



Town of Waynesville, NC

Board of Aldermen Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: September 14, 2021 Time: 6:00 p.m.

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Consider the environment ♦ Conserve resources ♦ Print only when necessary

The Town of Waynesville provides accessible facilities, programs, and services for all people, in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or accommodation for this meeting, please contact the Town Clerk at:

(828) 452-2491 eward@waynesvillenc.gov

A. CALL TO ORDER - Mayor Gary Caldwell

1. Welcome/Calendar/Announcements

B. PUBLIC COMMENT

C. CONSENT AGENDA

All items below are routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.

i. Adoption of minutes of the August 24th regular meeting

Motion: To approve the Consent Agenda as presented or corrected

D. PROCLAMATIONS

Constitution Week

- Mayor Gary Caldwell

Recognizing Kiwanis Club of Waynesville's 70th Year

- Mayor Gary Caldwell

National Day of Service and Remembrance – September 11

- Mayor Gary Caldwell

D. PRESENTATION

2. North Carolina Disabled American Veterans Chapter #89 Presentation

- Paul Taylor, Adjutant

E. PUBLIC HEARING

3. Refinancing Debt and Financing Repayment of Fire Dept. Loan and Fire Tanker

- Town Manager Rob Hites

Motion: Request a Special Meeting to be held on Friday September 17th at a time to be determined.

E. NEW BUSINESS

4. Purchasing Policy Revision

- Autumn Lyvers, Finance Director

5. Fiscal Year 2022 Capital Project Additions

- Jesse Fowler, Assistant Town Manager

Motion: To approve the Purchasing Policy revision/addition as presented.

F. COMMUNICATION FROM STAFF

5. Manager's Report

- Rob Hites, Town Manager

Request to provide at pyrotechnics display at Laurel Ridge Country Club

Motion: Approve the request as per your direction.

7. Town Attorney Report

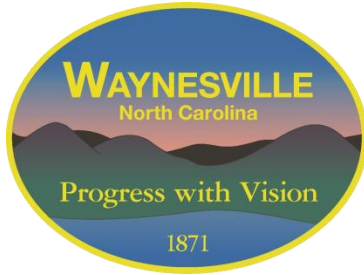
- Town Attorney, Martha Bradley

G. COMMUNICATIONS FROM THE MAYOR AND BOARD

H. CLOSED SESSION

Motion: Enter into Closed Session For discussion of the annual evaluation of the Town Manager NCGS 143-318.11(a)(6) – Personnel

I. ADJOURN



TOWN OF WAYNESVILLE

PO Box 100
16 South Main Street
Waynesville, NC 28786
Phone (828) 452-2491 • Fax (828) 456-2000
www.waynesvillenc.gov

CALENDAR

September 2021

| | |
|---|---|
| Saturday September 18 | Tuscola Band Day – Main Street – 8:00 – 4:00 pm |
| Saturday September 18 | Fall Rockin Block Party – Main Street – 7:00 pm |
| Sunday September 19 | Public Art Dog Show – Hart Theater – 5:00 pm |
| Saturday September 25 | Power of Pink – Commerce Street Frog Lever – 9:00 – 11:00 am |
| Friday September 24 | Friday Night Street Dance – Main Street – 6:30 |
| Tuesday September 28 | Board of Aldermen Meeting – Regular Session |
| Saturday October 9 | 38 th Annual Church Street Art & Crafts – Main Street – 10:00 am |
| Tuesday October 12 | Board of Aldermen Meeting – Regular Session |
| Tuesday October 26 | Board of Aldermen Meeting – Regular Session |
| Saturday October 30 | Treats on the Street – Main Street – 5:00 pm |
| Tuesday November 9 | Board of Aldermen Meeting – Regular Session |
| Thursday November 11 Veterans Day | Town Offices Closed |
| Tuesday November 23 | Board of Alderman Meeting- Regular Session |
| Thursday & Friday November 25 & 26 | Town Offices Closed - Thanksgiving |
| Friday December 3 | Waynesville Christmas Tree Lighting – Main Street - 6:00 pm |
| Monday December 6 | Waynesville Christmas Parade – Main Street - 6:00 pm |
| Saturday December 11 | Night Before Christmas – Main Street – 6:00 p, |
| Tuesday December 14 | Board of Aldermen Meeting – Regular Session |
| December 23, 24 & 27th | Town Closed – Christmas Holidays |

Board and Commission Meetings – September 2021

| | | |
|--|---------------------------------------|---|
| ABC Board | ABC Office – 52 Dayco Drive | September 21 3 rd Tuesday 10:00 AM |
| Board of Adjustment | Town Hall – 9 S. Main Street | September 7 1 st Tuesday 5:30 PM |
| Downtown Waynesville Association | UCB Board Room – 165 North Main | September 23 4 th Thursday 12 Noon |
| Firefighters Relief Fund Board | Fire Station 1 – 1022 N. Main Street | Meets as needed <i>No meeting currently scheduled</i> |
| Historic Preservation Commission | Town Hall – 9 S. Main Street | September 1 1 st Wednesday 2:00 PM |
| Planning Board | Town Hall – 9 S. Main Street | September 20 3 rd Monday 5:30 PM |
| Public Art Commission | Town Hall – 9 S. Main Street | September 9 2 nd Thursdays 4:00 PM |
| Recreation & Parks Advisory Commission | Rec Center Office – 550 Vance Street | September 15 3 rd Wednesday 5:30 PM |
| Waynesville Housing Authority | Waynesville Towers – 65 Church Street | September 14 2 nd Tuesday 3:30 PM |

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
Regular Meeting
August 24, 2021

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday August 24, 2021 at 6:00 pm. in the Town Hall Board Room located at 9 South Main Street Waynesville, NC.

A. CALL TO ORDER

Mayor Gary Caldwell called the meeting to order at 6:02 pm with the following members present:

Mayor Gary Caldwell
Alderman Anthony Sutton
Alderman Jon Feichter
Alderman Chuck Dickson

Mayor Pro Tem Julia Freeman was absent.

The following staff members were present:

Rob Hites, Town Manager
Jesse Fowler, Assistant Town Manager
Eddie Ward, Town Clerk
Martha Bradley, Town Attorney
Police Chief David Adams
Julie Grasty Asset Services Manager
Jeff Stines, Public Services Director

The following media representative was present:

Becky Johnson, The Mountaineer

1. Welcome/Calendar/Announcements

Mayor Gary Caldwell welcomed everyone to the meeting and reminded them of the upcoming events including the Hazelwood Baptist Car show on August 28, and the Labor Day Holiday on Monday September 6.

Mayor Caldwell asked for a moment of silence for the people of the Clyde, Canton, and Cruso communities who lost lives and properties in these areas.

Town Manager Rob Hites told everyone that the Town has offered aid to these communities, and employees from the Police Department, Inspectors from the Development Services Department, and Public Services with equipment, have been in the area helping with the massive amounts of

debris and clean up. He said the Town is recording the hours that employees work and will continue to be of assistance if needed.

B. PUBLIC COMMENT

**Peggy Hannah
Hemlock Street
Waynesville, NC**

Ms. Hannah thanked the Public Service and Police staff for their efforts in working in the Cruso in the aftermath of the floods on August 17, 2021.

C. CONSENT AGENDA

All items below are routine by the Board of Aldermen and will be enacted by one motion. There will be no separate discussion on these items unless a Board member so requests. In which event, the item will be removed from the Consent Agenda and considered with other items listed in the Regular Agenda.

- i. Adoption of minutes of the August 10th regular meeting
- ii. Adoption of minutes of the August 11th special called meeting
- iii. No Parking Sign Street Name Addendum
- iiii. Special Event Permits – Tuscola Band Day

A motion was made by Alderman Jon Feichter, seconded by Alderman Anthony Sutton, to approve the consent agenda as presented. The motion carried unanimously.

D. PRESENTATION

- 2. Presentation by Dr. Peter Bates (Forest Stewards) on prescribed burns
 - Rob Hites, Town Manager

Manager Hites told the Board that Dr. Bates and the North Carolina Forest Service had been in discussion concerning the need for controlled burns in several areas of the watershed. These places have too much undergrowth for the large hardwood forests that covered the watershed in the past. He said that fire promotes the germination of certain hardwoods.

Dr. Bates explained how the prescribed burning will be conducted by the North Carolina Forest Service at no charge to the Town. He said there are significant portions of the watershed where very little burning has been in the past eighty years. The prescribed burning will manage fuels

to prevent catastrophic wildfires in the future. The area that will be burned is a small area (12 acres) has been designated for an initial burn.

The Board had several questions including if there has ever been a prescribed burn get out of control. Dr. Bates said that is a rarity because the Forest Service takes into consideration the weather conditions, wind, and dryness of the property before it is burned.

Alderman Feichter asked Dr. Bates if he and the Forest Service could do a presentation for the public before the initial burn. That will be scheduled soon.

A motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to approve controlled burning in specific locations. The motion carried unanimously.

E. NEW BUSINESS

3. Greenview Drive Traffic Study

- Jesse Fowler, Assistant Town Manager

Assistant Town Manager Jesse Fowler told the Board that the Town had been approached by a resident of Greenview Drive concerning speeding on that street. He said the 20 mile per hour sign had been posted in the past but has since been taken down sometime between 2013 and the present.

J. M. Teague Engineering completed a traffic study on Greenview Drive and found that the most vehicles are traveling between 25 – 35 miles per hour. That drive is narrow and winding with limited sight distances, the Engineer recommends that the posted speed limit be no greater than 25 miles per hour.

Bess Crider Greenview Drive

Ms. Crider spoke to the Board and said there are a lot of pedestrians on the street and that she has had to pull off on the side many times in order not to be sideswiped by other cars. She asked that the Board also look at Country Club – Longview section, and possibly put signs there too.

A motion was made by Alderman Jon Feichter, seconded by Alderman Anthony Sutton, to post the speed limit of Greenview Drive at 20 miles per hour. The motion passed unanimously.

Dick Young Meadow Street

Mr. Young spoke and indicated the same had happened to the Meadow Street where he lives. There was a sign there for 20 miles an hour but was taken down with no explanation. He asked the Board to consider replacing that sign with a new 20 mile an hour speed limit.

After much discussion, the consensus of the Board was to add Meadow Street to the Ordinance as a 20 mile an hour street. Signs will be placed on the street.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to post the speed limit of Meadow Street at 20 miles an hour. The motion carried unanimously.

4. Award Janitorial Contract for Town Facilities.

- Julie Grasty, Asset Services Manager

Julie Grasty, Asset Services Manager, brought before the Board a janitorial contract for Town facilities. She said that the current janitorial service had give notice of termination of contract for the end of August. An RFP had been sent out to eight different firms, and the lowest bid received was from Reliable Facility Group in the amount of \$68,964.00 annually.

A motion was made by Alderman Jon Feichter, seconded by Alderman Anthony Sutton, to award the Janitorial Contract to Reliable Facility Group with the contract ending June 20, 2023. The motion carried unanimously.

F. COMMUNICATION FROM STAFF

5. Manager's Report

- Jesse Fowler, Assistant Town Manager

Scheduling a closed session to conduct the annual review of the Town Manager

Assistant Manager Fowler asked the Board to schedule a closed session at the next regularly scheduled meeting to conduct the annual review of the Town Manager.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Jon Feichter, to schedule a closed session to be held at the next regularly scheduled meeting to conduct the annual review of the Town Manager. The motion carried unanimously.

6. Golden Leaf Grant for Countywide Water Interconnection

- Town Manager, Rob Hites

Manager Hites explained to the Board that McGill and Associates has completed a Countywide study that makes the case for the Towns and Water Districts to be interconnected for fire

protection and short-term emergency water issues. The Towns do not have the storage capacity to handle a major fire or line failure without the help of neighboring municipalities. He said that currently Waynesville is interconnected with Maggie Valley, Lake Junaluska and Junaluska Sanitary District but our storage capacity limited. On a regular workday water demand at Champion, HCC, Haywood Hospital, and that area of Clyde can draw down the Tuscola Tank and reduce the water pressure in that entire area. The study recommends several improvements to the system with the most important being the interconnection of Canton with our extended water system.

Manager Hites asked to aid the County and Towns in drafting a Golden Leaf Grant request to improve the water situation around Tuscola High School. The area is about to experience substantial growth and further burden the Tuscola Tank. As for funding, the Town will not be expending its own funds in the project.

