

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**November 19, 2025**

**1. Call to Order and Roll Call:**

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 2:00 pm, Wednesday, November 19, 2025. Chairman Vebaun presided with the following members present: Bryson, Dearth, Lapsley, Manheimer, Pelly, Pennington, Player, Tarleton, Watts, Whitesides and Wisler. Ashley and Moore were absent.

Others present were William Clarke, General Counsel; Daniel Gougherty with Cherry Bekaert; Patty Beaver with CIBO; Anabel Winitzky with American Rivers; Todd Johnson, John Wilhoit; Aaron Babson, and Ruth Borgmann with Hazen & Sawyer; Warren Sugg and Jesse Gardner with Civil Design Concepts; Jesse Swords, Derek Allen, Drew Levin and Landon Walls with the Pinner's Cove Development; Tom Hartye, Hunter Carson, Bart Farmer, Scott Powell, Darin Prosser, Mike Stamey, Derrick Swing, Samuel Gettleman, Spencer Nay and Pam Nolan, MSD.

**2. Inquiry as to Conflict of Interest:**

Mr. VeHaun asked if there were any conflicts of interest with the agenda items. No conflicts were reported.

**3. Approval of Minutes of the October 15, 2025 Board Meeting:**

Mr. VeHaun asked if there were any changes to the Minutes of the October 15, 2025 Board Meeting. Ms. Wisler moved for approval of the minutes as presented. Mr. Whitesides seconded the motion. Voice vote in favor of the motion was unanimous.

**4. Discussion and Adjustment of Agenda: None.**

**5. Introduction of Guests:**

Mr. VeHaun welcomed guests from Cherry Bekaert, CIBO, American Rivers; Hazen & Sawyer and the Pinner's Cove Development.

**6. Informal Discussion and Public Comment: None.**

**7. Report of Committees:**

**a. Right of Way Committee – October 22, 2025.**

Mr. Hartye reported that the Right of Way Committee met on October 22, 2025 and discussed the Consideration of Compensation Budget for the ITT Pump Station and Consideration of Condemnation for Logan Avenue Sewer Rehabilitation. Prior to the meeting Right of Way Staff was able to settle and obtain signatures for Logan Avenue so no further discussion was necessary on that item. Committee made a recommendation to approve the Compensation Budget for the ITT Pump Station Project.

**8. Report of General Manager:**

Mr. Hartye introduced Daniel Gougherty with Cherry Bekaert to give a presentation of the audit.

Mr. Gougherty reported that the audit was performed within the generally accepted auditing standards and government auditing standards all in which to form an opinion that financial statements are free from material misstatements. For the first time, they performed a Federal Grant Audit. MSD received assistance as it relates to Disaster Relief Funds from FEMA. In terms of those funds anything is tested that has been obligated so anything that FEMA has gone through, done a thorough review on, been approved and has been spent. Anything that has not been obligated will be tested in a future year once that has been obligated. In terms of the compliance audit, the Federal Government had not issued a compliance supplement. Cherry Bekaert audits off of that compliance supplement so they cannot formally issue their reports until that compliance supplement is issued. What is looked for is that MSD is in compliance with the agreement so anything that the grant says you can spend it on, you are spending it on those allowable costs and that you have controls in place to be sure you are spending it on the appropriate items. As of today, auditors have no findings related to this and it is 95% complete. Auditors just need to go through the quality review process. In terms of the financial statements there is an unmodified opinion, also known as a clean opinion, which is the highest level of opinion that can be given under auditing standards. Within the audit, if any corrected or uncorrected business statements that management might need to make or did make during the audit are found, those need to be communicated. None were identified that needed to be corrected or that were corrected during the audit. There was one expected uncorrected item, not a mistake or miss, relating to the implementation of the new GASB Standard for GASB 101. There was an increase in sick leave accrual based on how you are supposed to account for it more likely than not to be used. That resulted in a \$2.4 Million increase. That \$2.4 Million is reflected in the current year where it should have been reflected as a restatement. Due to the amount not being material to the financial statement as a whole when you look at the whole balance sheet it was decided to just post that into the current year. There were no new policies or any related party transactions in the current year. Additionally, we look for any significant or unusual transactions and there were none. Significant estimates are a critical part of any financial statements, there are a number of things such as capital assets, pensions, other post-employment benefits, compensated absences, that rely on estimates that are being made. Based on those inputs, auditors looked at those and they were being abided by consistently every year. There were no issues on any of those estimates. Financial statements are consistent, clear, and neutral. Cherry Bekaert is an external auditor, so they are required to be independent. We did not provide any additional services, we are independent from the District. There were no difficulties or disagreements with Management encountered. They were not aware of any consultations management held with any other firm and neither did they have any consultations internally with any other group. Cherry Bekaert does request certain representations from management and have a management representation letter. There were no items they saw that were fraudulent or illegal during the audit nor up until the date the report was issued. GASB that will be applicable in the coming year will have a small change in how some things look in the annual comprehensive financial report.

Management's discussion and analysis will change slightly in terms of presentation and there will be more emphasis on what resulting changes mean. GASB 104 is disclosures on capital assets and will be tweaked a bit from how it is presented. Within the audit within North Carolina one of the requirements is for them to look at the Local Government Commission indicators. Cherry Bekaert is not to that point yet. In the past there have not been any performance indicators noted that were a concern and do not expect any. There were no late debt service payments. There were no statutory violations noted. The District has been able to grow Capital Assets without growing debt for the last 8 or so years. The District has done well with keeping the revenue in line with expenses. Mr. Gougherty expressed their appreciation to Scott Powell and Cheryl Rice in terms of getting all of their help in getting this completed. This has been a more thorough audit than we have had in the past, and they have been willing to give us information we needed when we needed and have done so kindly. There were no questions.

[http://www.msdbc.org/documents/annual reports/FY2024.pdf](http://www.msdbc.org/documents/annual%20reports/FY2024.pdf).

Mr. Hartye reported that MSD is in the preliminary engineering stages for two very large projects at the Treatment Plant for which Design-Build would be the most beneficial form of delivery. MSD's consultant, Hazen & Sawyer, will give a brief presentation on this method.

