



AGENDA
CITY OF LENOIR
CITY COUNCIL MEETING
905 WEST AVENUE
TUESDAY, JANUARY 16, 2024
6:00 P.M.



I. CALL TO ORDER

- A. Moment of Silence & Pledge of Allegiance

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, January 2, 2024 as submitted.
- B. Engineering Services Contract, McGill Associates: Staff recommends City Council approval to enter into a contract for engineering services with McGill Associates for the Lenoir-Valdese Waterline Interconnection Project. Note: Additional background information for this project is listed on the Council Action Form (CAF) included in the agenda packet.
- C. Capital Project Budget Ordinance; Wayfinding Signs: Staff request City Council to adopt the Capital Project Budget Ordinance for the Wayfinding Signs Capital Project in the amount of \$591,500.00 as submitted.
- D. Resolution; Firehouse Subs Public Safety Foundation Grant: Staff recommends City Council adopt the submitted Resolution Accepting the Firehouse Subs Public Safety Foundation Grant in the amount of \$26,698.62. Note: Additional background information regarding the grant funding is listed on the Council Action Form (CAF) as included in the agenda packet.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

- A. Items of Information

1. The Planning Board will meet on Monday, January 22 at 5:30 p.m.
2. The Committee of the Whole will meet on Tuesday, January 23 at 8:30 a.m. at City Hall, Third Floor.
3. The Foothills Regional Airport Authority will meet on Wednesday, January 31 at noon.

- B. Items for Council Action

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

- A. Board Appointment; WPCOG: Mayor Gibbons will recommend City Council appoint Councilmember Ike Perkins to serve a term on the Western Piedmont Council of Government's Transportation Advisory Committee (TAC.)

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

- 1. Closed Session: Pursuant to N.C.G.S. §143-318.11.5, City Council will enter into closed session to discuss the acquisition of property.

X. ADJOURNMENT

**LENOIR CITY COUNCIL
TUESDAY, JANUARY 2, 2024
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Ike Perkins, Todd Perdue, Ralph Prestwood, Kimmie Rogers, Mayor Pro-Tem David Stevens, City Manager Scott Hildebran, City Clerk Shirley Cannon and City Attorney Timothy Rohr.

ABSENT: Councilmembers Jonathan Beal and Crissy Thomas.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence and the pledge of allegiance as led by Mayor Gibbons.

**SYMPATHY EXTENDED;
FAMILY OF GREENSBORO
SERGEANT PHILLIP NIX:**

- B. On behalf of City Council, Mayor Gibbons asked everyone to keep the family of Greensboro Police Sergeant Phillip Dale Nix who was killed at a Sheetz gas station.

**CONDOLENCES: FAMILIES OF
SYLVIA GREENE AND MARTHA WILSON:**

- C. On behalf of City Council, Mayor Gibbons asked everyone to keep the families of Sylvia Greene and Martha Wilson in their thoughts and prayers during this difficult time.

Mayor Gibbons stated Sylvia Greene was an artist, historian and storyteller who was well known and loved throughout the community. Ms. Greene contributed much to the community and as listed in her obituary, she was also instrumental in having a monument placed at the historic William Lenoir Middle School later known as the Freedman Cultural Center. Ms. Greene will be greatly missed by her family, friends and community.

Mayor Gibbons stated Martha Wilson, spouse of Attorney Hugh Wilson passed away on Tuesday, December 26. Mrs. Wilson was well loved and respected by everyone and a dedicated and faithful member of First Baptist Church for many years. Mrs. Wilson also previously volunteered for several local organizations. Mrs. Wilson will be greatly missed by her family, friends and the community.

**COMMENDED; CITY
STAFF:**

- D. On behalf of City Council, Mayor Gibbons commended Kaylynn Horn, Economic Development Director and Matthew Anthony, Downtown Event Coordinator along with other City departments for the great job everyone did in decorating the downtown area for the holidays. Mayor Gibbons said downtown looked like a winter wonderland and noted he continues to receive compliments from local citizens.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

CONDITIONAL ZONING REQUEST; 2035 WALT ARNEY ROAD:

- A. A public hearing was held to consider a Conditional Zoning District (CZ-10) as requested by Edward Earl Booker for property located at 2035 Walt Arney Road, NCPIN#2758204978 subject to the following special conditions (1-7) as listed below and as based on the consistency statement also listed below. Staff recommends City Council adopt the proposed ordinance.

Mayor Gibbons opened the public hearing to receive public comments regarding the Conditional Zoning request.

Hannah Williams, Planning Director, was sworn in by the City Clerk.

Director Williams reviewed the history of the property and also went over the seven (7) special conditions listed below. Director Williams explained the Conditional Zoning Ordinance basically amended a Special Use District (SUD) approved in May 1997 to allow for an expansion of an existing commercial machinery business. The City no longer uses SUDs as a zoning tool, so amending SUDs require a full conversion/rezoning to conditional zoning. The applicant is seeking to build a second building on the lot for storage purposes and he will be the only employee. The CZ ordinance will allow for light manufacturing, boutique/artisan manufacturing, and general office uses. The ordinance also takes lighting, parking, buffering, and signage into consideration. She reviewed the special conditions as follows:

1. Concept Plan. Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as Exhibit "B" (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordinance to lots, parcels, buildings, phases, and other development features refer to such features as identified on the Concept Plan.
2. Variances. Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.
3. Modification. The special conditions specific to the CZ-10 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. Permitted/Special Uses. All uses permitted within the R-9 zoning district, as well as offices, and manufacturing (boutique/artisan and light). Heavy manufacturing is not permitted by this ordinance.
5. Design. Design standards laid out for industrial districts shall apply, as well as the following conditions:
 - a. All commercial and industrial activity shall take place within the buildings.
 - b. Outdoor storage, truck parking, garbage collection, and loading/unloading shall not be visible from abutting streets. All of the following in addition to HVAC/utility equipment and other similar functions shall be incorporated into the overall design of the building. Non-enclosed areas shall be permanently defined and screened, as well as conform to materials and colors on the building.

- c. All lighting shall be fully cut-off and shielded so as to eliminate light spill-over onto adjacent residential properties.
 - d. Six parking spaces are required, located to the side and rear of the buildings as shown on the concept plan.
6. Buffer. The tree line along the rear property boundary shall remain and landscaping must be replaced if damaged. The buffer in front of the proposed secondary building shall consist of evergreen trees screening away from the adjacent single-family home (known as 2025 Walt Arney Rd). The buffer must meet the following specification:
Trees and shrubs used in a buffer strip shall be species which reach a height of six feet within two years. A combination of two or more species may be permitted, provided that at least 50% of the trees will reach six feet within two years and such trees will be evenly distributed along the buffer strip. Any change of ownership or occupancy does not negate the requirements of this section.
7. Signage. This site is permitted the following signs with an approved zoning permit.
- a. One monument sign not to exceed 32 SF copy area and 6 feet in height.
 - b. Building mounted wall signage up to 8 SF.
 - c. Electronic message boards are prohibited.

(A copy of the recorded ordinance is hereby incorporated into these minutes. Refer to pages 8-10.)