A motion was made by Alderman Chuck Dickson, seconded by Alderman Anthony Sutton, to permit the Town staff to aide in drafting a grant for improvements to the Countywide emergency water system. The motion carried unanimously.

7. Town Attorney Report

- Town Attorney, Martha Bradley

Attorney Bradley had nothing to report

G. COMMUNICATIONS FROM THE MAYOR AND BOARD

Alderman Feichter commended Alderman Sutton for the work he has done in the reorganization of the DWA. The rest of the Board agreed that he had put in a lot of time and effort in this process.

Mayor Caldwell asked Assistant Manager Fowler to begin working on the gazebo on Miller Street, the project on Depot Street, bump-outs, and a pavilion at the Recreation Center. He asked Mr. Stines to have a Tuscola High School Mountaineers banner placed on the Municipal Building.

Alderman Feichter asked about the progress of the bathrooms at the OK Park. Assistant Manager Fowler stated that the plans from Civil Design Engineers will be coming shortly. He asked Public Service Director Jeff Stines about the timeline for paving on Pigeon Street. Mr. Stines stated that the award for the contract would be this year, and paving would begin in spring 2022.

Manager Hites told the Board that Mountain Creek Plaza, formerly the Bilo store, had submitted plans for building permits for the apartment complex.

H. ADJOURN

With no further business, a motion was made by Alderman Anthony Sutton, seconded by Alderman Chuck Dickson, to adjourn the meeting at 7:00 pm. The motion was approved unanimously.

ATTEST:

Robert W. Hites, Town Manager

Gary Caldwell, Mayor

Eddie Ward, Town Clerk

**Proclamation
Constitution Week
September 17-23, 2021**

WHEREAS, September 17, 2021 marks the two hundred thirty-fourth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this enduring document on this anniversary, and to the patriotic celebrations which will commemorate the occasion, and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

NOW, THEREFORE, I, Gary Caldwell, by virtue of the authority vested in me as Mayor of the Town of Waynesville, North Carolina do hereby proclaim the week of September 17 through 23 as

Constitution Week

and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedom guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town to be affixed this ____ day of September, of the year of our Lord two thousand twenty-one.

Town of Waynesville, N.C.

Gary Caldwell
Mayor

ATTEST:

Eddie Ward
Town Clerk

Town of Waynesville

NORTH CAROLINA



Recognizing Kiwanis Club of Waynesville's 70th Year

WHEREAS, the Kiwanis Club of Waynesville has a rich and storied 70 Year Tradition of providing for the children of Waynesville and throughout Haywood County. Kiwanis is a global organization of volunteers dedicated to improving the world, one child and one community at a time; and

WHEREAS, in addition to improving lives, Kiwanis Club members promote the development of community leaders, positive role models, intercultural understanding and cooperation, opportunities for fellowship, personal growth, professional development and community service; and

WHEREAS, the Kiwanis Club of Waynesville has a unique partnership with the Town of Waynesville, Haywood County Schools with the annual 3rd Grade Dictionary distribution, sponsors Key Clubs in two Haywood County high schools and sponsors the Aktion Club for adults living with developmental disabilities. Each of these clubs continues the Kiwanis tradition of service projects and community service activities; and

WHEREAS, the Kiwanis Club of Waynesville is acting as a partner with Waynesville Parks and Recreation to make significant improvements to Recreation & Kiwanis Park; and

WHEREAS, with the generous annual funding source through the Jim and Betty Scott Fund and the funds raised each year, Kiwanis has been able to fund grants, scholarships and sponsorships during the past 70 years equaling more than \$1,000,000.

WHEREAS, the service provided by the Kiwanis Club of Waynesville will continue to have a positive impact on our community and citizens; and

NOW, THEREFORE, We, the Board of Aldermen of the Town of Waynesville, do hereby recognize the Kiwanis Club of Waynesville's 70 years of meaningful and invaluable service and honor its members for their contributions to the betterment of life in our Haywood County Community.

Adopted this 14th day of September

*Gary Caldwell ,Mayor
Town of Waynesville, North Carolina*

Town of Waynesville

Proclamation

NATIONAL DAY OF SERVICE AND REMEMBRANCE SATURDAY, SEPTEMBER 11, 2021

WHEREAS, in an unprovoked and senseless act of terrorism, four civilian aircrafts were hijacked on September 11, 2001, and crashed in New York City, Pennsylvania and the Pentagon, resulting in a momentous loss of innocent U.S. lives of all heritages; and

WHEREAS, while we continue to recover from the loss of innocent lives, the spirit of the U.S. has been revitalized, giving way to expressions of patriotism; and

WHEREAS, inspired by the heroism of our nation's public service personnel, military service members and countless volunteers, our nation found unity and strength; and

WHEREAS, from the tragedy of September 11 emerged a stronger nation, renewed by the spirit of national pride, and a true love of country; and

WHEREAS, Americans also have fought back against terror by choosing to overcome evil with good by loving their neighbors as they would like to be loved, contributing to relief efforts, and volunteering their time to aid those in need;

NOW, THEREFORE, BE IT RESOLVED, that I, J. Gary Caldwell, by virtue of the authority vested in me as Mayor of the Town of Waynesville, do hereby proclaim September 11, 2021, as

NATIONAL DAY OF SERVICE AND REMEMBRANCE

in the Town of Waynesville and urge our citizens to recognize the heroism of firefighters, rescue and law enforcement personnel, military service members and the many volunteers who responded to these tragic events with courage, selfless compassion, determination and skill; and to remember the victims and innocent lives lost as a result of the tragic events on September 11, 2001.

This the 11th day of September 2021.

J. Gary Caldwell, Mayor

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 14, 2021**

SUBJECT: North Carolina Disabled American Veterans Chapter #89 Presentation

AGENDA INFORMATION:

Agenda Location: Presentation
Item Number: D2
Contact: Paul Taylor, Adjutant
Presenter: Paul Taylor, Adjutant

BRIEF SUMMARY:

Chapter 89 of the North Carolina Disabled American Veterans (NCDVA) wishes to present to the board of Aldermen. Paul Taylor, Adjutant will be presenting to the Board of Aldermen on behalf of the NCDVA chapter 98.

MOTION FOR CONSIDERATION:

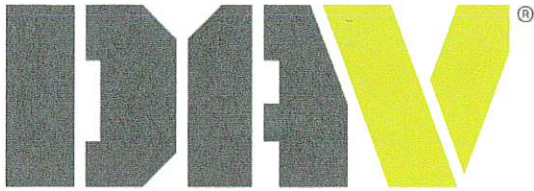
FUNDING SOURCE/IMPACT: General Fund

ATTACHMENTS:

- Letter to the Mayor and Board of Aldermen

MANAGER'S COMMENTS AND RECOMMENDATIONS:

I have spoken with Mr. Taylor, and he informed me that the NCDVA would like to request a donation from the Town of Waynesville. However, he was uncertain how much was appropriate to ask for.



FULFILLING OUR PROMISES
TO THE MEN AND WOMEN WHO SERVED

North Carolina, Keith Mehaffey, Chapter 89
PO Box 341
Canton, NC 28716
Phone (828) 283-1710 (Adjutant's Number)
Commander Fred Underwood
Adjutant Paul Taylor
(NCDAVCHPT89ADJT@gmail.com)

Mayor and Aldermen of Waynesville,

We, the officers and members of NC DAV Chapter #89, wish to thank you for the support you have given us in the past. We know this last year has been tough on many of us and we realize it is late in the season. Our DAV Chapter was not able to do any fund raising this last year. Our funds for assisting have been reduced. We just were able to start fund raising. Your generosity has allowed us to help many disabled veterans, veterans on occasion active duty military personnel and their families.

One of our mottoes is, "We are veterans helping veterans." Our intent is to continue to carry out our mission to be there for fellow veterans. Your support is both crucial and immensely appreciated.

Very respectfully

Paul Taylor FSAScot

USN – RET

Adjutant

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: 9/14/21

SUBJECT: Refinancing Debt and Financing Repayment of Fire Dept. Loan and Fire Tanker.

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number: E3
Department: Administration
Contact: Rob Hites
Presenter: Rob Hites

BRIEF SUMMARY: Alderman Dickson requested that the Town staff and our bond attorney Sanford Holshouser investigate the possibility of refinancing the USDA Loan on Fire Station #1 and the City Hall. When the Town purchased the Fire Station #2 property, we discussed the possibility of using a loan to pay back the General Fund Balance. Market conditions are so favorable I suggest the Town include a replacement Fire Tanker (\$380,000) in the package. Ashley Anderson of Sanford Holshouser has been contacted by BB&T requesting these types of Financing packages and they plan to submit a proposal on Thursday 9/9/21. The terms and interest rate that they propose will give us an idea if the refinancing of the two loans is worth the administrative fees.

We have discovered that the City Hall cannot be refinanced. It does not permit pre-payment. We do have a loan for the Public Works facility if approximately \$980,000 that can be refinanced though the current interest rate is close to 2%.

Autumn, Ashley Anderson, and I had a conversation with the staff of the Local Government Commission concerning our proposed refinancing and new debt. The staff said that they would not permit the Town to issue new debt for a longer term than the original loans so our payback may be lower than we expected. They also wish to see the tax card on the land and an estimate of the truck. The pre-application is due before the meeting. Autumn has prepared the form application and sent it to Ashley. We will have a report on the payback once we get the numbers from BB&T.

One of the stipulations that the LGC staff requires is that the Town hold a public hearing on the refinancing before the agenda is set for the October meeting of the LGC. If we miss the October meeting, we will not be able to submit the refinancing package until the January meeting (once the audits are submitted and reviewed). In order to meet the agenda deadline, we need to hold a public hearing on Friday September 17th. We took the liberty to advertise it over the weekend. The hearing can be held any time on Friday and the presentation will be similar to the presentation on the 14th.

MOTION FOR CONSIDERATION: Request a Special Meeting to be held on Friday September 17th at a time to be determined.

FUNDING SOURCE/IMPACT: General

ATTACHMENTS: Tax Card for the Tolar Property

MANAGER'S COMMENTS AND RECOMMENDATIONS When we receive BB&T's proposal for refinancing Fire Station #1 and the Public Works Building, we can determine if it is cost effective to proceed. We will know if the proposal for financing the land and Fire Tanker is attractive enough to submit to the LGC.

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

**STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION**

Mailing Address: 3200 Atlantic Avenue
Raleigh, North Carolina 27604

Federal Express & Courier: 3200 Atlantic Avenue
Raleigh, North Carolina 27604

Telephone: (919) 814-4300
Fax: (919) 855-5812

**APPLICATION FOR APPROVAL OF
INSTALLMENT PURCHASE OR LEASE CONTRACT**

APPLICATION DUE DATE

The Local Government Commission (the "LGC") meets the first Tuesday of each month, unless otherwise announced, to conduct its business, including the approval of applications of units of government to incur debt. Generally, to allow adequate review of applications, the staff of the LGC (the "staff") requires that applications be received no later than twenty-eight days prior to the date of the LGC meeting at which the unit wants its application to be considered. However, in more complex transactions the staff may require earlier submission.

Although this application form is available to interested parties by internet access; the project and the related proposed financing should be discussed with the staff prior to submission of an application. Before the application is accepted for submission to the LGC a preliminary conference may be required (G.S. 159-149).

LEGISLATIVE REPORTING REQUIREMENT

State law G.S. 120 - 157.1 – 157.4 adopted and effective on June 24, 2011 requires that certain capital projects to be financed with debt in an amount exceeding \$1,000,000 be reported to the Joint Legislative Committee on Local Government and to the Fiscal Research Division of the North Carolina General Assembly at least 45 days before the application for debt is to be considered for approval by the Local Government Commission. The law applies to all capital projects to be financed by issuing debt over \$1,000,000 with the exception of schools, jails, courthouses and administrative buildings. Copies of the reporting should also be sent to our office at the time of the filing.

This reporting duty is the responsibility of each local government unit. Each unit should consult its own attorney or the unit's bond counsel for legal advice on complying with the reporting requirements of this new statute.

