noise, the applicant must prove to the satisfaction of the Ordinance Administrator that sufficient actions are being taken to prevent such noise from being audible to surrounding residents and businesses.

- (10) The tower shall be surrounded by a commercial grade chain link secured fence at least eight (8) feet in height, which can include no more than two (2) feet of barbed wire.
- (11) No tower shall exceed three hundred (300) feet in height. No tower located on any Protected Mountain Ridge shall have its highest point at an elevation greater than twenty (20) feet higher than the vegetation canopy immediately surrounding the base of the tower, or at the nearest point on the crest of the ridge, whichever point is most favorable to the applicant.
- (12) A sign identifying the owner(s) and operator(s) of the tower and all equipment located thereon, and an emergency telephone number shall be placed in a clearly visible location near the tower.
- (13) The applicant must provide documentation that written notice of the applicant's intent to apply for a permit to erect the tower has been sent to all adjoining landowners of the proposed tower site and all owners of residential dwellings, day care centers, and schools within five hundred (500) feet of the proposed tower site.
- (14) The application must be accompanied by payment of a non-refundable processing fee in the amount of ONE HUNDRED DOLLARS AND 0/100 (\$100.00).
- (15) The applicant shall identify any variance(s) to the ordinance, the reason(s) for seeking the variance(s) and any measures that are proposed to mitigate possible adverse affects of the proposed variance(s).]
- (16) Government owned property should be considered first for telecommunications tower sites whenever feasible.
- (17) If construction is not begun within twelve (12) months after the tower permit is issued, the tower permit shall expire. Prior to the expiration of the twelve (12) month period, the applicant may request an extension of the permit for an additional twelve (12) month period from the Ordinance Administrator, which shall be granted upon proof that the delay was caused primarily by reasons beyond the applicant's control. There shall be no limit to the number of extensions granted so long as the request is timely submitted and supported by adequate proof that the delay was not caused by the applicant.

Section B: Co-Location Encouraged

In order to encourage co-location and to avoid tower permit delays, the following will apply:

- (1) On or before November 15 of each year, or the following Monday should November 15 fall on a weekend, every person, corporation, partnership or other entity who intends to erect telecommunications towers within the jurisdiction of this ordinance shall submit to the Ordinance Administrator a preliminary plan which shall contain information as to the height, size, type, purpose, general location, and reason for erection of every telecommunications tower anticipated to be erected during the following year. Also, there shall be provided the name, address and telephone number of an individual designated as the point of contact with the Ordinance Administrator for discussion and resolution of telecommunications towers issues. Upon receipt of such plans,

the Ordinance Administrator shall promptly review them and proceed to communicate with the designated points of contact in an effort to maximize co-location and avoid if possible the placement of towers in highly objectionable areas. If the Ordinance Administrator determines it to be appropriate, he is empowered by this Ordinance to convene a mandatory conference to which all parties who have submitted plans will be required to send a representative, subject to the requirement that minimum of five (5) working days notice be given as to the specific time and place for such conference. The purpose of such conference will be to discuss co-location of towers and any other issues pertaining to telecommunications towers which the Ordinance Administrator determines to be pertinent. The conference shall be open to the public, but the Ordinance Administrator shall have the authority to limit public comment as he deems necessary to assure an orderly consideration of the agenda and avoid waste of time. In considering applications for individual telecommunications tower permits, the Ordinance Administrator shall require any applicant who has failed to include a proposed tower in its preliminary plan or has failed to have a representative present at a mandatory conference to submit in writing a satisfactory explanation for such failure prior to the issuance of a permit. The Ordinance Administrator shall render a written decision which sets forth with particularity such findings of fact as necessary to show whether the applicant's explanation is or is not satisfactory.

- (2) The Ordinance Administrator shall promptly forward copies of all information received pursuant to Articles III and IV to the County Tax Assessor.