In addition, Director Williams clarified for Council that any future owners of the property would also have to adhere to the seven (7) conditions as listed above and as described in the ordinance. She further clarified there were no changes to operations for storage users.

Director Williams reported Staff and the Planning Board supports this conditional zoning request with the conditions as presented.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Mayor Gibbons read the Consistency Statement as follows:

The proposed Conditional Zoning District is consistent with the land use policy concepts in the Comprehensive Plan that call for industrial development in appropriate areas and increased requirements for landscaping in new developments. Generally, requiring landscaping incentivizes both the desire for a property to look more aesthetically appealing, but also ensuring that the character of the property does not interrupt the pre-existing residential and cultural contexts previously developed in the area. On the City of Lenoir Future Land Use Map, this area calls for high-density residential wherein there are several single-family neighborhoods as well as a few mobile home parks. This use, in the grand scheme of all properties in this area of Lenoir, does not hardly affect the intended uses that were bound for this parcel and surrounding parcels. It would be challenging to put multi-family/high-density homes on this property given its size, but additionally it is surrounded by uses that are consistent with the future land use map including a park to the east of the property.

Councilmember Prestwood inquired about the requirements for parking. Director Williams explained customers will access the site via the existing driveway off of Walt Arney road. Six (6) parking spaces are required located to the rear and sides of the buildings as shown on the submitted concept plan.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Mayor Pro-Tem Stevens, Council voted 5 to 0 to adopt the ordinance for the Conditional Zoning petition for property located at 2035 Walt Arney Road subject to the seven conditions as listed in the ordinance and as based on the consistency statement as read and as presented.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, December 5, 2023 as submitted.
- B. Minutes: Approval of the closed session minutes of the City Council meeting of Tuesday, December 5, 2023 as reviewed by the City Attorney, City Council and the City Manager.
- C. Resolution, Division of Water Infrastructure: Staff recommends approval of the proposed resolution accepting the grant offer from the Division of Water Infrastructure in the amount of \$248,640.00 and making the applicable assurances contained therein. (A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 11.)
- D. Resolution & Symbol; Public Works & Engineering: Staff recommends City Council adopt the Resolution to designate Public Works and Engineering as First Responders as well as the symbol created and approved by the American Public Works Association in 2017. The symbol will be used by City of Lenoir Public Works Professionals to mark vehicles, equipment (tags and decals) and facilities (PWFR) identifying them as Public Works First Responders as submitted. (A copy of the resolution and symbol are hereby incorporated into these minutes by reference. (Refer to pages 12-14.)

Upon a motion by Councilmember Perdue, Council voted 5 to 0 to adopt items (A through D) on the Consent Agenda as described above and as recommended by City Staff.

IV. REQUESTS AND PETITIONS OF CITIZENS

COMMENTS REGARDING 2023 CHRISTMAS PARADE:

- A. Ms. Lynette Ramsey, Waycross Drive, addressed City Council regarding the float themed Krampus in the Christmas parade. She submitted several pages of names on a petition to the City Clerk of individuals that were opposed to the Krampus float being in the parade. Their statement on the petition read – we petition the City Council to review, change and or amend guidelines that are more in alignment to our community values and theme of this Christ related Christmas parade.

Ms. Ramsey stated she didn't attend the parade, but viewed comments on social media and spoke with citizens. Ms. Ramsey remarked that Krampus represents a demon transition who projects terrific punishment on children and referred to a child being chained in a cage while riding on the float. She stated individuals walking with the float were scaring children by going up to them asking them if they had been good.

In addition, Ms. Ramsey stated she has spoken with members of the City and was told by someone that if Hamas wanted to be in the parade they would allow it. Ms. Ramsey stated parents should have a choice as to what floats are in the parade and reminded Council they

run the City and encouraged them to put guidelines in place for next year's parade as it is a fun, focal part of the holiday.

Adam Hartley spoke on behalf of Wolf Moon Salt Cave and several of the downtown businesses that he said have faced backlash from the parade and have been falsely accused of having sponsored the Krampus float on social media. Mr. Hartley emphasized the float was not affiliated with any of the downtown businesses. He reported there was also some property damage that occurred. Mr. Hartley disputed people chasing kids and said they were only handing out candy. Mr. Hartley said the parade should be open to everyone and the City should represent all of us.

Nicole Flanigan stated she is a Lenoir resident but did not want to give her address due to a recent threat. Ms. Flanigan pointed out there were many diverse groups that live in Lenoir and they should have representation in the parade. She stated everyone needs to feel like they have a place here.

Next, City Attorney Timothy Rohr read the following prepared statement on behalf of the City of Lenoir and City Council as follows:

City Council, the Mayor, and Staff appreciate your concerns about the Christmas parade and its participants. However, the City, as we know, is a governmental entity. As such, it is bound by the United States Constitution, including the First Amendment. In particular, Congress, and through the Fourteenth Amendment the states and thus the City, cannot limit your freedom of speech. The First Amendment is part of the reason you get to come before the council and express your concerns. The City also cannot establish a religion or prohibit people from exercising or expressing their own religious beliefs. Government must accommodate all religions and cannot be hostile toward any.

So, since the City of Lenoir organizes and sets up the Christmas parade each year, it must allow, with only limited exceptions, participation by whatever group, person, or organization that wants to participate. That includes Christian religious organizations and churches, non-Christian religious organizations, non-religious organizations, and organizations that are explicitly anti-religious. And, again with only limited exceptions, the City must allow those groups that participate to express whatever message they wish to express through their floats.

Cynthia Hicks, Lenoir resident, addressed Council and stated the Christmas parade should be a family, friendly event where parents do not have to worry about bringing their young children to. Ms. Hicks remarked guidelines should be put in place for the protection of young children and reiterated it should be a family, friendly event for generations to come.

City Attorney Rohr advised City Council that they could put certain limited guidelines in place for the parade if they chose to do so.

On behalf of City Council, Mayor Gibbons thanked everyone for coming.

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITYMANAGER

A. Items of Information

JANUARY

- CALENDAR:** 1. The calendar for the month of January was provided to City Council listing various meetings and events.

CURBSIDE CHRISTMAS

- TREE PICKUP:** 2. Curbside Christmas tree pickup began on Tuesday, January 2 through Friday, January 5.

CITY/COUNTY SERVICES

- COMMITTEE:** 3. The City/County Services Committee will meet on Monday, January 8 at noon.

ECONOMIC DEVELOPMENT

ADVISORY COMMITTEE:

4. The Economic Development Advisory Committee will meet on Tuesday, January 9 at 8:15 a.m.

- ABC BOARD:** 5. The ABC Board will meet on Thursday, January 11 at 2:00 p.m.

LENOIR BUSINESS

ADVISORY BOARD:

6. The Lenoir Business Advisory Board will meet on Thursday, January 11 at 6:00 p.m.

HOLIDAY CLOSING:

7. City offices will be closed on Monday, January 15 in observance of the Martin Luther King, Jr. holiday.

- LEAF PICKUP:** 8. City staff are in the second round of picking up leaves which have to be bagged and placed behind the curb. Leaf pickup will continue through January.