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Raleigh, North Carolina 27604*

**APPLICATION FOR APPROVAL OF INSTALLMENT PURCHASE
OR LEASE CONTRACTS**

CHECK ONE: ☐ G. S. 160A-19 ☒ G. S. 160A-20
 ☐ G. S. 153A-165

1. Unit Town of Waynesville Population 10,131 Date 9/3/2021
2. Project Description The proposed installment purchase will have four components: 1) Reimbursement to the Town of Waynesville for purchase of land of \$400,000 to be used for Fire Station #2. 2) Purchase of Tanker Fire Truck at \$600,000 3) Refinancing of existing debt on Fire Station #1 currently financed by a USDA loan, term 40 years, issued in 2008, with a principal balance of \$1,710,822.60 at 6/30/2021. 4) Refinancing of existing debt on Public Works Building Improvements, term of 15 years, issued in 2016, with a principal balance of \$910,000.03 at 6/30/2021.
3. Necessity The current Fire Station #2 has outgrown its location, and is unable to accommodate the staff and equipment needed to provide fire protection services. Purchasing the new tract of land provides for ample space for current needs and growth. The Town's current Tanker truck is 30 years old, in poor condition, and no longer NFPA compliant. We are seeking refinancing on current debt based on projected interest savings.
4. Principal Amount to be Financed..... \$3,620,823
5. Interest to be paid during life of contract..... \$TBD
6. Amount due throughout life of contract \$TBD
(i.e., amount of periodic payment times number of payments. Should also be the total of 4 + 5 above.)
7. Estimated increase in tax rate by reason of proposed financing \$ 0 . If other funding sources are anticipated, explain in one of the following forms:
☐ LGC-108C Revenue Projection for Water and Sewer
☐ LGC-108D Revenue Project for Other Enterprises
☐ LGC-108E Repayment Plan for Non-Enterprise Purposes
8. Term of contract including options to renew (if any)..... 20 years
9. Basis of design and estimated cost of project (engineer) See attached tax valuation statement for land tract, and see attached informal quotes for Tanker truck.
Date construction bids will be opened N/A
10. Capital budget based on estimates as of N/A

| <u>Estimated Cost</u> | | <u>Funding Sources</u> | |
|-----------------------------|----------|--------------------------|----------|
| Construction Cost..... | \$ _____ | Loan..... | \$ _____ |
| Engineer or Arch. Fees..... | _____ | Grants (indicate source) | _____ |
| Land and Rt.-of-way..... | _____ | | _____ |

| | | | |
|------------------------------|----------|---------------------|----------|
| Special Counsel Fees..... | _____ | | _____ |
| Other Legal/Fiscal Cost..... | _____ | | _____ |
| Administrative Cost..... | _____ | | _____ |
| Capitalized Interest..... | _____ | | _____ |
| Contingency..... | _____ | Available Cash..... | _____ |
| | _____ | Other..... | _____ |
| Total..... | \$ _____ | Total..... | \$ _____ |

11. The attached are furnished in support of this application:

- ☐ a. Certified copy of governing body resolution making necessary findings and authorizing the contract.
- ☐ b. Publisher's Affidavit of the Notice of Hearing.
- ☐ c. Certified copy of minutes of hearing.
- ☐ d. Certified net debt statement.
- ☒ e. Certified fiscal information by finance officer.
- ☒ f. Revenue projections on repayment plan, Form 108C, 108D, or 108E.
- ☐ g. Engineer's or architect's report establishing feasibility, if applicable.
- ☐ h. Proposed financing contract.
- ☐ i. Completed IRS form 8038-G (2 copies) (To be provided at loan closing).
- ☐ j. Unit Attorney's Opinion.
- ☐ k. Fee Arrangement Letters:
 - ☐ Special Counsel
 - ☐ Banker/Underwriter
- ☐ l. Independent appraiser's report if applicable.
- ☐ m. Bid specifications and summary of competitive bids from contractors.
- ☐ n. Bid specifications and summary of competitive bids from banks and other financial institutions.
- ☐ o. Required licenses and permits.
- ☐ p. Evidence that plans and specs have been approved by appropriate State agencies.
- ☒ q. Other: Specify Tax Valuation Statement, Informal Quotes for Tanker Fire Truck
- ☐ r. Engineer's/Architect's engagement letter (fee arrangement) and a copy of proposed contract
- ☒ s. Application fee for installment/lease purchase agreement contract. Attach check for appropriate amount.
 - ☒ \$1,250 for private placement.
 - ☐ \$12,500 for public offering.

12. Current audited financial statements have been received by Fiscal Management. **Audit Reports are due October 31 each year.** For units with a calendar year or fiscal year not ending on June 30, audited financial statements should be received within four months of year-end. Yes ☒ No ☐

13. Unit's Attorney Martha Bradley Telephone 828-220-4292 Fax _____
Address 37 Church Street, Suite 2800, Waynesville, NC Zip 28786

14. Financing contract/agreement with _____

Contact Person _____
Telephone _____ Fax _____

15. Consulting Firm _____

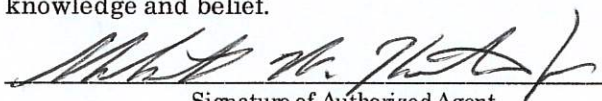
(Architect or Engineer)

Contact Person _____ Title _____
Telephone _____ Fax _____

16. Unit's Authorized Agent Rob Hites

Title Town Manager Telephone 828-452-2491 Fax _____
Address 16 South Main Street, Waynesville NC Zip 28786

This application and supporting documents are deemed to be true and accurate to the best of my knowledge and belief.



Signature of Authorized Agent
(As Designated by Board)

9/7/2021

Date

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Raleigh, North Carolina 27604*

SELECTED FISCAL INFORMATION AS CERTIFIED BY FINANCE OFFICER

Unit Town of Waynesville

1. Ad Valorem Tax (current fiscal year):

| | | | |
|---------------------------------|------------------------|-------------------------|----------------------|
| Appraised Value | <u>\$1,579,029,531</u> | Tax Rate — General Fund | <u>\$00.4392</u> |
| Total Levy | <u>6,785.991</u> | — Other funds | <u>\$00.19 (MSD)</u> |
| Uncollected at <u>8/31/2021</u> | <u>6,785.991</u> | — Total | <u>\$00.6292</u> |
| Percentage Collected | <u>0 %</u> | | |

Tax bills have not yet gone out for the current fiscal year.

2. For the past 5 fiscal years, has there been a delay in payment or non-payment of matured bonds and coupons when presented to the unit's fiscal agent? No (Yes; No). If yes, explain circumstances on separate statement.

3. Information relating to compliance with Local Government Budget and Fiscal Control Act: **(If answer to any question in this item is No, furnish explanation.)**

| A. Purchasing and Contracts | <u>Yes</u> | <u>No</u> |
|---|------------|-----------|
| (1) Are purchase orders issued for all commitments over a minimum amount? | <u>Yes</u> | _____ |
| (2) Do all purchase orders include a preaudit certificate signed by the finance officer (or properly appointed deputy)? | <u>Yes</u> | _____ |
| (3) Are all purchase orders posted to appropriate expenditure accounts as encumbrances? | <u>Yes</u> | _____ |
| B. Other: | | |
| (1) Do checks or drafts on an official depository bear on their face a preaudit certificate, of sufficient unencumbered appropriation signed by the finance officer (or properly appointed deputy)? | <u>Yes</u> | _____ |
| (2) Are the finance officer, tax collector, and other employees (as required) properly bonded according to G.S. 159-29? | <u>Yes</u> | _____ |
| (3) Did the budget provide for all deficits, if any, as shown in the audit report for the prior year? | <u>Yes</u> | _____ |

C. Please include a description of any material instance of misfeasance or malfeasance (within the last three years) which might affected the credit of the unit. N/A

I certify the above is correct to the best of my knowledge

Finance Officer's Signature

Autumn Lynn

Date

9/6/21

PAGE 2

D. Additional Loan and Grant procedures for a Capital Project Ordinances**(1) Loans**

Pursuant to G.S. 159-26(b)(6), a capital project fund is required to account for all debt instrument proceeds used to finance capital projects. To facilitate budgetary and accounting control, it is required that a capital project ordinance, pursuant to G.S. 159-13.2, be adopted by the governing board authorizing all appropriations necessary for the completion of the project. Will the unit prepare and adopt a balanced capital project ordinance covering the life of the project? ✓ YES □ NO

(2) Grants

To facilitate budgetary and accounting control, it is required that a grant project ordinance, pursuant to G.S. 159-13.2, with a corresponding capital project fund, be adopted by the governing board authorizing all appropriations necessary for the completion of the project. Will the unit prepare and adopt a balanced capital project ordinance covering the life of the project? ✓ YES □ NO

Excess Revenues over Expenditures

Projection of water and sewer net revenues (continued)

| | Actual Expenditures for Last Complete Fiscal Year | Estimated Expenditures First Fiscal Year After Completion of Project |
|--------------------------------------|--|--|
| Other (Do not include depreciation): | | |
| Debt principal | | |
| Interest | | |
| Capital outlay | | |
| Capital reserve | | |
| Transfer to (from) other funds | | |
| Other | | |
| _____ | | |
| _____ | | |
| Total other | | |
| Net Income (Loss) | | |

Does the Unit own and operate a Water System and a Sewer System? Yes ____ No ____ If "No", explain _____

Number of Customers

| | | <u>Current</u> | <u>After Completion of Project</u> |
|-------|-------------|----------------|--|
| Water | Residential | _____ | _____ |
| | Commercial | _____ | _____ |
| Sewer | Residential | _____ | _____ |
| | Commercial | _____ | _____ |

| <u>Current</u> | <u>After Completion of Project</u> | <u>Percentage of Change</u> |
|----------------|--|---------------------------------|
|----------------|--|---------------------------------|

Rate and Fee Structure

Indicate monthly cost for an average residential customer:
Average gallons per month (for residential customer): _____

WATER

Rate (Include minimum cost/thousand gallons, etc.) --
Residential

Average monthly bill within city limits

Average monthly bill outside city limits

SEWER

Rate (Include minimum, etc.) -- residential

Average monthly bill within city limits

Average monthly bill outside city limits

TAP FEE POLICY

IMPACT FEE POLICY

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Raleigh, North Carolina 27604*

PROJECTION OF ENTERPRISE NET REVENUES

Unit _____ Date _____

Complete only if proposed financing are for electric, gas, parking, hospital or other enterprise purposes. Use form LGC-108C when financing is proposed for water and sewer purposes. Use actual amounts on modified accrual basis of accounting (budgetary basis) from latest audit report.

| REVENUE (Indicate nature) | -1- Actual Revenue for Last Complete Fiscal Year | Estimated Increase or (Decrease) | | 1 + 2 + 3 Estimated Revenue for First Fiscal Year After Completion of Project |
|------------------------------|---|--|----------------------------------|---|
| | | -2- Due to Normal Growth and Rate Changes | -3- Due to Expanded System | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total revenues | | | | |

| EXPENDITURES (Indicate nature) | -1- Actual Revenue for Last Complete Fiscal Year | Estimated Increase or (Decrease) | | 1 + 2 + 3 Estimated Revenue for First Fiscal Year After Completion of Project |
|-----------------------------------|---|--|----------------------------------|---|
| | | -2- Due to Normal Growth and Rate Changes | -3- Due to Expanded System | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total expenditures ... | | | | |

Projection of enterprise net revenues (continued)

| | Actual Expenditures for Last Complete Fiscal Year | Estimated Expenditures First Fiscal Year After Completion of Project |
|----------------------------------|--|--|
| Other | | |
| – Debt principal | | |
| – Interest | | |
| – Capital outlay | | |
| – Capital reserve | | |
| – Transfer to (from) other funds | | |
| – Other | | |
| | | |
| | | |
| | | |
| Net Income (Loss) | | |

Rate Structure

| | <u>Current</u> | <u>After Completion of Project</u> | <u>Percentage of Change</u> |
|--|----------------|--|---------------------------------|
| Average monthly bill per residential customer: | | | |
| Within city limits | _____ | _____ | _____ |
| Outside city limits | _____ | _____ | _____ |

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Raleigh, North Carolina 27604*

REPAYMENT PLAN FOR NON-ENTERPRISE PROJECTS

Complete if the proposed financing is for non-enterprise purposes. List below the available sources of repayment and the amounts available to service debt over a three-year period. **Explain in detail** and attach supporting schedules.

