

CONCORD CITY COUNCIL  
REGULAR MEETING  
SEPTEMBER 14, 2023

A regular meeting of the City Council for the City of Concord, North Carolina, was held in the 3<sup>rd</sup> floor City Hall Council Chambers located at 35 Cabarrus Ave, W, on September 14, 2023, at 6:00 p.m. with Mayor William C. Dusch presiding.

Council members were present as follows:

**Members Present:**

Mayor Pro-Tem JC McKenzie  
Council Member Andy Langford  
Council Member W. Brian King  
Council Member Betty M. Stocks  
Council Member Terry L. Crawford  
Council Member Jennifer Parsley-Hubbard  
Council Member John A. Sweat, Jr.

**Others Present:**

City Manager, Lloyd Wm. Payne, Jr.  
City Attorney, Valerie Kolczynski  
Assistant City Managers  
Department Directors

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**Call to Order, Pledge of Allegiance, and Moment of Silent Prayer:**

The meeting was called to order by Mayor Dusch followed by the Pledge of Allegiance and a moment of silent prayer.

\* \* \* \* \*

**Approval of Minutes:**

A motion was made by Council Member Crawford and seconded by Council Member Sweat to approve the minutes for the meetings of July 25, August 8, and August 10, 2023—the vote: all aye.

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**Presentations:**

**Mayor Dusch presented a retirement plaque to Captain Duane Shinn for 29 years of service with the City of Concord.**

**Mayor Dusch presented a retirement plaque to Carson Carroll for over 16 years of service with the City of Concord Purchasing Department.**

**Mayor Dusch presented a Proclamation recognizing September 15 - October 15, 2023 as National Hispanic Heritage Month.**

**Mayor Dusch presented a Proclamation recognizing Saturday, September 30, 2023, as Concord International Festival Day.**

**During the September 12, 2023 Work Session, Mayor Dusch presented a Proclamation recognizing October 1-7, 2023 as Public Power Week.**

**Mayor Dusch presented the Award for Outstanding Achievement in Popular Financial Reporting and Triple Crown Award from the Government Finance Officers Association of the United States and Canada.**

The City is a Triple Crown winner for the third year in a row.

**Mayor Dusch recognized the City of Concord Finance Department for receiving the Certificate of Achievement for Excellence in Financial Reporting for period ending June 30, 2022.**

The City has received this award for 34 consecutive years.

### **Departmental Reports:**

#### **1. Downtown Streetscape Update**

The Planning and Neighborhood Services Department and Concord Downtown Development Corporation staff provided an update on the downtown streetscape project.

### **Recognition of Persons Requesting to be Heard:**

- Troy Taylor, 233 Union Street, addressed the Council in regards to the homeless situation in downtown Concord. Mr. Taylor stated he is the owner of Basement Arcade and is concerned with the safety of himself, his employees and fellow business owners. Mr. Taylor stated he has been threatened and had personal property destroyed as has other downtown business owners. He asked if additional police presence could be possible in the downtown until 10:00 pm to deter criminal activity.
- Jason Dolan, 5648 York Street, addressed the Council in regards to the Dorton Park renovations. He stated residents that reside on York Street are not in agreement with the new plan to construct the proposed additional restrooms along York Street in front of several homes. Residents are frustrated they did not receive notification of the change of the location of the proposed restrooms.
- Jim Hayes, 5616 York Street, also addressed the Council in regards to the Dorton Park renovations. He stated he is currently the Board President of the Afton Village Community Association. He stated the residents support the changes to Dorton Park but feel the relocation of the restrooms is a material adverse effect for the people living on York Street.
- Roland Jordan addressed the Council in regards to community issues he feels should be addressed.

### **Public Hearings:**

#### **1. Conduct a public hearing to consider adopting an ordinance amending the Concord Development Ordinance (CDO) Article 12 “Sign Standards” subsection 12.4.5 “Projecting Signs” and subsection 12.4.7.B “Window Signs” to address flexibility for projection and window signage in Center City.**

The proposed amendment aims to address the feedback staff received from business owners within the Center City zoning district regarding signage. While some of these proposed changes are applicable in the CC district, some are also applicable in other zoning districts. At their August 15, 2023 meeting, the Planning and Zoning Commission recommended the amendment to Council unanimously.

A motion was made by Council Member Crawford and seconded by Council Member Sweat to open the public hearing—the vote: all aye.

There was no one signed in to speak in favor or in opposition to the request. Therefore, a motion was made by Council Member Langford and seconded by Council Member King to close the public hearing—the vote: all aye.

A motion was made by Council Member King and seconded by Council Member Crawford to adopt the following Statement of Reasonableness and Consistency—the vote: all aye.

- The proposal is consistent with the 2030 Land Use Plan in that Section 5.2 (General Land Use Challenges and Opportunities) states that the City should maintain the community’s character and capitalize on the unique areas of Concord. Furthermore, Goal 8 notes that the City should responsibly recruit new business and support existing business.
- The proposal is reasonable in that it allows for the maintenance of the community’s character and showcasing the unique Downtown area of Concord.

A motion was made by Mayor Pro-Tem McKenzie and seconded by Council Member Crawford to adopt the following ordinance amending Concord Development Ordinance (CDO) Article 12

“Sign Standards” subsection 12.4.5 “Projecting Signs” and subsection 12.4.7.B “Window Signs” to address flexibility for projection and window signage in Center City—the vote: all aye.

ORD.# 23-93

AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE CITY OF CONCORD, NORTH CAROLINA

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by the North Carolina General Statute §160A-364 enacted an Official Zoning Ordinance for the City of Concord, North Carolina and the Area of Extraterritorial Jurisdiction on July 28, 1977; and

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by North Carolina General Statute §§160D-601 through 160D-605, 160D-701 through 160D-706, 160D-801 through 160D-808 and 160D-901 through 160D-951, may from time to time as necessary amend, supplement, change, modify or repeal certain of its zoning regulations and restrictions and zone boundaries; and

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by North Carolina General Statute 160D-601 through 160D-605, 160D-701 through 160D-706, 160D-801 through 160D-808 and 160D-901 through 160D-951 does hereby recognize a need to amend the text of certain articles of the City of Concord Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord, North Carolina:

SECTION 1: That the following section of Concord Development Ordinance (CDO) Article 12 “Sign Standards,” subsection 12.4.5 “Projecting Signs,” be amended in relevant part as set forth below:

12.4.5 PROJECTING SIGNS

B. Permitted Sign Location

Projecting signs may be displayed on any building wall where a wall sign is permitted to be displayed. Additionally, a projecting sign may be displayed at the intersection (corner) of two building walls.

D. Permitted Sign Area

Projecting signs may have an area of up to 16 square feet within the C-2, C-1, OI, B-1 and up to 12 square feet within the CC districts.

SECTION 2: That the following section of Concord Development Ordinance (CDO) Article 12 “Sign Standards,” subsection 12.4.7.B “Window Signs”, be amended in relevant part as set forth below:

12.4.7. INCIDENTAL SIGNS

B. Window Signs

The following standards shall apply to Window Signs:

1. Window signs may be displayed by any use which is permitted to display a wall sign.
2. Window signs shall only be permitted to be displayed on windows and doors on the first floor of each building frontage.
3. Address and hours of operation on windows shall not count in the calculation of window sign area.
4. If the storefront entrance is recessed, any signs applied to the glazing of the recessed doors and recessed windows shall count toward the calculation of window sign area.
5. In the Center City zoning district, window signs require a sign permit and are permitted to cover up to 20% of the glazed area of the first-floor building frontage on which they are located.

6. In all other districts window signs may occupy an area that is equal to the permitted area of wall signage allowed on each building frontage. Where both window and wall signage are displayed on the same building frontage, the combined area of all window and wall signs displayed on that frontage shall not exceed the 8% square footage limit as set forth in the Wall Sign standards in this Article.

SECTION 3: That this Ordinance be effective immediately upon adoption.

Adopted in this September 14, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim J. Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

### **Presentations of Petitions and Requests:**

#### **1. Consider appointing an Alternate Commission Member for the Electricities Non-Power Agencies Board of Commissioners. (Work Session)**

Action was taken and Oath of Office administered at the September 12<sup>th</sup> Work Session.