B. Items for Council Action

BID AWARD; LENOIR VEHICULAR

WAYFINDING PROJECT:

1. Staff recommends approval to award the contract for the Lenoir Vehicular Wayfinding Project to Rite Lite Signs, Inc. in the amount of \$414,960.00 (Unit Price Maj. \$7.619.00 Min. \$7,404.00) as they are the lowest responsive and responsible bidder. Rite Lite Signs, Inc. is a national sign and architectural features company based out of Concord, NC. They are a North Carolina Licensed Contractor with a portfolio of similar wayfinding projects in cities such as the City of Monroe, NC, Town of Strasburg, Virginia and City of Murray, Kentucky as referenced in their bid package.

A copy of the bid tab is hereby incorporated into these minutes by reference. (Refer to page 15.)

As background information, City Manager Hildebran stated the City contracted with Destination by Design to provide design, bid administration, and construction oversight for this project. He stated the City applied for and was awarded a grant from the Appalachian Regional Grant (ARC) in the amount of \$250,000.00 with a local contribution of \$292,500.00 for an overall project cost of \$514,500.00. Funds provided by the Lenoir Tourism Development Authority (LTDA) and ARPA funds will be utilized to provide the local funding match.

The project was advertised for public bid on October 24, 2023 with a public bid opening on scheduled for December 6, 2023. Two bids were received and the project was rebid on December 12 with a public bid opening scheduled on December 19. Two bids were procured and opened. Rite Lite Signs, Inc. submitted the low bid of \$414,960.00.

Councilmember Perkins along with Mayor Gibbons and City Councilmembers thanked Event Coordinator Matthew Anthony and Economic Development Director Kaylynn Horn for all of their hard work regarding this project and commented on how great the sign looks.

Upon a motion by Councilmember Perkins, Council voted 5 to 0 to award the low bid of \$414,960.00 to Rite Lite Signs, Inc. for the City of Lenoir's Vehicular Wayfinding (Sign) project as presented and as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

IX. REPORT AND RECOMMENDATIONS OF THE MAYOR

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 6:42 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

Fee \$26.00



Caldwell County North Carolina
Wayne L. Rash, Register of Deeds

RV
**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, DESIGNATING CERTAIN LAND
GENERALLY LOCATED OFF WALT ARNEY ROAD, SOUTH
OF SOUTHWEST BLVD, NORTH OF SWANSON ROAD, AND
COMPRISED OF 1.23 ACRES, MORE OR LESS, AS
CONDITIONAL ZONING DISTRICT #10 (CZ-10) ON THE
CITY'S OFFICIAL ZONING MAPS; DIRECTING AMENDMENT
OF THE OFFICIAL ZONING MAP; PROVIDING FOR
SEVERABILITY, AND AN EFFECTIVE DATE.**

Whereas, at its regularly scheduled meetings of November 27, 2023, the Lenoir Planning Board considered zoning application case number CZ-10, requesting the Conditional Zoning district designation, for approximately 1.23 acres of land, described by the legal description attached to this ordinance as **Exhibit "A"** (hereinafter the "Property"); and

Whereas, the property was approved as a Special Use District (SUD) in 1997 (SUD 5-97), and under S.L.2019-111(2)(b), any SUD that was valid and in effect on January 1, 2021 was automatically deemed to now be a Conditional Zoning district; and

Whereas, the SUD 5-97 approved the property to be used as a cabinet shop within a masonry building, and has been used for other light manufacturing uses in the years since, despite its base R-9 residential zone, and

Whereas, the current owner's business is successful and growing, necessitating an additional storage building, and

Whereas, based upon the evidence presented to the Lenoir Planning Board, including the information and analysis contained in the staff report for application case number R 2-23 and subject to certain conditions, the Lenoir Planning Board recommended that the Lenoir City Council approve said conditional zoning application and adopt an ordinance in accordance therewith; and

Whereas, the Lenoir Planning Board has found that approval of the application is consistent with the City's adopted Comprehensive Plan; and

Whereas, the Lenoir City Council hereby finds that this ordinance is consistent with the intent and purpose of the Conditional Zoning designation as established by Appendix A, Article V, Section 502, Lenoir City Code; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. ZONING. After due notice and public hearing, and pursuant to Appendix A, Article XIV of the Lenoir City Code, and other relevant portions of the Lenoir City Code, the zoning designation for the Property is hereby changed from the R-9/CZ-L district to Conditional Zoning district on the City's Official Zoning Map (to be denoted as "CZ-10"), as depicted in Exhibit "B" to this ordinance.

SECTION 2. OTHER DEVELOPMENT LAWS. Except as expressly provided otherwise by this ordinance, the CZ-10 zoning district remains subject to all applicable federal, state, and local laws, and nothing in this ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

SECTION 3. DEFAULT ZONING DISTRICT. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the R-9 Multi Family zoning district.

SECTION 4. SPECIAL CONDITIONS. The Conditional Zoning district for the Property is subject to the following special conditions:

1. **Concept Plan.** Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as Exhibit "B" (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordinance to lots, parcels, buildings, phases, and other development features refer to such features as identified on the Concept Plan.
2. **Variances.** Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.
3. **Modification.** The special conditions specific to the CZ-10 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. **Permitted/Special Uses.** All uses permitted within the R-9 zoning district, as well as offices, and manufacturing (boutique/artisan and light). Heavy manufacturing is not permitted by this ordinance.
5. **Design.** Design standards laid out for industrial districts shall apply, as well as the following conditions:
 - a. All commercial and industrial activity shall take place within the buildings.
 - b. Outdoor storage, truck parking, garbage collection, and loading/unloading shall not be visible from abutting streets. All of the following in addition to HVAC/utility equipment and other similar functions shall be incorporated into the overall design of the building. Non-enclosed areas shall be permanently defined and screened, as well as conform to materials and colors on the building.
 - c. All lighting shall be fully cut-off and shielded so as to eliminate light spill-over onto adjacent residential properties.

- d. Six parking spaces are required, located to the side and rear of the buildings as shown on the concept plan.

6. **Buffer.** The tree line along the rear property boundary shall remain and landscaping must be replaced if damaged. The buffer in front of the proposed secondary building shall consist of evergreen trees screening away from the adjacent single-family home (known as 2025 Walt Arney Rd). The buffer must meet the following specification:

Trees and shrubs used in a buffer strip shall be species which reach a height of six feet within two years. A combination of two or more species may be permitted, provided that at least 50% of the trees will reach six feet within two years and such trees will be evenly distributed along the buffer strip. Any change of ownership or occupancy does not negate the requirements of this section.

7. **Signage.** This site is permitted the following signs with an approved zoning permit.
- One monument sign not to exceed 32 SF copy area and 6 feet in height.
 - Building mounted wall signage up to 8 SF.
 - Electronic message boards are prohibited.

