## TENTATIVE AGENDA & MEETING NOTICE BOARD OF COUNTY COMMISSIONERS

## TUESDAY, SEPTEMBER 5, 2023 5:30 P.M.

# WATAUGA COUNTY ADMINISTRATION BUILDING COMMISSIONERS' BOARD ROOM

	TIME	#	TOPIC	PRESENTER	PAGE
ĺ	5:30	1	CALL REGULAR MEETING TO ORDER		
		2	APPROVAL OF MINUTES: August 15, 2023, Regular Meeting		1
		3	APPROVAL OF THE SEPTEMBER 5, 2023, AGENDA		11
	5:35	4	PUBLIC COMMENT  - Will last up to 1-hour dependent on number of speakers	CHAIRMAN TURNBOW	13
	5:40	5	PUBLIC HEARING TO ALLOW CITIZEN COMMENT ON THE PROPOSED ADJUSTMENT OF THE FIRE PROTECTION DISTRICT FOR THE RIDGE CHERRY GAP SUBDIVISION FROM FALL CREEK TO BEECH MOUNTAIN	MR. WILL HOLT	15
	5:45	6	REQUEST FOR ART INSTALLATIONS ON THE MIDDLE FORK GREENWAY	Mr. Joe Furman	21
	5:50	7	SOLAR LEASE	Mr. GED MOODY	23
	5:55	8	MAINTENANCE MATTERS A. Bid Award Request for Paving Projects B. Bid Award Request for Human Services Building Updates	MR. ROBERT MARSH	65 69
	6:00	9	ACCEPTANCE OF CYBERSECURITY GRANT AWARD	Mr. Drew Eggers	75
	6:05	10	PARKS AND RECREATION OUT-OF-STATE TRAVEL REQUEST	Ms. Keron Poteat	79
	6:10	11	<ul> <li>EMERGENCY SERVICES MATTERS</li> <li>A. Proposed Priority Dispatch Renewal</li> <li>B. Proposed Hyper-Reach Contract</li> <li>C. Proposed Easement</li> <li>D. Proposed AED Purchase</li> <li>E. Letter of Support for Continued Funding for The National Weather Service (NWS)</li> </ul>	MR. WILL HOLT	85 89 99 107 111
	6:15	12	FINANCE MATTERS A. Budget Amendments B. 2023 Carryforward Purchase Orders	Ms. Samantha Jones	115 119
	6:20	13	MISCELLANEOUS ADMINISTRATIVE MATTERS A. Proposed Capital Project Ordinance for Emergency Services Complex Funds	Mr. Deron Geouque	123
	6:25	14	Adjourn		

## **AGENDA ITEM 2:**

## **APPROVAL OF MINUTES:**

August 15, 2023, Regular Meeting



#### **MINUTES**

## WATAUGA COUNTY BOARD OF COMMISSIONERS TUESDAY, AUGUST 15, 2023

The Watauga County Board of Commissioners held a regular meeting, as scheduled, on Tuesday, August 15, 2023, at 5:30 P.M. in the Commissioners' Board Room located in the Watauga County Administration Building, Boone, North Carolina.

Chairman Turnbow called the meeting to order at 5:30 P.M. The following were present:

PRESENT: Larry Turnbow, Chairman

Charlie Wallin, Vice-Chairman (arrived at 6:00 P.M.)

Todd Castle, Commissioner Braxton Eggers, Commissioner Ray Russell, Commissioner Andrea Capua, County Attorney Deron Geouque, County Manager Anita J. Fogle, Clerk to the Board

Commissioner Eggers opened with a prayer and Chairman Turnbow led the Pledge of Allegiance.

## **APPROVAL OF MINUTES**

Chairman Turnbow called for additions and/or corrections to the August 1, 2023, regular and closed session minutes.

Commissioner Eggers, seconded by Commissioner Russell, moved to approve the August 1, 2023, regular meeting minutes as presented.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell) Nay-0 Absent-1(Wallin)

## **APPROVAL OF AGENDA**

Chairman Turnbow called for additions and/or corrections to the August 15, 2023, agenda.

Commissioner Castle, seconded by Commissioner Eggers, moved to approve the August 15, 2023, agenda as presented.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell)
Nay-0
Absent-1(Wallin)

## **PUBLIC COMMENT**

There was no public comment.

# PUBLIC HEARING TO ALLOW CITIZEN COMMENT ON THE CLOSEOUT OF THE COMMUNITY DEVELOPMENT BLOCK GRANT RELIEF PROJECT (CDBG-CV)

Chairman Turnbow stated that a public hearing was scheduled to allow public comment on the closeout of the Community Development Block Grant – COVID (CDBG-CV) awarded to the County in 2020.

Commissioner Russell, seconded by Commissioner Castle, moved to call the public hearing to order at 5:36 P.M.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell)
Nay-0
Absent-1(Wallin)

As there were no comments, Commissioner Eggers, seconded by Commissioner Russell, moved to close the public hearing at 5:36 P.M.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell)
Nay-0
Absent-1(Wallin)

Ms. Michelle Ball, Regional Planner with High Country Council Governments, shared that the County was awarded \$900,000 through the grant in December 2020 to assist to low- and moderate-income residents. The County contracted with four non-profits as follows:

Non-Profit	Budget per contract	Total Amount Spent	Individuals Assisted	Households Assisted	Assistance Provided
WAMY	\$400,000.00	\$400,000.00	260	116	Subsistence Payments
HC United Way	\$150,000.00	\$12,332.09	19	10	Subsistence Payments
Hospitality House	\$60,000.00	\$27,641.70	24	7	Mental Health
Hospitality House	\$150,000.00	\$30,458.05	28	10	Food Distribution
Daymark	\$50,000.00	\$50,000.00	94	38	Mental Health
Totals	\$810,000.00	\$520,431.84	425	181	

Watauga County residents eligible for assistance had to have a household income below 80% of the County Median Income and have been affected, directly or indirectly, by COVID-19. Payments were limited to 6 months of assistance per household.

\$553,203.35 was spent during the 2 ½ year project as follows: \$520,432.07 for public service activities and an additional \$32,771.28 was expended on planning and administration.

Ms. Ball stated that applications for assistance decreased as the pandemic waned and Federal and State funding received was available for the same services which accounted for the unexpended funds, in the amount of \$346,796.65, which would be deobligated and returned to the NC Department of Commerce to be used for other CDBG funded programs.

Ms. Ball stated that June 17, 2023, was the last day the County could submit a reimbursement for funds under the program and the reporting of the project accomplishments was due before September 17, 2023.

Commissioner Russell, seconded by Commissioner Eggers, moved to approve the closeout of the Community Development Block Grant Relief Project (CDBG-CV) as presented by Ms. Ball.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell) Nay-0 Absent-1(Wallin)

# PROPOSED "END OVERDOSE IN WATAUGA COUNTY" PROCLAMATION AND REQUEST TO USE GREENSPACE AT THE HUMAN SERVICES COMPLEX

Ms. Mary McKinney requested authorization of the installation of art at the greenspace in front of the Human Services complex in August to be left in place to be incorporated into the September 30, 2023, Recovery Community Block Party. The art installation would include flags or path lights to represent the number of lives lost to overdose last year, making a path to a mailbox/cupboard for people to leave letters for/about their lost loved ones and to access overdose reversal supplies and information, and the "My Loved One," "You Are Not Alone," and "Hope" screen printed flags created for the event last year. On August 31, 2023, free life-saving training and supplies will be offered on site at 6:30 P.M. and at 7:00 P.M. a gathering will be held to remember loved ones lost to overdose. At dusk, a candlelight vigil will be held. Ms. McKinney also presented a proposed proclamation to proclaim August 31, 2023 as "End Overdose in Watauga County" Day.

Chairman Turnbow read the proclamation.

Commissioner Russell, seconded by Commissioner Eggers, moved to adopt the proclamation as read by Chairman Turnbow.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell) Nay-0 Absent-1(Wallin)

Commissioner Castle, seconded by Commissioner Eggers, moved to authorize the use of the greenspace from August 31 through September 30, 2023, as presented by Ms. McKinney.

VOTE: Aye-4(Turnbow, Castle, Eggers, Russell) Nay-0 Absent-1(Wallin)

[Clerks Note – Vice-Chairman Wallin arrived at the meeting at 6:00 P.M.]

## PROPOSED AMENDMENT TO THE OPIOID SETTLEMENT AGREEMENT

Ms. Lindsay Sullivan, Health Strategist with AppHealthCare, stated that the Board recently awarded Opioid Settlement money to the Children's Council for the Family Connects Program of which AppHealthCare provide the services with grant funds flowing from the Children's Council. The Children's Council has requested the Opioid Settlement funds be directly awarded to AppHealthCare to eliminate the additional step of disbursement. The amount awarded to the Children's Council for the Family Connects Program was \$63,824.

Commissioner Castle, seconded by Vice-Chairman Wallin, moved to award the Children's Council Opioid Settlement funds, allocated for the Family Connects Program, directly to AppHealthCare in the amount of \$63,824.

VOTE: Aye-5 Nay-0

## MIDDLE FORK GREENWAY TWEETSIE UNDERPASS BID AWARD REQUEST

Ms. Carrie Caviness, Middle Fork Greenway, received the following bids for construction of the Middle Fork Greenway – Tweetsie Railroad Underpass:

Contractor	Bid Bond	Base Bid	5%	Bid Alternative
Polivka International Co Inc	yes	\$1,085,000.00	\$54,250	not listed
Cinderella Partners	yes	\$425,807.94	\$21,290	not listed
NHM Constructors Inc	yes	\$520,999.00	\$26,049	not listed
JW Hampton	yes	\$717,781.00	\$35,889	\$2,000

Ms. Caviness requested the bid be awarded to Cinderella Partners, the lowest responsive bidder, in the amount of \$425,807.94. Funding for the project will come from Middle Fork Greenway and Tourism Development Authority (TDA).

Commissioner Russell, seconded by Commissioner Eggers, moved to award the bid in the amount of \$425,807.94 to Cinderella Partners for the Middle Fork Greenway Tweetsie Underpass project.

VOTE: Aye-5 Nay-0

## WAMY REPORT

Ms. April Beck, WAMY, presented an update on the 2019-2022 Community Needs Survey (CNS). Housing was identified as the top need in Watauga County with affordability and availability being significant concerns. Home repair services for low-income households were also of concern. This information led to the creation of WAMY's Community Housing Coalitions which was an effort to bring together stakeholders, concerned about housing, together for collaboration and service

delivery. This would include local governments, non-profits, faith organizations, and private citizens. Ms. Beck shared information on WAMY's Housing Budget for FY 24 as follows:

Funding Source	Allocation	Allowed Cost Per Unit	Service Area	Restrictions
Housing Preservations Grant (USDA)	\$150,000	\$8,500	WAMY	15 homes across four counties.
Urgent Repair Program (USDA)	\$230,440	\$11,000	WAMY	20 homes across four counties. Resident must be at risk for environmental hazards which would lead to displacement due to safety concerns.
Essential Single- Family Rehab (HUD Home)	\$162,000	\$40,000	Watauga	Three homes. Home must be brought up to local code or HUD's minimum housing quality standards, whichever is stricter.
Weatherization (DOE)	\$111,728	\$8,250	WAMY- Four units in Watauga	Weatherization measures only (air sealing, insulating, whole house ventilation). Home must meet certain quality standards to protect weatherization measures.
Weatherization (LIHEAP/DHHS)	\$377,178	\$12,000	WAMY – Ten units in Watauga	Weatherization measures only (air sealing, insulating, whole house ventilation). Home must meet certain quality standards to protect weatherization measures.
Heating and Air Repair & Replacement (DHHS)	\$248,806	\$9,000	WAMY – Ten units in Watauga	Repair or total replacement of heating units (like for like). Home must meet certain quality standards to protect the measure.
Duke Energy Progress			Duke Customers	Only two measures can be combined per household.
Energy Star Appliance Replacements	n/a	\$1,000		•
Health & Safety HVAC Repair & Replacement	n/a n/a	\$1,500 \$4,000		

Watauga County Government	\$5,000	n/a	Watauga	Unrestricted
Women's Fund	\$15,000	\$1,500	WXXA	Unrestricted. \$15,000 must be spread across 10 units.

Ms. Beck stated that home repairs could be devastating and, left unchecked, could grow into bigger problems. The goal was to help folks with issues so they could stay in their home. Research indicated the need for home restoration through unrestricted funding. Ms. Beck stated that they could offer weatherization for renters but restrictions on grant funding often required the resident to be the homeowner.

Chairman Turnbow requested WAMY to contact the County Manager to set up a meeting with the County Manager, Commissioner Castle, and Commissioner Russell to continue discussions.

## BID AWARD REQUEST FOR UPDATING LIBRARY HVAC

Mr. Robert Marsh, Maintenance Director, stated that the following bids were received for the replacement of five air-cooled condensing units and five air handler coils for air conditioning equipment in the Library building.

Vendor	Bid	Revised Bid
Pyatt Heating & Air Conditioning	\$145,316	Would not submit revised bid
Alpha Energy Solutions	\$153,782	\$153,782
Triangle Contractors	\$168,200	\$240,000

Mr. Marsh request the bid be awarded to Alpha Energy Solutions, the lowest responsive bidder, in the amount of \$153,782 for air conditioning equipment at the Watauga County Library.

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to award Alpha Energy Solutions the contract for the replacement of five air cooled condensers and associated air handler coils at the Watauga County Library in the amount of \$153,782.

VOTE: Aye-5 Nay-0

## **TAX MATTERS**

#### A. Monthly Collections Report

County Manager Geouque, on behalf of Mr. Larry Warren, Tax Administrator, presented the Tax Collections Report for the month of July 2023. The report was presented for information only and, therefore, no action was required.

#### B. Refunds and Releases

County Manager Geouque, on behalf of Mr. Larry Warren, Tax Administrator, presented the Refunds and Releases Report for July 2023 for Board approval:

#### TO BE TYPED IN MINUTE BOOK

Commissioner Castle, seconded by Vice-Chairman Wallin, moved to approve the Refunds and Releases Report for July 2023 as presented.

VOTE: Aye-5 Nay-0

## BID AWARD FOR PHASE 2 SCALE HOUSE IMPROVEMENTS

Mr. Rex Buck, Operations Services Director, stated that the following three bids were received for Phase 2 of the Scale House Improvements project:

Vendor	Bid
PADCO Excavating, Inc.	\$606,201.31
JW Hampton Company	\$645,134.50
Carolina Grading and Utilities, Inc.	\$663,881.00

Mr. Buck reviewed the project phasing. Phase 1 included relocating the utilities, Phase 2 would consist of the installation of inbound scales and the construction of the Scale House, and Phase 3 would be the installation of outbound scales.

County Manager Geouque stated that the Department of Transportation (DOT) was working on a plan to coordinate Innovation Drive with the 911 base adjacent to this project and hoped to have a plan by Fall of 2023.

Mr. Buck requested approval and authorization to contract with PADCO Excavating, Inc, the lowest responsive bidder, in the amount of \$606,201.31 for Phase 2 of the Scale House Improvements project.

Commissioner Russell, seconded by Vice-Chairman Wallin, moved to award the bid to, and approve the contract with, PADCO Excavating, Inc. in the amount of \$606,201.31 for Phase 2 of the Scale House Improvements project.

VOTE: Aye-5 Nay-0

## MISCELLANEOUS ADMINISTRATIVE MATTERS

#### A. Skyline's Request for Flat Mountain Extension of Sampson

County Manager Geouque stated that during the construction of the County's Broadband project, it was brought to the attention of the contractor that a small portion of homeowners were inadvertently omitted in the Sampson Area due to a zip code issue. The homeowners meet the requirements of ARP funding and the homes were located in Watauga County. Due to their initial omittance, Board action was required to add the home owners in the Flat Mountain Road area to the current ARP project.

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to add the Flat Mountain Road area to the current Broadband ARP project as presented by the County Manager.

VOTE: Aye-5 Nay-0

## B. Proposed Appalachian State University Greenhouse Lease Renewal

County Manager Geouque stated that the public advertisement notice has been met and the Board may now approve the renewal of the lease with Appalachian State University Foundation for the greenhouse located at the Watauga County Landfill.

Property owned by the County may be leased or rented for such terms and upon such conditions as the Board may determine, for up to ten (10) years. Property may be rented or leased only pursuant to a resolution of the Board authorizing the execution of the lease or rental agreement adopted at a regular Board meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.

Commissioner Castle, seconded by Commissioner Eggers, moved to approve the lease renewal with Appalachian State University Foundation for the greenhouse located at the Watauga County Landfill.

VOTE: Aye-5 Nay-0

#### C. Proposed USDA Lease Renewal

County Manager Geouque stated that the advertisement notice has been met for the lease renewal with the United States of America for the United States Department of Agriculture (USDA) office space in the County's West Annex building.

Property owned by the County may be leased or rented for such terms and upon such conditions as the Board may determine, for up to ten (10) years. Property may be rented or leased only pursuant to a resolution of the Board authorizing the execution of the lease or rental agreement adopted at a regular Board meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.

Vice-Chairman Wallin, seconded by Commissioner Russell, moved to approve the lease renewal with the United States of America for the United Stated of Agriculture (USDA) office space in the County's West Annex building as presented by the County Manager.

VOTE: Aye-5 Nay-0

## D. Excise Tax Refund Request

County Manager Geouque stated that the County recently received a request for refund of over payment of excise tax. NCGS 105-228.37 details the process for the refund. The incorrect amount paid was \$2,627.00. It should have been \$1,420 which shows a refund of \$1,207 due to Walker & Wright, Attorneys At Law. The County Manager stated that the procedures as detailed in NCGS 105-228.37 have been met.

Commissioner Eggers, seconded by Vice-Chairman Wallin, moved to approve the refund of \$1,207 for the overpayment of excise tax to Walker & Wright, Attorneys At Law.

VOTE: Aye-5 Nay-0

#### E. Announcements

County Manager Geouque announced the following:

- The 116<sup>th</sup> North Carolina Association of County Commissioners (NCACC) Annual Conference would be held August 24-26, 2023, in Wake County at the Raleigh Convention Center.
- A public hearing is scheduled on September 5, 2023, at 5:30 P.M. to allow citizen comment on the proposed adjustment of the fire protection district for The Ridge Cherry Gap Subdivision from Fall Creek to Beech Mountain.

## **ADJOURN**

Vice-Chairman Wallin, seconded by Commissioner Castle, moved to adjourn the meeting at 6:56 P.M.

VOTE: Aye-5 Nay-0

Larry Turnbow, Chairman

ATTEST:

Anita J. Fogle, Clerk to the Board

## **AGENDA ITEM 3:**

## APPROVAL OF THE SEPTEMBER 5, 2023, AGENDA

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## **AGENDA ITEM 4:**

## PUBLIC COMMENT

## **MANAGER'S COMMENTS:**

Public Comment will last up to 1-hour dependent upon the number of speakers.

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## **AGENDA ITEM 5:**

# PUBLIC HEARING TO ALLOW CITIZEN COMMENT ON THE PROPOSED ADJUSTMENT OF THE FIRE PROTECTION DISTRICT FOR THE RIDGE CHERRY GAP SUBDIVISION FROM FALL CREEK TO BEECH MOUNTAIN

## **MANAGER'S COMMENTS:**

A public hearing has been scheduled to allow citizen input regarding the amendment to the Fire Protection District for the Ridge Cherry Gap Subdivision. Upon closing of the public hearing Mr. Will Holt will be available to answer questions and provided additional information. The change was approved by both fire departments.

Board action is required to approve the plat to adjust the fire protection district for the Ridge Cherry Gap Subdivision from the Fall Creek to Beech Mountain district.

#### PUBLIC HEARING NOTICE

Pursuant to NC General Statute 153A-303 and 69-25.11, the Watauga County Board of Commissioners will hold a public hearing at 5:30 P.M. on Tuesday, September 5, 2023, to allow citizen comment on the proposed adjustment of the fire protection district for The Ridge Cherry Gap subdivision from Fall Creek to Beech Mountain. Information regarding the proposed changes is available for public viewing on the County's website (<a href="www.wataugacounty.org">www.wataugacounty.org</a>) and in the office of the Clerk to the Board of Commissioners located at 814 West King Street, Boone, North Carolina. The meeting will be held in the Commissioners' Board Room in the Watauga County Administration Building located at 814 West King Street, Boone, North Carolina.

Larry Turnbow, Chairman Watauga County Board of Commissioners



## **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



## Fire Marshal ♦ Emergency Management ♦ Communications

July 24, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager Anita Fogle, Clerk to the Board


Subject: Fire Department District Adjustment

Board of Commissioners,

Please consider the attached letters and plat to adjust the fire protection district for The Ridge Cherry Gap subdivision from the Fall Creek to Beech Mountain. This change is requested based on access and the best response for the citizens in this area. Both chiefs concur with this change as noted in their letters. This change also requires a public hearing which is requested for September 5<sup>th</sup>, 2023 before final Board approval.

Respectfully,

Will Holt ES Director



## The Beech Mountain Volunteer Fire Department

PO Box 436 Beech Mountain, NC 28604-0436 828-387-4612 bmvfd@beechmountainvfd.org

**January 5, 2023** 

Deron Geouque, Manager Watauga County 814 West King Street Boone, NC. 28607

**RE: CHAGE IN FIRE DISTRICT MAP** 

Mr. Geouque,

The Beech Mountain Volunteer Fire Department hereby agrees to include the "Ridge at Cherry Gap" a 7.925-acre private development outside the Town of Beech Mountain municipal limits, Laurel Creek Township, Watauga County as depicted on the attached subdivision map dated July 30, 2021, into the Beech Mountain Fire District.

Please contact me in the event there are any questions.

**Bob Pudney, Chief** 

**Beech Mountain Volunteer Fire Department** 

cc: Will Holt

Sincerely,

**Chief Tim Barnett** 



## Fall Creek Volunteer Fire Department 2525 Buckeye Rd. Elk Park, NC 28622

To Whom it may Concern,

Properties or parcels located at or within: The Ridge at Cherry Gap subdivision, Cherry Gap Road, Beech Mountain. Shall henceforth be under primary fire protection of The Beech Mountain Volunteer Fire Department Inc. Although aforementioned properties fall within the Fall Creek Vol. Fire Department district boundaries, road access by the aforementioned fire dept. is unattainable without travel through / or within The Beech Mountain Fire District. Being in agreement with all parties concerned, the properties aforementioned will be best serviced by The Beech Mountain Vol. Fire Department as primary with Fall Creek Vol. Fire Department providing Automatic Aid whenever applicable.

Michael Richardson Fall Creek VFD Chief	Date: 1 25 2023
	Date: / / 2023
Bob Pudney	**************************************
The Beech Mountain VFD Chief	

#### **AGENDA ITEM 6:**

## REQUEST FOR ART INSTALLATION ON THE MIDDLE FORK GREENWAY

### **MANAGER'S COMMENTS:**

Mr. Joe Furman, Boone Chamber of Commerce, will request Board authorization to place art work on the Middle Fork Greenway. Grant funds would be used to pay for the bases for the art work. The plan is to construct pads for the sculptures, and rotate works from local artists on the pads. All items will be for the viewing of the general public, and will be appropriate for all ages. The primary areas of interest for the placement are the new trailhead on Highway 321 (the one with the two bridges), and the "Sterling Creek Park" across the highway from Mystery Hill.

