

City of Henderson, Kentucky
Board of Commissioners Meeting
Tuesday, September 13, 2016

Municipal Center
Third Floor Assembly Room
222 First Street
5:30 P.M.

AGENDA

1. Invocation: Pastor Charles Cameron, Zion Baptist Church

2. Roll Call:

3. Recognition of Visitors:

4. Appearance of Citizens:

5. Proclamations: “National Assisted Living Week”
“The American Legion Day”

6. Presentations: Downtown Henderson Partnership – Parklet Placemaking Project
City Staff – Borax Drive Economic Development Plan

7. Public Hearings:

8. Consent Agenda:

Minutes: August 23, 2016 Regular Meeting

Resolutions: Resolution Authorizing Acceptance of Grant for Runway Extension Project to the Henderson City-County Airport

Resolution Authorizing Participation in Kentucky Pride Litter Abatement Grant Program

9. Ordinances & Resolutions:

Second Readings: Ordinance Establishing 2016 Property Tax Rates

Please mute or turn off all cell phones for the duration of this meeting.

First Readings: Ordinance Regarding Annexation, Properties Located on
US Hwy 41-A

Ordinance Relating to Merchants' Use of Sidewalk in Central
Business District

Ordinance Relating to Mobile Food Units

Resolutions:

10. Municipal Orders:

11. Bids & Contracts:

Gas Supply Contract with PEAK

12. Unfinished Business:

13. City Manager's Report: Rezoning #1059 with Narrative Development Plan –
800 Wolf Hills Blvd. (a/k/a Player's Club Golf Course Clubhouse
Area, 5.688 Acres)

14. Commissioner's Reports:

15. Appointments:

16. Executive Session:

17. Miscellaneous:

18. Adjournment

**City Commission Memorandum
16-198**

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: Proclamations

Two proclamations will be presented at the September 13, 2016, meeting:

- Designating the week of September 11 - 17 as “National Assisted Living Week”
- Designating the day of September 16 as “The American Legion Day”

Ms. Jessica Beaven, Colonial Assisted Living, will be in attendance to receive the “National Assisted Living Week” proclamation.

Mr. Jim Hanley, Henderson American Legion, will be in attendance to receive “The American Legion Day” proclamation.

Proclamation

**"NATIONAL ASSISTED LIVING WEEK"
"COLONIAL ASSISTED LIVING"**

Whereas residents of assisted living communities are active members of the larger community offering their wisdom, life experiences and skills; their past contributions continue to be a vital part of Henderson's rich history; and their future contributions deepen our city's identity; and

Whereas assisted living is a critical long term care service for the elderly and individuals with disabilities that fosters choice, dignity, and independence; assisted living communities are committed to excellence, innovation and the advancement of person-centered care; and

Whereas the National Center for Assisted Living created National Assisted Living Week to demonstrate our nation's appreciation of the unique individuals who reside in assisted living communities and the staff members and volunteers who deliver care every day; and

Whereas the theme of National Assisted Living 2016 is "Keep Connected," which encourages assisted living communities to support opportunities for residents to take advantage of the latest communication tools to engage with the world around them; and

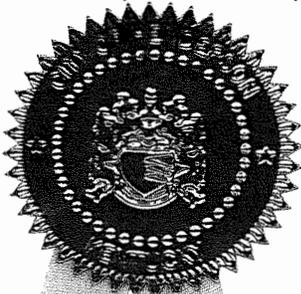
Whereas according to the Pew Research Center social media usage among those aged 65 years or older has more than tripled since 2010. Therefore, this year's National Assisted Living Week theme aims to help overcome the myth that older adults lack the ability to learn and/or interest in new technologies; and

Whereas assisted living communities are an integral part of the larger community and local economy. Staff cultivates connections with local families, business owners, government organizations, community organizers and others to ensure that residents remain an active part of where they call home.

NOW, THEREFORE, I,

Steve Austin, by virtue of the authority vested in me as Mayor of the City of Henderson, do hereby proclaim the week of September 11-17, 2016 as "Assisted Living Week" in Henderson, Kentucky and urge all citizens to volunteer in an assisted living community, to visit friends and loved ones who reside at these communities and to learn more about how assisted living services benefit our community.

IN WITNESS WHEREOF, I have hereunto caused these letters to be spread upon this page and caused the seal of the City of Henderson to be affixed this 13th day of September 2016.



ATTEST:


Maree Collins, City Clerk


Steve Austin, Mayor

CITY OF HENDERSON



Proclamation

"AMERICAN LEGION DAY"

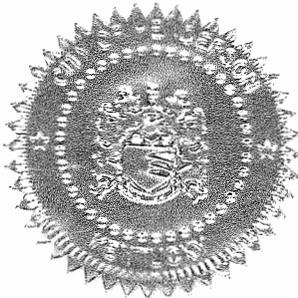
Whereas the American Legion was chartered by Congress in 1919 on September 16th as a wartime veterans organization based on the four pillars of Veterans Affairs & Rehabilitation, National Security, Americanism, and Children & Youth; and

Whereas over the years, the American Legion has become a preeminent community-service organization which now numbers more than 2.5 million members – men and women – in over 14,000 American Legion posts worldwide working a variety of programs that support the four pillars and benefit our nation’s veterans, its service members, their families, the youth of America and its citizens; and

Whereas the members of the American Legion are dedicated to upholding the ideals of freedom and democracy, while working to make a difference in the lives of fellow Americans; and

Whereas the 2016 observance of American Legion Day provides an opportunity to recognize Legionnaires in our community for their many contributions to our community.

NOW, THEREFORE, I, Steve Austin, by virtue of the authority vested in me as Mayor of the City of Henderson, do hereby proclaim September 16, 2016 as “The American Legion Day” in Henderson, Kentucky.



IN WITNESS WHEREOF, I have hereunto caused these letters to be spread upon this page and caused the seal of the City of Henderson to be affixed this 13th day of September 2016.


Steve Austin, Mayor

WITNESSETH:


Maree Collins, City Clerk

City Commission Memorandum
16-201

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager *RS*

SUBJECT: Presentations

Items scheduled under the Presentations section of the agenda are as follows:

1. Presentation by the Downtown Henderson Partnership. Ms. Sarah Stewart, Assistant Director of DHP, will discuss the Parklet Placemaking Project with Audubon Board of Realtors.
2. Update by City staff on the Borax Drive Economic Development Plan.

City Commission Memorandum
16-195

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: Consent Agenda

The Consent Agenda for the meeting of September 13, 2016, contains the following:

Minutes: August 23, 2016 Regular Meeting

Resolutions: Resolution Authorizing Acceptance of Grant in the Amount of \$1,084,881.00 from the United States Department of Transportation, Federal Aviation Administration, for Runway Extension Project to the Henderson City-County Airport; and Authorizing and Directing Mayor to Execute any Necessary Documents on Behalf of the City of Henderson

Resolution Authorizing Participation in Kentucky Pride Litter Abatement Grant Program

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Record of Minutes of A Regular Meeting on August 23, 2016

A regular meeting of the Board of Commissioners of the City of Henderson, Kentucky, was held on Tuesday, August 23, 2016, at 5:30 p.m., prevailing time, in the third floor Assembly Room located in the Municipal Center Building at 222 First Street, Henderson, Kentucky.

INVOCATION was given by Lieutenant Jason Quinn, Salvation Army, followed by recitation of the Pledge of Allegiance to our American Flag.

There were present Mayor Steve Austin presiding:

PRESENT:

Commissioner Jan Hite
Commissioner Robert M. (Robby) Mills
Commissioner X R. Royster, III

ABSENT:

Commissioner Jesse Johnston, IV

ALSO PRESENT:

Mr. Russell R. Sights, City Manager
Mrs. Dawn Kelsey, City Attorney
Ms. Maree Collins, City Clerk
Mr. William L. Newman, Jr. Assistant City Manager
Mrs. Donna Stinnett, Public Information Officer
Mrs. Claudia Wayne, City-County Planning Assistant Director
Mr. Robert Gunter, Finance Director
Mr. Charles Stauffer, Police Chief
Mr. Mike Shockley, 9-1-1 Communications Supervisor
Mr. Scott Foreman, Fire Chief
Mrs. Connie Galloway, Human Resources Director
Mr. Trace Stevens, Parks & Recreation Director
Mr. Dylan Ward, Public Works Engineer
Mr. Tom Williams, HWU General Manager
Dr. Richard Wham, City-County Airport Board Chair
Mr. Allen Bennett, City-County Airport Manager
Mr. Chris Hopgood, City-County Airport Board Attorney
Mr. Benji Marrs, Sr. Vice-President, Benefit Insurance Marketing
Mrs. Susan Blanford, Director Business Development, Methodist Hospital
Dr. Libby Brown, Chief Wellness Officer, Methodist Hospital
Mr. Bradley Staton, Commission Candidate
Mr. Kiran Patel
Ms. Laura Acchiardo, *the Gleaner*
Mr. Mike Richardson, Police Reserve Officer

PRESENTATION: Henderson Branding Initiative

DONNA STINNETT, Public Information Officer, shared the *Find Your Nature* branding initiative that was announced as an extension of the Community Vision Plan. The idea is that Henderson is a place where your nature is all your own. For many years John James Audubon and his artistry has been used to represent Henderson. Audubon was interested in nature and other people may have a nature of serving on the commission or of running a downtown business or of being creative. This branding initiative is for each of you to discover your nature and share the story of your nature and what makes Henderson such a special place to you.

Mayor Austin indicated that the video makes him proud and hopes that it makes our citizens proud of this community and thanked Mrs. Stinnett for sharing the information and video.

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APPROVAL OF CONSENT AGENDA:

MAYOR AUSTIN asked the City Clerk to read the Consent Agenda.

Minutes: August 09, 2016, Regular Meeting

Motion by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, to approve the Consent Agenda.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the consent item approved.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:

Maree Collins, City Clerk _____

ORDINANCE NO. 28-16: FIRST READ

ORDINANCE PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES

AN ORDINANCE OF THE CITY OF HENDERSON, KENTUCKY PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, AND PROVIDING FOR THE TIME OF PAYMENT FOR SUCH TAXES, PENALTY, INTEREST AND DISCOUNT

MOTION by Commissioner X R. Royster, seconded by Commissioner Jan Hite, that the ordinance be adopted.

ROBERT GUNTER, Finance Director, explained that the compensating rate was proposed in the FY 2017 budget. Real Estate assessments were up approximately \$13,800,000.00 over the 2015 assessments and Personal Property assessments were down by approximately \$4,600,000.00. If the compensating rate is adopted it would generate approximately \$8,200,000.00 in property taxes before discounts. With an estimated collection rate of 98.8 percent in net of those discounts, a little over \$8,000,000.00 in income is anticipated. Mr. Gunter indicated that he receives a lot of questions on what the compensating rate is. It is defined by Kentucky Revised Statute and is rather complicated. Basically it is setting a rate, including all property assessments-real and personal property, that will generate the same revenue as the previous year.

COMMISSIONER MILLS indicated how proud he is of the city being able to take the compensating rate for seven of the last eight years by utilizing conservative budgets and small incremental increases where needed. Commissioner Mills expressed his concern in the almost seven cent increase on personal property and indicated that historically that rate changes only three, four or five cents and in 2013 it stayed the same. He further indicated that the compensating rate would be about \$123,000.00 more than was estimated in the FY 2017 budget and that an estimation of a decrease to about \$0.80 on the personal property rate would actually be a roll back to the 2014 rate and still match the proposed budget. Commissioner Mills stated, "I would like to see us do something like that because when we start going up six or seven cents at a time it could be detrimental over a period of time. And if you think about it the things that are personal property are merchants inventory, manufacturers finished goods, warehouse goods, furniture and fixtures, construction inventory, that is all business property and I think this is just

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a little too much of an increase, in my opinion, for businesses in town.” He then asked for a discussion to see if there was support to lower the personal property rate.

RUSSELL R. SIGHTS, City Manager indicated that Mr. Gunter’s memo lists different rates and that a one cent change would equal about \$13,070.00.

MAYOR AUSTIN indicated that he agreed with Commissioner Mills and proposed staying with the same rate as the previous year on personal property, which would be about a 6.8 cent decrease from the proposed rate and still be within the proposed budget dollar amount.

COMMISSIONER HITE agreed with essentially freezing the personal property rate to the 2015 rate of \$0.813. She further agreed that the city is fortunate that it can take the compensating rate and still pay for all these projects due to aggressive budgets the last few years.

MOTION TO AMEND ORDINANCE NO. 28-16:

MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster to amend the personal property tax rate back to the 2015 rate of \$0.8130 from the proposed rate of \$0.8810 for the fiscal year beginning July 1, 2016.

The vote was called on the motion amending the ordinance. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

The vote was called for amended ordinance no. 28-16:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted on its first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

RESOLUTION 45-16:

TRACE STEVENS, Parks and Recreation Director, explained that at the last meeting a request from a citizen was heard asking for extended hours at the John F. Kennedy Center and staff was instructed to review options that would allow such a change. This proposed fee schedule would allow certain qualifying events to extend the regular 11:00 p.m. closing time to 1:00 a.m. on Friday and Saturday evenings. To qualify an event must promote tourism, or the betterment of the City of Henderson. The regular daily rate to rent the entire center from 8:00 a.m. to 11:00 p.m. is \$300.00. The fee for the extended hours would be \$150.00 per hour, to cover additional overtime of two employees.

RESOLUTION 45-16:

RESOLUTION SETTING FEE SCHEDULE FOR FACILITY USE AT THE JOHN F. KENNEDY CENTER AS AUTHORIZED BY CHAPTER 17 OF THE CODE OF ORDINANCES FOR THE CITY OF HENDERSON, KENTUCKY EFFECTIVE AUGUST 24, 2016

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MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster to adopt the resolution setting the fee schedule for facility use at the John F. Kennedy Center relating to extended hours for certain events.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

RESOLUTION 46-16:

ROBERT GUNTER, Finance Director, explained that this is a reimbursement resolution for possible future bonds, but does not mean that bonds must be issued. This is a requirement for reimbursement of funds expended prior to the issuance of bonds, if bonds were to be issued.

RESOLUTION 46-16: RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF HENDERSON, KENTUCKY WITH RESPECT TO REIMBURSEMENT OF TEMPORARY ADVANCES MADE FOR CAPITAL EXPENDITURES TO BE MADE FROM SUBSEQUENT BORROWINGS

MOTION by Commissioner Robert M. Mills, seconded by Commissioner Jan Hite, to adopt the resolution declaring the City's official intent to reimburse temporary advances made for capital expenditures to be made from subsequent borrowings.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

RESOLUTION 47-16:

TOM WILLIAMS, Henderson Water Utility General Manager, indicated that this is the final part of the sewer project in the Springfield Drive/US 41A area and that the project is complete. He further indicated that everyone that has signed a *Consent Not to Oppose Annexation* now has service.

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RESOLUTION 47-16: RESOLUTION AUTHORIZING EXTENSION OF SEWER SERVICE OUTSIDE CITY LIMITS TO PROPERTIES LOCATED NEAR HIGHWAY 41A AND SPRINGFIELD DRIVE

MOTION by Commissioner Jan Hite, seconded by Commissioner Robert M. Mills, to adopt the resolution authorizing sewer services to properties located outside the city limits to properties in the US 41A and Springfield Drive area.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
August 23, 2016

ATTEST:

Maree Collins, City Clerk _____

MUNICIPAL ORDER NO. 43-16:

MUNICIPAL ORDER APPROVING CHANGE ORDER #1 TO THE CONTRACT BETWEEN THE CITY OF HENDERSON AND DAVID WILLIAMS & ASSOCIATES REGARDING THE PURCHASE AND INSTALLATION OF POURED IN PLACE RUBBER SURFACING FOR NEWMAN PARK, IN THE AMOUNT OF \$20,033.00

MOTION by Commissioner Jan Hite, seconded by Commissioner X R. Royster, to adopt the municipal order approving Change Order #1 to the David Williams & Associations Contract for the purchase and installation of poured in place rubber surfacing for the new Newman Park playground equipment in the total amount of \$20,033.00.

TRACE STEVENS, Parks and Recreation Director, indicated that he would give notice to proceed this week so that these specialty playgrounds can be ordered and it is expected that the installation should be complete in about sixty days, weather permitting.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
August 23, 2016

ATTEST:

Maree Collins, City Clerk _____

MUNICIPAL ORDER NO. 44-16:

MUNICIPAL ORDER APPROVING CHANGE ORDER #1 TO THE CONTRACT BETWEEN THE CITY OF HENDERSON AND DANCO CONSTRUCTION, INC. REGARDING THE CONSTRUCTION CONTRACT OF THE NEW MUNICIPAL SERVICE CENTER, IN THE AMOUNT OF \$117,718.46

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MOTION by Commissioner Jan Hite, seconded by Commissioner Robert M. Mills, to adopt the municipal order approving Change Order #1 to the Danco Construction, Inc. Contract for additional drainage, foundation and site work and various repairs and replacements for the new Municipal Service Center Complex in the total amount of \$117,718.46..

DYLAN WARD, Public Works Engineer, reported on the required changes to the construction contract totaling \$19,286.46 that included changes to a concrete inlet box due to an error in the storm water drainage system design (the design firm has been contacted for possible reimbursement); installation of gravel bed for internal footings inside main building due to subsurface ground conditions; buried lawn waste was discovered on the sanitation truck building site; a restroom flush valve repair; replacement of emergency exit lighting circuits and light fixtures due to a lightning strike; replacement of existing HVAC system ductwork due to dripping condensation; and extra stabilization material for the two entrances to the new site due to the location of underground utility lines.

WILLIAM L. NEWMAN, JR., Assistant City Manager, reported that the soil conditions on the site were worse than originally thought and that the over abundance of precipitation this year has compounded the instability of the soil conditions on the site. During excavation of the concrete floor in the main building water started coming inside the building. As stripping began for the new buildings, liquefaction or bad soil conditions were encountered and almost the entire site was in need of stabilization. The civil engineer that designed the site as well as the specialty contractor out of Mt. Carmel, Illinois were brought in to assess the site and provide guidance on how to proceed. The original contract included \$148,000.00 for lime stabilization and was consumed rather quickly because lime would not work and cement was used, which is a more expensive product. Additional soil stabilization for the site totaled \$98,432.00 above the \$148,000.00 that was in the base bid. There was no contingency in the budget for this project as an adjustment at the mid-year budget review was anticipated.

Mr. Newman also reported that the contractor has requested an additional 30 working day extension for the project due to weather conditions and soil stabilization during the project and that staff recommends approval of the extension of time moving the completion date to February 7, 2017. Mr. Newman concluded that other work on the site included the 273' communications tower that should be erected within the next two weeks.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

MUNICIPAL ORDER NO. 46-16:

MUNICIPAL ORDER ACCEPTING THE AGREEMENT FOR SERVICES BETWEEN THE CITY OF HENDERSON, COMMUNITY UNITED METHODIST HOSPITAL, INC. AND EDUMEDICS, LLC AND GIVING THE MAYOR THE AUTHORIZATION TO EXECUTE THE AGREEMENT AND ANY OTHER RELATED DOCUMENTS INCLUDING BUSINESS ASSOCIATES AGREEMENTS BETWEEN THE PARTIES

MOTION by Commissioner X R. Royster, seconded by Commissioner Jan Hite, to adopt the municipal order authorizing acceptance of the Agreement for Services between the City,

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Community Methodist Hospital and Edumedics, LLC and authorizing the Mayor to execute the Agreement and any other related documents between the parties.

DAWN KELSEY, City Attorney, indicated that this agreement will provide a near-site clinic which will be located on Second Street to provide services for City employees and those that are under our health insurance benefits program so that they can have a healthier lifestyle. Mrs. Kelsey stated that "Methodist Hospital has been incredibly accommodating to us through these negotiations and we appreciate the cooperation that they have provided to us." This three year contract has an initial one year term with a 365 day termination notice.

BENJI MARRS, Senior Vice-President, Benefit Insurance Marketing, indicated that it is an exciting time to be here for the culmination of working toward this clinic services program. This will be a great example for businesses in the area to look at this as innovation in health care. The clinic will provide a dedicated nurse practitioner to City employees, spouses, and dependants covered by the health insurance plan with zero co-pay. A nurse practitioner dedicated to only those patients will be available approximately 30 hours per week with staggered times to accommodate some morning, some evening, and some mid-day hours within the operational hours at the Second Street location. When those hours are booked, or someone is needing to see the clinician and the clinician is not there as long as it is during regular hours of business, employees, dependants and spouses will also have access to other clinicians that are at the location with zero co-pay to them. There will also be access, at zero co-pay, to about nine or ten basic lab tests. Additionally beyond those basic services Methodist Hospital has agreed to a customized reduced service fee schedule for labs in general through Methodist Hospital Out-patient.

It is anticipated that it will take about 90-120 days to establish the clinician; the licensure; set up reporting between all the entities; setup and build the claims fee schedule systems; and build a strategy for communication with employees. This clinic takes absolutely nothing away from the employee, there will be access to the same doctors, the same hospitals, the co-pay is staying the same, and deductibles are staying the same. The clinic will add the ability to access a nurse practitioner at zero co-pay with intentionality of spending time with them, getting to know them, and working with them directly to address their health care needs.

MAYOR AUSTIN thanked everyone for their hard work on this and believes it will be really good for our employees and that he plans to be one of the first ones in line on day one to take advantage of this service.

RUSSELL R. SIGHTS, City Manager, expressed his appreciation to Benji Marrs, Dawn Kelsey, Connie Galloway, Robert Gunter, the entire Human Resources staff, Dr. Libby Brown, Susan Blanford, David Park, and Alice Shade explaining that their efforts put us to this point tonight in this history making event.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

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MUNICIPAL ORDER NO. 45-16:

MIKE SHOCKLEY, 9-1-1 Communications Supervisor indicated that Request for Proposals were sent out for new desk/work stations for the new 9-1-1 Center and the backup 9-1-1 Center as a part of the overall 9-1-1 Center Upgrade Project. Hopkinsville happened to have been in the process of installing these desks and several staff members went to observe the installation process and finished product.

CHARLES STAUFFER, Police Chief, reported there were eight responses to the RFP. An evaluation process was built into the RFP and upon review of the submissions, Xybix was recommended. Chief Stauffer also indicated that these desks are actually two desks in one that can be raised up to allow the dispatcher to work standing up. The desktops also have an antimicrobial coating built into the finish to help fight the spread of germs in the work place.

MR. SHOCKLEY also reported that some of the remaining items for the Center are the flooring, the blinds and the phone system. He stated that a grant application for the phone system has been submitted and we are waiting to hear on that. Motorola is planning a dry run in October; however, they are running into the same thing that the building is running into, the rain. They are doing everything else that they can get done and November is still the target date. There will be a one month timeframe for working on both systems to work out all the kinks before going live.

COMMISSIONER HITE expressed how pleased she was that this will be completed before her term ends. She stated, "I think that this is one of the things that I am most proud of in all of my time in the City Commission."

MR. SIGHTS, City Manager, reported that in the event that we do not receive grant funds for the new phone system we would have to put that in the budget by amendment. The current phone system will not do some things that we should have for the new system. Mr. Sights indicated that we are hopeful that we will get at least partial funding from the grant.

MUNICIPAL ORDER NO. 45-16:

MUNICIPAL ORDER AWARDING BID FOR THE PURCHASE OF DISPATCH CENTER WORKSTATIONS TO XYBIX SYSTEMS, INC. OF LITTLETON, COLORADO, IN THE TOTAL AMOUNT OF \$98,706.02

MOTION by Commissioner Jan Hite, seconded by Commissioner Robert M. Mills, to adopt the municipal order awarding the bid for the purchase of eight dispatch center workstations for the new 9-1-1 Center and the new backup 9-1-1 Center to Xybix Systems, Inc. of Littleton, Colorado in the total amount of \$98,706.02 in strict accordance with their proposal as submitted.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the municipal order adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

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RESOLUTION 48-16:

RESOLUTION APPROVING REAL ESTATE PURCHASE AND SALE CONTRACT AND THE PURCHASE BETWEEN THE HENDERSON CITY-COUNTY AIRPORT BOARD, JOHN MICHAEL DOSSETT, BRENDA K. DOSSETT, CHRISTOPHER D. DOSSETT, SHIRLEY A. DOSSETT, AND DAVID V. DOSSETT IN THE AMOUNT OF \$710,000.00; AND DIRECTING MAYOR TO EXECUTE ALL DOCUMENTS WHICH ARE DEEMED NECESSARY TO EFFECTUATE THE SALE AND CONVEYANCE OF THE PROPERTY

MOTION by Commissioner X R. Royster, seconded by Commissioner Jan Hite, authorizing the purchase with Henderson County of a tract of land located in Henderson County and containing 56.2 acres ±, to be managed by the Henderson City-County Airport Board for future expansion and improvement to the airport.

ALLEN BENNETT, Airport Manager indicated that the Henderson Airport Board has received a \$1,200,000.00 grant from the Federal Aviation Administration for Phase One of the runway extension project, which includes the purchase of land. This project has been planned for a number of years and the environmental assessment of the corridor was just completed. The purchase of this property is necessary to extend the runway. The remainder of the grant funds will be used for right-of-way acquisition, and utility and road relocation. The local match on this grant will utilize Land Bank credits from previous land purchases that have been accepted by the Land Bank and are being used for the local match share. There should be enough Land Bank credits to use for another \$1,000,000.00 in grant funds. The Kentucky Department of Aviation has been petitioned to supplement their normal 5% and go to 7.5%. There are three projects in the state that are currently funded through the KDA at 7.5%. It is estimated that local matching funds of around \$300,000.00 split between the City and the County will be necessary for this four to five year project.

CHRIS HOPGOOD, Airport Board Attorney, requested that the acceptance of the grant be placed on the next Board of Commissioners meeting agenda due to the upcoming acceptance deadline.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
August 23, 2016

ATTEST:
Maree Collins, City Clerk _____

DR. RICHARD WHAM, Airport Board Chair, thanked Mayor Austin, the Commissioners, and staff on behalf of the Airport Board for their cooperation and support of the Airport and this multi-year, multi-million dollar project that will greatly enhance the usability and economic development potential of the airport and our community.

MAYOR AUSTIN thanked Dr. Wham, the Airport Board, and the Airport Manager for their dedication and hard work on the continued growth of our airport.

RESOLUTION 49-16:

RESOLUTION APPROVING AMENDED AGREEMENT WITH THE HUMANE SOCIETY OF HENDERSON COUNTY, INC. ALLOCATING \$9,166.67 ON A MONTHLY

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on August 09, 2016

BASIS FOR ANIMAL CONTROL AND SHELTER SERVICES; AND GIVING MAYOR AUTHORITY TO EXECUTE AGREEMENT ON BEHALF OF CITY

MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster, approving the execution of an Amended Agreement deleting the provision relating to a vacancy in the executive director position with the Humane Society of Henderson County, Inc. for animal control and shelter services.

DAWN KELSEY, City Attorney indicated that the Agreement that was entered into for fiscal year 2017 contained a clause stating “All payments will be held in abeyance if there is a vacancy in the executive director position lasting more than fifteen (15) days until such time as the position is satisfactorily filled on an interim or permanent basis” and that when Mayor Austin was contacted to inform him that the Humane Society Executive Director stepped down in July and that in August the Board of the Humane Society reorganized staff positions eliminating the Executive Director position creating an Operations Manager position no funds could be dispersed. Mayor Austin and County Judge Schneider met with the Humane Society Board Chair and Secretary on Monday of this week and felt very comfortable with the direction they are going in and directed staff to prepare an amended Agreement that would allow the payments to be made. Mrs. Kelsey indicated that it was her understanding that Fiscal Court made this same amendment at their meeting.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster --- Aye:
 Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
 Steve Austin, Mayor
 August 23, 2016

ATTEST:
 Maree Collins, City Clerk _____

RESOLUTION 50-16:

RESOLUTION AUTHORIZING DEED OF EASEMENT BETWEEN KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM, THE CITY OF HENDERSON, WATER AND SEWER COMMISSION OF THE CITY OF HENDERSON, AND THE CITY OF HENDERSON UTILITY COMMISSION; AND AUTHORIZING MAYOR TO EXECUTE DEED OF EASEMENT ON BEHALF OF THE CITY OF HENDERSON

MOTION by Commissioner Jan Hite, seconded by Commissioner X R. Royster, authorizing the purchase with Henderson County of a tract of land located in Henderson County and containing 56.2 acres ±, to be managed by the Henderson City-County Airport Board for future expansion and improvement to the airport.

TOM WILLIAMS, Henderson Water Utility General Manager indicated that this stems from the relocation of utilities for the US 60 widening project from the 425 bypass past the college. Mr. Williams reported that the project has gone very well with excellent cooperation from the college.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:

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Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

WHEREUPON, Mayor Austin declared the resolution adopted, affixed his signature and the date thereto, and ordered that the same be recorded.

/s/ Steve Austin
Steve Austin, Mayor
August 23, 2016

ATTEST:
Maree Collins, City Clerk _____

CITY MANAGER’S REPORT:

RUSSELL R. SIGHTS, City Manager, indicated that the Board of Commissioners approved an appropriation to be used for Visionary Planning this year; however, there was no specific designation as to what the funds would be used for. Henderson County Tourist Commission has submitted invoices totaling \$15,000.00 for two projects -- an investment of \$10,000.00 in the Community Branding Initiative and \$5,000.00 for investment in the Sports and Meeting Space Feasibility Study that is currently in the initial stages but not completed. Mr. Sights indicated that without itemized approval, formal authorization would be necessary, if the Board would like for the invoices to be paid.

MAYOR AUSTIN indicated that a six person committee has been formed that is working on implementation of the Vision Plan and Branding. He went on to explain that the Sports and Meeting Facility Phase One is completed and that Phase Two is the second half of the \$30,000.00 commitment and that he, the Vision Committee Board, Tourism, Buzzy, and several others have raised about \$25,000.00. Last year the city committed to fund Phase Two as well as Phase One of the Sports Complex Study. The branding will be a year long process and include some new signage at the US 41 and US 60 city limits to include the new logos and things. Mayor Austin further indicated that the Vision Committee Board will help move through the process and there will be some matches to the city’s funding as well.

WILLIAM L. NEWMAN, JR., Assistant City Manager indicated that Phase Two will review the results of Phase One to prepare preliminary schematic designs of sport complexes address the need on the meeting space so that a formal final document along with cost to implement the capital investment as well as the operational approach to sports programs in the community can be presented.

Motion by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster, authorizing payment of the submitted invoices from Henderson Tourist Commission for the Vision Plan and the Sports Complex in the total amount of \$20,000.00.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
Commissioner Johnston --- Absent:
Commissioner Hite ----- Aye:
Commissioner Royster ---- Aye:
Mayor Austin ----- Aye:

RUSSELL R. SIGHTS, City Manager, reported that items on the regularly scheduled Tuesday, September 20th, 2016 work session include a tour of the new Municipal Service Center; a demonstration of the new Municipal Center Drive-thru window vacuum system; and review and discussion of signage replacement to include the new branding ideas.

CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Regular Meeting on August 09, 2016

COMMISSIONER'S REPORT:

COMMISSIONER MILLS reported that he continues to hear that Henderson is not business friendly, but that no specifics are given. He indicated that in his opinion, tonight's vote to reduce the personal property tax rate is a business friendly move.

MAYOR AUSTIN agreed that it has been hard to shake that reputation; however the implementation of the Planning Commission Site Review meetings seem to be working well for building contractors and developers to meet with all Planning, Utility and City or County staff to review plans all at once.

MR. SIGHTS, City Manager, indicated that staff is making a concentrated effort to change that image in our community. The Site Review meetings on Thursday morning are certainly important and they have gone very well overall. Staff continues to do other things as well, including employee training emphasizing that the public is our customer.

COMMISSIONER ROYSTER asked when the sidewalks on South Main Street would be completed and why they haven't been maintained since work stopped on them. He further asked for an explanation of why concrete work is being done elsewhere in the city without finishing that project first. He then asked for a status report on repair/replacement of the service cuts in our two new streets, Merritt Drive and 12th street.

MR. NEWMAN, Assistant City Manager, indicated that Third Street had been milled last spring and the conditions were worse than expected. At that time it was determined that the concrete repair of Third Street would take priority over the sidewalk project, so the concrete contractor was moved to Third Street to get it ready for paving. Third Street is now finished and the contractor should remobilize to the South Main Sidewalk Project sometime this week. The weeds and growth have been an ongoing issue with contractors; a lot of it has to do with the weather, but we are not going to make any excuses.

MR. SIGHTS assured Commissioner Royster that now that the concrete work has been completed on Third Street the contractor will be back on the Sidewalk Project.

MR. NEWMAN reported that Henderson Water Utility has been working to improve water pressure in the Craig Drive area. Portions of 12th Street have been repaved to cover up water line work. Work has now progressed around the corner onto Merritt Drive down to around 11th Street. A three foot pass along the edge of the road was cut and temporarily patched. Once the lines are tied into the Atkinson Park water tower the temporary patch will be removed and then the question becomes to repair sections or overlay the entire street to the railroad bridge. There seems to be some problem under the railroad bridge and HWU has been asked to find out what that is. A decision must be made on what to do about the surface from one end to the other of Merritt Drive. There is no money in the City's budget to completely repave it and HWU has taken a position on what they want to contribute back to the project.

MR. WILLIAMS, Henderson Water Utility General Manager indicated that cold patch was placed in the section on Merritt Drive rather than gravel since there is so much traffic on it, realizing that it would have to be taken out to do some type of permanent repair. There are several places that need repairs and it is just a question of what the budget will allow. A 30" trench was cut in the pavement on Merritt from 12th toward 11th and he doesn't feel that it is the responsibility of HWU to repave the entire street.

MR. SIGHTS indicated that he and Mr. Williams have discussed this, specifically the section from 12th down to 11th down toward the bottom of the hill and that his position is that this was a brand new street that cost thousands and thousands of dollars and that he must insist that if it is not put back in a 100% quality condition then the entire width must be milled and repaved and that HWU should be obligated to make it look like a new street.

CITY OF HENDERSON – RECORD BOOK

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MR. WILLIAMS indicated that HWU is at the mercy of the City's contractor on the quality of work unless they go outside of the current arrangement and hire their own contractor to make the repair. Further discussion was held on this repair as well as the other service cuts and repair work necessary from the railroad bridge to 12th Street.

MR. NEWMAN indicated that this is not a new problem and that other repairs have turned out well. There will be some darker spots in the pavement, and lighter spots because of the age of the asphalt but we should be able to accomplish it all without a complete overlay.

COMMISSIONER MILLS indicated that this is a signature area of our community and how disappointed he is every time he drives over it. He continued that he understands that these things happen, but that it needs to look right and that everyone has the right intensions and hopefully the work can be completed before winter.

REAPPOINTMENT: Municipal Housing Commission:

Amy Taylor – Term To Expire September 30, 2020

Motion by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, upon recommendation of Mayor Steve Austin, to reappoint Amy Taylor to a four year term on the Municipal Housing Commission. Said term to expire September 30, 2020.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

EXECUTIVE SESSION: Real Estate and Litigation

MOTION by Commissioner X R. Royster, seconded by Commissioner Robert M. Mills, to go into Executive Session for the purpose of deliberation on the possible future purchase of real estate located between First and Third Streets and Green Street and Carlisle Street and for property located in the area of the Ohio River/Highway 41 at 12th Street and Watson Lane pursuant to KRS 61.810 (1) (b) where publicity would affect the value of the property and for the discussion of proposed litigation by the City pursuant to KRS 61.810 (1) (c).

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

MEETING RECONVENED:

MOTION by Commissioner X R. Royster, seconded by Commissioner Jan Hite, the Board of Commissioners reconvened in regular session.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:

CITY OF HENDERSON – RECORD BOOK

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Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

MEETING ADJOURN:

MOTION by Commissioner Robert M. Mills, seconded by Commissioner X R. Royster,
 to adjourn the meeting.

The vote was called. On roll call, the vote stood:

Commissioner Mills ----- Aye:
 Commissioner Johnston --- Absent:
 Commissioner Hite ----- Aye:
 Commissioner Royster ---- Aye:
 Mayor Austin ----- Aye:

WITHOUT OBJECTION, Mayor Austin declared the Meeting adjourned at
 approximately 8:07 p.m.

ATTEST:

 Steve Austin, Mayor
 September 13, 2016

 Maree Collins, City Clerk

**City Commission Memorandum
16-199**

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: Acceptance of Grant for Purchase of Property – Airport Board

The accompanying resolution authorizes the acceptance of a grant for joint purchase with Henderson County of land to be managed by the Henderson City-County Air Board. The purchase consists of 56.2 acres.

The land will be used for the runway extension project at the airport. The Air Board negotiated the purchase terms of this property. The City Commission approved the purchase at their August 23, 2016 meeting and Henderson Fiscal Court approved the purchase at their meeting on September 6, 2016.

Your approval of the attached resolution is requested.

c: Buzzy Newman
Brad Schneider



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I – OFFER

Date of Offer	<u>August 24, 2016</u>
Airport/Planning Area	<u>Henderson City-County</u>
AIP Grant Number	<u>3-21-0025-029-2016</u>
DUNS Number	<u>148819795</u>
TO:	<u>City of Henderson, KY; County of Henderson, KY, and Henderson City-County Airport Board</u> (herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated August 1, 2016, for a grant of Federal funds for a project at or associated with the Henderson City-County Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Henderson City-County Airport (herein called the "Project") consisting of the following:

Extend Runway Phase 1 (Land Acquisition: Tract #: 32-17; Acreage: 56.2)

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$1,084,881.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

- \$0 for planning
- \$0 for airport development or noise program implementation
- \$1,084,881 for land acquisition.

2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the project period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.

The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).

The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.

3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs – Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application and as accepted by the FAA to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before August 31, 2016, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor

must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. United States Not Liable for Damage or Injury. The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

11. System for Award Management (SAM) Registration And Universal Identifier.

A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

B. Requirement for Data Universal Numbering System (DUNS) Numbers

1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).

12. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to any "planning" component included in condition No. 1.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Air and Water Quality**. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.
15. **Financial Reporting and Payment Requirements**. The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American**. Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
17. **Maximum Obligation Increase For Nonprimary Airports**. In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - A. May not be increased for a planning project;
 - B. May be increased by not more than 15 percent for development projects;
 - C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.
18. **Audits for Public Sponsors**. The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.
19. **Suspension or Debarment**. When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
 - A. Verify the non-federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if non-federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
 - B. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
 - C. Immediately disclose to the FAA whenever the Sponsor: (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debars a contractor, person, or entity.
20. **Ban on Texting While Driving**.
 - A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:

1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

21. Trafficking in Persons.

- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity). Prohibitions include:
1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
- B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –
1. Is determined to have violated the Prohibitions; or
 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
 - a. Associated with performance under this agreement; or
 - b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR part 1200.

22. AIP Funded Work Included in a PFC Application:

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

- 23. Exhibit "A" Property Map.** The Exhibit "A" Property Map dated November 18, 2014, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

- 24. Co-Sponsor.** The Co-Sponsors understand and agree that they jointly and severally adopt and ratify the representations and assurances contained therein and that the word "Sponsor" as used in the application and other assurances is deemed to include all co-sponsors.

25. **Update Approved Exhibit "A" Property Map for Land in Project.** The Sponsor understands and agrees to update the Exhibit "A" Property Map to standards satisfactory to the FAA and submit it in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Exhibit "A" Property Map is an allowable cost within the scope of this project.
26. **Future Development Land.** The Sponsor agrees to perform the airport development which requires this land acquisition within five years of this grant agreement, and further agrees not to dispose of the land by sale or lease without prior consent and approval of the FAA. In the event the land is not used within five years for the purpose for which it was acquired, the Sponsor will refund the Federal share of acquisition cost or the current fair market value of the land, whichever is greater.
27. **Uniform Relocation Act.** The Sponsor understands and agrees that all acquisition of real property under this project will be in accordance with the 49 Code of Federal Regulations Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.
28. **Land Acquisition.** The Sponsor agrees that no payments will be made on the grant until the Sponsor has presented evidence to the FAA that it has recorded the grant agreement, including the grant assurances in the public land records of the county courthouse. The Sponsor understands and agrees that recording the grant agreement legally enforces these requirements, encumbrances and restrictions on the obligated land.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

ACKNOWLEDGEMENT

STATE OF _____

COUNTY OF _____

On _____, before me, a Notary Public, personally appeared _____, who proved to me through satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that _____ executed the foregoing instrument in their authorized capacity by their signature on the instrument.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

(Signature)

Phillip J. Braden

(Typed Name)

Manager, Memphis Airports District Office

(Title of FAA Official)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this _____ day of _____.

City of Henderson, Kentucky

(Name of Sponsor)

By:

(Signature of Sponsor's Authorized Official)

(Typed Name of Sponsor's Authorized Official)

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Kentucky. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ (location) this _____ day of _____.

By:

(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.²

Executed this _____ day of _____, _____.

(Name of Sponsor)

By:

(Signature of Sponsor's Authorized Official)

(Typed Name of Sponsor's Authorized Official)

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Kentucky, Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____(location) this _____ day of _____, _____.

By:

(Signature of Sponsor's Attorney)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.³

Executed this _____ day of _____, _____.

Henderson City-County Airport Board

(Name of Sponsor)

By:

(Signature of Sponsor's Authorized Official)

(Typed Name of Sponsor's Authorized Official)

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Kentucky. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ (location) this _____ day of _____, _____.

By:

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

- a. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
- b. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
- c. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

FEDERAL LEGISLATION

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.¹²
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

FEDERAL REGULATIONS

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.¹²
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹

- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- ⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy

of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title

49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be

required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service,

provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- a.) Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- b.) Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- c.) Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- d.) It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- e.) In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- f.) The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- g.) The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft

rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
 - a.) As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a

manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

b.) Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. by gross weights of such aircraft) is in excess of five million pounds Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at

Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing:
- 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- a.) If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
- 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the

sponsor's programs and activities.

- 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 - 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 - 2) So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a.) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

- b.) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was

notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated December 31, 2015 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure

nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



**FAA
Airports**

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 12/31/2015

View the most current versions of these ACs and any associated changes at:
<http://www.faa.gov/airports/resources/advisorycirculars>

NUMBER	TITLE
70/7460-1L	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1- 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5200-28E	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C Change 1	Airport Winter Safety And Operations
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel

NUMBER	TITLE
150/5210-19A	Driver's Enhanced Vision System (DEVS) Ground Vehicle Operations on Airports
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16D	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26 Change 1	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements of Changes
150/5300-13A Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18C	Survey and Data Standards for Submission of Aeronautical Data Using Airports GIS
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design
150/5320-6E	Airport Pavement Design and Evaluation

NUMBER	TITLE
150/5320-12C Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5235-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30H	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42H	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43G	Specification for Obstruction Lighting Equipment
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures

NUMBER	TITLE
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals With Disabilities
150/5370-2F	Operational Safety on Airports During Construction
150/5370-10G	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2C	Heliport Design

NUMBER	TITLE
150/5395-1A	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY

Updated: 12/31/2015

NUMBER	TITLE
150/5100-14E, Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17 Changes 1 - 6	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5300-15A	Use of Value Engineering for Engineering Design of Airports Grant Projects
150/5320-17A	Airfield Pavement Surface Evaluation and Rating (PASER) Manuals
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7B	Airport Pavement Management Program
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness

RESOLUTION NO. _____

RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT IN THE AMOUNT OF \$1,084,881.00 FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, FOR RUNWAY EXTENSION PROJECT TO THE HENDERSON CITY-COUNTY AIRPORT; AND AUTHORIZING AND DIRECTING MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS ON BEHALF OF THE CITY OF HENDERSON

WHEREAS, the United States Department of Transportation, Federal Aviation Administration, offers grant assistance to local airports; and

WHEREAS, the Henderson City-County Airport Board has submitted an application seeking grant funds to be used for the runway extension project; and

WHEREAS, the United States Department of Transportation, Federal Aviation Administration, has approved the Airport Board's application for grant funds and agrees to pay ninety percent (90%) of the allowable costs for the project; and

WHEREAS, the Henderson City-County Airport Board agrees to pay the remaining ten-percent (10%) totaling \$108,488.10 from airport reserves.

WHEREAS, the City Manager recommends acceptance of the grant award.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson, Kentucky, that the recommendation of the City Manager is approved, and the Department of Transportation, Federal Aviation Administration, grant award in the amount of \$1,084,881.00 is hereby accepted, and the Mayor is authorized and directed to execute any necessary documents on behalf of the City.

On motion of Commissioner _____, seconded by Commissioner _____, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Mills: _____	Commissioner Royster: _____
Commissioner Johnston: _____	Mayor Austin: _____
Commissioner Hite: _____	

WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

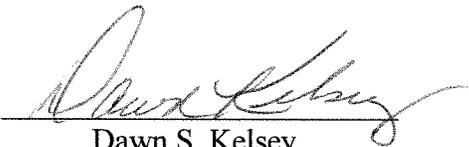
ATTEST:

Steve Austin, Mayor

Date: _____

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 7 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

City Commission Memorandum
16-197

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: 2017 Litter Abatement Funding

The accompanying resolution authorizes participation in the 2017 Litter Abatement grant program.

The Litter Abatement fund is a trust fund established by the Kentucky General Assembly to receive money collected from environmental remediation fees on solid waste. A portion of the monies collected is earmarked for local litter abatement activities.

The city's share, determined from a formula of road miles and population, will be determined at a later date.

The city must undertake litter cleanups during the year under program guidelines. Our traditional street sweeping program more than meets the requirement.

Your approval of the attached resolution is requested.

c: Brian Williams
Robert Gunter



MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection

AARON B. KEATLEY
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

August 4, 2016

Dear Mayor:

Now is the time to apply for 2017 Litter Abatement Grant Funding. The purpose of this letter is to provide you with information about the Litter Abatement Grant program, including highlighting some important changes, and to provide you with a copy of the grant agreement and related forms. For this grant cycle:

- The signed “City Request and Agreement for Litter Abatement Grant Funding,” attached, **must be received in this office by 4:30 p.m. on November 1, 2016**, pursuant to KRS 224.43-505. Litter abatement grant agreements received after that date will not be accepted.
- **The amount of grant funding each city is eligible to receive will not be determined until after November 1, 2016.** Once all applications are received, the amount of funding available will be calculated in accordance with statutory requirements.
- The litter abatement grant funding is to be used for direct expenses, as defined in 401 KAR 49:080 Section 3, incurred during calendar year 2017, associated with anti-litter control programs; for litter cleanup on public roads as provided in KRS 224.43-505; and to meet the requirements established in KRS 224.43-345.
- By February 1, 2018, the city shall submit to the Kentucky Division of Waste Management a completed “**Litter Abatement Annual Reporting Form**” and a completed “**Certification of Use of Litter Abatement Grant Funding**” signed by the Mayor. These forms should be sent to Lisa Evans at the address shown below. *The forms will be available on our website at waste.ky.gov/rla/grants and will be sent out in November through the Kentucky League of Cities.*
- Litter abatement grant funds not spent during calendar year 2017 must be reimbursed to the cabinet by April 15, 2018.
- Per 401 KAR 49:080, Section 6, any city failing to comply with the terms of the litter abatement grant agreement shall be ineligible for litter abatement grant funding for the following year.

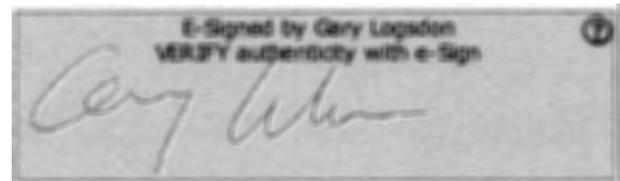
- If the city wishes to decline litter abatement grant funding for 2017, please check the box at the bottom of the “City Request and Agreement for Litter Abatement Grant Funding” and send it to Lisa Evans.
- **A copy of the city’s solid waste ordinance or solid waste contract to demonstrate compliance with eligibility requirements shall be submitted.** A hard copy can be attached to the signed grant agreement, or an electronic copy can be emailed to Lisa Evans at lisa.evans@ky.gov.
- There is no match requirement for this grant.

Litter abatement grant funds will be disbursed by approximately January 1, 2017. Please verify address and Federal ID information on the Litter Abatement Grant Funding agreement for accuracy. **Submit the signed litter abatement grant form by 4:30 p.m. on November 1, 2016 to:**

Lisa G. Evans, Grant Administrator
Recycling and Local Assistance Branch
Kentucky Division of Waste Management
300 Sower Boulevard
Frankfort, Kentucky 40601

If you have any questions, contact Lisa G. Evans at 502-782-6355 or me at 502-782-6405.

Sincerely,

An e-signature block showing a handwritten signature in cursive that reads "Gary Logsdon". Above the signature, the text "E-Signed by Gary Logsdon" and "VERIFY authenticity with e-Sign" is visible. A small circular icon with a question mark is in the top right corner of the block.

Gary Logsdon, Manager
Recycling and Local Assistance Branch

**CITY REQUEST AND AGREEMENT FOR ANTI-LITTER CONTROL PROGRAM
GRANT FUNDING**

_____ (city) hereby applies for grant funding for anti-litter control program activities allowed pursuant to KRS 224.43-505.

The city understands and agrees to the following terms and conditions:

- Incorporated cities that elect to apply for anti-litter control program grant funds are obligated to utilize the funding to clean litter along city streets two (2) times per year. A city street cleanup is defined as the “cleanup of litter along a number of city street miles equivalent to one-half (1/2) of a city’s total street miles.”
- In order to compute each city’s share of the anti-litter control program grant funds, provide the total city public road miles (below). The actual amount will be determined after receipt of all applications.
- The amount of anti-litter control program grant funding is determined in accordance with KRS 224.43-505 and the number of applicants applying for the grant.
- The anti-litter control program grant funding shall be utilized for direct expenses, as defined in 401 KAR 49:080, Section 1(2), incurred during calendar year 20 __, associated with anti-litter control programs, for litter cleanup on city streets as provided in KRS 224.43-505, and to meet the requirements established in KRS 224.43-345.
- By February 1, 20 __, the city shall submit to the Kentucky Division of Waste Management a completed “Anti-Litter Control Program Annual Report” and a completed “Certification of Use of Anti-Litter Control Program Grant Funding.”
- Anti-litter control program grant funds not spent during the calendar year shall be reimbursed to the Cabinet by April 15 of the following year.

City	Total City Street Miles	Signature, Mayor of City
Business Address:	Street	City
Federal ID Number:		Zip

The city **declines** anti-litter control program grant funding for 20 __.

Frequently Asked Questions for Anti-Litter Control Program Grants

What are eligible expenses for anti-litter control program grants?

- Anti-litter control program grant recipients shall use grant funding for “**direct expenses**” associated with public road cleanup and city street cleanup requirements referred to in KRS 224.43-505(d)(5). See 401 KAR 49:080, Section 4(2)(a).
- “**Direct expenses**” include staff time, supplies, contract costs, expenditures related to the operation of equipment, actual disposal costs incurred, and activities, including education, focusing on litter prevention and litter cleanup along public roadways. Direct expenses do not include the purchase of a motor vehicle or lease of a motor vehicle when the lease includes a purchase option. See 401 KAR 49:080, Section 1(2)(a).

Does “public road” mean only a county road, or does it also include state roads?

- "Public road" means any city, county, state, federal, or limited access street, highway, or turnpike, including bridges and bridge approaches. See KRS 224.43-500(1)(c).

What forms must the grant recipient submit to the cabinet after performing anti-litter control program activities with grant funds?

- Certification of Use of Anti-Litter Control Program Grant Funding, DEP 0059. The form is available *here*. Incorporated cities must submit this form to the cabinet by February 1. See 401 KAR 49:080, Section 4(6)(b)3. Counties must submit this form to the cabinet by March 1. See 49:080, Section 4(6)(b)2. This form must be signed by the head of the governing body. See 401 KAR 49:080, Section 4(6)(b)1.
- Anti-Litter Control Program Annual Report Form, DEP 8061. The form is available *here*. Incorporated cities must submit this form to the cabinet by February 1. See 49:080, Section 4(7). Counties must submit this form to the cabinet by March 1. See 401 KAR 49:080, Section 3(3).

How long must anti-litter control program grant recipients keep documentation related to grant activities, including grant expenditure documentation?

- Anti-litter control program grant recipients shall keep documentation related to grant activities, including grant expenditure documentation, for at least three (3) years. See 401 KAR 49:080, Section 4(2)(b).

What if the grant recipient does not spend all litter grants funding during the calendar year?

- Anti-litter control program grant funding not spent in the calendar year it is received shall be returned to the cabinet by April 15 of the following year. See 401 KAR 49:080, Section 4(8).

Where can I find 401 KAR 49:080?

- By clicking *here* or going to <http://www.lrc.ky.gov/kar/401/049/080reg.htm> .

RESOLUTION NO. _____

RESOLUTION AUTHORIZING PARTICIPATION
IN KENTUCKY PRIDE LITTER ABATEMENT
GRANT PROGRAM

WHEREAS, the Kentucky Natural Resources and Environmental Protection Cabinet is providing funding for local litter abatement activities through the Kentucky Pride Litter Abatement Grant Program; and

WHEREAS, funds have been allocated to the City based upon road miles and population; and

WHEREAS, the City manager recommends that the City participate in the program.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson, Kentucky, that the recommendation of the City Manager is approved, and the City of Henderson is hereby authorized to participate in the Kentucky Pride Litter Abatement Grant Program and the City Manager is authorized to execute all documents that may be necessary to effectuate the City's participation in the program.

On motion of Commissioner _____, seconded by Commissioner _____, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Mills: _____ Commissioner Royster: _____
Commissioner Johnston: _____ Mayor Austin: _____
Commissioner Hite: _____

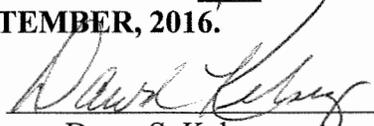
WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

ATTEST:

Steve Austin, Mayor
Date: _____

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 7 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

**City Commission Memorandum
16-196**

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager 
SUBJECT: 2016 Property Tax Rates

An item for the agenda of Tuesday, September 13, 2016, is final reading of an ordinance establishing the 2016 tax rate.

As proposed, the following rates will apply for each \$100.00 of fair market value:

	RATE	CHANGE
Real Property:	\$0.6110	\$0.0200
Personal Property:	\$0.8130	- 0 -
Motor Vehicles/Watercraft:	\$0.3927	- 0 -

The Real Property rate is \$.020 higher than last year and the Personal Property rate will remain the same as directed at your last meeting. The Motor Vehicles/Watercraft rate is statutorily frozen at 1984 levels.

The 2016 tax bill is due in full not later than January 3, 2017. Payment prior to the end of business on November 16, 2016 will result in a one percent (1%) discount of the tax.

Your approval of the attached ordinance is requested.

c: Robert Gunter
Dawn Kelsey

FINANCE DEPARTMENT MEMORANDUM
16 – 55

August 29, 2016

TO: Russell Sights, City Manager
FROM: Robert Gunter, Finance Director
SUBJECT: Revised 2016 Property Tax Rates

Due to the revised personal property tax rate, I have updated the attached schedules to reflect the change to the property tax revenue for fiscal 2017. Anticipated fiscal 2017 revenue from real property will not change and should be approximately \$7,047,200 compared to \$6,734,671 in 2015.

The revised rate for personal property is \$.813 per \$100 assessment, which is the same rate as last year. The rate would generate revenue in the amount of \$1,062,536 or approximately \$88,871 less than the compensating rate.

The total possible revenue from both real and personal is \$8,109,736 and based on our average collection rate of 98.9%, the property tax revenue should be approximately \$8,020,528. The budget for the gross property tax revenue in the General for fiscal 2017 is \$7,985,000.

The time period for paying taxes with a discount, through November 16th, is 54 days. Traditionally, the City allows payments without penalty the first working day in January to allow individuals latitude in planning income tax deductions. In 2017, the first day that City offices will be open is Tuesday, January 3rd; therefore, payments can be made that day without penalty.

Please contact me if you have any questions or need additional information.


Robert Gunter

Enclosures

Cc Brian Toy
Kay Mulligan

CITY OF HENDERSON
PROPERTY TAX RATE CALCULATION WORKSHEET
2016

Item		
1	2015 Actual Tax Rate (per \$100) Real Property	0.5910
2	2015 Actual Tax Rate (per \$100) Personal Property	0.8130
3	2015 Total Property subject to Rate	\$ 1,274,887,090
4	2015 Real Property subject to Rate	\$ 1,139,538,236
5	2016 Total Property subject to Rate	\$ 1,284,081,066
6	2016 Real Property Subject to Rate	\$ 1,153,387,889
7	2016 New Property net of Deletions (KRS 132.010)	\$ (502,955)
8	Increase in HEX (not needed for calculation)	
9	2015 Personal Property Subject to Rate	\$ 135,348,854
10	2016 Personal Property Subject to Rate	\$ 130,693,177

REAL PROPERTY

I. Compensating Rate for 2016

Rate I (Round Up)

Item 4 divided by 100 X Item 1 = A	\$ 6,734,671
A divided by (Item 6 minus Item 7) X 100 = Rate I	<u>0.584</u>

Check for minimum revenue limit on compensating rate for 2016

Substitute for Rate I (round up)

Item 5 divided by 100 X Rate I = 2016 Total Revenue	\$ 7,499,033
Item 4 divided by 100 X Item 1 = 2015 Revenue (RE)	\$ 6,734,671
Item 9 divided by 100 X Item 2 = 2015 Revenue (PP)	\$ 1,100,386
2015 Revenue (RE) + 2015 Revenue (PP) = Grand Total 2015 Revenue (C)	\$ 7,835,057
2015 Rev divided by Item 5 X 100	<u>0.611</u>
(Use if 2015 calculation of revenue is greater than 2016)	

II. Rate Allowing 4% Increase in Revenue for Real Property

Rate II (round down)

(Item 6 minus Item 7) divided by 100 X Rate I or Sub Rate=B	\$ 7,050,273
B X 1.04 divided by (Item 6 minus Item 7) X 100 =Rate II	<u>0.635</u>

PERSONAL PROPERTY

2016 PP Rate (using the compensating rate)

Item 6 divided by 100 X 2016 Rate (RE) = 2016 Revenue (RE)	\$ 7,047,200
Item 4 divided by 100 X Item 1 = 2015 Revenue (RE)	\$ 6,734,671
2016 Revenue (RE) minus 2015 Revenue (RE) = \$ increase 2015 over 2015	\$ 312,529
\$ Increase 2016 over 2015 divided by 2015 Revenue (RE) = D (% Increase)	4.6%
Item 2 X Item 9 divided by 100 = 2015 Revenue (PP)	\$ 1,100,386
2015 Revenue (PP) X (D+1.0) = 2016 \$ Minimum (PP)	\$ 1,151,004
2016 \$ Minimum (PP) divided by Item 10 X 100 = 2016 Rate (PP)	<u>0.881</u>

2016 PP Rate (using 4% real rate)

Item 6 divided by 100 X 2016 Rate (RE) = 2016 Revenue (RE)	\$ 7,324,013
Item 4 divided by 100 X Item 1 = 2015 Revenue (RE)	\$ 6,734,671
2016 Revenue (RE) minus 2015 Revenue (RE) = \$ increase 2016 over 2015	\$ 589,342
\$ Increase 2016 over 2015 divided by 2015 Revenue (RE) = D (% increase)	8.8%
Item 2 X Item 9 divided by 100 = 2015 Revenue (PP)	\$ 1,100,386
2015 Revenue (PP) X (D+1.0) = 2016 \$ Minimum (PP)	\$ 1,197,220
2016 \$ Minimum (PP) divided by Item 10 X 100 = 2016 Rate (PP)	<u>0.916</u>

2016 TAX BREAKDOWN PROJECTION

	<u>TOTAL BILLING</u>	<u>POLICE AND FIRE PENSION</u>	<u>CIVIL SERVICE PENSION</u>	<u>BOND FUND</u>	<u>GENERAL</u>
REAL ESTATE ASSESSMENT	\$ 1,153,387,889				
REAL ESTATE TAX RATE	0.611	0.0000	0.0000	0.0000	0.6110
TOTAL REAL ESTATE REVENUE	\$ 7,047,200	\$ -	\$ -	\$ -	\$ 7,047,200
PERSONAL PROPERTY ASSESSMENT	\$ 130,693,177				
PERSONAL PROPERTY TAX RATE	0.813	0.0000	0.0000	0.0000	0.8130
TOTAL PERSONAL PROPERTY REVENUE	\$ 1,062,536	\$ -	\$ -	\$ -	\$ 1,062,536
TOTAL POSSIBLE TAX REVENUE	8,109,736	-	-	-	8,109,736
	100.000%	0.000%	0.000%	0.000%	100.000%
AVERAGE COLLECTED 98.9%	\$ 8,020,528	\$ -	\$ -	\$ -	\$ 8,020,528

REAL ESTATE REVENUE/RATE COMPARISONS

2015 versus 2016

COMPENSATING RATE			
TAX YEAR	ASSESSMENT	RATE PER \$100	REVENUE
2015	\$ 1,139,538,236	0.591	\$ 6,734,671
2016	\$ 1,153,387,889	0.611	\$ 7,047,200
DIFFERENCE	\$ 13,849,653	0.020	\$ 312,529

4% INCREASE IN REVENUE RATE			
TAX YEAR	ASSESSMENT	RATE PER \$100	REVENUE
2015	\$ 1,139,538,236	0.591	\$ 6,734,671
2016	\$ 1,153,387,889	0.635	\$ 7,324,013
DIFFERENCE	\$ 13,849,653	0.044	\$ 589,341

REAL ESTATE TAX BILL COMPARISON
2015 versus 2016

		\$50,000 ASSESSMENT	
		2016	2016
		COMPENSATING RATE	4% INCREASE RATE
RATE	0.591	0.611	0.635
BILL	\$ <u>295.50</u>	\$ <u>305.50</u>	\$ <u>317.50</u>
DIFFERENCE		\$ 10.00	\$ 22.00

		\$75,000 ASSESSMENT	
		2016	2016
		COMPENSATING RATE	4% INCREASE RATE
RATE	0.591	0.611	0.635
BILL	\$ <u>443.25</u>	\$ <u>458.25</u>	\$ <u>476.25</u>
DIFFERENCE		\$ 15.00	\$ 33.00

		\$100,000 ASSESSMENT	
		2016	2016
		COMPENSATING RATE	4% INCREASE RATE
RATE	0.591	0.611	0.635
BILL	\$ <u>591.00</u>	\$ <u>611.00</u>	\$ <u>635.00</u>
DIFFERENCE		\$ 20.00	\$ 44.00

		\$125,000 ASSESSMENT	
		2016	2016
		COMPENSATING RATE	4% INCREASE RATE
RATE	0.591	0.611	0.635
BILL	\$ <u>738.75</u>	\$ <u>763.75</u>	\$ <u>793.75</u>
DIFFERENCE		\$ 25.00	\$ 55.00

EVERY \$10,000 ASSESSMENT WILL CHANGE 2015 BILL FROM 2014 BILL BY THE FOLLOWING AMOUNTS:

COMPENSATING RATE	4% INCREASE RATE
\$ 2.00	\$ 4.40

PERSONAL PROPERTY REVENUE / RATE COMPARISONS

2015 versus 2016

PERSONAL PROPERTY RATE WITH COMPENSATING REAL ESTATE RATE				
TAX YEAR	ASSESSMENTS	RATE PER \$100	REVENUE	
2015	\$ 135,348,854	0.813	\$	1,100,386
2016	\$ 130,693,177	0.881	\$	1,151,407
DIFFERENCE	\$ (4,655,677)	0.068	\$	51,021

PERSONAL PROPERTY RATE WITH 4% INCREASE REAL ESTATE RATE				
TAX YEAR	ASSESSMENTS	RATE PER \$100	REVENUE	
2015	\$ 135,348,854	0.813	\$	1,100,386
2016	\$ 130,693,177	0.916	\$	1,197,150
DIFFERENCE	\$ (4,655,677)	0.103	\$	96,764

PERSONAL PROPERTY WITH LAST YEAR'S RATE				
TAX YEAR	ASSESSMENTS	RATE PER \$100	REVENUE	
2015	\$ 135,348,854	0.813	\$	1,100,386
2016	\$ 130,693,177	0.813	\$	1,062,536
DIFFERENCE	\$ (4,655,677)	0.000	\$	(37,851)

CITY OF HENDERSON
10 YEAR TAX HISTORY

REAL ESTATE

<u>TAX YEAR</u>	<u>TAX RATE PER \$100 ASSESSMENT</u>	<u>REAL ESTATE TAXABLE VALUATIONS</u>	<u>INCREASE/ (DECREASE)</u>
2007	0.4400	1,007,359,737	94,651,744
2008	0.4600	1,051,672,898	44,313,161
2009	0.4660	1,071,440,912	19,768,014
2010	0.4860	1,079,090,080	7,649,168
2011	0.5210	1,095,300,560	16,210,480
2012	0.5420	1,101,286,362	5,985,802
2013	0.5610	1,107,274,811	5,988,449
2014	0.5770	1,121,833,378	14,558,567
2015	0.5910	1,139,538,236	17,704,858
2016	0.6110	1,153,387,889	13,849,653

PERSONAL PROPERTY

<u>TAX YEAR</u>	<u>TAX RATE PER \$100 ASSESSMENT</u>	<u>PERSONAL PROPERTY TAXABLE VALUATIONS</u>	<u>INCREASE/ (DECREASE)</u>
2007	0.6680	113,281,793	4,181,966
2008	0.6880	120,010,907	6,729,114
2009	0.5900	144,538,794	24,527,887
2010	0.7140	125,452,216	(19,086,578)
2011	0.7430	131,246,205	5,793,989
2012	0.7500	133,507,771	2,261,566
2013	0.7500	135,467,778	1,960,007
2014	0.8000	132,313,682	(3,154,096)
2015	0.8130	135,348,854	3,035,172
2016	0.8130	130,693,177	(4,655,677)

Timeline of Adoption of the Property Tax Ordinance and Mailing of Tax Bills

	Public Hearing	First Reading	Second Reading	Discount End Date	Mail Date	Days in Discount
2007	9/11/2007	9/11/2007	9/25/2007	11/16/2007	10/5/2007	52
2008	9/9/2008	9/9/2008	9/23/2008	11/20/2008	9/26/2008	55
2009	Not needed	9/8/2009	9/22/2009	11/19/2009	9/25/2009	55
2010	Not needed	8/24/2010	9/14/2010	11/17/2010	9/17/2010	61
2011	9/13/2011	9/13/2011	9/27/2011	11/16/2011	9/30/2011	47
2012	Not needed	9/11/2012	9/25/2012	11/15/2012	9/28/2012	48
2013	Not needed	8/27/2013	9/10/2013	11/14/2013	9/16/2013	59
2014	Not needed	8/26/2014	9/9/2014	11/19/2014	9/19/2014	61
2015	Not needed	8/25/2015	9/8/2015	11/17/2015	9/18/2015	60
2016	Not needed	8/23/2016	9/13/2016	11/16/2016	9/23/2016	54

History of Property Tax Rates

Final Reading	Real Property	Personal Property	Resulting Tax Income	Increase from Prior Year
September 25, 2007	0.440 4% increase	0.668 4% increase	\$ 5,256,293.00	\$ 513,159.00
September 23, 2008	0.460 4% increase	0.688 4% increase	\$ 5,668,387.00	\$ 412,094.00
September 22, 2009	0.466 Compensating Rate	0.590 Compensating Rate	\$ 5,741,627.00	\$ 73,240.00
September 14, 2010	0.486 Compensating Rate	0.714 Compensating Rate	\$ 6,019,315.00	\$ 277,688.00
September 27, 2011	0.521 4% increase	0.743 4% increase	\$ 6,502,704.00	\$ 483,389.00
September 25, 2012	0.542 Compensating Rate	0.750 Less than compensating rate	\$ 6,970,280.00	\$ 467,576.00
September 10, 2013	0.561 Compensating Rate	0.750 Less than compensating rate	\$ 7,227,820.00	\$ 257,540.00
September 9, 2014	0.577 Compensating Rate	0.800 Compensating Rate	\$ 7,531,488.00	\$ 303,668.00
September 8, 2015	0.591 Compensating Rate	0.813 Compensating Rate	\$ 7,835,057.00	\$ 303,569.00
September 13, 2016	0.611 Compensating Rate	0.813 Less than compensating rate	\$ 8,109,736.00	\$ 274,679.00

ORDINANCE NO. 28-16

ORDINANCE PROVIDING FOR THE LEVY AND COLLECTION OF
AD VALOREM TAXES

SUMMARY: AN ORDINANCE OF THE CITY OF HENDERSON,
KENTUCKY PROVIDING FOR THE LEVY AND
COLLECTION OF AD VALOREM TAXES FOR THE
FISCAL YEAR BEGINNING JULY 1, 2016, AND
PROVIDING FOR THE TIME OF PAYMENT FOR
SUCH TAXES, PENALTY, INTEREST AND DISCOUNT

BE IT ORDAINED by the City of Henderson, Kentucky as follows:

SECTION I: An Ad Valorem Tax of Sixty One and Ten Hundredths Cents (\$.6110) on each One Hundred Dollars (\$100.00) of the fair market value of all real property and Eighty One and Thirty Hundredths Cents (\$.8130) on each One Hundred Dollars (\$100.00) of the fair market value on all tangible personal property, excluding motor vehicles and watercraft, and Thirty Nine and Twenty Seven Hundredths Cents (\$.3927) on each One Hundred Dollars (\$100.00) of the fair market value on all motor vehicles and watercraft within the City of Henderson, Kentucky, (within the corporate limits of said City or having a taxable situs within the City), as of January 1, 2016, that is subject to taxation for City purposes, and upon all franchises taxable for City purposes is hereby levied and directed to be collected thereon for the fiscal year beginning July 1, 2016, for the following separate and exclusive purposes:

	<u>Real Property</u>	<u>Personal Property</u>	<u>Motor Vehicles/ Watercraft</u>
General Fund Operations	\$ <u>.6110</u>	\$ <u>.8130</u>	\$ <u>.3927</u>
TOTAL TAX RATE:	\$.6110	\$.8130	\$.3927

SECTION II: The Finance Director of the City is hereby designated as the Tax Collector of and for the City of Henderson, Kentucky, for the fiscal year beginning July 1, 2016. The ad valorem taxes on motor vehicles will be collected by the County Court Clerk pursuant to KRS 132.487.