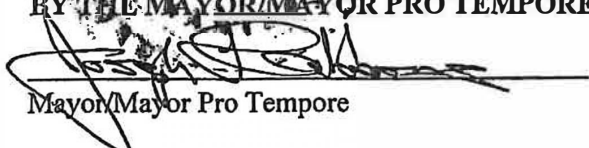
SECTION 5. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, the 21st and 28th days of December, 2023.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 2nd day of January, 2024.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

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CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
K. R. ROGERS
D. F. STEVENS
C. D. THOMAS

RESOLUTION BY CITY COUNCIL OF THE CITY OF LENOIR NORTH CAROLINA

WHEREAS, the American Rescue Plan Act (ARPA), funded from the State Fiscal Recovery Fund, was established in Session Law (S.L.) 2021-180 to assist eligible units of local government with meeting their drinking water and/or wastewater and/or stormwater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered LASII ARPA funding in the amount of \$248,640.00 to perform the work detailed in the submitted application, and

WHEREAS, the City of Lenoir intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LENOIR:

That the City of Lenoir does hereby accept the ARPA grant offer of 248,640.00; and

That the City of Lenoir does hereby give assurance to the North Carolina Department of Environmental Quality that any *Conditions* or *Assurances* contained in the *Funding Offer and Acceptance* (award offer) will be adhered to; has substantially complied, or will substantially comply, with all federal, State of North Carolina (State), and local laws, rules, regulations, and ordinances applicable to the project; and to federal and State grants and loans pertaining thereto; and

That Scott Hildebran – City Manager and Donna Bean – Finance Director, and successors so titled, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

Adopted this the 2nd Day of January 2024 at the City County Chambers in Lenoir, North Carolina.

SEAL

A handwritten signature in dark ink, appearing to read "Joseph L. Gibbons".

Joseph L. Gibbons, Mayor

ATTEST:

A handwritten signature in dark ink, appearing to read "Shirley M. Cannon".

Shirley M. Cannon, City Clerk





CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
K. R. ROGERS
D. F. STEVENS
C. D. THOMAS

Resolution

A RESOLUTION TO DESIGNATE PUBLIC WORKS AND ENGINEERING AS FIRST RESPONDERS AS FEDERALLY MANDATED BY THE PRESIDENT OF THE UNITED STATES

WHEREAS, the American Public Works Association is a not-for-profit, international organization of more than 30,000 members involved in the field of public works. APWA serves its members by promoting professional excellence and public awareness through education, advocacy, and the exchange of knowledge; and

WHEREAS, on May 7, 2018, the American Public Works Association announced the Association's adoption of a national Public Works First Responder symbol. The symbol is to be used throughout North America to recognize public works professionals' federally mandated role as first responders; and

WHEREAS, President George W. Bush issued Homeland Security Presidential Directive 5 (HSPD-5), Management of Domestic Incidents, in 2003, in which a public works response to emergencies and disasters is recognized as an absolute necessity, and the federal government is directed to include public works in all planning and response effort; and

WHEREAS, the Public Works First Responder symbol uses familiar colors – orange, black, and white – and a design reminiscent of road construction, signs, safety cones, and orange construction barrels. The Public Works First Responder symbol is expected to increase recognition of public works as first responders throughout North America; and

WHEREAS, Lenoir City Council believes to best provide for the health, safety, and welfare of its citizens, it is appropriate to recognize our employees that put the citizens of the City of Lenoir before themselves in time of emergency; and

WHEREAS, City of Lenoir Employees in multiple departments involved in Disaster Response and Recovery have demonstrated their skills and commitment throughout the years and most recently during the snow events of 2022, the storms of 2019, micro-bursts of 2018 and assisting the Town of Granite Falls with cleanup and recovery after the tornado of 2017, as well as numerous emergency road closures and fire suppression assistance in coordination with the Police Department and Fire Department.



NOW, THEREFORE, BE IT ORDAINED BY LENOIR CITY COUNCIL, that the employees of the divisions of Public Works, Streets and Traffic, Sanitation, Engineering, Vehicle Services, Building Maintenance and Cemeteries and Grounds are recognized as First Responders and encourage businesses, organizations, community groups, and citizens to extend the many gratuitous offers and benefits provided to First Responders of our community.

This Resolution will become effective upon approval by City Council.

Adopted this 2nd day of January, 2024.

SEAL



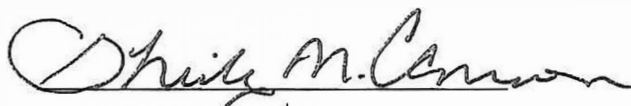
CITY COUNCIL OF CITY OF LENOIR

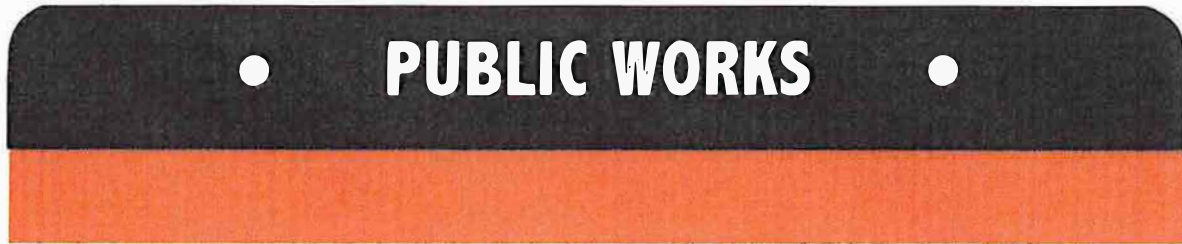
By: 
Joseph L. Gibbons, Mayor

APPROVED AS TO FORM:

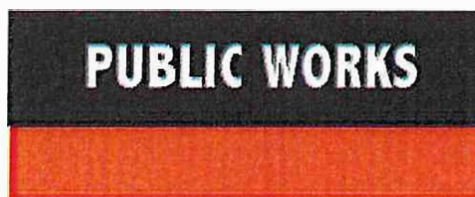

Timothy J. Rohr, City Attorney

ATTEST:


Shirley M. Cannon, City Clerk



Vehicle Tag



Decal for Hard Hats/ Vehicle Windshields

BID TABULATION

Date: 12/19/2023



Owner: City of Lenoir, NC
Project Title: Lenoir Wayfinding Signage

BIDDERS (Name GC):	Rite Lite	Signs Etc *		
Rank:	1	2		
BID ITEMS:				
Base Bid	\$414,960.00	\$560,110.00		

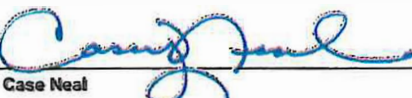
Add Alternates:				
Alternate Sub-total:				

(Base Bid + Alternates)				
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Unit Prices				Qtys used to calculate base bids
Major Wayfinding Sign	\$7,619.00	\$10,645.00		36
Minor Wayfinding Sign	\$7,404.00	\$9,310.00		19

Explanation of Rejected Bidder(s): * Signs Etc. shows a total of \$569,420 on their bid form using a total of 36 major & 20 minor signs. The bid totals above account for 19 minor signs per the drawings.

I certify that this is a true tabulation of bids received.