Todd Johnson with Hazen & Sawyer reported that MSD has interest in using progressive Design-Build in lieu of traditional Design-Bid-Build to capitalize on some of the benefits from the delivery model. He began by reviewing progressive Design-Build and traditional Design-Bid-Build. The District has two very large, complex capital improvement projects coming up, the Solids Handling Project and the Biological Process Improvements, both of which are being looked at for progressive Design-Build for various reasons. Some of the benefits that are gained with this delivery model is that you can get a contractor on board during design so you can benefit from the ingenuity that they bring to a project. They can help with maintenance and plant operations, scheduling, but based on real time pricing that is not just an estimate but real time experience. There are more and more wastewater projects being delivered through progressive Design-Build and contractors are very interested in that delivery model. Some places are having trouble getting bids on projects. These projects warrant having the best contractors on board and you will get that interest through this delivery model. Mr. Johnson reviewed some of the differences between the different delivery models. Traditional Design-Bid-Build is what you are used to. An engineer designs 100%, then you prepare plans and specs, put it out for bid, receive bids and hopefully multiple bids, not just one or two, then you select the most responsible bidder at the lowest price. Construction Management At-Risk (CMAR) involves similar contractual arrangements but you hire a contractor during the design phase, and you have separate contracts. A CMAR in NC is not allowed to self-perform, they are limited in their ability to control cost, quality, and scale so it's not really used in North Carolina much. Progressive Design-Build (PDB) involves one contract. Some of the benefits that can be brought to your project are that there is one contract instead of two, with an off ramp. It is collaborative with improved communication, you have your contractor in the room in the room helping with the design and participating, you will have fewer change orders, early risk identification and mitigation, putting the risk in the appropriate

hands. You can get started early with construction, overlapping the construction and design phases so you can enhance the schedule. The owner is at the table the whole time with the engineer and contractor. Cost and pricing is transparent, and you can see all of the numbers. What Hazen-Sawyer will do as an owner's advisor in this first project, the Solid's Handling Project, is help with procurement, with the RFP process, with getting a design builder on board, help get the contract, help work through the design, help with a review of design concepts and technical aspects of the project. One very important piece is that Hazen & Sawyer will be the ones that are helping get to that fair price and helping the District get to where you are confident that it is a fair price. We will basically be an extension of District Staff. Your contractor and engineering team is at the table designing your project. In relation to the off ramp, when it is time to get to a Guaranteed Maximum Price (GMP) or a lump sum, there are different ways to do this. The contractor will bring all of their prices, they are going to open the books and show you where problems may exist or where cost is a little higher than originally thought. Hazen & Sawyer, as owner's advisor, and the District, will look at this pricing. We will drill down into production rates, subsistence costs, hotel rooms, etc. and make sure, before this is presented this to this Board, that this is a fair price and we need to be able to make sure that you are comfortable that it is a fair price. If you're not comfortable with the price there is this "off ramp" where you can complete the design and then send it out for bid. When you sign that first contract, which is an "Appropriate Scope and Fee" to get to a price, you are not locked into having to bid the rest of the project, you have leverage. Hazen & Sawyer has been a part of twenty Design-Build teams in the State of North Carolina. Three of those projects were for Charlotte Water, University Park WWTP at Pennsylvania State University and the HRSD Swift Indirect Potable Reuse. Some of the benefits they see are increased opportunities for collaboration and innovation, the overall project life-cycle is condensed, there is a transfer of risk from owner to Design-Builder, a reduction of change orders during construction and actual interest in the work from qualified contractors on bidding large scale, critical projects. Ms. Wisler asked if the owner Owner's Advisor bases their fee on total cost of the project or hours. Mr. Johnson stated that it is based on hours. When the scope and fee is done, it will show hours. It's not going to be a percentage of construction value. Ms. Wisler stated that he said an Owner's Advisor is sort of an extension of staff. She asked if he had any suggestions for the District that they work with as to any changes within their own internal engineering or administrative departments to make this process a little better or more efficient, when they haven't ever done this. Mr. Johnson stated that the biggest thing and something that is different is the pace. Many times clients think they want to do Design-Build to speed a project up and get completed faster. That means the client has to act faster too. When a Design-Builder is working based on a decision being made there needs to be a certain level of confidence that the decision you make is going to be carried forward. Often times if there is a shift in that decision it can affect the project. There is a little bit of difference in the pace and being committed to make a decision. Mr. Hartye added that there is also the purchasing policy that will have to be looked at. There is plenty of information already in the State Statutes that addresses this form of delivery and MSD will be incorporating those into our Purchasing Policy. This will be the first critical thing to change internally. Ms. Wisler asked just to be clear if the Design-Builder typically isn't one company, but sort of a consortium and the Design-Build team is typically a lot of companies. Mr. Johnson stated it is typically at least a contractor and an engineer. Mr. Lapsley added that Henderson County switched their



method for their larger projects, one being \$30 Million to a current courthouse project at \$170 Million, from the standard to the construction manager risk. That has worked extremely well and there is a significant difference between building a school or a courthouse. While each of those had their special features, it's entirely different than trying to build a water or wastewater treatment plant. He stated that he agrees with the suggestion that progressive Design-Build is probably more suited to MSD type projects than they are to general government school or office building. He stated that he would support this change. Mr. Hartye stated that sometimes MSD has had bad experiences with the low bidders and when you get to critical projects like our solids in the middle of the plant that could go south pretty quickly so you do want good partners and good contractors. Mr. Lapsley stated that in his experience, the contractor is going to team up with the designer, the contractor is going to put the bond up to guarantee the price and sign the contract so they want to make sure they can get a good designer that is going to look after them and do things right and not get them in a jam. There is every reason to believe they are going to get a good team together and we are going to get a good product. Mr. Hartye added that MSD wanted to do this primer because we are slowly getting into this and will probably be coming back with the Owner's Advisor recommendations for the larger treatment projects.

Mr. Hartye reported that the next Regular Board Meeting will be held on December 17, 2025 at 2 pm. The November Right of Way Committee meeting is cancelled. The next Right of Way Committee meeting will be held on January 28, 2026 at 9 am.

**9. Consolidated Motion Agenda:**

**a. Consideration of Compensation Budget – ITT Pump Station:**

Mr. Hartye reported that the Right of Way Committee recommends approval of the Compensation Budget.

**b. Consideration of Developer Constructed Sewer Systems – Arden Pines; Asheville Airport Tracon and ATCT (Terminal Radar Approach Control and Air Traffic Control Tower); Busbee Phase 1A; Crestview Street; Dulce Lomita Community; Fairhaven Summit; Hawthorne @ Holbrook; Mountain Home Dunkin Donuts; Rockberry Apartments; Westview Village:**

Mr. Hartye reported that the Arden Pines project is located along Atrium Trail in Buncombe County and included extending approximately 2,020 linear feet of 8-inch public gravity sewer to serve 244 multi-family units.