AVAILABLE AMOUNT

| <u>Available Sources</u> | <u>Fiscal Year 2023</u> | <u>Fiscal Year 2024</u> | <u>Fiscal Year 2025</u> |
|--|------------------------------------|------------------------------------|------------------------------------|
| Debt Service Reduction (due to payoff of existing debt) | \$ 116,194 | \$ 164,915 | \$ 164,915 |
| Sales Tax | 133,806 | 85,085 | 85,085 |
| | | | |
| | | | |
| | | | |
| Total Amount Available | \$ 250,000 | \$ 250,000 | \$ 250,000 |
| | 250,000 | 250,000 | 250,000 |
| Debt Service Amount | \$ (estimate) | \$ (estimate) | \$ (estimate) |

The Town of Waynesville will see capacity for additional debt in the coming fiscal years as currently held debt reaches maturity. We anticipate the current debt service budgets for the requested financings to be enough to cover the debt service on the re-financed debt. However, additional analysis of savings will be completed once a proposed financing contract is received.

Additionally, the Town has experienced significant growth in sales tax revenue. Growth averaged 5%, or \$150,000 during and pre-COVID, and averages 15% for the year ending 6/30/2021. This increase in sales tax revenue will be used offset the increase in debt service.

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Raleigh, North Carolina 27604*

STATEMENT OF DEBT

For Town of Waynesville, North Carolina

To be filed with the application. The debt described below should not include debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding or refunding bonds. The debt described below should not include revenue bonds or special obligation bonds.

A. Gross Debt

1. Outstanding debt evidenced by bonds:

| <u>Purpose</u> | <u>Amount</u> |
|----------------|---------------|
| Water | |
| Sanitary Sewer | |
| Electric | |
| Gas | |
| Other | \$ _____ |

2. The proposed financing, and bonds authorized by orders introduced but not yet adopted:

| <u>Date Introduced</u> | <u>Purpose</u> | <u>Amount</u> |
|----------------------------|------------------------------|-------------------------------|
| Proposed Financing | Fire Station Land | Principal: \$3,620,823 |
| | Tanker Fire Truck | Interest: TBD \$1.2M Estimate |
| | Refinancing of Existing Debt | |
| | | \$ _____ <u>4,820,823</u> |

3. Unissued bonds authorized by adopted orders:

| <u>Date Introduced</u> | <u>Purpose</u> | <u>Amount</u> |
|----------------------------|----------------|---------------|
| | | \$ _____ |

4. Outstanding debt not evidenced by bonds (lease-purchase agreements):

| <u>Date Incurred</u> | <u>Purpose</u> | <u>Amount</u> |
|--------------------------|---|---------------------------|
| | See Statement of Debt Attachment - \$6,595,378 | |
| | We have also received approval to receive a revolving loan for Sewer Plant Improvements in the amount of \$19,545,900 at 0% interest; \$500,000 if which will be forgiven. This loan is still contingent on meeting remaining construction contract milestones. | |
| | | \$ _____ <u>6,595,378</u> |

Total Gross Debt (Sum of 1, 2, 3 and 4) \$ 11,416,201

B. Deductions

1. Funding and refunding bonds authorized by orders introduced but not yet adopted..... \$ _____
 2. Funding and refunding bonds authorized but not issued.... \$ _____
 3. Amount held in sinking funds or otherwise for the payment of gross debt other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent deductible under Section 159-55[b] of the Local Government Bond Act), or two or more of these purposes..... \$ _____
 4. Bonded debt included in gross debt and incurred or to be incurred for water, gas or electric light or power purposes, or any two or more of these purposes..... \$ _____
 5. Bonded debt included in gross debt and incurred or to be incurred for sanitary sewer system purposes (to the extent deductible under Section 159-55[b] of The Local Government Bond Act). \$ _____
 6. Uncollected special assessments levied for local improvements for which gross debt (that is not otherwise deducted) was or is to be incurred, to the extent it will be applied, when collected, to the payment of such gross debt..... \$ _____
 7. Estimate of special assessments to be levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments when collected, will be applied to the payment of any part of gross debt..... \$ _____
- Total Deductions (Sum of 1 through 7) \$ 11,416,201
- C. Net Debt** being the difference between Total Gross Debt (A) and Total Deductions (B). \$ \$1,579,029,531
- D. Assessed Value** of property subject to taxation being the value from which the assessed value was last fixed for taxation as revealed by the County tax records and certified by the County Tax Supervisor..... \$ 0.72299%
- E. Percentage that Net Debt** bears to the assessed value of property subject to taxation (C ÷ D).

| | | |
|---|--|-------------------------|
| I certify the above is correct to the best of my knowledge. | Finance Officer's Signature <i>Autum Lynn</i> | Date <i>9/7/2021</i> |
|---|--|-------------------------|

STATE OF NORTH CAROLINA)
)
TOWN OF WAYNESVILLE) ss.:

Autumn Lyvers, being duly sworn, says that she is

the Finance Director of the Town of Waynesville

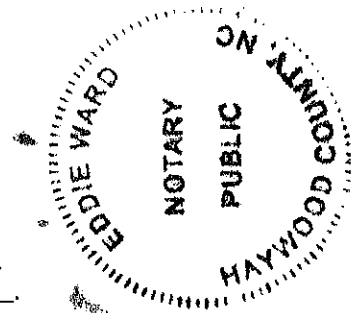
in the State of North Carolina; and that the foregoing statement is true and was made and subscribed by him.

Autumn Lyvers
Finance Officer

Sworn to and subscribed before me on
the day of the date of said statement

Eddie Lord
(Notary Public)

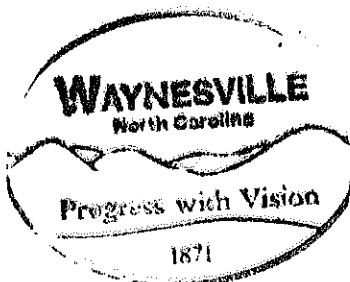
My commission expires the 25th day of April, 2025.



STATE OF NORTH CAROLINA)
)
COUNTY OF Haywood) ss.:

I, the undersigned Town Clerk of the Town
of Waynesville in the State of North Carolina, DO HEREBY CERTIFY that the
foregoing statement and accompanying affidavit were filed in my office on the 1st day of
September, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said ^{Town and} County, this
1st day of September 2021.



Eddie Lord
Clerk

Town of Waynesville

STATEMENT OF DEBT

As of June 30, 2021

|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

Report For

WAYNESVILLE TOWN OF
PO BOX C 100
WAYNESVILLE, NC 28786

Account Information

PIN: 8605-72-5769

Legal Ref: 1037/430

Add Ref: CAB C/4500
CAB C/1801

Site Information

MOSAIC PL

Heated Area:

Year Built:

Total Acreage: 3.5

Township: Town of Waynesville

Site Value Information

Land Value: \$312,500

Building Value: \$0

Market Value: \$312,500

Deferred Value: \$0

Assessed Value: \$312,500

Sale Price: \$400,000

Sale Date: 7/27/2021



1 inch = 100 feet

September 7, 2021

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 14, 2021

SUBJECT: Purchasing Policy Revision

AGENDA INFORMATION:

Agenda Location: New Business

Item Number:

Department: Finance


Contact: Autumn Lyvers, Finance Director; Lisa Burnett, Purchasing Supervisor

Presenter: Autumn Lyvers, Finance Director

BRIEF SUMMARY: The Uniform Guidance (2 C.F.R Part 200) requires all federal grant recipients to have written procurement policies that conform to applicable federal law and Uniform Guidance requirements (2 C.F.R. 200.318(a)). Our current Purchasing Policy was last updated in August 2013. We have not received Federal monies since the Uniform Guidance requirement was put into place in 2018. The Finance Department is requesting the Board of Aldermen approve the attached "Town of Waynesville Uniform Guidance Procurement Policy" to be added as Section 18 to the existing Town of Waynesville Purchasing Policy and Procedures. The Uniform Guidance Procurement Policy outlines purchasing requirements when federal monies are involved (for example, American Rescue Plan Act funds).

MOTION FOR CONSIDERATION: To approve the Purchasing Policy revision/addition as presented.

FUNDING SOURCE/IMPACT: No additional funding needed.



Autumn Lyvers, Finance Director

9/7/2021

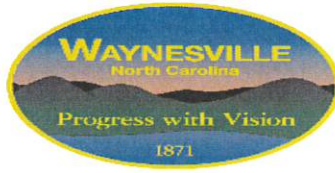
Date

ATTACHMENTS:

Town of Waynesville Uniform Guidance Procurement Policy

Local Government Commission Memo – Uniform Guidance Procurement Standards (issued 2018)

MANAGER'S COMMENTS AND RECOMMENDATIONS:



Town of Waynesville Uniform Guidance Procurement Policy

I. Purpose

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

II. Policy

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

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

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The Town of Waynesville will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Town of Waynesville have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.

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

III. General Procurement Standards and Procedures:

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

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

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

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

IV. Specific Procurement Procedures

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

- A. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
 - 1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 - 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
 - 1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 - 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - 3. Cost or price analysis is not required prior to soliciting bids.

4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.
 2. Complete specifications or purchase description must be made available to all bidders.
 3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
 6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

Note Regarding Service Contracts Costing \$90,000 up to \$250,000: Local government service contracts are not subject to state competitive bidding requirements. If a local government does not require competitive proposals (RFPs) for service contracts under its local policy, it may choose to follow the UG small purchase procedure for service contracts costing \$10,000 up to \$250,000, and then follow the UG sealed bid or competitive proposal method for service contracts costing \$250,000 or more. If the local policy regarding service contracts is more restrictive, the local policy should be followed.

- D. Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:
1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.

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

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

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

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

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

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

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.

4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for "sound documented reasons."

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

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

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

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.

2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

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

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

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

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

8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

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

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

VI. Required Contract Provisions

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- A.** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B.** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.
- C.** Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- D.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal Program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors

and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- F. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- H. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2

CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- I. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- J. See §200.322 Procurement of recovered materials.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

VII. Conflict of Interest Policy

I. Purpose

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

II. Policy

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any subrecipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including subrecipients, of the requirements of this policy and any additional prohibitions or requirements.

A. Conflicts of Interest. In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the Town of Waynesville may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

B. Gifts. In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the Town of Waynesville are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value valued at less than \$ 20.00 which fall into one of the following categories may be accepted:

1. promotional items;
2. honorariums for participation in meetings; or
3. meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

III. Violation

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

GREGORY C. GASKINS
DEPUTY TREASURER

Memorandum #2018-06

TO: Independent Auditors, North Carolina Local Governments and Public Authorities, interested parties

FROM: Sharon Edmundson, Director, Fiscal Management Section

SUBJECT: **Uniform Guidance Procurement Standards**

DATE: March 20, 2018

As most of you are aware, the Office of Budget and Management (OMB) officially implemented its Uniform Administrative Requirements, Cost Principles, and Audit Requirements, commonly referred to as Uniform Guidance (UG), in December of 2014¹. However, due to significant changes to the procurement requirements that were part of that new guidance, OMB delayed the implementation of those procurement requirements twice, to a full three years from the original UG effective date². With the extensions of time coming to a close, implementation of the procurement requirements is imminent. Local governments and public authorities that expend federal financial assistance (including USDA loans and grants, CDBG funds, FEMA Public Assistance disaster relief grants, and other programs, either directly funded or reimbursement driven) must comply with these new requirements for all fiscal years beginning on or after December 26, 2017; **for most of you this means the fiscal year that begins on July 1, 2018, but it also applies to entities with a fiscal year that began on January 1, and those beginning on April 1 or October 1, 2018.**

Critical Points

The UG procurement requirements are complex but there are some critical points that units need to be aware of immediately. These points are reviewed in more detail throughout this document.

1. **Applicability** – The requirements are applicable to the purchase of both goods and services, as well as construction and repair projects, which differs significantly from our State laws that apply primarily to the purchase of goods or construction contracts.
2. **Includes Loans and Grants** - The requirements apply to federal financial assistance. We are not aware of any exclusions in place on funds received from USDA loans and grants, FEMA Public

¹ Uniform Administrative Requirement, Cost Principles, and Audit Requirements, Title 2 U.S. Code of Federal Regulations, Part 200

² Federal Register Vol. 80, No. 175 - Effective date: September 10, 2015, two year grace period for implementation of procurement standards in 2CFR 200.317 through 200.326. Federal Register Vol. 82, No. 94 - Effective date: May 17, 2017, additional one year grace period. Effective date will start for fiscal years beginning on or after December 26, 2017.