Staff seeks direction from the Board.



#### WATAUGA ECONOMIC DEVELOPMENT

579 Greenway Rd; Suite 101 Boone, NC 28607 828-264-3082 Fax 828-264-6644

www.wataugaedc.org E-mail: joe@boonechamber.com

## **MEMORANDUM**

TO: Board of Commissioners, County Manager

FROM: Joe Furman

SUBJECT: Art on the Middle Fork Greenway

**DATE:** August 29, 2023

In October of 2022, while still employed by Watauga County, I was part of a team that participated in the Appalachian Gateway Communities Initiative, a program of Appalachian Regional Commission, The Conservation Fund, and National Endowment for the Arts. Gateway Communities are defined as communities that border public land. Boone and Blowing Rock both border the Blue Ridge Parkway, with the Middle Fork Greenway eventually connecting with the two towns and the Parkway. Our team had representatives from those entities. The program's purpose was to provide resources and spur ideas for how to enhance the gateways and perhaps affect their economies positively; the program was also designed to incorporate the arts as a major component. Subsequent to the program, the sponsoring agencies offered small grants as seed money for appropriate projects. Our team decided to apply for the grant to put towards a Public Arts Master Plan; the \$5000.00 grant would fund a section of the plan specifically targeting the Highway 321 corridor – our "gateway". By then, I was retired from the County and had begun working at the Chamber, so it was expedient for the Chamber to be the applicant. The application was approved.

As we began to work on an RFP for consultants to prepare the Plan, it became apparent that perhaps the grant funds could be more effectively spent on actually placing art on/near the Middle Fork Greenway. The grantors agree with that and are willing to amend the grant agreement for that purpose. Before proceeding on that path, I need to ask for permission from the Board of Commissioners to place the art as the County either owns by fee simple or lease all of the constructed segments of the greenway. The plan is to construct pads for the sculptures, and rotate works from local artists on the pads. All items will be for the viewing of the general public, and will be appropriate for all ages. Our primary areas of interest for the arts placement are the new trailhead on Highway 321 (the one with the two bridges), and the "Sterling Creek Park" across the highway from Mystery Hill. I would like to make this request at the September 5<sup>th</sup> Commissioners' meeting. Amber Bateman, Watauga Arts Council Executive Director, plans to attend as well.

## **AGENDA ITEM 7:**

## **SOLAR LEASE**

## **MANAGER'S COMMENTS:**

Mr. Ged Moody, Watauga Solar, will request the Board approve the Amended and Restated Lease, for PEAK Solarworks for the property at the capped landfill. This is essentially the exact same Amended and Restated Lease that the County agreed to in 2019 with Encore Solar. Mr. Moody will request the following:

- 1. Approval of transfer of lease from Encore Solar to Watauga Solar
- 2. Approval of transfer of lease from Watauga Solar to PEAK Solarworks
- 3. Approval of the Amended and Restated Lease

Board action is required to approve the above requests contingent upon County Attorney review and approval.

## AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Agreement"), is made and entered into as of this <u>28th</u> day of <u>September August</u>, 20<u>23</u>23 by and between Watauga County, North Carolina, hereinafter referred to as the "Landlord", and <u>Peak Solarworks, LLC Peak Solarworks, LLC</u>, hereafter referred to as "Tenant".

#### WITNESSETH:

WHEREAS, the Landlord is the owner of certain real estate located off Landfill Road in Boone, North Carolina (the "Property"); and

WHEREAS, Landlord and Tenant are parties to a certain Lease Agreement dated as of September 10, 2010 (the "Original Agreement"), pursuant to which the Landlord's granted to Tenant the right to lease a portion of the Landlord's Property, substantially depicted and/or described in Exhibit B (such portion referred to herein as the "Premises").

NOW THEREFORE, in consideration of the mutual covenants of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby covenant and agree as follows:

## The Original Agreement is hereby amended and restated in its entirety as follows:

### DEVELOPMENT PERIOD

- 1. The Landlord hereby grants to Tenant the right to lease from the Landlord any portion of the Property, and access thereto, owned by the Landlord, located at the Property as shown in Exhibit 1, to develop the site for electricity generation (the "Lease").
- 2. Tenant shall make payment of One Hundred Dollars (\$100.00) per month for the first three years of this Agreement, which shall represent the development period of the Agreement ("Development Period").
- 3. During the Development Period Landlord shall permit Tenant and its authorized agents and representatives to enter upon the Property at reasonable times during normal business hours to inspect the Property and perform surveys. Tenant shall notify Landlord of its intention, or the intention of its agents or representatives, to enter the Property at least twenty-four (24) hours prior to such intended entry. Tenant shall bear the cost of all inspections.
- 4. Upon Construction Commencement, the Development Period shall end and Tenant shall commence payment of Rent (both Rent and Construction Commencement defined in Section 13 of the Amended Terms and Conditions).

#### AMENDED TERMS AND CONDITIONS

- **1. Lease.** The Lessor hereby leases the Premises to the Tenant pursuant to the terms and conditions of this Lease Agreement.
- **2. Permitted Use.** The Tenant may use the Premises to install, operate, maintain, improve and replace the Project for purposes of generating and delivering electricity to the local utility.
- 3. Access to the Premises from the road to the Property. Landlord agrees at all times to allow Tenant access to the Property to install, operate, maintain, improve and replace the Project on the Premises. Landlord shall also provide Tenant with adequate space on the Property during the construction of the Project for the Tenant's construction of the Project including reasonable staging and laydown areas. The Tenant shall comply with all laws, rules and regulations relating to Tenant's use of the Property and the Premises in connection with the construction and operation of the Project.

Landlord further hereby grants to Tenant, and shall execute such additional instruments as may be necessary or appropriate to fully vest in Tenant, the following easements and related rights:

- (a) An easement over the Property for ingress and egress for the purpose of siting, development, enhancement, relocation, installation, construction, operation, inspection, maintenance, replacement, repair, improvements and removal of the Project, including without limitation the right to construct such temporary access roads as may be necessary or appropriate for such purposes.
- (b) An easement and right to capture, use and convert the unobstructed solar resources over and across the Property and any adjacent property owned by Landlord and to prevent measurable diminishment in output due to obstruction of the sunlight across the Property including but not limited to an easement right to trim, cut down and remove all trees, brush, vegetation and fire and electrical hazards now or hereafter existing on the Property which might obstruct receipt of or access to sunlight throughout the Property or interfere with or endanger the Project or Tenant's operations, as determined by Tenant.
- (c) An easement over the Property to allow the Project to interconnect to the electrical grid.
- **4**. **Construction of the Project.** The installation and construction of the Project shall be performed in a good and workmanlike manner.
- 5. **Interconnection.** Tenant shall be responsible for the interconnection of the Project and Landlord shall cooperate with Tenant, any applicable utility and municipal and regulatory authorities in Tenant's pursuit of all permits, approvals and other authorizations that may be required in order to effect the interconnection of the Project. The date at which the Project is energized and permitted to operate by the utility shall be the date of commissioning (the "Commissioning Date").
- 6. **Approvals and Permits.** Tenant shall obtain all necessary approvals and permits required for the installation, construction and operation of the Project, and pay all permit fees required in connection with its activities under this Lease. The Landlord shall cooperate with Tenant in obtaining all such approvals and

permits and necessary transfer Project permits to Tenant for purposes of operating the Project. To the extent that any permit must be obtained by Landlord, the Landlord agrees that it will grant all material decision-making rights with respect to such permit to Tenant.

- 7. Exposure to Sunlight. The Landlord covenants that it will use its best efforts to not allow vegetation on its property to grow in a manner or initiate or conduct any activities that could reasonably diminish the exposure of the Panels to sunlight during daylight hours, while this Lease Agreement remains in effect. Landlord hereby grants to Tenant an exclusive easement to use, convert, maintain and capture the free and unobstructed flow of solar insolation (sunlight) over and across the Property. Without limiting the foregoing, Landlord shall not: (a) construct or permit to be constructed any structure; or (b) plant or allow to be planted any trees or other vegetation in each case, on the Property or the real property adjacent to the Property that is owned by Landlord, that is reasonably expected to decrease the output or efficiency of the Project or adversely affect insolation levels on the Premises.
- **8**. **Use of Subcontractors.** The Tenant shall be permitted to license subcontractors or agents to perform any of its obligations under this Lease Agreement.
- 9. Landlord not to Interfere with the Project. The Landlord and any representatives thereof shall not tamper with or undertake any maintenance or alterations to the Premises or the Project without the express written permission of the Tenant. The Landlord shall take reasonable measures necessary to ensure that the operation of the Project or damage or otherwise adversely impact the installation, operation and maintenance of the Project or the Tenant's performance under this Lease Agreement.
- 10. Cooperation in Securing Rebates, Tax Credits and other Economic Benefits. The Landlord will cooperate with Tenant in completing and filing such applications and other documents as are necessary to permit the Tenant to receive all mandatory or voluntary federal, state, or local renewable energy certificates or emissions or rebates, tax credits and including, without limitation, other economic benefits (the "Environmental Attributes") that are now or may hereafter become available to the Tenant in connection with the Project. Notwithstanding anything to the contrary herein contained, all Environmental Attributes in connection with the Project shall remain the property of the Tenant or its successors and assigns. Tenant shall have the exclusive right to sell, transfer, or convey the Environmental Attributes to any other person in Tenant's sole discretion.

#### 11. Taxes and Utility Expenses.

- (a) Tenant shall pay on or before when all taxes are assessed against the Tenant on account of the Tenant's personal property, equipment, or otherwise assessed against the Project, and Tenant's use and occupancy of the Premises under this Lease. Tenant shall, during the Term, pay and discharge on or before when due, all Utility expenses.
- (b) The Landlord shall pay on or before when due all taxes, if any, including real estate taxes assessed on the Property and land underlying the Premises.
- (c) All taxes shall be paid to the government entity assessing such taxes. All Utility expenses related directly to the Project shall be paid by the Tenant directly to the Utility unless the parties agree otherwise.

- 12. **Term**. This Lease Agreement shall commence upon the execution date set forth on the first page and shall terminate twenty five (25) years from the Commissioning Date, unless terminated earlier in accordance with the terms and conditions of this Lease Agreement (the "Term").
- 13. Rent. Tenant shall pay the Landlord rent in the amount of ONE THOUSAND DOLLARS (\$1,000.00) per acre, per year ("Rent"), which shall become due and payable within fifteen (15) days of the start of construction on the Project ("Construction Commencement"), and every anniversary of the Commissioning Date thereafter for the duration of this Lease Agreement. Rent paid on the first anniversary of the Commissioning Date shall include an additional reconciliation payment for the construction period, which shall be calculated as the time from Construction Commencement to the Commissioning date.

Final acreage to be utilized for Rent calculation shall be determined based on the actual footprint of the Project, as further defined in Section 14. Any difference between the initial year's Rent and subsequent Rent calculations based on final design, shall be reconciled on the first anniversary of the Commissioning Date.

- 14. **Premises Leased.** Within 15 days of Construction Commencement, Tenant shall provide a final site plan to Landlord, which shall exist wholly within the Property, and which both Parties hereby agree shall be included as Exhibit B, without requiring any further approval of Landlord. Tenant shall be permitted to build and energize the solar assets in phases within the 25-year lease period. Tenant shall provide a final site plan for each phase of solar construction.
- **15**. **Property Taxes.** Landlord hereby agrees to waive any and all real property taxes, which would otherwise be levied against the Project by Landlord or any of its affiliates, for the life of the Project.
- 16. Ownership of the Project. The Project shall be and remain the personal property of the Tenant and shall not be or become fixtures, notwithstanding the manner in which the Project is or may be affixed to the Premises. The Landlord shall not suffer or permit the Project to become subject to any lien, security interest or encumbrance of any kind, and the Landlord expressly disclaims and waives any rights it may have in the Project at any time and from time to time, at law or in equity. The Tenant shall maintain the Project in a good state of repair. The Tenant may grant a security interest in the Project and an assignment for purposes of security to its lender or lenders, and the Landlord shall provide any consent and/or waiver reasonably requested by any lender, consenting to such lender's rights in the Project.
- 17. Removal of the Project. Within six (6) months after the end of the Term or Term extension, or upon termination of this Lease Agreement, the Tenant, its successors or assigns shall sever, disconnect, and remove the Project and all of the Tenant's other property from the Premises and restore the Premises to as close to original condition as reasonably possible. The removal, repair and restoration shall be at the sole expense of the Tenant or its successors and assigns.
- 18. Title. Landlord represents and covenants that Landlord owns the Premises and the Property in fee simple, free and clear of all liens, encumbrances, and restrictions of every kind and nature, except for those that currently appear in the recorded chain of title and are reported as exceptions on the commitment for title insurance that Tenant may obtain. Landlord further represents and warrants that Landlord is not a party to any, and to Landlord's best knowledge, there are no pending or threatened, legal, administrative, arbitral or other

proceedings, claims, actions or governmental or regulatory investigations of any kind or nature whatsoever against Landlord (i) challenging the validity or propriety of this Lease Agreement, and/or transactions contemplated in this Lease Agreement or (ii) which could reasonably be expected to have a material adverse effect on the ownership or operation of the Property or any part thereof or interest therein.

- 19. Quiet Enjoyment. The Landlord covenants and agrees that the Tenant, provided it remains in compliance with its obligations under this Lease Agreement, shall lawfully and quietly have the right to hold, occupy and enjoy the Premises for the Term of this Lease free from any claim of any entity or person of superior title thereto without hindrance to, interference with the Tenant's use and enjoyment thereof.
- 20. Environmental Matters. The Tenant shall not be liable for any past, present or future contamination or pollution or breach of environmental laws, if any, relating to the Premises or the Property, unless attributable to the Tenant's activities, its employees contractors or agents. Accordingly: (a) the Tenant shall not be responsible for any work relating to (i) the existence, use, transportation or treatment of Hazardous Materials, or (ii) the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment of Hazardous Materials, and (b) the Landlord agrees to assume full responsibility for (and protect, indemnify and defend the Tenant against, any liability for response costs for any contamination or pollution or breach of environmental laws related to the Premises and the Property, unless and to the extent attributable to the Tenant's activities. The Tenant may encounter Hazardous Materials when installing, servicing, expanding, modifying or maintaining the Project. In the event the Tenant encounters any Hazardous Material at the Premises, the Tenant shall promptly cease any work in progress in an orderly, safe and efficient manner and inform The Landlord of the nature and location of said Hazardous Materials. It shall then be The Landlord's responsibility to eliminate or contain such Hazardous Materials in a commercially reasonable manner in compliance with law to allow The Tenant to continue or finalize any work in progress.
- **21. Government Approvals.** Landlord acknowledges that Tenant's ability to use the Property for the development of a Project is contingent upon obtaining all government and utility approvals. Landlord shall cooperate with Tenant in its effort to obtain such approvals. Should Tenant be unable to obtain all necessary approvals, or be unable to maintain such approvals due to changes in law, this agreement shall terminate at Tenant's option as outlined further in Section 22 below.
- 22. Right to Terminate. Prior to the commencement of commercial operations of the Project, the Tenant may terminate this Lease Agreement by providing prior written notice to the Landlord. On or after the commencement of commercial operations of the Project, the Tenant may terminate this Lease Agreement by providing at least six (6) months' prior written notice to the Landlord. After the Commissioning Date, Tenant may terminate this Lease, at its option, after giving not less than thirty (30) days notice to Landlord, if:
  - a. Any governmental agency denies a request by Tenant for or revokes a permit, license, or approval that is required for Tenant to construct or operate the Project and infrastructure on the Premises;
  - b. Tenant determines that technical problems, which problems cannot reasonably be corrected, preclude Tenant from using the Premises for its intended purpose;
  - c. Tenant does not have acceptable and legally enforceable means of ingress and egress to and from the Premises:
  - d. Utilities necessary for Tenant's use of the Premises are no longer available to the Premises; or

e. The Premises and/or Project are damaged or destroyed to an extent that prohibits or materially interferes with Tenant's use of the Premises.

In the event of termination by Tenant pursuant to this provision, Tenant shall be relieved of all further liability hereunder except its obligation to remove the Project as provided herein. Should Tenant terminate in accordance with this Section 22, Tenant shall remove the system in accordance with Section 17 above.

- **23. Assignment.** This Lease and any interest herein may be assigned by Tenant only with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Any such assignment by Tenant shall serve to release Watauga Solar, LLC from all rights and obligations under the terms and provisions of this Lease Agreement. With the written consent of the Tenant, this Lease Agreement may be assigned by the Landlord provided, however, that any such assignment will not relieve the Landlord of any of its obligations hereunder.
- 24. Liability for Injury and Damage. Tenant shall defend, indemnify and hold harmless the Landlord from any and all liability, loss, cost, damage or expense sustained by reason of the injury or death of any person, and/or damage to or destruction of any property arising from or caused by the Project and/or caused by any act, omission, or neglect of the Tenant or its subcontractors, agents, servants, employees, invitees, visitors or guests, including reasonable attorney's fees and other litigation expenses.

Landlord shall defend, indemnify and hold harmless the Tenant from any and all liability, loss, cost, damage or expense sustained by reason of the injury or death of any person, and/or damage to or destruction of any property arising from or caused by any act, omission, or neglect of the Landlord or its subcontractors, agents, servants, employees, invitees, visitors or guests, including reasonable attorney's fees and other litigation expenses.

Prior to commencing operations, Tenant shall obtain liability insurance naming the Landlord an additional insured for this purpose in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Tenant shall provide the Landlord with certificate(s) of insurance naming the Landlord as an additional insured and evidencing the procurement of insurance contemplated in this Section 24.

**25. Revocation.** In the event of a material default in the terms of this Lease Agreement by either the Landlord or the Tenant, the other party may terminate this Lease Agreement. Events that shall constitute a default under this Lease Agreement shall include, but not be limited to, a party's failure to perform or comply with any material provision of this Lease Agreement; an unauthorized assignment, a party's insolvency or inability to pay debts as they mature, or an assignment for the benefit of creditors; or if a petition under any foreign, state, or United States bankruptcy act, receivership statute, or the like, as they now exist, or as they may be amended, is filed by a party.

No party shall be in default under this Lease Agreement unless and until it has been given written notice of a breach of this Lease Agreement by the other party and shall have failed to cure such breach within thirty (30) days after receipt of such notice. When a breach cannot reasonably be cured within such thirty (30) day period, the time for curing may be extended by agreement of the parties for such time as may be necessary to complete the cure, provided that the defaulting party shall have proceeded to cure such breach with due diligence.

**26.** Lender Protection. Tenant shall have the absolute right at any time and from time to time, without Landlord's prior written consent or approval (but with prior written notice to Landlord) to: (i) assign, encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument), or otherwise transfer all or any portion of its right, title or interest under this Lease to a Lender designated by Tenant, as security for the repayment of any indebtedness and/or the performance of any obligation owned by Tenant to such Lender; and (ii) mortgage its leasehold interest hereunder and/or collaterally assign its interest in this Lease and in any monies due under this Lease in connection with obtaining financing from a Lender for the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements, or otherwise encumber and grant security interests in all or any part of its interest in this Lease, the Premises, the Project, interconnection facilities or transmission facilities (holders of these various security interests are referred to as "Leasehold Mortgagees").

Following an event of default under any financing documents relating to the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements), any Lender or Leasehold Mortgagee may (but shall not be obligated to) assume, or cause their designees to assume, all of the interests, rights and obligations of Tenant thereafter arising under this Lease. Any Leasehold Mortgagee that has succeeded to Tenant's interests under this Lease in accordance with the provisions of this Section shall also have the right, without Landlord's prior written consent or approval (but with prior written notice to Landlord) to assign or sublet the whole or any portion or portions of its interest in this Lease, the Premises, the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements) for the uses permitted under this Lease, to one (1) or more creditworthy persons or entities (each, an "Assignee"). Following any such sale, conveyance, lease, assignment or sublet, the term "Tenant" shall be deemed to include each "Assignee" then holding Tenant's interest in this Lease. However, no Leasehold Mortgagee or Assignee shall by virtue of Tenant's conveyance to it acquire any greater interest in the Premises or any easements created hereunder than Tenant then has under this Lease. As used herein, (A) the term "Subtenant" means any Person that receives a transfer from Tenant in accordance with the provisions of this Lease of all or any portion of the right, title or interest under this Lease or in one or more such easements; (B) the term "Sublease" means the grant or assignment of such rights from Tenant to a Subtenant; and (C) the term "Lender" means any financial institution or other Person (including a Leasehold Mortgagee) that from time to time provides secured financing for some or all of Tenant's or a Subtenant's Project, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns. References to Tenant in this Lease shall be deemed to include any Person that succeeds (whether by assignment or otherwise) to all of the then-Tenant's then-existing right, title and interest under this Lease in accordance with the provisions of this Section.

If the rights and interests of Tenant in this Lease shall be assigned in accordance with this Section and the assuming party shall agree in writing to be bound by, and to assume, the terms and conditions hereof and any and all obligations to Landlord arising or accruing hereunder from and after the date of such assumption, Tenant shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Landlord shall continue this Lease with the assuming party as if such person had been named as Tenant under this Lease, provided, however, that the assuming party is creditworthy.

Landlord agrees to enter into a form of Non-disturbance, Consent and Recognition Agreement by and among the Tenant's then chosen Lender or Leasehold Mortgagee, Landlord, and Tenant which shall include, without

limitation, consent by Landlord to the Tenant's collateral assignment of this Lease and Tenant's leasehold interest hereunder, cure rights and step in rights in favor of the Lender or Leasehold Mortgagee.

Any Lender or Leasehold Mortgagee or Assignee who acquires Tenant's leasehold interest pursuant to foreclosure or assignment in lieu of foreclosure that does not directly hold an interest in this Lease, or that holds an interest, lien or security interest in this Lease solely for security purposes, shall have no obligation or liability under this Lease for obligations arising prior to the time such Lender, Leasehold Mortgagee or Assignee directly holds an interest in this Lease, or succeeds to title to such interest, or to this Lease. Any such Lender, Leasehold Mortgagee or Assignee shall be liable to perform obligations under this Lease only for and during the period it directly holds such interest or title.

Within fifteen (15) days after written request therefore, Landlord shall execute such estoppel certificates (certifying as to such truthful matters as Tenant, Lenders, Assignees or Leasehold Mortgagees may reasonably request, including that no default then exists under this Lease, if such be the case, and that this Lease remains in full force and effect), consents to assignment and non-disturbance agreements as Tenant or any Lender, Leasehold Mortgagee or Assignee may request from time to time, it being intended that any such estoppel certificates, consents to assignment and the like may be relied upon by any Lenders, Leasehold Mortgagees or Assignees or prospective Lenders, Leasehold Mortgagees, or Assignees, or any prospective and/or subsequent purchaser or transferee of all or a part of Tenant's interest in the Premises, any easements granted hereunder, the interconnection facilities and/or transmission facilities and/or the Project.