Mr. Hartye reported that the Asheville Airport Tracon and ATCT project is located along Westfeldt Road in Buncombe County and included extending approximately 1,205 linear feet of 8-inch public gravity sewer to serve the on-site construction.

Mr. Hartye reported that the Busbee Phase 1A project is located along Sweeten Creek Road in Buncombe County and included extending approximately 1,325 linear feet of 8-inch public gravity sewer to serve 179 multi-family units.

Mr. Hartye reported that the Crestview Street project is located along Crestview Street in the City of Asheville and included extending approximately 204 linear feet of 8-inch public gravity sewer to serve 5 single-family units.

Mr. Hartye reported that the Dulce Lomita Community project is located along Gatewood Road in Buncombe County and included extending approximately 1,177 linear feet of 8-inch public gravity sewer to serve 6 existing single-family units. These were previously served by failing septic tanks. The project qualified for the District's Failing Septic Tank Reimbursement Program making it eligible for 10 years of estimated revenue generated by user fees. The estimated revenue is \$18,936 and was approved by the MSD Board on October 18, 2023. Per MSD Policy, District staff also provided design, easement acquisition, and construction administration services. MSD included 6 additional services to include future customers along the 1,177 linear foot route and agreed to reimburse Dulce Lomita for those at \$25,494. The existing community also qualified for Affordable Housing Development Fee rates, which is a reduction. Staff recommends acceptance of this project and disbursement of \$44,430.00 to Dulce Lomita, LLC.

Mr. Hartye reported that the Fairhaven Summit Apartments project is located along Sweeten Creek Road in the City of Asheville and included extending approximately 530 linear feet of 8-inch public gravity sewer to serve 77 multi-family units.

Mr. Hartye reported that the Hawthorne @ Holbrook project is located along Crowell Road in Buncombe County and included extending approximately 1,876 linear feet of 8-inch public gravity sewer to serve 350 multi-family units.

Mr. Hartye reported that the Mountain Home Dunkin Donuts project is located along Asheville Highway in Henderson County and included extending approximately 211 linear feet of 8-inch public gravity sewer to serve the proposed Dunkin Donuts and existing post office.

Mr. Hartye reported that the Rockberry Apartments project is located along Rockwood Road in Buncombe County and included extending approximately 2,420 linear feet of 8-inch public gravity sewer to serve 420 multi-family units and commercial space.

Mr. Hartye reported that the Westview Village project is located along Huffman Road in the City of Asheville and included extending approximately 824 linear feet of 8-inch public gravity sewer to serve 26 single-family units.

Staff recommends acceptance of the aforementioned developer constructed sewer systems. All MSD requirements have been met.

**c. Presentation of Audit & Annual Report – FY ended June 30, 2025:**

Mr. Powell reported that Domestic User Fees are above budgeted expectations. This was due to a budget adjustment to reflect anticipated decrease pertaining to Tropical Storm Helene. Industrial User Fees above budgeted expectations due to higher-than-expected septic discharges. Facility and Tap Fees are above

budgeted expectations due to receiving revenue from various developers. O&M Expenditures are at 87.2% of budget. This is due to budget adjustments for utility and insurance costs that did not materialize. Capital expenditures were less than budget due to project delays from Tropical Storm Helene.

**d. First Quarter Budget to Actual Review FY 2026:**

Mr. Powell reported that Page 39 presents the District's First Quarter Budget to Actual Revenue and Expenditure report. Domestic User Fees and Industrial User Fees are above budgeted expectations. Facility Fees and Tap Fees are above budgeted expectations due to development. Interest and miscellaneous income are above budgeted expectations. Actual short-term interest rates are higher than anticipated for the fiscal year as well as FEMA receipts. O&M expenditures are at 29.8% of budget. They include encumbered amounts which has elevated the budget to actual above 25%. Bond principal and interest expenditures are at 83.55%. This is due to the principal and interest expenditures as of July 1. Capital project expenditures are at 79.8% of budget. They include encumbered amounts. Actual expenditures are at \$11.4 Million or 20.2% of budget.

**e. Cash Commitment Investment Report – Month ended September, 2025:**

Mr. Powell reported that Page 42 presents the makeup of the District's Investment Portfolio. There has not been a significant change in the makeup of the portfolio from the prior month. Page 43 presents the investment manager's report as of the month of September. The weighted average maturity of the investment portfolio is 64 days. The yield to maturity is 4.21%. Page 44 presents the District's variable debt service report. The 2008 series bonds are performing at budgeted expectations. As of the end of October, the issue has saved the District rate payers approximately \$8 Million in debt service since April, 2008.

With no further discussion, Mr. VeHaun called for a motion to approve the Consolidated Motion Agenda. Ms. Wisler moved, Mr. Pelly seconded the motion. Roll call vote was as follows: 12 ayes; 0 nays.

**10. Developer Appeal for Private Pump Station and Force Main to serve Subdivided Property:**

Mr. Hartye reported that at the October 10, 2025 Planning Committee representatives from Pinners Cove Subdivision appeared to appeal MSD's requirements for connecting to the sewer system. The Planning Committee passed a motion to continue discussion amongst the full Board at this meeting today. The original submittal for this development seeking an allocation came back in 2021 and there have been several iterations since. MSD's extension policies are guided by the Collection System Master Plan that was approved by the MSD Board in 2008. That document provides guidance for the orderly expansion of the collection system. Along with adoption of that plan were several new policies identifying how MSD would financially assist with expansions pursuant to that plan. Included in this Board packet is all of the relevant information, along with the full transcript of the Planning Committee Hearing. Mr. Hartye turned the meeting over to Mr. Carson to provide slides and details regarding MSD's Policies and Procedures. Mr. Carson