Assistance disaster relief grants, CDBG programs, and the Highway Planning, Research and Construction Program. We believe that SRF programs funded by the EPA are exempt. However, we strongly encourage you to contact the applicable grantor agency for specific questions about applicability to specific sources of funds.

3. **Lower Dollar Thresholds** – The UG procurement requirements start at purchases of \$3,500, \$2,000 if Wage Rate requirements apply. This is a significantly lower threshold than is set by current State law.
4. **Written Policies and Procedures Required** – As you read through all of the rules of the procurement requirements you will note a recurring theme – the unit of government must have written policies and procedures that address the purchase of goods and services in accordance with the UG regulations as well as some peripheral requirements on topics such as a code of ethics and gift bans from vendors. These written policies and procedures must be in place by July 1, 2018 if you are already a participant in a federal assistance program or by your first draw if you are not yet actively participating in a covered program.
5. **Standards of Conduct, Conflicts of Interest, and Gift Ban** – Each participating unit must have written standards of conduct that cover conflicts of interest and the gift ban, which is in place for not only its elected board but all employees and agents of the unit. The rules cover all current or future vendors and service providers. The requirements under the UG procurement rules are more restrictive than what is currently required by the State in this area.
6. **Entities Subject to the Rules** – These rules apply not only to direct recipients of federal financial assistance but also to all sub-recipients including the organization(s) in final receipt of the funds. For example, if a unit of government passes through CDBG funds to a Community Development Corporation (CDC), the rules apply not only to the unit but to the CDC as well.

The UG procurement requirements are part of the administrative requirements found in Subpart D of the Uniform Guidance, §200.318 to §200.326, and apply to the procurement of **goods and services (as well as construction and repair contracts)** directly charged to federal awards. They do not apply to indirect costs or payroll. The UG describes most of these requirements as a “must” or as unconditional, in lieu of a “should” or recommended or best practice. Please note these requirements apply to the procurement of both **goods (purchase contracts) and services** – currently our State statutes do not place many restrictions or documentation requirements on the procurement of services.

The UG procurement requirements apply to purchases that are paid or reimbursed from federal financial assistance. This includes (but is not limited to) purchases that are reimbursed from USDA grants **and loans**, Community Development Block Grant (CDBG) programs, public disaster grants and reimbursement from FEMA, and the Highway Planning, Research, and Construction program. Many units of government participate in one or more of these programs; **it is important to note that it applies to Federal loan funds in addition to grants.**

Some units of government may not receive or expend federal financial assistance on a routine basis; however, the requirements still apply any time they do expend federal financial assistance. Units must have written procedures in place to ensure compliance with the UG procurement standards.

UG procurement standards require that each unit of government maintain its own documented procedures that reflect the requirements of the standards as well as the requirements of all applicable State and local laws and regulations.

The UNC-School of Government has prepared a document, "Comparison of Federal and State Procurement Requirements for North Carolina Local Governments,"³ that breaks down key parts of the UG procurement requirements and compares them to State purchasing law; this document also can be found on our website [here](#). This document is an excellent resource for units to use in educating staff about the new requirements and to assist in determining if the federal or State law is more restrictive.

Please note that if the requirements conflict, the unit is to comply with the more restrictive requirement.

Key Elements of Uniform Guidance Procurement Standards

The various procurement requirements have been put in place to help ensure that all eligible procurements are made in such a way that certain goals are achieved. As a result, there are key elements of the UG procurement standards that must be followed regardless of the method of procurement.

- The unit of government must use **its own documented procedures** which reflect applicable state and local laws and regulations, provided that the procurement conforms to applicable federal law and the UG procurement standards.
- The unit of government **must maintain oversight** to ensure that the **contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders**.
- The unit of government **must maintain written policies and procedures of conduct covering conflicts of interest** and governing the action of its employees, officers, or agents engaged in the selection, award, and administration of contracts. The policy must cover organizational and personal conflict of interest. **Please note that the federal requirements are more expansive in coverage than the State's requirements in this area.** Units need to pay attention to this area and ensure that documented policies adhere to the federal requirements.
- The unit of government must **avoid acquisition of unnecessary or duplicative items**. The unit should take advantage of the best procurement practices to ensure the most efficient and effective approach to purchases. The unit of government is encouraged to enter into state and local

³ Comparison of the UG with the NC General Statutes. Also included is a comparison of the UG procurement standards to the FEMA Supplement to Public Assistance Procurement Disaster Team field manual.

government intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. The unit of government is encouraged to use value engineering clauses in contracts for construction projects of sufficient sizes to offer reasonable opportunities for cost reduction. The unit of government also is encouraged to use federal excess and surplus property in lieu of purchasing new equipment and property.

- The unit of government must conduct procurements in a manner that **prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences**, unless the federal statutes specifically mandate or encourage geographical preferences.
- The unit of government **must maintain records sufficient to detail the history of a procurement**. These records will include, but are not necessarily limited to, why or why not a particular method of procurement, contract type, contractor, or price was used.
- All **procurement transactions must be conducted in a manner that provides full and open competition consistent with the UG procurement standards** and avoids measures that include, but are not limited to:
 - imposing unreasonable requirements on contractors in order for them to qualify to do business;
 - requiring unnecessary experience and excessive bonding; or
 - specifying only a brand name product instead of allowing an equal product to be offered and describing the performance or other relevant requirements of the procurement.
- The unit's **contracts must include a number of provisions** required under the UG including remedies, termination for cause and convenience, EEO requirements, worker safety and wage and hour requirements, Clean Air Act and Federal Water Pollution Control Act requirements, debarment and suspension, procurement of recovered materials, contract modifications, access to records, Byrd Anti-lobbying provisions, and other provisions that may be required by the federal granting agency. Examples of these UG-required contract provisions are available at: <https://www.fema.gov/media-library-data/1483976790556-96bfcf3bf2c64e94d6f63dd4169a7d2c/RequiredContractClauses2C.F.R.200.326and2C.F.R.Part200AppendixII10917.pdf>

Five Allowable Methods of Procurement

OMB has defined five allowable methods of procurement that non-federal entities must follow for all eligible purchases of **both goods and services** made with federal financial assistance.

1. **Micro-purchases** – This method refers to the acquisition of goods or services, including construction, when the aggregate dollar amount does not exceed the **micro-purchase threshold**. The micro-purchase threshold as of the date of this memo is \$3,500 (\$2,000 for construction subject to

the Wage Rate requirements).⁴ Soliciting competitive prices is not required if the unit of government believes the price is fair. Units are encouraged to distribute micro-purchases equitably among suppliers, if practical. This method applies to purchases in the aggregate and not to the cost of an individual item. For example, the total purchase price of office supplies that includes a variety of items (pens, pencils, tape, computer paper, notebooks, etc.), could not exceed the threshold for the unit to be allowed to use the micro-purchase method, even though the cost of the individual items in the purchase are well below the maximum. Both the micro-purchase threshold and the Simplified Acquisition Threshold (SAT), which is \$150,000² and discussed in the next paragraph, are periodically adjusted for inflation.

2. **Small purchases** – This method is for procurement of goods (purchase contracts), services, and construction or repair projects between the micro-purchase threshold and the SAT (purchases between \$3,500 and \$150,000). Relatively simple and informal methods of securing services, supplies, or other property are allowed. There must be price or rate quotes from an adequate number of qualified sources. Pricing from the internet, vendor price sheets, or logging of verbal quotes are all allowed. While the UG does not define “adequate number of qualified sources,” some federal agencies have issued guidance assigning specific numbers to this requirement. For example, FEMA has interpreted “adequate number” to mean receiving at least 3 quotes. Units should consult with their federal granting agency to determine if that agency has issued guidance defining “adequate number.”
3. **Sealed bids (formal advertising)** – These apply to procurement of goods (purchase contracts), services, and construction or repair projects that exceed the SAT. Bids are publicly solicited and a firm-fixed-price contract, whether a lump sum or a unit price, is awarded to the responsible bidder whose bid conforms to all the material items and is the lowest price. This method is the preferred method for procuring construction if sealed bids are feasible, if a complete and realistic specification or purchase description is available, if an adequate number of bidders (two or more) participate, and if the procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made principally on the basis of price. The unit of government must make independent estimates before receiving bids and proposals.
4. **Competitive proposals** – This method is generally used for procurement of goods (purchase contracts), services, and construction or repair projects greater than the SAT when it is not appropriate to use sealed bids. The technique is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. Request for proposals must be publicized and must identify all evaluation factors and their relative importance. An adequate number of proposals must be solicited. There needs to be a written method for evaluating proposals and selecting recipients. The responsible firm is awarded the contract that is most advantageous to the program considering price and other factors.

⁴ The thresholds for micro-purchases and the SAT are set by the General Service Administration as part of the Federal Acquisition Regulation at Title 48 of the Code of Federal Regulations, Subpart 2.1 (definitions). Other agencies and organizations set thresholds for other types of acquisitions. The notice of proposed changes and amounts are announced in the *Federal Register*.

5. **Noncompetitive proposals** – These proposals are for soliciting from one source and may be used if an item is only available from one source, if a public emergency will not permit a delay, if a federal or pass-through agency authorizes the sole source in response to a written request, or if after solicitation from a number of sources, competition is determined inadequate.

The unit of government must perform a cost or price analysis for all procurement actions that utilize sealed bids, competitive, or noncompetitive proposals, if the contract price is in excess of the SAT. The method and degree of the cost or price analysis is dependent on the facts of the procurement. Micro-purchases and small purchases do not require cost or price analysis.

The UG procurement standards require that units of government and public authorities place emphasis on contracting with small and minority businesses, women business enterprises, and surplus area firms. This includes placing qualifying businesses on vendor lists, soliciting them whenever they are a potential source for goods and services, and dividing the projects into smaller tasks or quantities to permit participation. Contractors also are required to follow these procedures when hiring subcontractors.

Awarding Contracts

Units must make several determinations when awarding contracts, including making a determination if the contractor is responsible and if the contractor has the ability to perform successfully under the contract considering such factors as integrity, compliance with public policy, past performance, and availability of financial and technical resources (this standard of award mirrors the lowest responsive, responsible bidder standard of award under North Carolina state law). The unit also must document and maintain records of procurement that include the rationale for selecting the methodology used to make the purchase, selection of the type of contract, selection or rejection of the contractor, and basis for the contract price. Units cannot award contracts or sub-contracts to companies that have been debarred or suspended (see <https://www.sam.gov> for current list).

Federal versus State Laws over Procurement?

The UG procurement standards apply only to federal financial assistance, but North Carolina state law also applies to purchases of goods and construction or repair contracts made with federal financial assistance.⁵ This memo has focused primarily on procurement requirements under the federal uniform rules. Local governments and public authorities should read the grant agreements or contact your granting agencies for agency-specific guidelines. When comparing federal and state procurement requirements, local governments and public authorities should apply the requirements that are more restrictive, including requirements imposed by local policies. If there is overlap among local, state, and federal rules, and none of the rules are more restrictive than the other, the federal rules will apply.

⁵ Most State of North Carolina procurement requirements applicable to local governments are found in Article 8 of G.S. Chapter 143. Federal law is identified in Title 45 Code of Federal Regulations §92.36.

North Carolina purchasing law has formal and informal bidding requirements. Informal bidding procedures apply to the purchase of **goods only** between \$30,000 and \$90,000 and construction/repair contracts costing \$30,000 and \$500,000. Formal bidding procedures apply to the purchase of **goods only** costing \$90,000 or more and construction/repair contracts costing \$500,000 or more. Compared to the small purchase, sealed bid, or competitive proposal requirements under the UG procurement rules, you can see that State requirements generally are much less restrictive, and therefore the Federal requirements must be followed except to the extent that a particular requirement under state law is more restrictive. For example, the UG sealed bid method requires a minimum of 2 bids in order to open bids and award the contract while state formal bidding requirements for construction and repair contracts require a minimum of 3 bids. Units must carefully compare local, state, and federal procurements requirements to ensure that the most restrictive requirement is always followed.