SECTION III: All Ad Valorem taxes levied by the City of Henderson for the year 2016 shall be due and payable as soon as the tax bills are placed in the hands of the tax collector.

SECTION IV: A taxpayer, who pays his tax bill for the year 2016 on or before November 16, 2016 shall receive a discount equal to One Per Centum (1%) of the amount of tax so paid.

SECTION V: No interest or penalty shall be charged for Ad Valorem taxes levied for the year 2016 until January 3, 2017. In the event all or any portion of a taxpayer's Ad Valorem taxes levied for the year 2016 shall be unpaid on January 3, 2017, the amount so unpaid shall bear interest equal to Six Per Centum (6%) per annum until paid, and a penalty equal to Ten Per Centum (10%) of the tax not theretofore paid shall be added to the bill.

PUBLICATION DATE: _____

FIRST READ: 08/23/2016
SECOND READ: _____

SECTION VI: Payment for Ad Valorem property taxes can be accepted in person or by mail at 222 First St, Henderson, KY or payment may be made on the City’s website at www.cityofhendersonky.org.

SECTION VII: All bills for Ad Valorem taxes on property will be delivered via U.S. mail.

SECTION VIII: All property assessments were completed by the Henderson County Property Valuation Administrator.

SECTION IX: Any phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Board of Commissioner without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner X R. Royster, seconded by Commissioner Jan Hite, that the ordinance be adopted on its first reading. On roll call the vote stood:

Commissioner Mills:	<u>AYE</u>	Commissioner Royster:	<u>AYE</u>
Commissioner Johnston:	<u>ABSENT</u>	Mayor Austin:	<u>AYE</u>
Commissioner Hite:	<u>AYE</u>		

WHEREUPON, Mayor Austin declared the ordinance adopted on first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

Steve Austin, Mayor

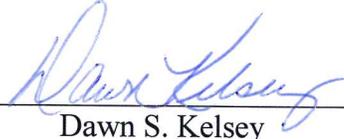
Date: _____

ATTEST:

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 18 DAY OF
AUGUST, 2016.**

By: _____



Dawn S. Kelsey
City Attorney

**City Commission Memorandum
16-194**

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners
FROM: Russell R. Sights, City Manager *RS/ld*
SUBJECT: Annexation and Zoning of Properties – US Hwy 41-A

An item for the agenda of Tuesday, September 13, 2016, is first reading of an ordinance annexing properties located in Henderson County on US Hwy 41-A.

The total area for the proposed annexation is approximately 40.859 acres in size. For purposes of simplification, the properties have been separated into seven sections, and it is recommended the properties be zoned as follows:

Section #1, City Medium Density Residential from County Two Family Residential;
Section #2, City Highway Commercial from County Light Industrial;
Section #3, City Heavy Industrial from County Light Industrial;
Section #4-A, City Heavy Industrial from County Light Industrial;
Section #4-B, City Heavy Industrial from County Highway Commercial;
Section #5, City Heavy Industrial from County Light Industrial;
Section #6, City Medium Density Residential from County Two Family Residential; and
Section #7, City Residential Mobile Home from County Two Family Residential.

Forty-one parcels have requested this “friendly” annexation.

The Henderson-Henderson County Planning Commission, at its meeting of September 6, 2016, recommended approval of the zoning as presented. Staff concurs in this recommendation and annexation of properties.

Your approval of the attached ordinance is requested.

c: Brian Bishop
Doug Boom
Tom Williams
Owen Reeves
Robert Gunter



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop, Executive Director, AICP
bbishop@hendersonplanning.org
270-831-1289

September 7, 2016

Mayor Steve Austin
City Commissioners
Henderson Municipal Center
Henderson, KY 42420

ATTN: Russell Sights, City Manager

Please be advised on Tuesday, September 6, 2016 the Henderson City-County Planning Commission held a Public Hearing to consider the following:

REZONING #1060 Assignment of Zoning Classification – Following action of the Henderson City Commission to begin annexation proceedings, the Planning Commission will hold a public hearing, in order to assign zoning classifications for the properties located on US Hwy 41-A for annexation.

Section #1: consists of Parcel #46C-15; #46-97; #46-98; and #46-99 currently zoned County Two Family Residential District (R-2), and the proposed zone for these parcels for annexation is City Medium Density Residential District (R-2).

Section #2: consists of Parcel #46-100 and is currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Highway Commercial (HC).

Section #3: consists of Parcel #46-100.1, currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #4-A: consists of Parcel #46B-15 & #46B-60 are currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #4-B: consists of Parcels #46B-54 & #46B-78, currently zoned County Highway Commercial, and the proposed zone for annexation is City Heavy Industrial District M-2;

Section #5: consists of Parcel #46-131, currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #6: consists of Parcels #46F-1, #46F-2, #46F-3, #46F-4, #46F-5, #46F-6, #46F-8, #46F-9, #46F-10, #46F-11, #46F-12, #46F-13, #46F-14, #46F-15, #46F-16, #46F-17, #46F-18, #46F-19, #46F-20, #46F-21, #46F-22, #46F-23, #46F-24, #46F-25, #46F-26, #46F-27, #46F-28, #46F-29, and #46F-30, currently zoned County Two Family Residential District (R-2), and the proposed zone for annexation is City Medium Density Residential District (R-2).

Section #7: consists of Parcel #46-134, currently zoned County Two Family Residential District (R-2), and the proposed zone for annexation is City Residential Mobile Home District (R-MH).

PLANNING COMMISSION RECOMMENDATION- ***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 1, CONSISTING OF PARCELS 46C-15, 46-97, 46-98 AND 46-99 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). THIS REZONING IS APPROPRIATE SINCE THE PARCELS ARE BEING ANNEXED INTO THE CITY AND THE CITY'S ZONING CLOSELY MATCHES THAT OF THE COUNTY.***

***ALL IN FAVOR: AYE
OPPOSED: NONE***

PLANNING COMMISSION RECOMMENDATION - ***MOTION WAS MADE BY DAVID DIXON, SECONDED BY KEVIN RICHARD TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 2, CONSISTING OF PARCEL 46-100 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HIGHWAY COMMERCIAL (H-C). THE REQUEST IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN AND MAJOR CHANGES TO ECONOMIC, PHYSICAL AND SOCIAL NATURE OF THE AREA HAVE OCCURRED AND, THIS PROPERTY HAS HISTORICALLY BEEN USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.***

***ALL IN FAVOR: AYE
OPPOSED: NONE***

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 3, CONSISTING OF PARCEL 46-100.1 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE INFRASTRUCTURE UPGRAGES ALONG HWY 41 A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS REZONING APPLICATION.

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY DAVID DIXON, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4A, CONSISTING OF PARCELS 46B-15 AND 46B-60 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE CURRENT USE OF THE PROPERTY IS MORE AKIN TO HEAVY INDUSTRIAL.

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY DAVID DIXON, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4B, CONSISTING OF PARCELS 46B-54 AND 46B-78 FROM COUNTY HIGHWAY COMMERCIAL (H-C) TO CITY HEAVY INDUSTRIAL (M-2). THE AREA HAS EXPERIENCED A MAJOR IN CHANGE IN THAT SANITARY SEWER FACILITIES ARE NOW ACCESSABLE. PREVIOUSLY, THIS AREA WAS SERVICED BY INDIVIDUAL SEPTIC SYSTEMS; THE INFRASTRUCTURE UPGRADES ALONG HWY 41A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS ZONING APPLICATION; THIS PROPERTY HAS BEEN HISTORICALLY USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 5, CONSISTING OF PARCEL 46-131 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THIS REQUEST GUIDES INDUSTRIAL GROWTH TO EXISTING INDUSTRIAL AREAS AND ASSURES THEY ARE COMPATIBLE WITH SURROUNDING AREAS.**

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 6, CONSISTING OF PARCELS 46F-1 THROUGH 46F-30 MINUS 46F-7 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). BEING THAT IS THE CURRENT USE OF THE PROPERTY AND RECOMMENDING THIS ZONING IS APPROPRIATE TO THE COMPREHENSIVE PLAN.**

ALL IN FAVOR: AYE

OPPOSED: NONE

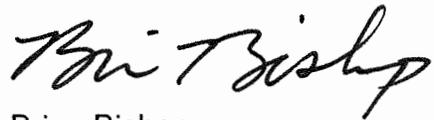
PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 7, CONSISTING OF PARCEL 46-134 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY RESIDENTIAL MOBILE HOME (R-MH); BEING THIS IS MORE APPROPRIATE TO THE CURRENT USAGE AND HISTORICAL NATURE OF THIS PARCEL.**

ALL IN FAVOR: AYE

OPPOSED: NONE

Attached is a copy of the transcript of the public hearing, and documents related to the annexation.

Respectfully submitted,

A handwritten signature in black ink that reads "Brian Bishop". The signature is written in a cursive, flowing style.

Brian Bishop
Executive Director, AICP
Henderson City-County Planning Commission

BB/tgc
Cc: Dawn Kelsey

**REZONING #1060
ANNEXATION**

Steve Austin, Mayor

Commissioners:

Jan M. Hite

Jesse L. Johnston IV

Robert M. Mills

X Robert Royster, III



The City of Henderson

P.O. Box 716
Henderson, Kentucky 42419-0716

Russell R. Sights, City Manager
William L. Newman, Jr., Assistant City Manager
Dawn S. Kelsey, City Attorney
Maree Collins, City Clerk
Donna Stinnett, Public Information Officer



August 10, 2016

Mr. Brian Bishop, Executive Director
Henderson-Henderson County Planning Commission
1990 Barrett Court, Suite C
Henderson, KY 42420

Dear Mr. Bishop:

As you know, the City has approved sewer service outside the City limits for certain properties located in the Finley Addition and would now like to proceed with the annexation of these properties. All of the included properties shown on the attached plat have signed a "Consent to Annexation" form, along with the required "Restrictive Covenant Not to Oppose Annexation," as specified in Chapter 23-98(e) of the City Code of Ordinances.

At its meeting on August 9, 2016, the Board of Commissioners directed that the request be forwarded to the Planning Commission for the assignment of a zoning classification for the properties into the corporate limits of the City. Consequently, please proceed with bringing the matter before the Planning Commission for formal action at your earliest convenience.

Thank you for your cooperation and assistance.

Very truly yours,

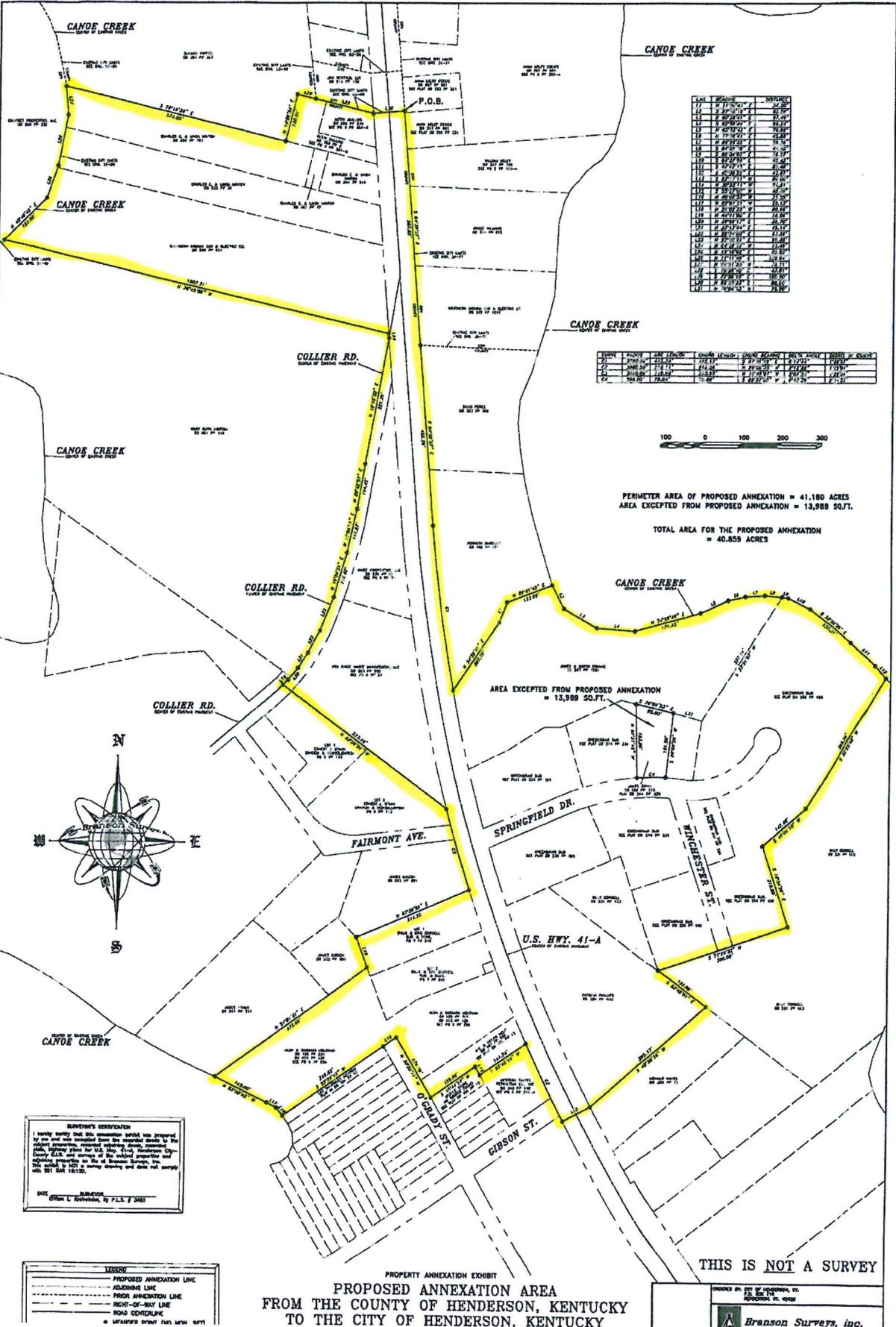
A handwritten signature in black ink that reads "Russell R. Sights".

Russell R. Sights
City Manager

Attachment

c: William L. Newman, Jr. Doug Boom





LINE	BEARING	DISTANCE
12	S 71° 15' 00" E	20.00
13	S 80° 00' 00" E	22.00
14	S 82° 00' 00" E	22.00
15	S 85° 00' 00" E	22.00
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PERIMETER AREA OF PROPOSED ANNEXATION = 41,180 ACRES
 AREA EXCEPTED FROM PROPOSED ANNEXATION = 13,989 SQ.FT.
 TOTAL AREA FOR THE PROPOSED ANNEXATION = 40,859 ACRES

AREA EXCEPTED FROM PROPOSED ANNEXATION = 13,989 SQ.FT.

SURVEYOR'S CERTIFICATION
 I hereby certify that this annexation exhibit was prepared by me and was completed from the original records in my office, together with the field notes, bearings, distances, and other data, and that the same are true and correct to the best of my knowledge and belief, and that I am a duly licensed and qualified surveyor in the State of Kentucky.
 DATE: 08/11/2011
 SURVEYOR: GLEN L. BRANSON, BY P.L.S. # 3083

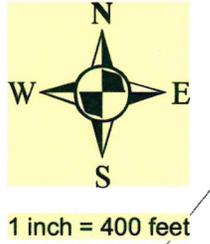
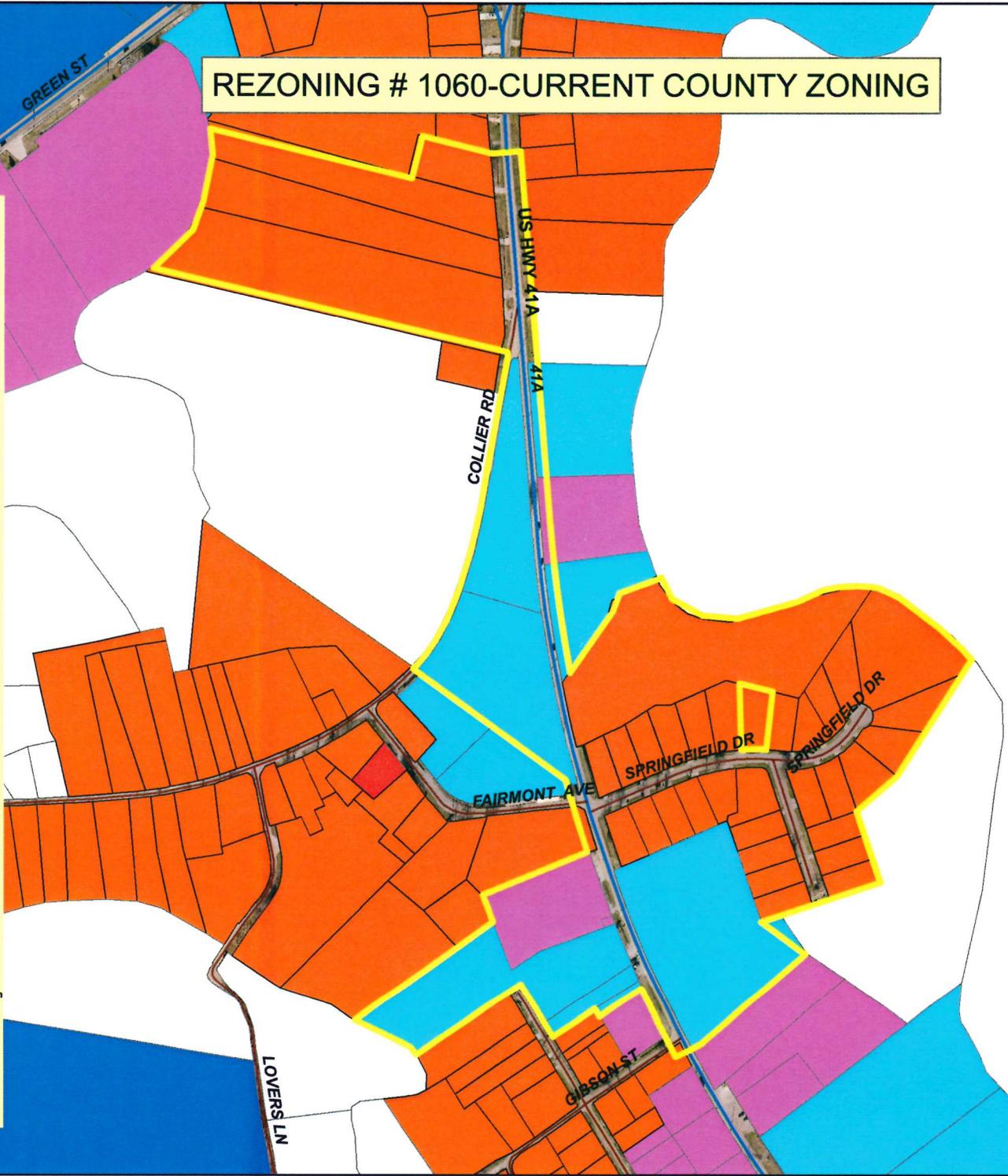
LEGEND
 - - - - - PROPOSED ANNEXATION LINE
 - - - - - ADJOINING LINE
 - - - - - PRON ANNEXATION LINE
 - - - - - RIGHT-OF-WAY LINE
 - - - - - ROAD CENTERLINE

PROPERTY ANNEXATION EXHIBIT
PROPOSED ANNEXATION AREA
FROM THE COUNTY OF HENDERSON, KENTUCKY
TO THE CITY OF HENDERSON, KENTUCKY

THIS IS NOT A SURVEY
 PREPARED BY: GLEN L. BRANSON, INC.
 HENDERSON, KY 40424
 BRANSON SURVEYS, INC.

REZONING # 1060-CURRENT COUNTY ZONING

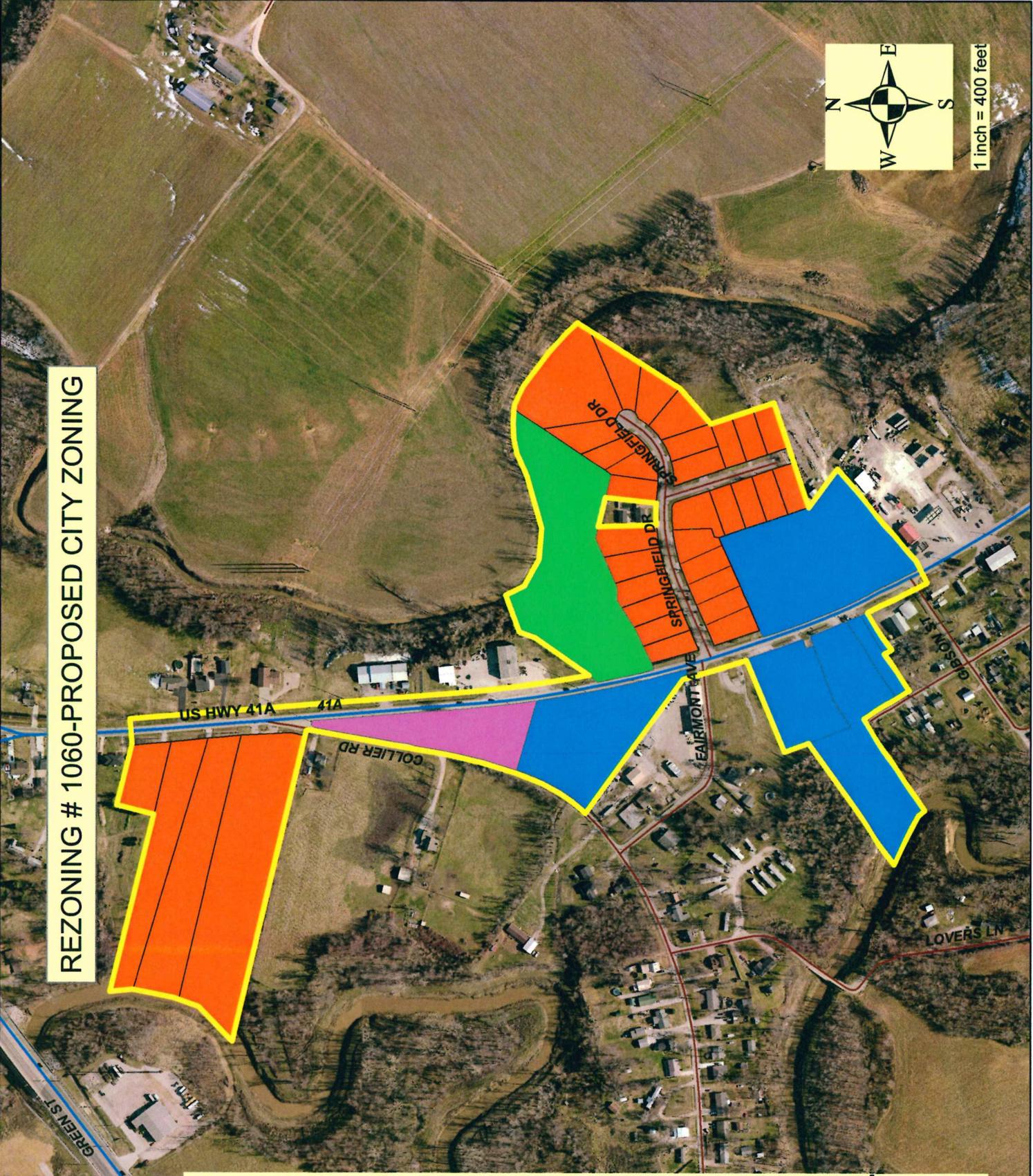
- Legend**
- 41A ANNEX
 - Cad Renderer
 - REZONING BOUND
 - Zoning (Parcels)
 - City
 - RF-4
 - RF-3
 - RF-2
 - RF-1
 - HIP
 - GDZ
 - ARD
 - ACD
 - AG
 - R-1
 - R-2
 - R-3
 - R-4
 - R-5
 - R-MH
 - R-PUD
 - R-O
 - CBD
 - GB
 - NB
 - HC
 - M-1
 - M-2
 - Corydon
 - R-S
 - R-M
 - R-MH
 - GB
 - IND
 - County
 - AG
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 - R-2
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 - R-MH
 - R-PUD
 - C-1
 - C-2
 - HC
 - P-1
 - M-1
 - M-2
 - SM
 - Road Centerlines_Henderson
 - Other
 - Route Type
 - CITY
 - CNTY
 - KY
 - PKWY
 - PRIV
 - US



REZONING # 1060-PROPOSED CITY ZONING



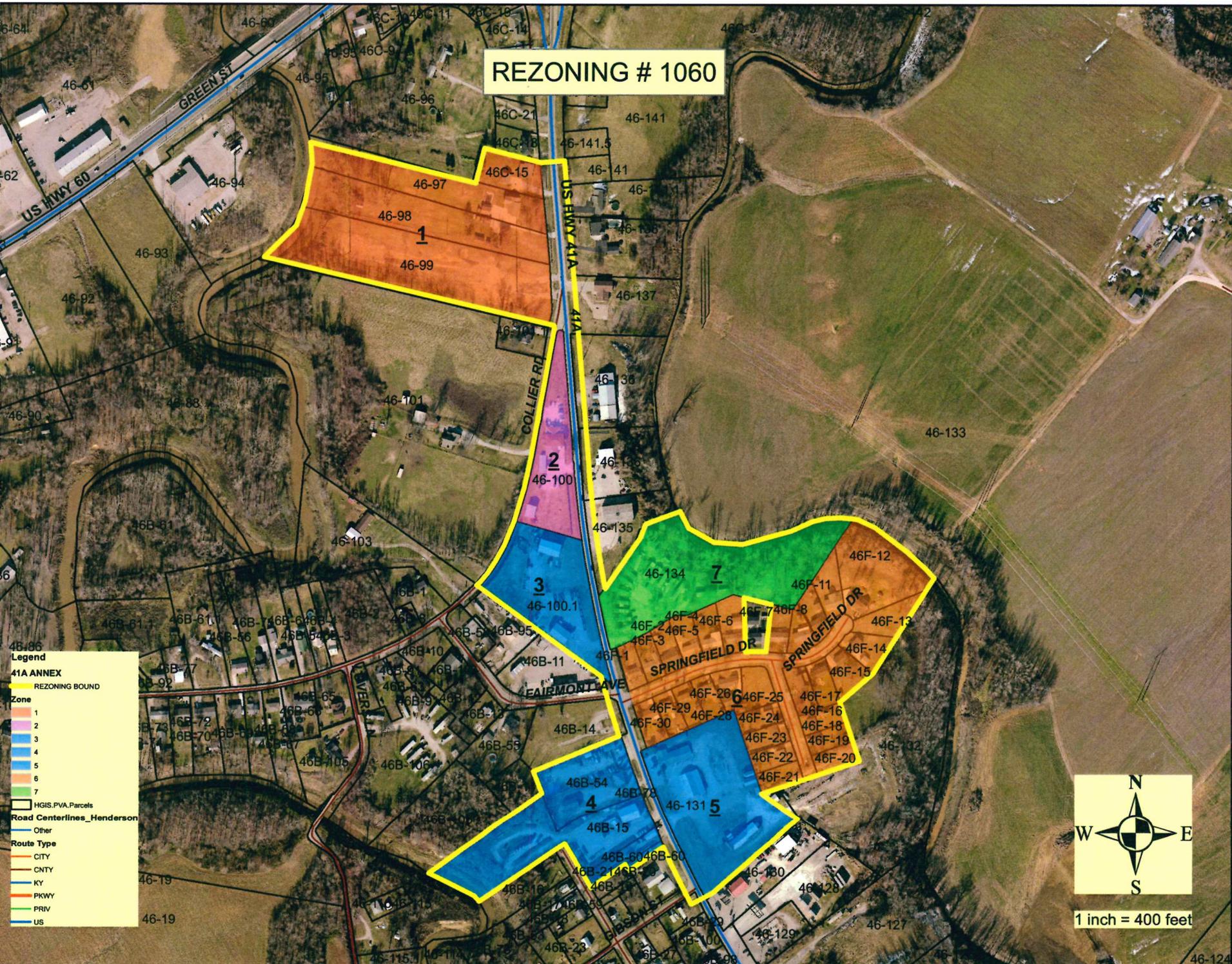
1 inch = 400 feet



Legend

41A ANNEX	RF-4	RF-3	RF-2	RF-1	HIP	GDZ	ARD	ACD	AG	R-1	R-2	R-3	R-4	R-5	R-MH	R-PUD	R-O	CBD	GB	NB	HC	M-1	M-2	Corydon	R-S	R-M	R-MH	GB	IND	County	AG	R-1	R-2	R-3	R-MH	R-PUD	C-1	C-2	HC	P-1	M-1	M-2	SM	Road Centerlines_Henderson	Other	Route Type	CITY	CNTY	KY	PKWY	PRIV	US
Cad Renderer	RF-4	RF-3	RF-2	RF-1	HIP	GDZ	ARD	ACD	AG	R-1	R-2	R-3	R-4	R-5	R-MH	R-PUD	R-O	CBD	GB	NB	HC	M-1	M-2	Corydon	R-S	R-M	R-MH	GB	IND	County	AG	R-1	R-2	R-3	R-MH	R-PUD	C-1	C-2	HC	P-1	M-1	M-2	SM	Road Centerlines_Henderson	Other	Route Type	CITY	CNTY	KY	PKWY	PRIV	US
City	RF-4	RF-3	RF-2	RF-1	HIP	GDZ	ARD	ACD	AG	R-1	R-2	R-3	R-4	R-5	R-MH	R-PUD	R-O	CBD	GB	NB	HC	M-1	M-2	Corydon	R-S	R-M	R-MH	GB	IND	County	AG	R-1	R-2	R-3	R-MH	R-PUD	C-1	C-2	HC	P-1	M-1	M-2	SM	Road Centerlines_Henderson	Other	Route Type	CITY	CNTY	KY	PKWY	PRIV	US
REZONING BOUND	RF-4	RF-3	RF-2	RF-1	HIP	GDZ	ARD	ACD	AG	R-1	R-2	R-3	R-4	R-5	R-MH	R-PUD	R-O	CBD	GB	NB	HC	M-1	M-2	Corydon	R-S	R-M	R-MH	GB	IND	County	AG	R-1	R-2	R-3	R-MH	R-PUD	C-1	C-2	HC	P-1	M-1	M-2	SM	Road Centerlines_Henderson	Other	Route Type	CITY	CNTY	KY	PKWY	PRIV	US

REZONING # 1060



46-86 Legend

41A ANNEX

- REZONING BOUND

Zone

- 1
- 2
- 3
- 4
- 5
- 6
- 7

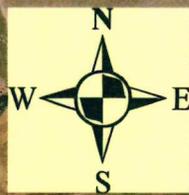
HGIS_PVA.Parcels

Road Centerlines_Henderson

- Other

Route Type

- CITY
- CNTY
- KY
- PKWY
- PRIV
- US



1 inch = 400 feet

DESCRIPTION

PROPOSED ANNEXATION AREA
HWY 41-A

HENDERSON COUNTY, KENTUCKY

A certain tract of parcel located approximately 1,000 feet south of U.S. Hwy. 60 along U.S. Hwy 41-A in Henderson County, Kentucky, and being more specifically described as follows:

All bearings stated hereon are referred to Kentucky State Plane South Zone (NAD 83).

Beginning at a corner to the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 03-08, being in the west line of Annexation Ordinance No. 30-77 and being located in the east right-of-way line of U.S. Hwy 41-A, thence with said right-of-way line and with the existing city limits Ordinance No. 30-77, SOUTH 04 DEGREES 39 MINUTES 27 SECONDS EAST, a distance of 587.63 feet to a point in said right-of-way and being the southwest corner of said ordinance;

Thence leaving the said existing limits of the City of Henderson, Kentucky and continuing with said right-of-way the following two (2) calls:

- 1) SOUTH 04 DEGREES 39 MINUTES 27 SECONDS EAST, a distance of 452.28 feet to a point in said right-of-way
- 2) With a curve to the left, having an arc length of 415.34 feet, having a radius of 3780.00 feet, a chord bearing of SOUTH 07 DEGREES 48 MINUTES 19 SECONDS EAST, and a chord length of 415.13 feet to a point in said right-of-way and being a corner of the James & Karyn Franks property recorded in Deed Book 567 Page 1061 in the Henderson County Court Clerk's Office in Henderson, Kentucky;

Thence leaving said right-of-way and with said Franks property the following three (3) calls:

- 1) NORTH 34 DEGREES 39 MINUTES 42 SECONDS EAST, a distance of 207.20 feet to a point at a corner of said Franks property;
- 2) NORTH 21 DEGREES 00 MINUTES 42 SECONDS EAST, a distance of 54.20 feet to a point at a corner of said Franks property;
- 3) NORTH 69 DEGREES 41 MINUTES 42 SECONDS EAST, a distance of 123.00 feet to a point at a corner of said Franks property and being in the center of Canoe Creek;

Thence continuing with said Franks property and with the center of said creek the following eight (8) calls:

- 1) SOUTH 27 DEGREES 18 MINUTES 15 SECONDS EAST, a distance of 65.29 feet to a point;
- 2) SOUTH 60 DEGREES 38 MINUTES 41 SECONDS EAST, a distance of 97.49 feet to a point;
- 3) SOUTH 85 DEGREES 58 MINUTES 44 SECONDS EAST, a distance of 98.24 feet to a point;
- 4) NORTH 74 DEGREES 29 MINUTES 46 SECONDS EAST, a distance of 171.45 feet to a point;
- 5) NORTH 65 DEGREES 33 MINUTES 43 SECONDS EAST, a distance of 76.92 feet to a point;
- 6) NORTH 77 DEGREES 36 MINUTES 41 SECONDS EAST, a distance of 45.88 feet to a point;
- 7) NORTH 86 DEGREES 26 MINUTES 32 SECONDS EAST, a distance of 50.36 feet to a point;
- 8) SOUTH 84 DEGREES 59 MINUTES 10 SECONDS EAST, a distance of 44.45 feet to a point in the center of said creek and being the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 258 Page 498;

Thence continuing with the center of Canoe Creek and with said Greenbriar Subdivision the following five (5) calls:

- 1) SOUTH 82 DEGREES 34 MINUTES 07 SECONDS EAST, a distance of 16.27 feet to a point;
- 2) SOUTH 64 DEGREES 37 MINUTES 09 SECONDS EAST, a distance of 62.43 feet to a point;
- 3) SOUTH 52 DEGREES 52 MINUTES 29 SECONDS EAST, a distance of 137.31 feet to a point;
- 4) SOUTH 47 DEGREES 47 MINUTES 15 SECONDS EAST, a distance of 85.48 feet to a point;
- 5) SOUTH 42 DEGREES 00 MINUTES 52 SECONDS EAST, a distance of 42.62 feet to a point in the center of said creek and being the southeast corner of said Greenbriar Subdivision;

Thence leaving said creek and continuing with said Greenbriar Subdivision the following four (4) calls:

- 1) SOUTH 32 DEGREES 25 MINUTES 43 SECONDS WEST, a distance of 385.26 feet to a point at a corner of said subdivision;
- 2) SOUTH 49 DEGREES 00 MINUTES 10 SECONDS WEST, a distance of 147.40 feet to a point at a corner of said subdivision;

- 3) SOUTH 18 DEGREES 34 MINUTES 20 SECONDS EAST, a distance of 210.00 feet to a point at a corner of said subdivision;
- 4) SOUTH 71 DEGREES 28 MINUTES 32 SECONDS WEST, a distance of 350.00 feet to a point at a corner of said subdivision and being in the line of the Patricia Phillips property recorded in Deed Book 204 Page 450;

Thence with said Phillips property the following two (2) calls:

- 1) SOUTH 53 DEGREES 45 MINUTES 01 SECONDS EAST, a distance of 152.08 feet to a point at a corner of said Phillips property;
- 2) SOUTH 48 DEGREES 38 MINUTES 26 SECONDS WEST, a distance of 385.17 feet to a point at a corner of said Phillips property and being in the east right-of-way line of U.S. Hwy. 41-A;

Thence leaving said Phillips property and crossing the existing right-of-way of U.S. Hwy 41-A, SOUTH 62 DEGREES 17 MINUTES 11 SECONDS WEST, a distance of 80.00 feet to a point in the west right-of-way line of said hwy.;

Thence with the west right-of-way line of U.S. Hwy 41-A, with a curve to the right, having an arc length of 216.11 feet, having a radius of 3860.00 feet, a chord bearing of NORTH 26 DEGREES 06 MINUTES 35 SECONDS WEST, and a chord length of 216.08 feet to a point in said right-of-way line and being the southeast corner of the D.E. & Lillian Hout property recorded in Deed Book 485 Page 650, a plat of which is recorded in Deed Book 101 Page 12;

Thence with said Hout property the following three calls:

- 1) SOUTH 55 DEGREES 40 MINUTES 18 SECONDS WEST, a distance of 141.74 feet to a point at a corner of said Hout property;
- 2) NORTH 30 DEGREES 55 MINUTES 11 SECONDS WEST, a distance of 24.81 feet to a point to a point at a corner of said Hout property;
- 3) SOUTH 55 DEGREES 44 MINUTES 17 SECONDS WEST, a distance of 139.96 feet to a point at the southwest corner of said Hout property and being in the east right-of-way line of O'Grady St;

Thence with the right-of-way line of said O'Grady St. the following two (2) calls:

- 1) NORTH 30 DEGREES 55 MINUTES 11 SECONDS WEST, a distance of 174.79 feet to a point at the northeast corner of said right-of-way;
- 2) SOUTH 55 DEGREES 27 MINUTES 00 SECONDS WEST, a distance of 40.08 feet to a point at the northwest corner of said right-of-way and being a corner of the Alan Holeman property recorded in Deed Book 413 Page 136, a plat of which is recorded in Plat Book 9 Page 256;

Thence with said Holeman property, SOUTH 55 DEGREES 28 MINUTES 43 SECONDS WEST, a distance of 310.62 feet to a point at a corner of said Holeman property and being located in the center of Canoe Creek;

Thence continuing with said Holeman property and with the center of said creek the following two (2) calls:

- 1) NORTH 40 DEGREES 06 MINUTES 57 SECONDS WEST, a distance of 25.05 feet to a point;
- 2) NORTH 62 DEGREES 07 MINUTES 21 SECONDS WEST, a distance of 28.13 feet to a point at a corner of the Alan Holeman property recorded in Deed Book 499 Page 351 and being in the center of said creek;

Thence with said Holeman property and with the center of said creek, NORTH 63 DEGREES 50 MINUTES 45 SECONDS WEST, a distance of 145.00 feet to a point at a corner of said Holeman property and being in the center of said creek;

Thence leaving said creek and continuing with said Holeman property, NORTH 54 DEGREES 01 MINUTES 31 SECONDS EAST, a distance of 473.66 feet to a point at a corner of Holeman property and being in the line of Lot 1 Billie & Eric Corbell Subdivision and Consolidation, a plat of which is recorded in Plat Book 7 Page 249;

Thence with said Lot 1 the following two (2) calls:

- 1) NORTH 21 DEGREES 02 MINUTES 32 SECONDS WEST, a distance of 80.66 feet to a point at a corner of said Lot 1;
- 2) NORTH 67 DEGREES 30 MINUTES 59 SECONDS EAST, a distance of 314.20 feet to a point in the west right-of-way line of U.S. Hwy 41-A;

Thence with a curve to the right, having an arc length of 210.98 feet, having a radius of 3860.00 feet, a chord bearing of NORTH 16 DEGREES 49 MINUTES 07 SECONDS WEST, and a chord length of 210.95 feet to a point in said right-of-way and being in the south line of the Pea Ridge Waste Management, LLC property recorded in Deed Book 593 Page 950, a plat of which is recorded in Plat Book 6 Page 51;

Thence leaving said right-of-way and with the south line of said LLC property, NORTH 53 DEGREES 58 MINUTES 01 SECONDS WEST, a distance of 523.19 feet to a point in the center of the existing pavement of Collier Road;

Thence with the center of the existing pavement of Collier Road the following nine (9) calls:

- 1) NORTH 44 DEGREES 41 MINUTES 00 SECONDS EAST, a distance of 18.06 feet to a point in the center of said pavement;

- 2) NORTH 39 DEGREES 59 MINUTES 17 SECONDS EAST, a distance of 38.70 feet to a point in the center of said pavement;
- 3) NORTH 33 DEGREES 13 MINUTES 54 SECONDS EAST, a distance of 45.14 feet to a point in the center of said pavement;
- 4) NORTH, 28 DEGREES 34 MINUTES 00 SECONDS EAST, a distance of 63.36 feet to a point in the center of said pavement;
- 5) NORTH 22 DEGREES 00 MINUTES 21 SECONDS EAST, a distance of 90.35 feet to a point in the center of said pavement;
- 6) NORTH 16 DEGREES 26 MINUTES 31 SECONDS EAST, a distance of 116.67 feet to a point in the center of said pavement;
- 7) NORTH 12 DEGREES 56 MINUTES 11 SECONDS EAST, a distance of 111.87 feet to a point in the center of said pavement;
- 8) NORTH 09 DEGREES 42 MINUTES 57 SECONDS EAST, a distance of 114.45 feet to a point in the center of said pavement;
- 9) NORTH 10 DEGREES 16 MINUTES 32 SECONDS EAST, a distance of 321.29 feet to a point in the center of said pavement and being in the west right-of-way line of U.S. Hwy 41-A;

Thence leaving said Collier Road and with the west right-of-way line of said hwy., NORTH 04 DEGREES 39 MINUTES 27 SECONDS WEST, a distance of 11.46 feet to a point in said right-of-way and being in the south line of the Southern Indiana Gas & Electric Co. property recorded in Deed Book 590 Page 654;

Thence with the south line of said Southern Indian property, NORTH 76 DEGREES 45 MINUTES 09 SECONDS WEST, a distance of 1007.31 feet to a point in the center of Canoe Creek, being in the line of the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 22-89 and being in the line of the Coudret Properties, Inc. property recorded in Deed Book 558 Page 332;

Thence with the center of said creek, said existing limits of the City of Henderson, Kentucky and said Coudret property the following four (4) calls:

- 1) NORTH 45 DEGREES 40 MINUTES 42 SECONDS EAST, a distance of 152.00 feet to a point;
- 2) NORTH 19 DEGREES 10 MINUTES 02 SECONDS EAST, a distance of 85.93 feet to a point;
- 3) NORTH 11 DEGREES 11 MINUTES 49 SECONDS EAST, a distance of 129.64 feet to a point;
- 4) NORTH 04 DEGREES 51 MINUTES 30 SECONDS WEST, a distance of 72.11 feet to a point in the center of Canoe Creek and being a corner

of the Charles E. & Linda Minton property recorded in Deed Book 355 Page 701;

Thence leaving said creek, said existing limits to the City of Henderson, Kentucky and said Coudret property and with the north line of said Minton property, SOUTH 76 DEGREES 16 MINUTES 36 SECONDS EAST, a distance of 574.85 feet to a point in the north line of said Minton property and being located at the southwest corner of the Betty Mullins property recorded in Deed Book 365 Page 8, a plat of which is recorded in Plat Book 4 Page 384-B;

Thence leaving said Minton property and with said Mullins property the following two (2) calls:

- 1) NORTH 14 DEGREES 06 MINUTES 34 SECONDS EAST, a distance of 120.55 feet to a point at the northwest corner of said Mullins property;
- 2) SOUTH 75 DEGREES 58 MINUTES 10 SECONDS EAST, a distance of 47.81 feet to a point at the southwest corner to the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 03-08;

Thence with said existing city limits line SOUTH 75 DEGREES 58 MINUTES 10 SECONDS EAST, a distance of 150.00 feet to a point at a corner of said existing city limits line and being in the west right-of-way line of U.S. Hwy 41-A;

Thence continuing with said existing city limits line and crossing the existing right-of-way of said hwy., NORTH 85 DEGREES 20 MINUTES 33 SECONDS EAST, a distance of 80.00 feet to the point of beginning and containing 41.180 acres more or less. This description was prepared from a PROPERTY ANNEXATION EXHIBIT prepared by Clifton L. Krahwinkel, Ky. P.L.S. #3685 of Branson Surveys, inc. on August 1, 2016.

There is to be excepted from this description the James Ervin property recorded in Deed Book 556 Page 315, being Lot 7 of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336 and which is more particularly described as follows:

Commencing at the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 258 Page 498 in the Henderson County Court Clerk's Office in Henderson, Kentucky, said northeast corner being located in the center of Canoe Creek, thence with the north line of said subdivision, SOUTH 33 DEGREES 31 MINUTES 07 SECONDS WEST, a distance of 370.14 feet to the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336; Thence with the north line of said Subdivision, NORTH 76 DEGREES 06 MINUTES 53 SECONDS WEST, a distance of 75.00 feet to the northeast corner of the James Ervin property recorded in Deed Book 556 Page 315, being Lot 7 of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336, this being the true Point Of Beginning of this description;

Thence with the east line of said Ervin property, SOUTH 06 DEGREES 09 MINUTES 20 SECONDS WEST, a distance of 161.50 feet to the southeast corner of said Ervin property and being located in the north right-of-way line of Springfield Drive; thence with said right-of-way, with a curve to the left, having an arc length of 70.04 feet, having a radius of 598.00 feet, a chord bearing of SOUTH 89 DEGREES 37 MINUTES 02 SECONDS WEST, and a chord length of 70.00 feet to a point in said right-of-way and being the southwest corner of said Ervin property; thence leaving said right-of-way and with the west line of said Ervin property, NORTH 01 DEGREES 31 MINUTES 46 SECONDS WEST, a distance of 183.90 feet to the northwest corner of said Ervin property; thence with the north line of said Ervin property, SOUTH 76 DEGREES 06 MINUTES 53 SECONDS EAST, a distance of 95.00 feet to the point of beginning and containing 13,989 sq.ft. more or less. This description was prepared from a PROPERTY ANNEXATION EXHIBIT prepared by Clifton L. Krahwinkel, Ky. P.L.S. #3685 of Branson Surveys, inc. on August 1, 2016.



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	515-540 Hwy 41 A	Water: 10"
PID#	#46C-15, 46-97, 46-98, 46-99 (Section #1)	Sewer: 8"
Applicant's Request:	City Residential 2	Flood and Drainage: Small portion near Canoe Creek
City/County limits:	County	
Current Zoning:	County Two Family Residential (R-2)	
Proposed Zoning:	City Medium Density Residential (R-2)	
Size (in acres):	8.54 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County R-2)</u>	<u>Proposed District (City R-2)</u>
Min. Lot Size	10,000 sq. ft.	5,000 sq. ft.
Min. Lot Width	60 ft.	60 ft.
Front Setback	20 ft.	20 ft.
Side Setback	8 ft.	6 ft.
Rear Setback	20 ft.	20 ft.
Building Height:	30 ft.	30 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 10 ft.	N/A
South: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A
East: Ag (City)	Front: 25 ft. Side: 15 ft. Rear: 25 ft.	N/A
West: H-C (City)	Front: 30 ft. Side: 20 ft. Rear: 10 ft.	N/A

PROPOSAL

The applicant proposes annexation of 8.54 acres from the County of Henderson to the City of Henderson. The current zoning is Residential-2 (County) and the proposed zoning is Residential-2 (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.

SECTION #1



STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing County Residential-2 (R-2) allows several permitted uses. Such permitted uses include single family residential units, duplexes, and townhouses. Conditional Uses are any use allowed in R-1, and manufactured homes.

The proposed City Residential-2 (R-2) allows several permitted uses. Such permitted uses include single family residential units, duplexes, and townhouses. Conditional Uses are any use allowed in R-1, multifamily dwellings (up to 8 units).

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as Medium Density Residential. The Future Land Use element of the Comprehensive Plan is consistent with the proposed zoning of Residential-2 (R-2).

Comprehensive Plan Goals and Objectives:

- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Anticipate future community needs by encouraging environmentally sustainable uses of natural resources. (Protecting Natural Systems D).
- Encourage reinvestment in declining neighborhoods with increased services, amenities and safety. (Healthy Neighborhoods Objective D)
- Develop facilities that make the most efficient use of the land, are designed for the convenience, health, safety, and pleasure of the intended users, and represent positive examples of design, energy use and concern for people and the environment. (Healthy Neighborhoods Objective G)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- The request meets the Balancing Land Use goal by encouraging innovative and safe infrastructure.
- This request meets the need of the Community by encouraging environmentally sustainable uses of natural resources.
- The request will encourage reinvestment in declining neighborhoods with increased services that are designed to improve the health of the citizens who live in the area.

SECTION #1



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that the availability of sanitary sewer facilities are now available. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

SECTION #1

Section 1 (Co. R-2 to Ci. R-2)

(1 of 2)



Site Facing West



Site Facing East



Site Facing South



Site Facing North

Rez. # 1060



Site Facing South



Site Facing East



Site Facing West



Site Facing North



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	600 Hwy 41 A	Water: 8 & 10"
PID#	#46-100 (Section #2)	Sewer: 8"
Applicant's Request:	City Highway Commercial	Flood and Drainage: Small portion near Canoe Creek
City/County limits:	County	
Current Zoning:	County Light Industrial (M-1)	
Proposed Zoning:	City Highway Commercial (H-C)	
Size (in acres):	1.1 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County M-1)</u>	<u>Proposed District (City H-C)</u>
Min. Lot Size	N/A	N/A
Min. Lot Width	N/A	50 ft.
Front Setback	50 ft.	30 ft.
Side Setback	25 ft.	10 ft.
Rear Setback	25 ft.	20 ft.
Building Height:	30 ft.	30 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 10 ft.	N/A
South: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
East: H-C (County)	Front: 30 ft. Side: 20 ft. Rear: 10 ft.	N/A
West: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A

PROPOSAL

The applicant proposes annexation of 1.1 acres from the County of Henderson to the City of Henderson. The current zoning is Light Industrial (County) and the proposed zoning is Highway Commercial (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.

SECTION #2



STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing **Light Industrial (M-1)** allows numerous permitted uses. Such permitted uses include plastic molding, print & publishing, recycling collection facilities, and machine shops. Conditional Uses are animal kennels, child care centers, junkyards, and medical institutions.

The proposed **Highway Commercial (HC)** zoning district, allows a wide range of commercial development located generally are mainly oriented to vehicular traffic. Permitted uses allowed include any permitted use in the General Business District. Uses include greenhouses, drive-in eating establishments, farm equipment display and service, mobile home sales, motels, truck stops, building supply, and package liquor are also allowed. Any unlisted commercial use is allowed as a conditional use, per an application to the County Board of Zoning Adjustment from the developer. The Highway Commercial District allows outdoor storage.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as **Medium Density Residential**. The Future Land Use element of the Comprehensive Plan is **NOT** consistent with the proposed zoning of Highway Commercial (H-C)

Comprehensive Plan Goals and Objectives:

- Guide development to existing centralized areas served by adequate infrastructure to avoid decentralized and scattered development. (Balancing Land Use Objective B)
- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Promote aesthetically pleasing commercial development with appropriate access, signage and landscaping while discouraging strip commercial development. (Land Use Objective H)
- Promote the continued operation and expansion of commercial facilities. (Growing the Economy Objective A)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- N/A



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that sanitary sewer facilities are now accessible. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.
- This property has been historically used for commercial uses and the proposed zoning is more appropriate.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

SECTION #2

Section 2 (Co. M-1 to Ci. HC)



Site Facing West



Site Facing East



Site Facing North



Site Facing South

Rez. #1060



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	608 Hwy 41 A	Water: 10"
PID#	#46-100.1 (Section 3)	Sewer: 8"
Applicant's Request:	City Heavy Industrial	Flood and Drainage: N/A
City/County limits:	County	
Current Zoning:	County Light Industrial (M-1)	
Proposed Zoning:	City Heavy Industrial (M-2)	
Size (in acres):	2.32 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County M-1)</u>	<u>Proposed District (City M-2)</u>
Min. Lot Size	N/A	N/A
Min. Lot Width	N/A	50 ft.
Front Setback	50 ft.	100 ft.
Side Setback	25 ft.	50 ft. (IF ADJACENT TO RESIDENTIAL)
Rear Setback	25 ft.	N/A
Building Height:	30 ft.	100 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
South: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
East: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
West: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A

PROPOSAL

The applicant proposes annexation of 2.32 acres from the County of Henderson to the City of Henderson. The current zoning is Light Industrial (County) and the proposed zoning is Heavy Industrial (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.



STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing **Light Industrial (M-1)** allows numerous permitted uses. Such permitted uses include plastic molding, print & publishing, recycling collection facilities, and machine shops. Conditional Uses are animal kennels, child care centers, junkyards, and medical institutions.

The proposed **Heavy Industrial (M-2)** zoning district is to provide for the development in desirable areas of the city, based upon the comprehensive plan, of those heavy commercial and industrial establishments which may create some nuisance and which are not properly associated with or compatible with any of the development proposed for the other land use districts.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as Medium Density Residential. The Future Land Use element of the Comprehensive Plan is NOT consistent with the proposed zoning of Highway Commercial (H-C)

Comprehensive Plan Goals and Objectives:

- Guide development to existing centralized areas served by adequate infrastructure to avoid decentralized and scattered development. (Balancing Land Use Objective B)
- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Promote aesthetically pleasing commercial development with appropriate access, signage and landscaping while discouraging strip commercial development. (Land Use Objective H)
- Promote the continued operation and expansion of commercial facilities. (Growing the Economy Objective A)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- N/A



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that sanitary sewer facilities are now accessible. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.
- This property has been historically used for commercial uses and the proposed zoning is more appropriate.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

SECTION 3 (Co. M-1 to Ci. M-2)



Site Facing West



Site Facing East



Site Facing South



Site Facing North

Rez. # 1060



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	660-670 Hwy 41 A	Water: 10"
PID#	#46B-15, 46B-60, (Section 4-A)	Sewer: 8"
Applicant's Request:	City Heavy Industrial	Flood and Drainage: N/A
City/County limits:	County	
Current Zoning:	County Light Industrial (M-1)	
Proposed Zoning:	City Heavy Industrial (M-2)	
Size (in acres):	3.27 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County M-1)</u>	<u>Proposed District (City M-2)</u>
Min. Lot Size	N/A	N/A
Min. Lot Width	N/A	N/A.
Front Setback	50 ft.	100 ft.
Side Setback	25 ft.	50 ft. (IF ADJACENT TO RESIDENTIAL)
Rear Setback	25 ft.	N/A
Building Height:	30 ft.	100 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: H-C (County)	Front: 30 ft. Side: 10 ft. Rear: 20 ft.	N/A
South: : R-2 (County)	Front: 20 ft. Side: 10 ft. Rear: 20 ft.	N/A
East: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
West: AG (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A

PROPOSAL

The applicant proposes annexation of 3.27 acres from the County of Henderson to the City of Henderson. The current zoning is Light Industrial (County) and the proposed zoning is Heavy Industrial (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.

STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing **Light Industrial (M-1)** allows numerous permitted uses. Such permitted uses include plastic molding, print & publishing, recycling collection facilities, and machine shops. Conditional Uses are animal kennels, child care centers, junkyards, and medical institutions.

The proposed **Heavy Industrial (M-2)** zoning district is to provide for the development in desirable areas of the city, based upon the comprehensive plan, of those heavy commercial and industrial establishments which may create some nuisance and which are not properly associated with or compatible with any of the development proposed for the other land use districts.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as Medium Density Residential. The Future Land Use element of the Comprehensive Plan is **NOT** consistent with the proposed zoning of Highway Commercial (H-C)

Comprehensive Plan Goals and Objectives:

- Guide development to existing centralized areas served by adequate infrastructure to avoid decentralized and scattered development. (Balancing Land Use Objective B)
- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Promote aesthetically pleasing commercial development with appropriate access, signage and landscaping while discouraging strip commercial development. (Land Use Objective H)
- Promote the continued operation and expansion of commercial facilities. (Growing the Economy Objective A)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- N/A



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that sanitary sewer facilities are now accessible. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.
- This property has been historically used for commercial uses and the proposed zoning is more appropriate.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

Rez #1960

Section 4A (Co. M-1 to Ct. M-2)

Site Facing West



Site Facing South



Site Facing East



Site Facing North





STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	660-670 Hwy 41 A	Water: 10"
PID#	#46B-54, 46B-78 (Section 4-B)	Sewer: 8"
Applicant's Request:	City Heavy Industrial	Flood and Drainage: N/A
City/County limits:	County	
Current Zoning:	County Highway Commercial (H-C)	
Proposed Zoning:	City Heavy Industrial (M-2)	
Size (in acres):	1.49 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County M-1)</u>	<u>Proposed District (City M-2)</u>
Min. Lot Size	N/A	N/A
Min. Lot Width	N/A	N/A.
Front Setback	30 ft.	100 ft.
Side Setback	10 ft.	50 ft. (IF ADJACENT TO RESIDENTIAL)
Rear Setback	20 ft.	N/A
Building Height:	30 ft.	100 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
South: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
East: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A
West: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A

PROPOSAL

The applicant proposes annexation of 1.49 acres from the County of Henderson to the City of Henderson. The current zoning is Highway Commercial (County) and the proposed zoning is Heavy Industrial (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.



STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing **Light Industrial (M-1)** allows numerous permitted uses. Such permitted uses include plastic molding, print & publishing, recycling collection facilities, and machine shops. Conditional Uses are animal kennels, child care centers, junkyards, and medical institutions.

The proposed **Heavy Industrial (M-2)** zoning district is to provide for the development in desirable areas of the city, based upon the comprehensive plan, of those heavy commercial and industrial establishments which may create some nuisance and which are not properly associated with or compatible with any of the development proposed for the other land use districts.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as Medium Density Residential. The Future Land Use element of the Comprehensive Plan is **NOT** consistent with the proposed zoning of Highway Commercial (H-C)

Comprehensive Plan Goals and Objectives:

- Guide development to existing centralized areas served by adequate infrastructure to avoid decentralized and scattered development. (Balancing Land Use Objective B)
- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Promote aesthetically pleasing commercial development with appropriate access, signage and landscaping while discouraging strip commercial development. (Land Use Objective H)
- Promote the continued operation and expansion of commercial facilities. (Growing the Economy Objective A)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- N/A



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that sanitary sewer facilities are now accessible. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.
- This property has been historically used for commercial uses and the proposed zoning is more appropriate.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

Rez. # 1060

Site Facing East



Site Facing North



Site Facing West



Site Facing South



Section 4B (Co. HC to Ci. M2)



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	3649 Hwy 41 A	Water: 10"
PID#	#46-131 (Section 5)	Sewer: 8"
Applicant's Request:	City Heavy Industrial	Flood and Drainage: N/A
City/County limits:	County	
Current Zoning:	County Light Industrial (M-1)	
Proposed Zoning:	City Heavy Industrial (M-2)	
Size (in acres):	4.2 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County M-1)</u>	<u>Proposed District (City M-2)</u>
Min. Lot Size	N/A	N/A
Min. Lot Width	N/A	N/A.
Front Setback	50 ft.	100 ft.
Side Setback	25 ft.	50 ft. (IF ADJACENT TO RESIDENTIAL)
Rear Setback	25 ft.	N/A
Building Height:	30 ft.	100 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
South: H-C (County)	Front: 30 ft. Side: 10 ft. Rear: 20 ft.	N/A
East: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
West: R-2 (County)	Front: 30 ft. Side: 10 ft. Rear: 20 ft.	N/A

PROPOSAL

The applicant proposes annexation of 4.2 acres from the County of Henderson to the City of Henderson. The current zoning is Light Industrial (County) and the proposed zoning is Heavy Industrial (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.

STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing **Light Industrial (M-1)** allows numerous permitted uses. Such permitted uses include plastic molding, print & publishing, recycling collection facilities, and machine shops. Conditional Uses are animal kennels, child care centers, junkyards, and medical institutions.

The proposed **Heavy Industrial (M-2)** zoning district is to provide for the development in desirable areas of the city, based upon the comprehensive plan, of those heavy commercial and industrial establishments which may create some nuisance and which are not properly associated with or compatible with any of the development proposed for the other land use districts.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as **Medium Density Residential**. The Future Land Use element of the Comprehensive Plan is consistent with the proposed zoning of **Highway Commercial (H-C)**

Comprehensive Plan Goals and Objectives:

- Guide development to existing centralized areas served by adequate infrastructure to avoid decentralized and scattered development. (Balancing Land Use Objective B)
- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. Balancing (Land Use Objective F)
- Guide industrial growth to existing industrial areas and ensure they are compatible with the surrounding uses and are served by adequate public facilities and services. (Balancing Land Use Objective I)
- Promote the continued operation and expansion of commercial facilities. (Growing the Economy Objective A)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- The request meets the Balancing Land Use goal by encouraging innovative and safe infrastructure.
- This request meets the need of the Community by encouraging environmentally sustainable uses of natural resources.
- This request guides industrial growth to existing industrial areas and ensure they are compatible with surrounding uses.
- This request promotes the continued operation and expansion of existing facilities.



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that sanitary sewer facilities are now accessible. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.
- This property has been historically used for industrial uses and the proposed zoning is more appropriate.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

SECTION 5 (Co. M-1 to Ci. M-2)



Site Facing East



Site Facing West



Site Facing North



Site Facing South

Rez. # 1060



STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	1933-1999 Springfield (minus 1963) & 601-622 Winchester Street	Water: 10"
PID#	#46F-1 through 46F-30 minus 46F-7 (Section #6)	Sewer: 8"
Applicant's Request:	City Residential 2	Flood and Drainage: Portion near Canoe Creek
City/County limits:	County	
Current Zoning:	County Two Family Residential (R-2)	
Proposed Zoning:	City Medium Density Residential (R-2)	
Size (in acres):	9.34 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County R-2)</u>	<u>Proposed District (City R-2)</u>
Min. Lot Size	10,000 sq. ft.	5,000 sq. ft.
Min. Lot Width	60 ft.	60 ft.
Front Setback	20 ft.	20 ft.
Side Setback	8 ft.	6 ft.
Rear Setback	20 ft.	20 ft.
Building Height:	30 ft.	30 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
South: H-C (County)	Front: 30 ft. Side: 10 ft. Rear: 20 ft.	N/A
East: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A
West: H-C (County)	Front: 30 ft. Side: 10 ft. Rear: 20 ft.	N/A

PROPOSAL

The applicant proposes annexation of 9.34 acres from the County of Henderson to the City of Henderson. The current zoning is Residential-2 (County) and the proposed zoning is Residential-2 (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.

STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing County Residential-2 (R-2) allows several permitted uses. Such permitted uses include single family residential units, duplexes, and townhouses. Conditional Uses are any use allowed in R-1, and manufactured homes.

The proposed City Residential-2 (R-2) allows several permitted uses. Such permitted uses include single family residential units, duplexes, and townhouses. Conditional Uses are any use allowed in R-1, multifamily dwellings (up to 8 units).

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as Medium Density Residential. The Future Land Use element of the Comprehensive Plan IS consistent with the proposed zoning of Residential-2 (R-2).

Comprehensive Plan Goals and Objectives:

- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Anticipate future community needs by encouraging environmentally sustainable uses of natural resources. (Protecting Natural Systems D).
- Encourage reinvestment in declining neighborhoods with increased services, amenities and safety. (Healthy Neighborhoods Objective D)
- Develop facilities that make the most efficient use of the land, are designed for the convenience, health, safety, and pleasure of the intended users, and represent positive examples of design, energy use and concern for people and the environment. (Healthy Neighborhoods Objective G)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- The request meets the Balancing Land Use goal by encouraging innovative and safe infrastructure.
- This request meets the need of the Community by encouraging environmentally sustainable uses of natural resources.
- The request will encourage reinvestment in declining neighborhoods with increased services that are designed to improve the health of the citizens who live in the area.



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that the availability of sanitary sewer facilities are now available. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016



Site facing East



Site facing West



Site Facing South



Site facing North



Site Facing South



Site Facing North



Site Facing East



Site Facing West

Site Facing North



Site Facing South



Site Facing East



Site Facing West





STAFF REPORT - REZONING #1060 ANNEXATION

DATE: 09/06/16

GENERAL INFORMATION		
Applicant:	City of Henderson	<u>Infrastructure</u>
Site Location:	625 Hwy 41 A	Water: 10"
PID#	#46-134 (Section #7)	Sewer: 8"
Applicant's Request:	City Residential Mobile Home	Flood and Drainage: Portion near Canoe Creek
City/County limits:	County	
Current Zoning:	County Two Family Residential (R-2)	
Proposed Zoning:	City Residential Mobile Home (R-MH)	
Size (in acres):	4.34 Acres	

ZONING DISTRICT INFORMATION		
	<u>Current (County R-2)</u>	<u>Proposed District (City R-MH)</u>
Min. Lot Size	10,000 sq. ft.	5 acres
Min. Lot Width	60 ft.	40 ft. for MH, 100ft. for any other use
Front Setback	20 ft.	20 ft. (within a MH park)
Side Setback	8 ft.	10 ft. (within a MH park)
Rear Setback	20 ft.	20 ft. (within a MH park)
Building Height:	30 ft.	30 ft.

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A
South: R-2 (County)	Front: 20 ft. Side: 8 ft. Rear: 20 ft.	N/A
East: Ag (County)	Front: 25 ft. Side: 10 ft. Rear: 25 ft.	N/A
West: M-1 (County)	Front: 50 ft. Side: 25 ft. Rear: 25 ft.	N/A

PROPOSAL

The applicant proposes annexation of 4.34 acres from the County of Henderson to the City of Henderson. The current zoning is Residential-2 (County) and the proposed zoning is Residential Mobile Home R-MH (City). It is the role of the Planning Commission to assign the new zoning classification based on current use, likely use, and potential growth patterns of the subject property and surrounding properties.



STAFF REPORT - REZONING #1060 ANNEXATION

ZONING

The existing County Residential-2 (R-2) allows several permitted uses. Such permitted uses include single family residential units, duplexes, and townhouses. Conditional Uses are any use allowed in R-1, and manufactured homes.

The proposed City Residential-Mobile Home (R-MH) These districts are composed of areas containing manufactured home dwelling sites arranged on a large tract and designed to accommodate manufactured homes for more or less permanent duration, as well as other compatible uses which provide related services. Permitted uses are Class A, B manufactured homes (No Class C or D will be permitted), single-family dwelling is permitted when used by a park manager or park maintenance personnel; it must meet minimum yard requirements of the R-1 district, and residential care facilities.

FUTURE LAND USE

Future Land Use:

The future land use map depicts this area developing as High Density Residential. The Future Land Use element of the Comprehensive Plan IS consistent with the proposed zoning of Residential Mobile Home (R-MH).

Comprehensive Plan Goals and Objectives:

- Encourage innovative, safe, and sustainable design for new development and/or infrastructure. (Land Use Objective F)
- Anticipate future community needs by encouraging environmentally sustainable uses of natural resources. (Protecting Natural Systems D).
- Encourage reinvestment in declining neighborhoods with increased services, amenities and safety. (Healthy Neighborhoods Objective D)
- Develop facilities that make the most efficient use of the land, are designed for the convenience, health, safety, and pleasure of the intended users, and represent positive examples of design, energy use and concern for people and the environment. (Healthy Neighborhoods Objective G)

STAFF FINDINGS ON COMPREHENSIVE PLAN

Staff finds this request is in agreement with the Comprehensive Plan for the following reasons:

- The request meets the Balancing Land Use goal by encouraging innovative and safe infrastructure.
- This request meets the need of the Community by encouraging environmentally sustainable uses of natural resources.
- The request will encourage reinvestment in declining neighborhoods with increased services that are designed to improve the health of the citizens who live in the area.



STAFF REPORT - REZONING #1060 ANNEXATION

IN THE ABSENCE OF FINDINGS THAT THE PROJECT IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN.

Staff finds that major changes have occurred to alter the basic character of the area to support this request:

- The area has experienced a major in change in that the availability of sanitary sewer facilities are now available. Previously, this area was serviced by individual septic systems.
- The infrastructure upgrades along Hwy 41 A. have substantially changed the physical and social nature of the area to facilitate this rezoning application.