reported that the Pinnars Cove Subdivision is located in South Asheville at the intersection of Mills Gap Road and Sweeten Creek Road and is a 175-acre parcel. The owner is KLP Pinnars EAT LLC, and they purchased this property in 2021. They are currently proposing to put 266 single-family units on the property. MSD's extension policy states that the District will only consider Gravity Sewer extensions to the existing District Sewerage System. MSD does not want pump stations if we can achieve gravity sewer service to the property. As Mr. Hartye stated, in 2008 MSD did a collection system master plan which shows gravity service options to various undeveloped properties. If the District has a subdivided property with multiple ownerships, we want it to be served by a public infrastructure, not a private infrastructure. Gravity is always preferred over pump stations because pump stations are mechanical systems that do fail, typically pump stations are located at the lower end of a development so when pump stations fail, they typically result in sanitary sewer overflows (SSO's). They are expensive to operate, they have electricity running to them, and they require frequent maintenance and inspections which equates to labor hours and visits to each of the sites. Sometimes these things don't always happen. MSD has a lot of scenarios out there where that has not happened. MSD's System Services Department is aware of quite a few pump stations and private systems that have not gotten the attention, funding, or maintenance and inspections that they should have received. Those have failed over the years and are in poor condition. Most of those are multi-ownership situations. That's why there is the policy that if it is subdivided and owned by multiple entities, we want it served by a public sewer extension. MSD policy is intended to maintain a single point of ownership and responsibility and ultimately to protect public health and water quality. In July of 2021, MSD received a request from this developer to site a public pump station on their property. As mentioned previously there is a Collection System Master Plan which identifies master plan gravity alignment that can serve this property. It is lengthy but it is achievable. Furthermore, we definitely do not want developers to dictate where we have public pump stations. That should be a decision made by MSD staff. Due to gravity being achievable and not wanting a pump station just to serve this one development, MSD did deny that request. The developer was offered two (2) sewer service options. One option was a public pump station but sited quite a bit further down the basin which would allow a service area that is much bigger than the development alone. The other option, which is allowed in our policy, was a private pump station, but that would not allow subdivision of the property. They would have to keep the 175-acre parcel as one unit so they could do 266 rentals. Those are the two options they were given. There is no public infrastructure in that basin so in order to have a private pump station they would have to extend public sewer from the west side of the property and then pump up to that public sewer extension. The developer ultimately selected the private pump station option but later requested to subdivide the property. Based on policy, MSD denied that request. There have been three (3) appeals made by the developer. Per MSD policy, after those appeals, developer appeals directly to the Planning Committee. This is what took place on October 10, 2025. The Planning Committee Meeting lasted about 1 ½ hours. Developer requested to subdivide the lots into 266 units under individual ownership that would be for sale but to serve those lots with a private sewer system. That does not agree with MSD Policy. However, developer is proposing to build the private sewer system to MSD public standards which would include appropriate pipe size, appropriate access, easements that would be

presumably conveyed to a third-party operator. They are proposing that the private collection system and the pump station be owned and operated by a third-party entity. MSD is not sure who that would be but Carolina Water is one company that comes to mind who is a contract operator so it could be similar to that. Another peculiar piece of this is that they are also suggesting a policy change that would include the requirement of a conservation easement. They are proposing to put over 100-acres of their property in a conservation easement. By implementing this policy change it would eliminate a lot, probably most, of other projects from being able to meet that requirement. Developer is suggesting that third-party ownership does meet the spirit of MSD's policy but having thought about this scenario, staff does have some concerns. In the Planning Committee Meeting, Ms. Manheimer brought up the potential of slow growth of the development. It is obviously going to cost this third-party owner/operator to operate and maintain the system so what happens if the development is slow to grow. They may have only 5-20 houses that are using the system. Pump stations have to be maintained weekly at a very minimum so where will the funding support come from for this third party if there are very few houses within the development? What happens if that third party owner goes belly up? What does that transfer of ownership look like? That would probably take some amount of time so during that transition period there could be no operation and maintenance happening. Regarding the general quality of operation and maintenance, this third-party entity is going to be a for-profit company. Mr. Carson stated that the ones he has personally seen are contract operations. They have cut corners to save on costs, so he believes that in the future there is a greater likelihood of MSD having to intervene in these systems and be asked to take them over. This has happened on multiple private pump stations and collection systems in the past. It will also equate to higher sewer bills for people in that development. Not only will they be paying the third-party owner/operator for their services, but they will be paying MSD's fees as well. Those fees will definitely be higher than MSD's fees alone. Not only that but they will still be on a private system so they will be receiving fewer services through MSD. They cannot call on MSD to come repair the lines if they have a blockage or other issues. Regarding the conservation easement requirement, Mr. Carson stated that it was his opinion that if we do allow that requirement and go to the effort of changing policy to include that requirement, MSD could have future pressure to remove that from policy. Having a third-party owner/operator and that one single entity responsible for the system is one thing but if that is only applicable to developments that have a 100-acre conservation easement we will see pressure in the future to change the policy again. There are some pros to the proposed scenario. There would be a single ownership entity. Because it is a private pump station and collection system it would be permitted through DEQ, not through MSD, and DEQ would require a certified Operator in Responsible Charge (ORC) so that's one person who is responsible for the operation of that system. They are proposing to build to MSD Public Standards. Additionally, with the conservation easement, not very many developments are going to be able to convey over 100 acres into a conservation easement so that is somewhat of a pro. It's going to eliminate most developments from meeting these requirements. Mr. Carson stated that in summary, he thinks that there are three different options. The first option, and Staff's recommendation, is to deny the appeal and honor current MSD Policy which would go back to the two sewer service options they were provided before, either the private pump station with no subdividing of the property or they can subdivide the property