Steps to Implementing the Uniform Guidance Procurement Standards

In updating its purchasing policies, OMB has stated that “nonfederal entities have the flexibility to incorporate the UG’s procurement requirement verbatim or simply reference it in their procedures and policies. A general statement about how the ‘procurements must conform to applicable Federal law and standards’ should suffice.”⁶ An example of this compliance statement is: “Contracts funded with federal grant funds shall be procured in a manner that is in compliance with all applicable Federal laws, policies, and standards as well as state law and local policies.”

Units of governments must be able to provide documentation to support why a bidder was accepted or rejected for a sealed bid or competitive proposal. Also, as mentioned earlier, sufficient records detailing the history of procurement must be maintained, regardless of what purchase method is used or what decision is reached. Documentation can include printouts of internet searches for price quotes or a written memo detailing the reasons for accepting or rejecting the bidders in a sealed bid or competitive proposal purchase.

Local government auditors will review procurement policies and procedures based on the documented standards when testing major programs such as USDA grants and loans, CDBG programs, and other federal financial assistance for compliance as part of the annual compliance audit.

If your government has not yet adopted the UG procurement requirements, then you are strongly encouraged to do so as soon as possible. Consider these steps:

- **If the unit’s procurement procedures are not currently documented, the government should make this a top priority.** Some units have not made documentation and/or updating of written policies and procedures a part of normal operations and will have significant amounts of work to do to comply with these new requirements. The unit’s procurement policy should include a compliance statement confirming that the unit will follow all applicable local, state, and federal procurement requirements when expending federal funds.

⁶ E-mail dated May 25, 2017, from Maribel L. Miller, Executive Office of the President, Office of Budget and Management

- ***If the unit does not have a local policy governing conflicts of interests and prohibitions on gifts and favors from vendors and contractors that is compliant with the UG, it should take steps to develop and implement this policy.***
- Read the requirements found in the UG §200.318 to §200.326 and review the SOG document referenced previously.
- Determine how these requirements will impact the procedures for procuring goods, services and construction or repair contracts that your government currently has in effect.
- Incorporate the UG procurement requirements that are specific to your unit of government into your current policies and procedures. For example, each government should determine an adequate number of bids or proposals (UG §200.318) to obtain.
- In your policies or procedures, be sure to remove guidance from other regulations, circulars, or agency information that is outdated. For example, references to Circulars A-102 or A-133 should be removed.
- Have your legal counsel review the revised procedures. An accounting firm also may provide guidance; however, using a firm that may perform the annual audit of your government may affect the firm's independence.
- Incorporate these revised procedures on any contracts or grant agreements with sub-recipients of federal financial assistance.
- Have your legal counsel develop template (boilerplate) contract language that incorporates all the provisions mandated under the UG. Examples of UG required contract provisions are available at <https://www.fema.gov/media-library-data/1483976790556-96bfcf3bf2c64e94d6f63dd4169a7d2c/RequiredContractClauses2C.F.R.200.326and2C.F.R.Part200AppendixII10917.pdf>
- Discuss the UG procurement requirements with any potential contractor prior to entering into any agreement.

If you have questions about the UG procurement requirements, please contact Jim Burke at (919) 814-4301 or via email at james.burke@nctreasurer.com.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 14, 2021

SUBJECT: FY2022 Capital Project Additions

AGENDA INFORMATION:

Agenda Location: New Business

Item Number:

Department: Administration/Board of Aldermen

Contact: Jesse Fowler, Assistant Town Manager

Presenter: Jesse Fowler, Assistant Town Manager

BRIEF SUMMARY: During the FY2022 budget process, the following capital projects were discussed but not included in the final adopted budget:

- 1) Main Street Gazebo – estimated cost of \$50,000
- 2) Obama-King Park Restrooms – estimated cost of \$150,000
- 3) Skate Park Pavilion – estimated cost of \$60,000

The total cost of these projects amounts to \$260,000. At the request of Mayor Caldwell, these projects and the associated budget amendments are being brought back before the Board for further discussion and approval.

MOTION FOR CONSIDERATION:

1. Motion to approve General Fund Budget Amendment (Amendment No. 4) – Main Street Gazebo
2. Motion to approve General Fund Budget Amendment (Amendment No. 5) – Obama-King Park Restrooms
3. Motion to approve General Fund Budget Amendment (Amendment No. 6) – Skate Park Pavilion

FUNDING SOURCE/IMPACT: These projects will be funded with Fund Balance.


Autumn Lyvers, Finance Director

9/7/2021

Date

ATTACHMENTS:

General Fund Budget Amendment (Amendment No.4) – Main Street Gazebo
General Fund Budget Amendment (Amendment No.5) – Obama-King Park Restrooms
General Fund Budget Amendment (Amendment No.6) – Skate Park Pavilion

MANAGER'S COMMENTS AND RECOMMENDATIONS:

Ordinance No. _____

Amendment No. 4 to the 2021-2022 Budget Ordinance

WHEREAS, the Board of Aldermen of the Town of Waynesville, wishes to amend the 2021-2022 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the 2021-2022 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

| | | |
|-------------------------------------|---------------|------------------|
| Other Financing Sources | | |
| Fund Balance Appropriated | 103900-493992 | <u>\$ 50,000</u> |
| Total General Fund revenue increase | | \$ 50,000 |

(Additional revenues needed to fund a new gazebo for Main Street.)

Increase the following appropriations:

| | | |
|--|---------------|------------------|
| Governing Board | | |
| Capital Improvements | 104110-545900 | \$ 50,000 |
| Total General Fund appropriations increase | | <u>\$ 50,000</u> |

Adopted this 14th day of September 2021.

Town of Waynesville

J. Gary Caldwell
Mayor

Attest:

Eddie Ward
Town Clerk

Approved As To Form:

Martha Sharpe Bradley, PLLC
Town Attorney

Ordinance No. _____

Amendment No. 5 to the 2021-2022 Budget Ordinance

WHEREAS, the Board of Aldermen of the Town of Waynesville, wishes to amend the 2021-2022 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the 2021-2022 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

| | | |
|-------------------------------------|---------------|-------------------|
| Other Financing Sources | | |
| Fund Balance Appropriated | 103900-493992 | <u>\$ 150,000</u> |
| Total General Fund revenue increase | | \$ 150,000 |

(Additional revenues needed to fund Obama-King Park restrooms.)

Increase the following appropriations:

| | | |
|--|---------------|-------------------|
| Parks & Recreation | | |
| Capital Improvements | 106120-545900 | \$ 150,000 |
| Total General Fund appropriations increase | | <u>\$ 150,000</u> |

Adopted this 14th day of September 2021.

Town of Waynesville

J. Gary Caldwell
Mayor

Attest:

Eddie Ward
Town Clerk

Approved As To Form:

Martha Sharpe Bradley, PLLC
Town Attorney

Ordinance No. _____

Amendment No. 5 to the 2021-2022 Budget Ordinance

WHEREAS, the Board of Aldermen of the Town of Waynesville, wishes to amend the 2021-2022 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the 2021-2022 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

| | | |
|-------------------------------------|---------------|------------------|
| Other Financing Sources | | |
| Fund Balance Appropriated | 103900-493992 | <u>\$ 60,000</u> |
| Total General Fund revenue increase | | \$ 60,000 |

(Additional revenues needed to fund a Skate Park Pavilion.)

Increase the following appropriations:

| | | |
|--|---------------|------------------|
| Parks & Recreation | | |
| Capital Improvements | 106120-545900 | \$ 60,000 |
| Total General Fund appropriations increase | | <u>\$ 60,000</u> |

Adopted this 14th day of September 2021.

Town of Waynesville

J. Gary Caldwell
Mayor

Attest:

Eddie Ward
Town Clerk

Approved As To Form:

Martha Sharpe Bradley, PLLC
Town Attorney

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: 9/14/21

SUBJECT: Request to provide at pyrotechnics display at Laurel Ridge Country Club

AGENDA INFORMATION:

Agenda Location: Manager's Report

Item Number:

Department: Administration

Contact: Rob Hites

Presenter: Rob Hites

BRIEF SUMMARY: See Attachments

MOTION FOR CONSIDERATION:

Approve the request as per your direction.

FUNDING SOURCE/IMPACT: None

ATTACHMENTS:

Laurel Ridge Permit Packet, Letter to Town regarding the event.

MANAGER'S COMMENTS AND RECOMMENDATIONS:

The Town receives a number of complaints every week regarding the firing of pyrotechnics. It is fashionable for weddings and other events to culminate in a fireworks display. The fireworks display is being carried out by a very reputable company, so the liability lies with Zambelli . I am unsure how you would like the staff to respond but I know that this request will set a precedent for a number of requests from both Laurel Hills and the renovated Waynesville Country Club.



September 2, 2021

Board of Aldermen
Waynesville, NC

To Whom it May Concern,

My name is Tony Sawdey and I represent Zambelli Fireworks as the Project Manager for the North Carolina region. We would like to propose the firing of a fireworks display on October 9, 2021 at the Laurel Ridge Country Club for a private event at the club. The display is scheduled to be fired at 10:35 pm. My lead technician and crew would arrive onsite at approximately 2:00 pm to begin the set-up. The loading of the product would begin about 3:30 pm and be completed and tested by approximately 8:00 pm. This time frame can be affected by weather, but the display will be ready to fire on time. The attached permit packet has all of the technical data as well as the site map which meets or exceeds NFPA 1123 regulations for fall-out zone.

Zambelli is a National fireworks company based out of Warrendale, PA. We are known throughout the country as a dependable and reputable company. We have the largest AAA insurance policy available in the industry and an excellent safety record. For additional company information, feel free to view our web-site at <https://www.zambellifireworks.com/>.

I thank you for your consideration in this matter and look forward to working with the City to produce a safe and entertaining fireworks display for the client.

Regards,

Tony Sawdey
Project Manager
218-820-2372 Cell
tsawdey@zambellifireworks.com
Zambelli Fireworks Mfg. Co.
1060 Holland Drive- Suite J
Boca Raton, FL 33487
(561) 395-0955 ext. 1205 Office



Sherry Hixson Fireworks
Laurel Ridge Country Club

October 9, 2021

10:35pm – 5 minute duration

Included in packet:

Liability Insurance Certificate
Workers Comp Certificate
Shell Listing
Site Map
Operator change statement
Technician Resume
Lead tech NCDOL info
SDS Sheets
ATF Extension Letter
ATF License

Boca Raton, FL
Raleigh, NC

Shafter, CA
Myrtle Beach, SC

120 Marshall Drive
Warrendale, PA 15086
1-800-245-0397

Walkersville, MD
Denver, CO

Cincinnati, OH



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | |
|--|--|------------------------------------|
| PRODUCER McGowan Allied Specialty 20595 Lorain Rd Fairview Park OH 44126 | CONTACT NAME: Mary Jo Picone | |
| | PHONE (A/C, No, Ext): 440-333-6300 | FAX (A/C, No): 440-333-3214 |
| | E-MAIL ADDRESS: mpicone@mcgowanallied.com | |
| | INSURER(S) AFFORDING COVERAGE | NAIC # |
| | INSURER A : T.H.E. Insurance Company | 12866 |
| | INSURER B : | |
| | INSURER C : | |
| | INSURER D : | |
| | INSURER E : | |
| | INSURER F : | |

License#: 973
ZAMBIFIR-01

INSURED
Zambelli Fireworks Mfg. Co.
120 Marshall Drive
Warrendale PA 15086

COVERAGES

CERTIFICATE NUMBER: 1778823641

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|---------------------------------|----------|---------------|-------------------------|-------------------------|---|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | | | CPP010316708 | 2/1/2021 | 2/1/2022 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY | | | CPP010316708 | 2/1/2021 | 2/1/2022 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Deductible Comp/Coll \$ 1,000 |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | | | ELP001108108 | 2/1/2021 | 2/1/2022 | EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N <input type="checkbox"/> | N/A | | | | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |
| A | Inland Marine / Hull | | | CPP010316708 | 2/1/2021 | 2/1/2022 | HULL LIMIT/SHOW LIMIT 900,000/1,500,00 |
| A | Hired & Non Owned PHD | | | CPP010316708 | 2/1/2021 | 2/1/2022 | Total/Actual Cash Val 700,000 |
| A | Excess Auto | | | ELP001295402 | 2/1/2021 | 2/1/2022 | Ea Occ & Aggregate 4,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Display Date: October 9, 2021

Location: Laurel Ridge Country Club - 49 Cupp Lane, Waynesville NC 28786

RE: General Liability, the following are named as additional insured in respects to the negligence of the named insured: Lynne Krekelberg; Carlie Miller; Laurel Ridge Country Club; Laney Hixson; Sherry Hixson; City of Waynesville; State of North Carolina.