#### **2. Results of the virtual public hearing and request for Citizen input on New Federal Energy Standards**

A virtual public hearing was held from July 9<sup>th</sup> to August 4<sup>th</sup> to receive comments regarding Demand-Response (DR) Standards and Electric Vehicle (EV) Charging Standards as part of new requirements contained in the Federal Infrastructure Investment and Jobs Act of 2021, which amended Title I of the Public Utility Regulatory Policies Act (PURPA). The amendment to PURPA requires City of Concord Electric Systems to seek public input and hold a public hearing on DR and EV standards before November 15, 2023. The public hearing notice was advertised in The Independent Tribune July 9<sup>th</sup>, 12<sup>th</sup>, and 16<sup>th</sup> with a link provided on the City's website. Staff did not receive any responses from the virtual public hearing.

As amended, PURPA Section 111(d)(20) directs state regulatory commissions and non-regulated electric utilities, like the City of Concord's Electric Department, consider for adoption a very broad regulatory policy to promote demand response.

Staff recommended the final determinations on the implementation of the Demand-Response Practices standards and the Electric Vehicle Charging Program standards as follows:

- **Demand-Response Practices:** the City has already adopted programs that promote demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand. As the technology is available through advanced metering infrastructure (AMI), the City will consider additional programs that will promote demand-response and demand flexibility practices.
- **Electric Vehicle Charging Programs:** the City owns and operates five publicly available electric vehicle charging station locations. The City will continue to consider measures to promote greater electrification of the transportation sector as circumstances change and opportunities arise. As the technology is available through advanced metering infrastructure (AMI), the City will consider additional programs that will promote electric vehicle charging programs.

A motion was made by Council Member Parsley-Hubbard and seconded by Council Member Stocks to adopt the following resolution adopting the Regulatory Standards added to the PURPA by the Infrastructure Investment Act and Jobs Act of 2021—the vote: all aye.

RESOLUTION FOR THE SHALL CONSIDER REGULATORY STANDARDS ADDED TO THE  
PURPA BY THE INFRASTRUCTURE INVESTMENT ACT AND JOBS ACT OF 2021

WHEREAS, on November 15, 2021, the infrastructure Investment and Jobs Act of 2021 (“IIJA”) was enacted into law, amending the Public Utility Regulatory Policies Act 1978, as previously amended (“PURPA”), requiring both state-regulated electric utilities and certain non-regulated electric utilities (as defined under PURPA) to either consider or to establish a date to hold a hearing after public notice, within one year from the date of enactment (i.e., by November 15, 2022 thereof), following which the affected electric utilities are to consider the proposed standards hereto;

WHEREAS, on July 9, 2023, the City of Concord, a non-regulated utility, as that term is defined by PURPA, 16 U.S.S. 2602, initiated proceeding to make a determination whether or not it is appropriate for the City to implement either of the two new PURPA standards; and

WHEREAS, the amendments to PURPA require the City to consider and make a final determination as to whether it is appropriate to implement the standards related to the Demand-Response Practices and Electric Vehicle Charging Programs to fulfill the purposes of PURPA, which are to encourage the conservation of energy supplied by the City; to optimize efficiency of electric utility facilities and resources; and to facilities equitable rate for electric customers; and

WHEREAS, as part of its consideration, the City is required to hold a public hearing and issue a final determination, in writing, based upon the evidence presented at the hearing and upon findings specifically included in its written determination, and thereafter make a final determination available to the public; and

WHEREAS, the City gave public notice of a virtual hearing as advertised in *The Independent Tribune* on July 9<sup>th</sup>, 12<sup>th</sup>, and 16<sup>th</sup> along with the link being provided on the City’s website. The virtual hearing was conducted July 9, 2023 through August 4, 2023 at 5 P.M. This virtual public hearing allowed for written submitted comments; and

WHEREAS, the City of Concord Council is of the opinion that all hearing proceedings were conducted and notices provided in full compliance with PURPA; and

WHEREAS, in considering each of the two new PURPA standards the City of Concord Council must make a determination “whether or not it is appropriate to implement such standards to carry out the purpose of this title” pursuant to 16 U.S.C.A. 2621(a)(2006); and

WHEREAS, in making these determinations, the City of Concord Council has considered how the implementation of these standards might affect the City of Concord and its citizens in the area of encouraging energy conservation by citizens, making efficient use of facilities and resources, and maintaining equitable rates to customers, as well as conditions and circumstances specific to the City in reaching its conclusions; and

WHEREAS; the current and planned demand-response and demand flexibility programs of the City are programs that promote demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand, to the extent that the City is reasonably able to do so based upon information available and circumstances specific to operations of the City Electric System; and

WHEREAS, on this 14<sup>th</sup> day of September 2023, the City of Concord Council hereby issues its final determinations on the implementation of the Demand-Response Practices standards and the Electric Vehicle Charging Programs standard as follows, to-wit:

1. Demand-Response Practices: the City has already adopted programs that promote demand-response and demand flexibility practices by commercial, residential, and industrial customers to reduce electricity consumption during periods of unusually high demand. As the technology is available through advanced metering infrastructure (AMI), the City will consider additional programs that will promote demand-response and demand flexibility practices.
2. Electric Vehicle Charging Programs: the City owns and operates five publicly available electric vehicle charging station locations. The City will continue to consider measures to promote greater electrification of the transportation sector as circumstances change and opportunities arise. As the technology is available through advanced

metering infrastructure (AMI), the City will consider additional programs that will promote electric vehicle charging programs.

NOW, FURTHER THEREFORE, the City of Concord, having completed the mandatory consideration of these two standards, shall cause this final determination to be made available to the public by posting it on the City's website through and until December 31, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim J. Deason, City Clerk

**3. Consider approving clarification of terms for HOME agreement between STC Coleman Mill, LLC and Concord related to the rehabilitation of Coleman Mill.**

In April of this year, Council approved to increase the HOME allocation for the rehabilitation of Coleman Mill to \$770,000. After discussions with the developer, clarification is needed to complete the HOME agreement. First, the agreement will be between the City and STC Coleman, LLC, not Strategic TC Properties as approved by Council in April. This change is at the request of the attorney as STC Coleman, LLC will be the owner of the property. Second, part of the requirements for the National Parks Service required the number of units to be reduced from 152 to 150. North Carolina Housing Finance Agency just approved this change for the Tax Credit portion at the end of August. This change will not impact the seven (7) floating HOME designated units within the complex. Lastly, the term of the HOME repayment will need to extend to 20 years as the Tax Credit terms require that no repayment be made within three (3) years post -construction. There will be the same 2% simple interest, but repayment will not begin until year three (3) after the project is complete. The balloon repayment will be made at the end of year 20. This will result in the need to also extend the affordability period to match the same 20 years as the repayment.

These changes will have no impact on Concord's HOME funds earmarked for this project. The current time frame is to close the purchase of the property and the bond is in September. Construction would begin within a few weeks of closing. HOME funds would be requested in late 2023 and 2024.

A motion was made by Council Member Stocks and seconded by Council Member Crawford to approve clarification of terms for HOME agreement between STC Coleman Mills, LLC and Concord related to the rehabilitation of Coleman Mills—the vote: all aye.

**4. Consider approving construction of an aircraft viewing area for an Eagle Scout project at Fire Station 9.**

This request is from John Morrison with Troop 3 from First Presbyterian Church who is working on his Boy Scout Eagle Project. Mr. Morrison would like to construct approximately a 10' x 18' area with picnic tables on the property of Fire Station 9. This area could be a location for aviation enthusiast who would like to view planes at the airport. This also could be an area that users of the community room could sit outside and enjoy the outdoors. Fire department staff spoke with the Aviation and Building and Grounds Departments and each have no concerns with the project.

A motion was made by Mayor Pro-Tem McKenzie and seconded by Council Member Crawford to approve the proposed Eagle Scout project at Fire Station 9 as proposed by John Morrison—the vote: all aye.