and build a public pump station further downstream that MSD has located at 455 Mills Gap Road. That option would allow them to subdivide and sell these lots. The second option is a public pump station on their site but make it such that it can serve a larger upstream portion of Robinson Creek. Mr. Carson stated that he would not suggest that personally. The third option would be a private pump station with the ability to subdivide and build to MSD Standards and have the conservation easement portion in there which does require a change to MSD Policy. Mr. Pennington asked Mr. Hartye and Mr. Carson, to be clear to the public and this Board, to clarify that these MSD Standards policies and also the Sewer Ordinance, were adopted by the MSD Board in the past. Hartye and Mr. Carson stated yes, that is correct. Mr. Lapsley stated that if there is a private pump station there with 266 connections, where it discharges wastewater is a whole other issue. It's a private system with 266 customers, who sets the rate that they are going to charge those customers? Mr. Clarke stated that if it is a private system serving 266 homes, they would be regulated as a public utility. Mr. Lapsley stated that from the standpoint of the customer, first they are buying a house, then add on the rates that they are charged. MSD is a component of the treatment side of it. But the operating costs, they would have to get a permit from the State Utilities Commission. Mr. Hartye stated that there are complaints about that now. Carolina Water operates in other parts of the system doing the exact same thing and there are many complaints about the high bills in those areas because they add their fees on top of MSD's. There was some discussion regarding whether they could get an HOA exemption and whether the utilities commission would regulate them. Mr. Clarke stated it would depend on how they were structured, that issue has been litigated or has come before the Public Utilities Commission a lot. If you are a developer operating a system for a certain amount of time and charging for water and sewer you are considered a public utility. If you convey it all to the HOA, then you are exempt. Ms. Wisler asked if no one regulates them. Mr. Clarke and Ms. Manheimer stated that they regulate themselves. Mr. Clarke stated that DEQ now requires an HOA operating a water and sewer system to have an operating agreement and the Public Utilities Commission is also better about reaching out and responding to complaints. Mr. Player asked what would happen if the HOA and this company fall out of grace with each other and that company walks away, how long is that system going to go unmonitored, what problems could arise from that? He stated that he knows people deal with HOA's all the time and that some are great to work with, but some get into very severe disagreements not only with themselves but with other parties. When you inject a third party into the management of something you're never guaranteed that third party is going to stick around. Mr. Carson stated that his understanding is, after that initial conveyance, there is no contractual agreement. The way we've been understanding this is that they are the owner of whatever corridor, maybe there is an easement and all of the infrastructure in it. Mr. Pennington stated that as to the questions, this is exactly why the policy was probably written the way it was. He stated that, as a practicing planner, he probably gets 5-6 calls a day with numerous complaints from property owners regarding a failed HOA, failed road system, then you start getting into all of the civil matters, but this is more of a life safety issue as well because you're dealing with a large quantity of wastewater. Mr. Tarleton asked for clarification regarding where this parcel is, that he saw a stream alongside. Mr. Pennington stated it's on Pinner's Cove up from Mills Gap. Mr. Carson pointed out the creek on the map and stated it is Robinson Creek which is a tributary to Cane

Creek. Ms. Manheimer stated that she had to leave the Planning Committee early and asked if it was unanimously in support of bringing this issue to the full Board or was it unanimously in support of bringing this to the full Board to approve or was it a punt. Mr. Hartye stated it was a punt. Mr. Pennington stated that it was a little odd because typically a committee will make some type of recommendation whereas in this case, it was simply to advance the matter to the Board for consideration. A lot of that may have had to do with these being fairly rare and a lot of questions he has are going to be around the process. This Board will probably need some further guidance from Counsel. There was some discussion regarding other legislative processes for changing policy or changing code. Mr. Clarke recommended continuing this discussion in the closed session after the Pinners Cove presentation. Mr. Clarke added that to answer Ms. Manheimer's question, the Planning Committee's recommendation was to refer this to the full Board for continuing discussion. Mr. Watts asked if there would be one bill to the HOA or if homeowners would be billed individually? Mr. Carson stated that his understanding is that all of these 266 units would be on public water so the City of Asheville would send MSD the volumetric data, MSD would then bill that one third party owner and then they would add their fees and bill the residents. Mr. Watts asked, from MSD's responsibility standpoint, whether our responsibility would start at their discharge point into our system. Mr. Hartye stated that the gravity system at the top would be our responsibility, the rest would not.

Derek Allen, Attorney with ASK Law, then began the Pinners Cove presentation. He reported that he has been working with the Pinners Development team for about 5 years. Also present is Jesse Gardner with Civil Design Concepts, who is intimately familiar with the system that you see here, and Drew Levin who is part of the ownership team. He stated that he would end where Hunter started and that he really appreciates the conversations that they have had with Staff and Billy as they ramped up to this meeting here and he thinks that it has been productive already in terms of trying to grapple with MSD Policy now, what it might look like going forward and how to address the ever growing elephant in our community room which is how do we provide housing in a community where it's very difficult to provide housing. He said he is going to start where Hunter ended, and Option 2 that was up there for about the last five minutes of the conversation that preceded this presentation here, Option 2 would solve all of those issues. He stated that they feel that is probably the best thing for everyone, Option 2. What they have appealed, however, is Option 3. He presented a slide that shows the approved system already ok'd by MSD. In this system, it would be owned, maintained, and operated by a state-licensed third-party utility provider. The system they are proposing is exactly this system. The only thing changing is the ownership of the underlying lots. The 266 lots that are being proposed to be built now are build for rent. The build for rent lots and the financing behind that has changed and was always in flux and at some point this development team has realized that they need to be for sale to go to individual owners which has already been set up because that's the way it's been subdivided so there will be some split. They won't be all 266 as individual lot owned but it will be some portion. Whether it is build to rent or build to own, the rate will be the same, the system will be the same, the owner of that system will be the same, and it will be a third party approved by the utilities commission. He stated that he wanted to back up and hit a couple of policy points. This Board is made up of constituent Members. Each one of the constituent Members that, as a County or



Municipal Body, has the number one thing on their list as their highest priority and that is providing more housing for our area. Every single one of them. MSD's role and it's Policy Manual talks about one of support for the local governments and provides so they can meet their immediate and future needs. Housing Policy is the top priority of every one of these constituents' institutions. He stated that they believe that overly rigid adherence to MSD's policy of single owner for pump stations is not supportive of the planning and policy goals. That's the policy piece. He stated "you're probably thinking, hey you're a lawyer so where is the law part in this, the law part of your appeal?" They think the policy of a blanket prohibition on private pump stations is void for two reasons. One, they believe it is not consistent with DEQ policy and they think it is violative of a newly enacted statutory law. DEQ policy talks about equal or better treatment of waste or equal or better protection of waters of the state and no increased potential for nuisance conditions from noise, odor, or vermin. As already mentioned, this system they are proposing is one that's already been proposed and is exactly the same. MSD's regulations require, no, North Carolina law requires DEQ to consider designs outside of specified standards and policies that the applicant can demonstrate these criteria. MSD's prohibitive policies must also maintain that. In addition, this is set out in the appeal, newly enacted N.C. General Statute 162A-900, enacted by the General Assembly, requires that local sewer authorities may not impose conditions not otherwise authorized by law on residential developments and specifically prohibits conditions requiring adherence to any restrictions related to land development or land use. Here that would obviously be if it is a single owner it is ok, if it is multiple owners of the same system it is not ok and they think that is violative of this provision. As mentioned before, this is the same system and they believe that DEQ would allow this. All over the State they know this is done. It's done in Raleigh and it's done in Western North Carolina. Jesse Gardner can tell us where he has worked. They have already talked to Mikal Wilmar and she has confirmed what they suspected, which is that DEQ would allow what they are proposing. Hunter talked about gravity being preferred, we all know that, but sometimes it's not practical. Sometimes it doesn't make sense, and that's why in this instance the pump station has already been approved. He stated this is the section that deals with the Robinson Creek Basin. When you have unique areas like the Robinson Creek Basin, which is where this project is, you have to have unique solutions. In this particular instance it so specific that he has highlighted this portion in the handout. Under Policy Considerations and says "The map to the left shows the Robinson Creek Basin, identified by RC labels. This basin is designated a primary service area and is a very linear basin. Properties at the top of the basin cannot be served by gravity without constructing the interceptor through the bottom of the basin to the existing Cane Creek Interceptor". He stated that here is the part where his eyes caught. "Policies are needed to consider how these situations will be addressed." This area is so unique that it is called out in MSD's Policy Manual. "It is unlikely that there will ever be enough large projects on a coordinated time frame for the 455 Mills Gap pump station to be built by developers". "Policies are needed to consider how these situations will be addressed". The concerns that were policy driven behind MSD's requirement for single ownership, all of those things can be addressed by what they have proposed. Single ownership is irrelevant in this instance because this will be conveyed to a third party regardless of single ownership or ownership by the HOA. Individual lot owners, the rates will be the same for those end users whether they are renting those homes or owning those homes. He stated that he wanted to quantify something that Hunter mentioned which was the