The provisions of this Section are for the benefit of the Lenders, Leasehold Mortgagees and Assignees, as well as the Parties hereto, and shall be enforceable by the Lenders, Leasehold Mortgagees and Assignees as express third-party beneficiaries hereof. Landlord hereby agrees that none of the Lenders, Leasehold Mortgagees and Assignees, nor any Person for whom they may act, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Lease on the part of Tenant or shall have any obligation or liability to Landlord with respect to this Lease except to the extent any of them becomes a party hereto pursuant to this Section or through the exercise of its rights or remedies and the written assumption of the Lease or the easements granted hereunder. Any exercise by the Lenders, Leasehold Mortgagees and Assignees of any rights and remedies hereunder shall be subject to all rights, defenses and remedies available to Landlord, in each case subject to the terms of any non-disturbance, consent and recognition agreement entered into between or among the Lenders, Leasehold Mortgagees and Assignees and Landlord.

A Lender, Leasehold Mortgagee or Assignee shall have the absolute right: (a) enforce its lien and acquire title to Tenant's leasehold estate and easement rights by any lawful means; (b) to take possession of and operate the Premises or any portion thereof, in accordance with the terms of this Lease and to perform all obligations to be performed by Tenant under this Lease, or to cause a receiver to be appointed to do so; and (c) to acquire such leasehold estate and easement rights by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer such leasehold estate to a third party.

To prevent termination of this Lease or any partial interest in this Lease, each Lender, Leasehold Mortgagee or Assignee shall have the right, but not the obligation, at any time prior to termination of this Lease, to perform any act necessary to cure any default and to prevent the termination of this Lease or any partial interest in this Lease. As a precondition to exercising any rights or remedies as a result of any alleged default by Tenant, Landlord shall give written notice of such default to each Lender, Leasehold Mortgagee or Assignee previously disclosed by Tenant, concurrently with delivery of notice to Tenant, specifying in detail the alleged event of

default and the required remedy. Each such Lender, Leasehold Mortgagee or Assignee shall have the same amount of time to cure the default as to Tenant's interest in this Lease as is given to Tenant. The cure period for each Lender, Leasehold Mortgagee or Assignee shall begin to run at the end of the cure period given to Tenant in this Lease.

If any default by Tenant under this Lease cannot be cured without the Lender, Leasehold Mortgagee or Assignee obtaining possession of all or part of the Premises and/or all or part of the Project and/or all or part of Tenant's interest in this Lease, then any such default shall be deemed remedied if: (a) within ninety (90) days after receiving notice from Landlord as set forth in Section 33, either Lender, Leasehold Mortgagee or Assignee shall have acquired possession of all or part of the Premises and/or all or part of the Project and/or all or part of such interest in this Lease, or shall have commenced appropriate judicial or non-judicial proceedings to obtain the same; (b) the Lender, Leasehold Mortgagee or Assignee, as the case may be, shall be in the process of diligently prosecuting any such proceedings to completion; and (c) after gaining possession of all or part of the Premises and/or all or part of the Project and/or all or part of such interest in this Lease, the Lender, Leasehold Mortgagee or Assignee performs all other obligations as and when the same are due in accordance with the terms of this Lease, but only for the period attributable to its possession of the Premises, provided, however, that the Lender, Leasehold Mortgagee or Assignee shall pay the Rent and perform all the other obligations of Tenant hereunder as of the date that Landlord could have terminated this Lease for an event of default. If a Lender, Leasehold Mortgagee or Assignee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Tenant or any defaulting Assignee, as the case may be, from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing such proceeding shall be extended for the period of such prohibition. During any period of possession of the Premises by a Lender, Leasehold Mortgagee or Assignee and/or during the pendency of any foreclosure proceedings instituted by a Lender, Leasehold Mortgagee or Assignee, the Lender, Leasehold Mortgagee or Assignee shall pay or cause to be paid the fees, Rent and all other monetary charges payable by Tenant under this Lease which have accrued and are unpaid at the commencement of such period and those which accrue thereafter during such period. Following acquisition of Tenant's leasehold estate by the Lender, Leasehold Mortgagee or Assignee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale (all of which are included in the term "Assignee"), this Lease shall continue in full force and effect and the Lender, Leasehold Mortgagee or Assignee shall, as promptly as reasonably possible, commence the cure of all defaults under this Lease and thereafter diligently process such cure to completion, and upon such completion of the cure of all defaults under the Lease Landlord's right to terminate this Lease based upon such defaults shall be deemed waived; provided, however, that the Lender, Leasehold Mortgagee or Assignee or such party acquiring title to Tenant's leasehold estate shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("Noncurable defaults"). Non-curable defaults shall be deemed waived by Landlord upon completion of foreclosure proceedings or acquisition of Tenant's interest in this Lease by such party.

Any Lender, Leasehold Mortgagee or Assignee who acquires Tenant's leasehold interest, pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Tenant by this Lease incurred or accruing after the Lender, Leasehold Mortgagee or Assignee no longer has Ownership of the leasehold estate or possession of the Premises. Neither the bankruptcy nor the insolvency of Tenant shall be grounds for terminating this Lease as long as all Rent and all other monetary charges payable by Tenant under this Lease are promptly paid by the Lender, Leasehold Mortgagee or Assignee in accordance

with the terms of this Lease. The acceptance of Rent by Landlord shall not be deemed a waiver of any other rights or remedy it may have under the Lease at law or in equity.

If this Lease terminates for any reason, including because of Tenant's default or if the leasehold estate is foreclosed, or if this Lease is rejected or disaffirmed pursuant to bankruptcy Applicable Requirements or other Applicable Requirements affecting creditor's rights and, within ninety (90) days after such event, Tenant or any Lender, Leasehold Mortgagee or Assignee shall have arranged to the absolute satisfaction of Landlord for the payment of Rent, fees and other charges due and payable by Tenant as of the date of such event, then Landlord shall execute and deliver to such Lender, Leasehold Mortgagee or Assignee or designee, as the case may be, a new lease to the Premises which (a) shall be for a term equal to the remainder of the Lease Term before giving effect to such rejection or termination; (b) shall contain the same covenants, agreements, terms, provisions and limitations as this Lease (except as otherwise provided in this Section 1.11(a) and for any requirements that have been fulfilled by Tenant or any Lender, Leasehold Mortgagee or Assignee prior to rejection or termination of this Lease); and (c) shall include that portion of the Project in which Tenant had an interest on the date of rejection or termination. A Lender, Leasehold Mortgagee or Assignee shall pay all of Landlord's reasonable legal fees associated with a new lease of the Premises.

After the termination, rejection or disaffirmation of this Lease and during the period thereafter during which any Lender, Leasehold Mortgagee or Assignee shall be entitled to enter into a new lease of the Premises, Landlord will not terminate any sublease or the rights of any sub-Tenant unless such sub-Tenant shall be in default under such sublease.

If more than one (1) Lender, Leasehold Mortgagee or Assignee makes a written request for a new lease pursuant to this provision, the new lease shall be delivered to the Lender, Leasehold Mortgagee or Assignee requesting such new lease whose mortgage or assignment of this Lease or the Tenant's leasehold interest hereunder is prior in lien, and the written request of any other Lender, Leasehold Mortgagee or Assignee whose lien is subordinate shall be void and of no further force or effect.

The provisions of this section shall survive the termination, rejection or disaffirmation of this Lease and shall continue in full force and effect thereafter to the same extent as if this section was a separate and independent contract made by Landlord, Tenant and each Lender, Leasehold Mortgagee or Assignee, and, from the effective date of such termination, rejection or disaffirmation of this Lease to the date of execution and delivery of such new lease, such Lender, Leasehold Mortgagee or Assignee may use and enjoy said Premises in accordance with the terms of such new lease, provided that all of the conditions for a new lease as set forth above are complied with.

Notwithstanding any provision of this Lease to the contrary, the Parties agree that so long as there exists an unpaid Leasehold Mortgage or loan or other financing held by a Lender that is secured by Tenant's grant of a security interest in the Premises, this Lease, the Project or any other Improvement, this Lease shall not be terminated, modified or amended, and Landlord shall not accept a surrender of all or any part of the Premises or a cancellation or release of this Lease from Tenant, prior to expiration of the Lease Term without the prior written consent of the Lender, Leasehold Mortgagee or Assignee, provided, however, that Landlord shall be permitted to terminate this Lease without the consent of Lender, Leasehold Mortgagee or Assignee if (a) such termination resulted from an event of default, and (b) Lender, Leasehold Mortgagee or Assignee was provided notice in accordance with this Section and the right to cure such default for a period of ninety (90) days following such notice, and failed to cure such default within such period.

27. Condemnation. If, at any time during the Term, any authority having the power of eminent domain shall condemn a portion of the Premises, the Easements, the Project or related interconnection and transmission improvements for any public use or otherwise, such that the operation of Project becomes, in the reasonable discretion of Tenant, impractical by materially reducing the electrical generating capacity of the Project or materially impacting access to the Premises, then Tenant may terminate this Lease Agreement without incurring any liability to Landlord with respect to such termination by giving written notice to Landlord indicating the effective date of such termination except that Tenant will have responsibility to remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property. Tenant shall have the right to exercise its termination option only within the six (6) month period after the Tenant receives knowledge of the condemnation.

The disposition of any condemnation award and/or casualty insurance proceeds shall be allocated among Landlord, Tenant, any Lender, Leasehold Mortgagee or Assignee as their interests may appear.

**28. Damage to Project.** If, at any time during the Term, the Project shall be substantially damaged or destroyed and rendered inoperable by fire or other occurrence of any kind, Tenant shall at its sole cost and expense either (a) repair or replace the Project, or (b) elect to terminate this Lease Agreement in which case Tenant remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property.

If Tenant elects to repair and restore the Project, all insurance money paid to Tenant on account of such damage or destruction under the policies of insurance maintained by Tenant hereunder, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof shall be applied by Tenant to the payment of the cost of the repair and replacement of the Project, subject to the rights of Lenders, Assignees and Leasehold Mortgagees.

- 29. Terminate in Event of Governmental Shutdown. In the event a governmental authority decrees, orders or demands that operation of the Project cease or that the Project must be removed from the Premises, for reasons unrelated to any default, violation or breach by Tenant of any applicable law, permit or consent, Tenant shall have the right to terminate this Lease Agreement without penalty to either Party upon delivery to Landlord of thirty (30) days prior written notice, in which case Tenant remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property.
- **30. Force Majeure.** In the event of a Force Majeure Event, as identified further below, Tenant shall be relieved from any future Rent payments and any other obligations under this Agreement, except its obligation to remove the Project as provided herein. "Force Majeure Event" means any act, event, cause or condition that prevents Tenant from performing its obligations, and is beyond the Tenant's reasonable control.

A Force Majeure Event may include, but shall not be limited to the following: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid,

equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming a Force Majeure Event to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Group Member claiming a Force Majeure Event.

## 31. Miscellaneous provisions.

- A. Applicable Law. This Lease Agreement shall be interpreted and governed by the laws of the State of North Carolina.
  - a. Rules of Interpretation. Titles and headings are included in this Lease Agreement for convenience only, and shall not be used for the purpose of construing and interpreting this Lease Agreement. Words in the singular also include the plural and vice versa where the context requires.
  - b. Severability. In the event that any provisions of this Lease Agreement are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, the Landlord and the Tenant shall negotiate an equitable adjustment in the provisions of this Lease Agreement with a view toward effecting the purposes of this Lease Agreement, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby.
  - c. Entire Agreement; Amendments and Waivers. This Lease Agreement constitutes the entire agreements between the Parties and supersedes the terms of any previous agreements or understandings, oral or written. Any waiver or amendment of this Lease Agreement must be in writing. A Party's waiver of any breach or failure to enforce any of the terms of this Lease Agreement shall not affect or waive that Party's right to enforce any other term of this Lease Agreement.
  - d. Further Assurances. Either Party shall execute and deliver instruments and assurances and do all things reasonably necessary and proper to carry out the terms of this Lease Agreement if the request from the other Party is reasonable.
  - e. Recordation. The Parties hereto acknowledge that a memorandum of this Lease Agreement shall be recorded in the local land records, in the form included herein as Exhibit C.
  - f. Specific Performance. In the event that the Landlord is in material default under this Lease Agreement, then the Tenant may in its sole discretion, in addition to any other remedies available at law or in equity, tender performance of the obligations of the Tenant and specifically enforce all obligations of the Landlord.

### 32. Representations and Warranties.

- (a) The Landlord hereby represents and warrants to Tenant as follows:
- (i) <u>Right, Power and Authority</u>. It has full right, power and authority to enter into this Agreement and there is nothing, which would prevent it from performing its obligations under the terms and conditions imposed on it by this Agreement.

- (ii) <u>Binding Obligation</u>. This Agreement has been duly authorized by all necessary action of Landlord, and constitutes a valid and binding obligation on the Landlord, enforceable in accordance with the terms hereof.
- (iii.) <u>Performance</u>. To the best of the Landlord's knowledge, no fact or circumstance exists that will have, or is reasonably likely to have, a material adverse effect upon the Landlord's ability to perform its obligations under this Agreement.
- (iv) <u>Landlord Compliance.</u> The Landlord and those accounts submitted by Landlord to be included in the net metering group are not part of any other net metering group or receiving net metering credits from another renewable energy facility.
- (v) <u>Information.</u> To the knowledge of the Landlord, the information provided to the Tenant by the Landlord pursuant to this Agreement is true and accurate in all material respects.
- (b) Tenant hereby represents and warrants to the Landlord as follows:
- (i) <u>Right, Power and Authority</u>. It has full right, power and authority to enter into this Agreement and there is nothing which would prevent it from performing its obligations under the terms and conditions imposed on it by this Agreement.
- (ii) <u>Binding Obligation</u>. This Agreement has been duly authorized by all necessary action of Tenant, and constitutes a valid and binding obligation on Tenant, enforceable in accordance with the terms hereof.
- (iii) <u>Performance</u>. To the best of the Tenant's knowledge, no fact or circumstance exists that will have, or is reasonably likely to have, a material adverse effect upon the Tenant's ability to perform its obligations under this Agreement.
- (iv) <u>Information.</u> To the knowledge of the Tenant, the information provided to the Landlord by the Tenant pursuant to this Agreement is true and accurate in all material respects.
- **33**. **Notices**. All notices, demands, requests, consents, approvals, and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying party, or officer, agent, or attorney of the notifying party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

#### To Landlord:

Watauga County

Attention: Watauga County Manager

814 West King Street Boone, NC 28607

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Peak Solarworks, LLC
1636 Friar Tuck Rd. NE
Atlanta, GA 30309
ER Watauga Landfill Solar, LLC
110 Main Street, Suite 2E
Burlington, VT 05401

The address to which any notice, demand, or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

IN WITNESS WHEREOF, the parties, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Lease Agreement this 16<sup>th</sup> day of September April, 2019.

Watauga County.

a North Carolina corporate body politic
By:
John Welch, Chair of the Watauga County Board of
County Commissioners

Attest:

Anita Fogle, Clerk to the Board of County Commissioners

(CORPORATE SEAL)

#### STATE OF NORTH CAROLINA, COUNTY OF WATUAGA

I, a Notary Public of the County and State aforesaid, certify that Anita Fogle, personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners for the County of Watauga, North Carolina, and that by authority duly given and as the act of said County, the foregoing instrument was signed in its name by the Chair of the Board of County Commissioners and attested by her as Clerk to the Board of Commissioners. The signatory acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official	stamp or seal, this the day of <u>September May</u> , 20 <u>23</u> 19.
	Notary Public
	Print: Name:
	My Commission Expires:
	Peak Solarworks, LLC ER Watauga Landfill Solar, LLC
	By:
<u> P</u>	<u>Catherine Porges, CEO</u> <u>Peak Solarworks, LLC</u> <u>Derek Moretz, Chief Development</u> <u>Officer of Encore Redevelopment, LLC, managing member of</u>
	ER Watauga Landfill Solar, LLC
Fulton County, Georgia	Vermont
<b>Development Officer of Encore Redevelopment</b>	Porges, CEO, Peak Solarworks, LLC Derek Moretz, Chief ent, LLC personally appeared before me this day, led the foregoing document for the purpose stated therein and in
Data	
Date:	Print Name:
(Official Seal)	My Commission expires:

## Exhibit A

Tax Map & Book and Page of Deed for Landlord's Property

Book 248 at Page 148 of the Watauga County Register of Deeds.

## Exhibit B

## Description of the Premises

(To be provided by Tenant at sole discretion in accordance with Section 13 & 14)

#### Exhibit C

#### MEMORANDUM OF LEASE

KNOW ALL PERSONS BY THESE PRESENTS that a certain Site Lease Agreement (the "Lease") was entered into on <u>SeptermberMay</u>, 20<u>23</u>19, by Watauga County (hereinafter "Lessee") and <u>Peak Solarworks</u>, <u>LLC ER Watauga Landfill Solar</u>, <u>LLC</u> (hereinafter "Lessor"), with an effective date of <u>Septemer May</u>, 202319.

1. Property Affected By The Lease. The leased property is described as follows:

A 20 acre capped landfill *portion* of a 41.45 acre tract, more or less, being more particularly described in Book 248 at Page 148 of the Watauga County Register of Deeds. The capped portion is observable and identifiable as such as of the date of the Lease.

- 2. <u>Term of Lease</u>. The Lease commences on <u>September May</u> 5, 202319 and continues for twenty five years following the Commissioning Date of the solar electric generation and/or battery facility to be constructed on the leased property by the Lessee. The Commissioning Date is defined in the Lease as the date on which the facility is energized and permitted to operate.
- 3. <u>Restriction on Assignment.</u> The Lease may be assigned by the Lessor without restriction or limitation, but may only be assigned by Lessee only upon written consent of the Lessor.
- 4. Extension and Renewal. Not Applicable.
- 5. <u>Right of Purchase or First Refusal.</u> There is no purchase right or right of first refusal granted in the Lease.
- 6. <u>Location of Original Lease</u>. The original signed copy of the Lease will be maintained at the Office of the Lessor.
- 7. <u>Conflict With Lease</u>. The provisions of this Memorandum shall not be used in interpreting the Lease, and in the event of any conflict between this Memorandum and the Lease, the terms of the Lease shall control in all respects.
- 8. <u>Miscellaneous.</u> All capitalized terms not defined herein shall have the meaning set forth in the Lease. This Memorandum shall be governed by the laws of North Carolina.

#### END OF TEXT – SIGNATURE PAGE FOLLOWS

#### **LESSOR:**

	Watauga County, a North Carolina corporate body politic
	By: John Welch, Chair of the Watauga County Board of County Commissioners
Attest:	
Anita Fogle, Clerk to the Board of County Commissioners	
(CORPORATE SEAL)	
STATE OF NORTH CAROLINA, CO	OUNTY OF WATUAGA
came before me this day and acknowled for the County of Watauga, North Car- said County, the foregoing instrument	by and State aforesaid, certify that Anita Fogle, personally edged that she is the Clerk to the Board of Commissioners olina, and that by authority duly given and as the act of was signed in its name by the Chair of the Board of y her as Clerk to the Board of Commissioners.
The signatory acknowledged to the purpose stated therein and in the ca	o me that she voluntarily signed the foregoing document for apacity indicated.
Witness my hand and official s 202319.	stamp or seal, this the <u>5</u> day of <u>September May</u> ,
-	Notary Public
I	Print: Name:
ľ	My Commission Expires:

LESSEE:	
	Peak Solarworks ER Watauga Landfill Solar, LLC
	By: <u>Katherine Porges, CEO of Peak Solarworks, LLC</u> <u>Derek Moretz, Chief Development Officer of Encore</u> <u>Redevelopment, LLC, managing member of ER</u> <u>Watauga Landfill Solar, LLC</u>
Fulton County, George	<u>gia</u> Vermont
Moretz, Chief Development Officer of En	Katherine Porges, CEO of Peak Solarworks, LLC Derek score Redevelopment, LLC personally appeared before me this rily signed the foregoing document for the purpose stated
Date:	Deint Name
(Official Seal)	Print Name:

#### AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT ("Agreement"), is made and entered into as of this to as of this day of May, 2019 by and between Watauga County, North Carolina, hereinafter referred to as the "Landlord", and ER Watauga Landfill Solar, LLC, hereafter referred to as "Tenant".

#### WITNESSETH:

WHEREAS, the Landlord is the owner of certain real estate located off Landfill Road in Boone, North Carolina (the "Property"); and

WHEREAS, Landlord and Tenant are parties to a certain Lease Agreement dated as of September 10, 2010 (the "Original Agreement"), pursuant to which the Landlord's granted to Tenant the right to lease a portion of the Landlord's Property, substantially depicted and/or described in Exhibit B (such portion referred to herein as the "Premises").

NOW THEREFORE, in consideration of the mutual covenants of the parties and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby covenant and agree as follows:

#### The Original Agreement is hereby amended and restated in its entirety as follows:

#### DEVELOPMENT PERIOD

- 1. The Landlord hereby grants to Tenant the right to lease from the Landlord any portion of the Property, and access thereto, owned by the Landlord, located at the Property as shown in Exhibit 1, to develop the site for electricity generation (the "Lease").
- 2. Tenant shall make payment of One Hundred Dollars (\$100.00) per month for the first three years of this Agreement, which shall represent the development period of the Agreement ("Development Period").
- 3. During the Development Period Landlord shall permit Tenant and its authorized agents and representatives to enter upon the Property at reasonable times during normal business hours to inspect the Property and perform surveys. Tenant shall notify Landlord of its intention, or the intention of its agents or representatives, to enter the Property at least twenty-four (24) hours prior to such intended entry. Tenant shall bear the cost of all inspections.
- 4. Upon Construction Commencement, the Development Period shall end and Tenant shall commence payment of Rent (both Rent and Construction Commencement defined in Section 13 of the Amended Terms and Conditions).

#### AMENDED TERMS AND CONDITIONS

- 1. Lease. The Lessor hereby leases the Premises to the Tenant pursuant to the terms and conditions of this Lease Agreement.
- **2. Permitted Use.** The Tenant may use the Premises to install, operate, maintain, improve and replace the Project for purposes of generating and delivering electricity to the local utility.
- 3. Access to the Premises from the road to the Property. Landlord agrees at all times to allow Tenant access to the Property to install, operate, maintain, improve and replace the Project on the Premises. Landlord shall also provide Tenant with adequate space on the Property during the construction of the Project for the Tenant's construction of the Project including reasonable staging and laydown areas. The Tenant shall comply with all laws, rules and regulations relating to Tenant's use of the Property and the Premises in connection with the construction and operation of the Project.