STAFF RECOMMENDATION

Staff recommends approval. This request is in agreement with the Comprehensive Plan, and major changes to the economic, physical and social nature of the area have occurred as described above to satisfy the required findings of KRS 100.213/Section 7.05

Reminder: When making a motion for or against a map amendment, please provide clear findings in support of the proposed motion utilizing either the Comprehensive Plan/Future Land Use, or clear findings in support of Factors 1 or 2 (or both) of KRS 100.213/Section 7.05.

Date Advertised: 08/23/2016

Date Posted: 08/23/2016

SECTION 7 (Co. R-2 to Ci. R-MH)



Site Facing East



Site Facing West



Site facing North



Site Facing South

Henderson City-County
Planning Commission
September 6, 2016

The Henderson City-County Planning Commission held their regular meeting September 6, 2016 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Richard, Kevin Herron, Herb Pritchett, Gray Hodge and Attorney Tommy Joe Fridy. Mac Arnold was absent.

Staff present: Director Brian Bishop, Assistant Director Claudia Wayne, Theresa Curtis, Heather Lauderdale and Chris Raymer.

(The following minutes were transcribed from an audio tape recording of the meeting on September 6, 2016. The audio tape recording is on file at the Planning Commission office and will be retained for a reasonable time.)

MEETING BEGAN AT 6:00PM

Chairman McKee: Next on the agenda **Rezoning #1060 Assignment of Zoning Classification**. Mr. Bishop, are you going to lead that conversation?

Brian Bishop: Yes sir.

Chairman McKee: Please proceed.

Brian Bishop: The following action is before the Planning Commission because the City of Henderson has requested that we assign zoning to

41 (forty-one) parcels that are going to be annexed from the County of Henderson to the City of Henderson.

You'll notice on the map that the area highlighted in yellow are the properties we will be discussing tonight. We have done this a little different than we have in the past as far as rezoning and the reason why is because with 41 (forty-one) parcels it's hard to distinguish which ones we're referring to at any given time. So what we have done is we have broken the 41 (forty-one) parcels down into sections of seven (7) of like zoning.

For example, what I mean by that is, if you look at Section 1 which is going to be parcel numbers 46C-15, 46-97,46-98 and 46-99 which is the portion on the Northern part of the map, those will be going from County R-2 to City R-2. What we have done, specifically to make it more digestible is to break these down in sections so we can talk about each section individually. I would request that you vote that way as we go down the list, if you don't mind.

John Stroud and I have met, we have gone out and reviewed the uses of the property as they are currently being used. We feel the proposed uses are the most appropriate uses that can be given during this process. I know this is a little different, do you guys have any questions before we really start digging into this? I know it's kind of weird and we have never had to do it this way.

Kevin Richard: Brian just one question for clarity on the map. It looks like in Section 6 there is one lot that is not going to be annexed?

Brian Bishop: That is correct. That one lot the property owner was not able to be contacted so therefore there was no annexation agreed to.

Kevin Richard: I just wanted to make sure that box denoted on that map.

Brian Bishop: It is. These properties were all part of the Hwy 41 A, Finley Addition sewer project so each property owner has agreed to be annexed. Are there any questions from anyone else?

David Williams: So you want us to, when the motion is made you want us to refer to each section, is that what you said?

Brian Bishop: Correct. There is a Staff Report for each section in your packet.

Chairman McKee: Any other questions for staff?

Brian Bishop: Ok. With that, I will get started with **Section 1**, which consists of parcels 46C-15, 46-97, 46-98 and 46-99. These parcels are currently zoned County-Residential 2, the property zone is proposed to be City-R2 which is Medium Density Residential. If you would, notice the orange portion of the map and, we have correlated the color on the map to the color they will be on the zoning map to try to make them more understandable. Do you have any questions for Section 1?

David Dixon: So the uses correspond?

Brian Bishop: They are, they are very similar. If I remember the City Zoning Ordinance correctly, you can have a little more density as far as number of units, that's the main difference. Also, I'm sorry Commissioner Dixon, let me retract that for one second. The County Zoning Ordinance in R-2 allows you to have manufactured housing where the City does not.

David Williams: Will there be any non-conforming uses?

Brian Bishop: Not in that section.

David Williams: Do you want the motion now?

Brian Bishop: If you would, go ahead and proceed with Section 1.

Chairman McKee: The chair will entertain a motion.

Kevin Richard: Mr. Chairman, do we need to ask if anyone would like to speak for or against each of these?

Chairman McKee: Do we need to?

Brian Bishop: I would, for each section.

Chairman McKee: Is there anyone who would like to speak about this rezoning? Excuse me?

Attorney Tommy Joe Fridy: Assignment of a zoning classification for the property as a result of annexation, we're making a recommendation to the City.

Chairman McKee: A recommendation to the City and, assignment of zoning classification as a result of annexation. I hope I don't have to repeat that every time. Is there anyone that would like to speak for or against? Hearing none, the chair will entertain a motion.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 1, CONSISTING OF PARCELS 46C-15, 46-97, 46-98 AND 46-99 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). THIS REZONING IS APPROPRIATE SINCE THE PARCELS ARE BEING ANNEXED INTO THE CITY AND THE CITY'S ZONING CLOSELY MATCHES THAT OF THE COUNTY.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: So mote it be, Section 2.

Brian Bishop: Yes sir. Section 2 consists of parcel 46-100. The property is currently zoned County Light Industrial (M-1) and the proposed zoning is City Highway Commercial (H-C). This is the property in purple and, is currently being used as an office building. Mr. Stroud and I felt that this more appropriate for the current use. This structure has been used for several things, it's been an office building, a veterinarian's office and, from our observation it's never been used as anything that is consistent with Light Industrial zoning. So staff recommends a zoning of City Highway Commercial (H-C).

Chairman McKee: Questions for staff?

David Williams: Mr. Chairman.

Chairman McKee: Yes sir.

David Williams: Do you not foresee, since this is on an arterial street that there might be a manufacture that would like this in the future?

Brian Bishop: That is a valid question however, I believe the parcels odd shape and small area would limit it to its current use. Most likely, if that were to happen, it would be consolidated into a larger tract and, at that point, we would consolidate and rezone.

David Williams: Ok.

Chairman McKee: Further questions for staff?

Herb Pritchett: Mr. Chairman.

Chairman McKee: Yes sir.

Herb Pritchett: I appraised this some years ago and, I think it was an adult daycare center or something. Is that use no longer there?

Brian Bishop: I believe it is not. I would like to defer to Mr. Stroud on that if he would answer that question.

Chairman McKee: Mr. Stroud, do you still live in the City of Henderson? Do you swear the statements you are about to make are the truths to the best of your knowledge?

John Stroud: Absolutely.

Chairman McKee: Please proceed.

John Stroud: Offices and, they do offer some Res-Care. It's Res-Care is who it is. Light Industrial, I'm not sure how it got in there in the county. I know the veterinarian's office I believe was a Conditional Use in Light Industrial and Res-Care just kind of fell in after it. But mostly offices with some daycare, adult daycare; well, a type of daycare.

Herb Pritchett: And with the use to which it is now being put, it would be a permitted use, it would be permitted?

John Stroud: It would be a permitted use in Highway Commercial, yes.

Herb Pritchett: Thank you sir.

Chairman McKee: Further questions for Mr. Stroud? Thank you sir, any other questions? Would anyone like to speak for or against this proposed zoning designation for annexation into the City? Seeing none, the chair will entertain a motion.

MOTION WAS MADE BY DAVID DIXON, SECONDED BY KEVIN RICHARD TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 2, CONSISTING OF PARCEL 46-100 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HIGHWAY COMMERCIAL (H-C). THE REQUEST IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN AND MAJOR CHANGES TO ECONOMIC, PHYSICAL AND SOCIAL NATURE OF THE AREA HAVE OCCURRED AND, THIS PROPERTY HAS HISTORICALLY BEEN USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 3.**

Brian Bishop: Section 3 consists of parcel 46-100.1, the property is currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). This is the property you will see labeled #3. This property has a lot of industrial use. You will see some metal fabrication, you will see some concrete piping if I'm not mistaken if you look at the pictures. Mr. Stroud and I felt this is the best use of the property and it's also the City's most intense use so, they should be allowed to do any use they have and likely some others in the near future.

Chairman McKee: Questions for staff?

David Williams: This is Heavy Industrial. What is the green going to be, Section #7?

Brian Bishop: The green will be Residential Mobile Home district.

David Williams: Is there any screening or anything along those lines between these two (2) zones.

Brian Bishop: Not there Commissioner Williams because it is separated by Hwy 41 A and, this is all existing.

David Williams: Ok.

Chairman McKee: Any further comments or questions for staff?

David Williams: Mr. Bishop did you say that the parcel is currently being used as Heavy Industrial?

Brian Bishop: It is.

Chairman McKee: Any further comments or questions for staff?

Hearing none, would anyone like to speak for or against this proposed zoning designation for annexation into the City? Hearing none, the chair will entertain a motion.

MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 3, CONSISTING OF PARCEL 46-100.1 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE INFRASTRUCTURE UPGRAGES ALONG HWY 41 A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS REZONING APPLICATION.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 4A.**

Brian Bishop: Section 4A consists of parcels 46B-15 and 46B-60. The parcels are currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). Staff feels that this is again, the most appropriate use for this parcel because the current use is Heavy Industrial in nature.

Chairman McKee: Questions of staff?

David Williams: Would you read the parcels again please, it's not clear on my map.

Brian Bishop: That would be parcel 46B-15 and 46B-60. Commissioner Williams, if you look at the second page of your packet, we have each section with the parcel id numbers, just to make it a little easier to distinguish.

Chairman McKee: Further questions of staff?

David Williams: Brian, again, the current use of the land is Heavy Industrial?

Brian Bishop: Yes sir.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against this rezoning for annexation for to the City? Hearing none, the chair will entertain a motion.

MOTION WAS MADE BY DAVID DIXON, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4A, CONSISTING OF PARCELS 46B-15 AND 46B-60 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE CURRENT USE OF THE PROPERTY IS MORE AKIN TO HEAVY INDUSTRIAL.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 4B.**

Brian Bishop: Section 4B consists of parcels 46B-54 and 46B-78 and the property is currently zoned County Highway Commercial (H-C) and the proposed zone for annexation is City Heavy Industrial (M-2). This property is also currently being used for Heavy Industrial use.

Chairman McKee: Questions for staff?

David Williams: Brian is it your opinion that all of these parcels we're referring are going to be requested to zone Heavy Industrial, that's their current use and even though the Comprehensive Plan may not have anticipated this use that is the use that is going in and the Comprehensive Plan would be in error at this point?

Brian Bishop: That is correct.

David Williams: And that a more appropriate use is Heavy Industrial?

Brian Bishop: Yes sir.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against Section 4B? Hearing none, the chair will entertain a motion.

MOTION WAS MADE BY DAVID DIXON, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4B, CONSISTING OF PARCELS 46B-54 AND 46B-78 FROM COUNTY HIGHWAY COMMERCIAL (H-C) TO CITY HEAVY INDUSTRIAL (M-2). THE AREA HAS EXPERIENCED A MAJOR IN CHANGE

IN THAT SANITARY SEWER FACILITIES ARE NOW ACCESSABLE. PREVIOUSLY, THIS AREA WAS SERVICED BY INDIVIDUAL SEPTIC SYSTEMS; THE INFRASTRUCTURE UPGRADES ALONG HWY 41A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS ZONING APPLICATION; THIS PROPERTY HAS BEEN HISTORICALLY USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 5.**

Brian Bishop: We're in the home stretch. Section 5 consists of parcel 46-131, the property is currently zoned County Light Industrial (M-1) and the proposed zone for annexation is City Heavy Industrial (M-2). This property has been used for industrial uses in the past, you may remember this as the property that housed lots of heavy industrial equipment for sale and is currently being used by a construction company. Staff feels this is the most appropriate zone for this property.

Chairman McKee: Questions for staff? No questions for staff? Would anyone like to speak for or against this re-designation? Hearing none the chair will entertain a motion.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 5, CONSISTING OF PARCEL 46-131 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THIS REQUEST GUIDES INDUSTRIAL GROWTH TO EXISTING INDUSTRIAL

AREAS AND ASSURES THEY ARE COMPATIBLE WITH SURROUNDING AREAS.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 6.**

Brian Bishop: Section 6 consists of parcels 46F-1 thru 46F-30 minus 46F-7, that is the parcel in which the city did not receive the signed annexation agreement. Staff recommends a change from County Two Family Residential (R-2) to City Medium Density Residential (R-2) and, these properties are all one (1) family residences so staff feels this is the most appropriate use for the property.

Chairman McKee: Questions for staff? Comments? Would anyone like to speak for or against this re-designation? Seeing and hearing none the chair will entertain a motion.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 6, CONSISTING OF PARCELS 46F-1 THROUGH 46F-30 MINUS 46F-7 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). BEING THAT IS THE CURRENT USE OF THE PROPERTY AND RECOMMENDING THIS ZONING IS APPROPRIATE TO THE COMPREHENSIVE PLAN.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: **Section 7.**

Brian Bishop: Last one. Section 7 consists of parcel 46-134. The property is currently zoned County Two Family Residential (R-2) and the proposed zone for annexation is City Residential Mobile Home (R-MH). If you will notice on the map, the area in green is Section 7 and this has historically been and currently used as a manufactured home park so, staff feels this is the most appropriate zoning for this property.

Chairman McKee: Questions for staff?

Kevin Richard: So Mr. Bishop, if we did rezone this as a City R-2 that would be a non-conforming parcel?

Brian Bishop: Yes sir.

David Williams: Mr. Bishop, how do you see this particular parcel developing over time? Do you think it will go manufacturing as other parcels in this area?

Brian Bishop: That's a very good question. To do so, that property would have to be purchased and consolidated with the adjacent property. If that were to happen, it would be a fairly large project that the Planning Commission would see a rezoning, consolidation and most likely a site plan for approval.

David Williams: How long has this been a mobile home park?

Brian Bishop: Numerous decades.

David Williams: So it's been an accepted use by the neighbors and you don't see any problems with it being a non-conforming use?

Brian Bishop: I can say this as the former County Codes Administrator, I never received complaints from the adjacent property owners. That's the best that I can speak to.

David Williams: I have no further questions.

Chairman McKee: Further questions for staff? Would anyone like to speak for or against this re-designation for annexation? Seeing and hearing none, the chair will entertain a motion.

MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 7, CONSISTING OF PARCEL 46-134 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY RESIDENTIAL MOBILE HOME (R-MH); BEING THIS IS MORE APPROPRIATE TO THE CURRENT USAGE AND HISTORICAL NATURE OF THIS PARCEL.

ALL IN FAVOR: AYE

OPPOSED: NONE

ORDINANCE NO. _____

ORDINANCE REGARDING ANNEXATION

SUMMARY: AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED TERRITORY TO THE CITY OF HENDERSON, KENTUCKY, BEING LOCATED ON US HIGHWAY 41-A, IN HENDERSON COUNTY, CONTAINING SECTION #1, PARCEL #46-C-15; #46-97; #46-98; AND #46-99, SECTION #2, PARCEL #46-100, SECTION #3, PARCEL #46-100.1, SECTION #4-A, PARCEL #46-B-15 AND #46B-60, SECTION #4-B, #46B-54 AND #46B-78, SECTION #5, PARCEL #46-131, SECTION #6, PARCELS #46F-1 THRU SECTION #46F-30, AND SECTION #7, PARCEL #46-134

WHEREAS, pursuant to the provisions of KRS 81A.412, the City of Henderson, Kentucky, desires to annex within the corporate limits of the City of Henderson that certain unincorporated area, which is located on US Highway 41-A in Henderson County, and which is hereinafter described; and

WHEREAS, the real property to be annexed meets all of the requirements of KRS 81A.410; and

WHEREAS, the owners of record of the land to be annexed have given prior consents in writing to the annexation and have waived the waiting period therefor, copies of which consents and waiver are attached hereto, cumulatively marked Exhibit "A," and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, as follows:

1. That the real property located on US Highway 41-A in Henderson County, containing Section #1, Parcel; #46-C-15; #46-97; #46-98; and #46-99, Section #2, Parcel; #46-100, Section #3, Parcel #46-100.1, Section #4-A, Parcel #46-B-15 and #46B-60, Section #4-B, #46B-54 and #46B-78, (consent #46B-54 includes description of #46B-78 but not the parcel #), Section #5, Parcel #46-131, Section #6, Parcels #46F-1 thru Section #46F-30, and Section #7, Parcel #46-134, as described in Exhibit "A-1", and as shown on the plat attached hereto marked Exhibit "B", which exhibits are incorporated herein by reference, be and said real property is hereby annexed to and made a part of the City of Henderson, Kentucky.

2. The zoning classification of said property shall be Section #1 from COUNTY TWO FAMILY RESIDENTIAL DISTRICT (R-2) to CITY MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2), Section #2 from COUNTY LIGHT INDUSTRIAL DISTRICT (M-1) to CITY HIGHWAY COMMERCIAL (HC); Section #3 from COUNTY LIGHT INDUSTRIAL DISTRICT (M-1) to CITY HEAVY INDUSTRIAL DISTRICT (M-2); Section 4-A from COUNTY LIGHT

INDUSTRIAL DISTRICT (M-1) to CITY HEAVY INDUSTRIAL DISTRICT (M-2); Section #4-B from COUNTY HIGHWAY COMMERCIAL to CITY HEAVY INDUSTRIAL DISTRICT (M-2); Section #5 from COUNTY LIGHT INDUSTRIAL DISTRICT (M-1) to CITY HEAVY INDUSTRIAL DISTRICT (M-2); Section #6 from COUNTY TWO FAMILY RESIDENTIAL DISTRICT (R-2) to CITY MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2) , and Section #7 from COUNTY TWO FAMILY RESIDENTIAL DISTRICT (R-2) to CITY RESIDENTIAL MOBILE HOME DISTRICT (R-MH) pursuant to the recommendation of the Henderson City-County Planning Commission by letter dated September 7, 2016, a copy of which letter, with attachments, is attached hereto and incorporated herein by reference marked Exhibit "C".

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On the first reading of this ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Davis declared the ordinance adopted on first reading and ordered that it be presented for second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered it be recorded.

Steve Austin, Mayor
Date: _____

ATTEST:

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 9 DAY OF
SEPTEMBER, 2016.**

By:  _____
Dawn S. Kelsey
City Attorney

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Jerome D. Carpenter is the owner of certain real property located at 1986 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-28 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 14th day of June, 2016, ~~by the duly authorized~~
representative of _____

~~COMPANY NAME~~

By: Jerome D. Carpenter
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Jerome D. Carpenter of 1986 Springfield Dr. Henderson, Ky, this 14 day of June, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1986 Springfield Drive
PVA ID # 46F-28

Being all of Lot # 28, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 236 at page 395, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Jerome D. Carpenter, by deed dated 28 August 2012 and recorded in Deed Book 591 at page 575 in said Clerk's office.

City of Henderson, Kentucky

CONSENT TO ANNEXATION

Brian G. Hart is the owner of certain real property located at 1980 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-27 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 17th day of June, 2016, by the duly authorized

~~representative of~~ _____
COMPANY NAME

By: 
_____ Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Brian G. Hart of 1980 Springfield Drive, Henderson, KY 42420 this 17th day of June, 2016.

My Commission expires 02-04-2018



Notary Public

(Seal)

Exhibit A

1980 Springfield Drive
PVA ID # 46F-27

Being all of Lot # 27, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Aaron G. Bugg & Kristin D. Littrell is the owner of certain real property located at 1974 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-26 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 9th day of June, 2016, ~~by the duly authorized representative of~~

~~COMPANY NAME~~

Aaron G. Bugg
By: [Signature]
~~Representative~~
Kristin Littrell Bugg
by Aaron Bugg POA
K Bugg by POA

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Kristin Littrell Bugg by Aaron G. Bugg POA Aaron G. Bugg of Henderson, Ky. 42420, this 9th day of June, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1974 Springfield Drive
PVA ID # 46F-26

Being all of Lot # 26 and a portion of Lot # 25, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 244 at page 336, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property, being also the subject of a plat recorded in Plat Book 10 at Page 36A. Being also the property conveyed to Aaron G. Bugg and Kristin D. Litterell, by deed dated 8 October 2004, and recorded in Deed Book 534 at page 591 in said Clerk's office. And also being the property conveyed to Aaron G. Bugg and Kristin D. Littrell, by deed dated 17 November 2014 and recorded in Deed Book 607 at page 128 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

James S. & Julie Coffman are the owners of certain real property located at 608 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.24 acres and designated as PVA Parcel 46F-24 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 5th day of May, 2016, by the duly authorized representative of _____
COMPANY NAME

By: James S. Coffman
Julie B. Coffman
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by James S. & Julie Coffman of 608 Winchester Road, Henderson, Ky, this 5th day of May, 2016.

My Commission expires 02-04-2018

Patricia A. Brown

Notary Public

(Seal)

Exhibit A

608 Winchester Road
PVA ID # 46F-24

Being all of Lot # 24, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to James S. Coffman and Julie A. Coffman, husband and wife, by deed dated 9 November 1995 and recorded in Deed Book 454 at page 791 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Robert Adam Schwartz is the owner of certain real property located at 614 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.24 acres and designated as PVA Parcel 46F-23 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 5th day of May, 2016, ~~by the duly authorized~~
representative of _____
~~COMPANY NAME~~

By: 
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Robert Adam Schwartz of 614 Winchester Rd, Henderson Ky, this 5th day of May, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

614 Winchester Road
PVA ID # 46F-23

Being all of Lot # 23, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Robert Adam Schwartz, unmarried, by deed dated 24 September 2015 and recorded in Deed Book 612 at page 870 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Matthew M. O'Malley is the owner of certain real property located at 620 & 626 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.24 acres and designated as PVA Parcel 46F-22 & 46F-21 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 23rd day of March, 2016, by ~~the duly authorized~~
~~representative of~~ _____
COMPANY NAME

By: Matthew O'Malley
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Matthew M. O'Malley of 620 Winchester Road, Henderson, Ky 42420, this 23rd day of March, 2016.

My Commission expires 02-04-2018.

Patricia Q. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

620 Winchester Road
PVA ID # 46F-22

Being all of Lot # 22, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Richard Blake Frederick is the owner of certain real property located at 613 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-19 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 24th day of February, 2016, by ~~the duly authorized~~ representative of _____
~~COMPANY NAME~~

By: Richard B. Frederick
~~Representative~~

STATE OF KENTUCKY
COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Richard B. Frederick of 613 Winchester Rd. Henderson Ky 42420, this 24th day of February, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

613 Winchester Road
PVA ID # 46F-19

Being all of Lot # 19, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Richard Blake Frederick, by deed dated 7 March 2013 and recorded in Deed Book 595 at page 290 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Lisa K Morris (OWNER), with offices at 607 Winchester Rd. Henderson, Ky.
Kentucky, 42420, is the owner of certain real property located at 607 Winchester Rd. Henderson, Ky.
in the County of Henderson, Kentucky and containing approximately _____ acres and designated as
PVA Parcel 46F-18 which property is more particularly described on Exhibit "A" attached hereto;
and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said
property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with
respect to such annexation, including, but not limited to the notices otherwise required by KRS
81A.420(1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420(2); and
OWNER further certifies that it is the sole owner of the property to be annexed as described in the
attached Exhibit.

SIGNED this 2/19/16 day of _____, 2016, by the ~~duly authorized~~
~~representative of~~ _____
COMPANY NAME

By: Lisa K Morris
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by Lisa K. Morris of 607 Winchester Road, Henderson, Ky 42420, this 9th day
of February, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

607 Winchester Road
PVA ID # 46F-18

Being all of Lot # 18, Greenbrier Subdivision, Winchester Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Lisa K. Morris, by deed dated 11 March 2013 and recorded in Deed Book 595 at page 234 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Heather L. Townsend is the owner of certain real property located at 1962 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.36 acres and designated as PVA Parcel 46F-15 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 6th day of May, 2016, ~~by the duly authorized~~
representative of _____
COMPANY NAME

By: 
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Heather Townsend of 1962 Springfield Drive, Henderson Ky, this 6th day of May, 2016.

My Commission expires 02-04-2019.


Notary Public
Notary ID 50308

(Seal)

Exhibit A

1962 Springfield Drive
PVA ID # 46F-15

Being all of Lot # 15, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Heather L. Townsend, by deed dated 23 May 2013 and recorded in Deed Book 596 at page 579 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Patricia Girtten is the owner of certain real property located at 1951 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-9 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 28th day of March, 2016, by the ~~duly authorized~~
~~representative of~~ _____
~~COMPANY NAME~~

By: Patricia Girtten
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Patricia Girtten of 1951 Springfield Drive, Henderson, Ky this 28th day of March, 2016.

My Commission expires 02-04-2018.

Patricia A Brown
Notary Public

(Seal)

Exhibit A

1951 Springfield Drive
PVA ID # 46F-9

Beginning at original rear corner between Lots 8 and 9 (shown as 2" pipe on plat); thence southerly with original side line 74.22 feet; thence back to rear line of Lot 8, N 4° 45' W, 75.9 feet to an iron pin; thence S 81° 27' E, 10 feet to the point of beginning, and being a portion of Lot No 8 of Greenbriar Subdivision as shown by plat recorded in Deed Book 244, page 336, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Patricia Girtten, by deed dated 30 March 1973 and recorded in Deed Book 266 at page 509 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Chastity D. Hobbs is the owner of certain real property located at 1981 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.27 acres and designated as PVA Parcel 46F-4 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 1st day of June, 2016, ~~by the duly authorized~~
representative of Chastity D. Hobbs
COMPANY NAME

By: _____
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by Julie Day of Oklahoma, this 1 day
of June, 2016.

My Commission expires 11/06/2019

Julie Day
Notary Public



Exhibit A

1981 Springfield Drive
PVA ID # 46F-4

Being all of Lot # 4, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 236 at page 395, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Chastity D. Hobbs, unmarried, by deed dated 14 April 2000 and recorded in Deed Book 494 at page 518 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Donald E Shelton, Sr. & Jeanie M. Shelton is the owner of certain real property located at 1987 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 45F-3 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 26th day of May, 2016, ~~by the duly authorized representative of~~ _____
COMPANY NAME

By: Jeanie Shelton
Donald E Shelton Sr.
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Donald E Shelton, Jeanie M. Shelton of 1987 Springfield Drive Henderson Ky, this 26th day of May, 2016.

My Commission expires 02-04-2018.

Patricia A. Brun
Notary Public
Notary ID 503018

(Seal)

Exhibit A

1987 Springfield Drive
PVA ID # 46F-3

Being all of Lot # 3, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 236 at page 395, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Donald E. Shelton, Sr., and Jeanie M. Shelton, by deed dated 8 October 2010 and recorded in Deed Book 578 at page 366 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Joe Middleton, Jr. & Betty J. Middleton is the owner of certain real property located at 1993 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.25 acres and designated as PVA Parcel 46F-2 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 11th day of February, 2016, by ~~the duly authorized~~ representative of _____

~~COMPANY NAME~~

Betty J. Middleton
By: Joe Middleton, Jr.
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Joe Middleton, Jr. & Betty J. Middleton of 1993 Springfield Drive, Henderson Ky 42420, this 11th day of February, 2016.

My Commission expires 02-04-18

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

1993 Springfield Drive
PVA ID # 46F-2

Being all of Lot # 2, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Joe N. Middleton Jr., and Betty Jane Middleton, by deed dated 28 April 1969 and recorded in Deed Book 242 at page 72 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Lisa Thompson Meyer is the owner of certain real property located at
1999 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and
containing approximately 0.25 acres and designated as PVA Parcel 46F-1 which property is
more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in
writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also
OWNER does hereby waive all notice requirements with respect to such annexation, including, but not
limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting
period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the
property to be annexed as described in the attached Exhibit.

SIGNED this 9th day of June, 2016, ~~by the duly authorized~~
~~representative of~~ _____
~~COMPANY NAME~~

By Lisa Thompson Meyer
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by Lisa Thompson Meyer of Henderson Ky 42420, this 9th day
of June, 2016.

My Commission expires 02-04-2018.

Patricia O. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1999 Springfield Drive
PVA ID # 46F-1

Being all of Lot # 1, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 236 at page 395, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Chastity D. Hobbs, unmarried, by deed dated 3 June 2014 and recorded in Deed Book 603 at page 958 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Corbell-Bryant, Inc. are the owners of certain real property located at
619 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and
containing approximately 0.24 acres and designated as PVA Parcel 46F-20 which property
is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in
writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also
OWNER does hereby waive all notice requirements with respect to such annexation, including, but not
limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting
period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the
property to be annexed as described in the attached Exhibit.

SIGNED this 23 day of Feb, 2016, by the duly authorized
representative of Corbell & Bryant ✓.
COMPANY NAME

By: David P. Phillips ✓
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by Patricia Phillips of Evansville, IN, this 23 day
of Feb, 2016.

My Commission expires 10/25/17.

James Mullin
Notary Public

(Seal)

Exhibit A

619 Winchester Road
PVA ID # 46F-20

Being all of Lot # 20, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Corbell-Bryant, Inc. are the owners of certain real property located at
604 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and
containing approximately 0.35 acres and designated as PVA Parcel 46F-25 which property
is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in
writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also
OWNER does hereby waive all notice requirements with respect to such annexation, including, but not
limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting
period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the
property to be annexed as described in the attached Exhibit.

SIGNED this 23 day of Feb, 2016, by the duly authorized
representative of Corbell & Bryant.
COMPANY NAME

By: Patricia C. Phillips
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by PATRICIA PHILLIPS of EVANSVILLE, IN, this 23 day
of FEB, 2016.

My Commission expires 10/25/17.

Jana Kullen
Notary Public

(Seal)

Exhibit A

604 Winchester Road
PVA ID # 46F-25

Being all of Lot # 25, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Plat Book 10 at Page 36A, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Corbell-Bryant, Inc. are the owners of certain real property located at
1954 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and
containing approximately 0.40 acres and designated as PVA Parcel 46F-13 which property
is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in
writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also
OWNER does hereby waive all notice requirements with respect to such annexation, including, but not
limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting
period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the
property to be annexed as described in the attached Exhibit.

SIGNED this 23 day of Feb, 2016, by the duly authorized
representative of Corbell & Bryant
COMPANY NAME

By: Patricia Phillips
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public,
by PATRICIA PHILLIPS of EVANSVILLE, IN, this 23 day
of Feb, 2016.

My Commission expires 10/25/17.

Jarvis Miller
Notary Public

(Seal)

Exhibit A

1954 Springfield Drive
PVA ID # 46F-13

Being all of Lot # 13, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Patricia Corbell Phillips (OWNER) is the owner of certain real property located at 3649 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 2.9 acres and designated as PVA Parcel 46-131 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 23 day of Feb, 2016, by the duly authorized representative of Corbell & Bryant ✓
COMPANY NAME

By: Patricia C. Phillips
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by PATRICIA PHILLIPS of EVANSVILLE, IN, this 23 day of FEB, 2016.

My Commission expires 10/25/17.

James Miller
Notary Public

(Seal)

Exhibit A

3649 US Highway 41 A

PVA ID # 46-131

Beginning at a point in the northeasterly right of way line of U.S. highway 41A, corner to the Kasey Brothers property, and running thence with the line of Kasey Brothers S 60 E 546.2 feet to an iron pin, corner with H.E. Ferrill, thence with Ferrill's line S 42-45 W 315.4 feet to an iron pin in the Northeasterly right of way line of said highway, corner with Ferrill, and thence with the curve of said highway in a northwesterly direction 571 feet to the beginning, containing 1.95 acres, more or less. Being also the property conveyed to Patricia Corbell Phillips, by deed dated 12 January 1962 and recorded in Deed Book 204 at page 450 in Henderson County Court Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Gladys L. Cox is the owner of certain real property located at 1956 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.34 acres and designated as PVA Parcel 46F-14 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 4th day of MAY, 2016, by the ~~duly authorized~~ representative of _____
COMPANY NAME

By: Richard W. Cox (POA)
Son - Representative for Gladys L. Cox

STATE OF KENTUCKY

COUNTY OF HENDERSON .. SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Richard W. Cox for Gladys L. Cox of 1956 Springfield Drive, Henderson Ky, this 4th day of May, 2016.

My Commission expires 02-04-2018

Patricia A. Brown
Notary Public ID 503018

(Seal)

Exhibit A

1956 Springfield Drive

PVA ID # 46F-14

Being all of Lot # 14, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Richard W. Cox and his wife, Gladys L. Cox, by deed dated 1 August 1975 and recorded in Deed Book 279 at page 469 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Alan E. & Barbara Holeman (OWNER) is the owner of certain real property located at 664 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 2.79 acres and designated as PVA Parcel 46B-15 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 8th day of June, 2016, by the ~~duly authorized~~ representative of Barbara S. Holeman & Alan E. Holeman
COMPANY NAME Barbara S. Holeman
By: Alan E. Holeman
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Alan E. Holeman & Barbara S. Holeman of Henderson, Ky 42420, this 8th day of June, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

664 Highway 41A
PVA ID # **46B-15**

A parcel of land in Henderson County, Kentucky, located on US 41A south of Henderson to-wit:

Beginning at a point with Joe Blalock, Lohman and Johnson Drilling Company and O'Grady Street as shown on the plat in the Henderson Tax Commissioner's Office and running from said point with Lohman and Johnson in a southwesterly direction approximately 300 feet to a point with Lohman and Johnson and a creek; thence in a northwesterly direction with said creek as it meanders approximately 145 feet to a point with said creek and Lige Coffman; thence in a northeasterly direction approximately 300 feet to a point with Blalock and Coffman; thence in a southeasterly direction with Blalock to the point of beginning and containing one (1) acre, more or less.

Being also the property conveyed to Alan E. Holeman and Barbara S. Holeman, by deed dated 20 July 2000 and recorded in Deed Book 499 at page 351 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Elva L. Shockley is the owner of certain real property located at 1975 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.27 acres and designated as PVA Parcel 46F-5 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 21st day of June, 2016, ~~by the duly authorized~~
representative of _____
~~COMPANY NAME~~

By: X Elva L Shockley
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, 42420
by Elva L. Shockley of 1975 Springfield Drive Henderson, KY, this 21st day
of June, 2016.

My Commission expires 4/21/2016.

Kathleen Anderson
Notary Public
Notary # 555551

(Seal)

Exhibit A

1975 Springfield Drive
PVA ID # 46F-5

Being all of Lot # 5, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 244 at page 336, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Richard R. Shockley, and wife, Elva L. Shockley, by deed dated 29 October 1999 and recorded in Deed Book 490 at page 317 in said Clerk's office.

City of Henderson, Kentucky

CONSENT TO ANNEXATION

Jason S. and Christy Dawn Lynn is the owner of certain real property located at 1939 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-11 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 12th day of July, 2016, by the duly authorized representative of _____

COMPANY NAME

By: X Jason S. Lynn
X Christy Dawn Lynn
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Jason S. & Christy Dawn Lynn of 1939 Springfield Dr., Henderson Ky, this 12th day of July, 2016.

My Commission expires 02-04-2018

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1939 Springfield Drive
PVA ID # 46F-11

Being all of Lot # 11, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Jason Stephen Lynn and wife, Christy Dawn Lynn, by deed dated 25 March 2013 and recorded in Deed Book 595 at page 445 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Billie J. and Eric Corbell (OWNER) is the owner of certain real property located at 660 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 1.48 acres and designated as PVA Parcel 46B-54 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 13th day of July, 2016, by ~~the duly authorized~~
~~representative of~~ _____
COMPANY NAME

By: [Signature] by P.O.A.
Representative
[Signature]
Eric J Corbell

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Eric Corbell POA for Billie J Corbell
Eric Corbell of Henderson Ky 42420, this 13th day of July, 2016.

My Commission expires 02-04-2019.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

660 Highway 41A
PVA ID # 46B-45

The following described real property, improvements and appurtenances, located in Henderson County, Kentucky, to-wit:

The following described real estate located in Henderson County, Kentucky, to-wit:

Lying on the south side of U. S. Highway 41-A and beginning at a stake on the northeast corner of that certain one-acre lot conveyed to Grantor by James R. Head, et al, recorded as set out below; thence in a northwesterly direction along the southerly right-of-way of U. S. Highway 41-A a distance of 25 feet; thence at a right angle in a southwesterly direction a distance of 30 feet to a stake; thence at a right angle in a southeasterly direction a distance of 25 feet to the southerly line of said one acre lot; thence at a right angle in a northeasterly direction along the southerly line of said one-acre lot a distance of 30 feet to the place of beginning.

Being also the property conveyed to B.J. Corbell, by deed dated 30 August 2002 and recorded in Deed Book 516 at page 162 in said Clerk's office, and as conveyed to Eric E. Corbell, by deed dated 26 March 1993 and recorded in Deed Book 516 at page 73.

And, the following described real estate located in Henderson County, Kentucky, to-wit:

Said lot fronts 208 feet 8-1/4 inches, more or less, on the south side of Federal Highway No. 41, and runs back that width 208 feet, 8-1/4 inches, and sufficiently far to make said lot one acre square. A post marks the eastern corner of the lot in the right-of-way of said Highway 41, and said lot runs in a westerly direction with the right-of-way of said Highway 41, from said post 208 feet 8-1/4 inches, more or less.

Being also the property conveyed to B.J. Corbell and Eric E. Corbell, by deed dated 8 January 1990 and recorded in Deed Book 403 at page 3 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Image Properties, LLC (OWNER) is the owner of certain real property located at 600 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 1.11 acres and designated as PVA Parcel 46-100 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 8 day of July, 2016, by the duly authorized representative of Image Properties, LLC
COMPANY NAME

By: [Signature]
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Jim Estes of Image Properties, LLC, this 8th day of July, 2016.

My Commission expires 10/18/19

[Signature]
Notary Public

(Seal)

Exhibit A

600 Highway 41A

PVA ID # 46-100

Being Lot 2 of Dietz Minor Subdivision, a plat of which is recorded in Plat Book 6 at page 51, Henderson County Clerk's Office, and to which plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Midatlantic Limited Properties, by deed dated 19 March 2003 and recorded in Deed Book 521 at page 303 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

TKO Properties, LLC is the owner of certain real property located at 1945 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-10 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 11th day of July, 2016, by the duly authorized representative of TKO Properties, LLC.
COMPANY NAME

By: R.W. Ousley
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by R.W. Ousley, TKO Properties LLC of Henderson, Ky, this 11th day of July, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1945 Springfield Drive
PVA ID # 46F-10

Being all of Lot # 10, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to TKO Properties, LLC, by deed dated 24 April 2014 and recorded in Deed Book 603 at page 252 in said Clerk's office.

Exhibit A

1933 Springfield Drive
PVA ID # 46F-12

Being all of Lot # 12, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to Bobby Langston and Jonna L. Langston, husband and wife, by deed dated July 1999 and recorded in Deed Book 487 at page 418 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

David Wade Miller is the owner of certain real property located at 1968 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.28 acres and designated as PVA Parcel 46F-16 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 10th day of July, 2016, by ~~the duly authorized representative of~~ _____
COMPANY NAME

By: 
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by David Wade Miller of Henderson, Ky, this 11th day of July, 2016.

My Commission expires 02-04-2018

Patricia A. Brown
Notary Public
Notary ID 503018

(Seal)

Exhibit A

1968 Springfield Drive
PVA ID # 46F-16

Being all of Lot # 16, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed to David Wade Miller, by deed dated 15 April 2009 and recorded in Deed Book 568 at page 685 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Derna Jean Gilles and Lorante Simeon are the owners of certain real property located at 601 Winchester Road, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.28 acres and designated as PVA Parcel 46F-17 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 25th day of April, 2016, by the duly authorized ~~representative of~~ _____
~~COMPANY NAME~~

By: Derna Jean Gilles
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Derna Jean Gilles of 601 Winchester Road, Ky 42420, this 25th day of April, 2016.

My Commission expires 02-04-2019

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

601 Winchester Road
PVA ID # 46F-17

Being all of Lot # 17, Greenbrier Subdivision, Winchester Road, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Derna Jean Gilles and Lorante Simeon, by deed dated December 2006 and recorded in Deed Book 553 at page 98 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Stinson Group LLC
~~Pea Ridge Waste Management LLC~~ (OWNER) is the owner of certain real property located at 608 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 2.32 acres and designated as PVA Parcel 46-100.1 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 27th day of May, 2016, by the duly authorized representative of Stinson Group LLC.
COMPANY NAME

By: Matthew Stinson partner
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Matthew Stinson of Stinson Group LLC, this 27 day of May, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

608 Highway 41A
PVA ID # 46-100.1

A parcel of land in Henderson County, Kentucky, located on US 41A south of Henderson, and being a portion of the former Hampton Kasey property:

BEGINNING at an iron pin set in the west right-of-way line of said U. S. Highway 41-A, said iron pin being located 35 feet west of the centerline of the existing pavement of said U. S. Highway 41-A, being the south-east corner of the Carl & Emma Lou Dietz property as recorded in Deed Book 233, page 228, in the Henderson County Court Clerk's Office, and being in an offset in said right-of-way line; thence with said offset, north 52 degrees 59 minutes 30 seconds west, a distance of 15.19 feet to an iron pin found at the northeast corner of the Michael Chambers property as recorded in Deed Book 293, page 488; thence with said Chambers property, north 52 degrees 59 minutes 30 seconds west, a distance of 488.59 feet to an iron pin set in the east right-of-way line of said South Collier Street, being located 25 feet east of the centerline of the existing pavement of said street, and being in a curve to the left in said right-of-way line; thence with said right-of-way line; running parallel with and 25 feet east of said centerline, around said curve in a counterclockwise direction having a delta angle of 22 degrees 12 minutes 45 seconds, an arc distance of 208.36 feet, a radius of 537.46 feet and a chord of north 32 degrees 52 minutes 09 seconds east, a distance of 207 .06 feet to an iron pin set in said right-of-way line and being the end of said curve; thence continuing with said right-of-way line, running parallel with and 25 feet east of said centerline, north 21 degrees 47 minutes 16 seconds east, a distance of 12.27 feet to the beginning of another curve to the left; parallel with 25 feet east of said centerline, around said second curve in a counterclockwise direction having a delta angle of 01 degrees 49 minutes 52 seconds, an arc distance of 45.09 feet, a radius of 1411.03 feet, and a chord of north 21 degrees 30 minutes 26 seconds east, a distance of 45.09 feet to an iron pin set in said right-of-way line and being a corner to Lot 1 of this division; thence with said Lot 1, south 73 degrees 32 minutes 08 seconds east, a distance of 186.32 feet to an iron pin set in the west right-of-way line of said U.S. Highway 41-A, said iron pin being located 35 feet west of the centerline of the existing payment and being in a curve to the left in said right-of-way line; thence around said curve in a counterclockwise direction having, a delta angle of 07 degrees 06 minutes 38 seconds, an arc distance of 486.43 feet, a radius of 3919.64 feet, and a chord of south 10 degrees 41 minutes 14 seconds east, a distance of 486.12 feet to the point of beginning containing 101,236 square feet or 2.3241 acres and being subject to all legal written and unwritten easements and rights of way. This description was prepared from a physical survey conducted by Dennis E. Branson, KY RLS #2532 on January 8, 1991.

Being Lot 2 of Dietz Minor Subdivision, a plat of which Subdivision, duly approved by Henderson City-County Planning Commission, is of record in Plat Book 6 at page 51, Henderson County Clerk's Office. See also Zoning Variance of record in Deed Book 412, at page 51, said Clerk's Office.

Being also the property conveyed to Pea Ridge Waste Management, LLC, by deed dated 6 December 2012 and recorded in Deed Book 593 at page 950 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

D.E. and Lillian F. Hout (OWNER) is the owner of certain real property located at 670 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.40 acres and designated as PVA Parcel 46B-60 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 13 day of April, 2016, by ~~the duly authorized~~
~~representative of~~ D E Hout & Lillian F Hout.
~~COMPANY NAME~~

By: Lillian Hout - D E Hout
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by DE & Lillian F Hout of Henderson, Ky, this 13 day of April, 2016.

My Commission expires 2/19/20.

Jo Laene Shellen
Notary Public

(Seal)

Exhibit A

670 Hwy 41A South
PVA ID # 46B-60

Being Lots Nos. 7, 8, 9, 83 & 84 of the Finley Addition to the City of Henderson, shown by plat thereof recorded in Deed Book 101, at Page 12, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Lots 7, 8 and 9 front 25 feet each, on the southwest side of Highway 41-A and extend back said width 140 feet, more or less; and Lots. Nos. 83 and 84 front 25 feet each, on the northeast side of O'Grady Street and extend back said width 140 feet and adjoin Lots Nos. 7 and 8 in the rear.

Being also the property conveyed to D.E. Hout and Lillian F. Hout, husband and wife, by deed dated 5 November 1997 and recorded in Deed Book 485 at page 650 in said Clerk's office.

Exhibit A

625 Highway 41A
PVA ID # 46-134

A parcel of land in Henderson County, Kentucky, located on US 41A south of Henderson, and being a portion of the former Hampton Kasey property:

BEGINNING at an iron pin on the east R/W line of US 41A, being 40 feet from the center line, and 758 feet south of line of Edward Utley; thence with line of Kasey remainder tract N 28-26' E 207.2 feet, N 14-27' W 54.2 feet, and N 63-28' E 123 feet to a point in the center of creek; thence with the center of Canoe Creek downstream S 19-15' E 79 feet and S 84-45' E 52.8 feet to a point in the center of said creek at line of Ella Swope; thence with line of Ella Swope S 25-31' W 370 feet to an iron pin in north side of lane at north line of Greenbriar Subdivision; thence with north side of lane S 58-10' W 99 feet to the line of US 41A; thence northerly with the line of US 41A with a 1 degree-30 minute curve to the right for 187 feet to the point of beginning and containing 1.57 acres, and being Lot #4 of plat of four lots made by Branson Survey and Engineering on February 2, 1968.

A parcel of land in Henderson County, Kentucky, located on US 41A south of Henderson, and further described as follows:

BEGINNING on the east side of US 41A at the northwest corner of Roy Corbell 18.59 acre tract, 40.00 feet from the center of same; thence with US 41A northerly 16.6 feet to a corner to Lot #4 1.57 acre lot; thence with Lot #4 and the north line of original 23.00 acre tract as deeded to Ella Swope as follows: N 58 degrees 13' E, 99.00 feet and N 25 degrees 34' E, 370.00 feet to the center of Canoe Creek; thence with creek, S 84 degrees 56' E, 178.2 feet, N 62 degrees 34' E, 228.36 feet and S 79 degrees 30' E, 114.11 feet to a corner of Roy Corbell 18.59 acre tract; thence with Corbell Tract as follows: S 28 degrees 11' W, 326.00 feet, N 81 degrees 27' W, 209.00 feet, S 60 degrees 37' W 170.00 feet, S 84 degrees 43' W, 41.00 feet, S 51 degrees 39' W, 109.00 feet and S 58 degrees 13' W, 112.00 feet to the point of beginning and contains 2.77 acres.

Being also the property conveyed to James E. Franks and his wife, Karyn F. Franks, by deed dated 1 December 2006 and recorded in Deed Book 567 at page 1061 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Tommy A. and Michelle Hale is the owner of certain real property located at 1992 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-29 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 26th day of March, 2016, by the duly authorized representative of _____
COMPANY NAME

By: Tommy A. Hale
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Tommy A. Hale of _____, this 26th day of April, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1992 Springfield Drive
PVA ID # 46F-29

Being all of Lot # 29, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Tommy A. Hale and Michelle Hale, husband and wife, by deed dated 31 August 2006 and recorded in Deed Book 551 at page 317 in said Clerk's office.

City of Henderson, Kentucky

CONSENT TO ANNEXATION

Otha Ray Brown & Wanda Brown is the owner of certain real property located at 1998 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-30 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 15th day of February, 2016, by the duly authorized-

~~representative of~~ _____

COMPANY NAME

Wanda J Brown

By: Otha Ray Brown
~~Representative~~

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Wanda Jean Brown Otha Ray Brown of 1998 Springfield Drive Henderson Ky 42420, this 15th day of February, 2016.

My Commission expires 02-04-2018

Patricia A. Brown

Notary Public

(Seal)

Exhibit A

1998 Springfield Drive

PVA ID # 46F-30

Being all of Lot # 30, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property. Being also the property conveyed Otha Ray Brown and Wanda Jean Brown, by deed dated 5 December 1972 and recorded in Deed Book 262 at page 556 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Randy D. Waddell & Karen R. Waddell is the owner of certain real property located at 1969 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.27 acres and designated as PVA Parcel 46F-6 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 29th day of April, 2016, by the duly authorized representative of _____
COMPANY NAME

By: Randy D. Waddell Karen Waddell
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Randy D. Waddell ^{Karen Waddell} of 1969 Springfield Dr., Henderson, this 29th day of April, 2016.

My Commission expires 02-04-2018

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

1969 Springfield Drive
PVA ID # 46F-6

Being all of Lot # 6, Greenbrier Subdivision, Springfield Drive, a final plat of which is recorded in Deed Book 258 at page 498, in the Henderson County Court Clerk's Office, to which map or plat reference is hereby made for a more particular description of the property.

Being also the property conveyed to Randy D. Waddell and Karen R. Waddell, husband and wife, by deed dated 28 April 1992 and recorded in Deed Book 422 at page 69 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Donald Lee Mullins is the owner of certain real property located at 515 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46C-15 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 14th day of July, 2016, by the ~~duly authorized~~ representative of _____
COMPANY NAME →

By: Donald Lee Mullins
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Donald Lee Mullins of Henderson, Ky, this 14th day of July, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

515 Highway 41A
PVA ID # 46C-15

The following described real property, improvements and appurtenances, located in Henderson County, Kentucky, to-wit:

Beginning in the West line of U.S. 41 and the north line of Baskett Avenue, south of Henderson, Kentucky, and being 42.35 feet N 11-46 West of the north East corner of Charly Minton; thence with north line of Baskett Ave., N 81 49 West 150 feet to an iron pin; being a corner to Mrs. Miley Baskett remainder tract; thence with remainder tract N 8 – 11 W 80 feet, S 81 – 49 E 122.4 feet to the West line of U.S. 41-A; then with U.S. 41-A S 11 – 46 E 84.7 feet to the point of beginning, according to survey of R.E. Branson made on March 4, 1966.

Being also the property conveyed to Malcolm Raymond Mullins and Betty June Mullins, by deed dated 20 July 1966 and recorded in Deed Book 226 at page 236 in said Clerk's office. Said Betty June Mullins died testate on 11 April 2013 and bequeathed the above described real estate to Donald Mullins, by will recorded in Will Book 42 at page 265.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Charles E. Minton, II, and Linda Minton is the owner of certain real property located at 535 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 1.90 acres and designated as PVA Parcel 46-98 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 11th day of July, 2016, by ~~the duly authorized~~
~~representative of~~ _____

COMPANY NAME

Linda D. Minton
By Charles E. Minton II
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Charles E. Minton II & Linda Minton of Henderson, Ky, this 11th day of July, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public
Notary ID 503018

(Seal)

Exhibit A

535 Highway 41A
PVA ID # 46-98

The following described real property, improvements and appurtenances, located in Henderson County, Kentucky, to-wit:

Beginning at an iron stake in the west right-of-way line of U. S. Highway No. 41-A, 40 feet from the centerline of same, corner with Miley Baskett, runs S 8-30 E 100 feet with said right-of-way line to an iron stake, corner with Forrest Tapp in the west right-of-way of said Highway; thence N 81-15 W 910 feet to a stake on the south side of Canoe Creek, corner with Forrest Tapp and Mrs. M. C. Osburn Heirs; thence N 21 W 112 feet to a point in the center of Canoe Creek, corner with the Mrs. M. C. Osburn Heirs and Miley Baskett; thence with Miley Baskett S 81-15 E 930 feet to the point of beginning, containing 1.9 acres, according to survey of W.W. Poole, registered engineer, February 22, 1955.

Being also the property conveyed to Charles E. Minton, II, and Linda D. Minton, husband and wife, by deed dated 25 June 2004 and recorded in Deed Book 532 at page 39 in said Clerk's office.

City of Henderson, Kentucky

CONSENT TO ANNEXATION

Charles E. Minton, II, and Linda Minton is the owner of certain real property located at 533 US Hwy 41 A, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 1.885 acres and designated as PVA Parcel 46-97 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420(1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420(2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 11th day of July, 2016, by ~~the duly authorized~~ representative of Charles E. Minton & Linda D. Minton
~~COMPANY NAME~~

~~By:~~ _____
~~Representative~~

STATE OF KENTUCKY
COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Charles E. Minton & Linda D. Minton of Henderson Kentucky, this 11th day of July, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public

(Seal)

Exhibit A

533 Highway 41A
PVA ID # 46-97

The following described lot located on the west side of U.S. Highway 41 near intersection of said Highway with U.S. Highway 60 and one mile south of Henderson, Kentucky, to-wit:

Beginning at an iron stake, corner with Charlie Minton lot in the west right of way line of U.S. Highway 41, and 100 feet northwest from Russell Wilson's corner, runs with said right of way line: N 11° 45' W 106 feet to an iron stake, corner with Miley Baskett; thence with Miley Baskett as follows: N 81° 50' W 132.2 feet to a stake; and S 8° 11' W 100 feet to a stake; corner with Miley Baskett in Charlie Minton's line; thence with said Minton: S 81° 50' E 167. 9 feet to the place of beginning containing 0.34 acres, according to survey of W. W. Poole, Registered Engineer, Corydon, Kentucky, R.F.D. 1.

Being also the property conveyed to Charles E. Minton, II, and wife, Linda D. Minton, by deed dated 6 March 1984 and recorded in Deed Book 344 at page 618 in said Clerk's office.

City of Henderson, Kentucky
CONSENT TO ANNEXATION

Steven Thomas is the owner of certain real property located at 1957 Springfield Drive, Henderson, KY 42420 in the County of Henderson, Kentucky and containing approximately 0.26 acres and designated as PVA Parcel 46F-8 which property is more particularly described on Exhibit "A" attached hereto; and as said OWNER does hereby consent in writing to the annexation into the City of Henderson of said property as described in said Exhibit. Also OWNER does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420 (1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420 (2); and OWNER further certifies that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 26th day of July, 2016, by ~~the~~ duly authorized representative of _____
-COMPANY NAME-

By: Steven Thomas
Representative

STATE OF KENTUCKY

COUNTY OF HENDERSON ... SCT.

THE foregoing Consent to Annexation was signed and acknowledged before me, a notary public, by Steven Thomas of 1957 Springfield Drive Henderson, Ky, this 26th day of July, 2016.

My Commission expires 02-04-2018.

Patricia A. Brown
Notary Public Notary ID 503018

(Seal)

Exhibit A

1957 Springfield Drive
PVA ID # 46F-8

The following described real estate located in Henderson County, Kentucky, to-wit:

Tract 1: Being all of Lot #8, in Greenbriar Subdivision, Springfield Drive, a plat of which is recorded in Deed Book 244, at page 336, in the Henderson County Court Clerk's office, to which map or plat reference is hereby made for a more particular description of the property hereby conveyed.

LESS the following described tract which was conveyed to Elmer H. Girten and his wife, Patricia Ann Girten, by deed dated June 30, 1973, and recorded in Deed Book 266, page 509, in the Henderson County Clerk's Office, to wit:

Beginning at original rear corner between lots 8 and 9 (shown as 2" pipe on plat), thence southerly with original side line 74.22 feet, thence back to rear line of lot 8, N 4° 45' W, 75.9 feet to an iron pin; thence S 81° 27' E, 10 feet to the point of beginning, and being a portion of Lot 8 of Greenbriar Subdivision as shown by plat recorded in Deed Book 244, page 336, in the Henderson County Court Clerk's Office.

Tract 2: Beginning at original front corner between Lots 8 and 9, located 25 feet from center of Springfield Drive and 70 feet east of Lot 7; thence back to Springfield Drive, S 4° 45' E, 75 feet to an iron pin; thence westerly 10 feet to the point of beginning, and being a portion of Lot No. 9, of Greenbriar Subdivision as shown by plat recorded in Deed Book 258, page 498, in the Henderson County Court Clerk's Office..

Being also the property conveyed to Steven Thomas, by deed dated 9 July 2010 and recorded in Deed Book 576 at page 970 in said Clerk's office.

CONSENT TO ANNEXATION

Southern Indiana Gas & Electric Co., (Vectren) ,One Vectren Square, Evansville, Indiana 47708 is the owner of certain real property located at 540 HWY 41-A in Henderson County, which property is more particularly described in Exhibit "A-1" attached hereto; and as said owner does hereby consent in writing to the annexation into the City of Henderson, Kentucky of said property as described in said Exhibit. Also, Vectren does hereby waive all notice requirements with respect to such annexation, including, but not limited to the notices otherwise required by KRS 81A.420(1), KRS 81A.425, and the sixty (60) day waiting period provided for in KRS 81A.420(2); and Vectren, states that it is the sole owner of the property to be annexed as described in the attached Exhibit.

SIGNED this 4th day of August, 2016.

Southern Indiana Gas & Electric Co. (Vectren)

By: P. Jason Stephenson

~~INDIANA~~
STATE OF ~~KENTUCKY~~
VANDERBURGH
COUNTY OF ~~HENDERSON~~ SCT.

THE foregoing CONSENT TO ANNEXATION was signed and acknowledged before me, a Notary Public, by P. Jason Stephenson, representing Southern Indiana Gas & Electric Co., (Vectren) this 4th day of August, 2016.

My commission expires July 4, 2022.

Mary Etta Smith
Notary Public

(Seal)

<p>MARY ETTA SMITH NOTARY PUBLIC SEAL VANDERBURGH COUNTY, STATE OF INDIANA MY COMM. EXP. JULY 4, 2022</p>
--

Property Description

A certain tract or parcel of land in Henderson County, Kentucky, on the West side of the Henderson and Morganfield road (also known as U.S. Highway 41-A), about two miles from the City of Henderson at the time of the survey, and bounded as follows:

Beginning at a stake, corner to Selle & Frederick on the West side of the Corydon & Henderson Gravel road; thence with said side of said road N 6-1/2 E 12 poles and 18 links to a stake; thence N 81-3/4 W 55 poles and 10 links to a stake in the middle of Canoe Creek two small ash pointers; thence with said Creek S 17-1/2 W 12 poles and 20 links to a stake in the middle of creek and corner to Selle & Frederick; thence with their line 81-3/4 poles and 13 links to the beginning, containing 4 and 46/100 acres.

DESCRIPTION
PROPOSED ANNEXATION AREA
HWY 41-A
HENDERSON COUNTY, KENTUCKY



Clifton L. Krahwinkel 9-9-16

A certain tract of parcel located approximately 1,000 feet south of U.S. Hwy. 60 along U.S. Hwy 41-A in Henderson County, Kentucky, and being more specifically described as follows:

All bearings stated hereon are referred to Kentucky State Plane South Zone (NAD 83).

Beginning at a corner to the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 03-08, being in the west line of Annexation Ordinance No. 30-77 and being located in the east right-of-way line of U.S. Hwy 41-A, thence with said right-of-way line and with the existing city limits Ordinance No. 30-77, SOUTH 04 DEGREES 39 MINUTES 27 SECONDS EAST, a distance of 587.63 feet to a point in said right-of-way and being the southwest corner of said ordinance;

Thence leaving the said existing limits of the City of Henderson, Kentucky and continuing with said right-of-way the following two (2) calls:

- 1) SOUTH 04 DEGREES 39 MINUTES 27 SECONDS EAST, a distance of 452.28 feet to a point in said right-of-way
- 2) With a curve to the left, having an arc length of 415.34 feet, having a radius of 3780.00 feet, a chord bearing of SOUTH 07 DEGREES 48 MINUTES 19 SECONDS EAST, and a chord length of 415.13 feet to a point in said right-of-way and being a corner of the James & Karyn Franks property recorded in Deed Book 567 Page 1061 in the Henderson County Court Clerk's Office in Henderson, Kentucky;

Thence leaving said right-of-way and with said Franks property the following three (3) calls:

- 1) NORTH 34 DEGREES 39 MINUTES 42 SECONDS EAST, a distance of 207.20 feet to a point at a corner of said Franks property;
- 2) NORTH 21 DEGREES 00 MINUTES 42 SECONDS EAST, a distance of 54.20 feet to a point at a corner of said Franks property;
- 3) NORTH 69 DEGREES 41 MINUTES 42 SECONDS EAST, a distance of 123.00 feet to a point at a corner of said Franks property and being in the center of Canoe Creek;

Thence continuing with said Franks property and with the center of said creek the following eight (8) calls:

- 1) SOUTH 27 DEGREES 18 MINUTES 15 SECONDS EAST, a distance of 65.29 feet to a point;
- 2) SOUTH 60 DEGREES 38 MINUTES 41 SECONDS EAST, a distance of 97.49 feet to a point;
- 3) SOUTH 85 DEGREES 58 MINUTES 44 SECONDS EAST, a distance of 98.24 feet to a point;
- 4) NORTH 74 DEGREES 29 MINUTES 46 SECONDS EAST, a distance of 171.45 feet to a point;
- 5) NORTH 65 DEGREES 33 MINUTES 43 SECONDS EAST, a distance of 76.92 feet to a point;
- 6) NORTH 77 DEGREES 36 MINUTES 41 SECONDS EAST, a distance of 45.88 feet to a point;
- 7) NORTH 86 DEGREES 26 MINUTES 32 SECONDS EAST, a distance of 50.36 feet to a point;
- 8) SOUTH 84 DEGREES 59 MINUTES 10 SECONDS EAST, a distance of 44.45 feet to a point in the center of said creek and being the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 258 Page 498;

Thence continuing with the center of Canoe Creek and with said Greenbriar Subdivision the following five (5) calls:

- 1) SOUTH 82 DEGREES 34 MINUTES 07 SECONDS EAST, a distance of 16.27 feet to a point;
- 2) SOUTH 64 DEGREES 37 MINUTES 09 SECONDS EAST, a distance of 62.43 feet to a point;
- 3) SOUTH 52 DEGREES 52 MINUTES 29 SECONDS EAST, a distance of 137.31 feet to a point;
- 4) SOUTH 47 DEGREES 47 MINUTES 15 SECONDS EAST, a distance of 85.48 feet to a point;
- 5) SOUTH 42 DEGREES 00 MINUTES 52 SECONDS EAST, a distance of 42.62 feet to a point in the center of said creek and being the southeast corner of said Greenbriar Subdivision;

Thence leaving said creek and continuing with said Greenbriar Subdivision the following four (4) calls:

- 1) SOUTH 32 DEGREES 25 MINUTES 43 SECONDS WEST, a distance of 385.26 feet to a point at a corner of said subdivision;
- 2) SOUTH 49 DEGREES 00 MINUTES 10 SECONDS WEST, a distance of 147.40 feet to a point at a corner of said subdivision;

- 3) SOUTH 18 DEGREES 34 MINUTES 20 SECONDS EAST, a distance of 210.00 feet to a point at a corner of said subdivision;
- 4) SOUTH 71 DEGREES 28 MINUTES 32 SECONDS WEST, a distance of 350.00 feet to a point at a corner of said subdivision and being in the line of the Patricia Phillips property recorded in Deed Book 204 Page 450;

Thence with said Phillips property the following two (2) calls:

- 1) SOUTH 53 DEGREES 45 MINUTES 01 SECONDS EAST, a distance of 152.08 feet to a point at a corner of said Phillips property;
- 2) SOUTH 48 DEGREES 38 MINUTES 26 SECONDS WEST, a distance of 385.17 feet to a point at a corner of said Phillips property and being in the east right-of-way line of U.S. Hwy. 41-A;

Thence leaving said Phillips property and crossing the existing right-of-way of U.S. Hwy 41-A, SOUTH 62 DEGREES 17 MINUTES 11 SECONDS WEST, a distance of 80.00 feet to a point in the west right-of-way line of said hwy.;

Thence with the west right-of-way line of U.S. Hwy 41-A, with a curve to the right, having an arc length of 216.11 feet, having a radius of 3860.00 feet, a chord bearing of NORTH 26 DEGREES 06 MINUTES 35 SECONDS WEST, and a chord length of 216.08 feet to a point in said right-of-way line and being the southeast corner of the D.E. & Lillian Hout property recorded in Deed Book 485 Page 650, a plat of which is recorded in Deed Book 101 Page 12;

Thence with said Hout property the following three calls:

- 1) SOUTH 55 DEGREES 40 MINUTES 18 SECONDS WEST, a distance of 141.74 feet to a point at a corner of said Hout property;
- 2) NORTH 30 DEGREES 55 MINUTES 11 SECONDS WEST, a distance of 24.81 feet to a point to a point at a corner of said Hout property;
- 3) SOUTH 55 DEGREES 44 MINUTES 17 SECONDS WEST, a distance of 139.96 feet to a point at the southwest corner of said Hout property and being in the east right-of-way line of O'Grady St;

Thence with the right-of-way line of said O'Grady St. the following two (2) calls:

- 1) NORTH 30 DEGREES 55 MINUTES 11 SECONDS WEST, a distance of 174.79 feet to a point at the northeast corner of said right-of-way;
- 2) SOUTH 55 DEGREES 27 MINUTES 00 SECONDS WEST, a distance of 40.08 feet to a point at the northwest corner of said right-of-way and being a corner of the Alan Holeman property recorded in Deed Book 413 Page 136, a plat of which is recorded in Plat Book 9 Page 256;

Thence with said Holeman property, SOUTH 55 DEGREES 28 MINUTES 43 SECONDS WEST, a distance of 310.62 feet to a point at a corner of said Holeman property and being located in the center of Canoe Creek;

Thence continuing with said Holeman property and with the center of said creek the following two (2) calls:

- 1) NORTH 40 DEGREES 06 MINUTES 57 SECONDS WEST, a distance of 25.05 feet to a point;
- 2) NORTH 62 DEGREES 07 MINUTES 21 SECONDS WEST, a distance of 28.13 feet to a point at a corner of the Alan Holeman property recorded in Deed Book 499 Page 351 and being in the center of said creek;

Thence with said Holeman property and with the center of said creek, NORTH 63 DEGREES 50 MINUTES 45 SECONDS WEST, a distance of 145.00 feet to a point at a corner of said Holeman property and being in the center of said creek;

Thence leaving said creek and continuing with said Holeman property, NORTH 54 DEGREES 01 MINUTES 31 SECONDS EAST, a distance of 473.66 feet to a point at a corner of Holeman property and being in the line of Lot 1 Billie & Eric Corbell Subdivision and Consolidation, a plat of which is recorded in Plat Book 7 Page 249;

Thence with said Lot 1 the following two (2) calls:

- 1) NORTH 21 DEGREES 02 MINUTES 32 SECONDS WEST, a distance of 80.66 feet to a point at a corner of said Lot 1;
- 2) NORTH 67 DEGREES 30 MINUTES 59 SECONDS EAST, a distance of 314.20 feet to a point in the west right-of-way line of U.S. Hwy 41-A;

Thence with a curve to the right, having an arc length of 210.98 feet, having a radius of 3860.00 feet, a chord bearing of NORTH 16 DEGREES 49 MINUTES 07 SECONDS WEST, and a chord length of 210.95 feet to a point in said right-of-way and being in the south line of the Pea Ridge Waste Management, LLC property recorded in Deed Book 593 Page 950, a plat of which is recorded in Plat Book 6 Page 51;

Thence leaving said right-of-way and with the south line of said LLC property, NORTH 53 DEGREES 58 MINUTES 01 SECONDS WEST, a distance of 523.19 feet to a point in the center of the existing pavement of Collier Road;

Thence with the center of the existing pavement of Collier Road the following nine (9) calls:

- 1) NORTH 44 DEGREES 41 MINUTES 00 SECONDS EAST, a distance of 18.06 feet to a point in the center of said pavement;

- 2) NORTH 39 DEGREES 59 MINUTES 17 SECONDS EAST, a distance of 38.70 feet to a point in the center of said pavement;
- 3) NORTH 33 DEGREES 13 MINUTES 54 SECONDS EAST, a distance of 45.14 feet to a point in the center of said pavement;
- 4) NORTH, 28 DEGREES 34 MINUTES 00 SECONDS EAST, a distance of 63.36 feet to a point in the center of said pavement;
- 5) NORTH 22 DEGREES 00 MINUTES 21 SECONDS EAST, a distance of 90.35 feet to a point in the center of said pavement;
- 6) NORTH 16 DEGREES 26 MINUTES 31 SECONDS EAST, a distance of 116.67 feet to a point in the center of said pavement;
- 7) NORTH 12 DEGREES 56 MINUTES 11 SECONDS EAST, a distance of 111.87 feet to a point in the center of said pavement;
- 8) NORTH 09 DEGREES 42 MINUTES 57 SECONDS EAST, a distance of 114.45 feet to a point in the center of said pavement;
- 9) NORTH 10 DEGREES 16 MINUTES 32 SECONDS EAST, a distance of 321.29 feet to a point in the center of said pavement and being in the west right-of-way line of U.S. Hwy 41-A;

Thence leaving said Collier Road and with the west right-of-way line of said hwy., NORTH 04 DEGREES 39 MINUTES 27 SECONDS WEST, a distance of 11.46 feet to a point in said right-of-way and being in the south line of the Southern Indiana Gas & Electric Co. property recorded in Deed Book 590 Page 654;

Thence with the south line of said Southern Indian property, NORTH 76 DEGREES 45 MINUTES 09 SECONDS WEST, a distance of 1007.31 feet to a point in the center of Canoe Creek, being in the line of the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 22-89 and being in the line of the Coudret Properties, Inc. property recorded in Deed Book 558 Page 332;

Thence with the center of said creek, said existing limits of the City of Henderson, Kentucky and said Coudret property the following four (4) calls:

- 1) NORTH 45 DEGREES 40 MINUTES 42 SECONDS EAST, a distance of 152.00 feet to a point;
- 2) NORTH 19 DEGREES 10 MINUTES 02 SECONDS EAST, a distance of 85.93 feet to a point;
- 3) NORTH 11 DEGREES 11 MINUTES 49 SECONDS EAST, a distance of 129.64 feet to a point;
- 4) NORTH 04 DEGREES 51 MINUTES 30 SECONDS WEST, a distance of 72.11 feet to a point in the center of Canoe Creek and being a corner

of the Charles E. & Linda Minton property recorded in Deed Book 355 Page 701;

Thence leaving said creek, said existing limits to the City of Henderson, Kentucky and said Coudret property and with the north line of said Minton property, SOUTH 76 DEGREES 16 MINUTES 36 SECONDS EAST, a distance of 574.85 feet to a point in the north line of said Minton property and being located at the southwest corner of the Betty Mullins property recorded in Deed Book 365 Page 8, a plat of which is recorded in Plat Book 4 Page 384-B;

Thence leaving said Minton property and with said Mullins property the following two (2) calls:

- 1) NORTH 14 DEGREES 06 MINUTES 34 SECONDS EAST, a distance of 120.55 feet to a point at the northwest corner of said Mullins property;
- 2) SOUTH 75 DEGREES 58 MINUTES 10 SECONDS EAST, a distance of 47.81 feet to a point at the southwest corner to the existing limits of the City of Henderson, Kentucky as described in Annexation Ordinance No. 03-08;

Thence with said existing city limits line SOUTH 75 DEGREES 58 MINUTES 10 SECONDS EAST, a distance of 150.00 feet to a point at a corner of said existing city limits line and being in the west right-of-way line of U.S. Hwy 41-A;

Thence continuing with said existing city limits line and crossing the existing right-of-way of said hwy., NORTH 85 DEGREES 20 MINUTES 33 SECONDS EAST, a distance of 80.00 feet to the point of beginning and containing 41.180 acres more or less. This description was prepared from a PROPERTY ANNEXATION EXHIBIT prepared by Clifton L. Krahwinkel, Ky. P.L.S. #3685 of Branson Surveys, inc. on August 1, 2016.