**5. Consider allocating \$1,600,000 from the Affordable Housing Revolving Fund to WeBuild Concord to expand the Naturally Occurring Affordable Housing (NOAH) and community revitalization efforts and approve the attached budget amendment.**

As cited in WeBuild's recent newsletter, efforts have begun to purchase, rehab, or repurpose properties to provide affordable housing rapidly to people in danger of homelessness. All of the participants in NOAH's efforts have household incomes below 50% of the AMI. With infrastructure and sewer at a premium, revitalization of the neighborhoods can be completed without slowing down on housing production.

These efforts are in addition to the nine (9) new single-family builds on properties purchased from the City. Multi-family projects like the Lincoln Street Townhome Project (construction will begin after Labor Day) and the Kerr Street Church Project (proposals will be accepted at the end of September) are scheduled.

If approved, 100% of this allocation will be utilized for construction and rehab-related expenses. Also attached is the necessary budget amendment to appropriate these funds to WeBuild from the future projects account.

A motion was made by Council Member Parsley-Hubbard and seconded by Council Member Crawford to allocate \$1,600,000 from the Affordable Housing Revolving Fund to WeBuild Concord to expand the Naturally Occurring Affordable Housing (NOAH) and community revitalization efforts and to adopt the following budget amendment—the vote: all aye.

ORD. #23-101

**CAPITAL PROJECT ORDINANCE AMENDMENT  
Revolving Affordable Housing Projects**

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

SECTION 1. The project authorized is Affordable Housing – We Build.

SECTION 2. The City Manager is hereby authorized to proceed with the implementation and amendments of the projects within the terms of the plans and specifications for the projects.

SECTION 3. The following revenues are anticipated to be available to the City of Concord for the completion of the projects:

**Revenues**

<u>Account</u>	<u>Title</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>(Decrease) Increase</u>
_____				
_____				

SECTION 4. The following amounts are appropriated for the project:

**Expenses/Expenditures**

<u>Account</u>	<u>Title</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>(Decrease) Increase</u>
3700-5475100				
3700-5811082	We Build (CFEA) Future Projects	2,700,000 1,631,596	4,300,000 31,596	1,600,000 <u>(1,600,000)</u>
<b>Total</b>				<u><b>0</b></u>

SECTION 5. Accounting records are to be maintained by the Finance Department of the City of Concord in such manner as (1) to provide all information required by the project agreement and other agreements executed or to be executed with the various parties involved with the project; and (2) to comply with the Local Government Budget and Fiscal Control Act of the State of North Carolina.

SECTION 6. Within five (5) days after adoption, copies of this capital projects ordinance shall be filed with the City Manager, Finance Director, and City Clerk for direction in carrying out this project.

SECTION 7. The Finance Director is directed to report on the financial status of this project in accordance with the existing City policy, and shall also report to the City Manager any unusual occurrences.

Duly adopted by the City Council of the City of Concord, North Carolina this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ Valerie Kolczynski, City Attorney

**6. Consider approving the Concord Co-Sponsorship application for the Atrium Health and the Flywheel Foundations' Converge South event to be held October 5-6, 2023.**

The applicant is seeking in-kind services consisting of the following: Overnight Police patrol of their tent area on October 4, 2023 from 5pm-7am; Onsite Police Officer for the entire event site on October 5, 2023 from 7am-7pm; Overnight Police patrol of their tent area on October 5, 2023 from 7pm-7am; Onsite Police Officer for the entire event site on October 6, 2023 from 7am-5pm; and Cardboard waste boxes and removal by Solid Waste.

A motion by Council Member Crawford and seconded by Council Member Sweat to approve the Concord Co-Sponsorship application for the Atrium Health and the Flywheel Foundations' Converge South.

**7. Consider approving amending, extending and restating a nonexclusive franchise for operation of the CMS Landfill to BFI Waste Systems of North America, Inc.**

After several discussions with Republic Services over the last two (2) years concerning the life cycle of landfill, representatives from BFI have asked that several minor changes be made to the ordinance as the landfill space and timeline projected is diminishing. They are seeking to amend the terms of the life cycle of the landfill and extend the duration of the Franchise.

A motion was made by Council Member Crawford and seconded by Council Member Sweat to approve amending, restating and extending a nonexclusive franchise for operation of the CMS Landfill to BFI Waste Systems of North America, Inc and adopt the following ordinance on first reading—the vote: all aye.

ORD.# 23-98

**AN ORDINANCE FURTHER AMENDING, EXTENDING AND RESTATING A NONEXCLUSIVE FRANCHISE TO BFI WASTE SYSTEMS OF NORTH AMERICA, INC.**

Whereas, the disposal of municipal solid waste is a statutory responsibility and a fiscal concern of the City of Concord (referred to below as City or Franchisor); and

Whereas, the City disposes of its municipal solid waste at the sanitary landfill operated by BFI Waste Systems of North America, Inc., known as Charlotte Motor Speedway Landfill V (formerly known as BFI-CMS Landfill and CMS Development Corporation Landfill V), located in the City of Concord (the "CMS Landfill"). (BFI Waste Systems of North America, Inc. may be referred to below as Franchisee or BFI); and

Whereas, BFI Waste Systems of North America, Inc. is currently operating its CMS Landfill pursuant to permits and authorizations granted by the State of North Carolina; and

Whereas, pursuant to a Contract for Disposal of Solid Waste by and between the City, and CMS Development Corp. and Browning-Ferris Industries of South Atlantic, Inc. (the predecessors to BFI Waste Systems of North America, Inc. by merger), dated August 1, 1990 (the "1990 Solid Waste Disposal Contract"), and under its Solid Waste Management Plan dated January 31, 1992, the City has confirmed its plan to rely upon the CMS Landfill for the disposal of municipal solid waste generated within the City; and

Whereas, the City granted or renewed the Franchise to BFI Waste Systems of North America, Inc., on February 10, 2005 by ORD 05-07 (the "2005 Franchise") for the operation of the CMS Landfill, and restated and amended the 2005 Franchise for the operation of the CMS Landfill on November 12, 2009 by ORD 09-95 (the "2009 Franchise Amendment"); and

Whereas, the City now agrees to further restate, extend, and amend the 2005 Franchise for the operation of the CMS Landfill consistent with the City's Solid Waste Management Plan and the

terms contained in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED that the City Council of Concord, North Carolina:

Section 1. Pursuant to G.S. 160A-76, and G.S. 130A-294 et. seq., hereby further restates, extends, and amends the 2005 Franchise to BFI Waste Systems of North America, Inc., as previously amended and restated by the 2009 Franchise Amendment, to operate a sanitary landfill within the City of Concord, North Carolina, pursuant to the following terms:

(1) The 2005 Franchise, as amended by the 2009 Franchise Amendment, is for the operation of a sanitary landfill intended to receive ordinary household waste, commercial solid waste, industrial solid waste and special waste, including asbestos, ash and industrial processed waste, petroleum contaminated soil, wastewater treatment sludge, and such other non-hazardous waste as approved by the State of North Carolina.

(2) The geographic territory intended to be served by the sanitary landfill is the City of Concord, Cabarrus County, the State of North Carolina and the following counties in the State of South Carolina: Cherokee, York, Lancaster, Chesterfield and Chester; the population intended to be served is the population of the City of Concord, Cabarrus County, the State of North Carolina and the following counties in the State of South Carolina: Cherokee, York, Lancaster, Chesterfield and Chester.

(3) The duration of the 2005 Franchise, as amended by the 2009 Franchise Amendment and this amendment, is through the life-of-site of the CMS Landfill, but for a period not to exceed 60 years from the date of this amendment.

(4) The 2005 Franchise, as amended by the 2009 Franchise Amendment and this amendment, is a non-exclusive franchise for the operation of a sanitary landfill by BFI Waste Systems of North America, Inc. within the geographic boundary line of property currently owned or under option by BFI Waste Systems of North America, Inc. located at 5105 Morehead Road in Concord, North Carolina and described in Exhibit A, which depicts the expanded boundaries of the site (the "Site"); this franchise does not grant to Franchisee the exclusive right to operate a sanitary landfill within the city limits of Concord, and it does not grant to Franchisee a franchise to operate a sanitary landfill in any location outside the Site.