Landlord further hereby grants to Tenant, and shall execute such additional instruments as may be necessary or appropriate to fully vest in Tenant, the following easements and related rights:

- (a) An easement over the Property for ingress and egress for the purpose of siting, development, enhancement, relocation, installation, construction, operation, inspection, maintenance, replacement, repair, improvements and removal of the Project, including without limitation the right to construct such temporary access roads as may be necessary or appropriate for such purposes.
- (b) An easement and right to capture, use and convert the unobstructed solar resources over and across the Property and any adjacent property owned by Landlord and to prevent measurable diminishment in output due to obstruction of the sunlight across the Property including but not limited to an easement right to trim, cut down and remove all trees, brush, vegetation and fire and electrical hazards now or hereafter existing on the Property which might obstruct receipt of or access to sunlight throughout the Property or interfere with or endanger the Project or Tenant's operations, as determined by Tenant.
- (c) An easement over the Property to allow the Project to interconnect to the electrical grid.
- **4. Construction of the Project.** The installation and construction of the Project shall be performed in a good and workmanlike manner.
- 5. Interconnection. Tenant shall be responsible for the interconnection of the Project and Landlord shall cooperate with Tenant, any applicable utility and municipal and regulatory authorities in Tenant's pursuit of all permits, approvals and other authorizations that may be required in order to effect the interconnection of the Project. The date at which the Project is energized and permitted to operate by the utility shall be the date of commissioning (the "Commissioning Date").
- 6. Approvals and Permits. Tenant shall obtain all necessary approvals and permits required for the installation, construction and operation of the Project, and pay all permit fees required in connection with its activities under this Lease. The Landlord shall cooperate with Tenant in obtaining all such approvals and

permits and necessary transfer Project permits to Tenant for purposes of operating the Project. To the extent that any permit must be obtained by Landlord, the Landlord agrees that it will grant all material decision-making rights with respect to such permit to Tenant.

- 7. **Exposure to Sunlight.** The Landlord covenants that it will use its best efforts to not allow vegetation on its property to grow in a manner or initiate or conduct any activities that could reasonably diminish the exposure of the Panels to sunlight during daylight hours, while this Lease Agreement remains in effect. Landlord hereby grants to Tenant an exclusive easement to use, convert, maintain and capture the free and unobstructed flow of solar insolation (sunlight) over and across the Property. Without limiting the foregoing, Landlord shall not: (a) construct or permit to be constructed any structure; or (b) plant or allow to be planted any trees or other vegetation in each case, on the Property or the real property adjacent to the Property that is owned by Landlord, that is reasonably expected to decrease the output or efficiency of the Project or adversely affect insolation levels on the Premises.
- **8. Use of Subcontractors.** The Tenant shall be permitted to license subcontractors or agents to perform any of its obligations under this Lease Agreement.
- 9. Landlord not to Interfere with the Project. The Landlord and any representatives thereof shall not tamper with or undertake any maintenance or alterations to the Premises or the Project without the express written permission of the Tenant. The Landlord shall take reasonable measures necessary to ensure that the operation of the Property does not unreasonably impede, interrupt or prevent the generation and supply of electricity by the Project or damage or otherwise adversely impact the installation, operation and maintenance of the Project or the Tenant's performance under this Lease Agreement.
- 10. Cooperation in Securing Rebates, Tax Credits and other Economic Benefits. The Landlord will cooperate with Tenant in completing and filing such applications and other documents as are necessary to permit the Tenant to receive all mandatory or voluntary federal, state, or local renewable energy certificates or emissions or rebates, tax credits and including, without limitation, other economic benefits (the "Environmental Attributes") that are now or may hereafter become available to the Tenant in connection with the Project. Notwithstanding anything to the contrary herein contained, all Environmental Attributes in connection with the Project shall remain the property of the Tenant or its successors and assigns. Tenant shall have the exclusive right to sell, transfer, or convey the Environmental Attributes to any other person in Tenant's sole discretion.

#### 11. Taxes and Utility Expenses.

- (a) Tenant shall pay on or before when all taxes are assessed against the Tenant on account of the Tenant's personal property, equipment, or otherwise assessed against the Project, and Tenant's use and occupancy of the Premises under this Lease. Tenant shall, during the Term, pay and discharge on or before when due, all Utility expenses.
- (b) The Landlord shall pay on or before when due all taxes, if any, including real estate taxes assessed on the Property and land underlying the Premises.
- (c) All taxes shall be paid to the government entity assessing such taxes. All Utility expenses related directly to the Project shall be paid by the Tenant directly to the Utility unless the parties agree otherwise.

- 12. Term. This Lease Agreement shall commence upon the execution date set forth on the first page and shall terminate twenty five (25) years from the Commissioning Date, unless terminated earlier in accordance with the terms and conditions of this Lease Agreement (the "Term").
- 13. Rent. Tenant shall pay the Landlord rent in the amount of ONE THOUSAND DOLLARS (\$1,000.00) per acre, per year ("Rent"), which shall become due and payable within fifteen (15) days of the start of construction on the Project ("Construction Commencement"), and every anniversary of the Commissioning Date thereafter for the duration of this Lease Agreement. Rent paid on the first anniversary of the Commissioning Date shall include an additional reconciliation payment for the construction period, which shall be calculated as the time from Construction Commencement to the Commissioning date.

Final acreage to be utilized for Rent calculation shall be determined based on the actual footprint of the Project, as further defined in Section 14. Any difference between the initial year's Rent and subsequent Rent calculations based on final design, shall be reconciled on the first anniversary of the Commissioning Date.

- 14. Premises Leased. Within 15 days of Construction Commencement, Tenant shall provide a final site plan to Landlord, which shall exist wholly within the Property, and which both Parties hereby agree shall be included as Exhibit B, without requiring any further approval of Landlord.
- 15. **Property Taxes.** Landlord hereby agrees to waive any and all real property taxes, which would otherwise be levied against the Project by Landlord or any of its affiliates, for the life of the Project.
- 16. Ownership of the Project. The Project shall be and remain the personal property of the Tenant and shall not be or become fixtures, notwithstanding the manner in which the Project is or may be affixed to the Premises. The Landlord shall not suffer or permit the Project to become subject to any lien, security interest or encumbrance of any kind, and the Landlord expressly disclaims and waives any rights it may have in the Project at any time and from time to time, at law or in equity. The Tenant shall maintain the Project in a good state of repair. The Tenant may grant a security interest in the Project and an assignment for purposes of security to its lender or lenders, and the Landlord shall provide any consent and/or waiver reasonably requested by any lender, consenting to such lender's rights in the Project.
- 17. Removal of the Project. Within six (6) months after the end of the Term or Term extension, or upon termination of this Lease Agreement, the Tenant, its successors or assigns shall sever, disconnect, and remove the Project and all of the Tenant's other property from the Premises and restore the Premises to as close to original condition as reasonably possible. The removal, repair and restoration shall be at the sole expense of the Tenant or its successors and assigns.
- 18. Title. Landlord represents and covenants that Landlord owns the Premises and the Property in fee simple, free and clear of all liens, encumbrances, and restrictions of every kind and nature, except for those that currently appear in the recorded chain of title and are reported as exceptions on the commitment for title insurance that Tenant may obtain. Landlord further represents and warrants that Landlord is not a party to any, and to Landlord's best knowledge, there are no pending or threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any kind or nature whatsoever against Landlord (i) challenging the validity or propriety of this Lease Agreement, and/or

transactions contemplated in this Lease Agreement or (ii) which could reasonably be expected to have a material adverse effect on the ownership or operation of the Property or any part thereof or interest therein.

- 19. Quiet Enjoyment. The Landlord covenants and agrees that the Tenant, provided it remains in compliance with its obligations under this Lease Agreement, shall lawfully and quietly have the right to hold, occupy and enjoy the Premises for the Term of this Lease free from any claim of any entity or person of superior title thereto without hindrance to, interference with the Tenant's use and enjoyment thereof.
- 20. Environmental Matters. The Tenant shall not be liable for any past, present or future contamination or pollution or breach of environmental laws, if any, relating to the Premises or the Property, unless attributable to the Tenant's activities, its employees contractors or agents. Accordingly: (a) the Tenant shall not be responsible for any work relating to (i) the existence, use, transportation or treatment of Hazardous Materials, or (ii) the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment of Hazardous Materials, and (b) the Landlord agrees to assume full responsibility for (and protect, indemnify and defend the Tenant against, any liability for response costs for any contamination or pollution or breach of environmental laws related to the Premises and the Property, unless and to the extent attributable to the Tenant's activities. The Tenant may encounter Hazardous Materials when installing, servicing, expanding, modifying or maintaining the Project. In the event the Tenant encounters any Hazardous Material at the Premises, the Tenant shall promptly cease any work in progress in an orderly, safe and efficient manner and inform The Landlord of the nature and location of said Hazardous Materials. It shall then be The Landlord's responsibility to eliminate or contain such Hazardous Materials in a commercially reasonable manner in compliance with law to allow The Tenant to continue or finalize any work in progress.
- 21. Government Approvals. Landlord acknowledges that Tenant's ability to use the Property for the development of a Project is contingent upon obtaining all government and utility approvals. Landlord shall cooperate with Tenant in its effort to obtain such approvals. Should Tenant be unable to obtain all necessary approvals, or be unable to maintain such approvals due to changes in law, this agreement shall terminate at Tenant's option as outlined further in Section 22 below.
- 22. Right to Terminate. Prior to the commencement of commercial operations of the Project, the Tenant may terminate this Lease Agreement by providing prior written notice to the Landlord. On or after the commencement of commercial operations of the Project, the Tenant may terminate this Lease Agreement by providing at least six (6) months' prior written notice to the Landlord. After the Commissioning Date, Tenant may terminate this Lease, at its option, after giving not less than thirty (30) days notice to Landlord, if:
  - a. Any governmental agency denies a request by Tenant for or revokes a permit, license, or approval that is required for Tenant to construct or operate the Project and infrastructure on the Premises;
  - b. Tenant determines that technical problems, which problems cannot reasonably be corrected, preclude Tenant from using the Premises for its intended purpose;
  - c. Tenant does not have acceptable and legally enforceable means of ingress and egress to and from the Premises;
  - d. Utilities necessary for Tenant's use of the Premises are no longer available to the Premises; or

e. The Premises and/or Project are damaged or destroyed to an extent that prohibits or materially interferes with Tenant's use of the Premises.

In the event of termination by Tenant pursuant to this provision, Tenant shall be relieved of all further liability hereunder except its obligation to remove the Project as provided herein. Should Tenant terminate in accordance with this Section 22, Tenant shall remove the system in accordance with Section 17 above.

- **23. Assignment.** This Lease and any interest herein may be assigned by Tenant only with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Any such assignment by Tenant shall serve to release Watauga Solar, LLC from all rights and obligations under the terms and provisions of this Lease Agreement. With the written consent of the Tenant, this Lease Agreement may be assigned by the Landlord provided, however, that any such assignment will not relieve the Landlord of any of its obligations hereunder.
- 24. Liability for Injury and Damage. Tenant shall defend, indemnify and hold harmless the Landlord from any and all liability, loss, cost, damage or expense sustained by reason of the injury or death of any person, and/or damage to or destruction of any property arising from or caused by the Project and/or caused by any act, omission, or neglect of the Tenant or its subcontractors, agents, servants, employees, invitees, visitors or guests, including reasonable attorney's fees and other litigation expenses.

Landlord shall defend, indemnify and hold harmless the Tenant from any and all liability, loss, cost, damage or expense sustained by reason of the injury or death of any person, and/or damage to or destruction of any property arising from or caused by any act, omission, or neglect of the Landlord or its subcontractors, agents, servants, employees, invitees, visitors or guests, including reasonable attorney's fees and other litigation expenses.

Prior to commencing operations, Tenant shall obtain liability insurance naming the Landlord an additional insured for this purpose in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Tenant shall provide the Landlord with certificate(s) of insurance naming the Landlord as an additional insured and evidencing the procurement of insurance contemplated in this Section 24.

**25. Revocation.** In the event of a material default in the terms of this Lease Agreement by either the Landlord or the Tenant, the other party may terminate this Lease Agreement. Events that shall constitute a default under this Lease Agreement shall include, but not be limited to, a party's failure to perform or comply with any material provision of this Lease Agreement; an unauthorized assignment, a party's insolvency or inability to pay debts as they mature, or an assignment for the benefit of creditors; or if a petition under any foreign, state, or United States bankruptcy act, receivership statute, or the like, as they now exist, or as they may be amended, is filed by a party.

No party shall be in default under this Lease Agreement unless and until it has been given written notice of a breach of this Lease Agreement by the other party and shall have failed to cure such breach within thirty (30) days after receipt of such notice. When a breach cannot reasonably be cured within such thirty (30) day period, the time for curing may be extended by agreement of the parties for such time as may be necessary to complete the cure, provided that the defaulting party shall have proceeded to cure such breach with due diligence.

26. Lender Protection. Tenant shall have the absolute right at any time and from time to time, without Landlord's prior written consent or approval (but with prior written notice to Landlord) to: (i) assign, encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument), or otherwise transfer all or any portion of its right, title or interest under this Lease to a Lender designated by Tenant, as security for the repayment of any indebtedness and/or the performance of any obligation owned by Tenant to such Lender; and (ii) mortgage its leasehold interest hereunder and/or collaterally assign its interest in this Lease and in any monies due under this Lease in connection with obtaining financing from a Lender for the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements, or otherwise encumber and grant security interests in all or any part of its interest in this Lease, the Premises, the Project, interconnection facilities or transmission facilities (holders of these various security interests are referred to as "Leasehold Mortgagees").

Following an event of default under any financing documents relating to the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements), any Lender or Leasehold Mortgagee may (but shall not be obligated to) assume, or cause their designees to assume, all of the interests, rights and obligations of Tenant thereafter arising under this Lease. Any Leasehold Mortgagee that has succeeded to Tenant's interests under this Lease in accordance with the provisions of this Section shall also have the right, without Landlord's prior written consent or approval (but with prior written notice to Landlord) to assign or sublet the whole or any portion or portions of its interest in this Lease, the Premises, the Project and all appurtenances thereto (including the interconnection facilities and the transmission facilities and improvements) for the uses permitted under this Lease, to one (1) or more creditworthy persons or entities (each, an "Assignee"). Following any such sale, conveyance, lease, assignment or sublet, the term "Tenant" shall be deemed to include each "Assignee" then holding Tenant's interest in this Lease. However, no Leasehold Mortgagee or Assignee shall by virtue of Tenant's conveyance to it acquire any greater interest in the Premises or any easements created hereunder than Tenant then has under this Lease. As used herein, (A) the term "Subtenant" means any Person that receives a transfer from Tenant in accordance with the provisions of this Lease of all or any portion of the right, title or interest under this Lease or in one or more such easements; (B) the term "Sublease" means the grant or assignment of such rights from Tenant to a Subtenant; and (C) the term "Lender" means any financial institution or other Person (including a Leasehold Mortgagee) that from time to time provides secured financing for some or all of Tenant's or a Subtenant's Project, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns. References to Tenant in this Lease shall be deemed to include any Person that succeeds (whether by assignment or otherwise) to all of the then-Tenant's then-existing right, title and interest under this Lease in accordance with the provisions of this Section.

If the rights and interests of Tenant in this Lease shall be assigned in accordance with this Section and the assuming party shall agree in writing to be bound by, and to assume, the terms and conditions hereof and any and all obligations to Landlord arising or accruing hereunder from and after the date of such assumption, Tenant shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Landlord shall continue this Lease with the assuming party as if such person had been named as Tenant under this Lease, provided, however, that the assuming party is creditworthy.

Landlord agrees to enter into a form of Non-disturbance, Consent and Recognition Agreement by and among the Tenant's then chosen Lender or Leasehold Mortgagee, Landlord, and Tenant which shall include, without limitation, consent by Landlord to the Tenant's collateral assignment of this Lease and Tenant's leasehold interest hereunder, cure rights and step in rights in favor of the Lender or Leasehold Mortgagee.

Any Lender or Leasehold Mortgagee or Assignee who acquires Tenant's leasehold interest pursuant to foreclosure or assignment in lieu of foreclosure that does not directly hold an interest in this Lease, or that holds an interest, lien or security interest in this Lease solely for security purposes, shall have no obligation or liability under this Lease for obligations arising prior to the time such Lender, Leasehold Mortgagee or Assignee directly holds an interest in this Lease, or succeeds to title to such interest, or to this Lease. Any such Lender, Leasehold Mortgagee or Assignee shall be liable to perform obligations under this Lease only for and during the period it directly holds such interest or title.

Within fifteen (15) days after written request therefore, Landlord shall execute such estoppel certificates (certifying as to such truthful matters as Tenant, Lenders, Assignees or Leasehold Mortgagees may reasonably request, including that no default then exists under this Lease, if such be the case, and that this Lease remains in full force and effect), consents to assignment and non-disturbance agreements as Tenant or any Lender, Leasehold Mortgagee or Assignee may request from time to time, it being intended that any such estoppel certificates, consents to assignment and the like may be relied upon by any Lenders, Leasehold Mortgagees or Assignees or prospective Lenders, Leasehold Mortgagees, or Assignees, or any prospective and/or subsequent purchaser or transferee of all or a part of Tenant's interest in the Premises, any easements granted hereunder, the interconnection facilities and/or transmission facilities and/or the Project.

The provisions of this Section are for the benefit of the Lenders, Leasehold Mortgagees and Assignees, as well as the Parties hereto, and shall be enforceable by the Lenders, Leasehold Mortgagees and Assignees as express third-party beneficiaries hereof. Landlord hereby agrees that none of the Lenders, Leasehold Mortgagees and Assignees, nor any Person for whom they may act, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Lease on the part of Tenant or shall have any obligation or liability to Landlord with respect to this Lease except to the extent any of them becomes a party hereto pursuant to this Section or through the exercise of its rights or remedies and the written assumption of the Lease or the easements granted hereunder. Any exercise by the Lenders, Leasehold Mortgagees and Assignees of any rights and remedies hereunder shall be subject to all rights, defenses and remedies available to Landlord, in each case subject to the terms of any non-disturbance, consent and recognition agreement entered into between or among the Lenders, Leasehold Mortgagees and Assignees and Landlord.

A Lender, Leasehold Mortgagee or Assignee shall have the absolute right: (a) enforce its lien and acquire title to Tenant's leasehold estate and easement rights by any lawful means; (b) to take possession of and operate the Premises or any portion thereof, in accordance with the terms of this Lease and to perform all obligations to be performed by Tenant under this Lease, or to cause a receiver to be appointed to do so; and (c) to acquire such leasehold estate and easement rights by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer such leasehold estate to a third party.

To prevent termination of this Lease or any partial interest in this Lease, each Lender, Leasehold Mortgagee or Assignee shall have the right, but not the obligation, at any time prior to termination of this Lease, to perform any act necessary to cure any default and to prevent the termination of this Lease or any partial

interest in this Lease. As a precondition to exercising any rights or remedies as a result of any alleged default by Tenant, Landlord shall give written notice of such default to each Lender, Leasehold Mortgagee or Assignee previously disclosed by Tenant, concurrently with delivery of notice to Tenant, specifying in detail the alleged event of default and the required remedy. Each such Lender, Leasehold Mortgagee or Assignee shall have the same amount of time to cure the default as to Tenant's interest in this Lease as is given to Tenant. The cure period for each Lender, Leasehold Mortgagee or Assignee shall begin to run at the end of the cure period given to Tenant in this Lease.

If any default by Tenant under this Lease cannot be cured without the Lender, Leasehold Mortgagee or Assignee obtaining possession of all or part of the Premises and/or all or part of the Project and/or all or part of Tenant's interest in this Lease, then any such default shall be deemed remedied if: (a) within ninety (90) days after receiving notice from Landlord as set forth in Section 33, either Lender, Leasehold Mortgagee or Assignee shall have acquired possession of all or part of the Premises and/or all or part of the Project and/or all or part of such interest in this Lease, or shall have commenced appropriate judicial or non-judicial proceedings to obtain the same; (b) the Lender, Leasehold Mortgagee or Assignee, as the case may be, shall be in the process of diligently prosecuting any such proceedings to completion; and (c) after gaining possession of all or part of the Premises and/or all or part of the Project and/or all or part of such interest in this Lease, the Lender, Leasehold Mortgagee or Assignee performs all other obligations as and when the same are due in accordance with the terms of this Lease, but only for the period attributable to its possession of the Premises, provided, however, that the Lender, Leasehold Mortgagee or Assignee shall pay the Rent and perform all the other obligations of Tenant hereunder as of the date that Landlord could have terminated this Lease for an event of default. If a Lender, Leasehold Mortgagee or Assignee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Tenant or any defaulting Assignee, as the case may be, from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing such proceeding shall be extended for the period of such prohibition. During any period of possession of the Premises by a Lender, Leasehold Mortgagee or Assignee and/or during the pendency of any foreclosure proceedings instituted by a Lender, Leasehold Mortgagee or Assignee, the Lender, Leasehold Mortgagee or Assignee shall pay or cause to be paid the fees, Rent and all other monetary charges payable by Tenant under this Lease which have accrued and are unpaid at the commencement of such period and those which accrue thereafter during such period. Following acquisition of Tenant's leasehold estate by the Lender, Leasehold Mortgagee or Assignee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale (all of which are included in the term "Assignee"), this Lease shall continue in full force and effect and the Lender, Leasehold Mortgagee or Assignee shall, as promptly as reasonably possible, commence the cure of all defaults under this Lease and thereafter diligently process such cure to completion, and upon such completion of the cure of all defaults under the Lease Landlord's right to terminate this Lease based upon such defaults shall be deemed waived; provided, however, that the Lender, Leasehold Mortgagee or Assignee or such party acquiring title to Tenant's leasehold estate shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("Non-curable defaults"). Non-curable defaults shall be deemed waived by Landlord upon completion of foreclosure proceedings or acquisition of Tenant's interest in this Lease by such party.

Any Lender, Leasehold Mortgagee or Assignee who acquires Tenant's leasehold interest, pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Tenant by this Lease incurred or accruing after the Lender, Leasehold Mortgagee or Assignee no longer has

Ownership of the leasehold estate or possession of the Premises. Neither the bankruptcy nor the insolvency of Tenant shall be grounds for terminating this Lease as long as all Rent and all other monetary charges payable by Tenant under this Lease are promptly paid by the Lender, Leasehold Mortgagee or Assignee in accordance with the terms of this Lease. The acceptance of Rent by Landlord shall not be deemed a waiver of any other rights or remedy it may have under the Lease at law or in equity.