There is to be excepted from this description the James Ervin property recorded in Deed Book 556 Page 315, being Lot 7 of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336 and which is more particularly described as follows:

Commencing at the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 258 Page 498 in the Henderson County Court Clerk's Office in Henderson, Kentucky, said northeast corner being located in the center of Canoe Creek, thence with the north line of said subdivision, SOUTH 33 DEGREES 31 MINUTES 07 SECONDS WEST, a distance of 370.14 feet to the northeast corner of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336; Thence with the north line of said Subdivision, NORTH 76 DEGREES 06 MINUTES 53 SECONDS WEST, a distance of 75.00 feet to the northeast corner of the James Ervin property recorded in Deed Book 556 Page 315, being Lot 7 of the Greenbriar Subdivision, a plat of which is recorded in Deed Book 244 Page 336, this being the true Point Of Beginning of this description;

Thence with the east line of said Ervin property, SOUTH 06 DEGREES 09 MINUTES 20 SECONDS WEST, a distance of 161.50 feet to the southeast corner of said Ervin property and being located in the north right-of-way line of Springfield Drive; thence with said right-of-way, with a curve to the left, having an arc length of 70.04 feet, having a radius of 598.00 feet, a chord bearing of SOUTH 89 DEGREES 37 MINUTES 02 SECONDS WEST, and a chord length of 70.00 feet to a point in said right-of-way and being the southwest corner of said Ervin property; thence leaving said right-of-way and with the west line of said Ervin property, NORTH 01 DEGREES 31 MINUTES 46 SECONDS WEST, a distance of 183.90 feet to the northwest corner of said Ervin property; thence with the north line of said Ervin property, SOUTH 76 DEGREES 06 MINUTES 53 SECONDS EAST, a distance of 95.00 feet to the point of beginning and containing 13,989 sq.ft. more or less. This description was prepared from a PROPERTY ANNEXATION EXHIBIT prepared by Clifton L. Krahwinkel, Ky. P.L.S. #3685 of Branson Surveys, inc. on August 1, 2016.



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop, Executive Director, AICP
bbishop@hendersonplanning.org
270-831-1289

September 7, 2016

Mayor Steve Austin
City Commissioners
Henderson Municipal Center
Henderson, KY 42420

ATTN: Russell Sights, City Manager

Please be advised on Tuesday, September 6, 2016 the Henderson City-County Planning Commission held a Public Hearing to consider the following:

REZONING #1060 Assignment of Zoning Classification – Following action of the Henderson City Commission to begin annexation proceedings, the Planning Commission will hold a public hearing, in order to assign zoning classifications for the properties located on US Hwy 41-A for annexation.

Section #1: consists of Parcel #46C-15; #46-97; #46-98; and #46-99 currently zoned County Two Family Residential District (R-2), and the proposed zone for these parcels for annexation is City Medium Density Residential District (R-2).

Section #2: consists of Parcel #46-100 and is currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Highway Commercial (HC).

Section #3: consists of Parcel #46-100.1, currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #4-A: consists of Parcel #46B-15 & #46B-60 are currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #4-B: consists of Parcels #46B-54 & #46B-78, currently zoned County Highway Commercial, and the proposed zone for annexation is City Heavy Industrial District M-2;

Section #5: consists of Parcel #46-131, currently zoned County Light Industrial District (M-1), and the proposed zone for annexation is City Heavy Industrial District (M-2).

Section #6: consists of Parcels #46F-1, #46F-2, #46F-3, #46F-4, #46F-5, #46F-6, #46F-8, #46F-9, #46F-10, #46F-11, #46F-12, #46F-13, #46F-14, #46F-15, #46F-16, #46F-17, #46F-18, #46F-19, #46F-20, #46F-21, #46F-22, #46F-23, #46F-24, #46F-25, #46F-26, #46F-27, #46F-28, #46F-29, and #46F-30, currently zoned County Two Family Residential District (R-2), and the proposed zone for annexation is City Medium Density Residential District (R-2).

Section #7: consists of Parcel #46-134, currently zoned County Two Family Residential District (R-2), and the proposed zone for annexation is City Residential Mobile Home District (R-MH).

PLANNING COMMISSION RECOMMENDATION- ***MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY DAVID DIXON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 1, CONSISTING OF PARCELS 46C-15, 46-97, 46-98 AND 46-99 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENSITY RESIDENTIAL (R-2). THIS REZONING IS APPROPRIATE SINCE THE PARCELS ARE BEING ANNEXED INTO THE CITY AND THE CITY'S ZONING CLOSELY MATCHES THAT OF THE COUNTY.***

***ALL IN FAVOR: AYE
OPPOSED: NONE***

PLANNING COMMISSION RECOMMENDATION - ***MOTION WAS MADE BY DAVID DIXON, SECONDED BY KEVIN RICHARD TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 2, CONSISTING OF PARCEL 46-100 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HIGHWAY COMMERCIAL (H-C). THE REQUEST IS IN AGREEMENT WITH THE COMPREHENSIVE PLAN AND MAJOR CHANGES TO ECONOMIC, PHYSICAL AND SOCIAL NATURE OF THE AREA HAVE OCCURRED AND, THIS PROPERTY HAS HISTORICALLY BEEN USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.***

***ALL IN FAVOR: AYE
OPPOSED: NONE***

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY RODNEY THOMAS, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 3, CONSISTING OF PARCEL 46-100.1 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE INFRASTRUCTURE UPGRAGES ALONG HWY 41 A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS REZONING APPLICATION.

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY DAVID DIXON, SECONDED BY DAVID WILLIAMS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4A, CONSISTING OF PARCELS 46B-15 AND 46B-60 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THE CURRENT USE OF THE PROPERTY IS MORE AKIN TO HEAVY INDUSTRIAL.

ALL IN FAVOR: AYE

OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -MOTION WAS MADE BY DAVID DIXON, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 4B, CONSISTING OF PARCELS 46B-54 AND 46B-78 FROM COUNTY HIGHWAY COMMERCIAL (H-C) TO CITY HEAVY INDUSTRIAL (M-2). THE AREA HAS EXPERIENCED A MAJOR IN CHANGE IN THAT SANITARY SEWER FACILITIES ARE NOW ACCESSABLE. PREVIOUSLY, THIS AREA WAS SERVICED BY INDIVIDUAL SEPTIC SYSTEMS; THE INFRASTRUCTURE UPGRADES ALONG HWY 41A HAVE SUBSTANTIALLY CHANGED THE PHYSICAL AND SOCIAL NATURE OF THE AREA TO FACILITATE THIS ZONING APPLICATION; THIS PROPERTY HAS BEEN HISTORICALLY USED FOR COMMERCIAL USES AND THE PROPOSED ZONING IS MORE APPROPRIATE.

ALL IN FAVOR: AYE
OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY BOBBIE JARRETT TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 5, CONSISTING OF PARCEL 46-131 FROM COUNTY LIGHT INDUSTRIAL (M-1) TO CITY HEAVY INDUSTRIAL (M-2). THIS REQUEST GUIDES INDUSTRIAL GROWTH TO EXISTING INDUSTRIAL AREAS AND ASSURES THEY ARE COMPATIBLE WITH SURROUNDING AREAS.**

ALL IN FAVOR: AYE
OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY RODNEY THOMAS TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 6, CONSISTING OF PARCELS 46F-1 THROUGH 46F-30 MINUS 46F-7 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY MEDIUM DENISITY RESIDENTIAL (R-2). BEING THAT IS THE CURRENT USE OF THE PROPERTY AND RECOMMENDING THIS ZONING IS APPROPRIATE TO THE COMPREHENSIVE PLAN.**

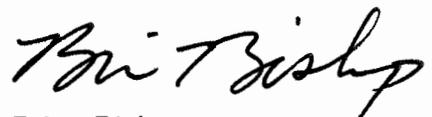
ALL IN FAVOR: AYE
OPPOSED: NONE

PLANNING COMMISSION RECOMMENDATION -**MOTION WAS MADE BY KEVIN RICHARD, SECONDED BY DICKIE JOHNSON TO RECOMMEND TO THE CITY COMMISSION REZONING #1060, SECTION 7, CONSISTING OF PARCEL 46-134 FROM COUNTY TWO FAMILY RESIDENTIAL (R-2) TO CITY RESIDENTIAL MOBILE HOME (R-MH); BEING THIS IS MORE APPROPRIATE TO THE CURRENT USAGE AND HISTORICAL NATURE OF THIS PARCEL.**

ALL IN FAVOR: AYE
OPPOSED: NONE

Attached is a copy of the transcript of the public hearing, and documents related to the annexation.

Respectfully submitted,

A handwritten signature in black ink that reads "Brian Bishop". The signature is written in a cursive, flowing style.

Brian Bishop
Executive Director, AICP
Henderson City-County Planning Commission

BB/tgc
Cc: Dawn Kelsey

City Commission Memorandum
16-200

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Regulating Sale of Merchandise on Sidewalk in the Central Business District

An item for the agenda of Tuesday, September 13, 2016, is first reading of an ordinance regulating the sale of merchandise on sidewalks in the Central Business District.

You may recall at the July 26, 2016 meeting, Downtown Henderson Partnership reported on the results of the survey that was completed at the request of the City to DHP members relating to allowing merchandising on public sidewalks in the downtown area. Of the twenty-four businesses polled, there were no objections; thirteen for; and eleven that either it would not affect or did not respond. After discussion, a decision was made to move forward with allowing merchandising on City sidewalks, with no fee or season for the Permit, but with a liability insurance requirement naming the City as additional insured.

Your approval of the attached ordinance is requested.

c: Dawn Kelsey
Downtown Henderson Partnership

ORDINANCE NO. _____

ORDINANCE RELATING TO MERCHANTS USE OF
SIDEWALK IN CENTRAL BUSINESS DISTRICT

SUMMARY: ORDINANCE ESTABLISHING SECTION 20-11, *SALE OF MERCHANDISE ON SIDEWALK IN CENTRAL BUSINESS DISTRICT*, OF ARTICLE I, *IN GENERAL* OF CHAPTER 20, *STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*, OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON PERMITTED TO BUSINESSES LOCATED IN THE CENTRAL BUSINESS DISTRICT

BE IT ORDAINED, by the City of Henderson that Section 20-11, *Sale of Merchandise on Sidewalk in Central Business District*, of Article I, *In General*, of Chapter 20, *Streets Sidewalks, and Other Public Sidewalks*, of the City's Code of Ordinances pertaining to certain permitted businesses within the Central Business District is hereby established as follows:

Section: 20-11- Sale of merchandise on sidewalk in the Central Business District.

- (a) Any merchant who regularly engages in the retail sales of merchandise in the Central Business District shall have the right to display and sell merchandise regularly sold by such merchant on any city sidewalk which adjoins the place of business of such merchant without the necessity of procuring a permit which is otherwise required pursuant to section 20-1. Provided, however, such activities shall not extend into any adjoining street or thoroughfare.
- (b) Notwithstanding the foregoing authorization, any merchant who displays and sells merchandise on city sidewalks in the Central Business District shall comply with the following regulations:
- (1) The display and sale of merchandise on any city sidewalk shall only take place during the business hours of the merchant, and all merchandise, including any display apparatus, and any equipment or other related apparatus, together with any trash and debris, shall be removed from the city sidewalk immediately upon the close of business.
 - (2) The display and sale of merchandise on any city sidewalk shall be done in an orderly and reasonable manner, and shall not extend farther than three (3) feet from the front of the business into the sidewalk and shall at no time obstruct the public's reasonable access upon and across any city sidewalk or right-of-way, nor shall it in any manner be adverse to any necessary emergency or safety access.
 - (3) Any merchant who displays and sells merchandise on any city sidewalk shall regularly inspect the city sidewalk which adjoins the place of business of the merchant for defects or hazardous conditions, and, should any defect or hazardous condition be found, the merchant shall immediately notify the City Manager and the Public Works Department, and, until such defect or hazardous condition can be cured and/or remedied, then the merchant shall provide visible notice to the public of the existence of such defect or hazardous condition

and otherwise preclude the public's access upon such defect or hazardous condition until such time that the defect or hazardous condition is cured and remedied. During inclement weather, merchants shall refrain from displaying or selling merchandise on any city sidewalk.

(4)The business, at its sole expense, shall maintain comprehensive general liability insurance, protecting against all claims for personal injury, death or property damage occurring upon, in or about the premises resulting from the use of occupancy thereof, with a minimum of \$1,000,000 (one million dollars) in coverage and limits acceptable to the city. The city must be named in this policy as an additional insured entity. The merchant shall also indemnify the city and save it harmless from any claim or cause of action which may be asserted by any person against the city by reason of the merchant's use and operation upon the city sidewalk, or by reason of the merchant's violation of any provision as set forth herein. Before a merchant displays any merchandise on city sidewalks, they must produce their insurance to the City Manager for his/her approval and sign the city's indemnification form

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted on its first reading. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted on first reading and ordered that it be presented for second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

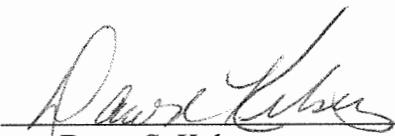
Steve Austin, Mayor

ATTEST:

Date: _____

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 7 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

City Commission Memorandum
16-203

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager 

SUBJECT: Establishing Article IV, *Mobile Food Units*, Sections 17-63 Through 17-71, of Chapter 17, *Parks and Recreation*, of the Code of Ordinances of the City of Henderson

An item for the agenda of Tuesday, September 13, 2016, is first reading of an ordinance regulating food trucks.

The proposed food truck ordinance is being presented to you based upon direction from the Board of Commissioners at the March 15, 2016 work session. The attached Legal Department Memorandum details the locations and times that Licensed Food Truck Vendors may operate on City properties.

Your approval of the attached ordinance is requested.

c: Dawn Kelsey

LEGAL DEPARTMENT

MEMORANDUM 16-07

To: Russell Sights, City Manager
Buzzy Newman, Asst. City Manager
Trace Stevens, Parks Director

From: Dawn S. Kelsey, City Attorney 

Dated: September 7, 2016

Subject: Mobile Food Truck Ordinance

Pursuant to direction from the Board of Commissioners at the Work Session, John Stroud, Acting Code Administrator and Theresa Ritchey, Development Liaison, and myself drafted the Food Truck Ordinance. The Food Truck Ordinance only requires a license if the Food Truck Operator is going to use the designated City of Henderson facilities. If the Food Truck Vendor is going to use private property exclusively, he/she will not be required to get a Food Truck License. However, they will have to comply with the Temporary Sales requirements under Appendix A Zoning Ordinance Section 4.33 of the City of Henderson Code of Ordinances.

The locations and times of Licensed Food Truck Vendors may operate on City properties are below:

- 1) Henderson Depot Welcome Center (located adjacent to Water Street): Mobile Food Units may use the designated mobile food unit parking spots in the Henderson County Depot on Monday, Wednesday, Thursday, Fridays, Saturday and Sunday from 11:00 a.m. to 7:00 p.m.
- 2) East End Park – Helm Street in the designated mobile food unit parking spots with the Food Truck conducting business towards the East End and not toward the street during the hours of 11:00 a.m. to dusk.
- 3) Atkinson Park in the gravel parking loop next to the sand volleyball courts on any day of the week from 11:00 a.m. to dusk.

Trace Stevens and Kyle Hittner, Executive Director of the Henderson County Tourism Commission have both approved the locations and the times.

Mobile Food Unit Vendors may not park in the above referenced areas during any permitted special events in those areas unless authorized by the holder of the special event permit.

A Mobile Food Unit Vendor shall have in full force and in effect an approved \$300,000 combined single limit insurance policy from an insurance company with an A rating on each licensed vehicle. It must name the City of Henderson as an additional named insured.

Annual Permit fee is fifty dollars (\$50) and each additional unit is twenty-five dollars (\$25).

cc: Mayor Steve Austin

ORDINANCE RELATING TO MOBILE FOOD UNITS

SUMMARY: ORDINANCE ESTABLISHING ARTICLE IV, *MOBILE FOOD UNITS*, SECTIONS 17-63 THRU 17-71, OF CHAPTER 17, *PARKS AND RECREATION*, OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

BE IT ORDAINED, by the City of Henderson that due to the popularity of the mobile food truck industry it has become necessary to establish Article IV, *Mobile Food Units*, Sections 17-63 thru 17-71, of Chapter 17, *Parks and Recreation*, of the City's Code of Ordinances as follows:

Article IV. Mobile Food Units:

17-63 Definitions.

(a) *Mobile Food Unit:* Food establishment which is on wheels, mobile and which is self propelled as a licensed vehicle including the sale of both prepared and pre-packaged foods (examples are a food truck and ice cream truck).

(b) *Mobile Food Unit Vendor:* An itinerant merchant who conducts business from a mobile food unit.

17-64 Mobile Food Vending License

A. Mobile Food Unit Vendor who operates on City of Henderson property shall be subject to the licensing and regulatory requirements under Chapter 4 of the Henderson Code of Ordinances and all other applicable ordinances, including zoning ordinances. Mobile Food Unit Vendors who do not operate on City of Henderson property, but operate as Temporary Sales under Appendix A Zoning Ordinance Section 4.33 of the City of Henderson Code of Ordinances are not required to obtain a Mobile Food Vending License, but will have to comply with the requirements with the applicable sections of the Zoning Ordinance.

B. The licensing of the vendor shall be on a per unit (food truck/vehicle) basis with each different Mobile Food Unit Vendor requiring a separate license for each Mobile Food Unit. All applications for licenses shall be accompanied with the required certificate of insurance, proof of health department approval, and required fee of fifty dollars (\$50.00). Any person operating more than one (1) mobile food unit shall pay an additional twenty-five dollars (\$25.00) fee for each additional unit. This fee will not be prorated and will be in effect for the same period of time as the license for the primary mobile food unit.

C. Mobile Food Vending License:

(1) Licenses are valid for 12 months unless otherwise invalidated.

revoked or terminated prior to the end of the 12 month term. Mobile Food Unit Vendors must reapply (including payment of all applicable fees) each year.

(2) It shall be unlawful for any person to intentionally provide false information or to intentionally omit requested information on an application for any license pertaining to Mobile Food Unit Vendors.

(3) As a condition of issuance of any license, the Mobile Food Unit Vendor agrees to indemnify, hold harmless, and defend the City of Henderson and its officials, officers, employees, representatives, and agents against liability and/or loss arising from activities connected with and/or undertaken pursuant to the license. The City of Henderson shall not be liable for any business loss, property loss, or other damage that may result from use of the license, or suspension or revocation of the license, or the discontinuance of the practice of permitting such activity, and no such vendor shall maintain any claim or action against the City of Henderson and/or its officials, officers, employees, or agents on account of any suspension or revocation or discontinuance.

(4) Any license issued to a Mobile Food Unit Vendor shall be valid for the time period specified thereon. Re-application shall be required upon expiration of said license if the person wishes to continue such activity.

(5) Every Mobile Food Unit Vendor to whom a license is issued shall, at all times while engaged in that business, have the applicable license in his or her possession, prominently displayed for public viewing, and shall produce the same at the request of any City of Henderson official or at the request of any individual to whom the vendor is exhibiting his or her food or attempting to sell same.

(6) Each Mobile Food Unit Vendor must obtain all necessary licenses and permissions and comply with all requirements imposed by the health department and/or other regulatory agencies.

D. Nothing contained in this section shall relieve a Mobile Food Unit Vendor from obtaining its applicable merchant license(s) and any other permits required by state agencies or the local health department.

17-65 Permitted Area and Times

A. Properly Licensed Mobile Food Units may park on the following City property areas during the designated times:

- 1) Henderson Depot Welcome Center (located adjacent to Water Street): Mobile Food Units may use the designated mobile food unit parking spots in the Henderson County Depot on Monday, Wednesday, Thursday, Fridays, Saturday and Sunday from 11:00 a.m. to 7:00 p.m.
- 2) East End Park – Helm Street in the designated mobile food unit parking spots with the Food Truck conducting business towards the East End Park and not toward the street during the hours of 11:00 a.m. to dusk.

3) Atkinson Park in the gravel parking loop next to the sand volleyball courts on any day of the week from 11:00 a.m. to dusk.

B. Mobile Food Unit Vendors may not park in the above referenced areas during any permitted special events in those areas unless authorized by the holder of the special event permit. [See Sec. 17-66 (g)]

C. Mobile Food Units may also be allowed on private property in the City of Henderson if they comply with Appendix A Zoning Ordinance Section 4.33 of the City of Henderson Code of Ordinances.

17-66 Regulation of Mobile Food Unit Vendors

All Mobile Food Unit Vendors must comply with the following:

(a) The requirements of all applicable ordinances and regulations.

(b) Shall at all times operate in a manner that ensures the safety of patrons, pedestrians and the public.

(c) Shall not park or operate in a manner which prohibits others from parking in otherwise available spaces or areas.

(d) Shall obtain any necessary permits and comply with the requirements of any applicable rules and regulations of the health department.

(e) Shall not locate or operate within fifteen (15) feet of any driveway or other main entrance to a building without the express written permission of the affected property owner or her or his authorized agent.

(f) Shall provide, in a prominent location, trash and recycling container(s) sufficient in size to collect all waste and recyclables generated by customers and staff of the vendor. All trash and debris related to the operation shall be collected by the vendor throughout the duration of their vending and deposited in their own trash or recycling container(s) and removed from the site by the vendor. Such waste shall not be placed in public trash receptacles. The vendor shall be responsible for any litter or debris located within a ten (10) feet radius of their unit, including sidewalks in the immediate vicinity.

(g) Shall not, during any City of Henderson recognized special event, locate, operate or vend inside the event footprint without the express written permission of the event organizer.

(h) Shall only use lighting which is permanently or semi-permanently affixed to its unit and which does not cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring business operations or residential uses. No flashing or strobe lighting shall be permitted.

(i) Shall not use any electrical outlet located within the public right-of-way or on public property, unless specifically authorized by the City of Henderson or, if required, the utility company. A vendor shall not create any tripping or other hazard related to its use of electricity.

(j) Shall not block access to or use of, any public bench or any public utility pole or set up any chairs or tables on the public right-of-way.

(k) Shall not in any manner damage public property or the public right-of-way. Examples, include, but are not necessarily limited to, using stakes, rods or any method of support that is required to be drilled, driven or otherwise fixed in asphalt pavement, curbs, sidewalks or buildings. The vendor shall be solely responsible for any such damage.

(l) Shall not locate or operate within an area closed or not accessible due to an emergency.

(m) Must comply with all state and federal sales tax.

17-67. Insurance

A Mobile Food Unit Vendor operating under this chapter shall have in full force and in effect an approved liability insurance policy. It must name the City of Henderson as an additional named insured. A \$300,000 combined single limit insurance policy from an insurance company with an A rating is the minimum amount of insurance to be carried on each licensed vehicle.

17-68. Receipts.

A Mobile Food Unit Vendor shall, on request by the customer, render to the customer, a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the license holder of the Mobile Food Vending Unit, all charges, and the date of transaction.

17-69 Clean and Safe Conditions

(a) Every Mobile Food Unit shall ensure that the interior, including the windows, shall be maintained in a clean and safe condition, free of grease, dirt, debris, or other trash.

(b) The exterior of the vehicle shall also be maintained in a clean, undamaged condition and present a favorable appearance, including:

(1) The body of the vehicle;

(2) The paint;

(3) All glass;

(4) Hubcaps (if installed);

(5) Head and tail lights; and

(6) Grill and bumpers.

(c) No person shall smoke within a Mobile Food Unit.

17-70 Records; Reports

(a) Every Mobile Food Unit Vendor shall keep accurate records of receipts

from operations, and other expenses, capital expenditures, and other such operating information as may be required to comply with reporting income and expenses under the applicable provisions of the City of Henderson Code of Ordinance. Every Mobile Food Unit Vendor shall maintain the records containing such information and other dates required by this chapter at a place readily accessible for examination by the City Manager or his or her designee.

(b) All accidents arising from or in connection with the operation of Mobile Food Unit Vendor which result in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of three hundred dollars (\$300.00) shall be reported by the license holder or driver within five (5) days from the time of occurrence to the Chief of Police or his or her designee.

17-71 Penalty

(a) Any person convicted of violating any provision of this article of the Code shall be subject to a fine of not less than two hundred fifty dollars (\$250.00), nor more than five hundred dollars (\$500.00). Each day a violation occurs shall constitute a separate offense, and;

(b) In addition to a fine imposed under this subsection, the City Manager or his or her designee is authorized to suspend or revoke a Mobile Food Unit Vendor license after a finding that such licensee has violated any applicable provision of the Henderson Code of Ordinance or regulations promulgated pursuant to this Ordinance, violation of any federal, state, or local law which would constitute grounds for denial of a license, or refusal to cooperate with reasonable requests made by a Police Officer, employee of the City of Henderson, or an official investigating complaints or conducting periodic random inspections.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted on its first reading. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted on first reading and ordered that it be presented for second reading at a meeting of the Board of Commissioners.

On second reading of the ordinance, it was moved by Commissioner _____, seconded by Commissioner _____, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Mills:	_____	Commissioner Royster:	_____
Commissioner Johnston:	_____	Mayor Austin:	_____
Commissioner Hite:	_____		

WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

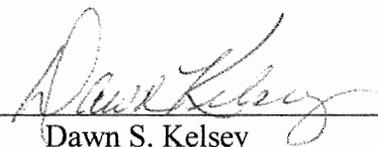
Steve Austin, Mayor

ATTEST:

Date: _____

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 9 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

City Commission Memorandum
16-181

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager *RS*

SUBJECT: Gas Supply Contract

The accompanying resolution authorizes the execution of a Gas Supply Contract with the Public Energy Authority of Kentucky, Inc. (PEAK).

This contract establishes the basis upon which Henderson will obtain natural gas from PEAK, Inc. for resale through our gas distribution system to our customers. This contract stems from a 30-year Natural Gas Sale Agreement with Morgan Stanley Capital Group.

The contract delineates other obligations and rights of the parties, establishes procedures for charges and billing, and sets out miscellaneous other provisions to provide clear guidance and context to the services to be provided. The Gas System Director and City Attorney are very knowledgeable concerning this agreement if you have any questions before the meeting.

Your approval of the attached resolution is requested.

c: Dawn Kelsey
Owen Reeves

**Gas Department Memorandum
16-18**

September 8, 2016

TO: Russell Sights, City Manager
FROM: Owen R. Reeves, Gas System Director
SUBJECT: Gas Supply Contract – Morgan Stanley Prepay

Attached are the terms of the 2016 Morgan Stanley Gas Supply Contract. This project was approved at the PEAK called board meeting of August 15, 2016. This contract has been reviewed by PEAK counsel as well as our city attorney and myself and should be considered complete in substantial form. There may be some minor nuances that are tweaked but nothing of substantial matter.

The expectations of Morgan Stanley are for a bond issue in the one billion dollar range, and this will be tempered by the amount of participation of other municipal cities. The project has a thirty year term with a minimum of a twenty cent discount to the participants. These economics remain in place for an initial five year period at the end of which Morgan Stanley has the option of termination should their economic threshold not be met. Conversely, as long as twenty cents is offered to the participants, the project would continue with the potential of improved economics at each five year interval.

An interesting aspect of this project that differs from many is that participants' payment obligations are to be covered by a surety in affect. Therefore participants must provide acceptable financial information to Assured Guaranty Corporation to be a participant. The bond quality should be enhanced by this requirement.

Henderson Municipal Gas has requested quantities that would approximate twelve percent of our annual needs at the end of project. This project, along with the recent Black Belt Energy project, would keep us under twenty percent of our present load allowing for future prepay opportunities over the coming years.

It is my recommendation that the City of Henderson participate in this project for the benefit of our customers and to ensure long term supply. I plan to be in attendance of the September 13 commission meeting to respond to questions regarding participation in this prepay project.

Respectfully,



Owen R. Reeves
Gas System Director

cc: Dawn S. Kelsey

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF HENDERSON, KENTUCKY (“CITY”) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT (“CONTRACT”) WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM MORGAN STANLEY CAPITAL GROUP, INC. (“MSCG”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND FOR OTHER PURPOSES

WHEREAS, the City of Henderson owns and operates a municipal gas distribution utility and is authorized by the provisions of KRS Chapter 96 to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the Public Energy Authority of Kentucky, which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has offered to sell to the City, pursuant to the Contract, a supply of natural gas in the quantities on the dates set forth in the Contract, on the conditions that PEAK issues its Gas Supply Revenue Bonds, 2016 Series A (the “Bonds”) the proceeds of which will be used to acquire a supply of natural gas (the “Gas Supply”) pursuant to a Prepaid Agreement with MSCG (the “Prepaid Agreement”); and

WHEREAS, the City is a Public Agency, as such term is defined in the Gas Supply Contract, and desires to enter into the Contract with PEAK.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson as follows:

1. The City hereby approves the execution and delivery of the Gas Supply Contract, in substantially the form previously submitted to the City and attached hereto as Exhibit A, pursuant to which the City will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Contract.

2. The Mayor of the City is hereby authorized to execute any such other closing documents or certificates which may be required or contemplated in connection with the execution and delivery of the Contract or carrying out the intent and purpose of this resolution.

On motion of Commissioner _____, seconded by Commissioner _____ that the foregoing Resolution be adopted, the vote was called.

On roll call, the vote stood:

Commissioner Mills: _____ Commissioner Royster: _____
Commissioner Johnston: _____ Mayor Austin: _____
Commissioner Hite: _____

WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

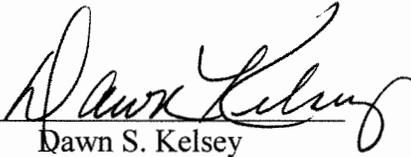
Steve Austin, Mayor

Date: _____

ATTEST:

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 8 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

GAS SUPPLY CONTRACT

DATED AS OF _____, 2016

BETWEEN

PUBLIC ENERGY AUTHORITY OF KENTUCKY, as Seller

AND

CITY OF HENDERSON, KENTUCKY, as Buyer

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GAS SUPPLY CONTRACT

This Gas Supply Contract (this “*Contract*”) is made and entered into as of _____, 2016 (the “*Effective Date*”), by and between the Public Energy Authority of Kentucky, a Natural Gas Acquisition Authority formed under the laws of the Commonwealth of Kentucky (KRS 353.400 - 353.410) (“*Seller*”), and City Of Henderson, Kentucky, a body politic and corporate, municipal corporation and unit of local government of the Commonwealth of Kentucky (“*Buyer*”). Seller and Buyer are sometimes hereinafter referred collectively as the “*Parties*” and individually as a “*Party*.”

WITNESSETH:

WHEREAS, Seller has entered into the Prepaid Gas Purchase and Sale Agreement of even date herewith (the “*Prepaid Agreement*”) with Morgan Stanley Capital Group Inc., a Delaware corporation (“*MSCG*”) for a long-term supply of Gas; and

WHEREAS, in connection with Seller entering into the Prepaid Agreement and this Contract (along with similar contracts with other gas purchasers) and contemporaneously therewith, the Seller is issuing certain bonds pursuant to a trust indenture of even date herewith; and

WHEREAS Seller was created between and among public agencies to acquire Gas at reasonable prices that would enhance reliability, efficiency, and supply security through the joint purchases and the arrangement of joint services on behalf of its members and other public agencies; and

WHEREAS, Seller from time to time enters into agreements with one or more other public agencies, including certain agencies that are current members and customers of Seller; and

WHEREAS, Seller desires to sell the long-term supply of Gas available to Seller to one or more public agencies, including Buyer (the “*Project Participants*”); and

WHEREAS, Buyer desires to purchase from Seller a portion of the long-term supply of Gas available to Seller, and Seller desires to sell such Gas to Buyer, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, Buyer and Seller agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 *Defined Terms*. Capitalized terms used and not otherwise defined in this Contract shall have the meanings assigned to them in the Prepaid Agreement. In addition, the following terms, when used in this Contract and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless otherwise provided in this Section 1.1:

“*Actual Sales Price*” means the actual sales price, expressed in \$/MMBtu, with respect to a particular quantity of Gas, obtained by Seller or its designee, as applicable, in an arms-length sale of such quantity of Gas to a third party, net of any transportation costs.

“*Automatic Termination Event*” has the meaning specified in Section 18.2.

“*Available Discount*” means the amount expressed in cents per MMBtu (rounded down to the nearest one-half cent) determined pursuant to the Re-Pricing Agreement for each Month of a Reset Period. Any estimated Available Discount provided by Seller under Section 2.3 may differ from the Available Discount because the final Available Discount for any Reset Period will be finally determined under the Re-Pricing Agreement’s provisions.

“*Billing Statement*” has the meaning specified in Section 16.1.

“*Bond Counsel*” means counsel of nationally recognized standing in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States, and selected by Seller.

“*Bond Indenture*” means the Trust Indenture to be entered into prior to the commencement of the Delivery Period between Seller and the Indenture Trustee, as supplemented and amended from time to time in accordance with its terms.

“*Bonds*” means those bonds issued pursuant to the Bond Indenture to finance Seller’s prepayment under the Prepaid Agreement.

“*Btu*” means the International Btu; *provided, however*, that the definition of Btu as determined by the Transporter at the applicable Delivery Point shall be deemed conclusive.

“*Business Day*” means (i) with respect to payments and general notices required to be given under this Contract, any day other than (a) a Saturday or Sunday, (b) a Federal Reserve Bank holiday, (c) any day on which commercial banks located in either New York, New York or the city in which are located the principal corporate offices of the Indenture Trustee or the operational offices of Seller are authorized by law or executive order to close, or (d) any other day excluded as a business day pursuant to the Bond Indenture, and (ii) solely with respect to Gas deliveries and notices with respect thereto, any day.

“*Buyer*” has the meaning specified in the preamble.

“*Buyer Default*” has the meaning specified in Section 18.1.

“*Central Prevailing Time*” or “*CPT*” means Central Daylight Savings Time when such time is applicable and otherwise means Central Standard Time.

“*Claims*” means all claims or actions, threatened or filed, that directly or indirectly relate to the indemnities provided herein, and the resulting losses, damages, expenses, attorneys’ fees, experts’ fees, and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Contract.

“Code” means the Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations thereunder.

“Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any purchase or sale or other action required to be made, attempted or taken by a Party under this Contract, such efforts as a reasonably prudent business or a reasonably prudent Municipal Utility, as applicable, acting in accordance with the Laws governing its activities, would undertake for the protection of its own interest under the conditions affecting such purchase or sale or other action, including the amount of notice of the need to take such action, the duration and type of the purchase or sale or other action, the competitive environment in which such purchase or sale or other action occurs and the risk to the Party required to take such action.

“Contract” has the meaning specified in the preamble and shall include exhibits, recitals and attachments referenced herein and attached hereto and all amendments, supplements and modifications hereto and thereto.

“Contract Price” has the meaning specified in Section 3.2.

“Critical Notice” has the meaning specified in Section 5.3(b).

“Daily Contract Quantity” means, with respect to each Gas Day during the Delivery Period, the daily quantity of Gas (in MMBtu) shown on Exhibit B to be delivered from Seller to Buyer and received by Buyer from Seller pursuant to this Contract for the Month in which such Gas Day occurs.

“Deemed Remarketing Notice” has the meaning specified in Section 7.1(d).

“Default Rate” means, as of any date of determination, the lesser of (a) the rate of interest per annum quoted in The Wall Street Journal (Eastern Edition) under the “Money Rates” section as the “Prime Rate” for such date of determination or (b) if a maximum rate is imposed by applicable Law, such maximum lawful rate.

“Delivery Period” has the meaning specified in Section 2.1.

“Delivery Point” has the meaning specified in Section 5.1.

“Delivery Point Premium” or “DPP,” has the meaning specified in Section 3.3 and is an amount per MMBtu that may be collected from Seller by MSCG under the Prepaid Agreement.

“Early Termination Date” means a date designated pursuant to Sections 18.3(b), 18.3(c) or 18.3(e) or a date occurring automatically pursuant to Section 18.2 upon which, in each case, the Delivery Period will end and Buyer’s and Seller’s respective obligations to receive and deliver Gas under this Contract will terminate.

“Effective Date” has the meaning specified in the preamble.

“Firm” means that either Party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure.

“*Firm Transportation*” means, with respect to service on any pipeline system or at any storage facility, the pipeline or storage provider providing such service may interrupt its performance without liability only to the extent that such performance is prevented for reasons of “force majeure,” as provided in the relevant agreement in respect of such service with respect to such party asserting “force majeure.”

“*Force Majeure*” has the meaning specified in Section 13.1.

“*Gas*” means any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane meeting the quality specifications of the applicable Transporter.

“*Gas Day*” means a period of twenty-four (24) consecutive hours, beginning and ending at 9:00 a.m. CPT. If through standardization of business practices in the industry or for any other reason, a Transporter or the Federal Energy Regulatory Commission changes the definition of Gas Day, such change shall apply to the definition of Gas Day in this Contract with respect to such Transporter or generally, as the case may be.

“*Gas Supply Acquisition Project*” or “*Project*” means the acquisition by Seller of Gas supplies from MSCG pursuant to the Prepaid Agreement, the financing by Seller of the cost of acquisition of such Gas supplies, and the execution and performance by Seller of related agreements, all to provide Gas supplies necessary to meet the contractual requirements of the Project Participants.

“*Government Agency*” means the United States of America, any state thereof, or any local jurisdiction, or any political subdivision of any of the foregoing including, but not limited to, courts, administrative bodies, departments, commissions, boards, bureaus, agencies, municipalities or other instrumentalities.

“*Governmental Approval*” means any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, decree or declarations of or regulation by any Government Agency relating to the execution, delivery or performance of this Contract, as any of the foregoing are in effect as of the Effective Date.

“*IFERC*” means the publication *Inside FERC's Gas Market Report* as published by Platts, a division of S&P Global Inc.

“*Imbalance Charges*” means any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy such Transporter’s balancing, scheduling, and/or nomination requirements based on such Transporter’s applicable pipeline tariff.

“*Indenture Trustee*” means the trustee serving in such capacity under the Bond Indenture, initially The Bank of New York Mellon Trust Company, N.A.

“*Initial Reset Period*” means the period from and including [October] 1, 2016 to an including [September 30], 2021.

“*Law*” means any statute, law, rule, regulation, order, or any judicial or administrative interpretation thereof having the effect of the foregoing, imposed by a Government Agency whether in effect as of the Effective Date or at any time in the future.

“*Late Payment Fee*” has the meaning specified in Section 16.5.

“*Lien*” means, as applied to the property or assets (or the income or profits therefrom) of any Person, in each case whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any mortgage, lien, pledge, attachment, charge, lease, conditional sale or other title retention agreement, or other security interest or encumbrance of any kind; or (b) any arrangement, express or implied, under which such property or assets are transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of the general, unsecured creditors of such Person.

“*Reset Period*” means each five-year period (or such longer or shorter period as may be agreed to by Seller and MSCG pursuant to the Re-Pricing Agreement) commencing on the last day of the Initial Reset Period or prior Reset Period, as the case may be, and ending on the fifth anniversary (or such later or earlier anniversary, as the case may be) of such last day; provided that the final Reset Period shall be the period from the last day of the prior Reset Period to the Final Maturity Date (as defined in the Re-Pricing Agreement).

“*Reset Remarketing Event*” has the meaning set forth in Section 2.3.

“*Reset Remarketing Notice*” has the meaning set forth in Section 2.4.

“*Market Disruption Event*” means a new, or change in, any existing Law or Governmental Approval, or act of a Government Agency pursuant to existing Law, that results in a change in transportation rights, requires a change in the Delivery Point, requires a change in a Party or imposes price controls.

“*Minimum Discount*” means \$0.20 per MMBtu.

“*MMBtu*” means one million (1,000,000) Btu, which is equivalent to one dekatherm (Dth).

“*Month*” means the period beginning on the first Gas Day of a calendar month and ending immediately prior to the commencement of the first Gas Day of the next calendar month. The term “*Monthly*” shall be construed accordingly.

“*Monthly Index*” means the IFERC or NGI index specified on Exhibit C corresponding to the respective Delivery Point set forth on such Exhibit.

“*Monthly Index Price*” means the index price (in \$/MMBtu) in the Monthly Index applicable to the appropriate Gas Day and Delivery Point,.

“*Monthly Remarketing Notice*” has the meaning specified in Section 7.1(b).

“*MSCG*” has the meaning specified in the recitals.

“*Municipal Utility*” means any Person that (i) is a “governmental person” as defined in U.S. Treas. Reg. §1.141-1(b) and (ii) owns either or both a gas distribution utility or an electric distribution utility (or provides gas or electricity at wholesale to “governmental persons” that own such utilities). To the extent required or permitted by any change in the Code after the Effective Date, the Parties from time to time may, or shall as required, revise the definition of “Municipal Utility” to conform to the applicable provisions of the Code.

“*NGP*” means “Natural Gas Intelligence Bidweek Survey,” a publication of Intelligence Press, Inc.

“*Partial Termination Condition*” has the meaning specified in Section 7.2(b).

“*Party*” has the meaning specified in the preamble.

“*Payment Default*” has the meaning specified in Section 16.3.

“*Person*” means any individual, corporation, partnership, association, joint venture, trust, unincorporated organization or any Government Agency.

“*Policies*” has the meaning specified in Exhibit A.

“*Prepaid Agreement*” has the meaning specified in the recitals.

“*Prepaid Termination Payment*” has the meaning specified in Section 18.3(g).

“*Price Reduction Amount*” is \$____/MMBtu, provided further that the Price Reduction Amount becomes the Available Discount after the Initial Reset Period.

“*Priority Gas*” means the Gas to be delivered under this Contract, together with other Gas purchased by Buyer, Seller or a related joint powers authority selling Gas to Buyer, using the proceeds of the issuance by Buyer, Seller or a related joint powers authority selling Gas to Buyer of tax-exempt bonds, pursuant to long-term gas purchase and sale agreements comparable to this Contract; *provided* that in the case of any such transaction involving Seller, or any such related joint powers authority, for the affected Gas to be “Priority Gas,” Buyer must be an original party to the transaction, acting pursuant to a long-term gas purchase and sale contract providing for Firm deliveries and purchases of Gas.

“*Project*” means Gas Supply Acquisition Project.

“*Project Management Committee*” has the meaning specified in Section 20.2.

“*Project Participants*” is defined in the recitals.

“*Qualifying Use*” shall have the meaning ascribed to that term in Treasury Regulation Section 1.148-1(e)(2)(iii)(A)(2); *provided* that the use does not give rise to “private business use” within the meaning of Section 141 of the Code.

“*Remarketing Fee*” shall be \$0.05/MMBtu.

“*Remarketing Notice*” means a Monthly Remarketing Notice, a Seasonal Remarketing Notice or a Deemed Remarketing Notice.

“*Replacement Gas*” means Gas purchased by Buyer to replace any Shortfall Quantity (i) for delivery in the Month such Shortfall Quantity arises or (ii) in the following Month for delivery by Buyer to a Transporter to cover a shortfall imbalance caused by such Shortfall Quantity. For avoidance of doubt, purchases include gas withdrawn from Buyer’s storage account(s).

“*Re-Pricing Agreement*” means the Re-pricing Agreement, dated as of _____ 1, 2016, between MSCG and Seller, as amended or supplemented from time to time in accordance with its terms.

“*Reset Period*” means each five-year period (or such longer or shorter period as may be agreed to by Seller and MSCG pursuant to the Re-Pricing Agreement) commencing on the last day of the Initial Reset Period or prior Reset Period, as the case may be, and ending on the fifth anniversary (or such later or earlier anniversary, as the case may be) of such last day; provided that the final Reset Period shall be the period from the last day of the prior Reset Period to the Final Maturity Date (as defined in the Re-Pricing Agreement).

“*Reset Remarketing Event*” has the meaning set forth in Section 2.3.

“*Reset Remarketing Notice*” has the meaning set forth in Section 2.4.

“*Seasonal Remarketing Notice*” has the meaning specified in Section 7.1(a).

“*Seller*” has the meaning specified in the preamble.

“*Shortfall Quantity*” has the meaning specified in Section 4.1(a).

“*Surety*” means Assured Guaranty Municipal Corp., a New York insurance company, or any successor thereto.

“*Transporter(s)*” means any Person providing transportation services to Seller or Buyer with respect to Gas delivered by Seller hereunder.

Section 1.2 Definitions; Interpretation. References to “Articles,” “Sections” and “Exhibits” shall be to Articles, Sections and Exhibits, as the case may be, of this Contract unless otherwise specifically provided. Section headings in this Contract are included herein for convenience of reference only and shall not constitute a part of this Contract for any other purpose or be given any substantive effect. Any of the terms defined herein, unless the context otherwise requires, may be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar

import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

ARTICLE II

DELIVERY PERIOD AND LONG RATE REMARKETING EVENT

Section 2.1 *Effective Date and Delivery Period.* This Contract shall become effective upon the Effective Date and, unless this Contract is terminated early pursuant to Section 2.2, all of Seller's and Buyer's obligations hereunder shall be deemed to have been incurred upon the Effective Date. The delivery period under this Contract (the "*Delivery Period*") shall begin at the beginning of the Gas Day on _____, 2016, and continue in effect until the end of the Gas Day on _____, 2046, or earlier upon the Early Termination Date.

Section 2.2 *Termination Prior To End of Delivery Period.* In the event (1) the Prepaid Agreement is terminated pursuant to Section 2.2 of the Prepaid Agreement prior to the commencement of the Delivery Period, or (2) Buyer provides a Reset Remarketing Notice to Seller pursuant to Section 2.4, Seller shall terminate this Contract without any further obligation or liability of either Party.

Section 2.3 *Reset Remarketing Event.* A Reset Remarketing Event occurs when the Available Discount for a Reset Period is not at least equal to the Minimum Discount. Upon a Reset Remarketing Event, Buyer (and each other Project Participant) shall either (1) continue to purchase and receive its Daily Contract Quantity for each Gas Day during such Reset Period at a Contract Price that reflects the Available Discount, or (2) elect by delivery to Seller of a written notice that such Daily Contract Quantity be remarketed for the remaining portion of the Delivery Period and this Contract terminated ("*Reset Remarketing Notice*").

Section 2.4 *Reset Remarketing Notice Procedure.* Approximately sixty (60) days prior to a new Reset Period, Seller shall contact Buyer or convene a meeting of the Project Management Committee for the purpose of reviewing the Reset Remarketing Notice Procedure and discussing market dynamics. No later than thirty (30) days prior to a new Reset Period, Seller shall provide to Buyer a written notice setting forth the duration of such Reset Period and the estimated Available Discount for such Reset Period. Buyer may elect to remarket its Daily Contract Quantity by delivering to Seller a Reset Remarketing Notice in the form set forth in Exhibit H no later than 4:00 p.m. Central Prevailing Time on the 8th day following the date of the Seller's notice. Such election shall have effect only if the Available Discount as finally determined fails to equal or exceed the Minimum Discount.

ARTICLE III

SALE AND PURCHASE

Section 3.1 *Sale and Purchase of Gas.* Seller agrees to sell and deliver or cause to be delivered to Buyer on a Firm basis, and Buyer agrees to purchase and take from Seller on a Firm basis, the Daily Contract Quantity for each Gas Day during the Delivery Period at the Delivery Point pursuant to the terms and conditions set forth in this Contract.

Section 3.2 *Contract Price.* The price payable for Gas delivered and purchased pursuant to Section 3.1 (the “*Contract Price*”) shall be the result of the sum of the Monthly Index Price applicable to the relevant quantity of Gas for the applicable Delivery Point plus any applicable Delivery Point Premium, minus the Price Reduction Amount.

Section 3.3 *Delivery Point Premium.* The Parties acknowledge and agree that some Gas trading points may trade from time to time at a premium to the Monthly Index Price, and that Seller may be compelled under its Prepaid Agreement to pay such a premium at the Delivery Points at which Buyer receives Gas under this Contract. In such event, Buyer shall pay to Seller a Delivery Point Premium or “DPP” as identified in Exhibit C hereto. Any DPP shall be for a fixed period specified on Exhibit C and may change thereafter.

Section 3.4 *Annual Refund.* During the term of this Contract, promptly following completion of the annual audit of Seller’s financial statements at the end of each fiscal year (currently the twelve-month period ending June 30), Seller shall compare its revenues (as determined in accordance with the Bond Indenture) and expenses under the Gas Supply Acquisition Project for that fiscal year. For purposes of such annual comparison, Seller’s expenses shall include: (a) its expenses incurred in obtaining Gas supply under the Gas Supply Acquisition Project; (b) its administrative, legal, and accounting expenses directly incurred in connection with or properly allocable to the Gas Supply Acquisition Project, including the administration of this Contract and all other contracts for the sale of Gas obtained under the Gas Supply Acquisition Project; (c) debt service on the Bonds, including payments under any interest rate swap or hedge agreement; (d) any replenishment of draws made upon any working capital fund associated with the Gas Supply Acquisition Project; (e) any deposits required to be made by Seller into any debt service reserve or other reserve or contingency fund or funds established with respect to the Bonds; (f) any fees or other amounts due to any provider of credit support for the Bonds; (g) payments under any commodity price swap or hedge agreement entered into in connection with the Gas Supply Acquisition Project; and (h) any other similar costs and expenses. If this annual comparison demonstrates that such revenues exceeded such expenses during the applicable fiscal year and there are amounts on deposit in the fund established by the Bond Indenture available for such purpose, then Seller shall make refunds to Buyer and the other Project Participants in the amount available after making allowances for any necessary and appropriate reserves and contingencies (as provided in the foregoing clause (e)), including but not limited to amounts deemed reasonably necessary by the Project Management Committee (and approved by Seller’s Board of Directors) to fund any working capital reserve and to reserve or account for unfunded liabilities, including future sinking fund or other principal amortization of the Bonds. The amount available for refund shall be allocated among and paid to Buyer and the other Project Participants in proportion to their respective purchases for such fiscal year.

ARTICLE IV

FAILURE TO DELIVER OR TAKE GAS

Section 4.1 Seller's Failure to Deliver.

(a) If, on any Gas Day:

(i) Seller fails to deliver all or any portion of the Daily Contract Quantity at any Delivery Point pursuant to the terms of this Contract; and

(ii) such failure is not due to either (A) the actions or inactions of Buyer, or (B) Force Majeure,

then the portion of the Daily Contract Quantity that Seller failed to deliver shall be a "Shortfall Quantity." If Buyer purchases Replacement Gas for delivery prior to the end of the Month in which the Shortfall Quantity arose, the provisions of Section 4.1(b) shall apply.

(b) If Buyer purchases Replacement Gas, then Seller shall pay to Buyer the positive result, if any, determined by the following formula:

$$P = Q \times (RP - CP + BAF)$$

Where:

P = The amount payable by Seller under this Section 4.1(b)

Q = The quantity of Replacement Gas up to the Shortfall Quantity

RP = The price (in \$/MMBtu) paid by Buyer for such Replacement Gas

BAF = An administrative fee of \$0.05/MMBtu payable by the Buyer

CP = Contract Price

(c) All Replacement Gas shall be purchased under Section 4.1(b) on a Commercially Reasonable basis, provided further that the price of Replacement Gas may be adjusted for Commercially Reasonable differences in transportation costs to or from the Delivery Point(s), but shall not include any administrative or other internal costs incurred by Buyer (it being understood that such administrative and other internal costs are being compensated by way of the \$0.05/MMBtu administrative fee included above); and

(d) Seller agrees to notify Buyer promptly upon becoming aware that it may not be able to deliver certain quantities of Gas and to keep Buyer updated with respect to the situation and any changes.

Section 4.2 Buyer's Failure to Take (Not Due to Force Majeure Nor in Connection with Monthly Remarketing Notice or Seasonal Remarketing Notice).

(a) If, with respect to any Gas Day:

(i) (A) Buyer fails to take all or any portion of the Daily Contract Quantity at the Delivery Point pursuant to the terms of this Contract; and

(B) such failure is not due to either (x) the actions or inactions of Seller, or (y) Force Majeure; and

(C) some portion of Buyer's Daily Contract Quantity is not being remarketed under Sections 7.1(a) and 7.1(b),

then

(ii) Buyer shall pay to Seller with respect to the portion of the Daily Contract Quantity not being remarketed under Sections 7.1(a) and 7.1(b), the result of the Contract Price minus the Actual Sales Price minus the administrative fee of \$0.05/MMBtu, plus all Commercially Reasonable costs of Seller relating to such Buyer failure.

(b) Buyer agrees to notify Seller promptly upon becoming aware that it may not be able to take certain quantities of Gas and to keep Seller updated with respect to the situation and any changes. Buyer further agrees that, pursuant to Section 7.1(d), Seller shall be deemed to have received a Deemed Remarketing Notice from Buyer with respect to all or any portion of the Daily Contract Quantity that Buyer fails to take under this Section 4.2.

Section 4.3 Failure to Take or Deliver Due to Force Majeure. To the extent that Seller is unable to deliver or Buyer is unable to receive all or any portion of the Daily Contract Quantity due to Force Majeure, each Party shall be relieved of its respective obligations to deliver and receive such portion.

Section 4.4 Make-Up Delivery. If for any reason there is a failure to deliver or take, the Parties may mutually agree to make up all or any portion of the Daily Contract Quantity not delivered or taken by increasing deliveries and takes over the remainder of the Month in which such failure occurred.

Section 4.5 Buyer's Inability to Take Gas; Gas Remarketing. Without limiting Buyer's obligations under Section 5.7, if Buyer experiences load loss such that it is unable to take all or any part of the Daily Contract Quantities to be delivered under this Contract, it shall provide (or be deemed to provide, as the case may be) a Remarketing Notice pursuant to Section

7.1 requesting remarketing of the affected quantities of Gas and Seller shall use Commercially Reasonable Efforts to resell such quantities on behalf of Buyer consistent with Article VII.

Section 4.6 *Sole Remedies*. Except with respect to the payment of Imbalance Charges pursuant to Section 5.6 and subject to Sections 5.7 and 7.2(b), the remedies set forth in this Article IV shall be each Party's sole and exclusive remedies for any failure by the other Party to deliver or take Gas pursuant to this Contract.

ARTICLE V

TRANSPORTATION AND DELIVERY

Section 5.1 *Delivery Point*. All Gas delivered hereunder shall be delivered and received at the delivery point specified on Exhibit C, or any other delivery point established pursuant to Section 5.2 (each such delivery point, as so specified or established, the "*Delivery Point*"). Unless the Parties mutually agreed otherwise, each Delivery Point must have an *IFERC* or *NGI* published Monthly Index Price to correspond to the specific Delivery Point. If Buyer designates a pool as a delivery point, and the Transporter curtails access to the pool, upon notice from Buyer the Seller will use Commercially Reasonable Efforts to deliver to Buyer's primary delivery points under its agreement with Transporter provided that they are listed on Exhibit C.

Section 5.2 *Change in Delivery Point*. Not more frequently than once per Month, Buyer may request Seller to change delivery of all or a portion of the Daily Contract Quantity at any Delivery Point to any other delivery point(s), *provided* (i) Seller is able to obtain a corresponding change under the Prepaid Agreement; (ii) the Parties designate a replacement calculation or publication for the Monthly Index Price and agree on any applicable DPP and reasonable other actual incremental cost (including any cost relating to hedging), or reduction in cost, for such new delivery point; and (iii) Buyer or Seller, as applicable, depending on whether there is an incremental cost or a reduction in cost, as determined pursuant to clause (ii), pays the other Party at least twenty (20) days prior to commencement of delivery of Gas at such new Delivery Point or otherwise as may be agreed between the Parties, the amount determined pursuant to clause (ii). Buyer and Seller will implement any other changes to this Contract as reasonably necessary to accommodate any such change in a Delivery Point.

Section 5.3 *Responsibility for Transportation; Permits*.

(a) Seller shall obtain and pay for all processing, gathering, and transportation necessary for delivery of the Daily Contract Quantity to the Delivery Point. Buyer shall obtain and pay for all transportation necessary to receive the Daily Contract Quantity at the Delivery Point and to transport the Daily Contract Quantity from the Delivery Point.

(b) If either Party receives an operational flow order or other order or notice from a Transporter requiring action to be taken in connection with the Gas flowing under this Contract (a "*Critical Notice*") (or a copy of a Critical Notice) (or a Transporter posts on its bulletin board (or by another industry standard posts) such a Critical Notice), it shall notify the other Party as soon as possible during normal business hours of the Critical Notice and shall provide the other Party by facsimile (or direct the other Party to)

a copy of the Critical Notice. Seller shall take all actions required by the Critical Notice within the time prescribed. Seller shall indemnify, defend and hold harmless Buyer from any Claims, including, without limitation, all noncompliance penalties and attorneys' fees, associated with a Critical Notice (i) with respect to which Seller failed to give the notice required hereunder to Buyer, or (ii) under which Seller failed to take the action required by the Critical Notice within the time prescribed; *provided*, that any notice required to be given to Seller by Buyer was timely delivered as required by this Section 5.3(b). Buyer shall bear any costs incurred by Seller arising from any Claims, including, without limitation, all noncompliance penalties and attorneys' fees, associated with a Critical Notice (i) with respect to which Buyer failed to give Seller any notice required hereunder, or (ii) under which Buyer failed to take the action required by the Critical Notice within the time prescribed; *provided*, that any notice required to be given by Seller to Buyer was timely delivered as required by this Section 5.3(b).

Section 5.4 *Title and Risk of Loss.*

(a) Title to the Gas delivered hereunder shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas at and after its delivery to Buyer at the Delivery Point(s).

(b) Seller agrees to indemnify Buyer and save it harmless from all Claims, from any and all Persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

Section 5.5 *Flow Rates.* Seller shall nominate, schedule and deliver, and Buyer shall nominate, schedule and take, the Daily Contract Quantity (deemed ratable) at the Delivery Point in accordance with the requirements of the Transporter.

Section 5.6 *Imbalances.* The Parties shall use Commercially Reasonable Efforts to avoid the imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from any Transporter that includes Imbalance Charges related to the obligations of either Party under this Contract, the Parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's takes of quantities of Gas greater than or less than the Daily Contract Quantity at the Delivery Point, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Daily Contract Quantities at the Delivery Point, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

Section 5.7 *Priority.* Buyer shall be required to take Gas delivered by Seller under this Contract (a) in priority over and in preference to all other Gas used by Buyer that is not

Priority Gas and (b) on at least a *pari passu* and non-discriminatory (to Gas delivered hereunder) basis with other Priority Gas (to be determined at any time for a given Month based on the amount of Gas to have been delivered during such Month among the several sources of Priority Gas). Buyer shall advise Seller when it enters into gas purchase and sale agreements in respect of Priority Gas. For the avoidance of doubt, Buyer expressly agrees that (x) the obligations of Buyer under this Section 5.7 may be enforced by specific performance together with any other remedies at law or in equity, and (y) the payment obligations imposed on Buyer under the provisions of Section 4.2(a) shall apply to any quantities of Gas that Buyer fails to take in breach of its obligations under this Section 5.7.

ARTICLE VI

QUALITY AND MEASUREMENT

Subject to limitations described in this Article VI, the Gas delivered under this Contract shall meet the quality specifications of the receiving Transporter at the applicable Delivery Point(s). The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Transporters that own or operate the measurement facilities at the Delivery Point(s). The Parties acknowledge that the Gas delivered by Seller under this Contract will be delivered in common stream with other sources of Gas. In the event and to the extent that a Transporter refuses to receive or transport Gas nominated for delivery to Buyer at the Delivery Point(s) for reasons of gas quality, the event shall be considered an event of Force Majeure, and Seller shall be relieved of its obligation to deliver and Buyer shall be relieved of its obligation to receive the affected volumes of Gas until the situation is remedied in accordance with Article XIII. Seller or its designee(s) shall use Commercially Reasonable Efforts to work with Transporters to remedy the situation as soon as possible so that all Gas receipts and deliveries can resume hereunder.

ARTICLE VII

GAS REMARKETING

Section 7.1 Remarketing Notices.

(a) Upon Buyer's inability to take Gas under Section 4.5 and delivery by Buyer to Seller of a written notice ("*Seasonal Remarketing Notice*") satisfying Section 7.1(c), provided that no Buyer Default exists, Seller shall use Commercially Reasonable Efforts to remarket on behalf of Buyer (or arrange for MSCG to remarket) of all or a specified part of the Daily Contract Quantity for the ensuing summer season (the period from April through October) or winter season (the period from November through March). A Seasonal Remarketing Notice must be delivered by 4:00 p.m. CPT on February 10 for remarketing of Gas during the ensuing summer season, and by 4:00 p.m. CPT on September 10 for the remarketing of Gas during the ensuing winter season.

(b) Upon Buyer's inability to take Gas under Section 4.5 and delivery by Buyer to Seller (or, if permitted under the Bond Indenture, upon delivery by the Indenture

Trustee to Seller or MSCG) of a written notice (“*Monthly Remarketing Notice*”) satisfying Section 7.1(c), provided that no Buyer Default exists, Seller shall use Commercially Reasonable Efforts to remarket on behalf of Buyer (or arrange for MSCG to remarket) of all or a specified part of the Daily Contract Quantity for any Delivery Point for a period of one (1) or more Months. A Monthly Remarketing Notice must be delivered by 4:00 p.m. CPT on the fifteenth (15th) day of the Month preceding the Month in which Gas is to be remarketed.

(c) Each Monthly Remarketing Notice and Seasonal Remarketing Notice shall specify: (i) the portion (in MMBtu) of the Daily Contract Quantity to be remarketed with respect to the applicable Delivery Point for each Gas Day; (ii) the applicable period during which such Gas is to be remarketed; and (iii) an explanation, in reasonable detail, as to the reason(s) for the remarketing. Each such notice sent by electronic mail, with a mailed copy following, shall be deemed to have been properly delivered, with such notice complete upon transmission by electronic mail, notwithstanding any different requirements for notice under Article XVII.

(d) Seller shall be deemed to have received a remarketing notice (a “*Deemed Remarketing Notice*”) from Buyer if it fails to take Gas as described in Section 4.2(a).

(f) The provision of a remarketing notice in itself does not relieve Buyer of its obligation to pay the Contract Price to Seller for the Daily Contract Quantity.

Section 7.2 Remarketing Terms.

(a) If Seller or MSCG or its designee remarkets Gas pursuant to Section 7.1 and consistent with the terms of the Prepaid Agreement, Seller shall credit to Buyer’s account any revenues received by Seller from the sale of any Gas so remarketed up to and including the Contract Price, less the Remarketing Fee; *provided, however*, Buyer remains obligated to pay the Contract Price with respect to such Gas. If neither Seller nor MSCG or its designee remarkets such Gas, Buyer shall be deemed to have failed to take such Gas under Section 4.2(a).

(b) If during any period of twelve (12) consecutive Months during the Delivery Period (i) the sum of (A) the quantity of Gas (in MMBtu) requested to be remarketed under Sections 4.5 and 7.1, and (B) the quantity of Gas (in MMBtu) which Buyer fails to take under Section 4.2(a) (without duplication), exceeds (ii) fifty percent (50%) of the sum of the Daily Contract Quantities during such 12-Month period, and (iii) Seller shall have given written notice thereof to Buyer (including or accompanied by relevant supporting data), then a “Partial Termination Condition” shall be deemed to exist and Section 18.3(e) shall apply.

ARTICLE VIII

EXCHANGES

Section 8.1 General Rule. Buyer may effectuate an exchange of Delivery Point for Gas purchased under this Contract on a daily or monthly basis under this Article VIII; provided,

however, that any failure by a third party to perform its obligations under any such exchange arrangement shall not relieve Buyer of its obligations under this Contract.

Section 8.2 *Description of Exchange Agreement.* Buyer may enter into an exchange agreement with a third party under which Buyer implements synthetic transportation of the Gas delivered at the Delivery Point ("Point A") to a delivery point on another pipeline connected with Buyer's system ("Point B"). Under such an exchange agreement, Buyer would deliver Gas at Point A to the exchange counterparty and receive delivery of an equivalent value of Gas at Point B from the exchange counterparty. The equivalent value of Gas at Point B may be taken by Buyer on the same Gas Day that Gas is delivered at Point A or at any time after such Gas Day within the same or the next succeeding Month. The transaction described in this Section 8.2 is not itself a "disqualifying use" under federal tax law in effect on the date of this Contract.

Section 8.3 *Exchange Transactions Through a Third Party.* In addition to an exchange agreement under Section 8.2, Buyer may effectuate an exchange of deliveries of Gas at Point A (as described in Section 8.2) for deliveries at Point B (as described in Section 8.2) by entering into an agreement to provide the exchange through a third party. Under such an agreement, Buyer would arrange for the delivery of Gas to one party ("Party 1") at Point A, and the receipt of Gas from another party ("Party 2") at Point B, either directly or through a commodity exchange such as the Intercontinental Exchange ("ICE"), and bring the arrangements with Party 1 and Party 2 to a third party for the third party to enter into. Buyer would then enter into an exchange agreement with the third party, as described in Section 8.2 above. The transaction described in this Section 8.3 is not itself a "disqualifying use" under federal tax law in effect on the date of this Contract.

ARTICLE IX

BUYER'S AND SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS REGARDING USE OF GAS ACQUIRED UNDER THIS CONTRACT

Section 9.1 *Tax Exemption of Bonds.* Buyer and Seller acknowledge and agree that Seller will finance the prepayment under the Prepaid Agreement with the proceeds of the Bonds, which will be issued as obligations the interest on which is excluded from the gross income of the owners thereof for federal income tax purposes. Buyer and Seller covenant and agree that each will not take any action, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, unless specifically so ordered by a Government Agency, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on any of the Bonds under the Code and the U.S. Treasury Regulations thereunder.

Section 9.2 *Qualifying Use.* Buyer represents, warrants, covenants and agrees that:

(a) Buyer is a political subdivision of a state and a public agency that possesses all power, authority, and applicable approvals necessary for it to enter into this Contract;

(b) Buyer shall deliver to Seller as a condition precedent to Seller's execution of this Contract the Buyer Certificate, in substantially the form set forth in Exhibit E hereto; and

(c) Buyer covenants and agrees that the Gas purchased under this Contract shall be used at all times during the Delivery Period by Buyer in its normal and customary governmental utility operations to provide utility service to consumers located within its governmental service territory pursuant to Buyer's rate schedules and tariffs as they exist from time to time.