ARTICLE V - VARIANCES

Section A: Procedures

A request for a variance must be submitted by the applicant in writing to the Board of County Commissioners within ten (10) days of receipt of notice of an adverse decision by the Ordinance Administrator. The Board of Commissioners may grant such variance upon findings that the following conditions exist:

- (1) Extraordinary and exceptional conditions pertaining to the particular place or property in question because of its size, shape, topography, or requirement for microwave links that are not applicable to other telecommunication tower sites governed by this Ordinance.
- (2) The variance will not confer upon the applicant any special privileges that are denied to other operators of telecommunication towers governed by this ordinance.
- (3) A literal application of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other operators of telecommunication towers governed by this Ordinance.
- (4) The variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the fault of the applicant.
- (6) The variance is necessary for the applicant to achieve operational objectives, including co-location of antennas.

The Board of Commissioners shall make written findings to support its decision either granting or denying the variance, and a copy shall be provided to the applicant. The Board of Commissioners may attach to any variance such conditions as it deems necessary and appropriate. A request for a variance under this section shall not constitute an admission by the applicant of any findings of fact made by the Ordinance Administrator or a waiver of appeal rights provided by Article IX.

Section B: Issuance of Permit

Should the Board of County Commissioners grant the requested variance, the Ordinance Administrator shall issue a tower permit. The permit applicant shall acknowledge and agree to permit conditions approved by the Ordinance Administrator or the Board of Commissioners. If construction is not begun within twelve (12) months after the tower permit is issued, the tower permit shall expire, subject to the renewal options sated in Article IV, Section (A)(17).

ARTICLE VI - CONTINUED COMPLIANCE REQUIRED

All permits for the erection of a telecommunications tower are issued in reliance upon a presumption that the tower will in fact conform to the plans which are submitted as the basis for the permit; and once erected the tower must continue to be at all times maintained in compliance with the provisions of Article IV.

ARTICLE VII - REMOVAL REQUIRED AT TERMINATION OF USE

Any tower erected under a permit issued pursuant to this ordinance must be removed within one hundred eighty (180) days of the date upon which it ceases to be in active use.

ARTICLE VIII - VIOLATION OF ORDINANCE

A violation of this ordinance shall be a misdemeanor subject to the penalties and enforcement provisions of North Carolina General Statute 153A-123, specifically including injunctions and abatement orders as provided by said statute.

ARTICLE IX - APPEAL

The denial of a permit by the Ordinance Administrator, the denial of a variance by the Board of Commissioners, or the imposition of any conditions precedent to the issuance of such permit or variance may be appealed by the applicant pursuant to the provisions of North Carolina law and the general statutes and/or the Administrative Law Code of the State of North Carolina.

ARTICLE X - VALIDITY OF INDIVIDUAL SECTIONS

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such decision shall not effect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact than any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

ARTICLE XI - EFFECTIVE DATE

This ordinance shall be effective upon its adoption.

Read and approved on first reading by a vote of Three (3) for and Zero (0) against this the 8th day of April, 1997.

ADOPTED THIS THE 8TH DAY OF APRIL, 1997.

BOARD OF COMMISSIONERS FOR
YANCEY COUNTY

ATTEST:

BY:

Minnie B. Powell
MINNIE B. POWELL
CLERK TO THE BOARD

David McIntosh
DAVID MCINTOSH, CHAIRMAN

Randy Ollis
RANDY OLLIS, MEMBER

John Renfro
JOHN RENFRO, MEMBER

APPROVED AS TO FORM:

COUNTY SEAL

Donny J. Laws
DONNY LAWS
COUNTY ATTORNEY



WithersRavenel

Our People. Your Success.

July 7, 2020

Yancey County
110 Town Square, Room 11
Burnsville, NC 28714

Attn: Lynn Austin, County Manager

RE: WR 06180066.00
Contract Amendment 3 to Professional Services Agreement
East Yancey Sewer System Improvements

Dear Ms. Austin:

WithersRavenel is pleased to provide this Amendment to the Agreement for Engineering Services to Yancey County, dated November 26, 2018, for the East Yancey Sewer System Improvements Project. If you have any questions or concerns about the Amendment, please do not hesitate to call me at the number listed below.