(5) In granting, further restating, extending and amending the 2005 Franchise, as amended by the 2009 Franchise Amendment, it is estimated that the operating capacity for the CMS Landfill as currently permitted or submitted for permitting is approximately 15.2 million tons. It is further estimated that Franchisee currently has contracts to receive approximately 99,000 tons per month. Pursuant to this 2005 Franchise, as amended by the 2009 Franchise Amendment, the Franchisee may accept an average of 120,000 tons of municipal solid waste per month each calendar year with a maximum monthly volume not to exceed 140,000 tons per month. Based on the current contracted and average tonnages, the projected useful life of the CMS Landfill ranges from approximately 7 years to 9 years. Consistent with the terms of their 1990 Solid Waste Disposal Contract, the Franchise Agreement made and entered into as of February 10, 2005 and the life-of-site term of this 2005 Franchise, as amended by the 2009 Franchise Amendment and this amendment, the parties intend for the City to be able to dispose of its solid waste at the CMS Landfill through the life-of-site of the CMS Landfill. Based on this intent, the contract terms and this amended Franchise, the parties recognize the potential for future expansion opportunities at the CMS Landfill and agree to continue in the future to work in good faith and in accordance with the terms of their agreements, this franchise and the requirements of applicable laws and regulations to fulfill their intent.

(6) The Franchisee is required to continue accepting for disposal municipal solid waste generated within the City of Concord, North Carolina, pursuant to the terms of the 1990 Solid Waste Disposal Contract, as that Contract may have been amended from time to time. Further, the Franchisee hereby agrees to provide airspace for the disposal of all residential municipal solid waste generated within the City of Concord, North Carolina through and including February 9, 2035. If the CMS Landfill should reach capacity before February 9, 2035 so that Franchisee could not continue to accept the monthly volume of waste at the CMS Landfill anticipated by this franchise and still provide airspace at the CMS Landfill for the disposal of all residential municipal solid waste generated with the City of Concord, North Carolina through and including February 9, 2035, Franchisee agrees to erect a transfer station on the Site and, if necessary, transport all residential municipal solid waste generated within the City of Concord, North Carolina to another location for disposal pursuant to law as required to meet the obligations of this paragraph. The erection of said transfer station and the transportation and disposal of all residential municipal solid waste generated within the City of Concord, North Carolina through and including February 9, 2035 shall be at the sole expense of the Franchisee. The City agrees to cooperate with the Franchisee in providing any required approvals and assist in obtaining all required authorizations for the siting of a transfer station.

(7) Host fees will be paid and managed during the active life of the Landfill as follows:

(a) With the exception of residential waste generated within the City of Concord, Franchisee will pay to the City a "Solid Waste Host Fee" of \$0.75 per ton of solid waste deposited in the Landfill.

(b) The City will place \$0.25 of each \$0.75 Solid Waste Host Fee" in an interest bearing account. This account will be maintained throughout the intended term of the franchise. At the expiration of this franchise, if Franchisee has met its obligation to provide to the City disposal for all residential waste generated during the term of the franchise, then all principal and interest contained in the account will be paid to Franchisee (or its successor). If Franchisee defaults on its obligation to provide to the City disposal for all residential waste generated during the term of this 2005 Franchise, as amended by the 2009 Franchise Amendment and this amendment, then the principal and interest contained in the account will be paid to the City.

(c) Franchisee will provide the funding necessary for the City to perform or contract to provide a curbside recycling collection program. Franchisee will pay to the City \$.90 per ton of solid waste disposed in the landfill, with the exception of residential waste generated within the City of Concord, for the City's recycling program (the "Recycling Host Fees"). Franchisee guarantees that the Recycling Host Fees paid are and will be in addition to the "Solid Waste Host Fees" described in sections 7 (a) and (b) above. Franchisee will pay to the City for the term specified Recycling Host Fees of no less than \$65,000.00 per month. Should the City be unable to secure a responsible contractor to provide for the collection of recyclables for the amounts stipulated in the preceding sentences in this sub-section (c), then Franchisee will at the City's option either: 1) Provide the required curbside recycling collection services; or 2) Increase the Recycling Host Fees to a commercially reasonable amount to pay for the cost of the required curbside recycling services. Additionally, each June 30, Franchisee will adjust these fees upward or downward, in an amount commensurate with the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (All Items) as published by the US Department of Labor, as of June 30 of the prior year.

(d) Solid Waste Host Fees and Recycling Host Fees shall be paid monthly, every twenty-one (21) days after the end of each calendar month during which Solid Waste has been accepted for disposal at the Landfill or at such other intervals as may be agreed to by the parties in writing. Franchisee will provide to the City a copy of its annual report to the State at the time the report is submitted to the State and, at the City's request, will make its daily log and supporting documents available for review at reasonable times and intervals.

(8) Nothing in this 2005 Franchise, as amended by the 2009 Franchise Amendment and this amendment, shall authorize Franchisee to modify the CMS Landfill in a manner which would cause the City of Concord to incur any additional capital expenditures in the provision or delivery of services to the CMS Landfill such as potable water, storm water, sanitary sewer, utilities or roads as a result of such modification, unless Franchisee agrees to pay all additional costs associated with delivering those services.

Section 2. That this Ordinance be effective immediately upon adoption at second reading.

Adopted on first reading this 14th day of September 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ Valerie Kolczynski, City Attorney

**8. Consider authorizing the City Manager to negotiate and execute a contract with Vortex Aquatic Structures International USA for equipment purchase, stamped drawings and associated equipment for the splash pad at Caldwell Park in the amount of \$272,550.15.**

City Council adopted the Master Plan for the renovation and redevelopment of the 24-acre Caldwell Park in June of 2020 and approved the design contract with Alfred Benesch & Company in March 2022. Construction drawings for the overall park project are being finalized, and staff requests authorization for the purchase of the splash pad equipment and the associated precise design plans prior to the bidding the park construction services.

The splash pad has been specifically designed for Caldwell Park, featuring accessible and interactive features including an award-winning Twin Splash iconic bucket feature. There are play area zones designed for teen and toddler age groups, with a family zone for all ages. The toddler zone includes an innovative water journey feature and a cascade table designed for sensory and motor skill development critical for that age group. The splash pad is 4,244 square feet, which can accommodate 170 children and adults comfortably at one time with extensive play value.

Vortex Aquatic Structures International USA is a national designer and vendor for aquatic recreational equipment; upon Council's authorization, the company will provide the splash pad features and plans for permitting. Vortex is part of the NPPGov national procurement cooperative and is thus eligible to be selected for sole-source procurement, providing a discounted price from list cost. Once approved, the design plans will be incorporated into the construction documents currently being prepared by the Alfred Benesch Company for the overall park design. Installation of the splash pad will be provided by the park's general contractor.

A motion was made by Council Member Stocks and seconded by Council Member Sweat to authorize the City Manager to negotiate and execute a contract with Vortex Aquatic Structures International USA in the amount of \$272,550.15 for equipment purchase, stamped drawings and associated equipment for the splash pad at Caldwell Park—the vote: all aye.

**9. Consider authorizing the City Manager to negotiate and execute a contract addendum #3 with Talbert Bright & Ellington, Inc (TBE) to provide professional engineering services for modification of the existing pump discharge piping to add new isolation valves, check valves, flow switches and to design an eyewash/hand-wash station.**

At the request of the Engineering Team, it was highly recommended to add some additional isolation valves and check valves to our existing fuel farm while designing the additional fuel tank. Since the Jet A tanks are all interconnected these improvement will provide additional safety measures. The funding for the addendum #3 will be from NCDOT-Aviation Improvement Program Grant.

A motion was made by Council Member Crawford and seconded by Council Member Parsley-Hubbard to authorize the City Manager to negotiate and execute a contract addendum with TBE in the amount of \$15,997 for the additional modifications to the fuel farm—the vote: all aye.

**10. Consider authorizing the City Manager to negotiate and execute a contract addendum with Talbert Bright & Ellington, Inc. (TBE) to provide special services for the preparation of documented categorical exclusion (CATX) for the North Apron Access Road and Sediment Trap Sand Filter.**

TBE was approved last year to provide professional services for the design and bidding of the North Apron Access Road. In June of this year, FAA issued guidance to all Airport District Offices, pertaining to FAA Section 163. Section 163 cover Land Use and Zoning along with change in use/Non- Aeronautical Land Use Requirements. The Federal Aviation Administration, Memphis ADO has determined a CATX is required for both the North Apron Access Road and Sediment Trap Sand Filter, based on Section 163. The funds for the addendum will be taken from NC-DOT Aviation Airport Improvement Program grants.