Case Neal
Destination by Design Studios, PLLC

CITY OF LENOIR
COUNCIL ACTION FORM

- I. Agenda Item:** Consideration of Engineering Service Contract With McGill Associates – Lenoir – Valdese Waterline Interconnection Project

Background Information: The City of Lenoir proposes to accomplish certain work for the Project entitled Lenoir-Valdese Waterline Interconnection. This will generally include the construction of approximately 4 miles of 20-inch diameter water transmission main between the Town of Valdese's Water System and City of Lenoir's Water System, including a Lake Rhodhiss water main crossing, a water pump station with standby generator, valves, hydrants, master meter, water main connections, and all related appurtenances.

The City received a direct appropriation of \$17,000,000 (less loan fees) through the NC General Assembly to fund the undertaking of this project.

- II.** McGill Associates was selected after an RFQ process as the best qualified engineering firm for this project. The RFQ was advertised and published on the City of Lenoir webpage and sent directly to seven different engineering firms. McGill and Associates has provided a contract for services to provide the engineering services throughout this project.

The cost summary for the project services is as follows:

Preliminary Engineering	\$115,000
Design and Permitting Phase	\$780,000
Bidding and Award Phase	\$28,000
Construction Phase	\$670,000
Funding Administration	\$20,000
Post Construction Phase	<i>Hourly Basis</i>

- III. Staff Recommendation:** Staff recommends City Council approval to enter into a contract for engineering services with McGill Associates for the Lenoir-Valdese Waterline Interconnection Project.

- IV. Reviewed by:**

City Attorney: _____

Finance Director: _____

Public Works/Public Utilities Director: _____

AGREEMENT FOR ENGINEERING SERVICES

This AGREEMENT was made and entered into this the ____ day of _____ 2024, by and between the **City of Lenoir** (OWNER) and **McGill Associates, P.A.** (ENGINEER).

WHEREAS the OWNER proposes to accomplish certain work for the Project entitled **Lenoir-Valdese Water Interconnection**. This will generally include the construction of approximately 4 miles of 20-inch diameter water transmission main between the Town of Valdese's Water System and City of Lenoir's Water System, including a Lake Rhodhiss water main crossing, a water pump station with standby generator, valves, hydrants, master meter, water main connections, and all related appurtenances.

WHEREAS the ENGINEER desires to render professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein, it is hereby mutually understood and agreed as follows:

SECTION 1 - GENERAL SERVICES

The ENGINEER shall:

- 1.1. The ENGINEER shall, as directed by the OWNER, provide professional engineering services for the OWNER in all phases of the Project; serve as OWNER's professional engineering representative for the Project; and provide professional consultation and advice to OWNER during the performance of the services hereunder.
- 1.2. The ENGINEER shall provide all personnel required in performing the Project unless otherwise provided herein. Such personnel shall not be employees of or have any contractual relationship with the OWNER. All services rendered hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the Project shall be fully qualified under North Carolina law to perform such services.
- 1.3. The ENGINEER shall assist in the pursuit of obtaining approvals and permits from governmental authorities having jurisdiction over the Project, unless otherwise agreed to herein.
- 1.4. The ENGINEER shall seek and obtain authorization from the OWNER or the OWNER's assignee before proceeding with the Project, or before performing any Additional Services as described in Section 3, or before performing any other services which would not be included in the fee for Basic Services set forth in Section 6 hereof, subject to OWNER's right to terminate as herein provided.
- 1.5. The ENGINEER shall comply with applicable federal, state and local laws and regulations regarding equal employment opportunity. The ENGINEER is further obligated to include all requirements hereunder in any subcontract written by him in association with this Agreement.

SECTION 2 - BASIC SERVICES

2.1 PRELIMINARY ENGINEERING

- 2.1.1 Consult with the OWNER to fully determine the OWNER's requirements for the project and to discuss project schedules, gather initial data, coordination, and other preliminary matters.
- 2.1.2 Review the latest mapping, water treatment operating reports, and data furnished by the OWNER.
- 2.1.3 Identify and evaluate existing conditions related to the project.
- 2.1.4 Review feasible options for the Lake Rhodhiss crossing and connection to the OWNER's existing water system.
- 2.1.5 Review feasible locations and preliminary hydraulic requirements for the water pump station.
- 2.1.6 Identify permitting requirements for the Lake Rhodhiss crossing and water transmission main installation.
- 2.1.7 Prepare a map showing the proposed water line route.
- 2.1.8 Identify possible permanent easements needed for the water main based upon a review of GIS mapping and DOT records.
- 2.1.9 Conduct a planning session with the OWNER to review findings and to determine the selected water main route, Lake Rhodhiss crossing location, and water pump station location.
- 2.1.10 Confirm water hydraulic model results for proposed project.
- 2.1.11 Prepare a preliminary opinion of probable costs.
- 2.1.12 Assist OWNER in preliminary discussions with the Town of Valdese regarding an interlocal agreement for the purchase of water on an emergency and routine basis, including minimum and maximum purchase amounts.
- 2.1.13 Assist OWNER in preliminary discussions with Duke Energy and NCDEQ regarding the Lake Rhodhiss crossing.
- 2.1.14 Assist OWNER in identifying private property or properties for the water pump station location and right-of-way easements required from public bodies, entities, or persons necessary for satisfactory construction of the Project. Actual acquisition work will be performed by the OWNER.

2.2 DESIGN PHASE

- 2.2.1 Upon receipt of authorization to proceed with design of the preferred water main route and water pump station location, ENGINEER will conduct a route survey to provide topography of the proposed work area and to locate existing structures and conflicts.

- 2.2.2 Produce survey mapping of the project area for use in preparing the design.
- 2.2.3 Review preliminary design with OWNER for concurrence and acceptance.
- 2.2.4 Coordinate the provision of any subsurface investigation by others, if any, and assist with solicitations and preparing site maps identifying test locations.
- 2.2.5 Prepare bid documents, contract documents, technical specifications, and construction drawings to detail the character and scope of the work including all design functions and coordination for all construction sequencing of the Project.
- 2.2.6 Prepare final design calculations for submission to review agencies.
- 2.2.7 Prepare and submit permit application and supporting documents to Public Water Supply Section to assist in obtaining the construction approval.
- 2.2.8 Prepare and submit encroachment agreement to NCDOT for approval.
- 2.2.9 Prepare and submit permit application and supporting documents to Duke Energy, US Army Corps of Engineers, and NC Division of Water Resources for to assist in obtaining the construction approval, 404 permit, and 401 water quality certification.
- 2.2.10 Prepare and submit permit application and supporting documents to Land Quality Section to assist in obtaining the erosion and sediment control approval, if required.
- 2.2.11 Respond to review agency comments and modify documents as necessary to achieve permit approvals.
- 2.2.12 Perform internal quality control and constructability reviews of the project.
- 2.2.13 Prepare an opinion of probable cost after submission of plans and specifications for permitting and advise the OWNER of any adjustment of the Project cost caused by changes in scope, design requirements or construction costs.
- 2.2.14 Submit final design plans to OWNER for concurrence and acceptance for bidding.
- 2.2.15 Furnish up to one (1) hard copy and one (1) electronic copy of the final design documents to the OWNER.