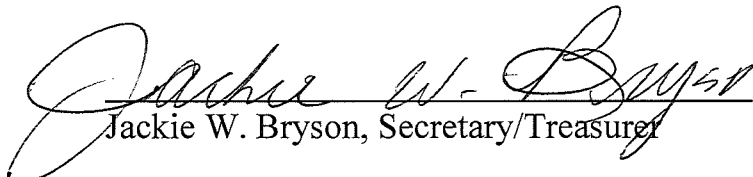
suggestion about the conservation easement. The concern they were trying to address was “if we do this for you, why can’t we do this for everyone else” and is this going to be the proverbial slippery slope? If you’re going to make a policy change or a policy exception in recognition of the appeal that we have and the legal grounds one way that you could justify that is to talk about specifically the challenges presented by the Robinson Creek Basin and the fact that we have and you could require anyone going down this path to have their private pump station owned, maintained and operated by a state licensed third party utility provider that MSD could approve, should approve, and require a large conservation easement. He asked Mr. Pennington how many conservation easements are there in Buncombe County? Mr. Pennington stated not many, this may be the first one, maybe two or three very small ones. Mr. Allen stated the point being, they are pretty rare so if you are looking for ways to avoid sliding down the slippery slope, there are plenty of ways to do that. The slope growth concern that was put out there, that is the same whether it’s a rental community or a for owner community because of the third-party piece. It could happen with renters as well as owners. They don’t think that is going to be the case specifically in that those will be built out in a big chunk first. Mr. Allen stated that they are requesting that they be allowed to move forward and that the approved pump station and force main to serve multiple properties within the subdivision, with the condition that they turn the system over to a state licensed third party utility provider for ownership, operation and maintenance or that they be allowed the approved private pump station and force main to become a public utility owned and maintained by MSD. They have included their materials in the slide presentation and are here to answer any questions.

At 3:26 pm, Mr. Pennington requested that the Board go into closed session with Legal Counsel to discuss processes, policies and other matters related to this item. Mr. Whitesides seconded the motion. Voice vote was unanimous.

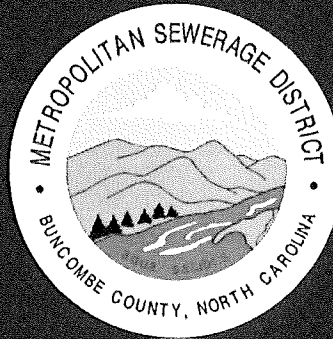
At 3:53 pm, meeting returned to open session. Ms. Wisler made the motion to accept Staff’s recommendation and deny the appeal for the private pump station and force main to serve subdivided property. Mr. Pelly seconded the motion. Ms. Manheimer was not present for the final vote. Roll call vote was as follows: 11 ayes; 0 nays.

- 11. **Old Business:** None.
- 12. **New Business:** None.
- 13. **Adjournment:**

With no further business, Mr. VeHaun called for adjournment at 3:54 pm.