A motion was made by Council Member Sweat and seconded by Council Member Stocks to authorize the City Manager to negotiate and execute a contract addendum with TBE in the amount of \$9,998 for special services to conduct a CATX for the North Apron Access Road and Sediment Trap Sand Filter—the vote: all aye.

**11. Consider authorizing the City Manager to negotiate and execute a Non-Federal Reimbursable agreement with Department of Transportation, Federal Aviation Administration (FAA) for the widen of Runway 2/20 to accommodate the modification of the Medium Intensity Approach Light System with Runway Alignment Indicator Lights (MALSR)**

FAA has determined that Runway 2/20 needs to expand from 100' width to 150' width. As result of this determination, the MALSR has to be expanded from 13 lights to 18 lights to meet design standard for the wider runway. The airport will need to include in the project new foundations, light cans, in- pavement lights for expanded threshold bar. The airport will be responsible for the installation of a new duct system and cabling for the in-pavement lights. FAA Tech Ops will

be responsible for the design and oversight for this modification. Design work on these improvements will not start until sometime in FY24. The estimated cost for design and oversight is \$141,737.37. FAA Memphis ADO has indicated that these cost are eligible as part of the construction project and can be reimbursed as part of the construction cost. Construction for the widening of the runway is tentatively scheduled for Spring of 2025.

A motion was made by Council Member Crawford and seconded by Mayor Pro-Tem McKenzie to authorize the City Manager to negotiate and execute the Non-Federal Reimbursable agreement with DOT-Federal Aviation Administration for the modifications to the MALSR for the runway widening project—the vote: all aye.

**12. Consider authorizing the City Manager to negotiate and execute a contract with Talbert, Bright & Ellington, Inc. (TBE) to provide construction administration services for the paving of the North and South Gravel Parking Lot Paving.**

Aviation Department staff has been working with Federal Aviation Administration-Airport District Office and NCDOT-Aviation the last several years on necessary improvements to the North and South Gravel parking lots. In June 2023, Council authorized the City Manager to negotiate and execute a contract with JD Goodrum for the construction of those improvements. The proposed work authorization includes the following services: construction administration, quality assurance testing, as-built surveying, and Resident Project Representative. The Aviation Department has received a NCDOT-Aviation Airport Improvement Program grant to offset 100% of the cost.

A motion was made by Council Member Crawford and seconded by Council Member King to authorize the City Manager to negotiate and execute a contract with TBE in the amount of \$202,370 for construction administration oversight for improvements to the North and South Gravel Parking Lots—the vote: all aye.

**13. Consider authorizing the City Manager to negotiate and execute a contract with Talbert Bright & Ellington, Inc for construction administration for the Hangar Taxilane Rehabilitation project.**

The Aviation Department is requesting authorization to proceed with Construction Administration services for the Hangar Taxilane Rehabilitation with Talbert Bright & Ellington, Inc. (TBE). City Council approved the construction contractor in April 2023; Blythe Construction. The services include: construction administration, quality assurance testing, as built surveying and Resident Project Representative. The project is funded by Federal Aviation Administration and NC DOT-Aviation Airport Improvement Program Grants. The project will completely rehab all the taxilanes at Concord-Padgett Regional Airport. It is anticipated the project will take approximately 97 calendar days.

A motion was made by Mayor Pro-Tem McKenzie and seconded by Council Member Crawford to authorize the City Manager to execute Work Authorization (Construction Administration) for the Hangar Taxilane Rehabilitation with TBE and to adopt a budget amendment—the vote: all aye.

**14. Consider awarding the total bid for the City of Concord's Spring St S Ph 1 Concrete Road Replacement to Performance Managed Construction, Inc.**

This contract consists of the selected Contractor performing all necessary work to remove concrete roadway and repair curb and construct the proposed asphalt roadway from Wilshire to Fryling and performing other associated work as noted in the Spring Street Rehabilitation construction plans.

Three formal bids were received on August 30, 2023 with Performance Managed Construction, Inc. submitting the lowest total bid in the amount of \$2,252,240. Contract final completion date is 270 days from the Notice to Proceed.

A motion was made by Council Member Parsley-Hubbard and seconded by Council Member Sweat to award the total bid and authorize the City manager to negotiate and execute a contract with Performance Managed Construction, Inc. in the amount of \$2,252,240 for the Spring St S Ph 1 Concrete Road Replacement project—the vote: all aye.

**15. Consider Preliminary Applications from Kapricia Reid.**

In accordance with City Code Chapter 62, Kapricia Reid has submitted preliminary applications for water service at three separate parcels outside the City limits. The properties are located at 640 Piney Church Road, 4511 Zion Church Road, and 4735 Rufus Court. The property at 4511 Zion Church Road is currently developed with a single family home and the applicant proposes to development the other two properties with single family homes. All parcels are zoned LDR and City sanitary sewer is not available to the parcels.

A motion was made by Council Member Sweat and seconded by Council Member Crawford to accept the preliminary application and have the owner proceed to the final application phase excluding annexation for all three properties—the vote: all aye.

\* \* \* \* \*

The consent agenda items were presented for the Council’s consideration.

A motion was made by Mayor Pro-Tem McKenzie and seconded by Council Member King to approve the following consent agenda items—the vote: all aye.

**CONSENT AGENDA ITEM A**

The City Manager was authorized to execute the 2022 NCEM State & Local Cybersecurity Grant Program (SLCGP) agreement in the amount of \$96,171 and the following budget ordinance was adopted.

ORD.# 23-102

**AN ORDINANCE TO AMEND FY 2023-2024 BUDGET ORDINANCE**

WHEREAS, the City Council of the City of Concord, North Carolina did on the 8<sup>th</sup> day of June, 2023, adopt a City budget for the fiscal year beginning July 1, 2023 and ending on June 30, 2024, as amended; and

WHEREAS, it is appropriate to amend the expense/expenditures and the revenue accounts in the funds listed for the reason stated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord that in accordance with the authority contained in G.S. 159-15, the following accounts are hereby amended as follows:

<b>Account</b>	<b>Title</b>	<b><u>Revenues</u></b>		<b>(Decrease) Increase</b>
		<b>Current Budget</b>	<b>Amended Budget</b>	
100-4603000	Grant Proceeds	\$20,000	\$116,171	\$96,171
<b>Total</b>				<b>\$96,171</b>

<b>Account</b>	<b>Title</b>	<b><u>Expenses/Expenditures</u></b>		<b>(Decrease) Increase</b>
		<b>Current Budget</b>	<b>Amended Budget</b>	
4160-5800429	Grant Expenditures	\$0	\$96,171	\$96,171
<b>Total</b>				<b>\$96,171</b>

Reason: To appropriate the State and Local Cybersecurity Grant Program Fiscal Year 2022 awarded in the amount of \$96,171.

Adopted this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD

NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM B**

The following voluntary annexation ordinance was re-adopted to annex +/- 42.335 acres at 1085 Copperfield Blvd, part of PIN 5622-65-8770, owned by Copperfield, Inc.