ARTICLE X

REPRESENTATIONS AND WARRANTIES

Section 10.1 *Representations and Warranties.* As a material inducement to entering into this Contract, each Party, with respect to itself, hereby represents and warrants to the other Party as of the Effective Date as follows:

(a) it is duly organized and validly existing in good standing under the Laws of the state in which it is organized, and has all requisite power and authority, corporate or otherwise, to enter into and to perform its obligations hereunder and to carry out the terms and conditions hereof and the transactions contemplated hereby;

(b) it has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Contract;

(c) there is no litigation, action, suit, proceeding or investigation pending or, to the best of such Party's knowledge, threatened, before or by any Government Agency, that could reasonably be expected to materially and adversely affect the performance by such Party of its obligations hereunder or that questions the validity, binding effect or enforceability hereof, any action taken or to be taken by such Party pursuant hereto or any of the transactions contemplated hereby;

(d) the execution, delivery and performance of this Contract by such Party have been duly authorized by all necessary actions on the part of such Party and do not require any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party;

(e) this Contract has been duly executed and delivered on behalf of such Party by an appropriate officer or authorized Person of such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and by general principles of equity;

(f) the execution, delivery and performance of this Contract by such Party shall not violate any provision of any Law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to it;

(g) the execution, delivery and performance by such Party of this Contract, and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its financial obligations hereunder, shall not result in any violation of any term of any material contract or agreement applicable to it, or any of its charter or bylaws or of any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, Law, ordinance, rule or regulation applicable to it or any of its properties or to any obligations incurred by it or by which it or any of its properties or obligations are bound or affected, or of any determination or award of any arbitrator applicable to it, and shall not conflict with, or cause a breach of, or default under, any such term or result in the creation of any Lien upon any of its properties or assets; and

(h) to the best of the knowledge and belief of such Party, no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any Government Agency is required in connection with the valid authorization, execution, delivery and performance by such Party of this Contract or the consummation of any of the transactions contemplated hereby.

Section 10.2 Additional Representations, Warranties and Covenants of Buyer. As a material inducement to entering into this Contract, Buyer hereby represents, warrants and covenants to Seller as follows:

(a) the amounts payable by Buyer under this Contract (i) shall be payable as a "Operation and Maintenance Cost" under and as defined in any of Buyer's revenue bond resolutions that is payable prior to debt service on Buyer's revenue bonds, as applicable, and (ii) do not constitute an indebtedness or liability of Buyer within the meaning of any constitutional or statutory limitation or restriction applicable to Buyer; and

(b) Buyer shall establish, maintain and collect rates and charges for the sale or use of Gas or electric energy generated, transmitted, distributed or furnished by it so as to provide revenues sufficient, together with other legally available moneys, to enable Buyer to pay timely all amounts payable to Seller under this Contract, to pay any other amounts legally payable from such revenues, to maintain any required reserves pursuant to any financing obligations, and to promptly enforce the payment of any and all accounts owing to Buyer for the sale of Gas or electricity or the provision of distribution or other services to its customers.

Section 10.3 Warranty of Title. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all Liens, encumbrances, and claims. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY SELLER IN THIS ARTICLE X, AND SUBJECT TO ARTICLE VI, SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

Section 10.4 Negative Covenant of Buyer. Buyer hereby agrees that during the term of this Contract, unless the Surety shall otherwise expressly consent in writing, Buyer shall not

create, incur or suffer to exist, or agree to create, incur or suffer to exist, or consent to cause or permit in the future (upon the happening of a contingency or otherwise) the creation, incurrence or existence of any Lien on the source of payment for Buyer's payment obligations hereunder to or for the benefit of any Person that would provide such Person with a right to payment that is prior to the rights of Seller (or the Surety as assignee or subrogee of Seller) to payment under this Contract or the rights of the Surety to payment under this Contract.

ARTICLE XI

TAXES

Seller shall be responsible for all ad valorem, excise, severance, production and other taxes assessed upstream of the Delivery Point, and Buyer shall be responsible for all ad valorem, excise, severance, production and other taxes assessed at or downstream of the Delivery Point. If a Party is required to remit or pay taxes that are the other Party's responsibility hereunder, the Party responsible for such taxes shall promptly reimburse the other Party for such taxes. Any Party entitled to an exemption from any such taxes or charges shall furnish the other Party any necessary documentation thereof.

ARTICLE XII

WAIVER OF JURY TRIAL

To the extent permitted by law, each of the parties hereby agrees to waive its respective rights to a jury trial of any claim or cause of action based upon or arising hereunder. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each Party acknowledges that this waiver is a material inducement to enter into a business relationship that each has already relied on this waiver in entering into this Contract, and that each will continue to rely on this waiver in its related future dealings. Each Party further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. This waiver is irrevocable, meaning that it may not be modified either orally or in writing (other than by a mutual written waiver specifically referring to this Article XII and executed by each of the parties hereto), and this waiver shall apply to any subsequent amendments, renewals, supplements or modifications hereto. In the event of litigation, this Contract may be filed as a written consent to a trial by the court.

ARTICLE XIII

FORCE MAJEURE

Section 13.1 *Force Majeure Defined.*

(a) "Force Majeure" means an event that is not within the reasonable control of the Party, or, in the case of third party obligations or facilities related to the

performance of a Party hereunder, the third party, claiming suspension, and which by the exercise of due diligence by such Party, or third party, such Party is unable to prevent or overcome with respect to the delivery or receipt of Gas. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, earthquakes, lightning, fires, storms or storm warnings, such as hurricanes, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting a broad geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm Transportation by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, acts of terrorism or wars; (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of Law promulgated by a Government Agency having jurisdiction (excluding any actions taken by Seller or Buyer unless such actions are taken in response to an event that would otherwise constitute an event of Force Majeure); and (vi) with respect to Seller, an event of Force Majeure under the Prepaid Agreement.

(b) Seller and Buyer shall make Commercially Reasonable Efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance. Either Party may request the delivery of all or a portion of the Daily Contract Quantity Gas to a mutually agreed to alternate delivery point and each Party shall exercise Commercially Reasonable Efforts to accommodate that request.

Section 13.2 *Non-Waiver*. If an event of Force Majeure occurs, the Party affected may, in its sole discretion and without notice to the other Party, determine not to make a claim of Force Majeure and waive its rights under this Contract as such rights would apply to such event. Such determination or waiver shall not preclude the affected Party from claiming Force Majeure with respect to any subsequent event, including any event that is substantially similar to the event with respect to which such determination or waiver is made.

Section 13.3 *Force Majeure Exclusions*. Neither Party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is prevented by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm Transportation unless primary, in-path, Firm Transportation is also curtailed; (ii) the Party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price, Buyer's ability to purchase Gas at a lower or more advantageous price, or a Government Agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 13.1; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 13.1. Buyer shall not be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any action taken (or omitted to be taken, but which it was obligated to take) by Buyer in its governmental capacity. The Party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

Section 13.4 Settlement of Labor Disputes. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.

Section 13.5 Suspended Performance. In the event Seller or Buyer is rendered unable, wholly or in part, by Force Majeure to carry out its obligations hereunder, it is agreed that upon such Party's giving notice and full particulars of such Force Majeure to the other Party as soon as practicable, the obligations of the Party giving such notice, to the extent they are affected by such event, shall be suspended from the inception and during the continuance of the Force Majeure. If either Party suspends performance for reasons of Force Majeure, neither Party shall thereafter be obligated to schedule the quantity of Gas not delivered as a result of such Force Majeure or increase future deliveries of Gas to include such quantity.

Section 13.6 Force Majeure Procedure. The Party whose performance is prevented by Force Majeure must provide notice to the other Party. Initial notice may be given orally; however, written notice (which notice may be sent by electronic mail or facsimile, with such notice complete upon transmission) with reasonably full particulars of the event or occurrence is required as soon as practicable. Upon providing written notice of Force Majeure to the other Party, the affected Party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither Party shall be deemed to have failed in such obligations to the other during such occurrence or event. The Party receiving a notice of Force Majeure shall have until the end of the next Business Day after receipt to notify the Party claiming Force Majeure that it objects to or disputes the existence of an event of Force Majeure.

ARTICLE XIV

GOVERNMENTAL RULES AND REGULATIONS

Section 14.1 Compliance with Laws. This Contract shall be subject to all present and future Laws of any Government Agency having jurisdiction, and neither Party has or will knowingly undertake or knowingly cause to be undertaken any activity that would conflict with such Laws; *provided, however*, that nothing herein shall be construed to restrict or limit either Party's right to object to or contest any such Law, and neither acquiescence therein or compliance therewith for any period of time shall be construed as a waiver of such right.

Section 14.2 Contests. Excluding all matters involving a contractual dispute between the Parties, no Party shall contest, cause to be contested or in any way actively support the contest of the equity, fairness, reasonableness or lawfulness of any terms or conditions set forth or established pursuant to this Contract, as those terms or conditions may be at issue before any Government Agency in any proceeding, if the successful result of such contest would be to preclude or excuse the performance of this Contract by either Party.

Section 14.3 Defense of Contract. Excluding all matters involving a contractual dispute between the Parties, each Party shall hereafter defend and support, and shall take no action in derogation of, this Contract before any Government Agency in any proceeding, if the substance, validity or enforceability of all or any part of this Contract is hereafter challenged or if any

proposed changes in Law or regulatory practices or procedures would have the effect of making this Contract invalid or unenforceable or would subject either Party to any greater or different regulation or jurisdiction that materially affects the rights or obligations of the Parties under this Contract.

Section 14.4 *Continuing Disclosure*. Buyer understands and acknowledges that, in connection with the public offering of the Bonds, Seller is subject to certain disclosure requirements for the benefit of prospective purchasers and beneficial owners of the Bonds under Rule 15c2-12 (“Rule 15c2-12”) and under Rule 10b-5 (“Rule 10b-5”), promulgated pursuant to the Securities Exchange Act of 1934 (including any amended or successor regulation or statute thereto). To assist Seller in complying with Rule 15c2-12 and Rule 10b-5, Buyer covenants and agrees that if Seller reasonably determines that (i) Buyer is a material obligated person, as that term is defined in Rule 15c2-12, or (ii) that a material event, as that term is defined in Rule 15c2-12, has occurred with respect to Buyer or this Contract, then Buyer will authorize and provide to Seller, for inclusion in any preliminary official statement or official statement of the Bonds or any continuing disclosure thereto, all statements and information relating to Buyer deemed material by Seller for the purpose of satisfying Rule 15c2-12 as well as Rule 10b-5. If Seller has determined that Buyer is a material obligated person for purposes of Rule 15c2-12, then Buyer further covenants and agrees that Buyer will enter into a continuing disclosure agreement in such form as Seller shall reasonably determine to be necessary for compliance with Rule 15c2-12 and shall thereafter provide ongoing disclosure as required thereby and by Rule 15c2-12.

ARTICLE XV

ASSIGNMENT

Neither Party shall assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed, *provided, however* (i) Seller may pledge and assign its right, title, and interest in this Contract and the amounts payable by Buyer under this Contract to the Indenture Trustee under the Bond Indenture, such that the Trustee or any receiver appointed under the Bond Indenture shall have the right to enforce all obligations of Buyer and to perform all obligations of Seller under this Contract; (ii) in the event of Buyer Payment Default and receipt by the Indenture Trustee of payment by Surety of amounts owing by Buyer, Seller shall assign its rights under this Contract to the Surety as specified in Exhibit A hereto; and (iii) Buyer shall not assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the Surety.

ARTICLE XVI

PAYMENTS

Section 16.1 *Monthly Statement*.

(a) No later than the 10th day of each Month during the Delivery Period (excluding the first Month of the Delivery Period) and the first Month following the end of the Delivery Period, Seller or its designee shall deliver a statement (a “*Billing*”

Statement”) to Buyer indicating (i) the quantities of Gas delivered, (ii) the Contract Price applicable for the prior Month(s), (iii) the amount due to Buyer, if any, under Articles III and IV with respect to the prior Month(s), (iv) any other amounts due to Seller in connection with this Contract, including, but not limited to, amounts due under Section 4.2(a) with respect to the prior Month(s), and (v) the net amount due to Buyer or Seller. Buyer hereby agrees to treat all Billing Statements, whether provided by Seller or its designee, as valid and as reflecting the amounts that Buyer must pay under the terms of this Contract. Buyer shall not be held liable by reason of Buyer having relied upon any such Billing Statements.

(b) Upon request by either Party, the other Party will deliver such supporting documentation of the foregoing as such requesting Party may reasonably request.

Section 16.2 *Payment*. Buyer shall remit such amounts due to Seller by wire transfer in immediately available funds on or before the 20th day of the Month following the Month of delivery, or if such day is not a Business Day, the following Business Day. If the Billing Statement indicates an amount due from Seller, then Seller shall remit such amount to Buyer by wire transfer (pursuant to Buyer’s instructions), in immediately available funds, on or before the 28th day of the Month following delivery, or if such day is not a Business Day, the following Business Day.

Section 16.3 *Suspension and Termination*. If a Buyer Default under Section 18.1(a) (a “*Payment Default*”) occurs, Seller shall suspend performance under this Contract until such Payment Default has been cured (with Buyer being deemed to have given Seller a Deemed Remarketing Notice during such suspension) and may exercise any remedy available at law or equity to enforce Buyer’s obligations and to collect damages. As required in the Indenture, on the 25th day of the Month in which Buyer fails to pay when due any amount owed to Seller, the Indenture Trustee shall draw on the insurance policies issued by the Surety that it holds securing certain of the obligations of Buyer hereunder to make payments in satisfaction of amounts owed to Seller pursuant to a Billing Statement. Buyer and Seller agree that the Surety is a third party beneficiary under this Contract with the right to enforce the payment and other obligations of Buyer hereunder. If a suspension of deliveries of Gas to Buyer continues for a period of 30 days (as a result of a failure by Buyer to remedy the nonpayment giving rise to such suspension), then the following Business Day shall be an Early Termination Date upon provision of a notice pursuant to Section 18.3. In that event, (a) the Delivery Period will end, (b) Seller shall have no obligation to sell or deliver Gas to Buyer under this Contract, (c) the obligation of Buyer to purchase and receive Gas from Seller under this Contract will terminate, and (d) all rights of Buyer to receive monies under this Contract shall terminate. If Buyer cures a Payment Default prior to an Early Termination Date and subsequently causes another Payment Default, then Seller shall both immediately suspend performance and give notice of an Early Termination Date to be effective the following Business Day pursuant to Section 18.3 notwithstanding anything to the contrary in Section 18.3(f).

Section 16.4 *Payment of Disputed Amounts*. If Buyer disputes any amounts included in the Billing Statement, Buyer shall (except in the case of manifest error) nonetheless pay any amount required by the Billing Statement provided. In either case, the disputing Party shall have the right to dispute any amounts included in a Billing Statement or otherwise used to calculate

payments due hereunder pursuant to Section 16.6. Parties shall meet as soon as practicable after notification of any such dispute to attempt to resolve the dispute informally.

Section 16.5 Late Payment. If a Party owing a netted payment under Section 16.2 fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at the Default Rate (“*Late Payment Fee*”).

Section 16.6 Copies of Documents; Adjustments.

(a) Each Party and its assignees have the right, at its own expense, upon reasonable notice and at reasonable times, to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made under this Contract. This right to obtain copies shall not be available with respect to information not directly relevant to transactions under this Contract.

(b) Each Billing Statement shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such Billing Statement is objected to in writing, with adequate explanation and/or documentation, within two years after the Month to which such Billing Statement related.

(c) All retroactive adjustments shall be paid in full by the Party owing payment within thirty (30) days of notice and substantiation of such inaccuracy. If the Parties are unable to agree upon any retroactive adjustments requested by either Party within the time period specified in clause (b) above, then either Party may pursue any remedies available with respect to such adjustments at law or in equity. Retroactive adjustments for any payment made based on incorrect Billing Statements shall bear interest at the Default Rate from the date such payment was made.

Section 16.7 Netting. The Parties shall net all amounts due and owing, and/or past due, arising under this Contract such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with this Article XVI.

ARTICLE XVII

NOTICES

All notices, requests, statements or payments shall be made as specified on Exhibit D hereto. All notices, requests, or statements to Buyer shall be recognized as valid, whether from Seller, or its designee(s), and Buyer shall not be held liable by reason of Buyer having relied on them. Notices required to be in writing shall be delivered by letter, electronic mail, facsimile or other documentary form or such other means of communication as the Parties may agree from time to time in writing and shall be deemed given upon actual receipt by the Party to which such notice is given except that any notices received after 2:00 p.m. CPT shall be deemed received at the close of the next Business Day. A Party may change its address by providing notice of same in accordance herewith. Notwithstanding the foregoing, any notices regarding day-to-day operations may be given orally, to be followed up in writing.

ARTICLE XVIII

DEFAULT; REMEDIES; TERMINATION

Section 18.1 Buyer Default. Each of the following events shall constitute a “*Buyer Default*” under this Contract:

(a) Failure by Buyer to make to Seller when due any of the payments for which provision is made in this Contract shall constitute a default on the part of Buyer.

(b) Any representation, warranty, or covenant made by Buyer in this Contract that shall prove to have been incorrect in any material respect when made or Buyer fails to perform any covenant under this Contract.

Section 18.2 Automatic Termination Event. The occurrence of an Early Termination Date under the Prepaid Agreement shall constitute an “*Automatic Termination Event*” under this Contract. If at any time an Automatic Termination Event has occurred, an Early Termination Date shall occur under this Contract on the same day.

Section 18.3 Remedies and Termination.

(a) In the event of a default by Seller under any covenant, agreement, or obligation in this Contract, Buyer may bring any suit, action, or proceeding at law or in equity to enforce Seller’s obligation(s), including mandamus, injunction, and action for specific performance, as Buyer determines may be necessary or appropriate to enforce any covenant, agreement, or obligation in this Contract against Seller.

(b) If at any time a Buyer Default has occurred and is continuing, Seller may, by notice to Buyer specifying the relevant Buyer Default, designate an Early Termination Date not earlier than the day such notice is effective.

(c) In lieu of or in addition to any notice provided by Seller, the Indenture Trustee acting pursuant to the Bond Indenture may provide notice to Buyer of any Early Termination Date, Automatic Termination Event or Partial Termination Condition.

(d) As of the Early Termination Date, (i) the Delivery Period shall end, (ii) the obligation of Seller to sell and deliver Gas to Buyer under this Contract shall terminate, (iii) the obligation of Buyer to purchase and receive Gas from Seller under this Contract will terminate, and (iv) all rights of Buyer to receive monies under this Contract shall terminate.

(e) If a Partial Termination Condition under Section 7.2(b) has occurred, Seller, unless the Parties agree otherwise, and following Seller’s reasonable determination with respect to the related mechanics and calculations for doing so, may designate an Early Termination Date only with respect to so much of this Contract and the quantities of Gas remaining to be delivered hereunder as are described in clause (i) of Section 7.2(b). If this Contract is so partially terminated with respect to such quantities of Gas, the provisions of this Article XVIII shall apply to the portion terminated, and this

Contract shall remain in effect for the portion not terminated. Nothing in this paragraph (e) is meant to imply that a complete termination of this Contract would or would not be required or permitted pursuant to the exercise of any other right or remedy under this Contract.

(f) Notwithstanding anything to the contrary in Section 16.3 or in this Article XVIII, the Parties acknowledge and agree that, if Seller suspends deliveries of Gas to Buyer pursuant to Section 16.3, (i) MSCG shall have the right to cure any Buyer Default before the later of (y) the 20th day of the Month following the Month in which the Buyer Default occurred and (z) the date occurring 30 days after such suspension, (ii) upon MSCG curing such default, MSCG shall be subrogated to the rights of Seller against Buyer in respect of such Buyer Default, provided that MSCG shall have no right to file claims under the Policies, and (iii) no default by Buyer shall result in an Early Termination Date hereunder, if Seller has cured such default.

(g) In the event of the early termination of the Prepaid Agreement, MSCG will pay Seller monies under certain conditions set forth therein (a "*Prepaid Termination Payment*"). Unless otherwise agreed, and provided that Buyer is not in default, Seller agrees to transfer to Buyer, solely from amounts thereof, if any, actually received by Seller, Buyer's share of any such Prepaid Termination Payment received from MSCG pursuant to the Prepaid Agreement. Notwithstanding the foregoing, Seller's reasonable determination of Buyer's share of any such Prepaid Termination Payment may include retention by Seller from Buyer's share costs incurred because of the early termination, costs incurred due to any audit of the Project or any transactions thereunder, and amounts reasonably determined by Seller to represent the present value of administrative fees (constituting a portion of the Price Reduction Amount) that Seller would otherwise have retained or received in respect of the Daily Contract Quantity over the remainder of the Delivery Period had such Early Termination Date not occurred. Seller in its sole discretion may delay such a transfer payment until the time that the Project and any transactions thereunder are no longer subject to audit.

Section 18.4 Other Remedies. If all amounts payable by a defaulting Party on the Early Termination Date shall not have been received on such date by the non-defaulting Party, the non-defaulting Party may proceed to protect and enforce its rights, either by suit in equity or by action at law or both, whether for the specific performance of any covenant or agreement contained in this Contract or in aid of the exercise of any power, right or remedy granted in this Contract or may proceed to enforce the payment of all amounts owing to the non-defaulting Party under this Contract (including, without limitation, any sums specified as liquidated damages or any other unpaid amounts due to the non-defaulting Party hereunder, together with interest thereon to the extent provided herein); it being intended that, except to the extent set forth in Section 18.5 with respect to exclusive remedies, no remedy conferred herein is to be exclusive of any other remedy, and each and every remedy contained herein shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 18.5 Limitation on Damages. The Parties confirm that the express remedies and measures of damages provided in this Contract satisfy the essential purposes hereof. For

breach of any provision for which an express remedy or measure of damages is herein provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived, unless such breach is the result of gross negligence or willful misconduct. Neither Party shall be liable for consequential, incidental, punitive, exemplary, or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise, unless such breach is the result of gross negligence or willful misconduct. It is the intent of the Parties that (i) the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including, without limitation, the negligence of either Party, other than gross negligence or willful misconduct, whether such negligence be sole, joint or concurrent, or active or passive, and (ii) if and to the extent any damages required to be paid hereunder are liquidated, the parties acknowledge that the damages are difficult or impossible to determine, otherwise obtaining an adequate remedy is inconvenient and the liquidated damages constitute a reasonable approximation of the harm or loss. In determining the appropriate measure of damages that would make the Parties whole, the Parties have thoroughly considered, inter alia, the uncertainty of fluctuations in gas prices, the ability and intention of the Parties to hedge such fluctuations, the bargained-for allocation of risk, the knowledge, sophistication and equal bargaining power of the Parties, the arms-length nature of the negotiations, the special circumstances of this transaction, the accounting and tax treatment of the transaction by the Parties and the entering into of other transactions in reliance on the enforceability of the liquidated damages provisions contained herein. The Parties acknowledge that this Contract is subject to Article 2 of the Uniform Commercial Code, as enacted by the state or commonwealth the law of which shall govern this Contract, including without limitation, §§ 2-706(6), 2-711, 2-718, and 2-719, except to the extent any provisions of such Article 2 (including of such sections) may be inconsistent with the provisions of this Contract, which shall control. Except as expressly set forth herein, Seller expressly disclaims any, and makes no other, representation or warranty, written or oral, express or implied, including, without limitation, any representation or warranty with respect to conformity to models or samples, merchantability, or fitness for any particular purposes. There are no warranties which extend beyond the description on the face hereof.

ARTICLE XIX

MISCELLANEOUS

Section 19.1 *Indemnification Procedure*. With respect to each indemnification included in this Contract, the indemnity is given to the fullest extent permitted by applicable Law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs, the indemnifying Party's attorneys' and experts' fees, and to post any appeals bonds; *provided, however*, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any Claim. The indemnifying Party shall not be liable for any settlement of a Claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for reasonable payments or costs incurred in respect of an indemnity with the proceeds of any

judgment, insurance, bond, surety or other recovery made by the indemnified Party with respect to a covered event.

Section 19.2 Entirety. This Contract, including the Exhibits hereto, constitutes the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters that, in accordance with the express provisions of this Contract, may be resolved by oral agreement between the Parties, no amendment, modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

Section 19.3 Governing Law. This Contract shall be interpreted and construed in accordance with the applicable laws of the State of New York, excluding conflicts of law principles which would refer to the laws of another jurisdiction; *provided* that the authority of each of Buyer and Seller to enter into and perform its obligations under this Contract shall be determined in accordance with the Laws of the state or commonwealth, as applicable, of formation of each Party.

Section 19.4 Non Waiver. No waiver of any breach of any of the terms of this Contract shall be effective unless such waiver is in writing and signed by the Party against whom such waiver is claimed. No waiver of any breach shall be deemed a waiver of any other subsequent breach.

Section 19.5 Severability. If any provision of this Contract, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Contract and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permissible under applicable Law, so long as the economic and legal substance of the transactions contemplated hereby is not affected in any materially adverse manner as to either Party.

Section 19.6 Exhibits. Any and all Exhibits referenced in this Contract shall be incorporated herein by reference and shall be deemed to be an integral part hereof.

Section 19.7 Winding Up Arrangements. All indemnity obligations, audit rights, Article IX, Exhibit A, and other provisions specifically providing for survival shall survive the expiration or termination of this Contract. The expiration or termination of this Contract shall not relieve either Party of (a) any unfulfilled obligation or undischarged liability of such Party on the date of such termination, or (b) the consequences of any breach or default of any warranty or covenant contained in this Contract. All obligations and liabilities described in the preceding sentence of this Section 19.7, and applicable provisions of this Contract creating or relating to such obligations and liabilities, shall survive such expiration or termination.

Section 19.8 Relationships of Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Contract, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind

the other to any agreement. This Contract is intended to secure and provide for the services of each Party as an independent contractor.

Section 19.9 *Immunity*. Buyer and Seller represent and covenant to and agree that each is not entitled to, and hereby waives any rights it may have to and shall not assert the defense of sovereign immunity with respect to its obligations or any claims under this Contract.

Section 19.10 *Market Disruption Events; Rates and Indexes*.

(a) In the event of a Market Disruption Event, the Parties shall negotiate in good faith to agree upon actions and changes in the terms of the documentation that will place both Parties in the same economic position they would have been in had the Market Disruption Event not occurred.

(b) If (i) a publication that contains a rate or index used in this Contract ceases to be published for any reason or (ii) such a rate or index should cease to exist for any reason, the Parties shall select a comparable rate or index to be used in place of such rate or index that maintains the intent and economic effect of the original rate or index. If the Parties fail to agree on a rate or index within ten (10) days after a rate or index ceases to be published or ceases to exist, a replacement rate or index shall be determined in good faith by the Parties based upon quotes obtained in good faith from leading dealers in the natural gas market of the highest credit standing that satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit. Each Party may obtain up to a maximum of four quotes that must be provided to the other Party no later than fifteen (15) days following the first Business Day on which the rate or index ceased to be published ceased to exist. These quotes shall reflect transacted prices if available. The rate or index for the affected Gas Day shall equal a simple average of the quotes obtained and provided by the Parties consistent with the provisions of this Section. Each Party providing quote(s) to the other Party also shall identify to that other Party the dealers who provided each of the quotes to allow verification.

(c) If any rate or index used in this Contract is not published for a particular date, but the publication containing such rate or index continues to be published and the rate or index itself continues to exist, then the Parties shall use the rate or index in effect for the date such rate or index was most recently published as the rate or index for such date.

(d) If an incorrect value is published for any rate or index used in this Contract and such error is corrected and published within one (1) year of the date of the publication of such incorrect rate or index, then such corrected rate or index will be substituted for the incorrect rate or index and any calculations involving such rate or index will be recalculated and the Parties will take any necessary actions based upon these revised calculations.

Section 19.11 *Counterparts*. This Contract may be executed and acknowledged in multiple counterparts and by different Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.

Section 19.12 *Third-Party Beneficiaries*. With the exception of the Surety and as provided in Section 19.13 with respect to the Indenture Trustee, the Parties acknowledge and agree that there are no third party beneficiaries of this Contract, and that this Contract shall not impart any rights enforceable by any person, firm, organization, or corporation not a party to this Contract, except the permitted assignees referred to in Article XIV. Regarding the Surety, it shall be an express third party beneficiary of this Contract entitled, but not obligated, to enforce each of the covenants and provisions of this Contract. Each Party expressly acknowledges and agrees that, irrespective of any action taken or omitted to be taken by the Surety under or in connection with this Contract or otherwise in connection with the transactions contemplated by this Contract, the sole liability and obligation of the Surety in connection therewith shall be those obligations which are expressly undertaken by the Surety in the Policies.

Section 19.13 *Rights of Indenture Trustee*. Pursuant to the terms of the Bond Indenture, Seller has irrevocably appointed the Indenture Trustee as its agent to issue notices (including Remarketing Notices) and to take any other actions that Seller is required or permitted to take under this Contract, and as assignee of Seller under the Bond Indenture and subject to the terms thereof, the Indenture Trustee shall have all rights of Seller to enforce Buyer's payment and other obligations under this Contract on behalf of the holders of the Bonds and the other parties secured under the Bond Indenture. Buyer may rely on notices or other actions taken by Seller or the Indenture Trustee and Buyer has the right to exclusively rely on any notices delivered by the Indenture Trustee, regardless of any conflicting notices that it may receive from Seller.

ARTICLE XX

PROJECT MANAGEMENT AND ADMINISTRATION

Section 20.1 *Administration of the Gas Supply Acquisition Project*. Seller covenants and agrees that it will use its best efforts to acquire, manage and administer the Gas Supply Acquisition Project for the benefit of all of the Project Participants. Buyer acknowledges and agrees that Seller may from time to time enter into amendments of and supplements to the Bond Indenture and any or all of the related project agreements and that Seller will not be required to obtain the consent or approval of Buyer in connection with any such supplement or amendment.

Section 20.2 *Project Management Committee*. Pursuant to the Seller's Bylaws, Project Participants may appoint a representative to serve on the "Project Management Committee" (the "*Project Management Committee*"). The Project Management Committee is required to act in accordance with and is governed by the Bylaws. In the event that a weighted vote is called for on any matter before the Project Management Committee, the participant shall be entitled to cast the number of votes that is equal to the total daily quantities of gas to be purchased by it under its gas supply contract with Seller.

ARTICLE XXI

Closing Documentation

Section 21.1 Closing Documentation.

(a) The following documents shall be delivered by Buyer contemporaneously with this Contract:

(i) a completed and executed certificate of Buyer, in substantially the form attached as Exhibit E;

(ii) a certificate of the Secretary or Assistant Secretary or other duly authorized representative of Buyer setting forth (i) the resolutions of its governing body authorizing Buyer to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto, in substantially the form attached as Exhibit F, (ii) the appropriate individuals who are authorized to execute the Contract and any such agreements, (iii) specimen signatures of such authorized individuals, and (iv) the organization documents Buyer, certified as being true and complete;

(iii) a legal opinion to the effect that this Contract has been duly authorized, executed and delivered by Buyer and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, substantially to the effect of that in the form attached as Exhibit G; and

(iv) such other documents, certificates and opinions as may be reasonably requested by Seller.

(b) The following documents shall be delivered by Seller contemporaneously with this Contract:

(i) a certificate of the Secretary or Assistant Secretary or other duly authorized representative of Seller setting forth (i) the resolutions of its governing body authorizing Seller to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto, and (ii) the appropriate individuals who are authorized to execute the Contract and any such agreements;

(ii) a legal opinion addressed to the Buyer, Indenture Trustee, MSCG, the Swap Counterparty and the Surety to the effect that this Contract has been duly authorized, executed and delivered by Seller and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms; and

(iii) executed counterparts of the Prepaid Agreement.

(c) Buyer shall provide to Seller such updates to the documents provided by Buyer pursuant to Section 21.1(a) as Seller may reasonably request prior to the beginning of the Delivery Period.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have caused this Contract to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF HENDERSON

By:

Name: Steve Austin

Title: Mayor

PUBLIC ENERGY AUTHORITY OF KENTUCKY

By:

Name: Gerald L. Ballinger

Title: President and General Manager

EXHIBIT A

ASSURED GUARANTY MUNICIPAL CORP. PROVISIONS

The Surety has issued its Debt Service Reserve Financial Guaranty Insurance Policy and its Commodity Swap Reserve Financial Guaranty Insurance Policy guaranteeing the payment, when due, of certain of Buyer's obligations under this Contract (collectively, the "*Policies*") as set forth in the Policies, pursuant to that certain Financial Guaranty Agreement dated as of _____ 1, 2016 (the "*Financial Guaranty Agreement*"), by and between Seller and the Surety. So long as the Policies remain in effect and the Surety has not defaulted in its obligations thereunder, Buyer and Seller agree the following provisions shall apply for the benefit of the Surety, notwithstanding anything in this Contract to the contrary:

(a) Each of the representations and warranties made by Seller and Buyer in this Contract is expressly made to and for the benefit of the Surety.

(b) Notices to the Surety provided for herein shall be made to the following address:

Assured Guaranty Municipal Corp.
1633 Broadway
New York, New York 10019
Attention: Managing Director - Surveillance
Confirmation: (212) 974-0100
Telecopy No.: (212) 339-3556
Policy Nos. [*to be inserted in execution copy*]

In each case in which notice or other communication to the Surety refers to a Payment Default or a claim on the Policies, then a copy of such notice or other communication should also be sent to the attention of General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

(c) Upon payment by the Surety to the Indenture Trustee, according to its interests, as assignee of Seller, of any amounts owed by Buyer to Seller, the Surety shall be subrogated, to the extent of such amount owed by Buyer and any additional interest due on any late payment, to the rights of the Seller hereunder in respect of such amount and interest, such rights of Seller hereunder shall be assigned to the Surety pursuant to the Policies, and the Surety shall be entitled to exercise all rights and remedies of Seller under this Contract and/or under applicable law in respect of such payment and interest, including the right to bring any suit, action, or proceeding at law or in equity, as the Surety determines may be necessary or appropriate. Such rights of the Surety shall survive termination of the Gas Supply Contract.

(d) This Contract may not be amended, supplemented, modified, or waived by either Party, other than to provide for any changes in Delivery Points, without the prior written consent of the Surety in its sole discretion without any implied duty towards any Person.

(e) Amounts paid by the Surety under the Policies shall not be deemed paid for purposes of this Contract with respect to Buyer, and such payments shall remain due and owing until paid by Buyer, but without duplication of payment. Buyer shall reimburse the Surety for all amounts paid under the Policies and shall pay interest thereon from the date of payment by the Surety at the Default Rate without regard to the resolution of any disputed amounts under Section 16.4 of this Contract. Such amounts shall be immediately due and payable without demand and shall not be subject to the netting provisions of Section 16.7 of this Contract.

(f) Upon a failure of Buyer to pay amounts owed under this Contract and payment by the Surety of such applicable amounts, any funds recovered upon a Payment Default shall be applied to reimburse the Surety for amounts so disbursed, interest due on such amounts and the payment of expenses due the Surety before being applied to any other amounts owed by Buyer under this Contract.

(g) From and after a Payment Default, Buyer shall pay or reimburse the Surety for any and all charges, fees, costs, expenses, losses and liabilities that the Surety may reasonably pay or incur, including, but not limited to, reasonable attorneys' and accountants' fees and expenses and costs of investigations, in connection with such Payment Default including, without limitation: (A) any accounts established to facilitate payments under the Policies to the extent the Surety has not been immediately reimbursed on the date that any amount is paid by the Surety under the Policies; (B) the administration, enforcement, defense or preservation of any rights or remedies in respect of this Contract and the Financial Guaranty Agreement, including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of Buyer or any affiliate thereof) relating to this Contract, the Financial Guaranty Agreement or the Bond Indenture or the transactions contemplated by this Contract (other than such costs incurred solely as a result of the Surety failing to honor a properly presented and conforming Notice of Claim (as defined in the Policies) as and when finally determined by a court of competent jurisdiction); or (C) the pursuit of any remedies under this Contract or the Financial Guaranty Agreement or otherwise afforded by law or equity. In addition, the Surety reserves the right to charge a Commercially Reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Contract reflecting its costs in connection therewith whether or not executed or completed. Amounts payable by Buyer hereunder shall bear interest at the Default Rate from the date such amount is paid or incurred by the Surety until the date the Surety is paid in full.

(h) The obligations of Buyer under this Exhibit A shall be absolute and unconditional obligations of Buyer, and shall be paid or performed strictly in accordance with this Contract under all circumstances irrespective of, without limitation: (A) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to this Contract, the Financial Guaranty Agreement or Policies; (B) the existence of any claim, setoff, defense, reduction, abatement or other right which Buyer may have at any time against the Surety or any other Person; or (C) any other circumstances, other than payment in full, which might otherwise constitute a defense available to, or discharge of, Buyer in respect of this Contract.

(i) To the extent Buyer has not entered into a continuing disclosure agreement as provided by Section 13.4 of this Contract, Buyer will provide to the Surety annual financial statements of Buyer, audited by an independent certified public accountant, within 180 days after the end of each fiscal year of Buyer.

(j) Buyer covenants to provide to the Surety, promptly upon request, any information regarding the transactions contemplated by this Contract or the financial condition and operations of Buyer as reasonably requested by the Surety. Buyer will permit the Surety to discuss the affairs, finances and accounts of Buyer or any information the Surety may reasonably request regarding the transactions contemplated by this Contract with appropriate officers of Buyer and will use Commercially Reasonable Efforts to enable the Surety to have access to the facilities, books and records of Buyer on any Business Day upon reasonable prior notice.

EXHIBIT B

DAILY CONTRACT QUANTITY

Oct-16	644	MMBtu/Day	Nov-19	877	MMBtu/Day
Nov-16	877	MMBtu/Day	Dec-19	877	MMBtu/Day
Dec-16	877	MMBtu/Day	Jan-20	877	MMBtu/Day
Jan-17	877	MMBtu/Day	Feb-20	877	MMBtu/Day
Feb-17	877	MMBtu/Day	Mar-20	877	MMBtu/Day
Mar-17	877	MMBtu/Day	Apr-20	644	MMBtu/Day
Apr-17	644	MMBtu/Day	May-20	644	MMBtu/Day
May-17	644	MMBtu/Day	Jun-20	644	MMBtu/Day
Jun-17	644	MMBtu/Day	Jul-20	644	MMBtu/Day
Jul-17	644	MMBtu/Day	Aug-20	644	MMBtu/Day
Aug-17	644	MMBtu/Day	Sep-20	644	MMBtu/Day
Sep-17	644	MMBtu/Day	Oct-20	644	MMBtu/Day
Oct-17	644	MMBtu/Day	Nov-20	877	MMBtu/Day
Nov-17	877	MMBtu/Day	Dec-20	877	MMBtu/Day
Dec-17	877	MMBtu/Day	Jan-21	877	MMBtu/Day
Jan-18	877	MMBtu/Day	Feb-21	877	MMBtu/Day
Feb-18	877	MMBtu/Day	Mar-21	877	MMBtu/Day
Mar-18	877	MMBtu/Day	Apr-21	644	MMBtu/Day
Apr-18	644	MMBtu/Day	May-21	644	MMBtu/Day
May-18	644	MMBtu/Day	Jun-21	644	MMBtu/Day
Jun-18	644	MMBtu/Day	Jul-21	644	MMBtu/Day
Jul-18	644	MMBtu/Day	Aug-21	644	MMBtu/Day
Aug-18	644	MMBtu/Day	Sep-21	644	MMBtu/Day
Sep-18	644	MMBtu/Day	Oct-21	692	MMBtu/Day
Oct-18	644	MMBtu/Day	Nov-21	943	MMBtu/Day
Nov-18	877	MMBtu/Day	Dec-21	943	MMBtu/Day
Dec-18	877	MMBtu/Day	Jan-22	943	MMBtu/Day
Jan-19	877	MMBtu/Day	Feb-22	943	MMBtu/Day
Feb-19	877	MMBtu/Day	Mar-22	943	MMBtu/Day
Mar-19	877	MMBtu/Day	Apr-22	692	MMBtu/Day
Apr-19	644	MMBtu/Day	May-22	692	MMBtu/Day
May-19	644	MMBtu/Day	Jun-22	692	MMBtu/Day
Jun-19	644	MMBtu/Day	Jul-22	692	MMBtu/Day
Jul-19	644	MMBtu/Day	Aug-22	692	MMBtu/Day
Aug-19	644	MMBtu/Day	Sep-22	692	MMBtu/Day
Sep-19	644	MMBtu/Day	Oct-22	692	MMBtu/Day
Oct-19	644	MMBtu/Day	Nov-22	943	MMBtu/Day
			Dec-22	943	MMBtu/Day

Jan-23	943	MMBtu/Day	Aug-26	692	MMBtu/Day
Feb-23	943	MMBtu/Day	Sep-26	692	MMBtu/Day
Mar-23	943	MMBtu/Day	Oct-26	744	MMBtu/Day
Apr-23	692	MMBtu/Day	Nov-26	1,014	MMBtu/Day
May-23	692	MMBtu/Day	Dec-26	1,014	MMBtu/Day
Jun-23	692	MMBtu/Day	Jan-27	1,014	MMBtu/Day
Jul-23	692	MMBtu/Day	Feb-27	1,014	MMBtu/Day
Aug-23	692	MMBtu/Day	Mar-27	1,014	MMBtu/Day
Sep-23	692	MMBtu/Day	Apr-27	744	MMBtu/Day
Oct-23	692	MMBtu/Day	May-27	744	MMBtu/Day
Nov-23	943	MMBtu/Day	Jun-27	744	MMBtu/Day
Dec-23	943	MMBtu/Day	Jul-27	744	MMBtu/Day
Jan-24	943	MMBtu/Day	Aug-27	744	MMBtu/Day
Feb-24	943	MMBtu/Day	Sep-27	744	MMBtu/Day
Mar-24	943	MMBtu/Day	Oct-27	744	MMBtu/Day
Apr-24	692	MMBtu/Day	Nov-27	1,014	MMBtu/Day
May-24	692	MMBtu/Day	Dec-27	1,014	MMBtu/Day
Jun-24	692	MMBtu/Day	Jan-28	1,014	MMBtu/Day
Jul-24	692	MMBtu/Day	Feb-28	1,014	MMBtu/Day
Aug-24	692	MMBtu/Day	Mar-28	1,014	MMBtu/Day
Sep-24	692	MMBtu/Day	Apr-28	744	MMBtu/Day
Oct-24	692	MMBtu/Day	May-28	744	MMBtu/Day
Nov-24	943	MMBtu/Day	Jun-28	744	MMBtu/Day
Dec-24	943	MMBtu/Day	Jul-28	744	MMBtu/Day
Jan-25	943	MMBtu/Day	Aug-28	744	MMBtu/Day
Feb-25	943	MMBtu/Day	Sep-28	744	MMBtu/Day
Mar-25	943	MMBtu/Day	Oct-28	744	MMBtu/Day
Apr-25	692	MMBtu/Day	Nov-28	1,014	MMBtu/Day
May-25	692	MMBtu/Day	Dec-28	1,014	MMBtu/Day
Jun-25	692	MMBtu/Day	Jan-29	1,014	MMBtu/Day
Jul-25	692	MMBtu/Day	Feb-29	1,014	MMBtu/Day
Aug-25	692	MMBtu/Day	Mar-29	1,014	MMBtu/Day
Sep-25	692	MMBtu/Day	Apr-29	744	MMBtu/Day
Oct-25	692	MMBtu/Day	May-29	744	MMBtu/Day
Nov-25	943	MMBtu/Day	Jun-29	744	MMBtu/Day
Dec-25	943	MMBtu/Day	Jul-29	744	MMBtu/Day
Jan-26	943	MMBtu/Day	Aug-29	744	MMBtu/Day
Feb-26	943	MMBtu/Day	Sep-29	744	MMBtu/Day
Mar-26	943	MMBtu/Day	Oct-29	744	MMBtu/Day
Apr-26	692	MMBtu/Day	Nov-29	1,014	MMBtu/Day
May-26	692	MMBtu/Day	Dec-29	1,014	MMBtu/Day
Jun-26	692	MMBtu/Day	Jan-30	1,014	MMBtu/Day
Jul-26	692	MMBtu/Day	Feb-30	1,014	MMBtu/Day

Mar-30	1,014	MMBtu/Day	Oct-33	800	MMBtu/Day
Apr-30	744	MMBtu/Day	Nov-33	1,090	MMBtu/Day
May-30	744	MMBtu/Day	Dec-33	1,090	MMBtu/Day
Jun-30	744	MMBtu/Day	Jan-34	1,090	MMBtu/Day
Jul-30	744	MMBtu/Day	Feb-34	1,090	MMBtu/Day
Aug-30	744	MMBtu/Day	Mar-34	1,090	MMBtu/Day
Sep-30	744	MMBtu/Day	Apr-34	800	MMBtu/Day
Oct-30	744	MMBtu/Day	May-34	800	MMBtu/Day
Nov-30	1,014	MMBtu/Day	Jun-34	800	MMBtu/Day
Dec-30	1,014	MMBtu/Day	Jul-34	800	MMBtu/Day
Jan-31	1,014	MMBtu/Day	Aug-34	800	MMBtu/Day
Feb-31	1,014	MMBtu/Day	Sep-34	800	MMBtu/Day
Mar-31	1,014	MMBtu/Day	Oct-34	800	MMBtu/Day
Apr-31	744	MMBtu/Day	Nov-34	1,090	MMBtu/Day
May-31	744	MMBtu/Day	Dec-34	1,090	MMBtu/Day
Jun-31	744	MMBtu/Day	Jan-35	1,090	MMBtu/Day
Jul-31	744	MMBtu/Day	Feb-35	1,090	MMBtu/Day
Aug-31	744	MMBtu/Day	Mar-35	1,090	MMBtu/Day
Sep-31	744	MMBtu/Day	Apr-35	800	MMBtu/Day
Oct-31	800	MMBtu/Day	May-35	800	MMBtu/Day
Nov-31	1,090	MMBtu/Day	Jun-35	800	MMBtu/Day
Dec-31	1,090	MMBtu/Day	Jul-35	800	MMBtu/Day
Jan-32	1,090	MMBtu/Day	Aug-35	800	MMBtu/Day
Feb-32	1,090	MMBtu/Day	Sep-35	800	MMBtu/Day
Mar-32	1,090	MMBtu/Day	Oct-35	800	MMBtu/Day
Apr-32	800	MMBtu/Day	Nov-35	1,090	MMBtu/Day
May-32	800	MMBtu/Day	Dec-35	1,090	MMBtu/Day
Jun-32	800	MMBtu/Day	Jan-36	1,090	MMBtu/Day
Jul-32	800	MMBtu/Day	Feb-36	1,090	MMBtu/Day
Aug-32	800	MMBtu/Day	Mar-36	1,090	MMBtu/Day
Sep-32	800	MMBtu/Day	Apr-36	800	MMBtu/Day
Oct-32	800	MMBtu/Day	May-36	800	MMBtu/Day
Nov-32	1,090	MMBtu/Day	Jun-36	800	MMBtu/Day
Dec-32	1,090	MMBtu/Day	Jul-36	800	MMBtu/Day
Jan-33	1,090	MMBtu/Day	Aug-36	800	MMBtu/Day
Feb-33	1,090	MMBtu/Day	Sep-36	800	MMBtu/Day
Mar-33	1,090	MMBtu/Day	Oct-36	860	MMBtu/Day
Apr-33	800	MMBtu/Day	Nov-36	1,172	MMBtu/Day
May-33	800	MMBtu/Day	Dec-36	1,172	MMBtu/Day
Jun-33	800	MMBtu/Day	Jan-37	1,172	MMBtu/Day
Jul-33	800	MMBtu/Day	Feb-37	1,172	MMBtu/Day
Aug-33	800	MMBtu/Day	Mar-37	1,172	MMBtu/Day
Sep-33	800	MMBtu/Day	Apr-37	860	MMBtu/Day

May-37	860	MMBtu/Day	Dec-40	1,172	MMBtu/Day
Jun-37	860	MMBtu/Day	Jan-41	1,172	MMBtu/Day
Jul-37	860	MMBtu/Day	Feb-41	1,172	MMBtu/Day
Aug-37	860	MMBtu/Day	Mar-41	1,172	MMBtu/Day
Sep-37	860	MMBtu/Day	Apr-41	860	MMBtu/Day
Oct-37	860	MMBtu/Day	May-41	860	MMBtu/Day
Nov-37	1,172	MMBtu/Day	Jun-41	860	MMBtu/Day
Dec-37	1,172	MMBtu/Day	Jul-41	860	MMBtu/Day
Jan-38	1,172	MMBtu/Day	Aug-41	860	MMBtu/Day
Feb-38	1,172	MMBtu/Day	Sep-41	860	MMBtu/Day
Mar-38	1,172	MMBtu/Day	Oct-41	925	MMBtu/Day
Apr-38	860	MMBtu/Day	Nov-41	1,260	MMBtu/Day
May-38	860	MMBtu/Day	Dec-41	1,260	MMBtu/Day
Jun-38	860	MMBtu/Day	Jan-42	1,260	MMBtu/Day
Jul-38	860	MMBtu/Day	Feb-42	1,260	MMBtu/Day
Aug-38	860	MMBtu/Day	Mar-42	1,260	MMBtu/Day
Sep-38	860	MMBtu/Day	Apr-42	925	MMBtu/Day
Oct-38	860	MMBtu/Day	May-42	925	MMBtu/Day
Nov-38	1,172	MMBtu/Day	Jun-42	925	MMBtu/Day
Dec-38	1,172	MMBtu/Day	Jul-42	925	MMBtu/Day
Jan-39	1,172	MMBtu/Day	Aug-42	925	MMBtu/Day
Feb-39	1,172	MMBtu/Day	Sep-42	925	MMBtu/Day
Mar-39	1,172	MMBtu/Day	Oct-42	925	MMBtu/Day
Apr-39	860	MMBtu/Day	Nov-42	1,260	MMBtu/Day
May-39	860	MMBtu/Day	Dec-42	1,260	MMBtu/Day
Jun-39	860	MMBtu/Day	Jan-43	1,260	MMBtu/Day
Jul-39	860	MMBtu/Day	Feb-43	1,260	MMBtu/Day
Aug-39	860	MMBtu/Day	Mar-43	1,260	MMBtu/Day
Sep-39	860	MMBtu/Day	Apr-43	925	MMBtu/Day
Oct-39	860	MMBtu/Day	May-43	925	MMBtu/Day
Nov-39	1,172	MMBtu/Day	Jun-43	925	MMBtu/Day
Dec-39	1,172	MMBtu/Day	Jul-43	925	MMBtu/Day
Jan-40	1,172	MMBtu/Day	Aug-43	925	MMBtu/Day
Feb-40	1,172	MMBtu/Day	Sep-43	925	MMBtu/Day
Mar-40	1,172	MMBtu/Day	Oct-43	925	MMBtu/Day
Apr-40	860	MMBtu/Day	Nov-43	1,260	MMBtu/Day
May-40	860	MMBtu/Day	Dec-43	1,260	MMBtu/Day
Jun-40	860	MMBtu/Day	Jan-44	1,260	MMBtu/Day
Jul-40	860	MMBtu/Day	Feb-44	1,260	MMBtu/Day
Aug-40	860	MMBtu/Day	Mar-44	1,260	MMBtu/Day
Sep-40	860	MMBtu/Day	Apr-44	925	MMBtu/Day
Oct-40	860	MMBtu/Day	May-44	925	MMBtu/Day
Nov-40	1,172	MMBtu/Day	Jun-44	925	MMBtu/Day

Jul-44	925	MMBtu/Day
Aug-44	925	MMBtu/Day
Sep-44	925	MMBtu/Day
Oct-44	925	MMBtu/Day
Nov-44	1,260	MMBtu/Day
Dec-44	1,260	MMBtu/Day
Jan-45	1,260	MMBtu/Day
Feb-45	1,260	MMBtu/Day
Mar-45	1,260	MMBtu/Day
Apr-45	925	MMBtu/Day
May-45	925	MMBtu/Day
Jun-45	925	MMBtu/Day
Jul-45	925	MMBtu/Day
Aug-45	925	MMBtu/Day
Sep-45	925	MMBtu/Day
Oct-45	925	MMBtu/Day
Nov-45	1,260	MMBtu/Day
Dec-45	1,260	MMBtu/Day
Jan-46	1,260	MMBtu/Day
Feb-46	1,260	MMBtu/Day
Mar-46	1,260	MMBtu/Day
Apr-46	925	MMBtu/Day
May-46	925	MMBtu/Day
Jun-46	925	MMBtu/Day
Jul-46	925	MMBtu/Day
Aug-46	925	MMBtu/Day
Sep-46	925	MMBtu/Day

EXHIBIT C

DELIVERY POINT, MONTHLY INDEX, AND DELIVERY POINT PREMIUM

Effective for the period commencing November 1, 2016 and ending October 31, 2021.

DELIVERY POINT	TRANSPORTER*	MONTHLY INDEX *	DELIVERY POINT PREMIUM
Zone 1 Pool	Texas Gas Transmission	Texas Gas Zone 1	\$0.00/MMBtu

*Subject to change in connection with a change in Delivery Point as set out in Section 5.1.

EXHIBIT D

NOTICES

If to Seller: Public Energy Authority of
Kentucky
516 Highland Ave.
Carrollton, KY 41008

Attention: President and
General Manager
Telephone: (502) 732-0991
Fax: (502) 732-8777
E-mail: gballinger@peakgas.net

with a copy to: **Morgan Stanley Capital Group Inc.**
2000 Westchester Avenue
Purchase, NY 10577
Attention: Deborah L. Hart, Vice President
Telephone: (914)225-1430
Fax: (212)507-8843

If to Buyer: City of Henderson, Kentucky
222 First Street
Henderson, Kentucky 34220

Attention: Owen R. Reeves, Gas System
Director
Telephone: (270) 831-1200
Fax: (270) 831-1206
E-mail: oreeves@cityofhendersonky.org

EXHIBIT E

BUYER CERTIFICATE

DATED: [_____] __, 2016

The undersigned hereby certifies that he or she is the Mayor of the City of Henderson (“*Buyer*”), and that as such he or she is authorized to execute this certificate on behalf of Buyer. This certificate is executed in connection with the Gas Supply Contract, dated as of _____, 2016 (the “*Gas Supply Contract*”), between Buyer and the Public Energy Authority of Kentucky (“*PEAK*” or “*Seller*”). Capitalized terms used and not otherwise defined in this Certificate have the meanings assigned to them in the Gas Supply Contract.

Pursuant to the Bond Indenture, Seller will issue the Bonds to finance the cost of acquisition of the Gas Supply Project, the Gas from which will be sold to Buyer under the Gas Supply Contract. In connection with the foregoing, Buyer hereby certifies and represents as follows:

1. Buyer is a body politic and corporate, municipal corporation and unit of local government of the State [Commonwealth] of _Kentucky.

2. The Gas Supply Contract has been duly authorized, executed and delivered by Buyer, is in full force and effect and constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms. Attached hereto as *Annex A* is a true, correct and complete copy of the resolution or ordinance of Buyer authorizing the execution and delivery of the Gas Supply Contract.

3. The person signing this certificate below has reviewed the statements and information relating to Buyer and Buyer’s Gas Supply Contract contained in any disclosure document prepared by Seller with respect to the Bonds and, as of the date hereof and to the best knowledge of such person, such statements and information are true and correct in all material respects and did not and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.

4. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the Commonwealth relating to Buyer and its affairs, or (b) will not result in, or require the creation or imposition of, any Lien on any of the properties or revenues of Buyer pursuant to any of the foregoing.

5. There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or, to the best of Buyer's knowledge, threatened, against Buyer which in any way affects or questions the validity or enforceability of any provision of the Gas Supply Contract.

6. Buyer has entered into the Gas Supply Contract for the purpose of acquiring a long-term supply of Gas for resale to its customers.

7. *Tax Certifications*

(a) Buyer understands that PEAK will issue the Bonds to finance prepayment of the purchase price payable by PEAK for the Gas to be sold and delivered to Buyer under the Gas Supply Contract. Buyer further understands and acknowledges that PEAK will issue the Bonds as tax-exempt obligations under Sections 141-150 of the Internal Revenue Code of 1986, as amended (the "*Code*"), and the regulations promulgated thereunder (the "*Regulations*"). Sections 141-150 of the Code and Regulations impose certain conditions and requirements on Buyer's use of the Gas purchased by it under the Gas Supply Contract (the "*Gas Supply*") in order to establish and maintain the tax exemption for interest on the Bonds. Buyer understands that the statements made herein will be relied upon by PEAK in its effort to comply with the conditions imposed by the Code and the Regulations, and by Bond Counsel in rendering its opinion, with respect to the exclusion from gross income for federal income tax purposes of interest on the Bonds. For purposes of this Certificate:

(i) "Testing Period" means calendar years 2011 through 2015.

(ii) "Service Area" means (A) any area throughout which Buyer provided, at all times during the 5-year period ending on the Issue Date, natural gas transmission or distribution services, or (B) any area recognized as the natural gas service area of Buyer under state or federal law; *provided, however*, that for purposes of Sections 7(b)(ii) and (iv) of this Certificate, in determining the amount of Gas purchased by Retail Gas Customers during the Testing Period, Buyer's Service Area is determined by reference to the Testing Period in lieu of the 5-year period in the preceding clause (ii)(A).

(iii) "Issue Date" shall mean _____, 2016, the issue date of the Bonds.

(iv) "Governmental Person" is an entity as defined in U.S. Treas. Reg. §1.141-1(b).

(v) "Retail Gas Customers" shall mean customers of Buyer that purchase Gas for consumption and not for resale or to produce electricity for sale provided that if Buyer provides gas at wholesale to a Governmental

Person that owns gas distribution systems, then Retail Gas Customers shall be construed to mean either those entities or the retail gas customers of those entities.

(vi) “Nongovernmental Agency” means any Person other than a Governmental Person.

(vii) “Private Use” means use of property in any trade or business carried on by any Person, or any activity of any Person other than a natural person, in each case excluding Governmental Persons, unless (1) such use is merely as a member of the general public, (2) such property is intended to be and is in fact reasonably available for use on the same basis as natural persons not engaged in a trade or business, and (3) no priority rights therein or special benefits therefrom are extended to such Person (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users). For this purpose, property is considered to be “used” by a Person if it is owned by such Person or otherwise actually or beneficially used by such Person under a lease, management contract, output-type contract, or similar arrangement. For the avoidance of doubt, Private Use does not arise as a result of the receipt by a Nongovernmental Agency (including an industrial or commercial customer) of retail Gas service from Buyer under a generally applicable and uniformly applied tariff (including, for example, customary and reasonable differences in rates and terms and conditions of service for different classes of users). On the other hand, Private Use does arise, for example, if a Nongovernmental Agency receives retail Gas service for its trade or business from Buyer under a contract entered into between such Nongovernmental Agency and Buyer, other than bona fide requirements contracts satisfying the requirements of the Regulations.

(b) In accordance with the requirements of Sections 141-150 of the Code and Regulations, Buyer certifies as follows:

(i) Buyer is a Municipal Utility that owns and operates either or both a gas distribution utility or an electric distribution utility (or provides gas or electricity at wholesale to Governmental Persons that own such utilities) (the “*System*”) and furnishes Gas to persons desiring such service within its Service Area that satisfy the conditions of service.

(ii) *Attachment I* hereto shows (A) the average annual amount of Gas sold by Buyer to Retail Gas Customers within its Service Area during the Testing Period, (B) the maximum amount Gas storage available to Buyer on the date hereof, and (C) the amount of Gas that Buyer has a right to acquire for the System in any year during the term of the Gas Supply Contract.

(iii) Buyer owns and operates the System and reasonably expects to use all of the Gas Supply solely to furnish Gas to its Retail Gas Customers located in its Service Area in the normal and customary operations of the System.

(iv) The amount of Gas to be acquired under the Gas Supply Contract during any year, plus the amount of Gas otherwise available to Buyer for the System as of the Issue Date, does not exceed the sum of (A) the annual average amount during the Testing Period of Gas purchased by Retail Gas Customers of Buyer located in the Service Area of Buyer, and (B) the amount of Gas to be used to transport the Gas acquired under the Gas Supply Contract to the System during the year. For purposes of the preceding sentence, the “amount of Gas otherwise available to Buyer for the System as of the Issue Date” means (I) the amount of Gas held by Buyer for the System on the Issue Date divided by ___ (the number of years in the Gas Supply Contract) plus (II) the amount of Gas that Buyer has an obligation to purchase for the System in any year during the term of the Gas Supply Contract.

(v) The annual amount of Gas to be acquired pursuant to the Gas Supply Contract does not exceed the annual amount of Gas reasonably expected to be purchased by Retail Gas Customers located within the Service Area of Buyer and who, as of the Issue Date, are customers of Buyer. Buyer will not engage in any intentional act to render the volume of Gas acquired under the Gas Supply Contract to be in excess of (A) the amount of Gas needed to serve Retail Gas Customers of Buyer located in the Service Area of Buyer, and (B) the amount of Gas used to transport the acquired gas to the System. Buyer reasonably expects that all amounts paid for Gas acquired pursuant to the Gas Supply Contract will be derived from current revenues of its Gas distribution business.

(vi) The Gas Supply is to be used in the Service Area. Therefore, the Gas Supply may not be used in any expansion of the Service Area occurring after the date of this Certificate unless Buyer receives the prior written approval of PEAK and agrees to comply with such conditions and limitations as PEAK may require, provided however that Buyer may expand its Service Area for this purpose, without seeking approval of PEAK, to any area contiguous to its existing Service Area if permitted by Commonwealth law.

(vii) Except to the extent set forth in the Gas Supply Contract, or a prior written consent of PEAK delivered to Buyer, Buyer will not permit any portion of the Gas Supply to be used for a Private Use. In determining compliance with this requirement, Buyer will inform PEAK of the current existence of, and during the term of the Gas Supply Contract will notify

PEAK prior to entering into, any of the following types of contracts or arrangements:

- (A) Any sale or other disposition to a Nongovernmental Agency of all or any part of the System;
- (B) Any lease of or management contract for the operation of all or any part of the System if such lease or management contract is with a Nongovernmental Agency;
- (C) Any contract providing for the sale of Gas delivered under the Gas Supply Contract to a Nongovernmental Agency; and
- (D) Any arrangement that conveys to a Nongovernmental Agency priority rights or any other preferential benefits to use of the output of the System (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users).

Buyer will not use any of the types of contracts or arrangements described in A-D above without the prior written approval of and under the written instruction of PEAK, *provided, however*, that arrangements providing for the retail sale of Gas from the System to the general public (including private businesses as members of the general public) solely on the basis of rates or charges that are generally applicable and uniformly applied do not have to be reported to PEAK.

8. The undersigned has been duly authorized to execute and deliver this certificate on behalf of Buyer.

Dated as of the day and year first above written.

THE CITY OF HENDERSON

By _____
Steve Austin, Mayor

[SEAL]

ATTACHMENT I

NAME OF BUYER MEMBER: CITY OF HENDERSON, KENTUCKY

CALENDAR YEAR	MMBTUS SOLD TO RETAIL GAS CUSTOMERS
2011	3,186,037
2012	3,036,704
2013	3,379,662
2014	3,470,868
2015	3,233,516

Total for 2011 – 2015: 16,306,787 MMBtu

Average annual amount of Gas sold by Buyer to Retail Gas Customers within its Service Area during the Testing Period: 3,261,357 MMBtu (total divided by 5 years)

The maximum amount Gas storage available to Buyer on the date hereof is 270,000 MMBtu.

The amount of Gas that Buyer has a right to acquire for the System through the term of this Gas Supply Contract is:

EXHIBIT F

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF HENDERSON, KENTUCKY (“CITY”) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT (“CONTRACT”) WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM MORGAN STANLEY CAPITAL GROUP, INC. (“MSCG”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND FOR OTHER PURPOSES

WHEREAS, the City of Henderson owns and operates a municipal gas distribution utility and is authorized by the provisions of KRS Chapter 96 to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the Public Energy Authority of Kentucky, which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has offered to sell to the City, pursuant to the Contract, a supply of natural gas in the quantities on the dates set forth in the Contract, on the conditions that PEAK issues its Gas Supply Revenue Bonds, 2016 Series A (the “Bonds”) the proceeds of which will be used to acquire a supply of natural gas (the “Gas Supply”) pursuant to a Prepaid Agreement with MSCG (the “Prepaid Agreement”); and

WHEREAS, the City is a Public Agency, as such term is defined in the Gas Supply Contract, and desires to enter into the Contract with PEAK.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson as follows:

1. The City hereby approves the execution and delivery of the Gas Supply Contract, in substantially the form previously submitted to the City and attached hereto as Exhibit A, pursuant to which the City will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Contract.

2. The Mayor of the City is hereby authorized to execute any such other closing documents or certificates which may be required or contemplated in connection with the execution and delivery of the Contract or carrying out the intent and purpose of this resolution.

On motion of Commissioner _____, seconded by Commissioner _____ that the foregoing Resolution be adopted, the vote was called.

On roll call, the vote stood:

Commissioner Mills: _____ Commissioner Royster: _____
Commissioner Johnston: _____ Mayor Austin: _____
Commissioner Hite: _____

WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

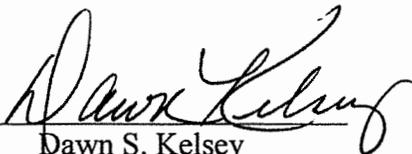
Steve Austin, Mayor

Date: _____

ATTEST:

Maree Collins, City Clerk

**APPROVED AS TO FORM AND
LEGALITY THIS 8 DAY OF
SEPTEMBER, 2016.**

By: 
Dawn S. Kelsey
City Attorney

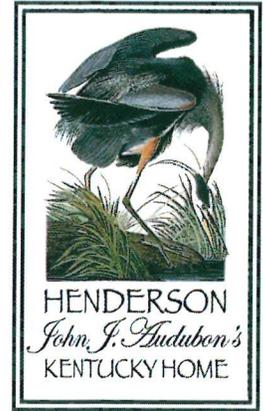


Steve Austin, Mayor

Commissioners:
Jan M. Hite
Jesse L. Johnston, IV
Robert M. Mills
X Robert Royster, III

The City of Henderson

P.O. Box 716
Henderson, Kentucky 42419-0716



Russell R. Sights, City Manager
William L. Newman, Jr., Assistant City Manager
Dawn S. Kelsey, City Attorney
Maree Collins, City Clerk

EXHIBIT G OPINION OF COUNSEL TO BUYER

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

Morgan Stanley Capital Group Inc.
2000 Westchester Avenue
Purchase, NY 10577

[Indenture Trustee]
[address]

Assured Guaranty Municipal Corp.
1633 Broadway
New York, New York 10019

Royal Bank of Canada
2nd Floor
Royal Bank Plaza
200 Bay Street
Toronto, Ontario
Canada M5J 2W7

Re: Gas Supply Contract between Public Energy Authority of
Kentucky and Buyer The City of Henderson

Ladies and Gentlemen:

I am the duly appointed and acting City Attorney for Henderson, KY and have acted as counsel to the Board of Commissioners for the (“Buyer”) in connection with the Gas Supply Contract between Public Energy Authority of Kentucky (“PEAK”) and the Buyer dated as of September ____, 2016 (the “Gas Supply Contract”). PEAK acquired a supply of natural gas (the “Gas Supply”) from Morgan Stanley Capital Group Inc. (“Supplier”) pursuant to the Prepaid



Agreement, dated as of September ___, 2016, between Supplier and PEAK with the net proceeds of its Gas Supply Revenue Bonds 2016 Series A. PEAK will sell a portion of the Gas Supply to the Buyer under the Gas Supply Contract.

Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meaning ascribed to them in the Gas Supply Contract.

In connection with this opinion, I have assumed the genuineness of all signatures (other than the signatures of officers and directors of the Buyer) and the authenticity of all items submitted to me as originals and the conformity with originals of all items submitted to me as copies, and I am aware of no facts or circumstances that might indicate that these assumptions are not correct. I have further assumed the due authorization, execution and delivery of the Gas Supply Contract by PEAK. In connection with this opinion, I have examined originals or copies, certified or otherwise identified to my satisfaction, of the following:

- (a) Resolution No. ___, duly adopted by Buyer on September ___, 2016 (the "Resolution") authorizing Buyer to execute and deliver the Gas Supply Contract;
- (b) Executed counterparts of the Gas Supply Contract, together with each of the Exhibits thereto; and
- (c) Such other documents, information, and facts as are necessary for me to render the opinions contained herein.

Based upon the foregoing, I am of the opinion that:

- i. The Buyer
- ii. The rates charged by the Buyer to its retail gas customers are currently not regulated by any state or federal regulatory authority.
- iii. The Buyer has lawful authority to own, operate, and manage its gas distribution utility and to fix and collect rates, fees and other charges in connection with such distribution system.
- iv. The governing body of the Buyer has duly authorized executed, and delivered, the Gas Supply Contract and do not and will not require, subsequent to the execution of the Gas Supply Contract by the Buyer, any consent or approval of the governing body or any officers of the Buyer.
- v. The Gas Supply Contract constitutes the legal, valid, and binding obligation of the Buyer, enforceable in accordance with its terms. The Buyer complied with any applicable procurement requirements of State or local law prior to entering into the Gas Supply Contract.
- vi. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or

default under, any instrument relating to the organization, existence or operation of the Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which the Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State relating to the Buyer and its affairs, and (b) will not result in, or require the creation or imposition of, any Lien on any of the properties or revenues of the Buyer pursuant to any of the foregoing. The foregoing assumes that all payments under the Gas Supply Contract are operating expenses of the Buyer's municipal utility system, as described in the Gas Supply Contract.

vii. As of the date of the Gas Supply Contract, to the best of my knowledge after due inquiry, there is no pending or threatened action or proceeding against or affecting the Buyer which in any way would adversely affect the legality, validity, or enforceability of the Gas Supply Contract.

viii. The foregoing opinion with respect to the enforceability of the Gas Supply Contract is subject to the effect of bankruptcy, insolvency, reorganization, moratorium, and other similar laws relating to or affecting creditors' rights generally, to the exercise of judicial discretion in the appropriate case, and to the limitations imposed by general principles of equity upon the specific enforceability of any of the remedies, covenants or other provisions of the Gas Supply Contract and any related documents and upon the availability of injunctive relief or other equitable remedies.