Sincerely

WithersRavenel

Randall D. Hintz, P.E.
Project Manager

84 Coxe Avenue, Suite 260 | Asheville, NC 28801
Office: 828.255.0313 | Mobile: 828.707.8388
Email: rhintz@withersravenel.com

Attachments:

Amendment to the Agreement for Professional Services

Yancey County

East Yancey Sewer System Improvements

Amendment 3 to Agreement for Professional Services

A. Description of Amendment

Yancey County (CLIENT) contracted with WithersRavenel, Inc. (CONSULTANT) for professional engineering services for the completion of sewer system improvements known as the East Yancey Sewer System Improvements (PROJECT). The original Agreement was dated November 26, 2018. The Standard Terms and Conditions associated with the original Agreement shall apply to this contract Amendment.

This PROJECT has been fully designed and permitted by others, with a majority the improvements already constructed. The contracted scope of work associated with the original Agreement includes bidding phase services and construction administration for the balance of the unconstructed portions of the designed and permitted project. Amendment 1 added efforts to renew expired permits to the Agreement. Amendment 2 added Limited Environmental Services Including Limited Environmental Screening and Completion of Environmental Assessment from Existing Documentation, an Environmental Site Review and EA Update, and Environmental Document Coordination, Public Notice, and Release of Funds.

This Amendment 3 provides for Construction Phase environmental services as described below. Because the necessity for these services or the degree to which these services may be required is unknown, this Amendment is presented on a time and material basis.

B. Scope of Services

Task 1 - On-Call Construction Phase Environmental Services

- A. Should conditions encountered during construction indicate the need for an environmental assessment, CONSULTANT will provide the following On-Call Environmental Services related to this task:
 1. CLIENT will notify CONSULTANT that conditions observed within the construction footprint are considered suspect and that an Environmental Profession is requested to report to the PROJECT.
 2. CONSULTANT's Environmental Professional will report to the PROJECT as soon as possible or at the agreed-upon time to observe the suspect conditions and conduct a preliminary visual assessment of the PROJECT.
 3. Depending on the physical, visual, and/or olfactory conditions observed, the CONSULTANT will convey a verbal opinion to the CLIENT of the immediate or potentially-sustained concerns to the workers, human health and the environment in the immediate vicinity of the PROJECT, and make recommendations to mitigate the suspect conditions and/or conduct a preliminary assessment of the same.
 4. Mitigation would include those actions taken to immediately protect the workers, human health, and the environment in the immediate vicinity of the PROJECT, and could include, but not be limited to, PROJECT restrictions, engineering controls, and/or mitigation services conducted by the CONSULTANT'S subcontractors.
 5. Preliminary assessment could include collecting representative soil samples, surface water samples, and/or perched groundwater samples from the Area(s) of Concern and

- submitting them to a State of North Carolina-certified analytical laboratory for analysis of target analytes requested by the State's governing jurisdiction(s).
6. Additional assessment, if any, would be based on the CONSULTANT Environmental Professional's interpretation of the preliminary assessment data, and could include additional soil borings and/or monitor well installations.
 7. CONSULTANT offers to prepare a brief letter report or electronic mail (if preferred) describing the details of each PROJECT visit conducted by the CONSULTANT'S Environmental Professional.

C. Additional Services

Services that are not included in Section B or are specifically excluded from this Amendment shall be considered Additional Services. The CONSULTANT will furnish or obtain from others Additional Services if requested in writing by the CLIENT and accepted by the CONSULTANT. Additional Services shall be paid by the CLIENT in accordance with the Fee & Expense Schedule outlined in the original Agreement.