ORD.# 23-94

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF CONCORD, NORTH CAROLINA TO INCLUDE +/- 42.335 ACRES OF PROPERTY LOCATED AT 1085 COPPERFIELD BLVD NE, CONCORD, NC

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 by the City of Concord, on September 14<sup>th</sup>, 2023 to annex the area described below; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petitions; and

WHEREAS, the City Clerk has certified the sufficiency of the petitions and a public hearing on the question of this annexation was held at Concord City Hall, 35 Cabarrus Avenue West, on August 10, 2023 after due notice by The Independent Tribune on May 28<sup>th</sup>, 2023; and

WHEREAS, the City Council finds that the petitions meet requirements of G.S. 160A-58.1;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord, North Carolina, that:

SECTION 1. By virtue of the authority granted by G.S. 160A-58.1, the following described territory is hereby annexed and made part of the City of Concord, as of the 14<sup>th</sup> day of September 2023:

*All those certain parcels of land, situated, lying and being in Cabarrus County, North Carolina, and more particularly described as follows:*

*Tract 1: Beginning at a computed point, said point being located on the northern right-of-way of Dickens Place NE (60' Public R/W), said point being located S 36°00'39" W 9.39 feet from a R/W Disk, thence with the northern right-of-way of Dickens Place NE (60' Public R/W) the following six (6) calls: (1) S 36°00'39" W 24.00 feet to a R/W Disk; (2) with a curve to the left, having a radius of 282.50 feet, an arc of 290.94 feet and a chord bearing and distance of S 01°04'16" E 278.25 feet to a R/W Disk; (3) S 30°34'36" E 220.00 feet to a R/W Disk; (4) with a curve to the right having a radius of 267.50 feet, an arc of 138.43 feet and a chord bearing and distance of S 15°45'10" E 136.89 feet to a R/W Disk; (5) N 88°57'00" E 64.95 feet to a R/W Disk; (6) N 06°20'56" W 63.22 feet to a R/W Disk, said disk being located on the southern right-of-way of Vinehaven Drive (60' Public R/W); thence with the southern right-of-way of Vinehaven Drive (60' Public R/W), the following two (2) calls: (1) N 41°58'28" E 91.84 feet to a R/W Disk; (2) N 66°40'01" E 138.85 feet to a calculated point; thence through the property of Copperfield, Inc. (Deed Bk. 8530, Pg. 49) the following three (3) calls: (1) S 23°18'22" E 89.69 feet to a calculated point; (2) S 20°48'20" W 143.75 feet to a calculated point; (3) S 72°38'00" E 263.79 feet to a calculated point, said point being located on the northern right-of-way of Copperfield Blvd. (Variable Public R/W); thence with the northern right-of-way of Copperfield Blvd. (Variable Public R/W) the following three (3) calls: (1) with a curve to the right, having a radius of 1362.70 feet, an arc of 918.21 feet and a chord bearing and distance of S 40°05'32" W 900.94 feet to a 1/2" rebar; (2) S 59°21'57" W 397.05 feet to a 1/2" rebar; (3) with a curve to the left, having a radius of 890.00 feet, an arc of 579.83 feet and a chord bearing and distance of S 40°45'49" W 569.63 feet to a 5/8" rebar, said rebar being a common corner with now or formerly CMC-Northeast, Inc. (Deed Bk. 7844, Pg. 23) thence with the property of now or formerly CMC-Northeast, Inc. (Deed Bk. 7844, Pg. 23), N 63°52'32" W 586.25 feet to a calculated point; thence through the property of Copperfield, Inc. (Deed Bk. 8530, Pg. 49) the following four (4) calls: (1) N 28°46'53" E 950.12 feet to a calculated point; (2) N 29°07'23" E 936.95.00 feet to a calculated point; (3) N 29°26'05"*

E 289.71 feet to a calculated point; (4) S 51°37'22" E 180.00 feet to the POINT AND PLACE OF BEGINNING and containing 37.415 AC.

Tract 2: Beginning at a ½" rebar, said rebar being located on the northern right-of-way of Vinehaven Drive (60' Public R/W), thence with the northern right-of-way of Vinehaven Drive (60' Public R/W) the following five (5) calls: (1) S 48°48'24" W 57.54 feet to a R/W Disk; (2) S 68°57'48" W 50.11 feet to a R/W Disk; (3) S 66°42'02" W 127.98 feet to a R/W Disk; (4) S 66°39'36" W 204.86 feet to a R/W Disk; (5) N 84°05'30" W 76.40 feet to a R/W Disk, said disk being located on the southern right-of-way of Dickens Place NE (60' Public R/W); thence with the southern right-of-way of Dickens Place NE (60' Public R/W) the following five (5) calls: (1) N 41°02'51" W 38.63 feet to a R/W Disk; (2) N 30°34'36" W 149.98 feet to a R/W Disk; (3) with a curve to the right, having a radius of 217.36 feet, an arc of 215.29 feet and a chord bearing and distance of N 02°12'32" W 206.60 feet to a R/W Disk; (4) N 26°28'10" E 34.31 feet to a R/W Disk; (5) N 37°45'57" E 41.96 feet to a 5/8" rebar, said rebar being a common corner with now or formerly MCRT3 Concord, LLC (Deed Bk. 11309, Pg. 206); thence with the property of now or formerly MCRT3 Concord, LLC (Deed Bk. 11309, Pg. 206), S 53°50'43" E 422.17 feet to a 5/8" rebar, said rebar being a common corner with now or formerly C & S of Concord, LLC (Deed Bk. 4339, Pg. 256); thence with the property of now or formerly C & S of Concord, LLC (Deed Bk. 4339, Pg. 256) N 89°54'59" E 199.46 feet to the POINT AND PLACE OF BEGINNING and containing 2.739 AC.

Street 1: Beginning at a 5/8" rebar, said rebar being located on the eastern right-of-way of Dickens Place NE, said rebar also being a common corner with now or formerly MCRT3 Concord, LLC (Deed Bk. 11309, Pg. 206), thence with the eastern right-of-way the afore mentioned right-of-way, twelve (12) calls: (1) S 37°45'57" W 41.96 feet to a R/W Disk; (2) S 26°28'10" W 34.31 feet to a R/W Disk; (3) with a curve to the left having a radius of 217.36, an arc of 215.29 feet and a chord bearing and distance of S 02°12'32" E 206.60 feet to a R/W Disk; (4) S 30°34'36" E 209.80 feet to a calculated point; (5) with a curve to the right, having a radius of 332.50, an arc of 182.13 feet and a chord bearing and distance of S 16°34'58" E 179.86 feet to a R/W Disk; (6) S 88°57'09" W 64.95 feet to a R/W Disk, said Disk being located on the western right of way of Dickens Place NE (60' Public R/W); thence with the western right-of-way of Dickens Place NE (60' Public R/W), (7) with a curve to the left having a radius of 267.50, an arc of 138.43 feet and a chord bearing and distance of N 15°45'10" W 136.89 feet to a R/W Disk; (8) N 30°34'21" W 220.00 feet to a R/W Disk; (9) with a curve to the right, having a radius of 282.50, an arc of 290.94 feet and a chord bearing and distance of N 01°04'16" W 278.25 feet to a R/W Disk; (10) N 36°00'39" E 33.37 feet to a R/W Disk; (11) N 37°29'31" E 62.81 feet to a ½" rebar; (12) thence crossing said right-of-way, S 35°06'28" E 63.15 feet to the POINT AND PLACE OF BEGINNING and containing 1.058 AC.

Street 2: Beginning at a R/W Disk, said R/W Disk being located on the southern right-of-way of Vinehaven Drive NE (60' Public R/W), said Disk being a common corner with the property of now or formerly Copperfield, Inc. (Deed Bk. 8530, Pg. 49), thence with the southern right-of-way of Vinehaven Drive NE (60' Public R/W) the following thirteen (13) calls: (1) N 29°57'27" W 69.99 feet to a R/W Disk; (2) N 75°59'46" W 61.50 feet to a R/W Disk; (3) S 66°40'01" W 378.20 feet to a R/W Disk; (4) S 41°58'28" W 91.84 feet to a R/W Disk; (5) with a curve to the left, having a radius of 332.50, an arc of 118.81 feet and chord bearing and distance of N 22°02'11" W 118.18 feet to a calculated point; (6) N 30°34'36" W 59.83 feet to a R/W Disk; thence with the northern right-of-way of the afore mentioned right-of-way, (7) S 41°02'51" E 38.63 feet to a R/W Disk; (8) S 84°05'30" E 76.40 feet to a R/W Disk; (9) N 66°39'36" E 204.86 feet to a R/W Disk; (10) N 66°42'02" E 127.98 feet to a R/W Disk; (11) N 68°57'48" E 50.11 feet to a R/W Disk; (12) N 48°48'24" E 96.15 feet to a R/W Disk; (13) N 33°42'27" E 78.46 feet to a R/W Disk, said Disk being located on the right-of-way of Copperfield Blvd. (80' Public R/W); thence with the right-of-way of Copperfield Blvd. (80' Public R/W) the following two (2) calls: (1) S 07°34'59" E 137.74 feet to a calculated point; (2) with a curve to the right, having a radius of 1362.70, an arc of 123.76 feet and a chord bearing and distance of S 04°31'02" W 123.72 feet to the POINT AND PLACE OF BEGINNING and containing 1.123 AC.