2.3 BIDDING AND AWARD PHASE

Upon written authorization from OWNER, ENGINEER shall:

- 2.3.1 Assist the OWNER in advertising, receiving, opening and evaluating bids.
- 2.3.2 Schedule a Pre-Bid Conference with all prospective bidders and the OWNER to address the project requirements and receive questions.
- 2.3.3 Consult with and advise the OWNER as to the acceptability of contractors and subcontractors and make recommendations as to the lowest, responsive, responsible bidder.

- 2.3.4 Assist the OWNER in the preparation and execution of construction contracts and in checking Performance and Payment Bonds and Insurance Certificates for compliance.

2.4 CONSTRUCTION PHASE

Upon successful completion of the Bidding and Award Phase, and upon written authorization from OWNER, ENGINEER shall:

- 2.4.1 Provide General Administration of Construction Contract. Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in the General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, which shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and the General Conditions except as otherwise provided in writing. ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.
- 2.4.2 Provide a Construction Field Representative (CFR) to periodically observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the Contract Documents. During such visits and on the basis of on-site observations as an experienced and qualified design professional, keep the OWNER informed of the progress of the work, and endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor.
- 2.4.3 The purpose of ENGINEER's visits and the representation by the Construction Field Representative, (CFR), will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. However, ENGINEER shall give prompt notice to the OWNER whenever

ENGINEER observes or otherwise becomes aware of any defect in the Project or of any material deviation of Contractor's work from the Contract Documents.

2.4.4 Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
- b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

2.4.5 Recommend to OWNER that Contractor's Work be rejected while it is in progress if, on the basis of ENGINEER's observations, ENGINEER believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

- 2.4.6 The total duration for pre-construction activities (from Notice of Award to Notice to Proceed) and construction contract time is assumed to be twenty-four (24) months. As part of this contract, field observation will be provided by a CFR on a part-time basis. The additional requested CFR time will be considered Additional Services under Section 3 of this Agreement.
- 2.4.7 Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
- 2.4.8 Review and take action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and any approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Review of Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same, shall be deemed as Additional Services.
- 2.4.9 Promptly after notice that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, conduct a pre-final observation visit to determine if the Work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER, DWI, and Contractor.
- 2.4.10 In company with OWNER's representative, conduct a final observation visit to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice that the Work is acceptable to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.
- 2.4.11 Schedule construction progress meetings as needed during active work periods with the OWNER, DWI, ENGINEER, and all other applicable parties discuss matters related to the Project. Prepare and distribute minutes of the meeting to all parties.
- 2.4.12 Issue instructions to the Contractor from the OWNER as to interpretations and clarifications to the project design plans, specifications and contract documents.
- 2.4.13 Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by OWNER or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if ENGINEER in its discretion concludes that to do so would be inappropriate. In rendering such decisions, ENGINEER shall be fair and

not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

- 2.4.14 Prepare information required to resolve problems due to actual field conditions and to respond to Requests for Information (RFI) from the Contractor.
- 2.4.15 Coordinate and track the testing of infrastructure and placing same into service for the project. Additional visits required due to work not being ready for testing, retesting, or Contractor scheduling conflicts shall be considered Additional Services.
- 2.4.16 Review the Contractor's final application for payment and make recommendation as to approval once all issues with the project final observation site visit have been completed and resolved.
- 2.4.17 Require such testing of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
- 2.4.18 Review and determine the acceptability of any schedules that Contractor is required to submit to ENGINEER, including Progress Schedule, Schedule of Submittals and Schedule of Values.
- 2.4.19 Prepare for the OWNER a set of record drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished. One (1) hard copy and one (1) electronic PDF copy of the record drawings will be furnished to the OWNER.
- 2.4.20 Provide or make available all Project files and information to effect project closeout.

2.5 FUNDING ADMINISTRATION

- 2.5.1 Review Contractor and OWNER documentation of DBE solicitations and Good Faith Efforts for completeness and submit to the funding agency for approval.
- 2.5.2 Prepare Project Bid documentation and coordinate with funding agency to secure approval of the funding contract.
- 2.5.3 Review all documentation submitted by the Contractor for reporting of compliance with funding requirements.
- 2.5.4 Review pay applications for approval and release of funds by the funding agency.
- 2.5.5 Review Davis-Bacon wage rate documentation as necessary.

SECTION 3 - ADDITIONAL SERVICES

If authorized by the OWNER, the ENGINEER will furnish or obtain from others additional services of the following types, which are not considered Basic Services under this Agreement.

- 3.1 Additional services resulting from significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction. The OWNER may initiate minor changes in the project scope to be incorporated by the ENGINEER, subsequent to the permit submittals, so as not to impede progress. No work on any such changes shall occur by the ENGINEER unless preapproved by the OWNER.
- 3.2 Revising previously approved studies, reports, design documents, drawings, or specifications, when such revisions are due to causes beyond the control of the ENGINEER.
- 3.3 Providing geotechnical and subsurface investigations, archeological surveys and any other environmental site surveys necessary for the construction of the project.
- 3.4 Performing acquisition services for properties and/or easements.
- 3.5 Preparing documents for alternate bids requested by the OWNER for work, which is not executed, or documents for out-of-sequence work other than agreed upon in the Planning, Design, and Permitting Phase.
- 3.6 Additional or extended services during construction made necessary by prolongation of the construction contract, award of multiple contracts, or default by the Contractor under any prime construction contract if such construction contract is delayed beyond the original completion date.
- 3.7 Providing construction materials testing services.
- 3.8 Evaluation of unsuitable subgrade materials during construction.
- 3.9 Reviewing Shop Drawings and Samples identified as frivolous in the General Conditions of the construction contract documents, or review of substitute materials as defined in the same General Conditions.
- 3.10 Preparing to serve or serving as a witness for the OWNER in any litigation, condemnation or other legal or administrative proceeding involving the Project.
- 3.11 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise included in this Agreement.

SECTION 4 - OWNERS RESPONSIBILITIES

The OWNER shall:

- 4.1 Provide full information as to the requirements for the Project.
- 4.2 Assist the ENGINEER by placing at his disposal in a timely manner all available information pertinent to the Project including previous documents and plans and any other data relative to the evaluation, design, and construction of the Project. Subject to the generally accepted standard of care, ENGINEER and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to the OWNER.
- 4.3 Designate a person to act as OWNER's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions pertinent to the services in this Agreement.
- 4.4 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the ENGINEER and render decisions and comments pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.
- 4.5 Guarantee access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform the services under this Agreement, provided the same does not unreasonably interfere with the operation of the existing facilities.
- 4.6 Obtain any right-of-way easements from public bodies, entities or persons necessary for satisfactory construction of the Project.
- 4.7 Obtain any subsurface geotechnical investigations or other types of testing and analysis needed for the Project.
- 4.8 Pay for permit fees, and all costs incidental to advertising for bids, and receiving bids or proposals from licensed Contractors.
- 4.9 Provide such legal, accounting and insurance counseling services as may be required for the Project, and such auditing services as may be required to ascertain how or for what purpose any Contractor will or has used the monies paid to him under the construction contract.
- 4.10 Give prompt notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project.
- 4.11 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, subject to the obligations of the ENGINEER outlined in Sections 1.3 and 2.2 of this Agreement.
- 4.12 Furnish, or direct the ENGINEER to provide necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.13 Bear all costs incident to compliance with the requirements of this Section 4, except where Contractor will assume responsibility for the same.