If this Lease terminates for any reason, including because of Tenant's default or if the leasehold estate is foreclosed, or if this Lease is rejected or disaffirmed pursuant to bankruptcy Applicable Requirements or other Applicable Requirements affecting creditor's rights and, within ninety (90) days after such event, Tenant or any Lender, Leasehold Mortgagee or Assignee shall have arranged to the absolute satisfaction of Landlord for the payment of Rent, fees and other charges due and payable by Tenant as of the date of such event, then Landlord shall execute and deliver to such Lender, Leasehold Mortgagee or Assignee or designee, as the case may be, a new lease to the Premises which (a) shall be for a term equal to the remainder of the Lease Term before giving effect to such rejection or termination; (b) shall contain the same covenants, agreements, terms, provisions and limitations as this Lease (except as otherwise provided in this Section 1.11(a) and for any requirements that have been fulfilled by Tenant or any Lender, Leasehold Mortgagee or Assignee prior to rejection or termination of this Lease); and (c) shall include that portion of the Project in which Tenant had an interest on the date of rejection or termination. A Lender, Leasehold Mortgagee or Assignee shall pay all of Landlord's reasonable legal fees associated with a new lease of the Premises.

After the termination, rejection or disaffirmation of this Lease and during the period thereafter during which any Lender, Leasehold Mortgagee or Assignee shall be entitled to enter into a new lease of the Premises, Landlord will not terminate any sublease or the rights of any sub-Tenant unless such sub-Tenant shall be in default under such sublease.

If more than one (1) Lender, Leasehold Mortgagee or Assignee makes a written request for a new lease pursuant to this provision, the new lease shall be delivered to the Lender, Leasehold Mortgagee or Assignee requesting such new lease whose mortgage or assignment of this Lease or the Tenant's leasehold interest hereunder is prior in lien, and the written request of any other Lender, Leasehold Mortgagee or Assignee whose lien is subordinate shall be void and of no further force or effect.

The provisions of this section shall survive the termination, rejection or disaffirmation of this Lease and shall continue in full force and effect thereafter to the same extent as if this section was a separate and independent contract made by Landlord, Tenant and each Lender, Leasehold Mortgagee or Assignee, and, from the effective date of such termination, rejection or disaffirmation of this Lease to the date of execution and delivery of such new lease, such Lender, Leasehold Mortgagee or Assignee may use and enjoy said Premises in accordance with the terms of such new lease, provided that all of the conditions for a new lease as set forth above are complied with.

Notwithstanding any provision of this Lease to the contrary, the Parties agree that so long as there exists an unpaid Leasehold Mortgage or loan or other financing held by a Lender that is secured by Tenant's grant of a security interest in the Premises, this Lease, the Project or any other Improvement, this Lease shall not be terminated, modified or amended, and Landlord shall not accept a surrender of all or any part of the Premises or a cancellation or release of this Lease from Tenant, prior to expiration of the Lease Term without the prior written consent of the Lender, Leasehold Mortgagee or Assignee, provided, however, that Landlord shall be permitted to terminate this Lease without the consent of Lender, Leasehold Mortgagee or Assignee if (a)

such termination resulted from an event of default, and (b) Lender, Leasehold Mortgagee or Assignee was provided notice in accordance with this Section and the right to cure such default for a period of ninety (90) days following such notice, and failed to cure such default within such period.

27. Condemnation. If, at any time during the Term, any authority having the power of eminent domain shall condemn a portion of the Premises, the Easements, the Project or related interconnection and transmission improvements for any public use or otherwise, such that the operation of Project becomes, in the reasonable discretion of Tenant, impractical by materially reducing the electrical generating capacity of the Project or materially impacting access to the Premises, then Tenant may terminate this Lease Agreement without incurring any liability to Landlord with respect to such termination by giving written notice to Landlord indicating the effective date of such termination except that Tenant will have responsibility to remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property. Tenant shall have the right to exercise its termination option only within the six (6) month period after the Tenant receives knowledge of the condemnation.

The disposition of any condemnation award and/or casualty insurance proceeds shall be allocated among Landlord, Tenant, any Lender, Leasehold Mortgagee or Assignee as their interests may appear.

**28. Damage to Project.** If, at any time during the Term, the Project shall be substantially damaged or destroyed and rendered inoperable by fire or other occurrence of any kind, Tenant shall at its sole cost and expense either (a) repair or replace the Project, or (b) elect to terminate this Lease Agreement in which case Tenant remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property.

If Tenant elects to repair and restore the Project, all insurance money paid to Tenant on account of such damage or destruction under the policies of insurance maintained by Tenant hereunder, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof shall be applied by Tenant to the payment of the cost of the repair and replacement of the Project, subject to the rights of Lenders, Assignees and Leasehold Mortgagees.

- 29. Terminate in Event of Governmental Shutdown. In the event a governmental authority decrees, orders or demands that operation of the Project cease or that the Project must be removed from the Premises, for reasons unrelated to any default, violation or breach by Tenant of any applicable law, permit or consent, Tenant shall have the right to terminate this Lease Agreement without penalty to either Party upon delivery to Landlord of thirty (30) days prior written notice, in which case Tenant remove the Project or related interconnection and transmission improvements owned by the Tenant from the Premises and Property.
- **30.** Force Majeure. In the event of a Force Majeure Event, as identified further below, Tenant shall be relieved from any future Rent payments and any other obligations under this Agreement, except its obligation to remove the Project as provided herein. "Force Majeure Event" means any act, event, cause or condition that prevents Tenant from performing its obligations, and is beyond the Tenant's reasonable control.

A Force Majeure Event may include, but shall not be limited to the following: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire;

earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming a Force Majeure Event to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Group Member claiming a Force Majeure Event.

#### 31. Miscellaneous provisions.

- A. Applicable Law. This Lease Agreement shall be interpreted and governed by the laws of the State of North Carolina.
  - a. Rules of Interpretation. Titles and headings are included in this Lease Agreement for convenience only, and shall not be used for the purpose of construing and interpreting this Lease Agreement. Words in the singular also include the plural and vice versa where the context requires.
  - b. Severability. In the event that any provisions of this Lease Agreement are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, the Landlord and the Tenant shall negotiate an equitable adjustment in the provisions of this Lease Agreement with a view toward effecting the purposes of this Lease Agreement, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby.
  - c. Entire Agreement; Amendments and Waivers. This Lease Agreement constitutes the entire agreements between the Parties and supersedes the terms of any previous agreements or understandings, oral or written. Any waiver or amendment of this Lease Agreement must be in writing. A Party's waiver of any breach or failure to enforce any of the terms of this Lease Agreement shall not affect or waive that Party's right to enforce any other term of this Lease Agreement.
  - d. Further Assurances. Either Party shall execute and deliver instruments and assurances and do all things reasonably necessary and proper to carry out the terms of this Lease Agreement if the request from the other Party is reasonable.
  - e. Recordation. The Parties hereto acknowledge that a memorandum of this Lease Agreement shall be recorded in the local land records, in the form included herein as Exhibit C.
  - f. Specific Performance. In the event that the Landlord is in material default under this Lease Agreement, then the Tenant may in its sole discretion, in addition to any other remedies available at law or in equity, tender performance of the obligations of the Tenant and specifically enforce all obligations of the Landlord.

#### 32. Representations and Warranties.

(a) The Landlord hereby represents and warrants to Tenant as follows:

- (i) <u>Right, Power and Authority</u>. It has full right, power and authority to enter into this Agreement and there is nothing, which would prevent it from performing its obligations under the terms and conditions imposed on it by this Agreement.
- (ii) <u>Binding Obligation</u>. This Agreement has been duly authorized by all necessary action of Landlord, and constitutes a valid and binding obligation on the Landlord, enforceable in accordance with the terms hereof.
- (iii.) <u>Performance</u>. To the best of the Landlord's knowledge, no fact or circumstance exists that will have, or is reasonably likely to have, a material adverse effect upon the Landlord's ability to perform its obligations under this Agreement.
- (iv) <u>Landlord Compliance.</u> The Landlord and those accounts submitted by Landlord to be included in the net metering group are not part of any other net metering group or receiving net metering credits from another renewable energy facility.
- (v) <u>Information.</u> To the knowledge of the Landlord, the information provided to the Tenant by the Landlord pursuant to this Agreement is true and accurate in all material respects.
- (b) Tenant hereby represents and warrants to the Landlord as follows:
- (i) <u>Right, Power and Authority</u>. It has full right, power and authority to enter into this Agreement and there is nothing which would prevent it from performing its obligations under the terms and conditions imposed on it by this Agreement.
- (ii) <u>Binding Obligation</u>. This Agreement has been duly authorized by all necessary action of Tenant, and constitutes a valid and binding obligation on Tenant, enforceable in accordance with the terms hereof.
- (iii) <u>Performance</u>. To the best of the Tenant's knowledge, no fact or circumstance exists that will have, or is reasonably likely to have, a material adverse effect upon the Tenant's ability to perform its obligations under this Agreement.
- (iv) <u>Information</u>. To the knowledge of the Tenant, the information provided to the Landlord by the Tenant pursuant to this Agreement is true and accurate in all material respects.
- 33. Notices. All notices, demands, requests, consents, approvals, and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying party, or officer, agent, or attorney of the notifying party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

#### To Landlord:

Watauga County Attention: Watauga County Manager 814 West King Street Boone, NC 28607

To Tenant:

ER Watauga Landfill Solar, LLC 110 Main Street, Suite 2E Burlington, VT 05401

The address to which any notice, demand, or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

IN WITNESS WHEREOF, the parties, as evidenced by the signatures of their Duly Authorized Agents, do hereby execute this Lease Agreement this 16<sup>th</sup> day of April, 2019.

Watauga County,

a North Carolina corporate body politic

a North Carolina

John Welch, Chair of the Watauga County Board of

**County Commissioners** 

Attest:

Anita Fogle, Clerk to the

**Board of County Commissioners** 

(CORPORATE SEAL)

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

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## STATE OF NORTH CAROLINA, COUNTY OF WATUAGA

I, a Notary Public of the County and State aforesaid, certify that Anita Fogle, personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners for the County of Watauga, North Carolina, and that by authority duly given and as the act of said County, the foregoing instrument was signed in its name by the Chair of the Board of County Commissioners and attested by her as Clerk to the Board of Commissioners. The signatory acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal, this the 4 day of May, 2019. Notary Public Monica K. Print: Name: My Commission Expires: ER Watauga Landfill Solar, LLC Derek Moretz, Chief Development Officer of Encore Redevelopment, LLC, managing member of ER Watauga Landfill Solar, LLC County, Vermont I certify that the following person, Derek Moretz, Chief Development Officer of Encore Redevelopment, LLC personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated. Date: 6/10/14 (Official Seal My Commission expires: 1/31/21

## Exhibit A

Tax Map & Book and Page of Deed for Landlord's Property

Book 248 at Page 148 of the Watauga County Register of Deeds.

## Exhibit B

## Description of the Premises

(To be provided by Tenant at sole discretion in accordance with Section 13 & 14)

#### Exhibit C

#### MEMORANDUM OF LEASE

KNOW ALL PERSONS BY THESE PRESENTS that a certain Site Lease Agreement (the "Lease") was entered into on May 7, 2019, by Watauga County (hereinafter "Lessee") and ER Watauga Landfill Solar, LLC (hereinafter "Lessor"), with an effective date of May 7, 2019.

1. <u>Property Affected By The Lease.</u> The leased property is described as follows:

A 20 acre capped landfill *portion* of a 41.45 acre tract, more or less, being more particularly described in Book 248 at Page 148 of the Watauga County Register of Deeds. The capped portion is observable and identifiable as such as of the date of the Lease.

- 2. <u>Term of Lease</u>. The Lease commences on May , 2019 and continues for twenty five years following the Commissioning Date of the solar electric generation and/or battery facility to be constructed on the leased property by the Lessee. The Commissioning Date is defined in the Lease as the date on which the facility is energized and permitted to operate.
- 3. <u>Restriction on Assignment.</u> The Lease may be assigned by the Lessor without restriction or limitation, but may only be assigned by Lessee only upon written consent of the Lessor.
- 4. Extension and Renewal. Not Applicable.
- 5. <u>Right of Purchase or First Refusal.</u> There is no purchase right or right of first refusal granted in the Lease.
- 6. <u>Location of Original Lease</u>. The original signed copy of the Lease will be maintained at the Office of the Lessor.
- 7. <u>Conflict With Lease.</u> The provisions of this Memorandum shall not be used in interpreting the Lease, and in the event of any conflict between this Memorandum and the Lease, the terms of the Lease shall control in all respects.
- 8. <u>Miscellaneous.</u> All capitalized terms not defined herein shall have the meaning set forth in the Lease. This Memorandum shall be governed by the laws of North Carolina.

#### END OF TEXT – SIGNATURE PAGE FOLLOWS

#### LESSOR:

Watauga County,

a North Carolina corporate body politic

By:

John Welch, Chair of the Watauga County

**Board of County Commissioners** 

Attest:

Anita Fogle, Clerk to the

**Board of County Commissioners** 

(CORPORATE SEAL)

STATE OF NORTH CAROLINA, COUNTY OF WATUAGA

I, a Notary Public of the County and State aforesaid, certify that Anita Fogle, personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners for the County of Watauga, North Carolina, and that by authority duly given and as the act of said County, the foregoing instrument was signed in its name by the Chair of the Board of County Commissioners and attested by her as Clerk to the Board of Commissioners.

The signatory acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal, this the 5th day of May, 2019.

Notary Public

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

sammy of.

My Commission Expires:

5, 2022

#### LESSEE:

ER Watauga Landfill Solar, LLC

Derek Moretz, Chief Development Officer of Encore Redevelopment, LLC, managing member of ER Watauga Landfill Solar, LLC

Chittenden County, Vermont

I certify that the following person, Derek Moretz, Chief Development Officer of Encore Redevelopment, LLC personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Date: 6/10/19

(Official Seal)

Frint Name:

My Commission expires: 1/31/21

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#### **AGENDA ITEM 8:**

### **MAINTENANCE MATTERS**

A. Bid Award Request for Paving Projects

#### **MANAGER'S COMMENTS:**

Mr. Robert Marsh, Maintenance Director, will request the Board award the bid for paving to Tri-County Paving in the amount of \$461,564.12. The \$202,433.86 for the Hannah Facility is related to the SCIF Grant of \$200,000 for the paving project. The County used funds from the Grant to pay for engineering of the project leaving a \$9,000 funding gap. The Hunger and Health Coalition has agreed to pay the shortfall. Funds are budgeted in the current fiscal year to cover the expenditures.

Staff recommends the County award this bid to the low bidder, Tri-County Paving, West Jefferson, NC, in the amount of \$461,564.12 with the Hunger and Health Coalition to pay the \$9,000 funding gap for the Hannah paving project.

Board action is required.



## WATAUGA COUNTY MAINTENANCE DEPARTMENT

274 Winklers Creek Road, Suite B, Boone, NC 28607 - Phone (828) 264-1430 Fax (828) 264-1473

TO:

Deron Geouque, County Manager

FROM:

Robert Marsh, Maintenance Director

DATE:

August 29, 2023

RE:

Bid Award Request

#### BACKGROUND

Watauga County solicited bids for several asphalt paving projects in July and August 2023 by posting a bid advertisement on the County website as well as contacting several local paving or grading contractors directly. Four companies expressed interest, however, only three bids were received.

#### BID RESULTS

Bid Summary	Hannah Turn Around Project	Brookshire Full Depth Repair	Human Serv. Drive Aisle Repair	<u>Total</u>
Tri-County	\$202,433.86	\$185,361.26	\$73,769.00	\$461,564.12
Moretz Paving	\$249,380.00	\$183,511.04	\$76,919.18	\$509,810.22
JW Hampton	\$287,300.00	\$227,200.00	\$94,300.00	\$608,800
Shatley Paving	No Response	NR	NR	NR

#### RECOMMENDATION

Staff recommends the County award this bid to the low bidder, Tri-County Paving, West Jefferson, NC, in the amount of \$461,564.12. Tri-County has previously completed several projects for the County with good results.

#### FISCAL IMPACT

The County has identified funds for the project.

### **BID FORM**

## Watauga County Asphalt Pavement Projects

Bidder's Name 111-WWty Paving, Inc.
License Number NCGCL # 30777
Signature Character - President
Address POBUX QU3 West Lekkinson, NU 20694
Date Mygust 22nd, 2023
·
<u>Project</u> <u>Bid</u>
Hannah \$ 202,433.84
Brookshire \$ 185,361.24
Human Services Center \$73,769°22
Western Watauga Community Center \$36,955 ° 20
Total Bid \$498, 519.12

Bid shall expire September 29, 2024

Watauga County reserves the right to reject any and all bids.

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#### **AGENDA ITEM 8:**

#### **MAINTENANCE MATTERS**

B. Bid Award Request for Human Services Building Updates

#### **MANAGER'S COMMENTS:**

Mr. Marsh will request the Board award the bid to PBI in the amount of \$18,909 for carpet replacement and to Northwest Drywall in the amount of \$15,400 for acoustical tile. DSS has requested a reallocation of space currently assigned to Daymark for the placement of three work stations to serve the Medicaid Expansion Program. The project will be part of the overall renovation of the Human Services Building that was budgeted for in the current fiscal year.

Staff recommends the low bidders, PBI Asheville for carpet in the amount of \$18,909 and Northwest Drywall for acoustical tile ceiling in the amount of \$15,400.

Board action is required.



## WATAUGA COUNTY MAINTENANCE DEPARTMENT

274 Winklers Creek Road, Suite B, Boone, NC 28607 - Phone (828) 264-1430 Fax (828) 264-1473

TO:

Deron Geouque, County Manager

FROM:

Robert Marsh, Maintenance Director

DATE:

August 10, 2023

RE:

Human Services Center Bid Award Request

#### BACKGROUND

DSS has requested a reallocation of space currently assigned to Daymark for the placement of three work stations to serve the Medicaid Expansion Program. Maintenance has recently received bids for the replacement of carpet and ceiling tiles in those offices and adjacent areas.

Carpet /	State Contract Vendors	
PBI, Asheville, NC	\$18,909	
Bonitz, Winston Salem, NC	No Bid	
H&A Carpet, Valdese, NC	No Bid	

Acous	tical Tile Ceiling	
Northwest Drywall, Hickory, NC	\$15,400	
Bonitz, Winston Salem, NC	No Bid	
Mullins, Inc., Kingsport, TN	No Bid	

#### RECOMMENDATION

Staff recommends the low bidders, PBI Asheville (Carpet \$18,909) and Northwest Drywall (Acoustical tile ceiling \$15,400).



PROPOSAL: 49888

DATE: PROJECT#: 08/10/23 20-467

PR	ОРО	SAL FOR	<b>?</b> :				INSTA	LL AT:		
Hu RC 274	man BER 4 WIN	T MARSH	Observation & I CREEK RD	k Conf			WATA! ROBE!	JGA C RT MA PLAR	OUNTY RSH GROVE CO	ntion & Conf
SAI	ESP	ERSON		TERMS		EST. INSTALL		QUO	TE VALID	
ЕМ	ILY S	LUDER		NET 10		11		11		
#	QTY		PRODUCT		DESCRIPTION				SELL	EXTENDED
1	1	EA	NOTE***		**All Furniture Mov Dumpster by Owne				0.00	0.00
2	1	EA			STATEWIDE TER 202100396-DPC16	M CONTRACT 360 31004818	)A		0.00	0.00
3	17	EA	Patch		Ardex Feather Fini	sh			75.00	1,275.00
4	17	EA	Prep		Skim coat				50.00	850.00
5	372	SY	Demo		Demo existing glue broadloom carpet **excludes padding				3.97	1,476.84
6	728	LF	Removal		Removal of Cove I	Base			0.75	546.00
7	418.	65Y	Carpet T ile		Open Air 418 Granite 107045 5.98 sy per ctn 70 ctns				17.20	7,199.92
8	5	EA	Adhesive		XL2000 Adhesive gallon	for Carpet Tile - 4			127.00	635.00
9	36	LF	Transiti		CTA-40-A				3.45	124.20
10	418	SY	on Install		Install Carpet Tile				7.35	3,072.30
11	720	LF	Base		JOHN CB-11 4x12 120' VINYL COVE 6 boxes				1.15	828.00
12	18	EA	Base		Henry Cove Base	Adhesive			6.56	118.08
13	720	LF	Labor		Labor to install bas	se			1.44	1,036.80



PROPOSAL: 49888

DATE: PROJECT#:

TOTAL

08/10/23 20-467

PROPOSAL FOR					INSTA	LL AT:		
WATAUGA COU Human Services ROBERT MARSH 274 WINKLERS ( BOONE NC 2860	Observation & H CREEK RD	Conf			WATA! ROBER	UGA C RT MAI DPLAR	OUNTY RSH GROVE CO	ation & Conf ONNECTOR UNIT C
SALESPERSON		TERMS		EST. INSTALL		QUO	TE VALID	
EMILY SLUDER		NET 10		11		11		
# QTY	PRODUCT	DESC	RIPTION				SELL	EXTENDED
14 372 SY	Fee	Project	Manageme	ent Fee			3.45	1,283.40
15 1 EA	Freight	Freight					464.29	464.29
PBI INVOICES PLEASE SPEC STORAGE FEE A 50% RESTO A 4% SURCHA	NEEDED TO I BASED ON P IFY ONE DEL OF \$350/WE CKING FEE W RGE WILL BE RWARD TO DO	ROGRESS OF A IVERY IF ONLY EK WILL BE CH VILL BE CHARGI E ACQUIRED ON DING BUSINESS	JOB (AS I ONE CHEC ARGED ON ED IF ORDI I CREDIT O	VITH PO OR SIGN TEMS ARE DELIV CK CAN BE CUT. N GOODS HELD O ER IS CANCELLEI CARD TRANSACTI	ERED TO VER 2 W D.			
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75% DEPOSIT PBI INVOICES PLEASE SPEC STORAGE FEE A 50% RESTOR A 4% SURCHA WE LOOK FOR	NEEDED TO I BASED ON P IFY ONE DEL OF \$350/WE CKING FEE W RGE WILL BE RWARD TO DO UIRED 15,14	ROGRESS OF A IVERY IF ONLY EK WILL BE CH VILL BE CHARGI E ACQUIRED ON DING BUSINESS	JOB (AS I ONE CHEC ARGED ON ED IF ORDI I CREDIT O WITH YOU	TEMS ARE DELIV CK CAN BE CUT. N GOODS HELD O ER IS CANCELLEI CARD TRANSACTI	ERED TO VER 2 W D. VONS.	VEEKS	÷	18,909.83

20,186.26

### NORTHWEST DRYWALL COMPANY

090523 BCC Meeting **PROPOSAL** 

Date:

August 3, 2023

P.O. Box 1630 Hickory, NC 28601 / 28603 (post office box)

www.northwestdrywallcompany.com

PROPOSAL SUBMITTED TO:

## WATAUGA COUNTY BLDG. MAINT.

1088 3rd Avenue Drive NW

Robert.Marsh@watgov.org

828-324-5100 / Fax 324-5933

ATTENTION: ROBERT MARSH

**H SERV CTR PROJECT - CEILING** TILE REPLACEMENT

ARCHITECT:

JOB NAME:

N/A

PLAN DATE:

N/A

WE PROPOSE TO FURNISH MATERIAL AND LABOR FOR THE FOLLOWING:

- 1) REMOVE ACOUSTICAL CEILING PANELS; PUT INTO DUMPSTER FURNISHED BY OTHERS; CEILING GRID TO REMAIN
- 2) FURNISH & INSTALL 2 x 2 RADAR "HIGH-NRC/HIGH-CAC" SQUARE EDGE CEILING TILE INTO EXISTING GRID

TOTAL:

\$15,400.00

Material:

\$8,288.00

Labor:

\$7,112.00

#### **EXCLUSIONS:**

- \* FURNITURE / EQUIPMENT RE-LOCATION
- \* CEILING GRID WORK
- \* TENTING OF LIGHT FIXTURES
- \* DUMPSTER / DUMP FEES

DRYWALL POINT-UP: Drywall "point up" to be performed under permanent lighting conditions and to be performed only once. All other repairs will be invoiced to the general contractor. Note all exposed drywall will be finished in accordance with the Gypsum Association's recommended specification: levels of gypsum board finish, Level 4 as described in publication GA-214-90.	Authorized Signature  TIM THOMPSON  timt@nwd.co  Note: This proposal may be withdrawn by us if not accepted within 30 days.
ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment to be made Net 30 Days	Authorized Signature
Date of Acceptance:	Authorized Signature

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#### **AGENDA ITEM 9:**

#### ACCEPTANCE OF CYBERSECURITY GRANT AWARD

#### **MANAGER'S COMMENTS:**

Mr. Drew Eggers, IT Director, will request the Board accept a grant in the amount of \$22,000 from the State and Local Cybersecurity Grant Program (SLCGP) through the North Carolina Department of Public Safety/North Carolina Emergency Management for use in implementing multifactor authentication (MFA).