  
Jackie W. Bryson, Secretary/Treasurer

# Developer Appeal of MSD Policy

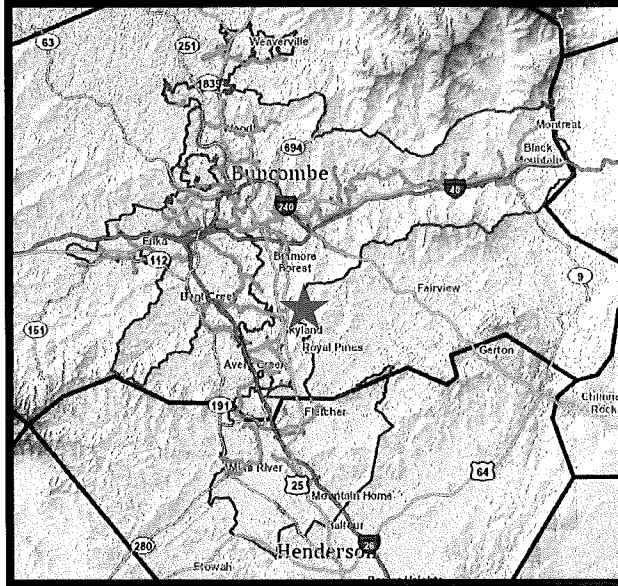


MSD Board Meeting

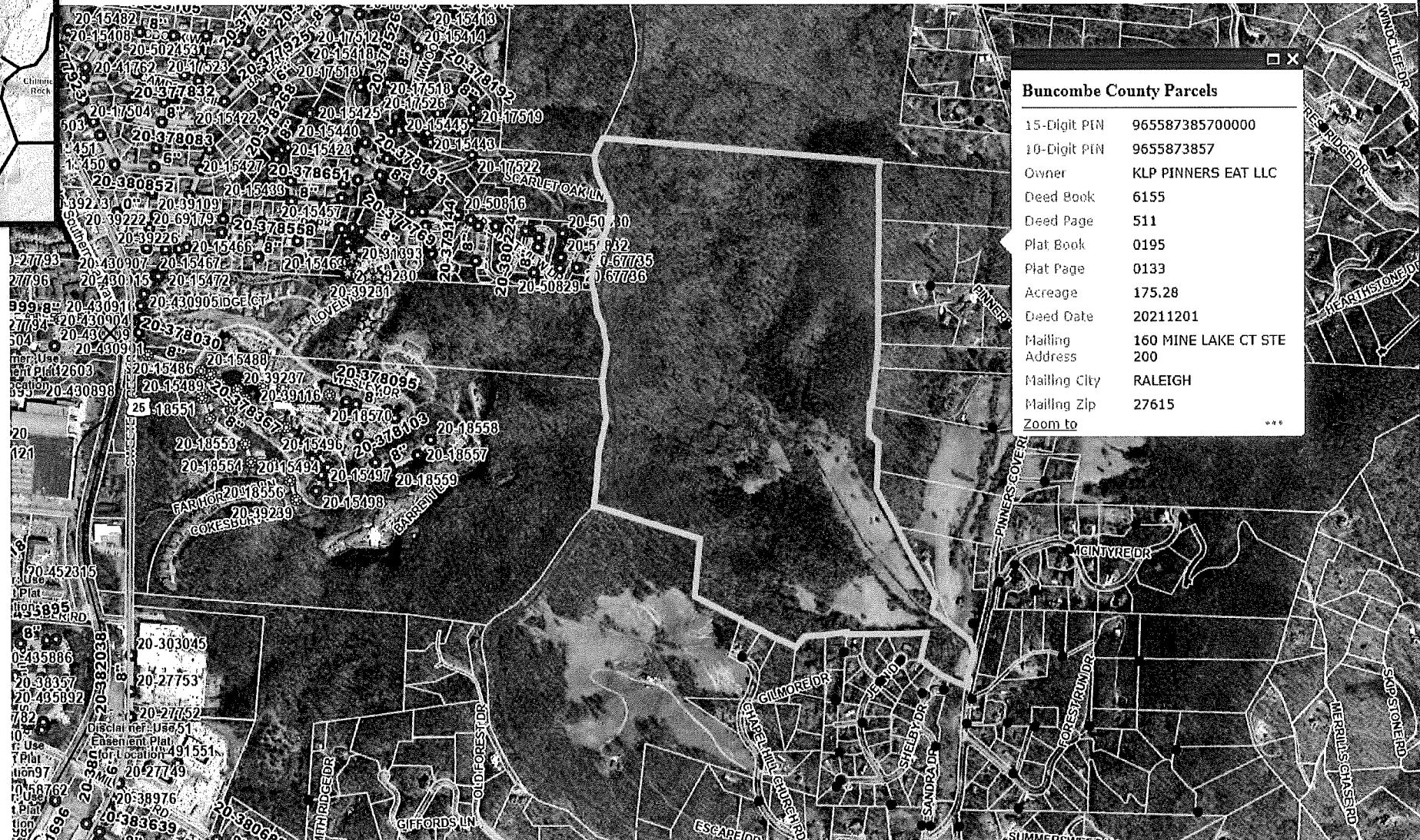
November 19, 2025



## Vicinity Map

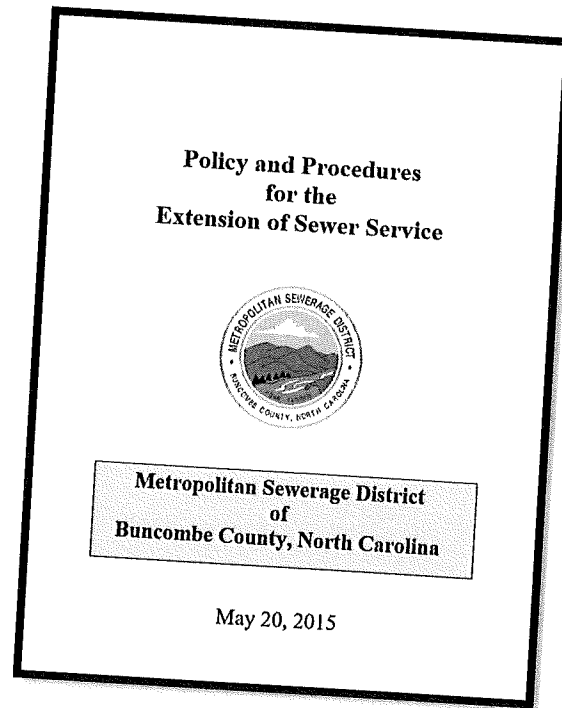


# Pinners Cove Subdivision



- 175 acres
- Purchased 2021 by KLP Pinners EAT LLC
- Current proposal is 266 SFR units

# MSD Sewer Extension Policy



## METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA

### *POLICY AND PROCEDURES FOR THE EXTENSION OF SEWER SERVICE*

#### POLICY

The Metropolitan Sewerage District of Buncombe County (hereinafter "MSD" or "District") recognizes there will be a need from time to time to extend the sewerage system operated by the District (the "District Sewerage System") to serve areas annexed by municipalities, to serve new industrial, commercial and residential development and to serve areas not currently served by the District. The District also recognizes that there will be additional connections to the existing District Sewerage System. The purpose of this document is to set forth the policy, rules and procedures for extension of and connection to the District Sewerage System. Terms used herein are defined in Appendix F – Definitions.

#### I. GENERAL PRINCIPLES

##### A. Extensions Defined

**The District will only consider Gravity Sewer extensions to the existing District Sewerage System.** Extension of service consists of:

1. Construction of new public Gravity Sewers and appurtenances. Any extension of sewer service which is proposed to serve more than one property under separate ownership or to serve more than one building under separate ownership must be built to public sewer standards and transferred to and accepted by the District for ownership and maintenance.
2. Pump stations will only be allowed on extensions to the District Sewerage System where, in the opinion of the District, gravity service is not achievable. Pump Stations, if approved, are also subject to payment of a Pump Station Maintenance Fee.
3. Low pressure sewers, vacuum sewers and any other specialized modes of conveyance or alternative systems are not allowed.
4. Construction of new Private Sewer Systems. The District reserves the right to limit or prohibit discharges from Private Sewer Systems. (See Section III)
5. The connection of a Building Sewer to an existing sewer line. (See Section IV)
6. The connection of existing Public or Private Sewer Systems not previously served by the District. (See Section V).