SECTION 5 - PERIOD OF SERVICES

- 5.1 Unless this Agreement has been terminated as provided in paragraph 7.1, the ENGINEER will be obligated to render services hereunder for a period which may reasonably be required for the services described herein. The ENGINEER may decline to render further services hereunder if the OWNER fails to give prompt approval of the various phases as outlined. Upon receiving a written authorization to proceed, the ENGINEER shall provide the OWNER with a written schedule of completion for the services so authorized.
- 5.2 If the Project is delayed significantly for reasons beyond the ENGINEER's control, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

SECTION 6 - PAYMENT TO THE ENGINEER

6.1 PAYMENT FOR BASIC SERVICES

- 6.1.1 The OWNER agrees to pay the ENGINEER for Basic Services as outlined in Section 2, the following lump sum fees, inclusive of all reimbursable expenditures.

Preliminary Engineering	\$115,000
Design Phase	\$780,000
Bidding and Award	\$28,000
Construction Phase	\$590,000
Funding Administration	\$20,000

6.2 PAYMENT FOR ADDITIONAL SERVICES

- 6.2.1 The OWNER will pay the ENGINEER for Additional Services as outlined in Section 3 an amount based on actual time spent and expenses incurred by principals and employees of the ENGINEER assigned to the Project in accordance with the attached ENGINEER's standard rate and fee schedule Attachment "A", which is subject to update on an annual basis.

6.3 TIMES OF PAYMENT

- 6.3.1 The OWNER will make prompt monthly payments in response to the ENGINEER's monthly statements for services rendered under this Agreement.

6.4 GENERAL

- 6.4.1 If the OWNER fails to make any payment due the ENGINEER on account of his services and expenses within sixty days after receipt of the ENGINEER's bill therefor, the ENGINEER may, after giving seven days written notice to the OWNER, suspend services under this Agreement until he has been paid in full all amounts due him on account of his services and expenses.
- 6.4.2 If the Agreement is terminated at the completion of any phase of the Basic Services called for under Section 2, progress payment to be made to the ENGINEER on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Basic Services, the ENGINEER shall be paid for services rendered based on a reasonable estimate of the portion of such phase completed prior to termination. In the event of any termination, the ENGINEER will be paid for all his reasonable expenses resulting from such termination, and for unpaid reimbursable expenses.
- 6.4.3 If, prior to termination of this Agreement, any work performed by the ENGINEER, under Section 2, is suspended in whole or in part for more than three months or is abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed prior to receipt of such notice from the OWNER as provided in paragraph 6.4.2 for termination during any phase of service.

SECTION 7 - GENERAL CONDITIONS

7.1 TERMINATION

- 7.1.1 The OWNER has the right to terminate this agreement for any reason, and without cause by providing fifteen (15) days written notice to the ENGINEER of such termination and specifying the effective date of such termination; provided, however, that during such period of ten (10) days the ENGINEER shall have the opportunity to remedy such failures or violations to avoid such termination.
- 7.1.2 In the event of termination, as provided herein, the ENGINEER shall be paid for all services performed and actual expenses incurred up to the date of termination pursuant to Section 6.4.2 herein.

7.2 OWNERSHIP OF DOCUMENTS

- 7.2.1 All documents, calculations, drawings, specifications, maps, field notes, data and other items generated during the performance of services shall be considered intellectual property and remain the property of the ENGINEER as instruments of service. After ENGINEER has been paid in full, the OWNER shall be provided a set of record drawings, and copies of other documents, in consideration of which the OWNER will use them solely in connection with the Project, and not for the purpose of making subsequent extensions or enlargements hereto and not for resale. Re-use for extension of the Project, or for new projects shall require written permission of the ENGINEER and shall entitle him to further compensation at a rate to be agreed upon by OWNER and ENGINEER at the time of such re-use.

7.3 CHOICE OF LAW

- 7.3.1 This Agreement shall be governed by the internal laws of the State of North Carolina.

7.4 OPINIONS OF PROBABLE COSTS

- 7.4.1 Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the opinions of probable costs for the Project provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids or the Project construction cost will not vary from opinions of probable costs prepared by him.
- 7.4.2 If the lowest bona fide proposal or bid exceeds the established Project construction cost limit, the OWNER will (1) give written approval to increase such cost limit, or (2) authorize negotiating or rebidding the project within a reasonable time. The providing of such a service shall be the limit of the ENGINEER's responsibility in this regard and having done so, the ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

7.5 INSURANCE AND CLAIMS

- 7.5.1 ENGINEER shall provide and maintain, at its own expense, during the term of this Agreement the following insurance covering its operations.

- A. AUTOMOBILE LIABILITY - bodily injury and property damage liability insurance covering all owned and hired automobiles for limits for bodily injury of not less than \$1,000,000 per person and \$2,000,000 per accident, and property damage limits of not less than \$1,000,000 per accident. The automobile liability insurance coverage amounts may be satisfied with a combination of primary and excess/umbrella coverage.
 - B. COMMERCIAL GENERAL LIABILITY - Bodily injury and property damage liability shall protect the ENGINEER performing work under this Agreement from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by ENGINEER or anyone directly or indirectly working for or on ENGINEER'S behalf. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/\$2,000,000 aggregate and \$1,000,000 property damage each occurrence/\$2,000,000 aggregate. This insurance shall include coverage for products/completed operations, personal and advertising injury liability and contractual liability in an amount not less than \$1,000,000 each occurrence / \$2,000,000 aggregate. The liability insurance coverage amounts may be satisfied with a combination of primary and excess/umbrella coverage.
 - C. PROFESSIONAL LIABILITY – Insuring against professional negligence/ errors and omissions on an occurrence basis with policy limits of \$2,000,000 per claim/\$2,000,000 annual aggregate.
 - D. WORKERS' COMPENSATION – Worker's Compensation insurance meeting the statutory requirements of the State of North Carolina, even if not required by law to maintain such insurance. Said Workers' Compensation insurance shall have at least the following limits: Employers Liability - \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.
- 7.5.2 ENGINEER's total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, members, partners, agents, employees, and sub-consultants, to the OWNER and to anyone claiming by, through, or under OWNER for any and all claims, losses, cost, or damages whatsoever arising out of, resulting from, or in any way related to the Project, this Agreement, or ENGINEER's performance, from any cause including but not limited to negligence, professional errors or omissions, strict liability, breach of contract, or indemnity, shall not exceed the total insurance proceeds paid on behalf of or to ENGINEER by ENGINEER's insurers in settlement or satisfaction of claims under the terms and conditions of ENGINEER's insurance policies applicable thereto.

7.6 SUCCESSORS AND ASSIGNS

- 7.6.1 The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER will assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

7.7 INDEMNIFICATION

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

7.8 ENTIRE AGREEMENT

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

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

McGILL ASSOCIATES, P.A.