- ▶ EIS Documentation
- ▶ In-depth Environmental Screening
- ▶ Remediation Plan
- ▶ Surveying services
- ▶ Boundary Surveying, Property Plats, Easement Documents
- ▶ Final design services
- ▶ Permitting services
- ▶ NCDOT Permitting
- ▶ HOA Coordination/Permitting
- ▶ Construction Staking
- ▶ Construction Surveying
- ▶ Material Testing
- ▶ Geotechnical Analysis

D. Client Responsibilities

During the performance of the CONSULTANT's services under this Amendment, the CLIENT will:

- ▶ Provide any information needed to complete the PROJECT not specifically addressed in the Scope of Services
- ▶ Provide all available information pertinent to the PROJECT, including any GIS information, reports, maps, drawings, and any other data relative to the PROJECT
- ▶ Examine all proposals, reports, sketches, estimates and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the CONSULTANT
- ▶ Give prompt written notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the PROJECT
- ▶ Pay all permit/review fees directly
- ▶ Handle matters requiring an attorney at law

Any changes to the alternatives or PROJECT requirements after CONSULTANT has begun work may require additional fees.

E. Compensation for Services

A. Hourly Fee

CONSULTANT proposes to provide the Scope of Services previously outlined on an hourly basis with an estimated budget as described in the following table plus expenses. Compensation shall not exceed the total estimated compensation amount unless approved in writing by CLIENT.

Task Number	Task Name	*Hourly Fee Budget
1	On-Call Construction Phase Environmental Services*	\$50,000
Total		\$50,000
*This Task is presented as an hourly fee with a budget due to the uncertainty in determining the necessity or effort required to adequately perform the task.		

1. CLIENT shall pay CONSULTANT for Basic Services by an amount equal to the cumulative hours charged to the PROJECT by each class of CONSULTANT's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the PROJECT, plus Reimbursable Expenses and CONSULTANT's charges, if any.
2. CONSULTANT may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services rendered but shall not exceed the total estimated compensation amount unless approved in writing by CLIENT.
3. The Standard Hourly Rates charged by CONSULTANT constitute full and complete compensation for CONSULTANT's services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or CONSULTANT's Consultants' charges.
4. CONSULTANT's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to CONSULTANT under the Amendment.
5. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to CONSULTANT that the total compensation amount thus estimated will be exceeded, CONSULTANT shall give CLIENT written notice thereof, allowing CLIENT to consider its options, including suspension or termination of CONSULTANT's services for CLIENT's convenience. Upon notice, CLIENT and CONSULTANT promptly shall review the matter of services remaining to be performed and compensation for such services. CLIENT shall either exercise its right to suspend or terminate CONSULTANT's services for CLIENT's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by CONSULTANT, so that total compensation for such services will not exceed said estimated amount when such services are completed. If CLIENT decides not to suspend the CONSULTANT's services during the negotiations and CONSULTANT exceeds the estimated amount before CLIENT and CONSULTANT have agreed to an increase in the compensation due CONSULTANT or a reduction in the remaining services, then CONSULTANT shall be paid for all services rendered hereunder.

B. Expenses

Expenses shall be considered reimbursable and include, but are not limited to the following:

Expense Name	Estimated Expense Budget
Prints	\$200
Mileage	\$500
Shipping/Delivery	\$100
Total	\$800

C. Fee Summary

Fee Type	Estimated Fee/Budget
Hourly Budget	\$50,000
Reimbursable Expenses Budget	\$800
Total	\$50,800

F. Timeline for Services

The professional services described herein shall be completed and submitted within a timeframe mutually agreed upon between the CLIENT and CONSULTANT.

G. Acceptance

Receipt of an executed copy of this Amendment will serve as the written agreement between CONSULTANT and CLIENT for the services outlined.

Submitted by CONSULTANT:

WithersRavenel, Inc.
115 MacKenan Drive
Cary, NC 27511



Authorized Signature

Jeffrey J. Wing, PE, LEED AP
Printed Name

Vice President, Utilities Operation Manager
Title

jwing@withersravenel.com
Email Address

919.469.3340
Phone

Accepted by CLIENT:

Yancey County
110 Town Square, Room 11
Burnsville, NC 28714



Authorized Signature

Lynn Austin
Printed Name

County Manager
Title

lynn.austin@yanceycountync.gov
Email Address

828-682-3971
Phone

PREAUDIT STATEMENT: This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).

Signature of Finance Officer:

Printed Name:

Date:



Brandi Burtson

7-20-20
