



October 22, 2013

T. Gray Hauser, Jr., PE
State Sedimentation Specialist
N. C. Department of Environment and Natural Resources
Division of Energy, Mineral and Land Resources, Land Quality Section
1612 Mail Service Center
512 North Salisbury Street
Raleigh, North Carolina, 27699-1612

Re: Town of Columbus/Henderson County Interlocal Agreement regarding
Administration of Soil Erosion and Sedimentation Control

Dear Mr. Hauser:

Please accept this letter and memorandum as the official request from the Town of Columbus to the N.C. Sedimentation Control Commission to allow administration of the Town of Columbus's local soil and erosion control program by the Henderson County engineering department.

The Town of Columbus took over the soil and erosion control program on a local level in 2007. At that time, the Town had two full-time staff to assist in administration of this program: a full-time planner and a town manager who was a trained building inspector. Currently, the Town of Columbus does not have a planner position at all and the town manager is not trained in building inspections and/or any other inspection fields.

The initial discussion regarding outside administration of the Town's local program began in June 2013 when the Town's part-time planner position was not funded for FY13-14. As a result, I began a review of the local program and met with staff from the Asheville regional office in conjunction with a previously planned review of the Town's local control program. It became apparent to me at this point that the Town could not adequately administer and maintain the program without significant liability and practical concerns.

I began a review of possible solutions, and quickly determined that the Town's best options were either contracting with another qualified local government for

administration or turning the program back to NCDENR. I initiated a meeting with Henderson County engineering staff, wherein it was determined that their staff could adequately administer the program for the Town. I also spoke with Matt Poling from the State central office regarding the Town's options on July 11, 2013, and Mr. Poling indicated that any decision by the Town to seek administration by another agency would need to be submitted to the Commission for approval, after an interlocal agreement had been signed by the two local governments. Mr. Poling also indicated that the Town could ask for the State to take the program back over. I presented these dual recommendations to the Town Council at their July 2013 meetings, as well as a third option that included hiring town staff and/or securing additional training for current town employees.

The Town Council directed staff unanimously to develop an interlocal agreement with Henderson County for the administration of our local program. The Council felt like the close proximity of Henderson County officials to Columbus would not result in any delays to applicants requesting plan review or inspections, and that the experience and training of the professional engineer overseeing this program would preclude the Town from facing liability issues that might arise from unqualified individuals administering the program. Further, the Council believed that Henderson County's administration of soil and erosion programs in other Henderson County municipalities enabled them to adequately and appropriately handle the Town's program.

If approved, Henderson County's administration of Columbus's local control program will not adversely impact customers or citizens of either locality. There will be no fee increases to those applying for applications with the Town of Columbus. The fees charged by the Town of Columbus are adequate enough to cover the costs associated with Henderson County's administration, including their mileage to and from Columbus for site plans and inspections.

I have personally worked with Natalie Berry (Assistant County Engineer and director of the local control program) on how this program will be implemented, and have seen her excellent internal organizational system. This system will ensure that Columbus's permits and needs are met just as efficiently as she currently oversees the programs for every other jurisdiction, including Flat Rock, Laurel Park, and Hendersonville. It is 18.3 miles one-way from the Engineering Department in Hendersonville to Town Hall in Columbus. By way of example, it is 10 miles from the Engineering Department to the Fletcher Town Hall, in Fletcher, NC, and certainly there are other farther distances in Henderson County that Ms. Berry may be called to inspect.

While it is certainly an out of the box idea to solicit help from another local government outside of our County, the Town feels in this instance it is warranted. Neither Polk County, nor any other municipality in Polk County, has their own local program. Henderson County staff is experienced and willing to assist the Town in this work, and will provide a local contact with effective and efficient turnaround on permits and inspections. Henderson County staff has worked to ensure they are able to provide the Town with this service, and believe they are able to do so without sacrificing any service

to their current customers. Both boards unanimously support this interlocal agreement and implementation of this program, and believe it is in the best interest of both local governments to proceed in this manner.

The Town appreciates and understands the concern of the Division that this would place too great a burden on Henderson County staff, but their own staff has assured the Town and their own commissioners that they are able to handle this additional workload. Also, the Town has had very few permitted projects in the last three years (approximately four) and does not foresee this changing anytime soon. The Town Council has acknowledged the fact that once development increases and more permits are sought the Town may need to hire a full-time planner to handle this workload. In the interim, however, the Town is simply not able to accommodate this expense and would prefer working with an experienced local government to administer our program.

The Town of Columbus appreciates the opportunity to present the Commission with this innovative solution while still continuing our local control program and not straining the resources of NC DENR's soil and erosion control specialists. We believe this represents a win-win scenario for the Town's customers and will provide a clear example of problem-solving and collaboration among local governments in North Carolina, regardless of geographical boundaries.