My opinion as to enforceability is limited by standards of good faith, fair dealing, materiality, and reasonableness that may be applied by a court to the exercise of certain rights and remedies; limitations based on statutes or on public policy limiting a person's right to waive the benefits of statutory provisions or of a common law right; and limitations releasing a party from or indemnifying a party against liability for its own wrongful or negligent act when such release or indemnification is contrary to public policy.

This opinion is rendered solely for use and benefit of the addressees in connection with the Gas Supply Contract and may not be relied upon other than in connection with the Gas Supply Contract, or by any other person or entity for any purpose whatsoever, nor may it be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity without the prior written consent of the undersigned.

This opinion is given as of the date hereof and no opinion is expressed as to the effect of future applicable laws or court decisions. I assume no obligation, and expressly disclaim any obligation, to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to my attention or as to any change in laws which may hereafter occur.

Very truly yours,

Dawn S. Kelsey
City Attorney

EXHIBIT H

FORM OF RESET REMARKETING NOTICE

[Date]

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

Morgan Stanley Capital Group Inc.
2000 Westchester Avenue
Purchase, NY 10577

To the Addressees:

The undersigned, duly authorized representative of [] (the “Buyer”), is providing this notice (the “Reset Remarketing Election Notice”) pursuant to the Gas Supply Contract, dated as of [] 1, 2016 (the “Supply Agreement”), between Public Energy Authority of Kentucky and the Buyer.

Pursuant to Section 2.4 of the Gas Supply Contract, if the Available Discount as finally determined does not equal or exceed the Minimum Discount, the Buyer has elected to have its Daily Contract Quantity for each Gas Day of the remaining term remarketed beginning with the month of [] 20[], so that thereafter the Gas Supply Contract shall terminate.

Given this [] day of [], 20[].

[BUYER]

By: _____
Name:
Title:

City Commission Memorandum
16-202

September 9, 2016

TO: Mayor Steve Austin and the Board of Commissioners

FROM: Russell R. Sights, City Manager *RS*

SUBJECT: Rezoning #1059 with Narrative Development Plan – 800 Wolf Hills Blvd.
(a/k/a Player's Club Golf Course Clubhouse Area, 5.688 Acres)

The minutes and findings of fact on Rezoning #1059 Player's Club Golf Course Clubhouse area are included in the attachment. This action was taken by the Planning Commission on Tuesday, September 6, 2016.

The following law applies to zoning map amendments considered by the legislative body:

100.2111 Alternative regulation for zoning map amendment. A planning commission recommendation relating to the proposed amendment shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, all as set forth in the planning commission recommendations, unless within twenty-one (21) days after the final action by the planning commission:

- (a) Any aggrieved person files a written request with the planning commission that the final decision shall be made by the appropriate legislative body or fiscal court; or
- (b) The appropriate legislative body or fiscal court files a notice with the planning commission that the legislative body or fiscal court shall decide the map amendment.

100.213 Findings necessary for proposed map amendment – Reconsideration. Before any map amendment is granted, the planning commission or the legislative body or fiscal court must find that the map amendment is in agreement with the adopted comprehensive plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or the legislative body or fiscal court:

- (a) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;
- (b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission.

The Planning Director, City Attorney and I will be available to answer any questions you might have.

c: Brian Bishop
Dawn Kelsey

HCCPC

Henderson City-County Planning Commission

Henderson City/County Recommendation on Zoning Map Amendment

APPLICANT:	CORMAN-MCQUEEN GOLF, INC
ADDRESS	800 WOLF HILLS BLVD.
RE-ZONING CASE NUMBER	Rezoning #1059 with Narrative Development Plan
Having Considered the above matter at a Public Hearing on (date): September 6, 2016 And having voted (tally) 9 yes, 1 no	
To submit this Recommendation to the (jurisdiction) City Commission	
The Henderson City/County Planning Commission hereby recommends Approval of this proposal, based on the following findings of fact and conditions.	
<p>FINDINGS OF FACT: Motion was made by David Williams, Seconded by Bobbie Jarrett that the 12 page Proposed Motion and Finding of Fact (Attachment #A), which includes a summary of the evidence and testimony of the August 2, 2016 Public Hearing, in support of recommending approval of <u>REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A-</u> Submitted by Corman-McQueen Golf, Inc., and MBTJ, LLC, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4, containing approximately 5.688 acres) was distributed to the members of the Planning Commission in advance of this, September 6, 2016, meeting, was offered/distributed to attendees <u>of this Planning Commission Meeting</u> and was <u>read aloud</u> into the record of this meeting by staff. I move that such 12 page Motion and Findings of Fact, as so distributed, be adopted, in its entirety, as the motion and findings of fact in support of such recommendation, <i>and I leave the motion open for other members of the Planning Commission to add findings of fact in support of this motion.</i></p> <p>VOTE: 9 YES (DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DICKIE JOHNSON, GARY GIBSON, RODNEY THOMAS, DAVID DIXON, KEVIN HERRON, AND GRAY HODGE.</p> <p>VOTE: 1 NO: (HERB PRITCHETT)</p>	
CONDITIONS:	
DESCRIPTION: A zoning change from Agricultural (AG)-Golf course Restricted Use to General Business (GB) with a narrative development plan for 5.688 acres.	

ATTESTED TO ON: MONTH : 09 DAY: 06 YEAR: 2016

Ben Bishop

EXECUTIVE DIRECTOR

ENCLOSURES: (MAP, STAFF REPORT)

The above recommendation of the Henderson City-County Planning Commission will be final, as to the Henderson City Commission, on Wednesday, September 28, 2016 unless Henderson City Commission decides to make a final decision on this zoning map amendment by filing notice on the attached form with the Planning Commission, or an aggrieved person files notice with the City of Henderson to make a final decision, within twenty-one (21) days after the action of the Planning Commission. A full transcript of the minutes of the Planning Commission meeting along with other pertinent information is also enclosed.



Planning the Future

Henderson City-County Planning Commission

Brian Bishop,
Executive Director, AICP, CFM

REQUEST FOR LEGISLATIVE BODY TO DECIDE ZONING MAP AMENDMENT

APPLICANT	CORMAN-MCQUEEN GOLF, INC.		
ADDRESS OF PROPERTY	800 WOLF HILLS BLVD.		
REQUESTED FOR ZONE CHANGE	HENDERSON, KY 42420		
ACREAGE INVOLVED	5.688 ACRES		
ZONE CHANGE REQUESTED (LIST ZONE)	GENERAL BUSINESS (GB), WITH A NARRATIVE DEV. PLAN		
DATE OF PLANNING COMMISSION HEARING	SEPTEMBER 6, 2016		
PLAN COMMISSION RECOMMENDATION (CHECK APPLICABLE)	APPROVE X	DENY	DATE 9/06/2016
NOTICE FOR LEGISLATIVE BODY TO DECIDE ZONING MAP AMENDMENT MUST BE FILED WITHIN TWENTY ONE (21 DAYS) OF PLANNING COMMISSION RECOMMENDATION			

NOTICE FILED BY

Please indicate what party is requesting a Legislative Body decision by checking appropriate box for request	HENDERSON COUNTY FISCAL COURT	
	CITY OF HENDERSON	
	CITY OF CORYDON	
	AGGRIEVED PERSON	
NAME (PLEASE PRINT)		
SIGNATURE		
DATE NOTICE FILED		
<p>Submittal of this notice serves as written request in accordance with KRS 100.2111 to the Henderson City/County Planning Commission that the final decision on the above referenced map amendment is to be made by the appropriate Legislative Body. If no written request or notice is made by the Legislative Body or aggrieved person to the Planning Commission within 21 days after the final action of the Henderson Planning Commission, then the recommendation by the HCCPC relating to the proposed amendment shall become final and if recommended for approval by the Planning Commission, the map amendment shall be automatically implemented subject to the provisions of KRS 100.347.</p>		
<p>• 1990 BARRET COURT • SUITE C • HENDERSON, KY 42420 • PHONE (270) 831-1289 • FAX (270) 831-1237 • WEB : WWW.HENDERSONPLANNING.ORG</p>		

**SEPTEMBER 6, 2016
MEETING
DOCUMENTS**

**REZONING #1059, NEW PROPOSED LOT 2A
WITH A NARRATIVE DEVELOPMENT PLAN**

SEPTEMBER 6, 2016 ATTACHMENTS AS FOLLOW:

- **REZONING #1059, NEW PROPOSED LOT 2A - FINDINGS OF FACT
(Attachment #A)**
- **A TRANSCRIPT OF THE SEPTEMBER 6, 2016, PUBLIC HEARING
(Attachment #B)**

**REZONING #1059, NEW PROPOSED LOT 2A
WITH A NARRATIVE DEVELOPMENT PLAN**

SEPTEMBER 6, 2016 ATTACHMENTS AS FOLLOW:

- **REZONING #1059, NEW PROPOSED LOT 2A - FINDINGS OF FACT**

Attachment #A

Proposed Findings of Fact:

The Planning Commission voted at the August 2, 2016, regular meeting to recommend that the Henderson City Board of Commission (“City Commission”) approve **REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A-** Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player’s Club Golf Course Clubhouse Area), for approximately 5.688 acres; and, the matter was tabled until this meeting for staff to propose findings of fact which are consistent with the record of the August 2, 2016, public hearing, for the Planning Commission to consider.

I move that the following be adopted as findings of fact in support of such recommendation, *and I leave the motion open for other members of the Planning Commission to add findings of fact in support of this motion:*

The existing zoning classification of Agricultural (AG) - Golf Course Restricted Use, is inappropriate and the proposed zoning classification of General Business (GB) with a narrative development plan is appropriate. The Narrative Development Plan would limit or restrict the use of this 5.688 acres (the “Parcel”) to: 1) A catering establishment (19.02(j)), 2) studio for music, dancing, or theatrical instruction (19.02(ff)), 3) wedding chapels or banquet halls (19.02(ii)), and, 4) accessory uses incidental to the above (19.02(pp)). The Narrative Development Plan also provides that occupants or users of the Parcel shall not play outdoor music past 10 pm. This recommendation is subject to approval of a preliminary plat subdividing this 5.688 from the golf course remainder; and, is subject to the Planning Commission removing the golf course restriction from this 5.688 acres. Because:

- The City of Henderson Codes Department declined to issue a permit or license for the “Clubhouse” to continue to be used in the manner it has been historically used; the Applicants did not appeal that decision to the Board of Zoning Adjustments; and, the Applicants filed this Application for rezoning.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses) at the Public Hearing, as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.
- The use of the Clubhouse has historically been used for commercial purposes.
- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without driving around within the subdivision.
- The proposed use is consistent with the historical use.
- If you can’t use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- The Applicants stated that it was their goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn’t be leased to the golf course and used as a clubhouse, for the uses they have specified in the

Narrative Development Plan.

- 6 area residents testified at the Public Hearing and most of them were not against rezoning the Clubhouse, with the Narrative Development Plan but were concerned about the golf course which was not the subject of the Public hearing.

As part of the recommendation, the Planning Commission Staff shall forward the following, among possibly other things, to the City Commission:

A Transcript of the August 2, 2016, Public Hearing.

The following documents relating to the Rezoning:

- Applicant's Rezoning Application with the applicant's attachments, as follows:
 - Applicant's three (3) page supplement to application
 - Exhibit Map #1
 - Corman-McQueen Resolution
 - MBTJ, LLC., Resolution
- Rezoning Notice Letter sent to area residents, and the address list to which the letter was sent.
- Newspaper advertisement receipt.
- Planning Commission Agenda for August 2, 2016, and related documents as provided to the Planning Commission members in advance of the meeting:
 - Proposed Public Hearing and Meeting rules
 - Staff Report – Regarding Rezoning #1059

-Pictures & Maps of property

- Attendees at the Public Hearing were ask to sign it at the door. Four (4) pages of sign in sheets are attached and incorporated by reference. One sheet is for 4 professionals and the other 3 sheets are for 15 individuals.
- Narrative Development Plan signed by MBTJ, LLC.
- Narrative Development Plan signed by Corman-McQueen Golf, Inc.

KRS 100.211(2)(f) requires a summary of the evidence and testimony presented by the proponents and opponents; such summary is as follows:

Dorin Luck, attorney for the Applicant MBTJ, LLC. (Mike Chambers and Bobbie Chambers) (“Chambers”) spoke in favor of the Application:

- Mr. Luck stated that the purchase of the Players Club Golf Course Property (“Players Club”), including the 5.688 acres, which is the subject of this Application for rezoning, is under contract between the current owner, Corman-McQueen Golf, Inc., and MBTJ, LLC., and that he anticipated it closing in the near future.
- Mike Chambers is the principal member of MBTJ, LLC, which is one of the Applicants.
- Gave a history of the development.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses), as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.

- The use of the Clubhouse has historically been used for commercial purposes.
- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without driving around within the subdivision.
- The proposed use is consistent with the historical use.
- Mr. Luck went through a lengthy narrative of how the Applicant believes the proposed rezoning is in agreement with the Comprehensive Plan.
- If you can't use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- There is no secret there has been a Clubhouse out there and that there has been traffic out there.
- It is the Applicants goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- "It's no secret that the adjoining owners of property have, quite frankly, been taken for a loop as a result of this golf course closing and we understand that."
- "It's going to be a real challenge for not only the property owner but for this Commission in order to allow for the redevelopment of this property. Clearly if we keep this property open for commercial purposes, what we intend to do we're promoting the local economy and I don't think there's any question about that."
- The proposed use would provide a convenient meeting place for the community.
- "There will be no golf course on this property from this point forward".

Daniel McQueen, President of Corman-McQueen Golf, Inc., spoke in favor of the Application:

- The major problem we've had is being 3 hours away.
- The golf course has lost money for the last 4 years.
- He recently talked to 3 different groups about buying it;
 Bill Rendell group;
 Chris from Bent Creek; and,
 Mike Chambers
- Hard to profitably operate a privately owned golf course that isn't subsidized somehow.
- Introduced financial information into the record.
- The golf course was not advertised for sale.
- Mr. McQueen ask Mike Chambers if he was interested in it.

Six (6) area residents spoke in opposition to the Application; and a majority of their testimony was about the golf course and not the Clubhouse. The opposition testimony included; 1) a concern the golf course could not operate if the 5.688 acres was subdivided off and operated pursuant to the Application, 2) noise, 3) a decrease in their property values, 4) their view, 5) the appearance and maintenance of the golf course area and the ponds. Many of them testified they were not opposed to the Application to rezone the Clubhouse. One resident testified it was inappropriate to allow a commercial zone in a residential neighborhood.

Area Resident **Tammy Oxford** summary:

- Purchased a house on Constanza Drive because of the view.
- Now I do not have a view.
- It is wonderful someone wants to do something with the old

Clubhouse.

- All we're concerned about as homeowners is keeping it clean, keeping it mowed and the value of our homes.
- Should be reassessed for taxes as we are no longer living on a golf course.

Area Resident Alvey Bruce Kanipe:

- Kanipe agreed with a lot of what Tammy said.
- Kanipe doesn't live around the Clubhouse but believes the proposed use is a good project and the building is conducive.
- Purchased on Constanza Drive because of the golf course view.
- Entered an Excerpt from the Minutes of the March 1, 1994, Henderson City-County Planning Commission Meeting dealing with the golf course development, into the record and read several passages from the minutes into the record. (Mr. Kanipe referred to the Minutes as a Narrative.)
- Expressed concerns about the ponds.
- Expressed concern about the value of his home.
- Understands this meeting is about the 5.688 acre Clubhouse and not the golf course.
- Acknowledged the golf course is gone.
- Concerned any future use not adversely affect property values.
- Expressed concern about the future of the golf course property, which he referred to as his back yard.
- Understands Chambers will be required to come back to the Planning Commission with the balance of the 168 acre golf course property.
- A lot of the issues being dealt with today were brought up in 1994.
- Requested everyone read the Excerpt from 1994 Planning Commission Minutes dealing with this area.
- No one guaranteed him the golf course would always be there, he just

assumed it would be.

- The Planning Commission is going to have to make some hard decisions so property values don't go down.

Area resident **Darren Spainhoward**:

- Agreed without reiterating what Mr. Kanipe said.
- Chambers has done a great job to date working on the lakes and mowing.
- Formerly lived in Evansville and played the course here. The golf course had a lot of play until they stopped maintaining it. Not advocating owner fund losses.
- Stated McQueen (the "owner") didn't advertise the golf course for sale or lease. Ask if the owner contacted the City.
- The maintenance was allowed to deteriorate, causing the rounds of play to drop.
- Due diligence in choosing an operator was weak. Operator did not have the financial capacity to put any money in the course. What qualified the last operators to run it?
- Why didn't the owner market it to other golf course operators?
- He lives on the 17th fairway.
- Is concerned with his property value but, if it is maintained like it is now he doesn't have an issue with it not being a golf course.
- Doesn't want houses built behind him or a "tobacco field".
- Approached Chambers about purchasing at least 200 feet behind his property. Chambers ask him to contact Mr. Branson and Mr. Spainhoward testified Mr. Branson told him all the neighbors would have to agree to buy an area behind their respective houses because of the cost of drafting, surveying, etc.

Area Resident **Curt Hamilton:**

- Lives just off of the 10th Green on Belle Wood Drive.
- Purchased the property specifically because of the golf course.
- The Master Plan the Planning Commission approved in 1994 told me and everyone else it would always be a golf course.
- You're not hearing the whole truth from the owner.
- It was mismanaged, the operator didn't apply appropriate water.
- Mr. Hamilton testified he and Bill Rendell, the former PGA Pro from the Henderson County Club, and a group of investors developed a business plan in 2010, at the depth of the recession, and offered the owner far more than Mr. Hamilton understands Chambers is paying for the golf course. Hamilton's group anticipated spending probably another \$1,000,000.00 on top of the purchase price to make the golf course correct.
- The operator put the money in his pocket and didn't pay the water bill, quit watering, drained the lakes, over fertilized, and basically killed the course.
- The owner did nothing to market the golf course appropriately.
- The course could have been saved then and it can be saved now.
- Planning and Zoning is for the neighbors.
- "We all purchased based on the assumption that this was going to remain a golf course. I object to dividing the property up, they knew that they were buying a golf course and whether or not it's open, it should stay a golf course and that's just the breaks and that's what should be."
- Decline in play is because of mismanagement (poor condition of the course) not the economy.
- ".....when you purchase a business you know what you sign up for. When you purchase a factory, it's a factory. You can make widgets,

you can make different things, but it's a factory, you're not going to build an apartment complex, right? Because that's what the Planning and Zoning laws say. The Master Plan here says this is a golf course, this is a golf course to all of the hundreds, whatever, hundred adjoining properties to this golf course is, and it's a golf course. It's not a farm; it's not a daycare or a senior citizen home. Certainly and I don't oppose them using it for whatever that central, the Clubhouse, for things appropriate for a Clubhouse; buying food and drink, it's already been operated as a restaurant that's part of the golf course. I don't oppose that it be used as a wedding chapel. I don't oppose for things that are consistent with what it's already been and they should have the opportunity to make that, to use it for that. But here's the thing, if you approve the subdivision of that six (6) acres or whatever it is, away from the rest of the golf course, this is no longer a golf course and it never will be. But when you buy a piece of property and you know that it's zoned the way it's zoned I think you have to live with it. Because sure enough, all of the rest of us around that piece of property have to live with it."

- It needs to be a golf course.
- "But I think when you purchase a golf course the expectation would be to sell it as a golf course and it would stink if it's a loss of money, but the next investor needs to buy it as a golf course, not as something else."
- The value is less because the plug was pulled.

Area resident **Dr. Gary Jennings:**

- Lives on Belle Wood.
- Would like to see something in there about outdoor music and noise.

Area resident, **Taylor DeCorrevont:**

- Against the 5.688 acre Clubhouse rezoning.
- If it were historically used for anything other than a Clubhouse it violated what it was zoned for.
- “I can’t imagine in my wildest dreams imagine having a commercial zoning in the center of a residential neighborhood, are you kidding me.”
- They have been doing a bad job, he has notified the codes department no less than 5 times about the grass and weeds.
- He mows where the public can see it driving around.
- The ponds are terrible.

Applicant’s Consultant and surveyor, **Dennis Branson:**

- Chambers did not buy a golf course, the golf course closed before he bought it.
- “The lakes that people are concerned about and rightfully so, are storm water detention basins and we’re working right now with HWU (Henderson Water Utilities) on solutions and the State of Kentucky Extension Office, University of Kentucky Extension Office, in ways to address the algae problems in those lakes and trying to clean them up.”
- The one at Constanza has been the one that’s been the most problematic. “We will probably end up draining that one and making that a dry detention basin.”

John Stroud, with the City of Henderson Codes Department:

- Discussed enforcing the mowing ordinance.
- Answered questions for the Planning Commission about the interpretation of the zoning ordinance from a codes perspective.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn't be leased to the golf course and used as a clubhouse, for the uses they have specified, in the Narrative development Plan.

Tom Williams, General Manager of the City of Henderson Water Utility:

- Discussed the detention basins.
- The City Water Utility, that deals with the detention basins, is not worried about the aesthetics of the lakes at pool elevation.

**REZONING #1059, NEW PROPOSED LOT 2A
WITH A NARRATIVE DEVELOPMENT PLAN**

SEPTEMBER 6, 2016 ATTACHMENTS AS FOLLOW:

- **A TRANSCRIPT OF THE SEPTEMBER 6, 2016, PUBLIC HEARING**

Henderson City-County
Planning Commission
September 6, 2016

The Henderson City-County Planning Commission held their regular meeting September 6, 2016 at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd floor assembly room. Members present: Chairman Herb McKee, Vice-Chair David Williams, Bobbie Jarrett, Dickie Johnson, Gary Gibson, Rodney Thomas, David Dixon, Kevin Richard, Kevin Herron, Herb Pritchett, Gray Hodge and Attorney Tommy Joe Fridy. Mac Arnold was absent.

Staff present: Director Brian Bishop, Assistant Director Claudia Wayne, Theresa Curtis, Heather Lauderdale and Chris Raymer.

(The following minutes were transcribed from an audio tape recording of the meeting on September 6, 2016. The audio tape recording is on file at the Planning Commission office and will be retained for a reasonable time.)

MEETING BEGAN AT 6:00PM

Chairman McKee: Next on the agenda is the **Rezoning #1059 Players Clubhouse Findings of Facts**, which were tabled at the August meeting. Mr. Bishop, would you like to lead that conversation?

Brian Bishop: I would sir, but I would also like to defer to the esteemed counsel Mr. Fridy to discuss a few items with you as far as procedure.

Chairman McKee: Please proceed.

Attorney Tommy Joe Fridy: As you will remember at the last meeting, you the Planning Commission, voted to recommend to the City Commission that Rezoning #1059, you recommended Rezoning #1059, and as part of your motion you moved and it was determined that there would no further discussion tonight, there would be no input from the public that your discussion would be limited to removing the item from the table, and adopting finding of facts that are consistent with that motion to recommend rezoning.

So, the first thing you would do is make a motion to remove from the table, and after that you can handle the proposed findings in two fashions. If you choose to make conditions, corrections or changes to those proposed findings, you could do it before they are read aloud or request that staff read them and then you can make motions or have discussions, and have discussions about any changes. Then vote on the proposed, then vote on the actual findings.

Your vote tonight is not a vote for or against the rezoning, you've already voted on that. The majority has determined to approve the rezoning, to recommend approval of the rezoning to the City. You're only voting on findings that are consistent with the record, based on the record to support that majority decision. Does anyone have any questions of me?

Kevin Richard: No, thanks for clarifying.

Chairman McKee: I believe in your packet you have a guide for whichever way you choose to proceed. First thing that needs to be dealt with is taking the balance of the Rezoning #1059 off the table.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT THAT THE CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., APPLICATION TO REMOVE THE GOLF COURSE LIMITED USE RESTRICTION BE REMOVED FROM THE TABLE.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: Next on the agenda is the Findings of Fact.

Brian Bishop: Mr. Chairman, I will read into the proposed findings of facts we have this evening. I would like to commend Mr. Fridy for his work on this, he has done a very good job. With that, I will proceed.

Proposed Findings of Fact:

The Planning Commission voted at the August 2, 2016, regular meeting to recommend that the Henderson City Board of Commission (“City Commission”) approve REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A- Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player’s Club Golf Course Clubhouse Area), for approximately 5.688 acres; and, the matter was tabled until this meeting for staff to propose findings of fact which are consistent with the record of the August 2, 2016, public hearing, for the Planning Commission to consider.

I move that the following be adopted as findings of fact in support of such recommendation, ***and I leave the motion open for other members***

of the Planning Commission to add findings of fact in support of this motion:

The existing zoning classification of Agricultural (AG) - Golf Course Restricted Use, is inappropriate and the proposed zoning classification of General Business (GB) with a narrative development plan is appropriate. The Narrative Development Plan would limit or restrict the use of this 5.688 acres (the "Parcel") to: 1) A catering establishment (19.02(j)), 2) studio for music, dancing, or theatrical instruction (19.02(ff)), 3) wedding chapels or banquet halls (19.02(ii)), and, 4) accessory uses incidental to the above (19.02(pp)). The Narrative Development Plan also provides that occupants or users of the Parcel shall not play outdoor music past 10 pm. This recommendation is subject to approval of a preliminary plat subdividing this 5.688 from the golf course remainder; and, is subject to the Planning Commission removing the golf course restriction from this 5.688 acres. Because:

- The City of Henderson Codes Department declined to issue a permit or license for the "Clubhouse" to continue to be used in the manner it has been historically used; the Applicants did not appeal that decision to the Board of Zoning Adjustments; and, the Applicants filed this Application for rezoning.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses) at the Public Hearing, as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.
- The use of the Clubhouse has historically been used for

commercial purposes.

- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without driving around within the subdivision.
- The proposed use is consistent with the historical use.
- If you can't use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- The Applicants stated that it was their goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn't be leased to the golf course and used as a clubhouse, for the uses they have specified in the Narrative Development Plan.
- 6 area residents testified at the Public Hearing and most of them were not against rezoning the Clubhouse, with the Narrative Development Plan but were concerned about the golf course which was not the subject of the Public hearing.

As part of the recommendation, the Planning Commission Staff shall forward the following, among possibly other things, to the City Commission:

A Transcript of the August 2, 2016, Public Hearing.

The following documents relating to the Rezoning:

- Applicant's Rezoning Application with the applicant's

attachments, as follows:

- Applicant's three (3) page supplement to application
 - Exhibit Map #1
 - Corman-McQueen Resolution
 - MBTJ, LLC., Resolution
- Rezoning Notice Letter sent to area residents, and the address list to which the letter was sent.
 - Newspaper advertisement receipt.
 - Planning Commission Agenda for August 2, 2016, and related documents as provided to the Planning Commission members in advance of the meeting:
 - Proposed Public Hearing and Meeting rules
 - Staff Report – Regarding Rezoning #1059
 - Pictures & Maps of property
 - Attendees at the Public Hearing were asked to sign it at the door. Four (4) pages of sign in sheets are attached and incorporated by reference. One sheet is for 4 professionals and the other 3 sheets are for 15 individuals.
 - Narrative Development Plan signed by MBTJ, LLC.
 - Narrative Development Plan signed by Corman-McQueen Golf, Inc.

KRS 100.211(2)(f) requires a summary of the evidence and testimony presented by the proponents and opponents; such summary is as follows:

Dorin Luck, attorney for the Applicant MBTJ, LLC. (Mike Chambers and Bobbie Chambers) ("Chambers") spoke in favor of the Application:

- Mr. Luck stated that the purchase of the Players Club Golf Course Property (“Players Club”), including the 5.688 acres, which is the subject of this Application for rezoning, is under contract between the current owner, Corman-McQueen Golf, Inc., and MBTJ, LLC., and that he anticipated it closing in the near future.
- Mike Chambers is the principal member of MBTJ, LLC, which is one of the Applicants.
- Gave a history of the development.
- The Clubhouse contains 11,000 square feet, 5,600 square feet on the top level and the balance on the bottom level.
- Applicants limited the Narrative Development Plan (further restricting the permitted uses), as reflected above.
- The Clubhouse has been historically used for the purposes set out in the Narrative Development Plan.
- The use of the Clubhouse has historically been used for commercial purposes.
- There are 180 parking spaces.
- The Clubhouse has a berm which screens it from the houses.
- There is a tennis court between the Clubhouse and the houses.
- The Clubhouse is located away from the houses.
- The Clubhouse has direct access from the main road without driving around within the subdivision.
- The proposed use is consistent with the historical use.
- Mr. Luck went through a lengthy narrative of how the Applicant believes the proposed rezoning is in agreement with the Comprehensive Plan.
- If you can’t use the Clubhouse for a commercial use, it will fall into disrepair from nonuse.
- There is no secret there has been a Clubhouse out there and that there has been traffic out there.

- It is the Applicants goal to use the Clubhouse in a manner that is sensitive to the residents and the adjoining property owners.
- “It’s no secret that the adjoining owners of property have, quite frankly, been taken for a loop as a result of this golf course closing and we understand that.”
- “It’s going to be a real challenge for not only the property owner but for this Commission in order to allow for the redevelopment of this property. Clearly if we keep this property open for commercial purposes, what we intend to do we’re promoting the local economy and I don’t think there’s any question about that.”
- The proposed use would provide a convenient meeting place for the community.
- “There will be no golf course on this property from this point forward”.

Daniel McQueen, President of Corman-McQueen Golf, Inc., spoke in favor of the Application:

- The major problem we’ve had is being 3 hours away.
- The golf course has lost money for the last 4 years.
- He recently talked to 3 different groups about buying it;
 - Bill Randall group;
 - Chris from Bent Creek; and,
 - Mike Chambers
- Hard to profitably operate a privately owned golf course that isn’t subsidized someway.
- Introduced financial information into the record.
- The golf course was not advertised for sale.
- Mr. McQueen asked Mike Chambers if he was interested in it.

Six (6) area residents spoke in opposition to the Application; and a majority of their testimony was about the golf course and not the Clubhouse. The opposition testimony included; 1) a concern the golf course could not operate if the 5.688 acres was subdivided off and operated pursuant to the Application, 2) noise, 3) a decrease in their property values, 4) their view, 5) the appearance and maintenance of the golf course area and the ponds. Many of them testified they were not opposed to the Application to rezone the Clubhouse. One resident testified it was inappropriate to allow a commercial zone in a residential neighborhood.

Area Resident **Tammy Oxford** summary:

- Purchased a house on Constanza Drive because of the view.
- Now I do not have a view.
- It is wonderful someone wants to do something with the old Clubhouse.
- All we're concerned about as homeowners is keeping it clean, keeping it mowed and the value of our homes.
- Should be reassessed for taxes as we are no longer living on a golf course.

Area Resident **Alvey Bruce Kanipe**:

- Kanipe agreed with a lot of what Tammy said.
- Kanipe doesn't live around the Clubhouse but believes the proposed use is a good project and the building is conducive.
- Purchased on Constanza Drive because of the golf course view.
- Entered an Excerpt from the Minutes of the March 1, 1994, Henderson City-County Planning Commission Meeting dealing with the golf course development, into the record and read

several passages from the minutes into the record. (Mr. Kanipe referred to the Minutes as a Narrative.)

- Expressed concerns about the ponds.
- Expressed concern about the value of his home.
- Understands this meeting is about the 5.688 acre Clubhouse and not the golf course.
- Acknowledged the golf course is gone.
- Concerned any future use not adversely affect property values.
- Expressed concern about the future of the golf course property, which he referred to as his back yard.
- Understands Chambers will be required to come back to the Planning Commission with the balance of the 168 acre golf course property.
- A lot of the issues being dealt with today were brought up in 1994.
- Requested everyone read the Excerpt from 1994 Planning Commission Minutes dealing with this area.
- No one guaranteed him the golf course would always be there, he just assumed it would be.
- The Planning Commission is going to have to make some hard decisions so property values don't go down.

Area resident **Darren Spainhoward:**

- Agreed without reiterating what Mr. Kanipe said.
- Chambers has done a great job to date working on the lakes and mowing.
- Formerly lived in Evansville and played the course here. The golf course had a lot of play until they stopped maintaining it. Not advocating owner fund losses.
- Stated McQueen (the "owner") didn't advertise the golf course for sale or lease. Ask if the owner contacted the City.

- The maintenance was allowed to deteriorate, causing the rounds of play to drop.
- Due diligence in choosing an operator was weak. Operator did not have the financial capacity to put any money in the course. What qualified the last operators to run it?
- Why didn't the owner market it to other golf course operators?
- He lives on the 17th fairway.
- Is concerned with his property value but, if it is maintained like it is now he doesn't have an issue with it not being a golf course.
- Doesn't want houses built behind him or a "tobacco field".
- Approached Chambers about purchasing at least 200 feet behind his property. Chambers ask him to contact Mr. Branson and Mr. Spainhoward testified Mr. Branson told him all the neighbors would have to agree to buy an area behind their respective houses because of the cost of drafting, surveying, etc.

Area Resident **Curt Hamilton:**

- Lives just off of the 10th Green on Belle Wood Drive.
- Purchased the property specifically because of the golf course.
- The Master Plan the Planning Commission approved in 1994 told me and everyone else it would always be a golf course.
- You're not hearing the whole truth from the owner.
- It was mismanaged, the operator didn't apply appropriate water.
- Mr. Hamilton testified he and Bill Rendell, the former PGA Pro from the Henderson County Club, and a group of investors developed a business plan in 2010, at the depth of the recession, and offered the owner far more than Mr. Hamilton understands Chambers is paying for the golf course. Hamilton's group anticipated spending probably another \$1,000,000.00 on top of the purchase price to make the golf course correct.
- The operator put the money in his pocket and didn't pay the

water bill, quit watering, drained the lakes, over fertilized, and basically killed the course.

- The owner did nothing to market the golf course appropriately.
- The course could have been saved then and it can be saved now.
- Planning and Zoning is for the neighbors.
- “We all purchased based on the assumption that this was going to remain a golf course. I object to dividing the property up, they knew that they were buying a golf course and whether or not it’s open, it should stay a golf course and that’s just the breaks and that’s what should be.”
- Decline in play is because of mismanagement (poor condition of the course) not the economy.
- “.....when you purchase a business you know what you sign up for. When you purchase a factory, it’s a factory. You can make widgets, you can make different things, but it’s a factory, you’re not going to build an apartment complex, right? Because that’s what the Planning and Zoning laws say. The Master Plan here says this is a golf course, this is a golf course to all of the hundreds, whatever, hundred adjoining properties to this golf course is, and it’s a golf course. It’s not a farm; it’s not a daycare or a senior citizen home. Certainly and I don’t oppose them using it for whatever that central, the Clubhouse, for things appropriate for a Clubhouse; buying food and drink, it’s already been operated as a restaurant that’s part of the golf course. I don’t oppose that it be used as a wedding chapel. I don’t oppose for things that are consistent with what it’s already been and they should have the opportunity to make that, to use it for that. But here’s the thing, if you approve the subdivision of that six (6) acres or whatever it is, away from the rest of the golf course, this is no longer a golf course and it never will be. But when you buy a piece of property and you know that it’s zoned the way it’s zoned I think you have to live with it. Because sure enough, all of the rest of us around

that piece of property have to live with it.”

- It needs to be a golf course.
- “But I think when you purchase a golf course the expectation would be to sell it as a golf course and it would stink if it’s a loss of money, but the next investor needs to buy it as a golf course, not as something else.”
- The value is less because the plug was pulled.

Area resident **Dr. Gary Jennings:**

- Lives on Belle Wood.
- Would like to see something in there about outdoor music and noise.

Area resident, **Taylor DeCorrevont:**

- Against the 5.688 acre Clubhouse rezoning.
- If it were historically used for anything other than a Clubhouse it violated what it was zoned for.
- “I can’t imagine in my wildest dreams imagine having a commercial zoning in the center of a residential neighborhood, are you kidding me.”
- They have been doing a bad job, he has notified the codes department no less than 5 times about the grass and weeds.
- He mows where the public can see it driving around.
- The ponds are terrible.

Applicant’s Consultant and surveyor, **Dennis Branson:**

- Chambers did not buy a golf course, the golf course closed before he bought it.

- “The lakes that people are concerned about and rightfully so, are storm water detention basins and we’re working right now with HWU (Henderson Water Utilities) on solutions and the State of Kentucky Extension Office, University of Kentucky Extension Office, in ways to address the algae problems in those lakes and trying to clean them up.”
- The one at Constanza has been the one that’s been the most problematic. “We will probably end up draining that one and making that a dry detention basin.”

John Stroud, with the City of Henderson Codes Department:

- Discussed enforcing the mowing ordinance.
- Answered questions for the Planning Commission about the interpretation of the zoning ordinance from a codes perspective.
- If the golf course was reopened, and if the Clubhouse was rezoned as the Applicants are requesting, with the Narrative Development Plan, there would be no reason the Clubhouse couldn’t be leased to the golf course and used as a clubhouse, for the uses they have specified, in the Narrative development Plan.

Tom Williams, General Manager of the City of Henderson Water Utility:

- Discussed the detention basins.
- The City Water Utility, that deals with the detention basins, is not worried about the aesthetics of the lakes at pool elevation.

That is all of the proposed findings of facts.

Chairman McKee: Did everybody have the opportunity to follow along and understand?

David Williams: Mr. Chairman.

Chairman McKee: Yes.

David Williams: On page nine (9), Brian misspoke about, he said, "The course could not have been saved", and it should read "That the course could have been saved then and it could be saved now."

Brian Bishop: I apologize.

David Williams: I would recommend, Mr. Fridy if you can support me or not on this, that we submit a written copy of Brian's statement into the record as the official statement because of, to take care of any misspoken words or...

Attorney Tommy Joe Fridy: The proposed motion is exactly that. That you are adopting as findings of facts, if you choose to, the written proposed findings have been presented to you for several days and that were handed out here tonight.

David Williams: Thank you.

Attorney Tommy Joe Fridy: The reading into the record is something that is a good thing to do, but you would be actually adopting the written version.

Dickie Johnson: Printed.

Attorney Tommy Joe Fridy: The printed version, excuse me. Thank

you.

Chairman McKee: Any further comments? Hearing and seeing none, the Chair will entertain a motion.

David Williams: Mr. Fridy the zoning has been accepted, right? The zoning change has been voted on and approved by the Planning Commission?

Attorney Tommy Joe Fridy: Yes, we're only adopting Findings of Facts to support the motion decision that has already been made.

David Williams: Ok. So what we're doing now is just, more or less, a house cleaning activity to move it forward? I would, I did not vote for the original motion but in the interest of moving things forward I'm going to motion that the, excuse me, Brian is this the recommended motion here?

Brian Bishop: It is.

Attorney Tommy Joe Fridy: The twelve (12) page Proposed Motion.

David Williams: Yes sir, thank you, I just want to make sure I get it straight.

MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY BOBBIE JARRETT THAT THE 12 (TWELVE) PAGE PROPOSED MOTION AND FINDING OF FACT, WHICH HAS JUST BEEN READ, WHICH INCLUDES A SUMMARY OF THE EVIDENCE AND TESTIMONY OF THE AUGUST 2, 2016 PUBLIC HEARING, IN SUPPORT OF RECOMMENDING APPROVAL OF REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A- SUBMITTED BY CORMAN-MCQUEEN GOLF, INC., AND MBTJ, LLC., FOR THE PROPERTY LOCATED IN THE CITY OF

HENDERSON AT 800 WOLF HILLS BLVD., (ALSO KNOWN AS THE PLAYER'S CLUB GOLF COURSE CLUBHOUSE AREA, PID# 64-28.4, CONTAINING APPROXIMATELY 5.688 ACRES) WAS DISTRIBUTED TO THE MEMBERS OF THE PLANNING COMMISSION IN ADVANCE OF THIS, SEPTEMBER 6, 2016, MEETING, WAS OFFERED/DISTRIBUTED TO ATTENDEES OF THIS PLANNING COMMISSION MEETING AND WAS READ ALOUD INTO THE RECORD OF THIS MEETING BY STAFF. I MOVE THAT SUCH 12 (TWELVE) PAGE MOTION AND FINDINGS OF FACT, AS SO DISTRIBUTED, BE ADOPTED, IN ITS ENTIRETY, AS THE MOTION AND FINDINGS OF FACT IN SUPPORT OF SUCH RECOMMENDATION, AND I LEAVE THE MOTION OPEN FOR OTHER MEMBERS OF THE PLANNING COMMISSION TO ADD FINDINGS OF FACT IN SUPPORT OF THIS MOTION.

Brian Bishop: Commissioner Williams, there was a small type-o in the second sentence that says August 9 and it actually should be August 2.

David Williams: I'm sorry, I didn't pick that up. So moved.

Chairman McKee: Amended to August 2. We have a motion. We have a second. Discussion?

Chairman McKee: Mr. Pritchett?

Herb Pritchett: Speaking only about the Findings of Fact, I'm reminded of a story that Abraham Lincoln used to tell about a farmer and his two (2) children. The farmer had a beautiful daughter that had just graduated from high school, and he had a son that was not so smart, elementary school. One day the farmer was out plowing and his not so smart son came running up and said, "Daddy, daddy, come quick something bad is about to happen." And the farmer said, "Son settle

down, what bad is about to happen?” And he said, “Well I went back to the barn and my sister was up in the hayloft with the neighborhood boy and she was pulling up her dress and pulling down her underwear and the boy was doing the same thing and, Daddy if you don’t come quick they’re going to pee all over that hay and ruin it!” The farmer looked at the boy and said, “Son you’ve got your facts straight but your conclusions are all wrong.”

I think Tom, Mr. Fridy, accurately depicted what happened at the Public Hearing. I think some of it was fact and some of it was unsubstantiated opinion but, in that respect it’s correct but, I can’t obviously agree with the recommendation but, I thought the story was sort of funny so I thought I would share it with you tonight.

Herb McKee: We have a motion and a second, is there any other discussion? Madame Clerk, will you please call the roll?

AYE: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DICKIE JOHNSON, GARY GIBSON, RODNEY THOMAS, DAVID DIXON, KEVIN HERRON, GRAY HODGE.

NAY: HERB PRITCHETT.

Chairman McKee: And your audit of that vote would yield what number, since I was in error the last time we did this?

Heather Lauderdale: 9 (nine)yes, 1 (one) nay.

Chairman McKee: 9 (nine) yes, 1 (one) nay. Motion carried.

Chairman McKee: Next on the agenda, administrative business, Mr. Bishop.

Brian Bishop: Yes sir. I would like to ask if there were any questions or comments about the packet that I handed out at the last meeting. The packet consisted of the proposal from TSW Design Group about our development analysis study.

Attorney Tommy Joe Fridy: Wait, wait, we've got another...

Brian Bishop: I apologize, I got way ahead of myself. It was wishful thinking, I apologize.

Herb Pritchett: You were still thinking about that hayloft weren't you?

Brian Bishop: It threw me for a loop.

**AUGUST 2, 2016
MEETING
DOCUMENTS**

HCCPC

Henderson City-County Planning Commission

Henderson City/County Recommendation on Zoning Map Amendment

APPLICANT:	CORMAN-MCQUEEN GOLF, INC
ADDRESS	800 WOLF HILLS BLVD.
RE-ZONING CASE NUMBER	Rezoning #1059 with a Narrative Development Plan

Having Considered the above matter at a Public Hearing on (date) **August 2, 2016**

And having voted (tally) **6 yes, 5 no**

To submit this Recommendation to the (jurisdiction) **City Commission**

The Henderson City/County Planning Commission hereby recommends **Tabled till 9/06/2016 meeting with Finding of Fact**

Of this proposal, based on the following findings of fact and conditions.

FINDINGS OF FACT: MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO APPROVE REZONING # 1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A - SUBMITTED BY CORMAN-MCQUEEN GOLF, INC., DANIEL MCQUEEN, PRESIDENT AND MBTJ, LLC / BOBBIE CHAMBERS, FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 800 WOLF HILLS BLVD., (ALSO KNOWN AS THE PLAYER'S CLUB GOLF COURSE CLUBHOUSE AREA, CONTAINING APPROXIMATELY 5.688 ACRES); THAT THE PUBLIC HEARING NOT BE REOPENED AT THE NEXT MEETING (THAT NO ADDITIONAL PUBLIC COMMENTS WILL BE HEARD AT THE NEXT MEETING); THAT THE RECOMMENDATION WILL NOT BE RECONSIDERED AT THE NEXT MEETING; THAT DISCUSSIONS AT THE NEXT REGULAR MEETING REGARDING THIS REZONING BE LIMITED TO THE MOTION AND FINDING OF FACT SUPPORTING THE RECOMMENDATION; AND, THAT THIS VOTE NOT BE CONSIDERED FINAL ACTION; THAT THE MATTER BE TABLED UNTIL THE NEXT REGULAR MEETING. THIS MOTION IS IN REGARD TO APPLICANTS' REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (AG) - GOLF COURSE RESTRICTED USE, TO GENERAL BUSINESS (GB) WITH A NARRATIVE DEVELOPMENT PLAN. THE DEVELOPMENT PLAN WOULD LIMIT OR RESTRICT THE

USE OF THIS 5.688 ACRES TO: 1) A CATERING ESTABLISHMENT, 2) STUDIO FOR MUSIC, DANCING, OR THEATRICAL INSTRUCTION, 3) WEDDING CHAPELS OR BANQUET HALLS, AND, 4) ACCESSORY USES INCIDENTAL TO THE ABOVE. ALSO, SUBJECT TO THE PRELIMINARY PLAT, AND AMENDING THE DEVELOPMENT PLAN IN THE WAYS THAT DORIN STATED INCLUDING NO LIVE MUSIC AFTER 10 P.M.

CONDITIONS:

DESCRIPTION: A zoning change from Agricultural (AG)-Golf course Restricted Use to General Business (GB) with a narrative development plan for 5.688 acres.

ATTESTED TO ON: MONTH: 08 DAY: 02 YEAR: 2016



EXECUTIVE DIRECTOR

ENCLOSURES: (MAP, STAFF REPORT)

The above recommendation of the Henderson City-County Planning Commission was tabled till, **September 6, 2016**. A full transcript of the minutes of the Planning Commission meeting along with other pertinent information is also enclosed.



Planning the Future

Henderson City-County Planning Commission

Brian Bishop,
Executive Director, AICP, CFM

REQUEST FOR LEGISLATIVE BODY TO DECIDE ZONING MAP AMENDMENT

APPLICANT	CORMAN-MCQUEEN GOLF, INC.		
ADDRESS OF PROPERTY	800 WOLF HILLS BLVD.		
REQUESTED FOR ZONE CHANGE	HENDERSON, KY 42420		
ACREAGE INVOLVED	5.688 ACRES		
ZONE CHANGE REQUESTED (LIST ZONE)	GENERAL BUSINESS (GB), WITH A NARRATIVE DEV. PLAN		
DATE OF PLANNING COMMISSION HEARING	AUGUST 2, 2016		
PLAN COMMISSION RECOMMENDATION (CHECK APPLICABLE)	APPROVE X	DENY	DATE 8/02/2016
NOTICE FOR LEGISLATIVE BODY TO DECIDE ZONING MAP AMENDMENT MUST BE FILED WITHIN TWENTY ONE (21 DAYS) OF PLANNING COMMISSION RECOMMENDATION			

NOTICE FILED BY

Please indicate what party is requesting a Legislative Body decision by checking appropriate box for request	HENDERSON COUNTY FISCAL COURT	
	CITY OF HENDERSON	
	CITY OF CORYDON	
	AGGRIEVED PERSON	
NAME (PLEASE PRINT)		
SIGNATURE		
DATE NOTICE FILED		

Submittal of this notice serves as written request in accordance with KRS 100.2111 to the Henderson City/County Planning Commission that the final decision on the above referenced map amendment is to be made by the appropriate Legislative Body. If no written request or notice is made by the Legislative Body or aggrieved person to the Planning Commission within 21 days after the final action of the Henderson Planning Commission, then the recommendation by the HCCPC relating to the proposed amendment shall become final and if recommended for approval by the Planning Commission, the map amendment shall be automatically implemented subject to the provisions of KRS 100.347.

• 1990 BARRET COURT • SUITE C • HENDERSON, KY 42420
 • PHONE (270) 831-1289 • FAX (270) 831-1237 • WEB : WWW.HENDERSONPLANNING.ORG

Rezoning #1059 Findings of Fact Attachments:

- A Transcript of the August 2, 2016, Public Hearing. (Attachment #1)

The following documents relating to the Rezoning:

- Applicant's Rezoning Application with the applicant's attachments, as follows: (Attachment #2)
 - Applicant's three (3) page supplement to application
 - Exhibit Map #1
 - Corman-McQueen Resolution
 - MBTJ, LLC., Resolution
- Rezoning Notice Letter sent to area residents, and the address list to which the letter was sent. (Attachment #3)
- Newspaper advertisement receipt. (Attachment #4)
- Planning Commission Agenda for August 2, 2016, and related documents as provided to the Planning Commission members in advance of the meeting: (Attachment #5)
 - Proposed Public Hearing and Meeting rules
 - Staff Report – Regarding Rezoning #1059
 - Pictures & Maps of property
- Attendees at the Public Hearing were ask to sign it at the door. Four (4) pages of sign in sheets are attached and incorporated by reference. One sheet is for 4 professionals and the other 3 sheets are for 15 individuals. (Attachment #6)
- Narrative Development Plan signed by MBTJ, LLC. (Attachment #7)
- Narrative Development Plan signed by Corman-McQueen Golf, Inc. (Attachment #8)
- Narrative development plan consent letter for changes made at the August 2, 2016 PC meeting with owners signatures (Attachment #9)

- A Transcript of the August 2, 2016, Public Hearing.
(Attachment #1)

Henderson City-County Planning Commission
August 2, 2016 Minutes

Chairman McKee: The minutes are approved as presented. I would like now to turn the meeting over to Mr. Brian Bishop who is going to give us a staff introduction.

Brian Bishop: What we would like to do is introduce, for your discussion, your consideration, a series of rules that Staff and our attorney Mr. Friday has prepared to help guide us through this.

PUBLIC HEARING AND MEETING RULES

If the Public Hearing and Meeting has not been sooner concluded and adjourned, it will stop at 9:00 P. M. and be recessed and reconvened the following night of Wednesday, August 3, 2016, at 6:00 P. M.; and likewise recessed at 9:00 P. M., and reconvened at 6:00 P. M., from night to night thereafter, until finished.

- 1. Those individuals, including attorneys and professionals, wishing to speak were asked to sign in at the door. The Planning Commission very much wants to hear your comments, positions, suggestions and questions you may have for the applicant.**
- 2. There will be no time limit on attorneys and other professionals representing Applicants and supporters and opponents (those against). Attorney and professionals will be allowed to speak first, beginning with the applicants and supporters, then opponents, as their presentations may cover all or part of what others may want to say or ask.**

- 3. Questions will be presented to the Chairman, and the Chairman will ask the question to the participant, questions may not be asked directly to another participant.**
- 4. Each speaker who signed up at the door will initially be given 5 minutes to speak. Applicants and supporters will go first, then opponents. As more full discussed below, additional 5 minute blocks will be allotted, after each round of speakers, until everyone has finished.**
- 5. Speakers are asked not to repeat something another speaker has said, but may come up and say they agree with one or more other speaker.**
- 6. Commissioners may ask questions and get responses after each presenter is finished.**
- 7. After everyone has had 5 minutes, if there are speakers who would like additional time, an additional 5 minutes will be given, and this procedure will be repeated, until everyone has had an opportunity to present all they desire to present.**
- 8. After the repeated rounds of 5 minutes per person, by both those for and against, those who signed up may agree or disagree with what the other side said or presented, and to ask questions, for up to 5 minutes each. Again, there will be no time limit on attorney and professionals. This is an opportunity to rebut anything the other side said during the original presentations, not a time to repeat or introduce new information (new information may be introduced only to rebut something the other side said). During this time those who signed up may present to the Chairman any questions they would like for the other side to answer.**

9. Commissioners, but not participants, may call speakers back to the stand for clarity or further needed information, after both sides are finished.

At this time, Staff requests that the Chairman asks for a motion, second, discussion and vote to approve or change the rules as I have read them.

Chairman McKee: Are there any questions of Staff about the rules? Commissioners? Any questions? In that case, the Chair will entertain a motion to approve the rules as presented.

MOTION WAS MADE BY BOBBIE JARRETT, SECONDED BY KEVIN RICHARD TO APPROVE THE PULBIC HEARING AND MEETING RULES.

ALL IN FAVOR: AYE

OPPOSED: NONE

Chairman McKee: The rules will stand. Mr. Bishop, will you please proceed with this application?

Brian Bishop: Yes sir. There are two (2) items on our agenda tonight; Staff requests that you hear both items in conjunction with one another but Staff requests that you make two (2) motions for the two (2) items on the agenda. The first item on our agenda is **REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A-** Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment – except, those having

the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

The second item is **Lot 2A Wolf Hills Golf Course Club House Area, Master Plan** - Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC/Bobbie Chambers for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4), for approximately 5.688 acres. Applicants are requesting that the Golf Course Limited Use Restriction be removed from this 5.688 acres, subject to final approval of REZONING #1059.

Staff also requests that if you decide to approve these two (2) items, you make it subject to a Preliminary Plat being approved by the Planning Commission. I will do my best to answer any questions you have at this time.

Chairman McKee: Before questions, the Chair would like to ask counsel and Staff to help keep the proceedings according to the rules; and, the Clerk to help us keep the time; and, I will do my best to be cordial as I remind you of your time limits; and, we will try to stick with the rules as they are presented. Would you like to begin with the developer to present their applications? Legal counsel, would you please come to the podium sir? State your name and address.

Dorin Luck, legal counsel for the Applicant: Dorin Luck, my home address is 2533 Knoll Top Lane, Henderson, Ky.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

Dorin Luck: I do sir.

Chairman McKee: Thank you sir, please proceed.

Dorin Luck: That's a dangerous rule you all have put in, giving the lawyers unlimited time to talk.

Chairman McKee: You can imagine who wrote that part.

Dorin Luck: I've got an idea. However, I'll be as brief as possible but we've got a lot to cover as this is a very serious matter. Let me start with ownership of this property because it's something we need to talk about. Corman-McQueen and MBTJ, LLC., which is Mike Chambers, LLC., have reached an agreement and have the property under contract to be purchased by Mr. Chambers. Quite candidly we thought we would have that done by now and we thought we would have it done by the time we submitted the application; that hasn't happened. That's why Corman-McQueen and MBTJ, LLC are both listed on both the original application and also the Narrative Development Plan. I will tell you that Mr. Chambers is here tonight and also Dan McQueen who is the principal, and one (1) of the two (2) shareholders, along with his wife, of Corman-McQueen Inc. They are both present in the audience. I fully anticipate that we will close on this property very soon. Again, quite candidly, we just didn't get it done before this meeting, but that's where we are on the ownership of this property. I would anticipate that MBTJ, LLC., is who we will be dealing with solely in the very near future.

We are going to address this head on, this procedure in the way that we have submitted it for the simple reason that this is, I've been practicing law a long time and those who know me, and most of you do know me, know that I was a Planning Commission attorney and have represented not only the Planning Commission but people on both sides of the aisle, so to speak, in Planning and Zoning matters. I've not seen anything like this in my thirty-five (35) years now of practicing law. It's unusual because of the 1994 Master Plan that was put into place when this golf course was first developed. The Master Plan simply shows the golf course in the middle of the property surround by what will eventually, hopefully be real estate, residential development. That having been said, quite candidly, it's not a modicum of clarity as to what all that means. But we're going to assume, and we being MBTJ, LLC., and I'll probably start calling MBTJ, LLC., Mike Chambers, because he is the principal

member of the LLC. We assume that the Planning Commission's position is correct in that in order for us to change the use of any part of that 165 acres that is the golf course, we've got to come in and ask for a revision to the Master Plan. That's why we've submitted an amendment to the Master Plan for the 5.668 acres, which we call the clubhouse property. You all have a drawing of that I'm sure, a plat of that in your packet. In addition to that, there's certainly that I could make and could be made that maybe the use that we would make of this property would be permitted under the original AG zone which this property is at this point in time. That having been said, I don't think that's acceptable, I don't think it's fair to the Planning Commission, I don't think it's fair to the developer and I don't think it's fair to the public not to just bring this matter to a head, present it at a public hearing and let's see where we land on this.

Briefly, again the history of it is that you've got a 1994 Master Plan that provides that this 165 acres, of which we're dealing with 5.668 acres, is a golf course. That's as far as the definition goes and it's as far as the restrictions go. The property in question is 5.668 acres with, I'm going to say, an approximate 11,000 square foot clubhouse on it, and that's comprised of, I'm going to say, 5,600 feet above ground and the remainder in the lower level. The property has historically been used, and I'm going to assume, it's been used since 1994 or 95, I'm not exactly sure when the golf course property went into operation, but I will tell you that Corman-McQueen has owned that property since 1997, and I'm going to say, that they've operated the golf course and the clubhouse since 1997. The clubhouse has been used historically for a lot of different things. The one thing I'm going to start with though, in terms of facts that I'd like to present to you tonight is, that the golf course is gone forever. That's a fact and Dan McQueen is here and Dan McQueen, I'd like for him to get up and tell you that that's the case. He's given it the college try; he's done everything he can to keep that golf course in operation. It's not profitable and it won't be profitable and he was forced as a result of that to do the best he could to sell that property. He can't operate it and he can't find anybody to operate or

make a living from it, that's the nature of the beast I'm afraid. I can have Mr. McQueen get up now and we can swear him in and we could have him give that testimony if that would be appropriate to you all. Dan will you come up?

Chairman McKee: Please come sir. Will you please state your name and address for the record?

Daniel McQueen: Daniel McQueen, 5616 Harrodsburg Rd, Nicholasville, Ky.

Chairman McKee: Do you swear the statement you are about to make are the truths to the best of your knowledge?

Daniel McQueen: Yes I do.

Chairman McKee: Thank you Mr. McQueen, please proceed.

Daniel McQueen: To share some of the facts with you, we actually were down here in 1994 to build the golf course. The golf course people who originally had it, Drew Augustine and can't think of the other gentleman's name, he was an irrigation man but somebody here probably knows it. Adler. Anyway they got to the place where they couldn't build the golf course so Old National Bank had the loan, we took it over, we built the golf course and we operated it since 1997. The clubhouse we built, we actually operated the first two (2) years out of a trailer and after two (2) years we did build the clubhouse and operated out of that. The major problem that we've had is being three (3) hours away, we were an absentee owner. We had some good operators in there and we had some bad ones and I don't know how many people here play golf or are familiar with the state of golf right now but it's at an all-time low. So what's happened to Players Club of Henderson has happened all around the country. I think for every golf course that opens now, two (2) or three (3) close, so that's kind of what we're facing. When you talk about Henderson County, you have three (3) nine (9) hole courses and the private club, which has been here a long time and probably eighty (80) percent, seventy-five (75) percent of our play came out of Evansville. Of course, the last six (6) or eight (8) years that has fallen off. Over the last four (4) years my wife and I have funded this

golf course to the tune of \$494,000. I will just tell all of you here, we're not rich people, the money we've made, we've made in the golf business and there were good times, even at Players Club of Henderson. It's not my idea to close golf courses; I'm a golf course guy and always will be. What happened here, we had two (2) guys that were both superintendents that did a good job as far as maintaining the golf course, but rounds got down so low that over the last four (4) years we've just basically had to fund it for them just to keep it open. So, we got to a point where we said hey, if somebody can't buy it and keep it a golf course, we talked to three (3) different people. We talked to those two (2) gentlemen and what they were willing to even pay on a lease was thirty (30) percent of what our mortgage payment was. On top of that we talked to Bill Rendell, he had a group at one time that had looked at it, he came over and looked at it and he said I can't make it work. We talked to Chris out at Bent Creek and he was kind of in the same position, he wanted to possibly lease it for a year, and if he saw after a year that it would work, then he would do something with us, but we couldn't go on anymore. So with Mike living there close and everything, we talked to him and he was interested in the property and that's why we ended up selling the property to Mike Chambers. But we pride ourselves as good, decent operators, we've got a couple of courses in Central Kentucky, that struggle a little bit right now, but are still surviving, but I don't know too many people that can make that golf course work out there and that's just the facts.

Chairman McKee: Thank you Mr. McQueen, any questions for Mr. McQueen before he sits down?

David Williams: Mr. Chairman.

Chairman McKee: Yes sir.

David Williams: Mr. McQueen, has the basic reason for the lack of players been the downturn in 2009?

Daniel McQueen: I'm sorry?

David Williams: Has the basic, has the lack of players been the result of the downturn, the economic downturn in 2009?

Daniel McQueen: I think more so than anything. What happened, probably about four (4) years ago, it has kind of bottomed out it hasn't gotten any worse but it sure hasn't gotten any better. Golf, over the years is running in cycles and usually after a two (2) or three (3) year downturn it will start coming back but it hasn't come back yet. I think it's just what you said, it's basically the economy.

Rodney Thomas: The market got oversaturated too.

Daniel McQueen: Yes, you're exactly right.

Rodney Thomas: The Tiger Effect.

Daniel McQueen: It had enough golfers or you had too many courses.

Rodney Thomas: When Tiger was at his peak everybody was building golf courses and now their saturated.

David Williams: Do you see any possibility in the future of the amount, number of players, returning by any chance, or do you think this is going to be a permanent type of situation?

Daniel McQueen: Me personally, and I hate to tell you this, but I think golf is going back to a rich man's game, and that's my feeling. What you've got with your courses now, we went through a period of time through the nineties that you could make decent money in the golf business if you were a decent operator. You could build a quality golf course and people would come out and pay a reasonable green fee to play and a lot of people wanted to play, that's not happening now. So what you're seeing is that most of the courses that are going away are people like me. When you get into a State owned golf course or even

City owned golf courses they can subsidize those or you get into a private club to where they have a couple of hundred members, if they want to keep it open they all split up what they're short at the end of the year and they keep going.

David Williams: Thank you.

Chairman McKee: Thank you Mr. McQueen, will you be available, well one more, Mr. Pritchett.

Herb Pritchett: You talked about rounds played?

Daniel McQueen: Yes sir.

Herb Pritchett: Five (5) years ago can you give us an idea of how many rounds were played and then versus the last year, 2015?

Daniel McQueen: We probably, ten (10) years ago maybe not five (5) but we played as many as 22,000 to 25,000 rounds at Players Club.

Herb Pritchett: Ok.

Daniel McQueen: Probably last year I guess they did somewhere around eight (8) or ten (10) (thousand).

Herb Pritchett: Ok.

Daniel McQueen: That's pretty normal for a lot of courses, I mean it's just what happened.

Herb Pritchett: And you're attributing that loss of rounds played just by the overall problems that the golf course industry at large is facing and millennials not wanting to spend four (4) or five (5) hours on the course and that sort of deal?

Daniel McQueen: The biggest amount of our play in Central Kentucky is from seniors. If we didn't play it would be worse than it is. This gentleman here hit it on the head.

Herb Pritchett: So the last four (4) years, how much did you put into the golf course subsidizing it?

Daniel McQueen: Well, we actually and I mean I'm willing to share this, my wife typed these up for you all.

Herb Pritchett: I mean what you said...

Daniel McQueen: I mean there are seven (7) copies here if you all want to look at any of these, I mean it's for public use.

Herb Pritchett: I would like to look at one.

Daniel McQueen: You can pass these out among the people really.

Chairman McKee: It's your desire to enter that into the record? Is it your desire to enter that document into the record?

Daniel McQueen: Yes we can, I mean that's fine. **(Mr. McQueen entered EXHIBIT "A")**

Herb Pritchett: Thank you sir.

Daniel McQueen: Thank you.

Chairman McKee: Commissioner Williams?

David Williams: Can you tell me about how many holes are present within say a twenty-five (25) mile driving distance of Henderson? In other words, how many clubs, how many nine (9) hole clubs?

Daniel McQueen: Well, you have three (3) here in Henderson County. You have the City, then you have the State and then you have Bent

Creek and the Country Club. Then beyond that, you know somebody here that plays golf would know better than me.

Rodney Thomas: You've got what, six (6), eighteen (18) hole courses in, I think, the Evansville area.

Brian Bishop: Then you also have Breckinridge in Morganfield.

Rodney Thomas: Then a couple of nine (9) holes, then Owensboro's probably got at least three (3), eighteen (18) holes, I know of, no four (4).

David Williams: Do I remember one being built down by Sebree?

Rodney Thomas: Yes.

David Williams: Is that one still operating?

Claudia Wayne: No.

David Williams: No, ok.

Rodney Thomas: No, that one closed.

David Williams: I don't play golf so I don't know.

Rodney Thomas: Then Breckinridge, Morganfield, they used be private and they have gone pretty much public. The Henderson Country Club struggles every year.

Chairman McKee: Thank you Mr. McQueen. Mr. Luck.

Chairman McKee: Mr. Luck.

Dorin Luck: I think Dan is going to hang around if any other questions come up. Thank you very much. One thing I want to bring up, as a procedural matter at the start, I've had a discussion with my clients and have correctly pointed out we submitted a Narrative Development Plan

with, I think, seven (7) uses potentially for this property. We are prepared tonight to limit that even further and to remove from the Narrative Development Plan, item number two (2), which is an eating or dining establishment- except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, item number five (5), which is a nursing or day care facility, item number six (6), which are professional offices, and item number seven (7), which is a fruit and vegetable market. We are withdrawing those uses from the Narrative Development Plan which would leave a catering establishment; a studio for music, dancing or theatrical instruction; and wedding chapel or banquet hall.

Chairman McKee: Mr. Fridy do we need to take any action on...

Attorney Tommy Joe Fridy: (Inaudible)

Chairman McKee: Very good, thank you.

Dorin Luck: I appreciate Mr. McQueen, he can certainly...

Attorney Tommy Joe Fridy: Dorin, will you submit that in writing?

Dorin Luck: Sure, I'll be glad too, I'll be happy to do that. I appreciate Mr. McQueen getting up and telling us the state of the business, it's unfortunate but it's where we are.

The clubhouse in question, on the 5.668 acres, in addition to being used in the manner of a normal clubhouse, which would be a gathering place, before, after and during rounds of golf, has been used from time to time as a meeting hall. I can verify and have verified that there were three (3) uses that I know of for sure. One was a Sheriff's Association has had a meeting there, Realtors have had a meeting there and there has been a wedding reception there. I asked Danny before the meeting if he had any personal knowledge of any other uses and he said he was confident

there were but he couldn't specify any. But none the less, this clubhouse has been used for meeting purposes in addition to its normal use as a clubhouse and if you've been out there it's a pretty good size structure. Both upstairs and down, but it's more than an average clubhouse I believe. The historical use of the property since 1994 and when I say the property, I'm talking about the 5.668 acres, has been commercial use. It's not residential property. It is adjacent to a residential subdivision, but the use of this property has been for commercial purposes. The unique thing about the property from our standpoint, and I want to point this out to you all, is that I'm going to say that this 5.668 acres is usable as is for a wedding or a banquet hall, which is arguably the use that my clients want to make of it. When I say that to you, it doesn't mean remodeling might not need to occur, it doesn't mean that something within the building might need to happen but I will remind the Commission that there's approximately one hundred-eighty (180) parking spaces already in place at this property. The property, as you come into it off Wolf Hills Boulevard has screening in the way of berms or hills, whichever one you want to call them, from the houses to the right of the property as you enter; there's a tennis court sitting to the right, between the residences and the clubhouse; and the clubhouse is on up the hill, the clubhouse is located away from residences. Wolf Hills Boulevard, which services this property is in fact a boulevard and it is the primary means for ingress and egress not only to the property but to the other streets adjoining the property. It's not a situation where you go through one street and then another street and another street and at the end of the cul-de-sac you take the road up to the clubhouse. It's not designed that way and quite frankly wouldn't work as well for us. The point I'm trying to make is that if this property, if you were going to design it is almost ideal for the uses we are proposing in the sense that's it's located away from the residences, it's sitting off by itself, it's

screened in certain places and it's got easy access to and from the property without driving within the subdivision, I guess is the best way to put it. The proposed use, in our opinion, is consistent with the historical use of the property which is a meeting place, for one of a better term, and that is what we would like to do with it. The submission that we made along with our application was an examination of the community's Comprehensive Plan and our idea as to why this property, under this set of facts, lends itself to certainly a strong argument that this rezone with a Development Plan, which is a Narrative Development Plan, which would limit the uses of the property, is in compliance with the community's Comprehensive Plan. I'm not going to read everything that I have previously submitted but I am going to point out to you that the Comprehensive Plan is considered to be a guide and not a strait jacket. The purpose of the Comprehensive Plan is to give guidelines to the community but is not to be interpreted literally where one can't develop. None the less, under Balancing Land Use in the Comprehensive Plan on page 1-5, under paragraph A; the use of the golf course property and specifically the use of the clubhouse would be an area of opportunity for infill, redevelopment and adoptive re-use. We're faced with a unique situation that is dangerous in that if you can't use this property as a commercial purpose or you can't use it for a meeting house or banquet hall or wedding hall, what are you going to use it for? You don't want property within our community to go to disuse as a result of the inability to rezone it. I think under the definition it arguably is infill or redevelopment by using the same property for basically the same purpose or the same use that was made of it under the prior zoning.