SECTION 2. Upon and after the 14<sup>th</sup> day of September, 2023 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Concord and shall be entitled to the same privileges and benefits as other parts of the City of Concord. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

SECTION 3. The Mayor of the City of Concord shall cause to be recorded in the office of the Register of Deeds of Cabarrus County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

SECTION 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Concord.

Adopted this 14<sup>th</sup> day of September 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM C**

The City Manager was authorized to negotiate and sign a contract for the purchase of the fire department apparatus using the Houston Galveston Area purchasing cooperative.

**CONSENT AGENDA ITEM D**

A grant submission to the Economic Development Agency, the Southeast Crescent Regional Commission, Golden Leaf, and USDA as grant cycles open for the redevelopment of the McGill Reuse Project was approved.

**CONSENT AGENDA ITEM E**

The offers of dedication on the following plat and easements were accepted: Christenbury Townhomes Phase 1 and Cannon Run Phase 2-A.

**CONSENT AGENDA ITEM F**

The offers of infrastructure at Dalton Woods Subdivision, Springs Business Park Phase 1, Oaklawn Subdivision Phase 2, Eli Lily fire line and Goodson Place water line extension were accepted.

**CONSENT AGENDA ITEM G**

A \$1,500 donation from the Mayor's Golf Tournament fund to Carolina Christmas Angels was approved and the following budget ordinance was adopted.

ORD.# 23-99

AN ORDINANCE TO AMEND FY 2023-2024 BUDGET ORDINANCE

WHEREAS, the City Council of the City of Concord, North Carolina did on the 8<sup>th</sup> day of June, 2023, adopt a City budget for the fiscal year beginning July 1, 2023 and ending on June 30, 2024, as amended; and

WHEREAS, it is appropriate to amend the expense/expenditures and the revenue accounts in the funds listed for the reason stated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord that in accordance with the authority contained in G.S. 159-15, the following accounts are hereby amended as follows:

Account	Title		<u>Revenues</u>		(Decrease) Increase
			Current Budget	Amended Budget	
100-4370000	Fund	Balance	7,247,544	7,249,044	1,500
	Appropriated				
		<b>Total</b>			<b>1,500</b>

**Expenses/Expenditures**

<b>Account</b>	<b>Title</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>(Decrease) Increase</b>
4190-5470043	Golf Tournaments	5,900	7,400	1,500
<b>Total</b>				<b>1,500</b>

Reason: To appropriate Mayor Golf Tournament reserves for a donation to Carolina Christmas Angels to assist with supplying gifts, food and clothing to families and children in need in Concord and Cabarrus County.

Adopted this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM H**

A \$2,400 donation from the Mayor's Golf Tournament fund to the Step Up To Leadership organization was approved and the following budget ordinance was adopted.

ORD.# 23-100

AN ORDINANCE TO AMEND FY 2023-2024 BUDGET ORDINANCE

WHEREAS, the City Council of the City of Concord, North Carolina did on the 8<sup>th</sup> day of June, 2023, adopt a City budget for the fiscal year beginning July 1, 2023 and ending on June 30, 2024, as amended; and

WHEREAS, it is appropriate to amend the expense/expenditures and the revenue accounts in the funds listed for the reason stated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord that in accordance with the authority contained in G.S. 159-15, the following accounts are hereby amended as follows:

<b>Account</b>	<b>Title</b>	<b><u>Revenues</u></b>		<b>(Decrease) Increase</b>	
		<b>Current Budget</b>	<b>Amended Budget</b>		
100-4370000	Fund Appropriated	Balance	7,245,144	7,247,544	2,400
<b>Total</b>					<b>2,400</b>

**Expenses/Expenditures**

<b>Account</b>	<b>Title</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>(Decrease) Increase</b>
4190-5470043	Golf Tournaments	3,500	5,900	2,400
<b>Total</b>				<b>2,400</b>

Reason: To appropriate Mayor Golf Tournament reserves for a donation to Step Up To Leadership to assist with their afterschool program.

Adopted this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM I**

The following Opioid Settlement Fund budget amendments were adopted to correct the adopted budget for this fund to be in compliance with this new guidance and also correct the amount to the actual amount of opioid settlement funds received prior to allocating future settlement payments to Cabarrus County.

ORD.# 23-103

CAPITAL PROJECT ORDINANCE  
Opioid Settlement Fund

BE IT ORDAINED by the City Council of the City of Concord, North Carolina that pursuant to Section 13.2 Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby amended:

SECTION 1. The Opioid Settlement Fund is no longer authorized by project ordinance.

SECTION 2. The Opioid Settlement Fund must be adopted by an operating budget ordinance.

SECTION 3. The following revenues are anticipated to be available to the City of Concord for the completion of the projects:

		<u>Revenues</u>		
<u>Account</u>	<u>Title</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>(Decrease) Increase</u>
340-4603500				
340-4603500	Opioid Settlement	1,464,853	0	(1,464,853)
<b>Total</b>				<b><u>\$(1,464,853)</u></b>

SECTION 4. The following amounts are appropriated for the project:

		<u>Expenses/Expenditures</u>		
<u>Account</u>	<u>Title</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>(Decrease) Increase</u>
3400-5811082				
3400-5811082	Future Projects	1,464,853	0	(1,464,853)
<b>Total</b>				<b><u>\$(1,464,853)</u></b>

SECTION 5. Accounting records are to be maintained by the Finance Department of the City of Concord in such manner as (1) to provide all information required by the project agreement and other agreements executed or to be executed with the various parties involved with the project; and (2) to comply with the Local Government Budget and Fiscal Control Act of the State of North Carolina.

SECTION 6. Within five (5) days after adoption, copies of this capital projects ordinance shall be filed with the City Manager, Finance Director, and City Clerk for direction in carrying out this project.

SECTION 7. The Finance Director is directed to report on the financial status of this project in accordance with the existing City policy. She shall also report to the City Manager any unusual occurrences.

Duly adopted by the City Council of the City of Concord, North Carolina this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

ORD.# 23-104

AN ORDINANCE TO AMEND FY 2023-2024 BUDGET ORDINANCE

WHEREAS, the City Council of the City of Concord, North Carolina did on the 8<sup>th</sup> day of June, 2023, adopt a City budget for the fiscal year beginning July 1, 2023 and ending on June 30, 2024, as amended; and

WHEREAS, it is appropriate to amend the expense/expenditures and the revenue accounts in the funds listed for the reason stated;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord that in accordance with the authority contained in G.S. 159-15, the following accounts are hereby amended as follows:

Account	Title	<u>Revenues</u>		(Decrease) Increase
		Current Budget	Amended Budget	
340-4603500	Opioid Settlement	\$0	189,910	189,910
<b>Total</b>				<b>189,910</b>

Account	Title	<u>Expenses/Expenditures</u>		(Decrease) Increase
		Current Budget	Amended Budget	
3400-5990000	Approp to Fund Balance	\$0	189,910	189,910
<b>Total</b>				<b>189,910</b>

Reason: To establish the Opioid Settlement Fund as an annually budgeted Special Revenue fund rather than a multi-year project fund due to recent guidance from the UNC School of Government.

Adopted this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM J**

The following Parks and Recreation Capital Reserve Project ordinance was adopted to close completed transfers.

ORD.# 23-97

PARKS & CAPITAL RESERVE FUND ORDINANCE  
AMENDED

BE IT ORDAINED by the City Council of the City of Concord, North Carolina that pursuant to Section 18-22 Chapter 159 of the General Statutes of North Carolina, the following Capital Reserve Fund ordinance is hereby amended:

SECTION 1. The purpose authorized is to accumulate funds for future capital projects and capital outlay. Funds will be accumulated until such time the City Council designates the funds for projects or capital outlay. These funds may only be designated for projects that are listed in the City’s Capital Improvement Plan or capital outlay approved in the City’s operating budget ordinance. The General Fund will serve as the funding source for the Capital Reserve Fund upon City Council approval and withdrawals must be approved by City Council through an ordinance.