CERTIFICATE HOLDER

CANCELLATION

Laney Hixson
5895 Millstone Lane
Stone Mountain GA 30087

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | |
|--|---|
| PRODUCER The Graham Company The Graham Building 1 Penn Square West Philadelphia PA 19102- | CONTACT NAME: Dina Daniele PHONE (A/C, No, Ext): 215-567-6300 FAX (A/C, No): 215-525-0236 E-MAIL ADDRESS: DANIELE_UNIT@grahamco.com |
| INSURED Zambelli Fireworks Manufacturing Co. 120 Marshall Drive Warrendale PA 15086 | INSURER(S) AFFORDING COVERAGE INSURER A: Argonaut Insurance Company INSURER B: PinnaclePoint Insurance Company INSURER C: INSURER D: INSURER E: INSURER F: |
| | NAIC # 19801 15137 |

COVERAGES**CERTIFICATE NUMBER:** 1490376995**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|-----------|----------|------------------------------|-------------------------|-------------------------|--|
| | COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | | | | | | EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$ |
| | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY | | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| | UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | | | | | | EACH OCCURRENCE \$ AGGREGATE \$ \$ |
| A B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N N | N/A | WC928718697544 WCP7001893 | 2/1/2021 2/1/2021 | 2/1/2022 2/1/2022 | X PER STATUTE E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Project# / Reference: C# 517934

CERTIFICATE HOLDER**CANCELLATION**


Laney Hixson
5895 Millstone Lane
Stone Mountain GA 30087

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Shell Listing
Sherry Hixson
@ Laurel Ridge Country Club
Waynesville, NC
October 9, 2021**

| <i>Shell Description</i> | <i>Quantity of Shells</i> |
|--|---------------------------|
|  | |
| 2.5 Inch Assorted Shells | 372 |
| 1.3g Multi-Shot Cakes | 12 |

NO STORAGE REQUIRED

Fireworks **will not** be stored onsite. All fireworks will be delivered on the day of the display on a Zambelli Co. truck.

PROCEDURES FOR FAILURES

In the event that a shell fails to ignite or malfunctions we will follow the NFPA 1123 "Post Display Operations", specifically 9.5.2.1 – Unfired shells shall be permitted to either be 1) fired in accordance with the code or 2) packaged and returned to the supplier in compliance with all applicable regulations.

Sherry Hixon at Laurel Ridge Country Club

October 9, 2021
250 foot radius exceeds NFPA 1123 requirements for up to 2.5" aerial shells.

Legend

Laurel Ridge Country Club



400 ft

250 Feet

Laurel Ridge Country Club

117

Eagles Nest Rd

Coon Hollow Rd

Laurel Ridge Dr

Deer-Pan Rd

Google Earth

© 2021 Google



Changes in NCDOI Operator(s) and Assistant(s)

Should the assigned NCDOI Operator(s) and/or Assistant Operator(s) become unavailable for a display due to illness, work schedule, emergency, etc...Zambelli will assign an equally qualified NCDOI Operator(s) and/or Assistant Operator(s) who will carry with them evidence of their current licensing as provided by the NCDOI and will present such license to the AHJ upon request. Zambelli will also endeavor to notify all parties in the event any changes need to be made.

Zambelli

FIREWORKS

Technician Resume

Tech# 96001

Jim Wright
268 Flat Creek Road
Black Mountain, NC 28711
Cell Phone: 828-777-9893

DOB: 9/21/1971

Years of Experience: 11

Display References:

City of Naples
Mardi Gras Gaming, Hallandale, FL
City of Greenacres
City of Boca Raton
City of Delray Beach

Current Pyrotechnic License Holders

Select License Type of Interest

- License Type
- ☒ Pyrotechnic 1.3G

☐ Pyrotechnic 1.4G

☐ Proximate Audience

- License Level
- ☒ Operator

☐ Assistant

Get List

Get License Holder Information

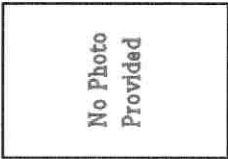
Pyrotechnic License Number

3797

Driver's License Number

Search for License

Holder's Full Name: James Lloyd Wright
Business Name: Zambelli Fireworks
Government ID By: North Carolina
Government ID Type: Driver License
ID Number: *****8272



License Number: 3797
License Type: 1.3G Pyrotechnic
License Level: Operator
License Status: Valid
Expiration Date: 10/01/2022

Get a list of license holders by Last Name or Business/Employer

Last Name

Business/Employer

Search for List

Files

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

1 Identification

· Product identifier **Fireworks, Division 1.3 Explosive**

· Trade name:

Fireworks, Display

· Product code:

Fireworks, 1.3G UN0335

- Recommended use and restriction on use
- Recommended use: Explosive product for professional use for entertainment and technical purposes
- Restrictions on use: Contact manufacturer/supplier
- Details of the supplier of the Safety Data Sheet
- Manufacturer/Supplier:

Zambelli Fireworks

20 South Mercer Street

New Castle, Pa. 16101

1-800-245-0397

- Emergency telephone number:
ChemTel Inc.
(800)255-3924, +1 (813)248-0585

2 Hazard(s) identification

- Classification of the substance or mixture
Expl. 1.3 H203 Explosive; fire, blast or projection hazard.

- Label elements
- GHS label elements
The product is classified and labeled according to the Globally Harmonized System (GHS).
- Hazard pictograms:



GHS01

- Signal word: Danger
- Hazard statements:
H203 Explosive; fire, blast or projection hazard.
- Precautionary statements:
 - P210 Keep away from heat/sparks/open flames/hot surfaces. No smoking.
 - P250 Do not subject to grinding/shock/friction.
 - P280 Wear protective gloves/protective clothing/eye protection/face protection.
 - P373 DO NOT fight fire when fire reaches explosives.
 - P370+P380 In case of fire: Evacuate area.
 - P372 Explosion risk in case of fire.

(Cont'd. on page 2)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

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Trade name: **Fireworks, Display**

(Cont'd. of page 1)

P401 Store in accordance with local/regional/national/international regulations.
 P501 Dispose of contents/container in accordance with local/regional/national/international regulations.

· Other hazards There are no other hazards not otherwise classified that have been identified.

· Explosive Product Notice

PREVENTION OF ACCIDENTS IN THE USE OF EXPLOSIVES - The prevention of accidents in the use of explosives is a result of careful planning and observance of the best known practices. The explosives user must remember that he is dealing with a powerful force and that various devices and methods have been developed to assist him in directing this force. He should realize that this force, if misdirected, may either kill or injure both him and his fellow workers.

WARNING - All explosives are dangerous and must be carefully handled and used following approved safety procedures either by or under the direction of competent, experienced persons in accordance with all applicable federal, state, and local laws, regulations, or ordinances. If you have any questions or doubts as to how to use any explosive product, DO NOT USE IT before consulting with your supervisor, or the manufacturer, if you do not have a supervisor. If your supervisor has any questions or doubts, he should consult the manufacturer before use.

3 Composition/information on ingredients

· Chemical characterization: Mixtures

· Components:

Components for product possessing only physical hazards do not require reporting. These components are considered proprietary.

4 First-aid measures

· Description of first aid measures

· General information:

Information is only applicable to product contents, and not to product as normally supplied. This information is applicable to damaged, leaking, or spilled product as contact with contents is possible under these conditions.

· After inhalation: Supply fresh air; consult doctor in case of complaints.

· After skin contact:

Wash with soap and water.

In case of minor burns, flush with cool water.

If skin irritation is experienced, consult a doctor.

· After eye contact:

Remove contact lenses if worn.

Rinse opened eye for several minutes under running water. If symptoms persist, consult a doctor.

· After swallowing:

Unlikely route of exposure.

Do not induce vomiting; immediately call for medical help.

(Cont'd. on page 3)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

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Trade name: **Fireworks, Display**

(Cont'd. of page 2)

- Most important symptoms and effects, both acute and delayed:
 - Blast injury if mishandled.
 - Thermal burns, if mishandled.
- Danger: Danger of blast or crush-type injuries.
- Indication of any immediate medical attention and special treatment needed:
 - Product may produce physical injury if mishandled. Treatment of these injuries should be based on the clinical presentation.

5 Fire-fighting measures

- Extinguishing media
 - Suitable extinguishing agents:
 - DO NOT fight fire when fire reaches explosives.
 - Flood area with water. If no water is available, carbon dioxide, dry chemical or earth may be used. If the fire reaches the cargo, withdraw and let fire burn.
 - For safety reasons unsuitable extinguishing agents: None.
 - Special hazards arising from the substance or mixture
 - Explosive; fire, blast or projection hazard.
 - During heating or in case of fire poisonous gases are produced.
 - Advice for firefighters
 - Protective equipment:
 - Wear self-contained respiratory protective device.
 - Wear fully protective suit.
 - Additional information:
 - Eliminate all ignition sources if safe to do so.
 - In case of fire: Evacuate area. Fight fire remotely due to the risk of explosion.
 - Cool endangered receptacles with water spray.
- Flammability Classification: (defined by 29 CFR 1910.1200) Explosive. Can explode under fire conditions. Individual devices will randomly explode. Mass explosion of multiple devices is possible under certain conditions. Burning material may produce toxic and irritating vapors. In unusual cases, shrapnel may be thrown from exploding devices under containment. See 2012 Emergency response Guidebook for further information.

6 Accidental release measures

- Personal precautions, protective equipment and emergency procedures
 - Wear protective equipment. Keep unprotected persons away.
 - Remove persons from danger area.
 - Ensure adequate ventilation.
 - Isolate area and prevent access.
- Environmental precautions
 - Do not allow undiluted product or large quantities of it to reach ground water, water course or sewage system.
- Methods and material for containment and cleaning up
 - Pick up mechanically.

(Cont'd. on page 4)

Safety Data Sheet
acc. to OSHA HCS (29 CFR 1910.1200)

Page: 4/10

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

- Send for recovery or disposal in suitable receptacles.
- Reference to other sections
- See Section 7 for information on safe handling.
- See Section 8 for information on personal protection equipment.
- See Section 13 for disposal information.

(Cont'd. of page 3)

7 Handling and storage

- Handling
 - Precautions for safe handling:
 - Handle with care. Avoid jolting, friction and impact.
 - Restrict the quantity stored at the work place.
 - Keep out of reach of children.
 - Information about protection against explosions and fires:
 - In case of fire: Evacuate area.
 - Explosion risk in case of fire.
 - Keep away from sparks and open flames. - No smoking.
 - Emergency cooling must be available in case of nearby fire.
- Conditions for safe storage, including any incompatibilities
- Storage
 - Requirements to be met by storerooms and receptacles:
 - Avoid storage near extreme heat, ignition sources or open flame.
 - Information about storage in one common storage facility:
 - Store in accordance with local/regional/national/international regulations.
 - Store away from foodstuffs.
 - Store away from flammable substances.
 - Further information about storage conditions:
 - Store in cool, dry conditions in well sealed receptacles.
 - Store locked up.
- Specific end use(s) No relevant information available.

8 Exposure controls/personal protection

- Control parameters
- Components with limit values that require monitoring at the workplace:
 - The product does not contain any relevant quantities of materials with critical values that have to be monitored at the workplace.
- Exposure controls
- Personal protective equipment:
- General protective and hygienic measures:
 - The usual precautionary measures for handling chemicals should be followed.
 - Keep away from foodstuffs, beverages and feed.
 - Wash hands before breaks and at the end of work.
- Engineering controls: Provide adequate ventilation.

(Cont'd. on page 5)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 4)

- Breathing equipment: Not required under normal conditions of use.
- Protection of hands: When needed, wear gloves for protection against mechanical hazards.
- Eye protection:



Safety glasses

- Follow relevant national guidelines concerning the use of protective eyewear.
- Body protection: When needed, wear protective clothing for protection against mechanical hazards.
- Limitation and supervision of exposure into the environment
No relevant information available.
- Risk management measures
Organizational measures should be in place for all activities involving this product.