We look forward to discussing this in greater detail with the Commission, and appreciate this item being placed on the agenda for the November 7th Commission meeting. Attached to this letter, you will find a copy of the signed interlocal agreement between both the Town of Columbus and Henderson County. Please note that the effective dates for the agreement are not filled in – this is a result of each jurisdiction understanding that the Commission must approve this agreement before it is effective.

Please do not hesitate to let me know if you require further information or have additional questions.

Sincerely,



Jonathan B. Kanipe
Columbus Town Manager

Enc: Interlocal Agreement between
Town of Columbus and Henderson County
regarding Soil and Erosion Control

C: Natalie Berry, Henderson County Assistant County Engineer

**INTERLOCAL AGREEMENT BETWEEN TOWN OF COLUMBUS AND
HENDERSON COUNTY REGARDING ADMINISTRATION OF SOIL EROSION
AND SEDIMENTATION CONTROL ORDINANCE**

This agreement is made and entered into this the ___ day of _____, 2013, by and between the Town of Columbus, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina, hereinafter referred to as "TOWN," and Henderson County, a political subdivision of the State of North Carolina established and operating pursuant to the laws of the State of North Carolina, hereinafter referred to as "COUNTY";

WHEREAS, pursuant to N.C. Gen. Stat. § 113A-60(a), TOWN has adopted an ordinance relating to soil erosion and sedimentation control, hereinafter referred to as the "Ordinance"; and

WHEREAS, preventing accelerated erosion and sedimentation is important to protect our water sources and public and private property; and

WHEREAS, environmental stability is crucial to ensure the economic and ecological strength of TOWN; and

WHEREAS, TOWN is subject to the state and federal environmental laws; and

WHEREAS, current TOWN staff are not trained to administer the Ordinance, but COUNTY staff have the expertise to administer soil and erosion control ordinances and are currently administering COUNTY's Soil Erosion and Sedimentation Control ordinance within all unincorporated areas of and four municipalities in Henderson County; and

WHEREAS, TOWN desires for COUNTY to administer the Ordinance within TOWN's corporate limits and COUNTY is willing to perform such administration on the terms set forth herein;

WITNESSETH that TOWN and COUNTY, pursuant to the authority granted by North Carolina General Statutes §160A-461, hereby covenant and agree as follows:

1. TOWN hereby contracts with COUNTY to use the services of COUNTY's Engineering Department to administer the Ordinance within TOWN's corporate limits. As such, COUNTY shall be deemed to serve as the Columbus Town Manager's designee for purposes of administering the Ordinance as is allowed by § 152.06 (Q) of the Ordinance.
2. TOWN shall provide assistance to COUNTY's enforcement officers whenever necessary.

3. All fees and charges associated with administering the Ordinance, shall be collected by TOWN and shall be the sole property of TOWN.
4. TOWN shall reimburse COUNTY for all documented costs incurred by COUNTY in the enforcement of the Ordinance plus a ten percent (10%) administration fee.
5. TOWN's Council shall hear all appeals under the Ordinance and a COUNTY enforcement officer shall attend any such Town Council hearing.
6. The initial term of this Agreement shall be for a period of six (6) months, commencing on the 1st day of _____, 2013, and terminating on the ____ day of _____, 2014. Either party may terminate the Agreement at the end of the initial term. Thereafter, this Agreement shall automatically renew for a successive six-month term at the end of each term unless notice is given by either party at least four (4) months prior to the end of the current six-month term that the party wishes to terminate the Agreement at the end of the current term. This Agreement may be terminated at any time upon mutual agreement of both parties.
7. Should any claims arise out of the services provided by COUNTY under this Agreement, TOWN agrees to indemnify and hold COUNTY, its employees, agents and contractors harmless from any and all claims for liability, loss, injury, damages to persons or property, costs or attorney's fees resulting from any action brought against COUNTY, its employees, agents, contractors and Commissioners arising as a result of these services performed on behalf of TOWN that are the subject matter of this Agreement, except where such claims result from actionable acts of negligence by COUNTY.
8. COUNTY will use every effort to enforce the Ordinance, except that if any civil or criminal action becomes necessary, TOWN shall bring any legal action as may be required to effectively enforce said Ordinance, upon written notice from COUNTY of such violations. TOWN shall collect any civil penalties assessed pursuant to the Ordinance.
9. This Agreement may only be modified in a writing executed by both parties.

IN WITNESS WHEREOF, TOWN has caused this Agreement to be signed in its name by its Mayor, attested by its Clerk, and its Official Seal to be hereunto affixed, and COUNTY has caused this agreement to be signed in its name by the Chair of the Board of Commissioners and attested by the Clerk of its Board and its Official Seal to be hereunto affixed, the day and year first above written.

TOWN OF COLUMBUS

By Eric McChesney, Mayor

ATTEST Devon Jackson, Clerk

HENDERSON COUNTY

By Chad Spivey, Chair, Board of Commissioners

ATTEST Alma L. Williams, Clerk