The startup cost is expected to be around \$22,000 (\$4,000 in one-time costs and \$18,000 recurring). No match is required for this grant, but the County will need to take over the recurring costs in future years.

Board approval is requested to accept this grant.



### WATAUGA COUNTY Information Technologies

Courthouse, Suite 4 • 842 West King Street • Boone, North Carolina 28607 • Phone (828) 265-8015 FAX (828) 265-8076 TDD 1-800-735-2962 Voice 1-800-735-8262

#### **MEMORANDUM**

TO: Watauga County Board of Commissioners

Deron Geouque, County Manager

FROM: Drew Eggers, Information Technologies Director

SUBJECT: Cybersecurity Grant Award

DATE: August 29, 2023

Watauga County has been awarded \$22,000 from the State and Local Cybersecurity Grant Program (SLCGP) through the North Carolina Department of Public Safety/North Carolina Emergency Management for use in implementing multifactor authentication (MFA).

In keeping with industry best practices, multifactor authentication will be used to better safeguard user accounts – especially remote accounts, accounts accessing financial systems, and administrative accounts. MFA is also starting to be a requirement from insurance companies.

The startup cost is expected to be around \$22,000 (\$4,000 in one-time costs and \$18,000 recurring). No match is required for this grant, but the County will need to take over the recurring costs in future years.

Board approval is requested to accept this grant.

Thank you for your consideration.



## NC Department of Public Safety EMERGENCY MANAGEMENT

Roy Cooper, Governor

Eddie M. Buffaloe Jr., Secretary William C. Ray, Director

#### August 6, 2023

#### State and Local Cybersecurity Grant Program (<u>SLCGP</u>) Fiscal Year 2022 (FY22)

#### SUBAWARD NOTIFICATION

Drew Eggers Watauga County 184 Hodges Gap Rd Boone, NC 28607-8736 Period of Performance: December 1, 2022 to February 28, 2026

**Project Title:** MFA Implementation **Total Amount of Award:** \$22,000.00

MOA #: 2280074

The North Carolina Department of Public Safety (NCDPS) / North Carolina Emergency Management (NCEM) is pleased to inform you that the project submitted by your organization for federal FY22 SLCGP has been approved for funding. In accordance with the provisions of the FY22 SLCGP Notice of Funding Opportunity, NCEM hereby awards your organization a grant in the amount shown above to complete the approved project during the designated period of performance.

**Conditions:** Subrecipient agrees that funds will only be expended to complete the approved project not to exceed the funding amount for the project during the designated period of performance. Subrecipient also agrees to comply with all terms, conditions and responsibilities specified in the forthcoming Memorandum of Agreement (MOA), and to comply with all applicable federal, state, and local laws, and rules and regulations in the performance of this grant. <u>Indirect costs are not authorized under this award.</u>

**Supplanting:** Subrecipient confirms that these grant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for cybersecurity activities.

**Payment of funds**: The grant shall be effective upon final approval and execution of the corresponding MOA by Subrecipient and NCDPS / NCEM. Grant funds will be disbursed upon receipt of acceptable documentation submitted by Subrecipient that funds have been invoiced, products or services received, and proof of payment is provided. Reimbursements will be made in conjunction with the timely submission of required reports by Subrecipient as specified in the MOA.

**Required Documents/Forms**: Subrecipient must submit the following <u>documents</u> to: <u>slcgp@ncdps.gov</u>. This is not required if Subrecipient has previously submitted these documents for this or any other NCDPS / NCEM grant; however, if any of these documents are not current, Subrecipient must submit updated document(s):

- W-9 (09 NCAC 03M .0202)
- Payment / Vendor Verification Form
- Sworn (Notarized) No Overdue Tax Debt Certification (G.S. 143C-6-23.(c))
- Conflict of Interest Policy (G.S. 143C-6-23.(b))
- Copy of Subrecipient's procurement policy

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Please provide your Unique Entity ID (<u>sam.gov</u>): \_\_\_\_\_

In the box below, list the names & emails authorized as subrecipient signatories for the above-referenced MOA in the preferred order of signature & receipt, and return within 10 days. <u>Denote which signatory represents Finance</u>. Append "cc" to designate copy-only.

Example: John Smith (john.smith@yahoo.com) Finance Drew Eggers (drew.eggers@watgov.org)

Mary Jones (mary.jones@hotmail.com) Samantha Jones (samantha.jones@watgov.org) Finance

Sam Brown (s.brown@gmail.com) cc



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#### **AGENDA ITEM 10:**

#### PARKS AND RECREATION OUT-OF-STATE TRAVEL REQUEST

#### **MANAGER'S COMMENTS:**

Ms. Keron Poteat, Parks and Recreation Director, will request the Board approve out-of-state travel for her to serve on the Games Management Team for Special Olympics North America's Tennis and Pickleball Championships, held annually in Hilton Head, SC.

Ms. Poteat will serve as the SONA Tournament Coordinator for Pickleball. Locally, six Special Olympics athletes and four unified partners will attend and compete at the 2023 Special Olympics North America's Tennis and Pickleball Championships.

Board action is required to approve the out-of-state travel.





## WATAUGA COUNTY PARKS&RECREATION

231 Complex Drive • Boone, NC 28607 Phone:(828) 264-9511 Fax:(828) 264-9523



www.wataugacounty.org

#### $M \in M O$

То:

Matauga County Commissioners & County Manager

From: Keron J. Poteat, Director, Watauga County Parks & Recreation

Date: August 29, 2023

Subject:

Out-of-State Travel Authorization

I am honored to serve on the Games Management Team for Special Olympics North America's Tennis and Pickleball Championships, held annually in Hilton Head, SC. The tennis portion of this event has been ongoing for almost 30 years. This year, the tournament will add pickleball to the competition.

I am requesting travel approval to serve as the SONA Tournament Coordinator for Pickleball. In addition to my role in assisting with the development, rules, and implementation of the tournament, I will also be responsible for coordinating the Unified Experience component. Unified Competition combines partners in the community, like you and me, with our Special Olympics athletes. The athlete and unified partner play side-by-side as equal partners.

Locally, six Special Olympics athletes and four unified partners will attend and compete at the 2023 Special Olympics North America Tennis and Pickleball Championships.

Thank you in advance for your consideration.

## Watauga County Travel Authorization and Travel Advance Request

Date 8.29.23 Budget Account Number
------------------------------------

Name: Keron	J Poteat	Title: Director	· · · · · · · · · · · · · · · · · · ·	Department: Watauga County Parks and Recreation
Destination:	<del></del>	Meeting Dates:	···-	watanga County Larks and Recreation
	=====	October 10-October 1	15, 2023 (See attached	schedule)
If yes, Boar	state travel? Yes No d of County Commissioners equired and must be signed by	Departure Date: Octo	ber 10, 2023	Return Date: October 15, 2023
the County iv.	iditaget.	Time: 8 AM or PM		Time: 2 AM or PM
Purpose of Tr Special Olyn			nip (Games Manageme	ent Team – SONA Tournament Coordinator)
Overnight Ac	ccommodations Required?	x Yes No	Rate per night/pe	rsonProvided by SONA
Name of Hote	el/Motel			Government Discount
Method of Tr	ansportation:			
Cost \$0_		X Personal Vehicl	eAir	County Vehicle (Van, Truck)
Other				
		E	xplanation	
	Aborem Caralles Services Assessment	simuled 4Expenses		Tio <u>ris</u>
	* REGISTRATION FEES: Please indicate meals and/o	r banquets	0.01	·
	included in registration fee  MEALS:	Breakfast	\$0† \$6:1	\$0†
	HEALO.	Lunch	\$8 ‡	\$
		Dinner	\$ 14	\$
	* LODGING:	Single Rate	\$ x	Provided
	* Other			
		Total		\$ 0
	* Receipts Required for Reim	bursement		
	pecial Olympics North America only. No monetary compensation		tauga County will cove	er all fees associated with travel. Request
	quested in advance:	If settlement has not		I believe this trip to be necessary and
Yes	No Amount \$	advance within 20 completion of trave		beneficial to Watauga County and funds were provided for this purpose in this
Form is Math	ematically Correct:	amount to be deduc		departments appropriate budget account.
Yes	Approved as corrected	paycheck.		Department Head or County Manager
_ 143				Department Head of County Manager
Finance Staff	7	Employee	plant	County Manager (Out of State Travel)
		August 29, 2023		
Date		Date		Date



Tuesday, Oct 10

Pickleball and Tennis Day of Volunteers

5:00 - 5:45 PM

Unified Experience Partner Training

5:45 - 7 PM

Volunteer Meeting, Shirt distribution

Van Der Meer Shipyard Conf. Room

Van Der Meer Shipyard Conf. Room

Thursday, Oct 12

7 AM

Set - UP

Registration

11:30 AM - 12:30 PM

10:30 AM

Lunch

1 -2 PM

Pro Clinics - Athlete

2:30 - 4:30 PM

Unified Experience

5:30 - 6:30 PM

Welcome Picnic

6:45 PM

Opening Ceremony

7:30 PM

Pro Exhibition

Van Der Meer Porch -Shipyard

Palmetto Dunes PP Courts

Palmetto Dunes PP Courts

Palmetto Dunes

Palmetto Dunes

Palmetto Dunes

VDM Shipyard Court 12

VDM Shipyard Court 12

Friday Oct 13

11 AM- 12 PM

12:30 PM

Lunch

Check-in at PD

1 PM - 3:30 PM

Divisioning Round Robin

3:30 PM - 5 PM

Divisioning Round Robin Unified Doubles

7 PM

Dinner and Dance

Palmetto Dunes

Palmetto Dunes

Palmetto Dunes PP Courts

Palmetto Dunes PP Courts

TBA

Saturday Oct 14

11 AM- 12 PM

Lunch

Palmetto Dunes

1 PM - 2:30 PM

Competition Round Robin Doubles Play

Palmetto Dunes PP Courts

2:30 PM - 4 PM

Competition Round Robin Unified Doubles

Palmetto Dunes PP Courts

4:30 PM

Awards

Palmetto Dunes



#### Roles

SONA Liaison: Craig Pippert
SONA Tournament Coordinator: Keron Poteat

SONA Competition Director: Nancy Hoekstra

SONA Tournament Assistants: Crystal Smith, Lamar Scott

PPR Liaison:
USAP Liaison:
Meal Coordinator:
Officials Chief Referee:
Coaches Meetings:
Julie Jilly
Hope Tolley
Kathy Cramer
Christine Cole
Nancy Hoekstra

Registration: Kelly Garrick, SO-SC

Awards: Kelly Garrick, SO-SC

Tournament Desk: Bill Brown

Tournament Desk Asst.: Valerie Brown

Unified Experience Coordinator: Keron Poteat/Lamar Scott

Volunteer Manager: Stephanie Smith

Field of Play Manager PD Staff (Will check with John)

### Venue Needs:

- √ 8 Courts
- ✓ Outdoor Pickleballs and practice balls
- ✓ Score sheets SONA
- ✓ Clipboards, pencils SONA
- ✓ Tournament Tent Area 8
- ✓ Table & Chairs Area 8
- ✓ Results Board
- ✓ Tournament office SONA
- ✓ Staging area
- ✓ Medical tent
- ✓ Ice/water SONA

### Volunteers Needs

- ✓ Ball persons
- ✓ Volunteer officials
- ✓ Tournament Desk
- ✓ Volunteer Desk
- ✓ Unified Experience players
- ✓ Staging/Escorts
- ✓ Lunch Helpers
- ✓ Registration Helper

Set-up/Take down

Awards

Check-in Helpers

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#### **AGENDA ITEM 11:**

#### **EMERGENCY SERVICES MATTERS**

A. Proposed Priority Dispatch Renewal

#### **MANAGER'S COMMENTS:**

Mr. Will Holt, Emergency Services Director, will request the Board approve the renewal of the Priority Dispatch software license in the amount of \$18,000. The cost of this software is 100% funded by 911 surcharge funds.

Board action is required to award the renewal contract with Priority Dispatch software license in the amount of \$18,000.



## **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



#### Fire Marshal ♦ Emergency Management ♦ Communications

August 3, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager

Samantha Jones, Finance Director Anita Fogle, Clerk to the Board

Subject: Priority Dispatch License Renewal

Board of Commissioners,

Please consider my request for \$18,000 for the renewal of the Priority Dispatch software license. This suite of programs is used for call processing of Fire, EMS and Law Enforcement calls with a nationally recognized list of questions that allow for standardization and prioritization of emergency calls. It is also important to note that this set of questions is required by the State for medical emergencies, although the State does not require this specific vendor. This is a renewal of the current license in place and covers all three disciplines in the suite. The cost of this software is 100% funded by 911 surcharge funds.

Respectfully,

Will Holt ES Director



## **QUOTE**

110 Regent Street, Suite 500 Salt Lake City, UT 84111 USA

www.prioritydispatch.net Prepared By: Laura Trickett Phone: (800) 363-9127

Direct:

Email: laura.trickett@prioritydispatch.net

Bill To:

Watauga County Communications 184 HODGES GAP RD STE D BOONE, North Carolina 28607-8635 United States Agency ID#:
Quote #:
Date:
Offer Valid T

Agency:

Date: Offer Valid Through: Payment Terms Watauga County Communications

7953 Q-67926 8/3/2023 11/25/2023 Net 30

Currency: USD

Ship To:

Watauga County Communications 184 HODGES GAP RD STE D BOONE, North Carolina 28607-8635 United States

Product	Discipline	Qty	Amount
Priority Dispatch System ESP EMD/EFD  License Renewal, Service & Support for ProQA, AQUA, Cardsets, Tech Support, and Upgrades		5	USD 12,000.00
Priority Dispatch System ESP EPD  License Renewal, Service & Support for ProQA, AQUA, Cardsets, Tech Support, and Upgrades		5	USD 6,000.00

Subtotal	USD 18,000.00
Estimated Tax	
Total	USD 18,000.00

Customer Signature:	Date:	
Customer Name:	Purchase Order ID:	
Expiration Date:		

#### **TERMS AND CONDITIONS**

This quote is valid for 120 days from date of issue. All prices quoted are exclusive of any applicable taxes, duties, or government assessments relating to this transaction, which are the sole obligation of Buyer. You can find it here: https://prioritydispatch.net/licensing/

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#### **AGENDA ITEM 11:**

#### **EMERGENCY SERVICES MATTERS**

B. Proposed Hyper-Reach Contract

#### **MANAGER'S COMMENTS:**

Mr. Holt will request the Board approve the renewal of the contract with Asher Group for the use of Hyper-Reach. The software is the County's current emergency mass notification system which integrates subscribers and IPAWS functionality into one system. Funds have been budgeted for this request.

Board action is required to approve the renewal in the amount of \$12,000 per year for three years with Asher Group for Hyper-Reach.



## **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



#### Fire Marshal ♦ Emergency Management ♦ Communications

August 8, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager

Samantha Jones, Finance Director Anita Fogle, Clerk to the Board

Subject: Hyper-Reach Contract

Board of Commissioners,

Please consider my request to renew the contract with Asher Group for the use of Hyper-Reach. This software is our current emergency mass notification system which integrates subscribers and IPAWS functionality in one system. Funds have been budgeted for this request.

Respectfully,

Will Holt ES Director

## Hyper-Reach • »)

090523 BCC Meeting

the power of instant communication

## Asher Group Services Agreement for Hyper-Reach<sup>TM</sup> Customers

This agreement is made between **Asher Group**, 3300 Monroe Avenue, Suite # 317,

Rochester, NY 14618, and **Watauga County, NC,** 184 Hodges Gap Road, Boone, NC 28607 ("**Customer**"). (To include the towns of Boone & Blowing Rock.)

Whereas Asher provides mass emergency notification services ("Services") and will make Services available to Customer under the following terms and conditions:

#### 1) Services

Services are described in Exhibit A – Description of Services. Services shall be available as described in Section 3 below.

#### 2) Cost of Services

Services provided to Customer shall be billed according to the pricing schedule: See Exhibit B - Cost of Services.

#### 3) Service Availability

Services shall be available 24 hours a day, 7 days a week, except for: (i) planned downtime ("Scheduled Downtime") for which Asher shall provide a minimum of 8 hours prior notice and shall normally but not necessarily schedule within the interval from 6:00 p.m. Friday to 3:00 a.m. Monday, Eastern Time) or (ii) any unavailability caused by circumstances beyond Asher's reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems, internet service provider failures or delays, or denial of service attacks ("Emergency Downtime"), and (iii) software or other failures which interrupt services. In the case of such failures, Asher warrants that it will use its best commercially reasonable efforts to correct such failures as quickly as possible.

#### 4) Limited Warranty; Disclaimers of Warranty

Asher represents and warrants that the Services, under normal operation and when used as authorized herein, will perform substantially in accordance with the Description of Services during the Term.

Asher's sole obligation and Customer's exclusive remedy for any breach of the above warranty is limited to Asher's commercially reasonable efforts to correct the non-conforming Services at no additional charge to Customer. Save as specifically set out herein, Asher will not be responsible for any incidental, special or consequential damage sustained or suffered by Customer in any way arising out of or referable to Services provided under this Agreement, so long as such damages were not caused by wrongful misdoing or gross negligence on the part of Asher.

EXCEPT AS WARRANTED IN THIS SECTION, ASHER HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS AND IMPLIED, ORAL OR IN WRITING, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, ASHER MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM.

#### 5) Payments

All charges shall be paid to Asher within 30-day terms, net from date of invoice. Any overdue invoice shall be subject to a one and one-half percent (1.5%) late charge for each full or part month (on a prorated basis) during which payment is outstanding. Upon request by Customer, Asher shall promptly provide written details for any such amounts that are in dispute ("Disputed Amounts"), which such Disputed Amounts shall only be subject to late charges in accordance with the following provision. In the event it is determined any Disputed Amounts are due and payable, Customer shall promptly remit such payment, including late fees from the time in which fees were confirmed in writing and the date in which Asher received payment for such fees in full (on a prorated basis). Both parties agree to use commercially reasonable efforts to resolve any Disputed Amounts within thirty (30) business days of Customer first being invoiced.

#### 6) Force Majeure

Any delay in the performance of any duties or obligations of either party will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, severe weather, malicious computer or internet virus, worm, attack, hack, or any other event not reasonably foreseeable by, and beyond the control of a party, provided that such party uses commercially reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

#### 7) Term and Termination

The Services shall be deemed to start on the date the Customer is authorized to "go live" with the Services for production purposes, (the "Start Date"), and shall continue for a minimum of **36** months thereafter (the "Initial Term"), and then indefinitely until terminated in accordance with the provisions hereof (the "Term").

- 7.1 After the Initial Term and each subsequent term, this Agreement shall automatically renew for an additional period of 12 months ("Renewal Term"). Either party may terminate the Agreement for convenience upon ninety (90) days prior written notice of the Renewal Term, but not before all amounts due are fully paid.
- 7.2 Either party may suspend or terminate the Services or the Agreement upon a material breach of the Agreement by the other party if such breach is not cured within fifteen (15) days after receipt of written notice.

7.3 In the event that either party becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated as bankrupt or insolvent, commences a case under applicable bankruptcy laws, or files a petition seeking reorganization, the other party may choose to terminate the Agreement immediately upon written notice.

7.4 If this Agreement is terminated for any reason, (a) within thirty (30) days Customer shall pay Asher all fees accrued for the Services prior to the date of termination; (b) Customer's right to access and use the Services shall be revoked and be of no further force or effect; and (c) all provisions in the Agreement, which by their nature are intended to survive termination shall so survive.

#### 8) Default

Upon default of payment, but subject to the provisions for Disputed Amounts in Section 5 above, Asher reserves the right to discontinue further Service to Customer. Regardless of the foregoing, Asher must provide written notice to Customer of any such failure to make payment and provide Customer not less than 30 days to cure such default. Asher is not responsible for any damages to Customer resulting from such suspension, discontinuation or termination of service, so long as the 30-day cure period has been granted to Customer.

#### 9) Confidentiality

Each party expressly acknowledges and understands that it may have access to Confidential Information belonging to the other party.

- 9.1 "Confidential Information" means all information that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, or (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, or (c) is disclosed in a manner whereby the disclosing party reasonably communicated, or the receiving party should reasonably have understood, that the information is considered by the disclosing party to be confidential, whether or not the specific designation "confidential" or any similar designation is used, including, without limitation, all reports, information and data in whatever form, regarding a disclosing party's sales, customers and prospects, usage statistics, product pricing, business plans, suppliers, costs, operations, trade secrets, strategies, know-how, source code, obfuscated code, and object code.
- 9.2 Notwithstanding the previous sentence, "Confidential Information" does not include any information which (a) at the time of disclosure or thereafter is generally available to and known by the public other than as a result of an improper disclosure directly or indirectly by the receiving party; (b) was or becomes available to the receiving party on a non-confidential basis from a source other than the parties hereto provided that such source is not at the time of disclosure bound by a confidentiality or other nondisclosure agreement with either of the parties hereto or is not otherwise prohibited from transmitting the information to the receiving party by a contractual, legal or fiduciary obligation; or (c) the receiving party can demonstrate is independently acquired or developed by the receiving party without violating any of the receiving party's obligations under this Agreement.
- 9.3 Each party as a receiving party agrees that the Confidential Information disclosed to it by the disclosing party (a) will be kept confidential by the receiving party, its affiliates, and their respective

directors, officers, employees, agents, consultants, advisers, or other representatives, including legal counsel, accountants and financial advisers ("Representatives") and (b) without limiting the foregoing, will not be disclosed by the receiving party or the receiving party's Representatives to any person except with the specific prior written consent of the disclosing party, or except as expressly otherwise permitted by the terms of this Agreement. Each receiving party further agrees that the receiving party and the receiving party's Representatives will not copy, use or disclose any of the Confidential Information for any reason or purpose other than as expressly authorized herein.