The proposed rezone under Sub-Section 1-B; would guide development to an existing centralized area. We don't want to scatter this stuff out if

we don't have to. Again, you're faced with a unique situation with 164 or 165 acres within an area surrounded by residences. I can't tell you what's going to happen to the rest of it but I can tell you we're trying to do with this 5.668 acres is make the best use we can of it under this set of circumstances and one that think will work for the surrounding residences. The proposed development under paragraph 1-C; would promote a mixed use neighborhood to create a vibrant built environment. What I think that means and what I see it meaning in this situation with 165 acres of ground is to provide a mixed use of this property that it's consistent with what's happened out there before. There is no secret there's been a clubhouse out there, there's been traffic out there, it's been used unfortunately not enough but it's been used. The Comprehensive Plan under paragraph 1-D: The proposed development and rezoned would strive for connected walkable and bike friendly neighborhoods, that's an ideal obviously, at this point we can't say what's going to happen to the rest of the course but we can say that this development would lend itself certainly to access from the neighborhood to walking, bikeways or other means. Paragraph 1-E; the proposed development would promote aesthetically pleasing commercial development of appropriate access, signage and landscaping without encouraging strip-commercial development. Certainly our goal is not to create an office complex, our goal is not to create a shopping center. Our goal is to use this property in a manner that is sensitive to the residents, to the adjoining owners of property. It's no secret that the adjoining owners of property have, quite frankly been taken for a loop as a result of this golf course closing and we understand that. But this 5.668 acres could be used, rezoned and used in a manner we're suggesting without effecting these surrounding owners.

The Goals and Objectives under page 1-6 of the Comprehensive Plan references Healthy Neighborhoods, the Comprehensive Plan under

paragraph 1-C on page 1-6 in fact provides; The Planning Commission should encourage flexible zoning criteria to exist in a redeveloping neighborhood and I'm suggesting to you, no matter what we want to call it that it's redevelopment of a neighborhood, it's redevelopment of this property. It's going to be a real challenge for not only the property owner but for this Commission in order to allow for the redevelopment of this property. Clearly if we keep this property open for commercial purposes, what we intend to do we're promoting the local economy and I don't think there's any question about that. When the alternative is for it to lay fallow versus keeping it open and providing what we believe to be a necessary and needed commodity in this community which is another banquet hall, somewhere people can have a wedding reception, where they can have a family reunion hopefully the people in that neighborhood as large as that neighborhood is would find this to be very convenient to use as a local meeting place but in any event it will certainly promote the economy.

Improving Community Services under the Comprehensive Plan under paragraph 1-E on page 1-10; let's encourage new or revitalized recreation facilities to support the needs of the community. Could this do it, would it help? I believe it would as a meeting place. It's hard to say what this thing will evolve in to, it may become a meeting place that is used regularly for the neighborhood. Again, I think that the community's Comprehensive Plan, in this instance as a result of what's being asked for and what is already out there and what has occurred out there is certainly in agreement with our Comprehensive Plan. If on the other hand and in the alternative you see differently that in fact it's not in the book and accordance to the Comprehensive Plan, the other way this property could be rezoned is if there had been major changes of an economic, physical or social nature as to the former golf course property. I can't think of anything that would fit better than the closing

of the golf course out there. But I believe, I believe that this request is in accordance with the community's Comprehensive Plan and I believe it's a unique opportunity because of the similarities between the use of the property before and the proposed use of the property now. So we would ask obviously that this commission rezone the property with the Narrative Development Plan as we've modified and will submit in writing to the commission and also that the 1994 Master Plan be amended to allow the 5.668 acres to be developed in the manner that we're asking for it tonight.

Chairman McKee: Thank you Mr. Luck, will you be here for further...

Dorin Luck: I suspect I will.

Chairman McKee: Are there any other professionals on your team that wish to speak?

Dorin Luck: Mr. Branson will be here to answer questions.

Chairman McKee: Does that conclude the developer's presentation? Commissioner Williams has questions for Mr. McQueen. Mr. McQueen could you please come to the podium? I cordially remind you that you are still under oath, thank you sir.

David Williams: Mr. McQueen, when you put this property up for sale did you advertise it as for sale in a generalized manner that your adjoining property owners would have known that it was available?

Daniel McQueen: No sir. It was general knowledge that people knew that we were going to have to sell the golf course. Like I said, Mr. Rendell got ahold of us, came over and looked at it and they had looked at it before and he called me back and said we can't make it work.

David Williams: So in other words, you sold the property because someone came to you to buy it, is that correct? You didn't actually offer it up for sale?

Daniel McQueen: I tried to really work something out with Kevin and Jeremy and they were paying us \$60,000 or \$5,000 per month on the lease and our mortgage payment was over \$100,000 for the year and they came back and they said they could pay \$30,000 and we just couldn't continue on with that.

David Williams: So how did it come about that you actually sold the property?

Daniel McQueen: I asked Mike if he would possibly be interested in it, I've known Mike for the twenty (20) years we've been down here.

David Williams: And a deal was struck... Ok, very well. Now this could not have been offered as parcels, correct? Am I correct on that, it would have had, it would have been a major subdivision if they had divided into parcels so that wasn't a possibility, correct? It was kind of an all or nothing thing?

Attorney Tommy Joe Fridy: It's a possibility but it would be a major subdivision.

David Williams: Which is a lot more expensive, ok. Mr. Luck, what if...

Chairman McKee: If you don't mind Mr. Williams, can we ask Mr. Luck to please come to the podium so we can assure him on the record?

David Williams: God forbid, given the history of the property, what if this use fails?

Dorin Luck: I'm sorry?

David Williams: What if the uses that you are proposing fail to work out?

Dorin Luck: Well the simple answer is that you would have to come back for a rezone with a different Development Plan. I don't think you would have any other choice.

David Williams: So the property would remain...in other words we could be faced with the same sort of situation with an abandoned property more or less?

Dorin Luck: You could, the alternative to that obviously would be to rezone it without any Narrative Development Plan but it seems to me that that's more of a danger than a Narrative Development Plan. I can't sit here and tell you today that Bobbie Chambers will make a success of this but I bet she will. I failed to mention it but Mike Chambers' history in the community if you know it; Chambers Place on Highway 60 is his development, if you go out Graham Hill and you see those two (2) really nice apartments on the right sitting on the slope that nobody ever wanted to build on, those are his. I simply say that to point out that I believe that they believe in quality development and I think they will do a good job and quite frankly I think there is a crying need in the community for this type of an operation. Back to your question, certainly if this doesn't work and we've got a different use that we would like attempt to make, we'll have to come back before this commission with another Development Plan.

David Williams: Alright, thank you.

Chairman McKee: Any further questions? Hearing none, should we go to the opposition?

Attorney Tommy Joe Fridy: See if anyone else wants to speak for.

Chairman McKee: Would anyone else like to speak for this application, speak for? Seeing none, we will entertain those would like to speak against. First, are there any attorneys on the side against the application? Are there any professionals? Seeing none, we will just start with the list. First on the list is Tammy Oxford. Let me make sure while you're on your way up, Warren Roberge, did you want to speak Mr. Roberge? You did not...ok thank you. Please come up Ms. Oxford. For the record will you please state your name and address?

Tammy Oxford: Tammy Oxford, 747 Constanza Drive, formerly 905 Kelly Ct. I moved to Constanza Drive two (2) years ago after the death of our relatives. I moved to Constanza Drive which is exactly two (2)...

Chairman McKee: One moment please, could you tell me that you swear the statements you are about to make are the truths to the best of your knowledge?

Tammy Oxford: I do.

Chairman McKee: Now please proceed Ms. Oxford, thank you.

Tammy Oxford: When I relocated here to the Tri-State area in March of 1996 I met with two (2) local realtors, Jim Collier and Paula Johnston. Both of them took me to this area of Henderson County stating this is the up and growing area, this is where you need to move to. I purchased a home, I and Old National Bank purchased a home, March of 1996. I have seen this area grow, I have seen all the areas flourish and I have seen the opposite. I am not a golfer. I had an uncle retired from the military, saw a house being built on Constanza Drive, you have got to come and see this house. It's not the house, it is the view. They purchased the home. Both of them are deceased. It was my responsibility so I sold my home on Kelly Court which was the only house in that area besides Denny Branson's in 1996 and I moved to

Constanza Court for the view. Now I do not have that view. I do not object to the Chambers buying the golf course, I think it's wonderful someone wants to buy the area, I think it's wonderful someone wants to do something with the old clubhouse. All we're concerned about as homeowners on the area is keep it clean, keep it mowed and the value of our homes, that's what we're concerned about. How about the taxes? That's the big concern. No longer living on a golf course, what's the value of your home? Should it be reassessed? My opinion is yes. That is all I have, thank you.

Chairman McKee: Before you leave, are there any questions the commissioners would like to ask Ms. Oxford? Seeing none, thank you very much we appreciate your testimony.

Tammy Oxford: Thank you.

Chairman McKee: Next on my list is Alvey Bruce Kanipe. Welcome Mr. Kanipe, could you please state your name and address for the record?

Alvey Bruce Kanipe: My name is Alvey Bruce Kanipe, I live at 681 Constanza Drive, Henderson.

Chairman McKee: And you swear the statements you are about to make are the truths to the best of your knowledge?

Alvey Bruce Kanipe: I do.

Chairman McKee: Thank you sir and please proceed.

Alvey Bruce Kanipe: I agree a lot with what Tammy said and I think the best use that Mr. Chambers and Mrs. Chambers is looking to do for that five (5) acres is a good project to do for that, if the adjoining people, I don't live around that, so I can't speak for them, but I believe that

building is very conducive to doing that type of project there. So I don't have a problem with that and I'm here today not to be adversarial in any way or fashion, but I agree with Tammy. I moved to Constanza Drive about three (3) years ago. I retired and moved there and I bought specifically because it was on the golf course and it is awful nice to sit out there on my patio and have an iced-tea, other than what I normally drink, and watch them put on the second green. So it was really nice view and is. But again we all know, most of here, all these people, and probably a lot of the people behind, understand Economics 101. What we have here is a project that was conducive in 1994 or started in 1994, and we kind of see what's happened here. What I would like to enter the record, if it's ok, is the 1994 Narrative for the agreement on the Master Plan that was laid out. There were a lot of Deja vu's in there, I don't know if pronounced that right but there are some issues that need to be addressed. Like I said, the five (5) acres there, I think that's a great project and I hope Mr. and Mrs. Chambers do very well on that and I hope they do very well on the 100 and so additional acres but there's a couple of ponds there or three (3) ponds there that have some issues. I spoke with Mr. Chambers and as far as I'm concerned at this point he is doing a great job by trying to alleviate those issues. Now with that all being said I agree with Tammy, I'm not sure what my house is worth now being next to a piece of property that we don't know what the development is going to be. I understand this meeting is not for that particular thing that we're talking about today, we're talking about 5.668 acres. But I would like to enter into the record that, I'm not sure what my house is worth now due to there not being a golf course there and I know that it's gone, that it's not going to be there. My concern is that whatever is developed there in the future, that this commission and all the planning people involved, make sure that it's done in a way that it doesn't affect the houses that's adjoining/adjacent. Mr. Chambers has

expressively and directly told me he is going to a great job out there and I take his word for it. I don't believe him to be a shark or anything I believe he's going to do that. But again, I want to say today that I have some concerns, not so much the five (5) acres now, but the future in our backyards so to speak and there's a lot of backyards there. So with that being said again, I'm all for Mr. Chambers and his project and I hope they do well not only just on the five (5) acres but the entire one hundred sixty eight (168) acres whatever his future plans are. I do understand that whatever he does there he's going to be having to come back, as I understand it, with a Master Plan. So I feel comfortable with that, but again a lot of the issues we're talking about were brought up in the 1994 Narrative (**EXHIBIT B**), so if you've got a chance just to quickly read it again. I'm all for Mr. and Mrs. Chambers and their project.

Chairman McKee: Are you going to offer that document for the record?

Alvey Bruce Kanipe: I think...

Brian Bishop: It's already a matter of record, it's in the Planning Commission files.

Chairman McKee: We already have it?

Attorney Tommy Joe Fridy: But we'll make it part of this record.

Chairman McKee: Part of this record as well?

Brian Bishop: We can do that, yes. (What Mr. Kanipe called a Narrative, and what Mr. Kanipe introduced as EXHIBIT B, is actually an excerpt from the minutes of the Henderson City-County Planning Commission Minutes of March 1, 1994.)

Alvey Bruce Kanipe: I wish them the best of luck, I really do.

Chairman McKee: Questions for Mr. Kanipe? Yes commissioner.

David Williams: Mr. Kanipe when you bought the property, when you were looking at it, did anyone assure you that there would always be a golf course there?

Alvey Bruce Kanipe: No sir, not at all.

David Williams: Did anyone assure you of any particular use of that particular property?

Alvey Bruce Kanipe: No sir, that's about like am I going to live forever, you know, nobody gave me any guarantees whatsoever. I just assumed, like most people do when they buy a property next to a golf course. This is unique, I don't know of anywhere else this has happened. The key here is Mr. and Mrs. Chambers not only what they're doing right now but how they develop that property in the future because they can make our houses get better in prices rather than lowering in prices. I don't know whether it's changed the pricing or not on our homes, I mean we just don't know until a realtor comes out and re-appraises it. But I don't see that's a reason to sit here and tell somebody that a golf course that just wasn't making it as Mr. McQueen said here, I've had projects the same way and you just have to look at them and say look, you know it's over with and we just have to hope that the people that come in and picks up the pieces, like Mr. Chambers has here, does a good job in the future and that's all I'm asking for is that there are some ponds there and some grass and if he maintains that property I'm happy, I'm not here like I say again to cause him any discord in any way. There is a lot of money, he's punching out a lot of money here, to do this stuff, so I'm all for anybody developing property.

Chairman McKee: Any more questions for Mr. Kanipe? Thank you Mr. Kanipe, we appreciate your testimony.

Chairman McKee: Next on my list is Darren Spainhoward. Mr. Spainhoward would you please state your name and address for the record?

Darren Spainhoward: Darren Spainhoward, 509 Hickory Wood Ct., Henderson, Ky.

Chairman McKee: Could you please answer the question; do you swear the statements you are about to make are the truths to the best of your knowledge?

Darren Spainhoward: Yes.

Chairman McKee: Thank you Mr. Spainhoward, please proceed.

Darren Spainhoward: Thank you. I would like to start by I guess maybe reiterating but not rephrasing what the previous gentleman said. Mr. Chambers has done a fantastic job to date on the property. He has cleaned up the lakes, he's kept everything mowed and I have known Mike for some time and I think a lot of him and recently met his wife and just seems like a very honest, classic, ethical Henderson resident. So, this really doesn't have a whole lot to do with Mike, but I just had a couple of comments. By my count and I may have missed some but there's ten (10) golf courses in Evansville, Indiana and I lived in Evansville up until three (3) years ago. I think one closed in Darmstadt and is it true that rounds have declined. Absolutely they have declined; I don't doubt that for one minute. It does surprise me somewhat given the quality of that course when it was maintained in a pristine manner. It had a lot of play on it, I mean I lived in Evansville and I drove over here and played on it. It seemed to be doing pretty well until really the money quit flowing back into the project and then the losses. I'm sure they capitalized and continued. I'm certainly not up here to advocate for Mr. McQueen to continue writing a check every month, I mean

businesses don't always make it and I get that and I'm very sympathetic; in my line of work I've seen it happen many times. I don't want to disparage him in any way. My question is who all; I mean how did he market this golf course? He didn't advertise it, I don't know if he contacted the City of Henderson. I'm not sure the City of Henderson would have had a reason to purchase it, maybe they could have leased it, maybe they had the capacity to bring it up to speed and I'm not sure if he approached them. It seemed like to me the quality was allowed to deteriorate, like I said causing the rounds to drop. The due diligence in choosing the operators to me appeared to be weak at best, at least when I moved in. The operators did not have the financial capacity to put any money into the course. They were putting dirt into the sand traps, there's weeds growing everywhere and who's going to play that when you have ten (10) across the river, I mean that's just not going to happen. So I guess, I mean, what qualified them to run it? Is it because they had a checkbook and would cut into the losses temporarily or did they know what they were doing? I mean Mr. McQueen is the only one that can answer that but I'm not sure why he didn't and if he did I don't know, why he didn't try to market it to other people, to other golf course operators? So I have a little bit of concern with that. I live on the seventeenth (17) fairway and since Mr. Chambers has been cleaning up the lakes, it's beautiful. I do not believe that this is going to help my property value, I think at worst it will go down a little bit maybe a little more than I think but if it's maintained like he's maintaining it now, I don't have an issue with it not necessarily being a golf course. My concern is I don't want homes behind me, and I'd really rather not have a tobacco field behind me and what I would like to at least put into the record in some way, shape or form is due to Mr. McQueen's financial losses the residents are going to take a financial loss. I mean, I can't image the property going up in value because of this. So I approached

Mr. Chambers not long ago about purchasing some of the land directly behind me and I'm not talking about an acre, I'm not talking about how ever many thousands of feet to the lake, you know, a couple hundred feet. I'll pay what the appraised value is, that will give me a little piece of mind and put some capital into Mr. Chambers or Mr. McQueen's pocket and then I know I'm not going to have anyone at least two hundred (200) feet and Mr. Chambers said that was certainly an option and he encouraged me to contact Mr. Branson but all the neighbors would have to go in and agree to sell it or agree to buy because of all the drafting and whatever has to be done surveying. But I would like to have an option to buy the land right behind my property and that would be very important to me and I'm not trying to get it for zero (0) either.

Chairman McKee: Mr. Spainhoward please forgive me but your five (5) minutes are up.

Darren Spainhoward: Ok, that's all I have.

Chairman McKee: You can come back later if you like and tag on some more.

Darren Spainhoward: No that's it, that's all I've got, thank you.

Chairman McKee: Thank you very much for your testimony, we appreciate that.

Chairman McKee: Next on my list is Don Kuester, is that correct? Mr. Kuester did you want to speak? We thank you for being here sir, thank you.

Chairman McKee: Next is Paula, is it Gersot? Gerson, I'm sorry. Did you wish to speak? Thank you very much.

Chairman McKee: Next on the list is Bobbie, is it Clark? Oh I'm sorry, that's Bobbie Chambers excuse me. I'm sorry, it's my glasses, please forgive me.

Chairman McKee: Mr. Marshall, did you wish to speak at this time? Thank you.

Chairman McKee: Mr. McQueen did speak.

Chairman McKee: Hamilton? Is it Curt Hamilton? As an individual or as an attorney? All right sir, would you please state your name and address for the record?

Curt Hamilton: My name is Curt Hamilton, my address is 961 Belle Wood Drive, Henderson, Kentucky 42420.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

Curt Hamilton: I do.

Chairman McKee: Thank you, please proceed Mr. Hamilton.

Curt Hamilton: Thank you.

Herb Pritchett: Are you speaking as a golf caddy or just a citizen?

(Laughter)

Curt Hamilton: Somewhat, somewhat Mr. Pritchett. Mr. Chairman and members of the Commission. In 2003 my family and I, my wife Emily who is here, we purchased the home located just off the tenth green in the top right corner there on Belle Wood Drive. We purchased that property like many of the other people that live on Dylan Circle and live in the neighborhood specifically because this is a golf course property. It's a golf course neighborhood. The Master Plan that this commission

and the City approved in the 1990's, told me and told every one of the owners in the neighborhood just like they told Mr. Kanipe and he assumed that this was always going to be a golf course property, a combined property. Now I've heard some things, we've all heard some things today which I don't think are necessarily, you're not hearing the whole truth at least from a golfer's perspective. I will tell you that, as I understand it, it was a fantastic golf course and I think it was a top ten (10), top twenty (20) in the state a few years back, I mean a fantastic, renowned golf course in the area. Players Club, for any of those who played the course in the early 2000's, mid 2000's always had more license plates from Indiana and elsewhere than it did Henderson, Kentucky plates because it was such a fantastic tract, wasn't it Mr. Thomas?

Rodney Thomas: It was.

Curt Hamilton: It really was a fantastic tract, well maintained, bent greens, etc. In fact I taught my young son how to play there who's now the 2016 Henderson City Champion. He learned to play right outside my back yard in those few little holes we call our little backside on Players Club. Now as time went forward, you heard from Mr. Spainhoward, who did mention that he thought, as I gathered, it was very nicely put, but the business was mismanaged. The operators there, starting in the late 2000's didn't apply appropriate water for the golf course to keep it going, there was somewhat of a drought, but you know I was part of the group in 2010, which Mr. McQueen mentioned, with Bill Rendell the former head PGA Pro at Henderson Country Club, now he's at Boonville, but we had a group of investors, we put together a solid business plan because the lakes weren't dredged appropriately, the irrigation pipes weren't cleaned out right, and any of you who play golf know that you have to maintain the tiling, the drains in the sand traps,

and I believe there were ninety (90) some odd sand traps out there that added to the course; that money wasn't invested in the course in spite of the fact that as Mr. McQueen testified it was getting twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) thousand rounds a year. So we put together this business plan in 2010 after the depth of the recession hit and yeah golf is a tough business ok but it wasn't tough for Players Club until they quit watering it, until one of the operators as I understand it, not Mr. McQueen, he took money and put it in his pocket rather than backing the course, didn't pay the city water bills as I understand it, drained the lakes, over fertilized and basically killed the course for his own benefit; thankfully now he is long gone from the golf business. He also, if you'll remember Mr. Thomas, he made us no bargains for junior golfers whatsoever. He did nothing to market the property appropriately. Now, we offered in 2010 for the entire property, frankly far more than I understand the purchase price is for Mr. Chambers. Now we can't force or say to property owners you have to be smart businessmen and make good deals; that course could have been saved then and it can be saved now. Here's the thing and really why I'm standing before you today, the adjoining property owners and of course I'm a little bit familiar with Planning and Zoning, nothing like Mr. Luck that's for sure, I've never appeared here as a lawyer but I know the Planning and Zoning is for the neighbors. It's not what I want to do with my property, it's what all my neighbors don't want me to do with my property ok, I understand that, I get it. But when Mr. McQueen bought this property as I understand it, he sold off all the adjacent lots here. You look at Green River Road; all of that empty area from the end of Constanza all the way around, all of Gray Stone Subdivision was sold off. There is no carrot for an investor to spend money on this golf course...

Chairman McKee: Mr. Hamilton, I'm so sorry to have to tell you but your five-(5) minutes are up.

Curt Hamilton: One final thought Mr. Commissioner if that's ok Mr. Chairman, we all purchased based on the assumption that this was going to remain a golf course. I object to dividing the property up, they knew that they were buying a golf course and whether or not it's opened, it should stay a golf course and that's just the breaks and that's what should be, thank you.

Chairman McKee: We'll let you come back later and continue if you like Mr. Hamilton.

Curt Hamilton: It's ok, that's why I agreed to the five (5) minutes.

Chairman McKee: We appreciate you. Ok, did Mrs. Hamilton wish to speak Mr. Hamilton? He bargained for ten (10) minutes up front so if you would like to....

Chairman McKee: Next on my list is Gary Jennings. Dr. Jennings thank you for coming sir, would you please state your name and address for the record?

Gary Jennings: Gary Jennings, 981 Belle Wood Drive, Henderson, Kentucky, 42420.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

Gary Jennings: Yes I do.

Chairman McKee: Please proceed Dr. Jennings.

Gary Jennings: First of all I would like to say sorry to Mr. McQueen, his business, he had business problems and I hate that for anybody and I'm sorry for everyone here who has had a problem because of it. I live

in Belle Wood, just right next to Curt and my concern is and I know we're here tonight to talk about the five (5) acres, well I'm actually here to talk about the five (5) acres ok, so I've heard a lot of people talk about the other which will probably affect me more. But the five (5) acres, if you're going to split this up my big concern if you're going to use it for some of the uses is noise. If you're going to use it for a, what is it, some of the uses were a dance, I can't remember all of the uses but they sound like nice uses; a banquet hall and this and that. I'm just worried about outdoor music and noise. I know Mr. Chambers lives right next to it so he's probably, he probably wouldn't let that happen anyway but I would like to see if it does happen, I would like to see something in there about the noise from something like that and we haven't had a problem before because, you know golf courses and they haven't had music outside and things like that. That's my biggest concern for what they're asking to use it for, that's all I have.

Chairman McKee: Thank you Dr. Jennings. Any questions for Dr. Jennings before he steps down? Thank you, we appreciate your testimony.

Chairman McKee: Is there anyone else that would like to speak against this development? Please come forward sir. When you arrive will you please state your name and address for the record.

Taylor DeCorrevont: Taylor DeCorrevont and I reside at 767 Constanza Drive, Henderson, Kentucky.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

Taylor DeCorrevont: Yes sir.

Chairman McKee: Please proceed.

Taylor DeCorrevont: I'm here as well about the 5.668 acres or whatever it is here. I am wholeheartedly against this in our neighborhood. As (inaudible) had said and I do want to ask one question before I make this statement. This was Agriculture with a golf course restriction, correct? As he stated that the clubhouse had been previously, when it was a golf course, used for some meetings, for different things that it probably should not have been, against this golf course restriction. So for them to say historically it's already been used for this, it may have been but in my opinion it was against what it was zoned for. So I'm wholeheartedly against approving zoning for something that was already against zoning, that doesn't make sense to me. Saying that, this really appears, in some of my reading and not being an attorney I don't speak as well as Mr. Hamilton, spot zoning. I cannot in my wildest dreams imagine having commercial zoning in the center of a residential neighborhood, are you kidding me. Ok. I'm not from here; I'm going to be blunter. I've been here for twenty-five (25) years, I don't know maybe one (1) or two (2) people in this room so I'm not going to sit here and say people have been doing a good or bad job, I'll tell you it's been a bad job. I notified the codes commission, no less than five (5) emails about the grass and weeds. Yeah he mows, where the public can see it when they're driving around, that's it. The ponds are terrible, terrible; worse than when the golf course was operating. So I categorically deny, want you guys to deny this rezoning period. Thank you.

Chairman McKee: Thank you sir, we appreciate your testimony. Is there anyone else who would like to speak? Seeing none, seeing none; Commissioners would you like to ask questions? Mr. Pritchett?

Herb Pritchett: Can I ask an additional line of questions of Mr. Hamilton?

Chairman McKee: Mr. Hamilton will you please come to the podium? A man of your demeanor probably doesn't need to be reminded that you are still on the record.

Curt Hamilton: I am indeed, yes Mr. Pritchett.

Herb Pritchett: To make sure I understand one of the main thrusts of your testament, am I to understand that if you, that the rounds decreased from twenty (20) thousand down to eight (8) to ten (10) thousand is not a function of you believe the golf course over all environment rather a function of the condition of the course over the last ten (10) years and the lack of maintenance and management of that course?

Curt Hamilton: That is absolutely what my testimony is, yes. Because that course was an absolutely great course as anyone who played it in its heyday can attest.

Herb Pritchett: So in other words it would not be, the changing circumstances would not be of an economic nature but rather of a managerial nature relating to the decreased rounds played?

Curt Hamilton: I believe that's absolutely the case Mr. Pritchett and to the non-golfer members of the commission if you think about something that's a really good brand like say a Mercedes for instance; Mercedes has a great reputation for quality, right? Well if the wheel falls off of your new Mercedes the first time and then your neighbors wheel falls off of his Mercedes and then word spreads, guess what, no one is going to be buying a Mercedes any longer because its reputation is going to be terrible. Same thing we think happened here with Players Club. It was great but then the wheels started falling off and they weren't screwed back on appropriately. It was mismanaged. Again, not necessarily by Mr. McQueen, but by the people that he had retained or leased this property out to. This could easily be a golf course again. Frankly the

property was a lot more valuable in 2010 because it still had greens, they just died this year. This year the greens and tees went dead, went fallow frankly in April and May.

Herb Pritchett: Two (2) other questions if I might Mr. Chairman?

Chairman McKee: Please Mr. Pritchett.

Herb Pritchett: Would it be fair to say that in 2010 when your group offered to purchase the course, it was not from a lack of interest that your group was unable to purchase it but rather the meeting of the minds between the buyer and seller did not occur?

Curt Hamilton: Correct. We made a bona fide offer for more than the property has sold this time and we just didn't, Mr. McQueen wanted some more money and we knew that we had to spend probably another one million dollars (\$1,000,000) on top of the purchase price that we offered to make this golf course correct.

Herb Pritchett: And you all were prepared to spend that million?

Curt Hamilton: Absolutely.

Herb Pritchett: One final question, over the last five (5) to six (6) years if I'm not mistaken, the fairways have been changed from Bent Grass to Bermuda?

Curt Hamilton: Correct.

Herb Pritchett: Which is obviously much less expensive to maintain and operate and gives a better playing surface in the transition zone which we belong to here.

Curt Hamilton: Correct.

Herb Pritchett: What were the fairways in 2010?

Curt Hamilton: In 2010, if I recall correctly the fairways had just been over seeded with stripes of Bermuda at that point, it may have been a year or two after that. Again, my understanding was that it was over, it was over-treated with fertilizer combined with a drought and literally that course went from lush and green and beautiful views out our backyards to desert brown and terrible.

Herb Pritchett: I do know that Champions in Nicholasville when they had bent grass fairways would lose them periodically because of the problem with maintaining them.

Curt Hamilton: That's right, that was a small piece of it and again it didn't seem as though it was, the plan didn't have enough investment behind it and I understand, I'm in business as well and I think it's terrible and my whole crux here Mr. Pritchett and other members of the commission was when you purchase a business you know what you sign up for. When you purchase a factory, it's a factory. You can make widgets, you can make different things, but it's a factory, you're not going to build an apartment complex right? Because that's what the Planning and Zoning laws say. The Master Plan here says this is a golf course, this is a golf course to all of the hundreds, whatever, hundred adjoining properties to this golf course is, and it's a golf course. It's not a farm; it's not a daycare or a senior citizen home. Certainly and I don't oppose them using it for whatever that central, the clubhouse, for things appropriate for a clubhouse; buying food and drink, it's already been operated as a restaurant that's part of the golf course. I don't oppose that it be used as a wedding chapel. I don't oppose for things that are consistent with what it's already been and they should have the opportunity to make that, to use it for that. But here's the thing, if you approve the subdivision of that six (6) acres or whatever it is away from the rest of the golf course, this is no longer a golf course and it never

will be. But when you buy a piece of property and you know that it's zoned the way it's zoned I think you have to live with it. Because sure enough, all of the rest of us around that piece of property have to live with it. I'll entertain any other questions.

Chairman McKee: Are you finished Mr. Pritchett?

Herb Pritchett: I'm finished, thank you Mr. Chairman.

David Williams: Curt I have a couple of questions as far as expectations for a golf course. If the business fails which it seems to have failed, what are your expectations then? Because if it's failed as a golf course it's going to revert to a natural state if no one maintains it, correct?

Curt Hamilton: Well the natural state would still include areas that are greens, it would include elevated areas, it would include as I understand it, double irrigation pipes on pretty much every hole out there, it needs to be sold as a golf course and I think there was not and this is just a personal opinion of mine but I had no knowledge of any facts about the sale. I understand Mr. Chambers has a good business plan and I get it, I get it, we're neighbors. But I think when you purchase a golf course the expectation would be to sell it as a golf course and it would stink if it's a loss of money, but the next investor needs to buy it as a golf course, not as something else.

Chairman McKee: Are you finished Mr. Williams?

Chairman McKee: Mr. Thomas?

Rodney Thomas: One quick, one question; do you know somebody who wants to buy it?

Curt Hamilton: I think the value now has been, the value has definitely diminished because of the fact that the plug was pulled on this property

and the greens are dead and the fairways are terrible and the rough, at least in my corner it's been mowed a little bit but I've seen a lot of the rough that gets waist high.

Rodney Thomas: I thought the greens were sold off.

Curt Hamilton: Excuse me?

Rodney Thomas: I thought the greens were sold off.

Curt Hamilton: I know our green on number ten (10), brown as can be so I think it was just not watered. I don't know if it was sold off or not but it can still work as a golf course, but I do not know anyone that wants to buy it at this point.

Chairman McKee: Anybody else have questions for Mr. Hamilton? Thank you sir. Questions for others?

Chairman McKee: Mr. Kanipe. Mr. Kanipe you are still under oath on the record.

Alvey Bruce Kanipe: Yes sir. I just want to speak again, I can understand my neighbors, I'm kind of the new guy in town on this so I can understand the people that have played golf over the years and those that have had, like I do, a nice view in their backyard. But another thing that I'm concerned about and it's up to you all to decide about the larger piece of property which I think is the big deal that you have a hard decision for but those ponds, those lakes as I understand it are a detention and again Mr. Chambers has begun to clean those up but one thing that really concerns me right now that could be a health issue is the moss that's in those lakes. Especially the one closest to Constanza in particular because it's totally covered and if anybody lives in an area where there's ponds like that, you'll be able to see that that moss is an ideal place for mosquitos. So again I would implore the commission

here to talk to Mr. Chambers and make sure that the moss is taken care of. He has indicated to me personally that he was going to take care of that but again I want to make a comment to that fact and as far as the golf course is, the gentlemen just spoke, again I think that it's going to have to be up to this commission to make some hard decisions that those people, including my property values don't go down with future development if that's what is done other than a golf course.

Chairman McKee: Questions for Mr. Kanipe before he steps down? Thank you Mr. Kanipe.

Chairman McKee: Would anyone else like to speak? Please approach, please come up.

Darren Spainhoward: I guess I didn't realize what Mr. Hamilton said about having a buyer or an investor group to purchase it a few years ago. But again, I found out it was closing...

Attorney Tommy Joe Fridy: Sir, will you please state your name for the record again?

Darren Spainhoward: Darren Spainhoward, 509 Hickory Wood Court, Henderson, Kentucky.

Chairman McKee: I'm sorry Mr. Spainhoward, thank you.

Darren Spainhoward: Ok, I'm still under oath. I just wonder was he approached about having the said investor group maybe getting back together. No? I live on the course, I found out about it by the grapevine, I mean so how, I mean I didn't know it was going to close. Someone said well by the end of this month it's going to close and everything, it was kept quiet. And I want to clarify, I do know the economics, I do know golf is down but it's an eighteen (18) hole course in Henderson, Kentucky that was in pristine shape, that had plenty of rounds on it just

like some of the nicer ones in Evansville and it doesn't have, I mean if it would have been, the money would have been re-invested in it I think it would have continued to grow.

Chairman McKee: Thank you Mr. Spainhoward. Would anyone else like to speak?

Chairman McKee: Mr. Luck.

Dorin Luck: Just to address a couple of issues. One is Mr. Jennings, he is concerned about noise and he's concerned about outside music; I think both of those would be addressed. The City of Henderson has a noise ordinance which is, as far as I know enforced but outside music would certainly be limited in time, we put hours on this facility. We don't intend to disrupt neighbors at all; we are neighbors so that would be addressed. As to the assertion that this is spot zoning...

Attorney Tommy Joe Fridy: Dorin, are you proposing to amend your Development Plan?

Dorin Luck: We could do that if it's the desire of the commission.

Attorney Tommy Joe Fridy: I mean you're offering it and I'm asking what you're offering.

Dorin Luck: We can do that. We're not attempting to run a night club with all hours of the night with outside bands playing 24/7; it's just not going to happen. But if that is a concern and I understand that, we can address that. As far as the assertion that this is spot zoning, I think it's the opposite of spot zoning in a sense that regardless of the zone that's being proposed here, the use of the property is effectively the same as it was before. Spot zoning the arbitrary assigning of a zone without any basis in reality, that's not the case here. The property is being sought to

be rezoned, in fact is used in a very similar manner to the use that we're proposing.

Chairman McKee: Any questions for Mr. Luck?

Chairman McKee: Commissioner Williams.

David Williams: I have one question for you and in that sense is there ever a golf course that's created without a clubhouse per se?

Dorin Luck: My guess would be no. Without ever having ever played unless it was in my backyard I would say that's correct.

David Williams: So having this facility would be partial to granting a golf course.

Dorin Luck: I think that it would be a part of the golf course but it's our position that the golf course is gone. That in fact economic circumstances have caused it to go. We're not buying it to be operated as a golf course and Mr. McQueen didn't sell it to be operated as a golf course. It's unfortunate but that's where we are.

David Williams: Can you state the opposite argument for expectations of the property owners around this development here to expect there to be a golf course?

Dorin Luck: It's the crux of the matter. It will be and by your last statement it could be the crux of the matter when it comes to the rezone. The question is; that if a business that operates in a zone and fails, is any purchaser of that property bound by the zone that is in place when he buys it? Certainly he's bound until he comes before this commission and asks for a rezoning of the property with a Development Plan, that's the whole purpose of rezoning, change things. This is not the first piece

of property that's had a use fail on it and been rezoned as a result of that. If that were the case we'd never see any development at all.

David Williams: So if Mr. Chambers bought this property and said ok, I'm just going to tear down the clubhouse, would there be any argument as far as how this property can be used in the future as an Agricultural zone in the golf course?

Dorin Luck: Yes. I think he has the right to tear down the clubhouse if he wanted to. I think he has a right to come before this commission and petition this commission to have this property, the Master Plan changed so that he could use it for Agricultural purposes, but that's not why we're here and I'm just going to come out and say that. That's not our purpose, that's not our purpose to grow corn where there is now scenery, I guess is the best way to put it. But it's going to be a process. When you get past this process which I still believe there's a proper rezone of the property, it's going to be a challenge. It's going to be a challenge for the community, for the neighbors and residents out there, for the developer and for this commission and I freely acknowledge that.

David Williams: Thank you.

Chairman McKee: Other questions for Mr. Luck?

Chairman McKee: Mr. Branson, will you please state your name and address for the record as you have so often done?

Dennis Branson: My name is Dennis Branson and I live at 916 Kelly Court.

Chairman McKee: Do you swear the statements you are about to make are the truths to the best of your knowledge?

Dennis Branson: I do.

Chairman McKee: Please proceed Mr. Branson.

Dennis Branson: I just wanted to clear up a couple of things. One there seems to be some confusion by some people that when Mr. Chambers bought this property it was a golf course. I wanted to be clear that unlike the analogy that's been given; he didn't buy a golf course. The golf course closed prior to him buying it and the analogy that; I just don't want anyone to get this stuck in their head that if you buy a widget factory that you know you're buying a widget factory. Even if the widget factory is closed what you're buying is the building, what he bought is the land, not the business operation. So, when you buy that building that used to be a widget factory you're buying the building not the widget making business if it's already been ceased. That I just wanted to get off my chest.

The lakes that people talk about are not lakes. These are storm water detention basins. There are three lakes out there and none of which have been, had any major problems with them. The lakes that people are concerned about and rightfully so, are storm water detention basins and we're working right now with HWU (Henderson Water Utilities) on solutions and the State of Kentucky Extension Office, University of Kentucky Extension Office in ways to address the algae problems in those lakes and trying to clean them up. We have several alternatives in mind to do that, none of which we've landed on. We might be draining them, they are not lakes they are storm water detention basins. They are not designed to hold water in a non-rain event. The fact that they're holding water was a function of the depth that they were dug below the outlet elevations so that water could be pumped out of them for the golf course but they were designed twice and re-dug as storm water detention basins. They may in the future become dry if we just can't figure out a way to make them work more cost effectively. We've spent nearly

\$200,000 out there since buying the property, not including land cost on maintenance, mowing, storm water detention basins, all of the things that Mike has been burdened with having to do to try to keep the property in a good, as well manicured as possible manner as he can for the surrounding residents. So, it's a herculean task that he's been asked to undertake and I think he's done an outstanding job so far but on the basin issues, I just want to let the commission know even though that's not before us tonight, that has been addressed and we are still working with HWU on ways to make those things better or to cure the problems entirely on those.

Chairman McKee: Questions for Mr. Branson.

Chairman McKee: Mr. Williams.

David Williams: Mr. Branson, the two (2) ponds that are having problems, can you put the aerial photograph back up there, can you point those out?

Dennis Branson: Yes. There is a series of five (5) storm water detention chain basins. One (1) there, two (2), three (3), four (4), five (5).

This one right here at Constanza, right there, has been the one that's been the most problematic. We will probably end up draining that one and making that a dry detention basin. We just, that one now still has algae in it, but we've had a hard time getting the weeds around the edges eradicated or removed, that's been done as of today. This one up here at Wolf Hills Boulevard has been a little bit of a problem, not quite as much weed control as the one here at Constanza, that one's been a problem. That's a design basin, that's a design basin and the rest of them are lakes and they're all in pretty good shape.

David Williams: Ok, so what's the major drainage area for those two (2) problem areas?

Dennis Branson: Right here. The City has an easement here David that they got from the Hoge Estate many years ago for storm water detention to try to alleviate some storm water problems in Frontier. We were involved in that. It still exists and when that's developed over there and that belongs to Joe and Brad, they'll have to address that too. But these basins were designed to accommodate the subdivision that was built at the same time that the golf course was built and they were dug deeper intentionally to try to provide water source for the golf course.

David Williams: So are the two (2) problem areas then, I'm not going to refer to them as ponds or detention areas at this time but the two (2) problem places, are they being fed directly by residential lots?

Dennis Branson: Some.

David Williams: The reason I'm asking this is I'm wondering if residential chemicals applied to lawns may be the source of the nutrient problem there.

Dennis Branson: Well that's a different, that's a multi-tiered answer to what appears to be a simple question. The majority of the storm water that comes through this storm water system right here comes from the Grantwood and Audubon State Park area. Was it the 2003 flood? The 2003 flood, all of this series of basins failed because they were not constructed according to design and flooded Villagebrook Drive down here in the Hills Subdivision. I live right down there but it flooded Villagebrook Drive and flooded this entire area because they weren't constructed correctly. What we saw, we've got video of it, what we saw at that time was the majority of the water that contributed to that was coming from the other side of Green River Road from Grantwood Hills

and Audubon State Park area. It's quite a serious and huge drainage basin that those accommodate. They have been reconstructed, redesigned; we've re-certified all of those basins in the chain there to accommodate the storm water runoff from the Wolf Hills Subdivision as well as Audubon Park and Grantwood Hills Subdivision.

David Williams: Ok so I've misconstrued, I thought the drainage was that direction but it's actually this direction. So it's getting as much drainage off the golf course as it is, direct drainage off the golf course as it is any residential properties, correct?

Dennis Branson: The majority of the water that comes through there is off-site not; it's from the other side of Green River Road. It does accept water in that same basin though.

Mac Arnold: Denny, if understanding right, these detention areas will have to stay in place, right?

Dennis Branson: The detention basins must stay in place and they are, I believe, at capacity I'm not sure we have not proven that yet. But we've had many conversations with HWU about those and we're really concerned about making sure they are not overburdened in the future.

Chairman McKee: Any other questions for Mr. Branson? Thank you Mr. Branson.

Dennis Branson: Thank you.

Chairman McKee: Would anyone else like to speak?

Chairman McKee: Mr. Kanipe.

Attorney Tommy Joe Fridy: Sir, wait until you get to the mic.

Chairman McKee: Come on up. Before you start talking get to the microphone so we can get you on the record please. I will remind you

that you are still under oath and on the record. Please proceed Mr. Kanipe.

Alvey Bruce Kanipe: What I would like to read from is the 1994 Narrative (What Mr. Kanipe called a Narrative, and what Mr. Kanipe introduced as EXHIBIT B, is actually an excerpt from the minutes of the Henderson City-County Planning Commission Minutes of March 1, 1994), that was spoken under oath, I assume just like this meeting here, when they made the Master Plan for the golf course. There are three (3) excerpts I would like to read and it shouldn't take me more than two (2) or three (3) minutes I hope. The first one is Mr. Denny Branson stated; "Any lakes that we build will have to be classified by Soil Conservation Services as to their hazard to public safety, health and welfare. I don't see that we're going to have any Class A lakes, Class A lakes would be a lake, the most serious lake, would be one that you should have a bridge in the dam and it would cause serious threat to life downstream. It can also involve the height of the structure I understand. We are not going to have any of those that I know of. We've got a series of three (3) lakes in this ditch right here. These lakes are not going to be recreational type lakes. They are going to be for storm water control and for irrigation purposes, so I don't see we're going to have any large...,and this is my opinion, we're not in a design phase yet Bob, so this is not a definitive answer, but I don't see that happening."

And then there were some other talks there and Mr. Doran and Mr. Branson again and then Mr. Duncan then Mr. Branson again said; "They'll be deep enough for algae control purposes and growth purposes I would imagine."

So involving the lakes that he's talking about, I'm an old dirt and excavation man, that last pond that's right beside my house and I'm the closest person to that pond. All that water that comes off those

properties flow, not in a direct line but through those lakes to that last pond. So yes, that last pond catches most all the chemicals from even the yards past I think the Green River Road. So there's a major problem there with algae and grass. With that being said, let me just again, bear with me here for another quick paragraph and this is answers to a lot of the people here that are the golfers. I call this a Déjà vu paragraph.

This was done by Mr. Humbert that was testifying; "I think that a lot of us who own property in this area certainly don't mind the idea of a golf course in the region, but since this is a large project one would be very concerned about the economic feasibility of putting in a development and then have that development fall upon hard times and having an un-built golf course. I would urge you to require that the golf course be constructed before any homes are built back there. I realize that's difficult economically but that's just fair to the people that already live there. Looking at the zoning aspect, we don't see any particular reason why any of this should be rezoned as R-2."

Basically, it's in reverse of what is happening now as the gentleman so eloquently put it back there, the lawyer.

Then I have one (1) other paragraph I just want to read and I would again implore everybody here on this that's making a decision to read through this here because pretty well all the questions we're hearing today is brought here.

Again, this is an excerpt from Mr. Branson, Denny; "It's not the golf courses, this is a real unusual scenario. It's not like the golf course is an added perk to the development. The golf course makes or breaks the development. The golf course doesn't exist, the development doesn't work."

This is over twenty (20) years ago that this same Planning Commission made this statement. (Applause from the crowd.)

Mr. Farmer goes on to say basically that he is satisfied with Mr. Adler and all and then Denny goes on to say, "I'm absolutely positive about that. The golf course has got to go, it just has to, so that's not a problem."

So then Mr. Farmer states, "And provides the protection I think that Dr. Humbert asked for as well is reasonable for Mr. Adler."

Then Denny Branson says, "Right."

So again, I'm not up here, like I say, I'm not a big golfer, I play when somebody asks me which is not very often and I can understand a lot of folks behind me and I'm not an advocate up here for a golf course or what, I'm an advocate to make sure our homes prices do not go down. Whatever you do because again, everything here is in this commission's hands, and like I say I think Mr. Chambers and his wife are admirable people to step up and try to take this. With that being said, again I would ask the commission to read this. Thank you.

Chairman McKee: Thank you Mr. Kanipe.

Chairman McKee: Mr. Hamilton did you want to add? Thank you sir. Would anyone else like to speak?

Chairman McKee: Mr. Luck.

Dorin Luck: What we talked earlier about, about the concerns about noise, we can put into the record as a part of the Development Plan. Obviously it would comply with the noise ordinance, that's a given, you have to but also we would limit any outside music to 10 o'clock. We don't anticipate outside music but we would limit that to 10 o'clock at

night, we offer that up as part of the Development Plan. Without arguing too much legally and without far outfield we need to understand that the options here that are being presented by some of the opponents or that it's an either/or, that this zoning can't change. I don't believe that for a second. I don't believe that this Master Plan can't be amended in order to allow this property to develop. If in fact Mr. McQueen is correct and I have no reason to believe he isn't because he says he lost the money, you're faced with a situation where an owner of this property is being told he's either going to have a golf course or nothing. That's not acceptable and I don't believe that's in compliance with the community's Comprehensive Plan. So you're looking at the alternative of having somebody own one hundred sixty-five (165) acre piece of property in the middle of a developed, residential group of subdivisions who will have no other alternative other than to cut the weeds three (3) times a year or any time the City comes out and enforces their property maintenance code. I don't think that's what any of us want. I will suggest to you that the first step in the next phase of this property, in the future of this property begins tonight with this rezone of the 5.668 acres.

Chairman McKee: Thank you. Questions for Mr. Luck?

Herb Pritchett: Mr. Chairman.

Chairman McKee: Mr. Pritchett.

Herb Pritchett: Mr. Luck, just to make sure that I'm clear I wasn't here in 1994 and I have not read that 1994 Master Plan or restriction but, and I think everybody here understands that this may well be the camel's nose under the tent in terms of the five (5) acres versus flowing through the one hundred sixty (160) some odd acres.

Dorin Luck: Yes.

Herb Pritchett: So let us assume that this commission says no, we want to keep everything as it is. So what you are saying is there is no other alternative use other than to just mow the one hundred sixty (160) some odd acres and let the clubhouse gradually deteriorate or be demolished?

Dorin Luck: Actually I'm saying the opposite. The alternative use is to do what we're trying to do tonight and then develop a plan for the remainder of this acreage and come up with a plan that will work not only for the developer but also for the community and the residents.

Herb Pritchett: But assuming that we say no, we want this 1994 plan and group of restrictions to stay, then there is no other alternative use but to just mow it.

Dorin Luck: My argument there would be certainly we'll have to re-group. I mean that's not a flip answer, that would be the answer.

Herb Pritchett: Ok, thank you sir.

Chairman McKee: Any further questions for Mr. Luck. Thank you Mr. Luck.

Chairman McKee: Denny?

Chairman McKee: Mr. Williams has questions for Staff.

David Williams: Okay, Brian I'm just going to let you involved whomever, to take answers correctly, who can answer it. If we say no, what happens to the property if they don't maintain it, as a golf course?

Brian Bishop: I would prefer to have Mr. Stroud answer that.

David Williams: Mr. Stroud, John?

Chairman McKee: Is Mr. Stroud in the audience? Mr. Stroud, welcome to the podium. Would you please state your name and address.

John Stroud: John Stroud, City of Henderson.

Chairman McKee: All over, just look for you anywhere?

John Stroud: Present.

Chairman McKee: Do you swear that the statement you are about to make are true to the best of your knowledge?

John Stroud: Yes sir.

Chairman McKee: Thank you.

John Stroud: Obviously, as you know, property maintenance, 10 inches maintain the ponds, things like that, we have to cite you so many times. State law is changing. House Bill 422 is creating more teeth for things like this. Once the bills to cut...let's say that we take them to court and that doesn't work, we remedy by cutting it so many times. Once our lien's get up to a certain point, we could eventually foreclose on the property and take it, and then what would we do with. We would sell it at the courthouse door and be sold as foreclosure.

David Williams: Okay, given it was a golf course, whichever side of this fence you want to be on, do they have to maintain it as a golf course? Do they have to maintain the greens, fairways, tees?

John Stroud: By our ordinances, they have to maintain it within 10 inches or less.

David Williams: They do have to maintain the retention areas, right?

John Stroud: The retention areas?

David Williams: Yes retention areas.

John Stroud: They have to be cut-around them, trimmed around them. It's the same...

David Williams: What about the depth of them?

John Stroud: We don't measure the depth on retention areas. The capacity would be Henderson Water Utility would certify the depth, and whether they are working or not, and they would notify us and we would work together with them on redeeming the solution.

Brian Bishop: That question is probably better suited for Tom Williams.

David Williams: So they would have to maintain it for 10 inches, right? Okay, thank you John.

Chairman McKee: Thank you Mr. Stroud.

Chairman McKee: Would you like to speak to Mr. Williams?

David Williams: Yes.

Chairman McKee: Mr. Tom Williams, please come up. State your name and address for the record.

Tom Williams: Tom Williams, City of Henderson.

Chairman McKee: Do you swear that the statement you are about to make are true to the best of your knowledge?

Tom Williams: Yes sir.

Chairman McKee: Thank you sir.

Attorney Tommy Joe Fridy: Would you state your position for the record?

Tom Williams: I'm General Manager for the Water Utility.

David Williams: Okay, on these retention areas here, what would be going forward providing that this property is a closed golf course, no

longer operating as a golf course, what's going to be the owner's responsibilities here?

Tom Williams: Let's talk about the general idea of detention, is that in this case these are wet lakes, so we have a pool of water surface. We don't control anything below that pool level, because that's not related to detention. So, as far as the depths of the lakes after it stops raining, and they stop overflowing, I don't think anybody controls that. What we are worry about is the volume from the pool elevation to the overflow elevation. We would not allow them to fill in the visible part of the lakes. As long as they maintain that volume, our requirements are met. Does that make sense? We are not worry about the aesthetics of the lakes at pool elevation. The thing that's going to control algae though is to keep those lakes fairly a consistent depth, because shallow water makes more algae than deep water.

David Williams: Thank you.

Chairman McKee: Any further questions for Mr. Williams? Thank you Mr. Williams.

David Williams: Brian, what is the recourse if the current owners do not follow through with their development plan, which is the golf course? What happens if they say "I just don't have the money to maintain this as a golf course", what happens to our original ruling, where not ours, but the Planning Commission ruling on this development? Does it revert back to Agricultural use, Agricultural zoning?

Brian Bishop: TJ, you want to answer that?

Attorney Tommy Joe Fridy: No, you have asked a several part question, and let's break it down, and I may not remember all the parts. But it does not revert to Agricultural. It is subject to the pleasure discretion

ruling of the Planning Commission. It would remain Agricultural exclusive golf course use, which means that you couldn't use it for anything other than a golf course, unless this Commission approved a change.

Mac Arnold: It doesn't mean that you have to operate it as a golf course?

Attorney Tommy Joe Fridy: It does not. The Planning Commission cannot force someone to operate a golf course.

David Williams: Now, the spot zoning issue has come up. Is it reasonable to assume that if someone has a golf course, that they are going to have a clubhouse, and the commercial use of that clubhouse is not considered a spot zone? Do you see where I'm going here?

Attorney Tommy Joe Fridy: I see where you are going, and I will try to help you, but it comes back to being a factual determination of the Planning Commission and not a pure legal conclusion. Where I think you are trying to go is if you do approve this application to rezone, is that spot zoning?

David Williams: So could it...and you can tell me no, you can't answer this question, but I'm going to ask you your legal opinion, would this be spot zoning?

Attorney Tommy Joe Fridy: Spot zoning is such a complicated answer...such a complicated question that it has so many factors that and it is based primary in case law, but that case law was incorporated into KRS 100. So it is...the old still valid but the historic spot zoning cases and laws were brought into the KRS 100, our current planning/zoning subdivision and property...and the Board of Zoning Adjustments. It's all in that statute, not totally but primary. And to give you a flat footed

answer that this would be spot zoning, I can't do that. It's a factual determination and it really is a lot of what you the Planning Commissioners feel about, would you be doing a bad thing if you approve this rezoning allowing that clubhouse to continue to be used or allowing that clubhouse to be used, and the same way or maybe in a different way.

David Williams: So we can take into consideration what the possible condition of that clubhouse would be if it's not used as a commercial facility? We are looking likely that it would be deteriorating in time?

Attorney Tommy Joe Fridy: I think that's a dangerous way to approach this decision. I don't think it will have precedence on a future case including that of when they bring the golf course itself back, but you are going to hear it come back to you, if you make the decision on that basis, and you have heard testimony here tonight that the reason the golf course failed was because the owner didn't maintain it and you had people offer more money than they are selling it for. So, there are two sides. I'm not taking sides. I think there are plenty of facts to make this decision either way. You have heard good factual testimony that would allow a finding to be made to support a decision either way. But, I hope you wouldn't make it on that basis.

Chairman McKee: Mr. Bishop?

Brian Bishop: Commissioner Williams, just a friendly reminder to everyone, the Planning Commission does not actually rezone the property. We make a recommendation to the City Commission. At that point, any enforcement to that rezoning is done by the City Codes Department. I think that was one of your questions about who would enforce the master plan or development plan if it were not.

David Williams: Really what I'm trying to get to is what's going to happen to this property given one decision versus the other.

David Dixon: I have a question?

Chairman McKee: Commissioner, please proceed.

David Dixon: The proposed uses, or the required uses, or limited uses, in the amended version...I think we are down to catering; studio for music, dancing, or theatrical instruction; instruction instead of performance is an interesting word; wedding chapels or banquet halls; accessory uses incidental to the above, which I guess we will call a get to. Are those uses allowed in other golf clubhouses?

Brian Bishop: I would say that's probably a John Stroud question, because uses are defined by the zoning ordinance.

Attorney Tommy Joe Fridy: Enforced by the Codes Department.

Chairman McKee: Would you like to address that question to Mr. Stroud?

David Dixon: Yes please. Whoever enforces this, tell me.

John Stroud: That would be incidental to the principal use. The principal use being the golf course, the clubhouse would be incidental to that, so yes, they could have a wedding at the...

David Dixon: So, why can't I have one at this location right now?

John Stroud: Is it a golf course anymore?

David Dixon: That seems to be an issue. It has kind of the look of a golf course.

John Stroud: To have an accessory use, you have to have a principal.

David Dixon: Okay.

John Stroud: They do not have right now at this point in time. The principal use I assume is growing grass.

David Dixon: These uses would be allowed if it was an operating golf course?

John Stroud: Yes.

David Dixon: And they were allowed when it was?

John Stroud: Yes. The one thing to remember, they have limited themselves to (4) four uses. If you go into General Business, General Business sits on top of (3) or (4) other things. There are approximately (83) allowed uses in General Business, which General Business stacks on top of something else, which stacks on top of something else. There are approximately (83) allowed uses in General Business, and they have limited themselves to (4).

David Dixon: All those four (4) would be allowed in an operating golf clubhouse?

John Stroud: Yes.

David Dixon: And if converted to a clubhouse, it would still be allowed?

John Stroud: But I don't believe they have, I don't remember seeing it, I don't believe they have put in there a snack bar or bar, or things like that. I don't believe that's in there anymore, is it?

David Dixon: Catering establishment; studio for music, dancing, or theatrical instruction; wedding chapels or banquet halls; and whatever accessory uses incidental to the above.

Gray Hodge: John, what you are saying is that because it's not a golf course right now, and it's not a clubhouse, so therefore they can't use it for any purpose. They can't do anything to that building right now?

John Stroud: Store hay in it.

Gray Hodge: Well that would be Agricultural.

John Stroud: It's an Agricultural piece of property, with a golf course restriction.

Gray Hodge: So they could farm the property?

John Stroud: No they couldn't. Not at this point in time. It's kind of a catch 22.

Gray Hodge: Right now, they have a piece of property they can't do anything with.

Chairman McKee: Is that all Mr. Hodge?

Gray Hodge: Yes.

Chairman McKee: Thank you sir.

David Williams: John, if Mr. Chambers buys the property, and he says "Okay it was restricted to a golf course, and I want to call it a golf course, and I will keep the grass cut at 10 inches, and if you can find a hole, you are welcome to knock it in there". Is that a golf course?

John Stroud: That may be better directed toward one of the attorneys in here. A golf course is a golf course. How many times do you have to play for it to be a golf course? I don't know.

David Williams: It doesn't matter, we are obviously looking at a golf course that wasn't played enough, and that's the reason why we all are

here tonight. But the question I have is then could the clubhouse be used for all those uses that was used before as a clubhouse?

John Stroud: It could be used for meetings. It could be used in anything that's...well zoned agricultural, but the golf course it was...the clubhouse was accessory to the principal use. So, without the principal use it can't be an accessory.

David Williams: But, if he says it's a golf course, and he is maintaining code as far as he keeps it mowed to 10 inches, right? It doesn't say that he has to maintain tees or greens, or fairways, right? It just means 10 inches...

David Dixon: He doesn't have to have any golfers does he?

David Williams: So, in other words, what I'm getting at is...Mr. Fridy, do you have a comment here?

Attorney Tommy Joe Fridy: I don't for a very practical reason. The City and I disagree about this, and it's not my jurisdiction. It's not our jurisdiction.

David Williams: So would it be Dawn Kelsey's jurisdiction in that case?

Attorney Tommy Joe Fridy: Yes...not for us to take it to Dawn Kelsey but for John. And I don't know what Dawn's position is, but I know what John's position is.

Brian Bishop: Mr. Stroud, would you explain to the Planning Commission what the process is if someone disagrees with your interpretation.

John Stroud: Anyone that does disagree with any Code Official's determination, they can appeal to the Board of Zoning Adjustment, and

should the Board of Zoning Adjustment...if they are aggrieved by any decision, and that is straight out of KRS 100. If the Board so feels that the Code Official made the wrong judgment, they can override it. If they agree with the Code Official, then the next remedy is Circuit Court.

Attorney Tommy Joe Fridy: So, the owner could have appealed his decision, that because they weren't playing golf that could not use the structure for the uses they used it for before.

Chairman McKee: Other questions for Mr. Stroud? Thank you sir.

Rodney Thomas: Mr. Chairman, I wasn't here for the Bent Creek development, but when they started out with nine (9) holes and then put the back nine (9) in, what happened when they decided to close the back nine?

Brian Bishop: Rodney, are you asking as far as what happened to the actual golf course?

Rodney Thomas: Yes.

Brian Bishop: If I remember correctly, the back nine was just maintained as a pasture. It was mowed every so often.

Rodney Thomas: I played it two or (3) times.

Brian Bishop: The back nine?

Rodney Thomas: Yes.

Brian Bishop: After it was closed?

Rodney Thomas: No, not after it was closed. I'm saying what happened before it was closed, who made that decision, and what happened?

David Dixon: Was there a zoning change?

Claudia Wayne: Yes, they came to the Planning Commission and asked to rezone to Residential development on the back nine.

Attorney Tommy Joe Fridy: You had a different situation. They weren't closing the whole course and you didn't have houses built on the back nine. You had streets that were not completed. You did have some lots sold. You may have had a house or two, but practically no houses, and you didn't have streets constructed. You had bonds posted, and the bonds were not sufficient to complete the construction. To me the facts are not the same. They may be to you, but it's your decision not my decision.

Chairman McKee: More questions Mr. Thomas?

Rodney Thomas: No.

Chairman McKee: Any further questions Commissioners? Would any Commissioner like to make a comment? Mr. Williams.

David Williams: One of the things when this first came up, was the spot zoning issue, and it does concern me as far as setting a precedent here. So, I think it would be dangerous for us to allow a use to continue when the primary use is not there. But, given that the primary use doesn't have to necessarily go away, they could still operate it in a way to concede to operate it now as a separate parcel, and probably with less restrictions, then what they are proposing now. Then, I'm kind of curious if we say no, then the owner of the property has no recourse but probably to come back to this Commission and ask for a rezoning maybe to Agricultural, stating that there has been significant economic changes that say that the current zoning is not correct.

Claudia Wayne: David, it would go...either recommendation would be sent to the City. Then the City can override our decision or...

David Williams: Correct, but they general thought of what we recommend so far. There is always that first time. So, my statement here is that I would like to see us reach an agreement that would not allow this property to deteriorate any further than what it already has. We had the strip mining issue that came up, and good friends of mine were on the border of the strip mine. But couldn't deny the mineral owners on the other side of that line not to be able to use their property, and we can't deny these gentlemen the right to use their property. I would say that, if it came to me "as is", I would deny...my decision, if I can say this, would be deny it on the spot zoning issue. Because I do not want to set a precedent where we are allowing a change of use. I think the adjoining landowners need to take in consideration what their options are here, and what really down the road will best suit them.

Chairman McKee: Thank you Commissioner.

Chairman McKee: Mr. Pritchett.

Herb Pritchett: Mr. Chairman, I too am really conflicted. I'm conflicted because the number of people bought homes and made significant investments out there not believing that a golf course would be there. As an appraiser, a real estate appraiser, in other markets in which I have studied, there is a definite correlation between value when your home backs up on a golf course, and when it does not. We have heard two different assertions. One is that the golf course failed due to the general economics surrounding golf courses. The other is that it failed due to a lack of competent operation. I have done feasibility studies relating to golf courses and have used the statistics compiled by the National Golf Foundation. I have seen nothing of that here. Just on the back of the envelope calculation, the Madisonville, KY area has forty-five (45) golf holes. The Hopkinsville, KY area has fifty-four (54) golf holes. With the closing of Henderson, there are forty-five (45) golf holes...the

closing of Player's Club there are forty-five (45), and if it reopens there's sixty-three (63). That tells me generally that there has got to be some play from Evansville to support the viability of Player's Club. I am a golfer and I thought Player's Club had the best golfing track in Henderson. I was delighted to play it. I would like to see some sort of study from someone saying, given the present economics and the present trends of golf, that Player's Club is no longer viable even under competent operation. We heard one person say over five years ago that they were willing to buy it and invest seven figures of additional monies in it. I personally know of another group made up of an assistant PGA and a former golf course superintendent of who I'm a personal friend, who also wanted to buy it within the last ten years. And I'm concerned that if it was not competently marketed as an appraiser, I estimate value assuming exposure on the market and a competent marketing operation associated with the merchandise of that property. The testimony that has been given right now, it was not openly exposed on the open market, and may not have been marketed to the widest possible audience. A group out of Colorado bought Victory National, and the market for this property may have been someone outside Henderson that was interested in investing in a good track. So, those are my comments right now, and I think we may well be well served to further investigate the specifics relating to the Henderson golf market before...this zoning here I believe is the camel's nose under the tent. If we rezone this and it is no longer utilized as a clubhouse, you can color the golf course gone in my opinion, because there is no other place to have a clubhouse, and you need a clubhouse for a golf course. So, thank you for allowing me to make those comments.

Chairman Herb McKee: Thank you Mr. Pritchett. Anybody else? Any Commissioners won't to make a comment?

David Dixon: If this is rezoned, this specific issue before us tonight, if this is rezoned to General Business with these restrictions, it can no longer function as a golf clubhouse, because that is not one of the uses listed, correct?

Brian Bishop: The use police is John Stroud.

John Stroud: Golf courses are a permitted use in Agricultural. Now, the clubhouse is an accessory use to the golf course like we talked about before. I don't know that there is any reason why it was zoned General Business in a separate parcel from the golf course that it could not be leased by a golf course and operated as a business, but they have limited their uses by what they are telling you...

(Tape 2 Side B)

To say they are going to allow banquets, whatever the four things are, and a golf pro-shop.

David Williams: Unless they do it right now?

John Stroud: Yes.

David Dixon: Thank you John.

Chairman Herb McKee: Thank you Mr. Stroud. Anybody else? Any other Commissioner's questions or comments? Comments?

Dickie Johnson: Mr. Luck, did you hear what John spoke about the use of the clubhouse?

Dorin Luck: Yes.

Dickie Johnson: And in the rezoning?

Dorin Luck: Yes.

Dickie Johnson: And David brought up...unless you all do it at this meeting agree to amend your use to allow it to be used as a pro-shop for a golf course. If that golf course would happen to rejuvenate itself for some unknown reason, somebody could come in and put ever how so many millions, it would take to redo all the fairways and the greens.

Dorin Luck: My premise one, when I got up here the first time was that was not going to happen. There will be no golf course on this property from this point forward. I'm guessing that my clients are not going to agree to allow a pro-shop to be a use on this property when we have no intention whatsoever to have a golf course on this property, so the answer is that we decline to do that at this point.

Dickie Johnson: Okay.

Chairman McKee: Any other comments? Questions? Anyone else like to speak? Mr. Bishop will you remind the Planning Commissioner's the form and content that you would like to hear a motion begin.

Brian Bishop: In your packet you will see a sample motion that Mr. Fridy was kind enough to help us on. If you will humor me, I will read this to you now. This is a sample motion to recommend approval or disapproval and to allow staff to prepare a proposed motion and finding to be considered at the next regular meeting:

I move that staff prepare a proposed motion and findings of fact, consistent with the record, recommending **approval** /or/ **disapproval** (**PICK ONE OR THE OTHER**) of **Rezoning # 1059 with a Narrative Development Plan for New Proposed Lot #2A** - Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, containing approximately 5.688 acres);

that the public hearing not be reopened at the next meeting (that no additional public comments will be heard at the next meeting); that the recommendation will not be reconsidered at the next meeting; that discussions at the next regular meeting regarding this Rezoning be limited to the motion and finding of fact supporting the recommendation; and, that this vote **not** be considered final action; that the matter be tabled until the next regular meeting. This motion is in regard to Applicants' request for a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1.) A catering establishment, 2.) studio for music, dancing, or theatrical instruction, 3.) wedding chapels or banquet halls, 4.) accessory uses incidental to the above.

David Dixon: What about the noise restriction?

Brian Bishop: It would also need to be subject to a preliminary plat, and the restriction that the operation not go past ten (10) p.m. in the evening for outside live music.

Chairman McKee: So, all of that language with the basis for either making a motion to approve or making a motion to disapprove. Mr. Fridy, would you like to add anything?

Attorney Tommy Joe Fridy: No. I don't think you have to read the motion at that time.

Chairman McKee: You could just make a motion to include that language, for approval or disapproval. Does that make sense to everybody? You don't have to read all the way through that thing again, because it's in the record. Just a motion to approve, or a motion to recommend disapproval. And now if you are ready, the Chair will entertain a motion. Have we ever sat here and not had a motion?