SECTION 2. The City Manager is hereby authorized to proceed with the implementation and amendments of the project/projects within the terms of the plans and specifications for the projects.

SECTION 3. The following revenues & expenditures are anticipated to be available to the City of Concord for this fund:

<b>Account</b>	<b>Title</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>(Decrease) Increase</b>
8100-5987000	Transfer to Proj Fund	1,381,475	0	(1,381,475)
280-4501100	Transfer fm Gen Fund	3,396,903	2,015,428	(1,381,475)

SECTION 4. Accounting records are to be maintained by the Finance Department of the City of Concord in such manner as (1) to provide all information required by the capital reserve fund and (2) to comply with the Local Government Budget and Fiscal Control Act of the State of North Carolina.

SECTION 5. Within five (5) days after adopted, copies of this capital reserve fund amendments/adoption shall be filed with the City Manager, Finance Director, and City Clerk for direction in carrying out the purpose of this fund.

SECTION 6. The Finance Director is directed to report on the financial status of this fund in accordance with the existing City policy. She shall also report to the City Manager any unusual occurrences.

Duly adopted by the City Council of the City of Concord, North Carolina this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM K**

The following Utility Capital Reserve Project ordinance was adopted to close completed transfers.

**CAPITAL PROJECT ORDINANCE**  
Utility Project Reserves

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

SECTION 1. The project authorized and amended is utility project reserves.

SECTION 2. The City Manager is hereby authorized to proceed with the implementation and amendments of the project/projects within the terms of the plans and specifications for the projects. The purpose authorized is to accumulate funds for future projects and capital outlay that are listed in the Capital Improvement Plan listing or the City’s Operating Budget. Funds will be accumulated until such time the City Council designates the funds for projects. The Electric/Water/Wastewater Funds will serve as the funding source for the Utility Capital Reserve Fund upon City Council approval and withdrawals must be approved by City Council through an ordinance.

SECTION 3. The following revenues/expenditures are anticipated to be available to the City of Concord for the project:

<b>Account</b>	<b>Title</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>(Decrease) Increase</b>
282-4501610	Transfer from Electric	\$12,047,942	\$8,340,897	\$(3,707,045)
8120-5987000	Transfer to Proj Fund	\$3,707,045	\$0	\$(3,707,045)

SECTION 4. Accounting records are to be maintained by the Finance Department of the City of Concord in such manner as (1) to provide all information required by the grant agreement and other agreements executed or to be executed with the various parties involved with the project; and (2) to comply with the Local Government Budget and Fiscal Control Act of the State of North Carolina.

SECTION 5. Within five (5) days after adopted, copies of this grant project amendment shall be filed with the City Manager, Finance Director, and City Clerk for direction in carrying out this project.

SECTION 6. The Finance Director is directed to report on the financial status of this project in accordance with the existing City policy. She shall also report to the City Manager any unusual occurrences.

Duly adopted by the City Council of the City of Concord, North Carolina this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM L**

The following General Capital Reserve Project ordinance was adopted to close completed transfers.

CAPITAL RESERVE FUND ORDINANCE

BE IT ORDAINED by the City Council of the City of Concord, North Carolina that pursuant to Section 18-22 Chapter 159 of the General Statutes of North Carolina, the following Capital Reserve Fund ordinance is hereby adopted/amended:

SECTION 1. The purpose authorized is to accumulate funds for future projects and capital outlay that are listed in the Capital Improvement Plan Listing or the City’s Operating Budget. Funds will be accumulated until such time the City Council designates the funds for projects. The General Fund will serve as the funding source for the Capital Reserve Fund upon City Council approval and withdrawals must be approved by City Council through an ordinance.

SECTION 2. The City Manager is hereby authorized to proceed with the implementation and amendments of the fund.

SECTION 3. The following revenues are anticipated to be available/expenditures anticipated to be expended to the City of Concord for this fund & the following amounts are appropriated for the project:

		<u>Budget</u>	<u>Amended Budget</u>	<u>Inc (Dec)</u>
8150-5987000	To Project Fund	\$15,179,129	\$13,607,129	(\$1,572,000)
8150-5983000	To General Fund From General	\$4,280,700	\$0	(\$4,280,700)
285-4501100	Fund	\$30,120,332	\$24,267,632	(\$5,852,700)

SECTION 4. Accounting records are to be maintained by the Finance Department of the City of Concord in such manner as (1) to provide all information required by the capital reserve fund and (2) to comply with the Local Government Budget and Fiscal Control Act of the State of North Carolina.

SECTION 5. Within five (5) days after adopted, copies of this capital reserve fund amendments/adoption shall be filed with the City Manager, Finance Director, and City Clerk for direction in carrying out the purpose of this fund.

SECTION 6. The Finance Director is directed to report on the financial status of this fund in accordance with the existing City policy. She shall also report to the City Manager any unusual occurrences.

Duly adopted by the City Council of the City of Concord, North Carolina this 14th day of September, 2023.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ William C. Dusch, Mayor

ATTEST: /s/ Kim Deason, City Clerk

/s/ VaLerie Kolczynski, City Attorney

**CONSENT AGENDA ITEM M**

The addition of the Evidence Custodian (Grade 209) with a salary range of \$48,641.50 (minimum) - \$64,449.98 (midpoint) - \$80,258.48 (maximum) was approved.

**CONSENT AGENDA ITEM N**

The addition of the Evidence Custodian Supervisor (Grade 212) with a salary range of \$62,992.14 (minimum) - \$83,464.60 (midpoint) - \$103,937.04 (maximum) was approved.

**CONSENT AGENDA ITEM O**

The Tax Office collection reports for the month of July 2023 were accepted.

**CONSENT AGENDA ITEM P**

The Tax releases/refunds for the month of July 2023 were approved.

**CONSENT AGENDA ITEM Q**

The monthly report on status of investments as of July 31, 2023 was received.

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Council Member Crawford stated he would like to discuss the Afton Village issue that was brought up to the Council from Afton Village residents. He stated he feels a resolution should be decided on since the groundbreaking is scheduled to be held in two weeks.

Council Member King agreed. He stated he did not want to hold up the progress of the park renovations and, in his opinion, a restroom could be added at a later date. He proposed staff move forward with the renovations but eliminate the restrooms for now.

Council Member Crawford agreed with Council Member King but stated, in his opinion, the additional restrooms could be eliminated from the plan.

Council Member Langford stated he would be reluctant to eliminate the restrooms as this is a City park for all citizens to utilize. He stated community input from the survey showed the need for the restrooms. If the Council eliminates the restrooms it would be showing disregard for community input.

Mayor Pro-Tem McKenzie stated he agreed with Council Member King in regards to eliminating the restrooms and adding them at a later date if need be, but he would also support leaving the restroom in the proposed location if the majority of the Council feels the same.

Council Member Parsley-Hubbard agreed with Council Member Langford. She stated staff has made an effort for the restroom to fit into the façade of the community

Council Member Stocks agreed with Council Members Langford and Parsley-Hubbard.

The City Manager explained that citizen input is gathered when developing a Master Plan. From that input, the Master Plan is developed and brought before Council for approval. However, after the Plan is approved, the amenities may change based on the final design. In this case, the area where staff thought the restroom would be ideal is not feasible so the location of the restroom had to be relocated to the only place it could be located on City owned property. If staff has to gather citizen input with any changes to a Master Plan it would drastically slow down the construction of those projects.

Council Member Crawford stated, in his opinion, the residents of Afton Village should have been notified of the relocation of the restroom.

Mayor Pro-Tem McKenzie asked if, in the future, staff could bring the Master Plan bid document before Council with documented changes for Council to approve. The City Manager stated that could be done.

Council Member Sweat agreed with Council Members Langford, Stocks, and Parsley-Hubbard.

It was the consensus of the Council to move forward with the plan as is and keep the current location for the restroom. It was also the consensus of the Council to direct staff to notify the Council of any changes to Master Plans during the bid process.

The Mayor and Council stated they appreciated the Afton Village resident’s comments.

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There being no further business to be discussed, a motion was made by Council Member Crawford and seconded by Council Member Sweat to adjourn—the vote: all aye.

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William C. Dusch, Mayor

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Kim J. Deason, City Clerk