#### 10) Governing Law and Arbitration

This Agreement will be governed by and construed in accordance with the laws of the State of New York. Any dispute between the parties arising out of or related to this Agreement will be resolved by three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association in New York. An arbitrator shall be selected by each of the parties (which arbitrator shall have no direct or indirect interest in or relationship to the parties) and the two arbitrators selected by the parties shall select a third mutually agreeable arbitrator. The parties shall each pay one-half (1/2) of the costs and expenses of the arbitrators and each shall separately pay its respective counsel fees and expenses. The decision and award of the arbitrators will be final and binding and the award so rendered may be entered in any court having jurisdiction of the matter.

#### 11) Notice

All notices and communications required or permitted under this Agreement shall be in writing and shall be delivered in person, sent by overnight delivery, or sent via email, with confirmation of receipt, to the addresses and email addresses set forth below, or to any other address, as such party will designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section will be deemed received if personally delivered, then on the date of delivery, if by overnight delivery or email, on the date of confirmation of receipt.

If to Asher:

Attn: Samuel Asher

Email Address: support@ashergroup.com

Physical Address: Sam Asher Computing Services, Inc.

3300 Monroe Avenue, Suite # 317

Rochester, NY 14618

If to Customer: Watauga County, NC

Attn: Mr. Will Holt

Email Address: will.holt@watgov.org

Physical Address: 184 Hodges Gap Road, Boone, NC 28607

#### 12) Relationship of the Parties

Nothing contained herein will be deemed to create a partnership, joint venture, agency or employment relationship between the parties hereto. Neither party is authorized to enter into any contract or commitments on behalf of the other, or assume any obligation for, or otherwise bind the other party financially or otherwise, nor will it represent that it has such authority. Each party is acting hereunder as an independent contractor.

#### 13) Taxes

Client shall pay all applicable sales, use and value added taxes (local, state, county, federal or national).

#### 14) Assignment

Except as expressly stated otherwise in this Agreement, neither party may assign, delegate, sublicense or otherwise transfer any rights or duties under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the above, either party may assign this Agreement to (i) an entity that purchases all or substantially all of the assets or a distinct business line (or operating unit) of such party, a third party that such party will be merged into pursuant to a merger, or a third party in connection with a corporate reorganization; or (ii) a parent, affiliate or subsidiary of such party whereby such parent, affiliate or subsidiary is at least in 50% (fifty percent) common interest with one another. Any assignment shall be proceeded by notice of the assignment provided to the other party at least 5 days prior to the consummation of the applicable transaction. Any attempted assignment, delegation, sublicense or other transfer by either party in violation of this Agreement shall have no force or effect.

#### 15) Waiver

None of the terms of this Agreement will be deemed to be waived or modified except by an expressed Agreement in writing signed by both parties. The failure of a party hereto in enforcing any of its rights under this Agreement will not be deemed a continuing waiver or modification by such party of any of its rights under this Agreement.

#### 16) Severability

If any provision of this Agreement is for any reason declared to be invalid, the validity of the remaining provisions will not be affected thereby.

#### 17) Entire Agreement

This Agreement constitutes the entire agreement between parties. No alteration or amendment shall be effective unless in writing and executed by both parties. In particular, no oral statement or representation made by either party or any representation shall be effective unless reduced to writing and incorporated into this Agreement.

#### 18) Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original of this Agreement; and all of which when taken together, shall be deemed to constitute one and the same instrument.

The parties further agree to be bound by a facsimile or an electronic scanned copy of their respective signatures.

IN WITNESS WHEREOF this Agreement has been executed by the parties as of the day and date first written above.

Asher	Asher Customer
	Signature
I have authority to bind the corporation	I have authority to bind the corporation
Print Name	Print Name
Title	Title
Date	Date

#### **Exhibit A - Description of Services**

#### 1) Service

Provide access to Hyper-Reach notification system, which enables the Client to instantly send messages via multiple channels to any number of recipients. Hyper-Reach service will commence on the activation date indicated below, or two (2) weeks after the signing of this agreement and receiving set up data. The system will be available to the Client 24 hours a day, seven (7) days a week from and after that date.

#### 2) Deliverables

- Access to Hyper-Reach website for account creation and management, contact list management, and reviewing reports.
- Access to the Hyper-Reach IVR system to initiate campaigns, record messages and review reports.
- Access to the Hyper-Reach Launch App via iOS or Android device
- Access to the Accu-Reach Targeting Tool with Google maps
- Access to IPAWS (WEA from cell towers)

#### • Automated Weather Alerts

#### 3) Performance

The system can make up to seven (7) attempts (if necessary) to contact each recipient. The system is currently scaled to deliver over 100,000 messages per hour, and over 100,000 SMS (text) per hour.

#### Exhibit B - Cost of Services

Services provided to Client shall be billed according to the following:

Service	Cost	Description
Standard Notification System	Included with Package Pricing	Includes web access, maintenance, security, upgrades, and web training.
Automated Weather Alerts	Included with Package Pricing	Automated service to alert the public of severe weather warnings.  (based on community signup)
Mapping	Included with Package Pricing	Google maps integrated with landline phone data and GIS mapping.
IPAWS functionality	Included with Package Pricing	Functionality will be activated once Client is certified by FEMA and Hyper-Reach has your credentials.

On-Site Training (1/2 day) (OPTIONAL)	\$600 (plus travel)	Up to 4 hours of in-person training.
	Package Pricing	
Emergency Mass Notification 3 yr Contract	<b>\$12,000</b> per year for 3 years	Package Includes:  Hyper-Reach Community Signup IPAWS alerts Automated Weather Alerts (based on community signup) Accu-Reach Targeting Tool Web Training Marketing Support Unlimited minutes

Renewal Date: <u>11/1/2023</u>

#### **AGENDA ITEM 11:**

### **EMERGENCY SERVICES MATTERS**

C. Proposed Easement

#### **MANAGER'S COMMENTS:**

Mr. Holt will request the Board approve an easement agreement for access to Watauga County property utilizing Hidden Pond Road. This easement will be utilized for accessing the proposed public safety radio tower to be constructed at the transfer station property. The County Attorney has reviewed the document as presented.

Board action is required to approve the easement agreement to allow access to County property via Hidden Pond Road.



## **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



#### Fire Marshal ♦ Emergency Management ♦ Communications

August 8, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager Samantha Jones, Finance Director

Anita Fogle, Clerk to the Board

Subject: Easement Approval

Board of Commissioners,

Please consider my request to approve the proposed easement agreement for access to Watauga County property utilizing Hidden Pond Road. This easement will be utilized for accessing the proposed public safety radio tower to be constructed at the transfer station property. The owner is amenable to the terms proposed which are comparable to other similar leases or easement agreements we have in place for this purpose.

Respectfully,

Will Holt ES Director CROSS REFERNCE TO PLAT BOOK 29 PAGE 258 (SHEETS 1-6); BOOK OF RECORDS 1998 PAGE 535; BOOK OF RECORDS 2141 PAGE 703; BOOK OF RECORDS 168 PAGE 69; BOOK OF RECORDS 150 PAGE 149

#### STATE OF NORTH CAROLINA

#### EASEMENT AGREEMENT

#### **COUNTY OF WATAUGA**

This Easement Agreement, made this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 2023 by and between Robert Kevin Stack, herein referred to as "Stack"; Fouad M. Hatem and Samera Hatem, herein referred to as "Hatem"; Christopher Matthew Parker and Marie Antoinette Hatem Parker, herein referred to as "Parker" and Watauga County, a North Carolina Corporate Body Politic chartered by the State of North Carolina, herein referred to as "Watauga".

#### **BACKGROUND STATEMENT**

**WHEREAS**, Stack is the owner of property pursuant to a deed recorded at Book of Records 1998 at Page 535 of the Watauga County Register of Deeds Office; and

**WHEREAS**, Hatem and Parker are the owners property pursuant to a deed recorded at Book of Records 2141 at Page 703 of the Watauga County Register of Deeds; and

WHEREAS, Watauga is the owner of property pursuant to deeds recorded at Book of Records 168 at Page69 and Book of Records 150 at Page 149 of the Watauga County Register of Deeds Office; and

Prepared by: di Santi Capua & Garrett, PLLC P. O. Box 193, 642 West King Street, Boone, NC 28607 **WHEREAS,** the properties of Stack, Hatem, Parker and Watauga are shown on a plat recorded at Plat Book 29 at Page 258 (Sheets 1-6) of the Watauga County Register of Deeds Office; and

WHEREAS, Watauga needs an easement of ingress, egress and regress from Brown's Chapel Road (NCSR No. 1513) by virtue of Hidden Pond Lane to its property described herein to access, install, construct, maintain, service and repair communication towers for emergency services for the general public which easement Stack, Hatem and Parker are willing to grant to Watauga, subject to the terms and conditions of this Easement Agreement.

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, the receipt and adequacy of which is acknowledged by Stack, Hatem, Parker and Watauga to be full and adequate consideration to support this Easement Agreement, Stack, Hatem, Parker and Watauga agree as follows:

- 1. **Grant of Easement**. Stack, Hatem and Parker hereby grant to Watauga an easement for ingress, egress and regress of sufficient width to access, install, construct, maintain, service and repair communication towers for emergency services for the general public on its property described herein. All expenses associated with installation, construction, "base line" maintenance are the responsibility of Watauga.
- 2. <u>Maintenance and Repair of Hidden Pond Lane</u>. Watauga agrees that it will provide "base line" maintenance of Hidden Pond Lane from Browns Chapel Road (NCSR No. 1513) to its property described herein. "Base Line" maintenance shall consist of:
- a. An annual inspection by County Staff to assess road condition and assure annual "base line" maintenance as necessary;
  - b. Maintenance of the current road width;
  - c. Grading to include crowning the road and maintenance of the ditching;
  - d. A six (6) inch gravel road base.
- e. The effective date of beginning road maintenance will be upon completion of construction of the tower.
- 3. <u>Binding Agreement</u>. This Easement Agreement shall be binding upon Stack, Hatem, Parker and Watauga, their heirs, successors or assigns and shall be an easement appurtenant for the benefit of Watauga's property described herein.

Prepared by: di Santi Capua & Garrett, PLLC P. O. Box 193, 642 West King Street, Boone, NC 28607

,	day and year stated herein
	(SEAL)
	Robert Stack
state of North Carolina	
tate of North Caronna	
County of	
cknowledging to me that he vo	on, Robert Stack, personally appeared before me this day oluntarily signed the foregoing document for the purpose y indicated.
	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he vo	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he votated therein and in the capacity  Date:	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he vo	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he votated therein and in the capacity	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he votated therein and in the capacity	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he vo	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he votated therein and in the capacity  Date:	oluntarily signed the foregoing document for the purpose y indicated.
cknowledging to me that he votated therein and in the capacity  Date:	oluntarily signed the foregoing document for the purpose y indicated.

	(SEAL)
	Fouad M. Hatem
	(SEAL)
	Samera Hatem
State of North Carolina	
County of	
appeared before me this day, ea	ons, Fouad M. Hatem and Samera Hatem, personally ach acknowledging to me that he and she voluntarily for the purpose stated therein and in the capacity
Date:	
(Official Seal)	Print Name:

Prepared by: di Santi Capua & Garrett, PLLC P. O. Box 193, 642 West King Street, Boone, NC 28607

		(SEAL)
	<b>Christopher Matthew Parker</b>	
		(SEAL)
	Marie Antoinette Hatem Parl	ker
State of North Carolina		
County of		
Hatem Parker, personally appeared	, Christopher Matthew Parker and Mar I before me this day, each acknowledg going document for the purpose stated	ing to me that
Date:	Print Name:	
(Official Seal)	My Commission expires:	
	di Santi Capua & Garrett, PLLC 2 West King Street, Boone, NC 2860'	7

	Watauga County, a North Carolina corporate body politic
	By: Larry Turnbow, Chair of the Watauga County
Attest:	<b>Board of County Commissioners</b>
Anita Fogle, Clerk to the Board of County Commissioners	
(CORPORATE SEAL)	
STATE OF NORTH CAROLINA	, COUNTY OF WATUAGA
for the County of Watauga, North Casaid County, the foregoing instrumed County Commissioners and attested signatory acknowledged to me that spurpose stated therein and in the cap	wledged that she is the Clerk to the Board of Commissioners arolina, and that by authority duly given and as the act of nt was signed in its name by the Chair of the Board of by her as Clerk to the Board of Commissioners. The she voluntarily signed the foregoing document for the pacity indicated.  I stamp or seal, this the day of, 2023.
	Notary Public
	Print: Name:
	My Commission Expires:
ASD/Clients/Watauga County/Hidden Pond Lane/204/	2506
2 2	: di Santi Capua & Garrett, PLLC 42 West King Street, Boone, NC 28607

#### **AGENDA ITEM 11:**

#### **EMERGENCY SERVICES MATTERS**

D. Proposed AED Purchase

#### **MANAGER'S COMMENTS:**

Mr. Holt will request the approval of the purchase of nine (9) Zoll AED Plus Defibrillators with accessories and cabinets for \$17,855.12. The AEDs will be placed throughout County buildings in pre-identified locations for use in case of sudden cardiac arrest with any staff or visitors to our facilities. The equipment is compatible with equipment currently used by County fire departments and EMS transport agencies. Funds have been budgeted for this request.

Board action is required to approve the purchase of nine (9) Zoll AED Plus Defibrillators with accessories and cabinets for \$17,855.12.



# **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



#### Fire Marshal ♦ Emergency Management ♦ Communications

August 8, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager

Samantha Jones, Finance Director Anita Fogle, Clerk to the Board

Subject: AED Purchase

Board of Commissioners,

Please consider my request to purchase nine (9) Zoll AED Plus Defibrillators with accessories and cabinets for \$17,855.12. These AEDs will be placed throughout County buildings in pre-identified locations for use in case of sudden cardiac arrest with any staff or visitors to our facilities. The equipment is compatible with equipment currently used by our fire departments and EMS transport agencies. Funds have been budgeted for this request.

Respectfully,

Will Holt ES Director



ZOLL Medical Copporationeting

269 Mill Road Chelmsford, MA 01824-4105 Federal ID# 04-2711626

> Phone: (800) 348-9011 Fax: (978) 421-0015 Email: esales@zoll.com

Quote No: Q-50626 Version: 4

Watauga County Emergency Services 184 Hodges Gap Road Suite D Boone, NC 28607

ZOLL Customer No: 111919

William Holt (828) 264-4235 will.holt@watgov.org Quote No: Q-50626 Version: 4

Issued Date: August 8, 2023

Expiration Date: September 30, 2023

Terms: NET 30 DAYS

FOB: Destination Freight: Free Freight

Prepared by: Andrea Jannarone Senior Account Executive ajannarone@zoll.com +1 9195947668

Item	Contract Reference	Part Number	Description	Qty	List Price	Adj. Price	Total Price
1	1339867	20100000102011010	AED Plus® with AED Cover	9	\$2,795.00	\$1,604.54	\$14,440.86
			Includes: LCD screen showing voice prompt messages, device advisory messages, elapsed time, shock count and chest compression bar. Supplied with Public Safety PASS Cover, Softcase, Operator Guide and (5) five year limited warranty.				
2	1339867	8000-0807-01	Type 123 Lithium Batteries, quantity of ten (10) with storage sleeve	9	\$92.00	\$77.67	\$699.03
3	1339867	8000-0815	USB IrDA Adapter	1	\$128.00	\$108.74	\$108.74
4	1339867	8900-0400	CPR Stat-padz HVP Multi-Function CPR Electrodes - 8 pair/case	1	\$716.00	\$587.08	\$587.08
5	1339867	8900-0402	CPR Stat-padz HVP Multi-Function CPR Electrodes - 1 pair	2	\$95.00	\$80.41	\$160.82
6	1339867	8000-0855	Standard Metal Wall Cabinet	9	\$243.00	\$206.51	\$1,858.59

Subtotal: \$17,855.12

Total: \$17,855.12

Contract Reference	Description
1339867	Reflects NASPO 2017 OK-SW-300 contract Pricing. Notwithstanding anything to the contrary herein, the terms and conditions set forth in NASPO 2017 OK-SW-300 shall apply to the customer's purchase of the products set forth on this quote.



**ZOLL Medical Corporation** 

269 Mill Road Chelmsford, MA 01824-4105 Federal ID# 04-2711626

> Phone: (800) 348-9011 Fax: (978) 421-0015 Email: esales@zoll.com

Watauga County Emergency Services Quote No: Q-50626 Version: 4

To the extent that ZOLL and Customer, or Customer's Representative have negotiated and executed overriding terms and conditions ("Overriding T's & C's"), those terms and conditions would apply to this quotation. In all other cases, this quote is made subject to ZOLL's Standard Commercial Terms and Conditions ("ZOLL T's & C's") which for capital equipment, accessories and consumables can be found at <a href="https://www.zoll.com/about-zoll/invoice-terms-and-conditions">https://www.zoll.com/about-zoll/invoice-terms-and-conditions</a> and for software products can be found at <a href="http://www.zoll.com/SSPTC">https://www.zoll.com/SSPTC</a> and for hosted software products can be found at <a href="http://www.zoll.com/SSPTC">http://www.zoll.com/SSPTC</a>. Except in the case of overriding T's and C's, any Purchase Order ("PO") issued in response to this quotation will be deemed to incorporate ZOLL T's & C's, and any other terms and conditions presented shall have no force or effect except to the extent agreed in writing by ZOLL.

1. Delivery will be made upon availability.

Title: Date:

- 2. This Quote expires on September 30, 2023. Pricing is subject to change after this date.
- 3. Applicable tax, shipping & handling will be added at the time of invoicing.
- 4. All purchase orders are subject to credit approval before being accepted by ZOLL.
- 5. To place an order, please forward the purchase order with a copy of this quotation to esales@zoll.com or via fax to 978-421-0015.
- 6. All discounts from list price are contingent upon payment within the agreed upon terms.
- 7. Place your future accessory orders online by visiting www.zollwebstore.com.

Order Information (to be completed by the customer)	
[ ] Tax Exempt Entity (Tax Exempt Certificate must be provi	ded to ZOLL)
[ ] Taxable Entity (Applicable tax will be applied at time of in	voice)
BILL TO ADDRESS	SHIP TO ADDRESS
Name/Department:	Name/Department:
Address:	Address:
City / State / Zip Code:	City / State / Zip Code:
Is a Purchase Order (PO) required for the purchase and/or payme	nt of the products listed on this quotation?
[ ] Yes PO Number: PO	Amount:
(A copy of the Purchase Order must be included	with this Quote when returned to ZOLL)
[ ] No (Please complete the below section when subm	itting this order)
For organizations that do not require a PO, ZOLL requires written warrants that she or he has the authority to bind the party for which	
Watauga County Emergency Services Authorized Signature:	
Name:	-

## **AGENDA ITEM 11:**

# **EMERGENCY SERVICES MATTERS**

E. Letter of Support for Continued Funding for The National Weather Service (NWS)

## **MANAGER'S COMMENTS:**

Mr. Will Holt will request the Board approve the attached letter of support for the continued funding of the National Weather Service.

Board action is required.



# **Watauga County Emergency Services**

184 Hodges Gap Rd, Suite D Boone, NC 28607 Phone 828-264-4235 Fax 828-265-7617



#### Fire Marshal ♦ Emergency Management ♦ Communications

August 31, 2023

**To:** Board of Commissioners

**CC:** Deron Geouque, County Manager Samantha Jones, Finance Director

Anita Fogle, Clerk to the Board

Subject: Letter of Support for the National Weather Service

Board of Commissioners,

Please consider my request to send a letter of support for not reducing the budget of the National Weather Service. The NWS is a vital partner in our local operations and reduced funding will not only potentially their impact to maintain current operations but also impact our efforts to improve weather forecasting capabilities and tools for our County.

Respectfully,

Will Holt ES Director



# County of Watauga

Administration Building, Suite 205 ● 814 West King Street ● Boone, North Carolina 28607

**BOARD OF COMMISSIONERS** 

Larry Turnbow, Chairman Charlie Wallin, Vice-Chairman Todd Castle Braxton Eggers Ray Russell Telephone 828-265-8000 TDD 1-800-735-2962 Voice 1-800-735-8262 COUNTY MANAGER Deron T. Geouque

COUNTY ATTORNEY Anthony di Santi

The Honorable Richard Burr 217 Russell Senate Office Building Washington DC 20510

Senator Thom Tillis (R) The Honorable Thom Tillis G55 Dirksen Senate Office Building Washington DC 20510

The Honorable Virginia Foxx 2262 Rayburn House Office Building Washington, DC 20515

Dear Senator Burr, Senator Tillis, and Congresswoman Foxx:

On behalf of the citizens of Watauga County, I am writing to urge the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee to fund the National Weather Service (NWS) for FY 2024 at no less than the President's FY 2024 budget request of \$1,380,086,000, that includes offsets to account for needed \$40M in Adjustments to Base. In addition, we urge your full support for the other weather-related functions of the National Oceanic and Atmospheric Administration (NOAA).

Strong investments in the NWS and NOAA are critical to support the emergency management community and help save lives and property in the local communities that we serve. With the frequency of severe weather-related events on the rise, we feel strongly that Congress must maintain and grow the NWS workforce, fully support maintenance requirements, and invest in new equipment and technologies to minimize the loss of life and property when natural disasters happen.

NWS provides invaluable support to the emergency management community, allowing us to make critical life-saving decisions to keep our communities safe. Weather and water events cause hundreds of deaths each year and billions of dollars in damage. With improved forecasts and warnings and decision support from NWS, coupled with a well-prepared public that knows how to respond when informed of impending weather and water events, some of the deaths and damage are avoidable.

The funding decisions Congress makes in FY24 will set the stage for FY25 and beyond in terms of if/how NWS will move forward with their transition to eye-to-eye Impact-based Decision Support Services (IDSS) for emergency managers. With strong budgetary support from Congress, NWS has made significant progress over the past several years on many fronts including: IDSS and future improvements,

Advanced Weather Interactive Processing Systems (AWIPs) in the Cloud, Incident Meteorologists (IMET) support for wildfires, co-locating support at Emergency Operations Centers, next generation radar coverage, spot forecasts, the new website, and much more. Now is not the time to lose the momentum Congress has made possible. Transforming the NWS is essential to ensuring its future, and securing FY 24 funding is essential to sustain services and continue the transformation.

I appreciate your attention to this matter.

# **AGENDA ITEM 12:**

# **FINANCE MATTERS**

A. Budget Amendments

# **MANAGER'S COMMENTS:**

Ms. Samantha Jones, Finance Director, will review budget amendments as included in your packet.

Board approval is requested to approve the amendments as presented.