Dickie Johnson: It has happened several times. We have sat here a long time before somebody has enough nerve to make an attempt for a motion. This is very simple motion. It's already in the record, and all we have to do is decide. So, I know it is very difficult for each and every one of us sitting up here to make a decision on which direction we need to go in regards to this piece of property. But, I'm really reluctant to do anything on a piece of property that we change the zoning on recently regarding the golf course, but after looking at it and researching it, I have come to the conclusion that it wasn't going to financially be possible to run it as a golf course any longer, and it's the same way I think with this piece of property. So, I'm going to move that this rezoning #1059 be approved.

Attorney Tommy Joe Fridy: And incorporate all the former motions that Brian has read, including the subject to the preliminary plat, and subject to amending the development plan in the ways that Dorin stated including the live music after 10 p.m.

Dickie Johnson: Yes.

Chairman McKee: All incorporated, we have a motion.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO APPROVE REZONING # 1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A - SUBMITTED BY CORMAN-MCQUEEN GOLF, INC., DANIEL MCQUEEN, PRESIDENT AND MBTJ, LLC / BOBBIE CHAMBERS, FOR THE PROPERTY LOCATED IN THE CITY OF HENDERSON AT 800 WOLF HILLS BLVD., (ALSO KNOWN AS THE PLAYER'S CLUB GOLF COURSE CLUBHOUSE AREA, CONTAINING APPROXIMATELY 5.688 ACRES); THAT THE PUBLIC HEARING NOT BE REOPENED AT THE NEXT MEETING (THAT NO ADDITIONAL PUBLIC COMMENTS WILL BE HEARD AT THE NEXT MEETING); THAT THE

RECOMMENDATION WILL NOT BE RECONSIDERED AT THE NEXT MEETING; THAT DISCUSSIONS AT THE NEXT REGULAR MEETING REGARDING THIS REZONING BE LIMITED TO THE MOTION AND FINDING OF FACT SUPPORTING THE RECOMMENDATION; AND, THAT THIS VOTE NOT BE CONSIDERED FINAL ACTION; THAT THE MATTER BE TABLED UNTIL THE NEXT REGULAR MEETING. THIS MOTION IS IN REGARD TO APPLICANTS' REQUEST FOR A ZONING CHANGE FROM AGRICULTURAL (AG) - GOLF COURSE RESTRICTED USE, TO GENERAL BUSINESS (GB) WITH A NARRATIVE DEVELOPMENT PLAN. THE DEVELOPMENT PLAN WOULD LIMIT OR RESTRICT THE USE OF THIS 5.688 ACRES TO: 1) A CATERING ESTABLISHMENT, 2) STUDIO FOR MUSIC, DANCING, OR THEATRICAL INSTRUCTION, 3) WEDDING CHAPELS OR BANQUET HALLS, AND, 4) ACCESSORY USES INCIDENTAL TO THE ABOVE. ALSO, SUBJECT TO THE PRELIMINARY PLAT, AND AMENDING THE DEVELOPMENT PLAN IN THE WAYS THAT DORIN STATED INCLUDING NO LIVE MUSIC AFTER 10 P.M.

Chairman McKee: It's very possible that we have exhausted all discussion but would you like to have further discussion?

Dickie Johnson: I do not need any.

Chairman McKee: Hearing none, Madam' Clerk would you please call the roll.

VOTE YES: MAC ARNOLD, DICKIE JOHNSON, RODNEY THOMAS, KEVIN HERRON, AND GRAY HODGE.

VOTE NO: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DAVID DIXON, AND HERB PRITCHETT.

Chairman McKee: The clerk counts it at (4) no, and (5) yes.

Brian Bishop: Can we double check that please. My count is 5 to 5.

Attorney Tommy Joe Fridy: Just call the roll again.

VOTE YES: MAC ARNOLD, DICKIE JOHNSON, RODNEY THOMAS, KEVIN HERRON, AND GRAY HODGE.

VOTE NO: DAVID WILLIAMS, BOBBIE JARRETT, KEVIN RICHARD, DAVID DIXON, AND HERB PRITCHETT.

Chairman McKee: You know what happens in the case of a 5 to 5 vote on the additional vote? The chair has to break the tie. The chair would like to call a thirty (30) minute recess, because I need a drink of water.

David Williams: Thirty (30) minutes?

Chairman McKee: Thirty (30) seconds, I'm sorry.

(Recess for 30 seconds)

Chairman McKee: Commission is back in session. I don't relish this opportunity, and I want to let you know because there are emotions, and financial considerations on both sides of this application, but I have become convinced that this property can no longer operate as a golf course either and that this zoning application should be granted, so I vote YES.

Brian Bishop: I'm sorry, Mr. McKee, we also need a separate motion to approve the master plan if the Planning Commission sees fit, for Item (B) on the agenda for **Lot 2A Wolf Hills Golf Course Club House Area, Master Plan.**

Chairman McKee: So, the chair will entertain a motion?

Brian Bishop: Correct.

Chairman McKee: To do that?

Brian Bishop: Correct.

Attorney Tommy Joe Fridy: Make sure that you put that last phase in there, subject to final approval of Rezoning #1059, whichever way, if it happens to pass.

Chairman McKee: Would anyone care to make that motion?

Attorney Tommy Joe Fridy: You need to read Item (B) in a form of a motion, either for or against. You are either making a motion to remove the golf course restriction from the clubhouse property, or not to.

Chairman McKee: So, as it stands, we have a recommendation for the City Commission, to rezone the 5.688 acres from Agricultural to General Business.

Attorney Tommy Joe Fridy: With the Golf Course restriction.

Chairman McKee: But it still has the Golf Course restriction on it until we do this?

Attorney Tommy Joe Fridy: Correct.

Dickie Johnson: Well, you may have to help me, but I'm going to make a motion.

David Dixon: We just voted to ask the Staff to prepare a proposed motion and findings of fact, to bring that back to us to vote on again correct?

Attorney Tommy Joe Fridy: For the motion to approve the rezoning, but it is a separate issue even though we heard them both in the same public hearing to remove the golf course restriction from that same area. I know it sounds like the same thing but we need two motions.

David Dixon: My understanding is, we are going to vote again on the original first motion?

Attorney Tommy Joe Fridy: No, we are going to vote on Item (B).

David Dixon: They are going to prepare a proposed motion of findings of fact and bring it back to us?

Attorney Tommy Joe Fridy: They are going to prepare the motion...

Dickie Johnson: And we are going to agree to the findings of fact that you all...

David Dixon: Yes.

Attorney Tommy Joe Fridy: Correct, but we still need a motion on item (B) that you recommend...

David Dixon: I understand that. We are going to vote again on item (A) and (B) for a table, for (A)...

Brian Bishop: Item (A) will come at the next regular meeting in September.

Chairman McKee: When will item (B) come?

Brian Bishop: Item (B) is done tonight.

Attorney Tommy Joe Fridy: But it is subject to the rezoning. It's subject to the rezoning being approved by the City, or not heard by the

City and then...Circuit Court.

Chairman McKee: So, the vote has been taken for the rezoning recommendation, we are just asking Staff to do the findings of fact, etc?

Attorney Tommy Joe Fridy: Correct.

David Dixon: We are going to have to vote on it again.

Chairman McKee: We will have to vote on the findings of fact, not the motion.

Attorney Tommy Joe Fridy: We will come back, Staff will come back with a proposed motion and findings of fact that agrees with your recommendation. But we also need a separate motion...

David Dixon: I understand that. I understand that there is a second step, which is related, but the first step has to be revisited according to what we have done this evening.

Attorney Tommy Joe Fridy: Correct.

Chairman McKee: May I make sure there is clarity. There is no chance that there could be a vote to recommend the denial of this rezoning request, only the findings of fact?

Attorney Tommy Joe Fridy: That's your motion. Your motion was that you will not revisit, recommending approval of the rezoning.

David Dixon: But we can still vote against it again?

Attorney Tommy Joe Fridy: You can't.

David Dixon: It's going to be voted on again.

Attorney Tommy Joe Fridy: Yes you can. Yes you can.

David Dixon: I just wanted to make that clear to everybody.

Brian Bishop: Is everybody clear?

Chairman McKee: Let me make sure that I understand. If somebody changes their mind between tonight and the next meeting, what happens?

Attorney Tommy Joe Fridy: The way the motion is worded, it's envisioned that you won't change your vote.

David Dixon: It kind of depends on the findings of fact, don't you think?

Attorney Tommy Joe Fridy: Of course it does.

Brian Bishop: But you have directed Staff to find findings of fact...excuse me guys, could y'all please...we need to hear this.

Attorney Tommy Joe Fridy: To make recommendations. But the findings of fact are ultimately your decision. Staff can bring recommendations, and you can say we don't like it and we are striking this out and adding that.

David Dixon: So, there is still work to be done is what I'm saying?

Attorney Tommy Joe Fridy: Yes sir.

Chairman McKee: Correct me if I'm wrong, but have we not asked Staff to bring back findings of fact to support the decision?

David Dixon: We have not voted to accept those findings of facts?

Chairman McKee: That is different from what I was understanding you to say. Thank you.

Brian Bishop: Is everybody good?

Kevin Richard: I think the point that Tommy Joe is trying to make is that even though we voted on item (A), and item (B) has the same wording and everything, it's actually a different order of business. Item (A) is totally not related to...item (B) is not totally related to anything we just voted on. It's a totally separate order of business.

David Dixon: It's subject to the final approval of item (A).

Kevin Richard: If someone puts it in a motion, yes.

Mac Arnold: Mr. Bishop, let me ask you a question on (B). If I'm understanding this right, the first motion basically was to with a narrative plan limited to all the items that were listed there, catering and dancing and that wedding chapel and all. I know we have discussed if they wanted to add the golf course pro-shop to it, and they deny that. But, this right here, if the second one was not approved, is it still considered a pro-shop, even though it's not...

Attorney Tommy Joe Fridy: It still has a golf course restriction, but there are two (2) elements. So, we need a motion to be consistent with your first motion, we need a motion to remove the golf course restriction, subject to the rezoning being finally approved. Now, this (B) motion does not go to the City. This (B) motion is within the jurisdiction of the Planning Commission to amend the...well, it may be more than amending the master plan. You are voting to remove the golf course restriction.

David Dixon: So it would just be Agricultural?

Attorney Tommy Joe Fridy: Well, it's...no it won't be Agricultural,

because the motion would be to remove the golf course restriction subject to the rezoning passing that it be General Business with the master plan restricting it to those four uses.

Chairman McKee: So, if it does not pass at the City level, it doesn't pass at our level either, because we made it subject to their action?

Attorney Tommy Joe Fridy: Yes.

David Williams: Mr. Fridy, we are making, as far as item (B) is concerned, we are just still talking about the five (5) acres, right?

Attorney Tommy Joe Fridy: Still talking about the five (5) acres.

David Williams: We are not talking about the larger parts, because we are not removing that restriction?

Brian Bishop: Correct, that restriction stays intact.

Attorney Tommy Joe Fridy: It seems neater to me to do this tonight, but you could table it and do at the next meeting after you adopt whatever findings of fact you choose to adopt, motion and findings of fact.

Chairman McKee: What is your pleasure, to vote tonight, or to table it until the following meeting? You may indicate your feelings by a motion. The chair will entertain a motion.

Dickie Johnson: I really don't see any problem with us tabling this until we come back and do the final approval of the findings of facts.

MOTION WAS MADE BY DICKIE JOHNSON, SECONDED BY MAC ARNOLD TO TABLE LOT 2A WOLF HILLS GOLF COURSE CLUB HOUSE AREA, MASTER PLAN UNTIL THE NEXT REGULAR MEETING.

Chairman McKee: Any discussion? Madam Clerk, please call the roll.

**VOTE YES: DAVID WILLIAMS, BOBBIE JARRETT, MAC
ARNOLD, KEVIN RICHARD, DICKIE JOHNSON, RODNEY
THOMAS, DAVID DIXON, KEVIN HERRON, HERB
PRITCHETT, AND GRAY HODGE.**

ALL IN FAVOR: AYE

OPPOSED: NONE

- Applicant's Rezoning Application with the applicant's attachments, as follows: (Attachment #2)
 - Applicant's three (3) page supplement to application
 - Exhibit Map #1
 - Corman-McQueen Resolution
 - MBTJ, LLC., Resolution

HENDERSON CITY-COUNTY PLANNING COMMISSION
REZONING APPLICATION

PLEASE PRINT



Planning the Future

The applicant must be an owner of the property.

Spouse and/or any other parties with legal or equitable interest must join in this application.

Identify applicant or owner(s).

If needed, use separate sheet to identify all parties with legal interest in this property.

Rezoning # 1059

Date Application Filed: 7-13-16

PC Hearing Date: 8-02-16

Fee amount: \$ \$200⁰⁰

w/Dev. Plan \$ 50.⁰⁰

187275

Receipt # _____

By: M. Sanddale

Applicant(s) name (s): CORMAN-McQUEEN GOLF, INC - DANIEL McQUEEN & MBTJ, LLC

Business entity - names of Officers, Directors; Shareholders or Members:
CORMAN-McQUEEN GOLF INC DANIEL McQUEEN, PRES
MBTJ, LLC - Bobbie CHAMBERS, V.P.

Address: DANIEL McQUEEN - 4850 LEESTOWN RD LEXINGTON KY 40511
Bobbie CHAMBERS - 7692 GREEN RIVER RD HENDERSON KY 42420
DANIEL'S
 Daytime Telephone 859-619-5040 Cell: Bobbie's

Email Address: _____

Property owner(s) name(s): CORMAN McQUEEN GOLF INC
4850 LEESTOWN RD LEXINGTON KY 40511

Address: MBTJ, LLC - 7692 GREEN RIVER RD HENDERSON KY 42420

Daytime Telephone 859-619-5040 Cell: _____

Email Address: _____

Applicant(s) Agent/Attorney: _____

Address: _____

Daytime Telephone _____ Cell: _____

Email Address: _____



Planning the Future

If the proposed zoning request is not consistent with the Comprehensive Plan, the Commission must find **either**:

1. That the original classification was inappropriate or improper for the original use of the property; or
2. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the comprehensive Plan and that those changes have substantially altered the basic character of the area involved.

Project Summary:

In order for the Planning Commission to make a recommendation for a zoning map amendment, it must make findings of fact in support of its recommendation.

Findings in Compliance with the Comprehensive Plan: Please provide specific evidence from the Comprehensive Plan with reference to the Land Use Criteria and Goals and Objectives, to support this map amendment request.

SEE ATTACHED

If the applicant feels the proposed request is not consistent with the adopted Comprehensive Plan, the application must contain facts supporting one of the following:

1. Describe why the **original** classification was **inappropriate**.
(Use additional sheets if needed).

2. Describe the **major changes not anticipated** by the Comprehensive Plan and how they have altered the basic character of the area.
(Use additional sheets if needed).

Property and Proposed Development Information

- Property Address: 800-WOLF HILLS BLVD HENDERSON KY 42420
- PID # 64-28.4 Acreage: 5,688 AC
- Existing Zoning: AG
- Existing Land Use: PUBLIC RECREATION
- Zoning Requested: G-B
- Plat of property and description of area showing accurate measurements with acreage included.
- Development Plan: Yes No
(If Development Plan submitted, please provide 8 copies (one 8 ½ x 11), and (1) digital copy)
- List of adjoining/adjacent property owner's name and addresses from Property Valuation Office

Applicant's Certification

I do hereby certify that, to the best of my knowledge and belief, all application materials have been submitted and that the information they contain is true and correct.

Signature of Applicant(s) and owner(s):

Date:

~~*~~ SEE ATTACHED
FAXED SHEET for HIS signature

(Please print name and title)

DANIEL (DANNY) McQUEEN
PRESIDENT-CORMAN-McQUEEN GOLF IN

(Please print name and title)

Bobbie Chambers

(Please print name and title)

Bobbie CHAMBERS, V.P.
MBTJ, LLC

(Please print name and title)

07/11/16

07/11/16

The forgoing signatures constitute all of the owners of the affected property necessary to convey fee title, their attorney, or their legally constituted attorney-in-fact. If the signature is of an attorney, then such signature is certification that the attorney represents each and every owner of the affected property.

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(If Development Plan submitted, please provide 8 copies (one 8 1/2 x 11), and (1) digital copy)
- List of adjoining/adjacent property owner's name and addresses from Property Valuation Office

Applicant's Certification

I do hereby certify that, to the best of my knowledge and belief, all application materials have been submitted and that the information they contain is true and correct.

Signature of Applicant(s) and owner(s):

Date:

Daniel McQueen

7-12-2016

(Please print name and title)

DANIEL (DANNY) McQUEEN
PRESIDENT - GRANN McQUEEN GOLF IN

7-12-2016

(Please print name and title)

Bobbie Chambers
VP

07/11/16

(Please print name and title)

Bobbie CHAMBERS, V.P.
MBTS, LLC

07/11/16

(Please print name and title)

The foregoing signatures constitute all of the owners of the affected property necessary to convey fee title, their attorney, or their legally constituted attorney-in-fact. If the signature is of an attorney, then such signature is certification that the attorney represents each and every owner of the affected property.

**SUPPLEMENT TO HENDERSON CITY-COUNTY
PLANNING COMMISSION REZONING APPLICATION
SUBMITTED BY CORMAN-MCQUEEN, INC. AND MBTJ, LLC**

Findings in Compliance with the Comprehensive Plan

The Comprehensive Plan adopted by the Henderson City-County Planning Commission is the primary guiding document and the basis for the decisions on the location, quality and quantity of future growth and its supporting infrastructure. By its own definition, the Comprehensive Plan is intended to be a flexible document and broad in nature so that the City and County can respond to changes or unforeseen circumstances.

The property which is the subject of this rezoning application is the former Player's Club Golf Course located off Wathen Lane in the City of Henderson. Through no fault of the applicants, and through no fault of the community, but solely because of economic circumstances surrounding golf courses across the country, the Player's Club Golf Course has been permanently closed. As a result, the City, the Planning Commission, and the owners of the former golf course property are faced with decisions to be made regarding the future of the property. The rezoning application submitted proposes that a 5.688 acre portion of the property, being the former clubhouse and its surrounding parking lot, be rezoned from its current designation of agricultural to a general business zone, in order to operate a banquet hall. While the proposed rezone of the property will be to a general business zone that is adjacent to residential properties, the property will be utilized in a manner which is very similar to its former use as a golf course clubhouse.

The Comprehensive Plan provides for the balancing of land use, and the applicants believe that the goals and objectives of the Comprehensive Plan as set forth on page 1-5 would be met in the following manner:

1(a) The use of the former golf course property and specifically the use of the former clubhouse would be an area of opportunity for infill, for redevelopment and adaptive reuse that the applicant believes would respect the areas context and design features.

1(b) The proposed rezone would guide development to an existing centralized area to avoid de-centralized or scattered development.

1(c) The proposed development and rezone would promote a mixed use neighborhood to create a vibrant built environment.

1(d) The proposed development and rezone in conjunction with the development of the remainder of the former golf course property would strive for connected walkable and bike friendly neighborhoods.

1(e) The proposed development would promote aesthetically pleasing commercial development with appropriate access, signage and landscaping without encouraging strip commercial development.

Attachment #2

The goals and objectives for Healthy Neighborhoods under page 1-6 of the Comprehensive Plan would be encouraged by the proposed rezone under Section 1(a) which promotes stability of existing neighborhoods and all aspects of housing including infill, redevelopment and encouraging new development where appropriate. The applicant believes that the redevelopment of a portion of the golf course property in the manner suggested by the rezone, sensitive to the concerns and the needs of the surrounding residents, would perhaps be the ideal use of that portion of the property in order to assure that the former clubhouse does not become an unused eyesore. The Comprehensive Plan under paragraph 1(c) on page 1-6 in fact provides that the Planning Commission should encourage flexible zoning criteria to assist in redeveloping a neighborhood. The clubhouse could be used as a banquet hall which would foster a sense of place by including elements that contribute to community pride. The applicants see the banquet hall as becoming perhaps a gathering place for residents within the Wolf Hills Subdivision. The proposed development and rezone would, in the opinion of the applicants, encourage recreational and community facility to afford active living alternatives for residents.

Protecting Natural Systems under page 1-7 of the Comprehensive Plan provides that the goal of the Comprehensive Plan is to protect and enhance the quality of natural environment while permitting appropriate development on suitable lands. The key words to these applicants are the words "promote permitting appropriate development on suitable lands". The former clubhouse located on the property to be rezoned is in fact ideal for redevelopment for its use as a banquet hall or meeting place for the citizens of Henderson. The proposal of the applicants to rezone this property to permit the redesign and reuse of the property as a meeting place or a banquet hall encourages as set forth in paragraph 1(a) on page 1-7, for innovative design on the site with constraints based on the presence of natural systems. This clubhouse area can be utilized for a new purpose without changing the flavor or character of the neighborhood. In conjunction with the redevelopment, there will be an effort by the applicants under paragraph 1(c) on page 1-7, to preserve significant natural features and to enhance existing green areas. In fact, the natural features contribute to the character of the area.

The Comprehensive Plan provides on page 1-8 for Growing the Economy, by encouraging and promoting the development of a stable and diversified economic base that has employment opportunities within the community. That goal is met by the objectives under paragraph 1(a) on page 1-8 to promote the continued operation and expansion of commercial facilities. Rezoning the subject property will provide for such continued operation of a commercial facility. The proposed use of the property as a meeting place and banquet hall would under paragraph 1(c) on page 1-8 promote and enhance local tourism. Most importantly, the proposed rezone and reuse of the clubhouse property would promote a business friendly environment and a collaborative approach to promote the community. The applicants believe that the creative use or reuse of properties in the manner proposed by the applicants will promote the City and will promote businesses who recognize and would appreciate an effort by the local community to make good use of properties which might otherwise fall into disuse.

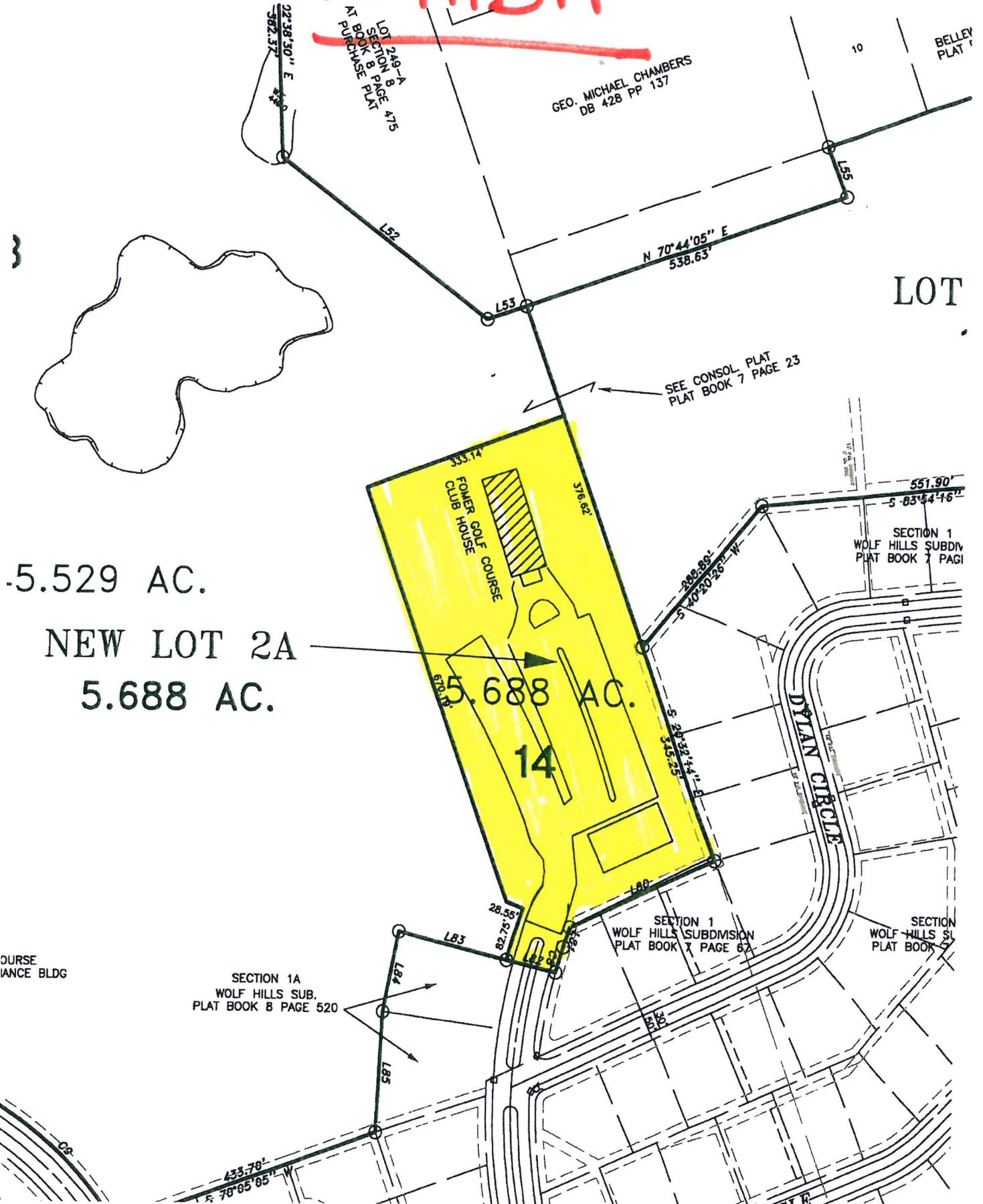
The Comprehensive Plan provides in the chapter Improving Community Services the goal that the community maintain a positive image and identity for the community that is distinct and reflective of its unique character and assets to distinguish Henderson from other nearby communities. Under paragraph 1(e) on page 1-10, the objective in improving community services would be to encourage new or revitalized recreational facilities that support the needs of

the community's youth and create economic development opportunities. This in turn provides for a healthy neighborhood. The reuse of this property and the revitalization of this property would provide an additional private recreational facility for the community of Henderson. As a natural adjunct to that development, additional economic development opportunities would be made available to suppliers of food services, catering and such other services which naturally accompany the facility to be developed in conjunction with the rezone.

The applicants believe that the proposed rezone is in accordance with the community's Comprehensive Plan, which Plan should always be considered a guide rather than a strait jacket in development. The situation presented by the rezoning application is unique in that it proposes a creative and appropriate reuse of existing improvements on property which will not be used for its original purpose, as a result of circumstances beyond anyone's control.

In addition, clearly there have been major changes of an economic, physical or social nature as to the former Player's Club Golf Course property by the cessation of use of this property as a golf course. Such a major change was not anticipated by the community's Comprehensive Plan, and this major change has substantially altered the basic character of the property sought to be rezoned. In fact, absent the proposal by the applicants, the clubhouse may well fall into disuse and become a detriment to the community as opposed to an asset. For these reasons, the applicants believe that the proposed rezoning of this property in the manner suggested by the applicants would be in accordance with the community's Comprehensive Plan. The changes of the property to be rezoned resulting in the loss of the Player's Club Golf Course would provide the Planning Commission and the community a unique opportunity in the rezone to not only continue the use of a portion of the property to prevent its deterioration, but to provide valuable reuse of the property as a clear benefit to the community, while remaining sensitive to the surrounding residential areas.

EXHIBIT



ACTION TAKEN BY UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF
CORMAN-McQUEEN GOLF, INC.

Effective July 11, 2016

The undersigned, being all of the Directors of **Corman-McQueen Golf, Inc.**, a Kentucky corporation ("Corporation") hereby approve and adopt for and on behalf of the Corporation the following Resolutions and consents to the corporate actions contemplated thereby:

Election of Officers. The following resolution concerning the election of Officers for the Corporation is adopted:

RESOLVED, that pursuant to the Corporation's Bylaws, the following named individuals have been elected to the offices indicated until election and qualification of their successors:

<u>Name</u>	<u>Office</u>
Daniel H. McQueen	President
Carol H. McQueen	Secretary-Treasurer

Sale of golf course property in Henderson, Kentucky. The following resolution permitting the President of the Corporation to execute contracts and other instruments on behalf of the Corporation is adopted:

RESOLVED, that Daniel H. McQueen as President of the Corporation is authorized to execute all contracts or other instruments for the sale of the 165 acre golf course property located in Henderson, Kentucky, to MBTJ, LLC. The President is given the authority on behalf of the Corporation to execute all instruments including but not limited to any Application for Rezoning, proposed Amendments to the Master Plan, Narrative or Development Plans, to the Henderson City-County Planning Commission or to the City of Henderson, Kentucky, for the proposed rezoning of the Clubhouse or the remaining golf course property proposed by the Purchaser, MBTJ, LLC.

RESOLVED FURTHER, that a copy of any such resolution required by any state be inserted in the minute book of the Corporation.

The original executed copy of these Resolutions shall be filed with the minutes of proceedings of the Board of Directors of the Corporation.

Attachment #2

- Rezoning Notice Letter sent to area residents, and the address list to which the letter was sent. (Attachment #3)



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop, Executive Director
bbishop@hendersonplanning.org
270-831-1289

July 19, 2016

Corman-McQueen Golf, Inc.
4850 Leestown Road
Lexington, KY 40511

RE: REZONING #1059 with a Narrative Development Plan

Dear Mr. Daniel McQueen:

Please be advised that the Henderson City-County Planning Commission will hold a public hearing on **Tuesday, August 2, 2016** at 6:00 p.m., at the Henderson Municipal Center, Third Floor Assembly Room. At this time, the commission will hear your request for the property located in the City of Henderson at **800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse, PID #64-28.4)**, for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment – except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

You or your representatives are required to attend this meeting in order to answer any questions pertinent to this request. If you have any questions feel free to call this office at (270) 831-1289.

Sincerely,

Brian Bishop
Executive Director, AICP
HENDERSON CITY-COUNTY
PLANNING COMMISSION

BB/tgc
Cc: Bobbie Chambers

Attachment #3

WOLF HILLS II SUBDIVISION - REZONING FOR CLUBHOUSE LOT

REZONING WOLF HILLS II

- PVA #
1. 64-28.5 GEORGE Michael & BOBBIE CHAMBERS
P O BOX 333
HENDERSON, KY 42420
 2. 64-29 BOBBIE H CHAMBERS
P O BOX 333
HENDERSON, KY 42420
 3. 64I-22 CHRISTOPHER K & KRISTIE WATSON
1388 DYLAN CIRCLE
HENDERSON, KY 42420
 4. 64I-23 STACEY M MCNEILL
1392 DYLAN CIRCLE
HENDERSON, KY 42420
 5. 64I-24 SPENCER LAURA L
1396 DYLAN CIRCLE
HENDERSON, KY 42420
 6. 64I-25 MITCHELL A & JILL W HAZELWOOD
1400 DYLAN CIRCLE
HENDERSON, KY 42420
 7. 64I-26 KEVIN M & ANDREA G PAYNE
1410 DYLAN CIRCLE
HENDERSON, KY 42420
 8. 64I-27 JOHN A & TAMARA M JAMES
1414 DYLAN CIRCLE
HENDERSON, KY 42420
 9. 64I-28 JANCI ARNOLD
1418 DYLAN CIRCLE
HENDERSON, KY 42420
 10. 64I-154 CHARLES D & JUDITH L BUCKMAN
852 WOLF HILLS BLVD
HENDERSON, KY 42420
 11. 64-28.4 GEORGE MICHAEL CHAMBERS
P O BOX 333
HENDERSON, KY 42420

Easy Peel® Labels
Use Avery® Template 5160®

Feed Paper  Bend along line to
expose Pop-up Edge™

 AVERY® 5160®

MICHAEL & BOBBIE CHAMBERS
PO BOX 333
HENDERSON, KY 42420

CHRISTOPHER & KRISTIE WATSON
1388 DYLAN CIRCLE
HENDERSON, KY 42420

STACEY M. MCNEILL
1392 DYLAN CIRCLE
HENDERSON, KY 42420

LAURA L. SPENCER
1396 DYLAN CIRCLE
HENDERSON, KY 42420

MITCHELL & JILL HAZELWOOD
1400 DYLAN CIRCLE
HENDERSON, KY 42420

KEVIN & ANDREA PAYNE
1410 DYLAN CIRCLE
HENDERSON, KY 42420

JOHN & TAMARA JAMES
1414 DYLAN CIRCLE
HENDERSON, KY 42420

JANCI ARNOLD
1418 DYLAN CIRCLE
HENDERSON, KY 42420

CHARLES & JUDITH BUCKMAN
852 WOLF HILLS BLVD.
HENDERSON, KY 42420

9

PUBLIC NOTICE CERTIFICATION OF PROPERTY OWNERS LETTERS BEING MAILED OUT

I Theresa Curtis HAVE MAILED OUT LETTERS FOR REZONING # 1059

ON 7-19-2016 BY 1ST CLASS MAIL. I HAVE ATTACHED A COPY OF THE LABELS THAT WERE MAILED TO ALL THE PROPERTY OWNERS AND ADJACENT PROPERTY OWNERS.

Theresa H. Curtis 7-19-2016

SIGNATURE, DATE

Heather Spudis 7/19/16

WITNESS, DATE



Planning the Future

Henderson City-County Planning Commission
1990 Barret Ct. Suite C
Henderson, KY 42420

Brian Bishop, Executive Director
bbishop@hendersonplanning.org
270-831-1289

July 19, 2016

RE: REZONING #1059 with a Narrative Development Plan

You are receiving this letter because you own property in the vicinity of the **Clubhouse** area of the property commonly known as the Players Club Golf Course.

Please be advised that the Henderson City-County Planning Commission will hold a public hearing(s) on **Tuesday, August 2, 2016** at 6:00 p.m., at the Henderson Municipal Center, 222 First Street, 3rd Floor Assembly Room. At this time, the Planning Commission will hear a request submitted by **Corman-McQueen Golf, Inc., Daniel McQueen, President, and MBTJ, LLC, Bobbie Chambers, (the "Applicants")** for the property located in the City of Henderson at **800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4)**, for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Only Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of the Property to: 1) A catering establishment, 2) eating or dining establishment – except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, 8) accessory uses incidental to the above. Applicants are also requesting that the Golf Course Only Restricted Use be removed from this 5.688 acres.

Applicants are not requesting any change for the remainder of the Golf Course, at this time.

If you have any questions or comments regarding this Application you are urged to attend this meeting and present them.

Time limits and other rules and procedures may be announced at the beginning of the meeting.

Sincerely,

Brian Bishop
Executive Director, AICP
HENDERSON CITY-COUNTY
PLANNING COMMISSION
BB/tgc

CHARLES D & JUDITH L BUCKMAN
852 WOLF HILLS BLVD
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

LOU ANN WATKINS CLARK
504 HICKORY WOOD CT
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

TIMOTHY J & MARNITA B GREGORY
507 HICKORY WOOD CT
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

KATHARINA L EUTENEIER
511 HICKORY WOOD
HENDERSON, KY 42420

DARREN W & WHITNEY E
SPAINHOWARD
509 HICKORY WOOD CT
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

PAMELA S THOMPSON
512 HICKORY WOOD CT
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

STEPHAN O & KIMBERLY A CHAVIRA
3039 FIELD STONE DR
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

PAULA M GERSON
601 HICKORY WOOD CT
HENDERSON, KY 42420

GLENN A & ANGELA HAWKINS
3025 FIELD STONE DR
HENDERSON, KY 42420-2451

WARREN A ROBERGE
3024 FIELDSTONE DR
HENDERSON, KY 42420

WARREN A ROBERGE
3024 FIELDSTONE DR
HENDERSON, KY 42420

TERRY A & DAWN D WHEELER
7439 HWY 60 E
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

LYNDA GAIL OSBORN
607 HICKORY WOOD CT
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

LONNIE SUE & ELLIS JACK D KNIGHT
416 SAINT JAMES CT
SAINT PETERS, MO 63376

PHILLIP E & JILL M RAWLEY
608 GRAY STONE CT
HENDERSON, KY 42420

JOE MATTINGLY BUILDERS INC
425 FOURTEENTH ST
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

ROBERT K & CATHERINE N
WIEDERSTEIN
600 GRAY STONE CT
HENDERSON, KY 42420

TERRY L & DORIS I EMRICK
515 HICKORY WOOD CT
HENDERSON, KY 42420

BOBBY J & HELEN M HAYNES
645 CONSTANZA DR
HENDERSON, KY 42420

JOHN A & TAMARA M JAMES
1414 DYLAN CIRCLE
HENDERSON, KY 42420

R BRIAN & LESLIE OUSLEY
653 CONSTANZA DR
HENDERSON, KY 42420

J M DEVELOPMENT INC
425 FOURTEENTH ST
HENDERSON, KY 42420

NORMAN DALE & ANNETTE FAYE
LAMBDIN
875 CONSTANZA DR
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

CHASITY HEDGES
763 CONSTANZA DR
HENDERSON, KY 42420

ROBERT M & STACEY L JONES
751 CONSTANZA DR
HENDERSON, KY 42420

ANGERMEIER KIMBERLY D POYNTER
6203 W TIMBERLANE CT
HENDERSON, KY 42420-0000

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

T DAVID & LISA MARIE MAISH
641 CONSTANZA DR
HENDERSON, KY 42420-0000

JANCI ARNOLD
1418 DYLAN CIRCLE
HENDERSON, KY 42420

STEVEN TROY & PAULA R MANLOVE
657 CONSTANZA DR
HENDERSON, KY 42420

ALVIE B KANIPE
681 CONSTANZA DR
HENDERSON, KY 42420

JOSEPH PERRY & GRACEANNA MARI
AUSTIN
871 CONSTANZA DR
HENDERSON, KY 42420

CAROLYN H WARNER
771 CONSTANZA DR
HENDERSON, KY 42420-0000

ROBERT DOUGLAS & KIMBERLY A
BURROW
759 CONSTANZA DR
HENDERSON, KY 42420

TAMMY & FAYE A OXFORD
747 CONSTANZA DR
HENDERSON, KY 42420

RAY A & ELIZABETH T PAYNE
3000 SEDGEFIELD DR
HENDERSON, KY 42420

RALPH K & CAROLYN M ROBARDS
637 CONSTANZA DR
HENDERSON, KY 42420

JONATHAN & ANGELA DIXON
501 HICKORY WOOD CT
HENDERSON, KY 42420

JOHN R & SHANNA E LEE
649 CONSTANZA DR
HENDERSON, KY 42420

DAVID A & STEPHANIE J CHRISMAN
661 CONSTANZA DR
HENDERSON, KY 42419-1838

DONALD R & BETTY J KUESTER
739 CONSTANZA DR
HENDERSON, KY 42420

DENNY DWAYNE & KIMMIE R BUMPUS
867 CONSTANZA DR
HENDERSON, KY 42420

TAYLOR J & JENNY R DECORREVONT
767 CONSTANZA DR
HENDERSON, KY 42420

MALCOLM E II NEEL
755 CONSTANZA DR
HENDERSON, KY 42420

CHRISTOPHER W & AMANDA MORRIS
BOWEN
743 CONSTANZA DR
HENDERSON, KY 42420

KISHOR & PRITI PATEL
860 WOLF HILLS BLVD
HENDERSON, KY 42420

TIMOTHY G HALL
885 W KNIGHT CT
HENDERSON, KY 42420-0000

MITCHELL A & JILL W HAZELWOOD
1400 DYLAN CIRCLE
HENDERSON, KY 42420

CHRISTOPHER K & KRISTIE M WATSON
1388 DYLAN CIRCLE
HENDERSON, KY 42420

ROBERT R JR & SUSAN K ECKELS
1376 DYLAN CIRCLE
HENDERSON, KY 42420

DELOIS M HAYDEN
1364 DYLAN CIRCLE
HENDERSON, KY 42420

ANTHONY L KRAMPE
1352 DYLAN CIRCLE
HENDERSON, KY 42420

DAVID COLEMAN & JENNY CARTER
1340 DYLAN CIRCLE
HENDERSON, KY 42420

JACK R HOALT
1328 DYLAN CIR
HENDERSON, KY 42420

E DAVID A CRUC
1312 DYLAN CIRCLE
HENDERSON, KY 42420

BENJAMIN L & MARGARET HENDRICKS
888 WOLF HILLS BLVD
HENDERSON, KY 42420

JOSHUA M DEIBLER & KRISTEN
CALLAWAY
885 CONSTANZA DR
HENDERSON, KY 42420

LAURA L SPENCER
1396 DYLAN CIRCLE
HENDERSON, KY 42420

SCOTT ALLEN & ANITA E WATKINS
1384 DYLAN CIRCLE
HENDERSON, KY 42420

ROSS M & ELLEN M VAN ROYEN
1372 DYLAN CIRCLE
HENDERSON, KY 42420

SHANE E & MIRANDA L BOGGESS
1360 DYLAN CIRCLE
HENDERSON, KY 42420

PATRICK CLARK SHEA
1348 DYLAN CIRCLE
HENDERSON, KY 42420

JAMES R MARSHALL
1336 DYLAN CIRCLE
HENDERSON, KY 42420

E CARLA ALLDREDG TRUST
1324 DYLAN CIRCLE
HENDERSON, KY 42420

VERNON C & JIMMIE I EVANS
1308 DYLAN CIRCLE
HENDERSON, KY 42420

EMALEE DEEL
888 W KNIGHT CT
HENDERSON, KY 42420

KEVIN M & ANDREA G PAYNE
1410 DYLAN CIRCLE
HENDERSON, KY 42420

STACEY M MCNEILL
1392 DYLAN CIRCLE
HENDERSON, KY 42420

MARK K & SHELAH G POWERS
1380 DYLAN CIRCLE
HENDERSON, KY 42420

DENNIS & SHARON G PEPPER
1368 DYLAN CIRCLE
HENDERSON, KY 42420

DREW & MELANIE MAYS
1356 DYLAN CIRCLE
HENDERSON, KY 42420

PATRICK NEAL & CYNTHIA K ONAN
1344 DYLAN CIRCLE
HENDERSON, KY 42420

ROBERT G & KIMBERLY A MOSS
1332 DYLAN CIRCLE
HENDERSON, KY 42420

MATTHEW & JENNIFER JARRETT
1320 DYLAN CIRCLE
HENDERSON, KY 42420

LEROY A BROWN & LORI BROWN
STARNIS
% LORI BROWN STARNIS
HENDERSON, KY 42420

WILLIAM D & DEBORAH L PATTERSON
991 BELLE WOOD DR
HENDERSON, KY 42420

GARY L & SUZETTE M JENNINGS
981 BELLEWOOD DR
HENDERSON, KY 42420

GARY & LUANA ELIZABETH QUICK
971 BELLE WOOD DR
HENDERSON, KY 42420

CURTIS J III & EMILY HAMILTON
961 BELLE WOOD DR
HENDERSON, KY 42420

BOBBIE H CHAMBERS
P O BOX 333
HENDERSON, KY 42420

JONATHAN S & EVGENIYA A RATLEY
1316 DYLAN CIRCLE
HENDERSON, KY 42420

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

H & M LC
P O BOX 357
HENDERSON, KY 42419-0357

CORMAN MCQUEEN GOLF INC
2260 LEXINGTON RD
VERSAILLES, KY 40383

GEORGE M & BOBBIE J CHAMBERS
P O BOX 333
HENDERSON, KY 42420

MARK & HOLLY VICKERS
7760 WATHEN LN
HENDERSON, KY 42420

CREAMERY WARREN FARM PROPERTY
LLC
P O BOX 9020
EVANSVILLE, IN 47724-9020

KIMBERLY D. ANGERMEIER POYNTER
6203 W. TIMBERLANE CT.
HENDERSON, KY 42420

CARLA ALLDREDGE TRUST
1324 DYLAN CIRCLE
HENDERSON, KY 42420

DAVID A. CRUCE
1312 DYLAN CIRCLE
HENDERSON, KY 42420

LORI BROWN STARNES
901 WOLF HILLS BLVD.
HENDERSON, KY 42420

CERTIFICATE OF MAILING

I hereby certify that notice of the public hearing was given by mailing a copy of the attached notice letter, by first-class mail, postage prepaid, to those persons set out on the attached list, this the 19 day of July, 20 16.

Theresa A. Curtis

Sign

Theresa B. Curtis Ex. Asst. / Acct. Tech

Print name and title

- Newspaper advertisement receipt. (Attachment #4)

Attachment #4

Sales Rep: Sharon Alvey (E3405)

Phone: (270) 831-8338

Email: sharon.alvey@thegleaner.com

> Account Information

Date: 07/14/16
 Account Number: EXH76 / 120261
 Company Name: HENDERSON CITY/CO PLANNING COM
 Contact Name:
 Email: tcurtis@hendersonplanning.org
 Address: 1990 BARRET CT STE C, HENDERSON, KY, 42420
 Phone: (270) 831-1200 Fax: (000) 000-0000

> Insertion Information

This is a proof of your ad scheduled to run on the dates indicated below.
 Please confirm placement prior to deadline by contacting your account rep at (270) 831-8338 .
 Ad Id: 1181710 P.O. Number:
 Tag Line: PUBLIC NOTICE The Henderson City-Cou
 Start Date: 07/19/16 Stop Date: 07/19/16
 Number of Times: 1 Classification Location: 16090
 Publication: The Gleaner Total Cost: \$32.74

> Ad Proof

I agree this ad is accurate and as ordered.

PUBLIC NOTICE
 The Henderson City-County Planning Commission will hold a Public Hearing on Tuesday, August 2, 2016 at 6:00 P.M. in the third floor assembly room at the Henderson Municipal Center, 222 First Street. The following items will be heard:
 REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A- Submitted by Corman-McQueen Golf, Inc., and MBTJ, LLC/Bobbie Chambers for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse, PID #64-28.4), for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan to operate a banquet hall.
 Submitted by,
 Brian Bishop
 Executive Director
 Henderson City-County Planning Commission

Thank you for your business. Our commitment to a quality product includes the advertising in our publications. As such, Gannett reserves the right to categorize, edit and refuse certain classified ads. Your satisfaction is important. If you notice errors in your ad, please notify the classified department immediately so that we can make corrections before the second print date. The number to call is 812-461-1200. Allowance may not be made for errors reported past the second print date. The Evansville Courier & Press and the Henderson Gleaner may not issue refunds for classified advertising purchased in a package rate; ads purchased on the open rate may be pro-rated for the remaining full days for which the ad did not run.

Attachment #4

Sales Rep: Sharon Alvey (E3405)

Phone: (270) 831-8338

Email: sharon.alvey@thegleaner.com

> Account Information

Date: 07/20/16

Account Number: EXH76 / 120261

Company Name: HENDERSON CITY/CO PLANNING COM

Contact Name:

Email: tcurtis@hendersonplanning.org

Address: 1990 BARRET CT STE C, HENDERSON, KY, 42420

Phone: (270) 831-1200

Fax: (000) 000-0000

> Insertion Information

This is a proof of your ad scheduled to run on the dates indicated below.

Please confirm placement prior to deadline by contacting your account

rep at (270) 831-8338 .

Ad Id: 1188597

P.O. Number:

Tag Line: PUBLIC NOTICE The Henderson City-Cou

Start Date: 07/26/16

Stop Date: 07/26/16

Number of Times: 1

Classification Location: 16090

Publication: The Gleaner

Total Cost: \$31.86

> Ad Proof

I agree this ad is accurate and as ordered.

PUBLIC NOTICE

The Henderson City-County Planning Commission will hold a Public Hearing on Tuesday, August 2, 2016 at 6:00 P.M. in the third floor assembly room at the Henderson Municipal Center, 222 First Street. The following item will be heard:

Lot 2A Wolf Hills Golf Course Club House Area, Master Plan - Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC/Bobbie Chambers for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4), for approximately 5.688 acres. Applicants are requesting that the Golf Course Limited Use Restriction be removed from this 5.688 acres, subject to final approval of REZONING #1059.

Submitted by,

Brian Bishop
Executive Director
Henderson City-County
Planning Commission

Thank you for your business. Our commitment to a quality product includes the advertising in our publications. As such, Gannett reserves the right to categorize, edit and refuse certain classified ads. Your satisfaction is important. If you notice errors in your ad, please notify the classified department immediately so that we can make corrections before the second print date. The number to call is 812-461-1200. Allowance may not be made for errors reported past the second print date. The Evansville Courier & Press and the Henderson Gleaner may not issue refunds for classified advertising purchased in a package rate; ads purchased on the open rate may be pro-rated for the remaining full days for which the ad did not run.

- Planning Commission Agenda for August 2, 2016, and related documents as provided to the Planning Commission members in advance of the meeting: (Attachment #5)
 - Proposed Public Hearing and Meeting rules
 - Staff Report – Regarding Rezoning #1059
 - Pictures & Maps of property

HENDERSON CITY-COUNTY PLANNING COMMISSION AGENDA

TUESDAY, AUGUST 2, 2016 – 6:00 P.M.

*****MEETING TO BE HELD AT THE HENDERSON MUNICIPAL CENTER*****

222 FIRST STREET, THIRD FLOOR ASSEMBLY ROOM

2016 Planning Commissioners	Planning Commission Staff
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Herb McKee, Chairman
David Williams, Vice-Chairman
Bobbie Jarrett, Treasurer
Mac Arnold
Kevin Richard
Dickie Johnson
Gary Gibson
Rodney Thomas
David Dixon
Kevin Herron
Herb Pritchett
Gray Hodge

Executive Director, Brian Bishop
Assistant Director, Claudia Wayne
Executive Asst./Acct./GIS Technician, Theresa Curtis
Secretary Senior/ Address Technician, Heather Lauderdale
GIS Coordinator, Chris Raymer

Attorney, Tommy Joe Fridy

I. **ROLL CALL**

II. **PUBLIC HEARING ITEMS**

- **Approval of Minutes**
 - July 5, 2016 PC Minutes

A. REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT #2A-

Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC / Bobbie Chambers, for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, for approximately 5.688 acres. Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment – except, those having the principal character

of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

- B. Lot 2A Wolf Hills Golf Course Club House Area, Master Plan -** Submitted by Corman-McQueen Golf, Inc., Daniel McQueen, President and MBTJ, LLC/Bobbie Chambers for the property located in the City of Henderson at 800 Wolf Hills Blvd., (also known as the Player's Club Golf Course Clubhouse Area, PID #64-28.4), for approximately 5.688 acres. Applicants are requesting that the Golf Course Limited Use Restriction be removed from this 5.688 acres, subject to final approval of REZONING #1059.

III. NON-PUBLIC HEARING ITEMS

IV. ADMINISTRATIVE BUSINESS

V. OTHER BUSINESS

VI. ADJOURNMENT

PUBLIC HEARING AND MEETING RULES

If the Public Hearing and Meeting has not been sooner concluded and adjourned, it will stop at 9:00 P. M. and be recessed and reconvened the following night of Wednesday, August 3, 2016, at 6:00 P. M.; and likewise recessed at 9:00 P. M., and reconvened at 6:00 P. M., from night to night thereafter, until finished.

1. Those individuals, including attorneys and professionals, wishing to speak were asked to sign in at the door. The Planning Commission very much wants to hear your comments, positions, suggestions and questions.
2. There will be no time limit on attorneys and other professionals representing Applicants and supporters and opponents (those against). Attorney and professionals will be allowed to speak first, beginning with the applicants and supporters, then opponents, as their presentations may cover all or part of what others may want to say or ask.
3. Questions will be presented to the Chairman, and the Chairman will ask the question to the participant, questions may not be asked directly to another participant.
4. Each speaker who signed up at the door will **initially** be given 5 minutes to speak. Applicants and supporters will go first, then opponents. As more fully discussed below, additional 5 minute blocks will be allotted, after each round of speakers, until everyone has finished.
5. Speakers are asked not to repeat something another speaker has said, but you may come up and say they agree with one or more other speaker.
6. Commissioners may ask questions and get responses after each presenter is finished.
7. After everyone has had 5 minutes, if there are speakers who would like additional time, an additional 5 minutes will be given, and this procedure will be repeated, until everyone has had an opportunity to present all they desire to present.

8. After the repeated rounds of 5 minutes per person, by both those for and against, those who signed up may agree or disagree with what the other side said or presented, and to ask questions, for up to 5 minutes each. Again, there will be no time limit on attorney and professionals. This is an opportunity to rebut anything the other side said during the original presentations, not a time to repeat or introduce new information (new information may be introduced only to rebut something the other side said or presented). During this time those who signed up may present to the Chairman any questions they would like for the other side to answer.
9. Commissioners, but not participants, may call speakers back for clarity or further needed information, after both sides are finished.

The Chairman will ask for a motion, second, discussion and vote to approve or change the rules.



STAFF REPORT - REZONING #1059 WITH DEVELOPMENT PLAN

DATE: 8/02/2016

GENERAL INFORMATION

Applicant:	CORMAN-MCQUEEN GOLF, INC.	<u>Infrastructure</u>
Site Location:	800 WOLF HILLS BLVD.	Water: HWU 8"
PID#	PID#64-28.4	Sewer: HWU 8"
Applicant's Request:	General Business, with a Narrative Development Plan	Flood and Drainage: NOT IN SFHA
City/County limits:	City	
Current Zoning:	AGRICULTURAL (AG), golf course restricted	
Proposed Zoning:	GENERAL BUSINESS (GB), with Development Plan	
Size (in acres):	5.688 Acres	

ZONING DISTRICT INFORMATION

	<u>Current (County AG)</u>	<u>Proposed District (GB)</u>
Min. Lot Size	1 acre	N/A
Min. Lot Width	50 feet	50 feet
Front Setback	25 feet	25 feet
Side Setback	15 feet	8 feet
Rear Setback	25 feet	20 feet
Building Height:	N/A	45 FEET

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS

<u>Adjacent Zoning / Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning</u>	<u>Buffer required if rezoned</u>
North: AG, golf course restricted	Front: 25 Side: 15 Rear: 25	N/A
South: AG, golf course restricted	Front: 25 Side: 15 Rear: 25	N/A
East: R-2	Front: 25 Side: 8 Rear: 25	N/A
West: AG, golf course restricted	Front: 25 Side: 15 Rear: 25	N/A

PROPOSAL

Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment - except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.



STAFF REPORT - REZONING #1059 WITH DEVELOPMENT PLAN

ZONING

The existing Agricultural Zone (AG) with the use restricted to a golf course.

The Applicants are applying General Business zoning classification (GB), and have filed a narrative developing restricting the uses as set out above, if approved.

FUTURE LAND USE

Future Land Use Map of the Comprehensive Plan:

The Future Land Use Map of the Comprehensive Plan depicts this area developing as Parks and Recreation. The Future Land Use element of the Comprehensive Plan is not consistent with the proposed zoning of GB (General Business), with a Development Plan.

STAFF COMMENTS

- The Owners have stopped allowing golf to be played at the Player's Club Golf Course.
- The Henderson Codes Department will not allow the owners to operate the existing clubhouse structure as a banquet hall with the golf course being closed.

STAFF RECOMMENDATION

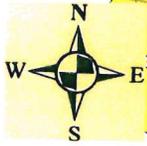
STAFF IS UNABLE TO MAKE A RECOMMENDS WITHOUT HEARING THE EVIDENCE FOR AND AGAINST.

As it is anticipated the evidence will be extensive, Staff recommends the Planning Commission close the public hearing and pass a motion either recommending approval or denial, or directing Staff to prepare proposed findings of fact, based on the record, to support the recommendation. That Staff's proposed findings be considered at it next regular meeting. Staff recommends the motion be worded in such a way that discussion at the next meeting be limited to the findings of fact supporting the recommendation; and, that the public hearing will not be reopened, therefore no input or testimony from the public will be heard; and that the recommendation for or against will not be revisited or reconsidered at the next regular meeting; and, that discussion will be limited to the content of the findings. A suggested form of Motion is attached.

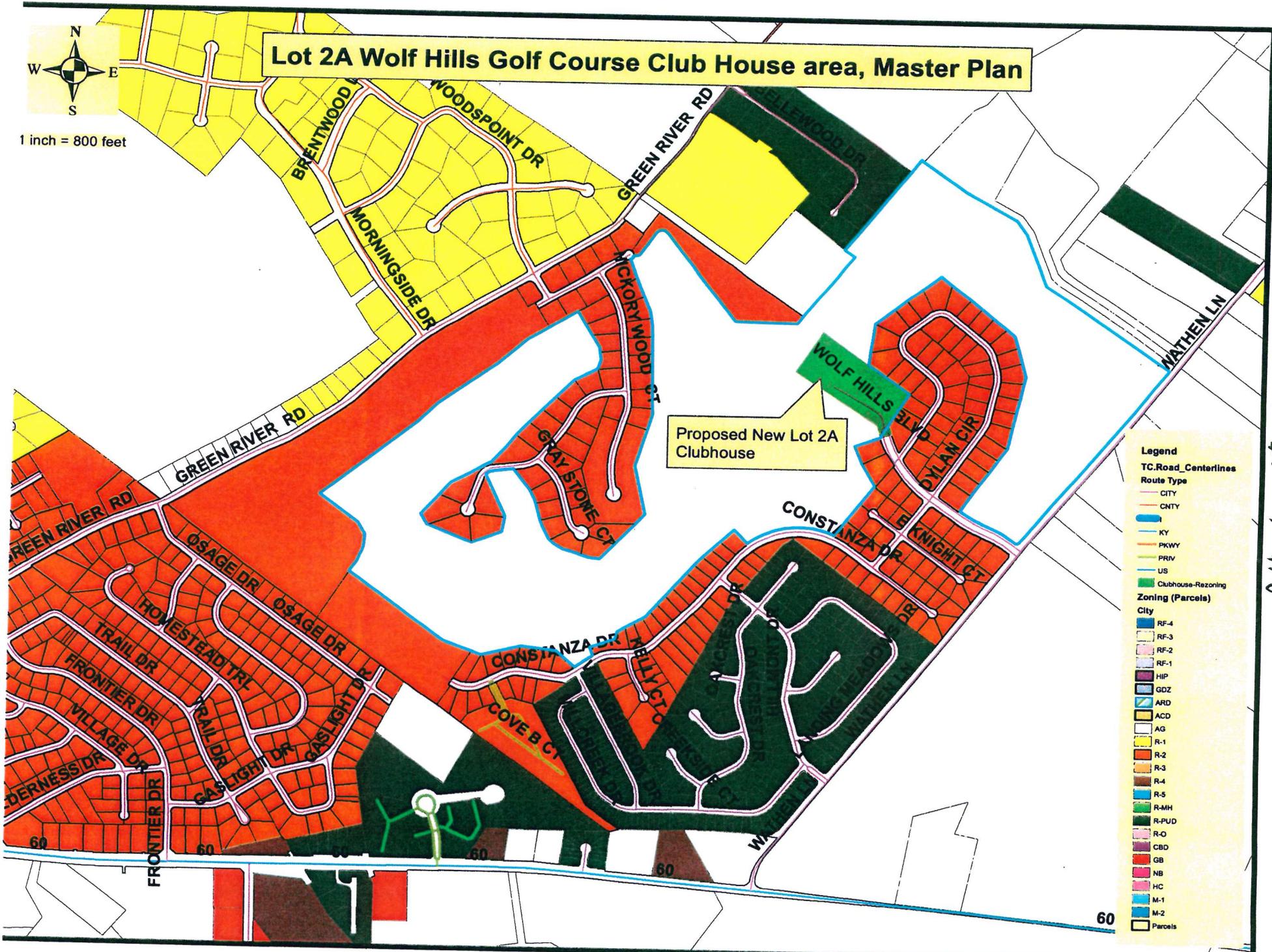
Date Advertised: 7/19/16

Date Posted: 7/19/16

Lot 2A Wolf Hills Golf Course Club House area, Master Plan



1 inch = 800 feet



- Legend**
- TC.Road_Centerlines
 - Route Type
 - CITY
 - CNTY
 - US
 - PRV
 - PKWY
 - KY
 - Clubhouse-Rezoning
 - Zoning (Parcels)
 - City
 - RF-4
 - RF-3
 - RF-2
 - RF-1
 - HIP
 - GDZ
 - ARD
 - ACD
 - AG
 - R-1
 - R-2
 - R-3
 - R-4
 - R-5
 - R-MH
 - R-PUD
 - R-O
 - CBD
 - GB
 - NB
 - HC
 - M-1
 - M-2
 - Parcels

A H... 11 E

REZONING #1059 WITH A NARRATIVE DEVELOPMENT PLAN FOR NEW
PROPOSED LOT #2A



SITE – FACING NORTH



SITE – FACING EAST



SITE – FACING SOUTH



SITE – FACING WEST

- Attendees at the Public Hearing were ask to sign it at the door. Four (4) pages of sign in sheets are attached and incorporated by reference. One sheet is for 4 professionals and the other 3 sheets are for 15 individuals. (Attachment #6)

MEETING SIGN-IN SHEET

Item: Rezoning #1059 (Player's Club Golf Course Clubhouse) New Proposed Lot #2A	Meeting Date: August 2, 2016
Facilitator: Planning Commission	Place/Room: Henderson Municipal Bldg. 3 rd Floor

Name (please print)	Address	Wish to speak? Yes/ No	For Rez. #1059?	Against Rez. #1059
WARREN ROBERG	3024 Field Stone			
Tammy Oxford	747 CONSTANZA	Yes		
A. Bruce Kanipe	681 CONSTANZA	yes		
Darren Spainhoward	509 Hickory Wood	yes		
DON KUESTER	739 ^{Court} CONSTANZA	?		
PAULA GERSOP	601 Hickory Wood Ct	?		
Bobbie Clark	7692 GRR	No		
Jim Marshall	1336 Dylan Circle	?		
Daniel McQueen	Nicholasville, Ky	yes		
Curt Hamilton	961 BELLE WOOD	YES		
EMILY Hamilton	961 BELLE WOOD	YES		

- Narrative Development Plan signed by MBTJ, LLC.
(Attachment #7)

NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT # 2A REZONING.

Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.688 acres to: 1) A catering establishment, 2) eating or dining establishment – except, those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapels or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

CORMAN-MCQUEEN GOLF, INC

SEE ATTACHED

Copy

MBTJ, LLC

*Debbie
Chambers*

RECEIVED JUL 2 2 2016

Page 1

Attachment #7

- Narrative Development Plan signed by Corman-McQueen Golf, Inc. (Attachment #8)

Unzoned

NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT # 1A REZONING.

Applicants are requesting a zoning change from Agricultural (AG) - Golf Course Restricted Use, to General Business (GB) with a narrative development plan. The Development Plan would limit or restrict the use of this 5.666 acres to: 1) A catering establishment, 2) eating or drinking establishment - except those having the principal character of a drive-in facility wherein food is served to the customer in his/her vehicle would not be permitted, 3) studio for music, dancing, or theatrical instruction, 4) wedding chapel or banquet halls, 5) nursing or day care facilities, 6) professional offices, 7) fruit and vegetable market, and, 8) accessory uses incidental to the above.

David H. McQueen, Pres.
CORMANACQUEN GOLF, INC

MBTJ, LLC

- Narrative development plan consent letter for changes made at the August 2, 2016 PC meeting with owners signatures **(Attachment #9)**



DORIN E. LUCK
DIRECT DIAL: (812) 759-3844
dorin.luck@skofirm.com

ONE MAIN STREET
SUITE 201
EVANSVILLE, IN 47708
MAIN: (812) 759-3800
FAX: (812) 759-3898

August 22, 2016

Brian Bishop
Director
Henderson City-County Planning Commission
1990 Barrett Ct., Suite C
Henderson, KY 42420

Re: Rezoning No. 1059, new proposed Lot 2A containing 5.688 acres

Dear Mr. Bishop:

This letter shall confirm that MBTJ, LLC and Corman-McQueen Golf, Inc. at the public hearing held August 2, 2016, for the rezoning of Lot 2A, did consent, to the following Narrative Development Plan to be incorporated into the Rezoning, to-wit:

NARRATIVE DEVELOPMENT PLAN FOR NEW PROPOSED LOT 2A CONTAINING 5.688 ACRES

REZONING NO. 1059

1. The property will be rezoned to General Business, limited however to the following uses permitted in a General Business zone under Section 19.02 of the City of Henderson Zoning Ordinances:

19.02(j)	Catering establishments.
19.02(ff)	Studios for music, dancing, or theatrical instruction.
19.02(ii)	Wedding chapels or banquet halls.
19.02(pp)	Accessory uses incidental to the above listed permitted uses.

2. Occupants or users of the property to be rezoned shall not play outdoor music past 10pm.

MBTJ, LLC and Corman-McQueen Golf, Inc. by this letter agree and consent that Rezoning No. 1059 will include and be governed by the above Narrative Development Plan for New Proposed Lot 2A.

Brian Bishop
August 22, 2016
Page 2

The Narrative Development Plan contained in this letter may be adopted by the Planning Commission in its Findings of Fact and Conclusions to be rendered in this rezoning.

Should you have any questions, please call.

Sincerely,



Dorin E. Luck

DEL:rgf

cc: Hon. Tommy Joe Fridy
MBTJ, LLC
Corman-McQueen Golf, Inc.

119448.153945/4551525.1



DORIN E. LUCK
 DIRECT DIAL: (812) 759-3844
 dorin.luck@skofirm.com

ONE MAIN STREET
 SUITE 201
 EVANSVILLE, IN 47708
 MAIN: (812) 759-3800
 FAX: (812) 759-3898

September 1, 2016

VIA FACSIMILE

Brian Bishop
 Director
 Henderson City-County Planning Commission
 1990 Barrett Ct., Suite C
 Henderson, KY 42420

Re: Rezoning No. 1059, new proposed Lot 2A containing 5.688 acres

Dear Mr. Bishop:

Enclosed with this letter you will find letters of August 22nd addressed to the Planning Commission, the letters executed by Mike Chambers, Member of MBTJ, LLC, and Daniel McQueen, President of Corman-McQueen Golf, Inc., as owners. By these letters each of the signatories stated that they consented to the implementation of the Narrative Development Plan for new proposed Lot 2A containing 5.688 acres, as a part of Rezoning No. 1059, as set forth in my letter to the Commission of August 22, 2016.

I have forwarded a copy of these letters to Tommy Joe Fridy, attorney for the Planning Commission.

Should you have any questions at all don't hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Dorin E. Luck".

Dorin E. Luck

DEL:rgf

cc: Hon. Tommy Joe Fridy
 MBTJ, LLC
 Corman-McQueen Golf, Inc. c/o David A. Franklin
 119448.153945/4554397.1

Attachment #9

August 22, 2016

Henderson City-County Planning Commission
Henderson, KY 42420

To the Henderson City-County Planning Commission:

The undersigned, a principal owner authorized to execute this Consent, states that the attached letter from Dorin E. Luck to the Henderson City-County Planning Commission dated August 22, 2016 setting forth the Narrative Development Plan for New Proposed Lot 2A containing 5.688 acres as a part of Rezoning No. 1059, is approved by Corman-McQueen Golf, Inc. to be adopted in conjunction with Findings of Fact and Conclusions to be rendered in Rezoning No. 1059.

Corman-McQueen Golf, Inc.

By *Daniel K McQueen*
Daniel McQueen, President

Attachment #9

August 22, 2016

Henderson City-County Planning Commission
1990 Barrett Ct., Suite C
Henderson, KY 42420

To the Henderson City-County Planning Commission:

The undersigned, a principal owner, authorized to execute this Consent, states that the attached letter from Dorin E. Luck to the Henderson City-County Planning Commission dated August 22, 2016 setting forth the Narrative Development Plan for New Proposed Lot 2A containing 5.688 acres as a part of Rezoning No. 1059, is approved by MBTJ, LLC to be adopted in conjunction with Findings of Fact and Conclusions to be rendered in Rezoning No. 1059.

MBTJ, LLC

By


Mike Chambers, Member

Attachment # 9

August 22, 2016

Henderson City-County Planning Commission
Henderson, KY 42420

To the Henderson City-County Planning Commission:

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Corman-McQueen Golf, Inc.

By Daniel H. McQueen
Daniel McQueen, President

Attachment #9

August 22, 2016

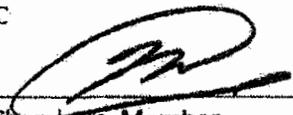
Henderson City-County Planning Commission
1990 Barrett Ct., Suite C
Henderson, KY 42420

To the Henderson City-County Planning Commission:

The undersigned, a principal owner, authorized to execute this Consent, states that the attached letter from Dorin E. Luck to the Henderson City-County Planning Commission dated August 22, 2016 setting forth the Narrative Development Plan for New Proposed Lot 2A containing 5.688 acres as a part of Rezoning No. 1059, is approved by MBTJ, LLC to be adopted in conjunction with Findings of Fact and Conclusions to be rendered in Rezoning No. 1059.

MBTJ, LLC

By


Mike Chambers, Member

Attachment #9

**UPCOMING
BOARD APPOINTMENTS**

<u>BOARD</u>	<u>EXPIRATION DATE</u>	<u>TERM</u>
--------------	------------------------	-------------

BOARD OF APPEALS (Housing & Building)

	<u>Current Term Expires</u>	<u>Term</u>
Gray Hodge	06/22/2016	4-Year

HENDERSON-HENDERSON COUNTY HUMAN RIGHTS COMMISSION

	<u>Current Term Expires</u>	<u>Term</u>
Darlene Ware	06/30/2016	3-Year