9 Physical and chemical properties

· Information on basic physical and chemical properties

· Appearance:

Form: Outer shell containing powder, granular, or solid materials.
Color: According to product specification

· Odor: Odorless

· Odor threshold: Not determined.

· pH-value: Not applicable.

· Melting point/Melting range: Not determined.

· Boiling point/Boiling range: Not determined.

· Flash point: Not applicable.

· Flammability (solid, gaseous): Fire or projection hazard.

· Auto-ignition temperature: Not determined.

· Decomposition temperature: Not determined.

· Danger of explosion: Heating may cause an explosion.

· Explosion limits

Lower: Not determined.

Upper: Not determined.

· Vapor pressure: Not applicable.

· Density: Not determined.

· Relative density: Not determined.

· Vapor density: Not applicable.

· Evaporation rate: Not applicable.

(Cont'd. on page 6)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 5)

- | | |
|--|------------------------------------|
| · Solubility in / Miscibility with Water: | Insoluble. |
| · Partition coefficient (n-octanol/water): | Not determined. |
| · Viscosity | |
| Dynamic: | Not applicable. |
| Kinematic: | Not applicable. |
| · Other information | No relevant information available. |

10 Stability and reactivity

- Reactivity: No relevant information available.
- Chemical stability:
- Thermal decomposition / conditions to be avoided: Risk of explosion if heated under confinement.
- Possibility of hazardous reactions
 - Explosive; fire, blast or projection hazard.
 - Toxic fumes may be released if heated above the decomposition point.
 - Reacts with strong acids and alkali.
- Conditions to avoid
 - Excessive heat.
 - Sources of ignition: sparks, open flame, incompatible materials
- Incompatible materials Oxidizers, strong bases, strong acids
- Hazardous decomposition products
 - Carbon monoxide and carbon dioxide
 - Nitrogen oxides
 - Sulfur oxides (SO_x)

11 Toxicological information

- Information on toxicological effects
- Acute toxicity:
- LD/LC50 values that are relevant for classification: None.
- Primary irritant effect:
- On the skin:
 - Not a skin irritant in unused form. Vapors/particles from used product are possibly irritating to skin.
- On the eye:
 - Not an eye irritant in unused form. Vapors/particles from used product are possibly irritating to eyes.
- Sensitization: Based on available data, the classification criteria are not met.
- Carcinogenic categories
- IARC (International Agency for Research on Cancer):

| |
|-------------------------------------|
| None of the ingredients are listed. |
|-------------------------------------|

(Cont'd. on page 7)

Safety Data Sheet
acc. to OSHA HCS (29 CFR 1910.1200)

Page: 7/10

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 6)

· NTP (National Toxicology Program):

None of the ingredients are listed.

· OSHA-Ca (Occupational Safety & Health Administration):

None of the ingredients are listed.

· Probable route(s) of exposure:

Skin contact.

Eye contact.

Inhalation.

· Acute effects (acute toxicity, irritation and corrosivity):

Danger of blast or crush-type injuries.

Risk of thermal burns.

· Repeated dose toxicity: From product as supplied: None.

· CMR effects (carcinogenity, mutagenicity and toxicity for reproduction)

· Germ cell mutagenicity: Based on available data, the classification criteria are not met.

· Carcinogenicity: Based on available data, the classification criteria are not met.

· Reproductive toxicity: Based on available data, the classification criteria are not met.

· STOT-single exposure: Based on available data, the classification criteria are not met.

· STOT-repeated exposure: Based on available data, the classification criteria are not met.

· Aspiration hazard: Based on available data, the classification criteria are not met.

12 Ecological information

· Toxicity

· Aquatic toxicity No relevant information available.

· Persistence and degradability No relevant information available.

· Bioaccumulative potential: May be accumulated in organism

· Mobility in soil: No relevant information available.

· Other adverse effects No relevant information available.

13 Disposal considerations

· Waste treatment methods

· Recommendation:

Must not be disposed of together with household garbage. Do not allow product to reach sewage system.
Incinerate in accordance with local, state and federal regulations.

The user of this material has the responsibility to dispose of unused material, residues and containers in compliance with all relevant local, state and federal laws and regulations regarding treatment, storage and disposal for hazardous and nonhazardous wastes. Residual materials should be treated as hazardous.

(Cont'd. on page 8)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 7)

- Uncleaned packagings
- Recommendation: Disposal must be made according to official regulations.

14 Transport information

| | |
|------------------|-----------|
| · UN-Number | UN0335 |
| · DOT, ADR, IMDG | FORBIDDEN |
| · IATA | |

| | |
|---------------------------|-----------|
| · UN proper shipping name | Fireworks |
| · DOT, ADR, IMDG | FORBIDDEN |
| · IATA | |

· Transport hazard class(es)

· DOT



| | |
|---------|------|
| · Class | 1.3 |
| · Label | 1.3G |

· ADR



| | |
|---------|------|
| · Class | 1.3 |
| · Label | 1.3G |

· IMDG



| | |
|---------|------|
| · Class | 1.1 |
| · Label | 1.3G |

· IATA

| | |
|---------|-----------|
| · Class | FORBIDDEN |
|---------|-----------|

· Packing group

| | |
|-------|----|
| · DOT | II |
|-------|----|

· Environmental hazards

| | |
|---------------------|----|
| · Marine pollutant: | No |
|---------------------|----|

| | |
|--------------------------------|-----------------|
| · Special precautions for user | Not applicable. |
|--------------------------------|-----------------|

(Cont'd. on page 9)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 8)

- | | |
|---|-----------------|
| · EMS Number: | F-S,B-X |
| · Transport in bulk according to Annex II of MARPOL73/78 and the IBC Code | Not applicable. |

15 Regulatory information

- Safety, health and environmental regulations/legislation specific for the substance or mixture
- United States (USA)
- SARA

- | |
|---|
| · Section 302 (extremely hazardous substances): |
| None of the ingredients are listed. |

- | |
|---|
| · Section 304 (emergency release notification): |
| None of the ingredients are listed. |

- | |
|---|
| · Section 355 (extremely hazardous substances): |
| None of the ingredients are listed. |

- | |
|---|
| · Section 313 (Specific toxic chemical listings): |
| Contact manufacturer. |

- | |
|---------------------------------------|
| · TSCA (Toxic Substances Control Act) |
| All ingredients are listed. |

- | |
|-------------------------------|
| · Proposition 65 (California) |
|-------------------------------|

- | |
|------------------------------------|
| · Chemicals known to cause cancer: |
| Contact manufacturer. |

- | |
|---|
| · Chemicals known to cause reproductive toxicity for females: |
| Contact manufacturer. |

- | |
|---|
| · Chemicals known to cause reproductive toxicity for males: |
| Contact manufacturer. |

- | |
|--|
| · Chemicals known to cause developmental toxicity: |
| Contact manufacturer. |

- | |
|---------------------------|
| · Carcinogenic categories |
|---------------------------|

- | |
|--|
| · EPA (Environmental Protection Agency): |
| None of the ingredients are listed. |

- | |
|---|
| · IARC (International Agency for Research on Cancer): |
| Contact manufacturer. |

(Cont'd. on page 10)

Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name: **Fireworks, Display**

(Cont'd. of page 9)

· NIOSH-Ca (National Institute for Occupational Safety and Health):

Contact manufacturer.

16 Other information

This information is based on our present knowledge. However, this shall not constitute a guarantee for any specific product features and shall not establish a legally valid contractual relationship.

· Date of preparation / last revision 01/06/2017 / -

· Abbreviations and acronyms:

ADR: European Agreement concerning the International Carriage of Dangerous Goods by Road

IMDG: International Maritime Code for Dangerous Goods

DOT: US Department of Transportation

IATA: International Air Transport Association

CAS: Chemical Abstracts Service (division of the American Chemical Society)

LC50: Lethal concentration, 50 percent

LD50: Lethal dose, 50 percent

NIOSH: National Institute for Occupational Safety

OSHA: Occupational Safety & Health

TLV: Threshold Limit Value

PEL: Permissible Exposure Limit

REL: Recommended Exposure Limit

LDLo: Lowest Lethal Dose Observed

Expl. 1.3: Explosives - Division 1.3

· Sources

Website, European Chemicals Agency (echa.europa.eu)

Website, US EPA Substance Registry Services (ofmpub.epa.gov/sor internet/registry/substreg/home/overview/home.do)

Website, Chemical Abstracts Registry, American Chemical Society (www.cas.org)

Patty's Industrial Hygiene, 6th ed., Rose, Vernon, ed. ISBN: 978-0-470-07488-6

~~Casarett and Doull's Toxicology: The Basic Science of Poisons, 8th Ed., Klaassen, Curtis D., ed., ISBN: 978-0-07-176923-5.~~

Safety Data Sheets, Individual Manufacturers

SDS Prepared by:

ChemTel Inc.

1305 North Florida Avenue

Tampa, Florida USA 33602-2902

Toll Free North America 1-888-255-3924 Intl. +01 813-248-0573

Website: www.chemtelinc.com



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

July 16, 2021

Zambelli Fireworks Manufacturing Co
Zambelli Fireworks Internationale
Attn Sandra Mcstay
120 Marshall Drive
Warrendale, PA 15086

901090:MBH/CMS
5400

File Number: 8-PA-02043

Premises Address: 120 Marshall Drive, Warrendale, PA 15086

Dear Sir/Madam:

This letter acknowledges receipt of your timely application to renew your Federal explosives license/permit.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is not able to process your application prior to the expiration date of your license/permit. However, Federal law allows you to continue operations under your current license/permit until such time as ATF completes processing your application. See 5 U.S.C. § 558. This letter, or as explained below, a follow-up letter, will serve as your license/permit until we complete action on your renewal. It is referred to as a Letter of Authorization (LOA).

~~Since we have not completed processing your application, you may supply a copy of this letter to other licensees/permittees, e.g., your distributors, for the next six months (or until we complete action on your renewal, if that occurs in less than six months) as evidence of your licensed/permitted status. If we have not completed processing your application for renewal within six months of the date of this letter, we will send you another letter, which will also be valid for six months (or until we complete action on your renewal, if that occurs in less than six months). This is of course contingent upon your remaining entitled to continue operations under your current license/permit.~~

Please direct questions or concerns regarding this letter to Chanon Shipman (304)616-4436.

Sincerely,

Marna Howard
Chief, Federal Explosives Licensing Center

ATF web address: www.atf.gov

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF
Correspondence To
ATF - Chief, FELC
244 Needy Road
Martinsburg, WV 25405-9431

License Number

8-PA-003-20-1B-02043

Chief, Federal Explosives Licensing Center (FELC)

Expiration
Date

February 1, 2021

Name **ZAMBELLI FIREWORKS INTERNATIONALE**

Premises Address (Changes? Notify the FELC at least 10 days before the move)

120 MARSHALL DRIVE
WARRENDALE, PA 15086

Type of License or Permit

20-MANUFACTURER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of this licensee or permittee as provided by 27 CFR Part 335. The signature on each copy must be an original signature. A faxed, scanned or emailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL, attesting that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

ZAMBELLI FIREWORKS MANUFACTURING CO
ZAMBELLI FIREWORKS INTERNATIONALE
120 MARSHALL DRIVE ATTN SANDRA MOSTAY
WARRENDALE, PA 15086-

Licensee/Permittee/Responsible Person Signature

Position/Title

Robert C. Haller

1128/2022

Printed Name _____

Date _____

Previous Edition Is Obsolete

ZNAČKA POKRYVOKA STROJFABRIKOVÉHO KONTR. MACHALL DOPR. 1907-1-14-01-10; (P-DICKS) (Mach); TOTAL MANUFACTURER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part I
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address (27 CFR 553.54(a)(1)). Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. (The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)

Right of Succession (27 CFR 555.59). (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

—(Continued on reverse side)

Cut Here X Ken C. Lee

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: ZAMBELLI FIREWORKS MANUFACTURING CO

Business Name: ZAMBELLI FIREWORKS INTERNATIONAL

License/Permit Number: 8-PA-003-20-1B-02043

License/Permit Type: 20-MANUFACTURER OF EXPLOSIVES

Expiration: February 1, 2021

Please Note: Not Valid for the Sale or Other Disposition of Explosives