By: _____

Andy Lovingood, PE
President

By: _____

Douglas Chapman, PE
Vice President – Regional Manager

(SEAL)

CITY OF LENOIR

ATTEST: _____

Shirley M. Cannon
City Clerk

By: _____

Scott Hildebran
City Manager

PRE-AUDIT CERTIFICATION:

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

By: _____

Donna Bean, Finance Director
City of Lenoir

APPROVED AS TO LEGAL FORM:

By: _____

Timothy J. Rohr – Wilson, Lackey, Rohr, & Hall, P.C.
City Attorney

ATTACHMENT "A"
BASIC FEE SCHEDULE

July 2023

PROFESSIONAL FEES	I	II	III	IV
Senior Principal	\$250			
Principal – Regional Manager – Director	\$220	\$225	\$240	\$245
Practice Area Lead	\$195	\$210	\$220	\$235
Senior Project Manager	\$200	\$210	\$215	\$220
Senior Engineer	\$200	\$210	\$215	\$220
Project Manager	\$170	\$180	\$185	\$190
Senior Project Engineer	\$170	\$180	\$185	\$190
Project Engineer	\$135	\$145	\$155	\$165
Engineering Associate	\$120	\$125	\$130	\$135
Planner- Consultant – Designer	\$120	\$130	\$155	\$165
Engineering Technician	\$110	\$120	\$125	\$135
CAD Operator - GIS Analyst	\$90	\$100	\$110	\$115
Construction Services Manager	\$140	\$150	\$170	\$185
Construction Administrator	\$110	\$125	\$135	\$145
Financial Services Manager	\$125	\$135	\$145	\$155
Grant Administrator	\$115	\$125	\$135	\$145
Construction Field Representative	\$90	\$105	\$115	\$125
Environmental Specialist	\$90	\$100	\$105	\$110
Administrative Assistant	\$75	\$80	\$90	\$105
Survey Party Chief	\$90	\$105	\$120	\$140
Survey Field Technician	\$75	\$80	\$85	\$90

EXPENSES

- a. Mileage - \$0.70/mile
- b. Flow Monitoring Equipment: Pressure Flow Meter- \$400/wk.; Gravity Flow Meter - \$1,000/deployment
- c. Robotics/GPS Equipment: \$30/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

ASSOCIATED SERVICES

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

**CITY OF LENOIR
COUNCIL ACTION FORM**

- I. Agenda Item:** Consideration of a Capital Project Budget Ordinance for the Wayfinding Signs Capital Project.
- II. Background Information:** Attached for your consideration is a Capital Project Budget Ordinance to authorize activities and expenditures for the design, construction, installation, and project administration for the Wayfinding Signs Capital Project. The project is to be funded by an ARC Grant, ARPA Revenue Replacement funds and an allocation from the Lenoir Tourism Development Authority (LTDA).
- III. Staff Recommendation:** Request City Council to adopt the Capital Project Budget Ordinance for the Wayfinding Signs Capital Project in the amount of \$591,500.00.
- IV. Reviewed By:**
- City Attorney:
- Finance Director: *Donna Bean*
- Public Works/Public Utilities Director:

Capital Project Ordinance for the City of Lenoir

Wayfinding Signs Capital Project

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project to authorize activities for the Wayfinding Signs Capital Project to include the expenditure of funds for the design, construction, installation, and project administration for the Wayfinding Signs Capital Project. The project is to be funded by an ARC Grant, ARPA Revenue Replacement funds and an allocation from the Lenoir Tourism Development Authority (LTDA).

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

Section 3: The following amounts are appropriated for the project:

Description	Budget
Wayfinding Signs Construction, Installation & Design	\$591,500.00
Total Expenditures	\$591,500.00

Section 4: The following revenues are anticipated to be available to complete this project:

Description	Budget
ARC Grant Funding	\$ 250,000.00
ARPA Revenue Replacement Funds	\$ 291,500.00
LTDA Allocation	\$ 50,000.00
Total Revenue	\$ 591,500.00

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Project Ordinance.

Section 6: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 7: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 8: Copies of this capital project ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 16th day of January, 2024.

Mayor

Clerk

CITY OF LENOIR
COUNCIL ACTION FORM

- I. Agenda Item:** Consideration to approve a resolution to approve the acceptance of Firehouse Subs Public Safety Foundation grant to purchase various fire hose and nozzles.
- II. Background Information:** Firehouse Subs Public Safety Foundation will provide up to \$26,698.62 to purchase various fire hose and equipment. The Firehouse Subs Public Safety Foundation will initiate the purchasing process no later than Friday, February 9, 2024.

The requested equipment will be 18 fire nozzles and 72 sections of 1 ¾” fire hose that will standardized all initial attack hose and nozzle combinations on all trucks. These nozzles will have an increased gallons per minute flow over many of our current nozzles, which in turn will increase the speed of fire suppression. A quicker fire extinguishment will allow firefighters to spend less time in these dangerous environments and offer firefighters more protection while in these dangerous environments.

- III. Staff Recommendation:** At the conclusion of the consent agenda adopt the attached Resolution Accepting the Firehouse Subs Public Safety Foundation Grant.

- IV. Reviewed By:**

City Attorney:

City Manager:



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
K. R. ROGERS
D. F. STEVENS
C. D. THOMAS

RESOLUTION BY CITY COUNCIL OF THE CITY OF LENOIR NORTH CAROLINA

WHEREAS, in 2005, the Firehouse Subs founders established the 501(c)(3), non-profit Firehouse Subs Public Safety Foundation. The charity provides lifesaving equipment, prevention education, scholarships and continued education, and disaster relief for first responders and public safety organizations, as well as support for military veterans, and

WHEREAS, the Firehouse Subs Public Safety Foundation Board of Directors has awarded the City of Lenoir Fire Department up to **\$26,698.62** to purchase a variety of hoses and nozzles as detailed in the submitted application, and

WHEREAS, the City of Lenoir intends to procure said equipment in accordance to the procurement processes as determined by the City of Lenoir and Firehouse Subs Public Safety Foundation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LENOIR:

That the City of Lenoir does hereby accept the Firehouse Subs Public Safety Foundation grant offer up to **\$26,698.62**; and

That the City of Lenoir does hereby give assurance to the Firehouse Subs Public Safety Foundation Board of Directors that any *Conditions* and *Assurances* contained in *Funding Offer* and Acceptance (award offer) will be adhered to; has substantially complied, or will substantially comply, with all federal, State of North Carolina (State), and local laws, rules, regulations, and ordinances applicable to the project; and to federal and State grants and loans pertaining thereto; and

That Scott Hildebran – City Manager and Donna Bean – Finance Director, and successors so titled, are hereby authorized and directed to furnish such information as the Firehouse Subs Public Safety Foundation Board of Directors may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Firehouse Subs Public Safety Foundation Board of Directors.

Adopted this 16th Day of January 2024 at the City County Chambers in Lenoir, North Carolina.

SEAL

Joseph L. Gibbons, Mayor

Attest:

Shirley M. Cannon, City Clerk