# WATAUGA COUNTY FINANCE OFFICE

814 West King St., Suite 216, Boone, NC 28607 Phone (828) 265-8007

#### **MEMORANDUM**

**TO:** Deron T. Geouque, County Manager

FROM: Finance

SUBJECT: Budget Amendments

DATE: September 1, 2023

The following budget amendment requires the approval of the Watauga County Board of Commissioners. Board approval is requested.

Accou	nt #	<u>Description</u>	<u>Debit</u>	Credit
104330	469901	Foscoe Fire Dist Sales Tax Distribution	39,000	
104330	469903	Fall Creek Fire Dist Sales Tax Distribution	600	
104330	469904	Beaver Dam Fire Dist Sales Tax Distribution	7,500	
104330	469905	Boone Fire Dist Sales Tax Distribution	69,000	
104330	469906	Zionville Fire Dist Sales Tax Distribution	9,100	
104330	469907	Cove Creek Fire Dist Sales Tax Distribution	18,200	
104330	469908	Distribution	26,500	
104330	469910	Meat Camp Fire Dist Sales Tax Distribution	16,500	
104330	469911	Todd Fire Dist Sales Tax Distribution	4,400	
104330	469912	Blowing Rock Fire Dist Sales Tax Distribution	39,200	
104330	469913	Shawneehaw Fire Dist Sales Tax Distribution	10,100	
104330	469919	Creston Fire Dist Sales Tax Distribution	-	
104330	469924	Deep Gap Fire Dist Sales Tax Distribution	14,100	
104330	469998	Distribution	1	
103200	323300	Sales Tax Revenue		254,201

To recognize additional projected sales tax distribution above original budget.

103200	326600	ABC bottle tax		6,000
105890	469848	Blue Ridge Mediation - ABC funds	6,000	

To record additional bottle tax funds received.

243102	312100	Current year taxes Boone		55,000
243102	312101	Current year taxes Foscoe special district		2,800
243102	312108	Current year taxes Shawneehaw special district		1,000
244340	469901	Pay to fire district-Foscoe	2,800	
244340	469905	Pay to fire district-Boone	55,000	
244340	469908	Pay to fire district-Shawneehaw	1,000	
283102	312101	Current year taxes Foscoe		14,700
283102	312106	Current year taxes Zionville		13,200
283102	312107	Current year taxes Cove Creek		29,000
283102	312108	Current year taxes Shawneehaw		7,200
283102	312109	Current year taxes Meat Camp		21,800
283102	312110	Current year taxes Deep Gap		17,400
283102	312111	Current year taxes Todd		5,250
283102	312112	Current year taxes Blowing Rock		22,000
283102	312119	Current year taxes Meat Camp/Creston		500
284340	469901	Pay to fire district-Foscoe	14,700	

284340	469906	Pay to fire district-Zionville	13,200	
284340	469907	Pay to fire district-Cove Creek	29,000	
284340	469908	Pay to fire district Shawneehaw	7,200	
284340	469909	Pay to fire district-Meat Camp	21,800	
284340	469910	Pay to fire district-Deep Gap	17,400	
284340	469911	Pay to fire district-Todd	5,250	
284340	469912	Pay to fire district-Blowing Rock	22,000	
284340	469919	Pay to fire district - Meat Camp/Creston	500	
To recognize a	dditional projec	ted fire tax distribution above original budget.		
293270	312009	Occupancy Tax Revenues		955,800
294140	469900	Watauga County Dist U TDA	9,600	555,555
294140	449900	Administrative Collection Fee	946,200	
To recognize a	dditional projec	ted occupancy tax revenues above original bud	get.	
213991	399101	Fund Balance Appropriation		8,000,000
			9 000 000	8,000,000
219800	498052	Transfer to the VC School Fund	8,000,000	0.000.000
503980 506120	398121 458000	Transfer from Capital Projects Fund Capital Outlay	8,000,000	8,000,000
300120	430000	Capital Outlay	3,000,000	
Recognize Set a	aside amount ir	n Long Term CIP for VC School, remaining amour	nt to be carried forward	for future Bond
503910	391000	Bond Proceeds		31,800,000
503910	391000	Bond Proceeds  Bond Premium		2,997,002
506120	458000	Capital Outlay	34,367,002	2,337,002
506120		•		
	469104	Professional Services - Engineer	245,000	
506120	469103	Professional Services -Archit	185,000	
To recognize be	ond proceeds			
309100	478001	Interest VC School	959,297	
309100	478002	Principal VC School	965,000	
303980	398143	Transfer from Capital Projects Fund		1,924,297
219800	498030	Transfer to Debt service fund	1,924,297	
213991	399101	Fund Balance Appropriation		1,924,297
To transfer fun	ds for the Valle	Crucis debt service		
533839	389420	Opioid settlement		392,147
533839	525405	Opioid settlement disbursements	392,147	,
To record budg	get for opioid se	ettlement funds received in FY 2022 and FY 2023	3	
104960	449919	STRAP grant expenditures	14,600	
103300	344444	STRAP grant	- 1,	14,600
To recognize th	ne STRAP grant			
754400	469163	Representative payee 163	1,425	
754400	469168	Representative payee 168	1,510	
754400	469215	Representative payee 215	616	
754400 754400	469216	Representative payee 215	888	
754400 754400	469223	Representative payee 223	1,698	
754400 754400	469224	Representative payee 224	15,913	
754400 754400	469225	Representative payee 225	7,504	
754400	469226	Representative payee 226	5,085	

753212	369163	Representative payee 163		1,425
753212	369168	Representative payee 168		1,510
753212	369215	Representative payee 215		616
753212	369216	Representative payee 216		888
753212	369223	Representative payee 223		1,698
753212	369224	Representative payee 224		15,913
753212	369225	Representative payee 225		7,504
753212	369226	Representative payee 226		5,085
733212	303220	Representative payee 220		3,003
To recognize ac	ditional funds	for DSS		
104199	469103	Professional services		35,000
104920	463000	EDC appropriation	35,000	
To recognize ac	lditional funds	for HCCOG services		
_				
104500	469843	ROAP grant RGP	73,811	
104500	469844	ROAP grant Work First	16,414	
104500	469845	ROAP grant E&D	104,387	
103300	345000	ROAP Grant		194,612
To recognize th	ie acceptance d	of the NC DOT Rural Operating Assistance Program	funds. No County do	llars are required
as a match.				
105911	470041	Pavement repair	80,000	
105911	470041	•	,	
		Security cameras	50,000	
105911	470036	HVAC and sewer pumps	25,000	
105911	470069	1:1 devices	300,000	
105911	470026	School bus lift replacement	110,000	
105911	470029	Mobile Unit Harding Park	150,000	
103980	398121	Transfer from Capital Projects Fund		715,000
213991	399101	Fund Balance Appropriation		715,000
219800	498010	Transfer to General Fund	715,000	
Per Board actio	n taken 9/20/2	22; to transfer funds for capital needs from the Capit	al Reserve for the Sc	hool System.
523839	389421	Hunger Coalition - roof for Hannah building		263,925
526150	525402	Hannah building roof	263,925	200,323
320130	323402	Turnian banding 1001	203,323	
To recognize	additional fun	ds for the Hannah building the Hunger Coalition is fu	unding over the SCIF	grant proceeds
313839	395123	Fines and forfeitures		50,000
315911	463200	Board of Education	50,000	
To recognize ac	lditional funds	received through fines and forfeitures		
323341	395124	Deeds of trust		25,000
324180	463210	Distributions to NC	25,000	
To recognize ac	ditional deed	of trust fees allocated to the State of NC collected by	Register of Deeds	
213991	399101	Fund Balance Appropriation		3,500,000
219800	498027	Transfer to EMS Capital Project Fund	3,500,000	3,300,000
273980	398121	Transfer to Livis Capital Project Pullu  Transfer from CIP	3,300,000	3,500,000
275980	458000	Capital outlay	3,500,000	3,300,000
2/0120	430000	Capital Outlay	3,300,000	

To move funds set aside for a new EMS building

# **AGENDA ITEM 12:**

# **FINANCE MATTERS**

B. 2023 Carryforward Purchase Orders

# **MANAGER'S COMMENTS:**

Ms. Samantha Jones, Finance Director, will present carryforward purchase orders for 2023.

Board action is required to approve the carryforward purchase orders as presented.

PO#		Descrption	Amount
2023***		Kill Chill	64,139.00
2023***	104199	Proffessional Services - used for pay plan	63,750.00
2023***		Contingency - Used for pay plan	250,000.00
2023***		Cap. Outlay - Bldg	5,053,511.00
2023***		Brkshr Prk Grounds Maint-Paving	75,877.00
2023***		Seperation Allowance Study-Not rec bill	110,000.00
2023***		Capital Outlay Furniture Equip	329,327.00
2023***		Capital Outlay Towers	1,110,842.00
		FAA determination (No Hazard) was received on 6/2.	
		ETS is currently in the process of filing with the FCC.	
		Additionally, the NEPA indicated that an	
		Environmental Assessment would be required prior to	
		any construction.	
		This will be completed once an ASR number is	
2022107		provided by the FCC.	\$4,400.00
2022107		This site is still pending final approval for the access	74,400.00
		road to the tower.	
		Once ETS receives conformation of the final location	
2022157		the NEPA can proceed.	\$2,500.00
2022207		This site is still pending final approval for the access	φ 2/3 3 3
		road to the tower.	
		Once ETS receives conformation of the final location	
2022168		the NEPA can proceed.	\$7,000
2022100		FAA determination (No Hazard) was received on 6/2.	Ψ7,000
		ETS is currently in the process of filing with the FCC.	
		Additionally, the NEPA indicated that an Environmental	
		Assessment would be required prior to any	
		construction.	
		This will be completed once an ASR number is	
2022169		provided by the FCC.	\$3,500.00
2022076		Pending Truck Delivery	\$12,587.22
2023046		Pending Console Installation	\$77,743.14
2023119		Pending for Upfitting	\$43,757.79
2023113		Pending Delivery - Shipped June 2nd	\$82,517.50
2023041		renaing belivery - shipped fulle zha	Ş62,317.30
		The NEPA and FAA determination are in progress.	
		Currently the NEPA is forecasted to be completed in	
		late August.	
		ETS is currently pending approval of the shelter	
2023144		improvement drawings as well as the Tower drawings.	\$23,350.00
2023***		Foster Care Discretionary Fund	2,002.69
2023***		Adult Protective Services	1,417.87
2023***		CPS Discretiionary Fund	2,347.80
2023***		Adoption Promotion Grant	120,798.92
2023***		Access Control System	11,300.00
		-	•

2023***         Brookshire Paving         25,000.00           2023***         HVAC         12,000.00           2023***         Courthouse Cooling Unit         60,000.00           2023***         Acces Control Panel         25,000.00           2023***         Pavement Repairs         128,960.00           2023***         Pavement Repairs         75,000.00           2023041         MOTOROLA INC         67,802.00           2023046         CAROLINA RECORDING SYSTEMS LLC         77,743.14           2023056         VERMONT SYSTEMS INC         10,500.00           2023079         NORTHWEST DRYWALL CO         5,775.00           2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           2023127         CAROLINA GRADING & UTILITIES, INC.         24,485.00           2023128         TK ELEVATOR CORPORATION         1,881.05           2023153         CREEKSIDE ELECTRONICS INC         6,544.00           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023155         NC DEPT	2023***	Chiller Replacement	81,100.00
2023***         Courthouse Cooling Unit         60,000.00           2023***         Acces Control Panel         25,000.00           2023***         Pavement Repairs         128,960.00           2023***         Pavement Repairs         75,000.00           2023041         MOTOROLA INC         67,802.00           2023046         CAROLINA RECORDING SYSTEMS LLC         77,743.14           2023056         VERMONT SYSTEMS INC         10,500.00           2023079         NORTHWEST DRYWALL CO         5,775.00           2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023091         PADCO EXCAVATING INC         4,242.08           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           2023124         FREEDOM ELECTECH         2,500.00           2023125         TK ELEVATOR CORPORATION         1,881.05           2023126         TK ELEVATOR CORPORATION         1,881.05           2023153         CREEKSIDE ELECTRONICS INC         6,544.00           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023158         PADCO E	2023***	Brookshire Paving	25,000.00
2023***       Acces Control Panel       25,000.00         2023***       Pavement Repairs       128,960.00         2023***       Pavement Repairs       75,000.00         2023041       MOTOROLA INC       67,802.00         2023046       CAROLINA RECORDING SYSTEMS LLC       77,743.14         2023056       VERMONT SYSTEMS INC       10,500.00         2023079       NORTHWEST DRYWALL CO       5,775.00         2023084       CHARLOTTE SCALE COMPANY INC       219,910.00         2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023128       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023158       PADCO EXCAVATING INC       139,255.65         2023169       K & K SPORTS, INC.       2,310.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172 <t< td=""><td>2023***</td><td>HVAC</td><td>12,000.00</td></t<>	2023***	HVAC	12,000.00
2023***         Pavement Repairs         128,960.00           2023***         Pavement Repairs         75,000.00           2023041         MOTOROLA INC         67,802.00           2023046         CAROLINA RECORDING SYSTEMS LLC         77,743.14           2023056         VERMONT SYSTEMS INC         10,500.00           2023079         NORTHWEST DRYWALL CO         5,775.00           2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           20231224         FREEDOM ELECTECH         2,500.00           2023125         TK ELEVATOR CORPORATION         1,881.05           2023126         TK ELEVATOR CORPORATION         1,881.05           2023153         CREEKSIDE ELECTRONICS INC         6,544.00           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023155         NC DEPT OF PUBLIC SAFETY         5,695.00           2023156         NC DEPT OF PUBLIC SAFETY         5,695.00           2023163         K & K SPORTS, INC.         2,310.00           2023171         TRIP	2023***	Courthouse Cooling Unit	60,000.00
2023***         Pavement Repairs         75,000.00           2023041         MOTOROLA INC         67,802.00           2023046         CAROLINA RECORDING SYSTEMS LLC         77,743.14           2023056         VERMONT SYSTEMS INC         10,500.00           2023079         NORTHWEST DRYWALL CO         5,775.00           2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023091         PADCO EXCAVATING INC         4,242.08           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           20231224         FREEDOM ELECTECH         2,500.00           2023125         CAROLINA GRADING & UTILITIES, INC.         24,485.00           2023126         TK ELEVATOR CORPORATION         1,881.05           2023135         TK ELEVATOR CORPORATION         1,881.05           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023155         CREEKSIDE ELECTRONICS INC         6,544.00           2023156         NC DEPT OF PUBLIC SAFETY         5,695.00           2023158         PADCO EXCAVATING INC         139,255.65           2023164	2023***	Acces Control Panel	25,000.00
2023041       MOTOROLA INC       67,802.00         2023046       CAROLINA RECORDING SYSTEMS LLC       77,743.14         2023056       VERMONT SYSTEMS INC       10,500.00         2023079       NORTHWEST DRYWALL CO       5,775.00         2023084       CHARLOTTE SCALE COMPANY INC       219,910.00         2023091       PADCO EXCAVATING INC       4,242.08         2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         20231224       FREEDOM ELECTECH       2,500.00         2023125       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023125       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023126       CAROLINA GRADING SINC       6,544.00         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023155       NC DEPT OF PUBLIC SAFETY       5,695.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       9,657.00 <td< td=""><td>2023***</td><td>Pavement Repairs</td><td>128,960.00</td></td<>	2023***	Pavement Repairs	128,960.00
2023046       CAROLINA RECORDING SYSTEMS LLC       77,743.14         2023056       VERMONT SYSTEMS INC       10,500.00         2023079       NORTHWEST DRYWALL CO       5,775.00         2023084       CHARLOTTE SCALE COMPANY INC       219,910.00         2023091       PADCO EXCAVATING INC       4,242.08         2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25	2023***	Pavement Repairs	75,000.00
2023056         VERMONT SYSTEMS INC         10,500.00           2023079         NORTHWEST DRYWALL CO         5,775.00           2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023091         PADCO EXCAVATING INC         4,242.08           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           2023122         FREEDOM ELECTECH         2,500.00           2023135         TK ELEVATOR CORPORATION         1,881.05           2023153         CREEKSIDE ELECTRONICS INC         6,544.00           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023155         NC DEPT OF PUBLIC SAFETY         5,695.00           2023156         NC DEPT OF PUBLIC SAFETY         5,695.00           2023158         PADCO EXCAVATING INC         139,255.65           2023163         K & K SPORTS, INC.         2,310.00           2023171         TRIPLETT & COFFEY INC         9,657.00           2023172         CAROLINA PAVEMENT TECHNOLOGY, INC.         48,479.00           2023176         AXON ENTERPRISE, INC.         2,580.25           2023179	2023041	MOTOROLA INC	67,802.00
2023079       NORTHWEST DRYWALL CO       5,775.00         2023084       CHARLOTTE SCALE COMPANY INC       219,910.00         2023091       PADCO EXCAVATING INC       4,242.08         2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       9,657.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00	2023046	CAROLINA RECORDING SYSTEMS LLC	77,743.14
2023084         CHARLOTTE SCALE COMPANY INC         219,910.00           2023091         PADCO EXCAVATING INC         4,242.08           2023105         LEA AID ACQUISITION COMPANY         9,995.00           2023114         ENGINEERED TOWER SOLUTIONS, PLLC         13,350.00           2023121         CARRIER CORPORATION         58,900.00           20231224         FREEDOM ELECTECH         2,500.00           2023127         CAROLINA GRADING & UTILITIES, INC.         24,485.00           2023135         TK ELEVATOR CORPORATION         1,881.05           2023153         CREEKSIDE ELECTRONICS INC         6,544.00           2023154         COURTHOUSE COMPUTER SYSTEMS         16,600.00           2023156         NC DEPT OF PUBLIC SAFETY         5,695.00           2023158         PADCO EXCAVATING INC         139,255.65           2023163         K & K SPORTS, INC.         2,310.00           2023164         K & K SPORTS, INC.         9,657.00           2023171         TRIPLETT & COFFEY INC         9,657.00           2023172         CAROLINA PAVEMENT TECHNOLOGY, INC.         48,479.00           2023176         AXON ENTERPRISE, INC.         2,580.25           2023179         TOMMY LAWRENCE ELECTRICAL CONTRACTORS         247,472.00      <	2023056	VERMONT SYSTEMS INC	10,500.00
2023091       PADCO EXCAVATING INC       4,242.08         2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023079	NORTHWEST DRYWALL CO	5,775.00
2023105       LEA AID ACQUISITION COMPANY       9,995.00         2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       2,310.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023084	CHARLOTTE SCALE COMPANY INC	219,910.00
2023114       ENGINEERED TOWER SOLUTIONS, PLLC       13,350.00         2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023091	PADCO EXCAVATING INC	4,242.08
2023121       CARRIER CORPORATION       58,900.00         2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023105	LEA AID ACQUISITION COMPANY	9,995.00
2023124       FREEDOM ELECTECH       2,500.00         2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023114	ENGINEERED TOWER SOLUTIONS, PLLC	13,350.00
2023127       CAROLINA GRADING & UTILITIES, INC.       24,485.00         2023135       TK ELEVATOR CORPORATION       1,881.05         2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023121	CARRIER CORPORATION	58,900.00
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2023153       CREEKSIDE ELECTRONICS INC       6,544.00         2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023127	CAROLINA GRADING & UTILITIES, INC.	24,485.00
2023154       COURTHOUSE COMPUTER SYSTEMS       16,600.00         2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023135	TK ELEVATOR CORPORATION	1,881.05
2023156       NC DEPT OF PUBLIC SAFETY       5,695.00         2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023153	CREEKSIDE ELECTRONICS INC	6,544.00
2023158       PADCO EXCAVATING INC       139,255.65         2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023154	COURTHOUSE COMPUTER SYSTEMS	16,600.00
2023163       K & K SPORTS, INC.       2,310.00         2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023156	NC DEPT OF PUBLIC SAFETY	5,695.00
2023164       K & K SPORTS, INC.       1,356.00         2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023158	PADCO EXCAVATING INC	139,255.65
2023171       TRIPLETT & COFFEY INC       9,657.00         2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023163	K & K SPORTS, INC.	2,310.00
2023172       CAROLINA PAVEMENT TECHNOLOGY, INC.       48,479.00         2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023164	K & K SPORTS, INC.	1,356.00
2023176       AXON ENTERPRISE, INC.       2,580.25         2023179       TOMMY LAWRENCE ELECTRICAL CONTRACTORS       247,472.00         2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023171	TRIPLETT & COFFEY INC	9,657.00
2023179TOMMY LAWRENCE ELECTRICAL CONTRACTORS247,472.002023180ALLEGION ACCESS TECHNOLOGIES, LLC17,125.002023194WATAUGA COUNTY11,300.00	2023172	CAROLINA PAVEMENT TECHNOLOGY, INC.	48,479.00
2023180       ALLEGION ACCESS TECHNOLOGIES, LLC       17,125.00         2023194       WATAUGA COUNTY       11,300.00	2023176	AXON ENTERPRISE, INC.	2,580.25
2023194 WATAUGA COUNTY 11,300.00	2023179	TOMMY LAWRENCE ELECTRICAL CONTRACTORS	247,472.00
•	2023180	ALLEGION ACCESS TECHNOLOGIES, LLC	17,125.00
2023*** RETIREE HEALTH INSURANCE EXPENSE 345,800.00	2023194	WATAUGA COUNTY	11,300.00
	2023***	RETIREE HEALTH INSURANCE EXPENSE	345,800.00

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#### **AGENDA ITEM 13:**

# MISCELLANEOUS ADMINISTRATIVE MATTERS

A. Proposed Capital Project Ordinance for Emergency Services Complex Funds

## **MANAGER'S COMMENTS:**

The County Manager will present a project ordinance for the establishment and maintenance of funds for the Emergency Services Complex.

Board action is required to approve the project ordinance as presented.

#### STATE OF NORTH CAROLINA

#### WATAUGA COUNTY

# Watauga County Capital Projects Ordinance Emergency Services Complex

**BE IT ORDAINED** by the Watauga County Board of Commissioners, pursuant to Section 13.2 of Chapter 159 of the general statutes of North Carolina, the following Capital Projects Ordinance is hereby adopted:

Section 1. The authorized project shall pertain to portions of the Emergency Services Complex project which may include land, land preparation, architectural fees, construction and engineering fees.

Section 2. The officers of the County are hereby directed to proceed with this project within the guidelines set by the budget contained herein and as amended in the future.

Section 3. The following revenues and appropriations are available to complete this project:

Transfer from Capital Projects Fund	\$3,500,000
Emergency Services Grant	2,797,013
Total revenues	\$6,297,013
Emergency Services	\$6,297,013
Total appropriations	\$6,297,013

Section 4. Any balance of appropriated funds which are unexpended at the conclusion of this project shall be reserved by the Board of Commissioners for future capital projects.

Section 5. Copies of this capital projects ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

ADOPTED this 5th day of September, 2023.

	Larry Turnbow, Chairman
	Watauga County Board of Commissioners
ATTEST:	
Anita J. Fogle	
Clerk to the Board	