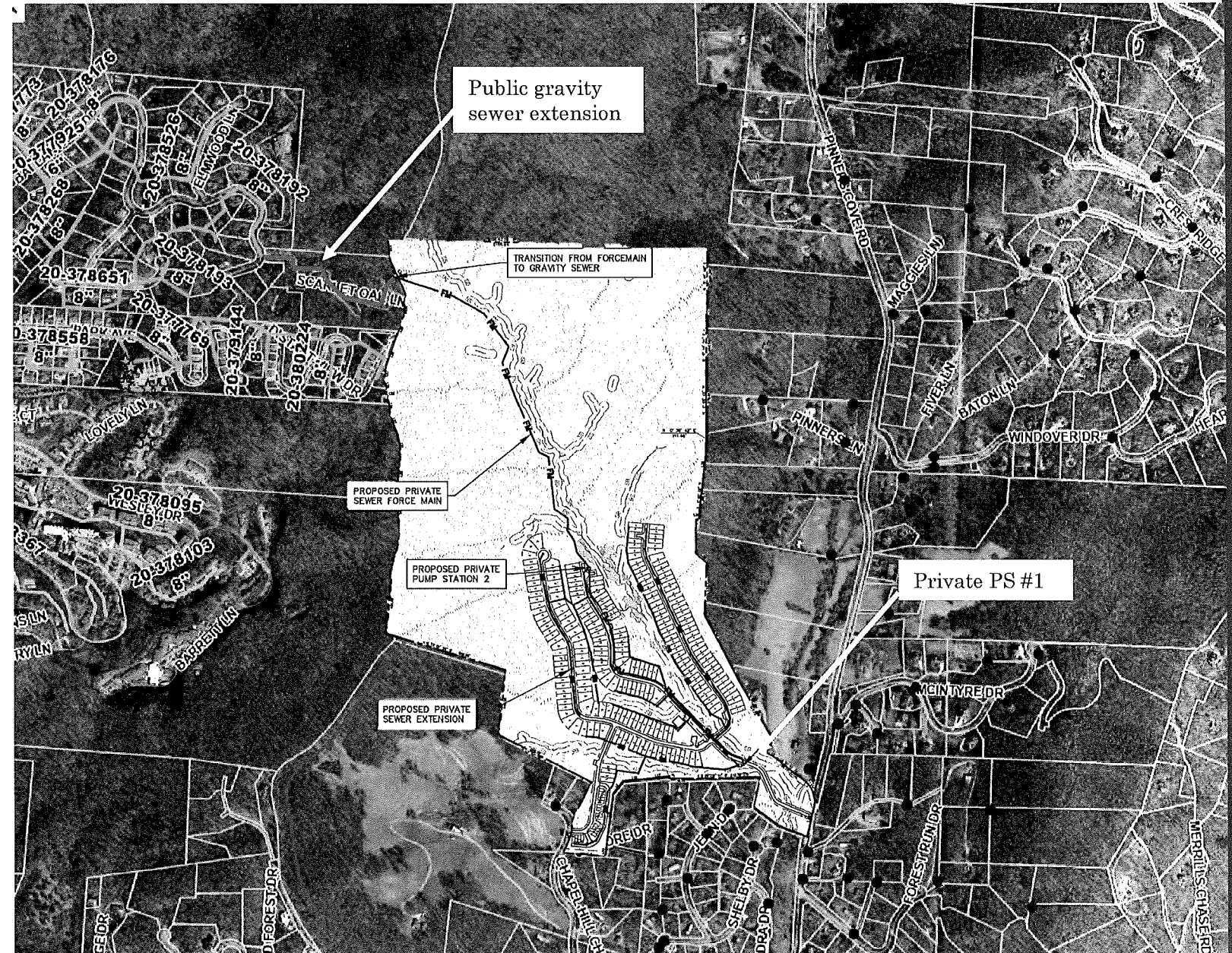
# Background on Policy & Current Day Examples

- Gravity is always preferred...period.
  - Pump stations are mechanical systems prone to failure (SSOs)
  - Expensive to operate
  - Require frequent maintenance and inspection
- But...sometimes that doesn't happen
  - MSD System Services is aware of multiple private systems that are currently problematic. Many are multi-ownership situations or operated by HOA.
  - MSD policy is intended to maintain a single point of ownership & responsibility
  - Greater protection of public health and water quality



# Appeal Background

- KLP Pinners EAT, LLC requested an onsite Public Pump Station.
- Master Plan Gravity Alignment is “achievable”
- Furthermore, MSD does not want developer dictating location of Public Pump Station. MSD denied request and offered:
  - Public PS downstream
  - Private PS onsite
- Developer accepted Private PS option but requested to subdivide. MSD denied due to Policy.



# Summary of Appeal Hearing – Oct. 10, 2025 Planning Committee

## Developer Requesting:

1. Subdivided lots for sale (individual ownership)
2. Private sewer system (built to public standards) to be owned *and* operated by 3<sup>rd</sup> party entity
3. Suggested policy change requiring onsite conservation easement  $\geq 100$  acres



Developer suggests that proposal meets the “*spirit*” of Policy, but MSD Staff believes this scenario could still be problematic:

- Cons

- Slow development growth – Minimal user fees to support 3<sup>rd</sup> Party O&M
- 3<sup>rd</sup> Party Owner/Operator goes belly up
- Quality of O&M? – “For-Profit” 3<sup>rd</sup> Party will likely cut costs where possible; greater likelihood of MSD being called to intervene in future
- Higher sewer bills
- Future pressure on MSD to remove conservation easement requirement (3<sup>rd</sup> party Owner/Operator only)

- Pros

- Single-ownership entity
- NCDEQ (permitting agency for private system) will require certified ORC
- Private system built to MSD public standards
- Conservation Easement will exclude most developments



# Summary

1. Staff Recommendation: Deny Appeal and honor current MSD Policy
  - Private PS (no subdividing), or
  - Public PS @ Mills Gap Rd
2. Developer Request 1: Public PS to serve upstream Robinson Creek
3. Developer Request 2: Private PS w/ ability to subdivide
  - Requires Policy change



# Questions



# Metropolitan Sewerage District

## Regular Board Meeting

November 19, 2025 @ 2 pm

	Agenda Item	Presenter
	Call to Order and Roll Call	VeHaun
	01. Inquiry as to Conflict of Interest	VeHaun
	02. <a href="#">Approval of Minutes of the October 15, 2025 Board Meeting</a>	VeHaun
	03. Discussion and Adjustment of Agenda	VeHaun
	04. Introduction of Guests	VeHaun
	05. Informal Discussion and Public Comment	VeHaun
	06. Report of Committees:	Ashley
	a. <a href="#">Right of Way Committee – October 22, 2025</a>	
	07. <a href="#">Report of General Manager</a>	Hartye
	08. Consolidated Motion Agenda	Hartye
	a. Consideration of Compensation Budget – <a href="#">ITT Pump Station</a>	Hartye
	b. Consideration of Developer Constructed Sewer Systems – <a href="#">Arden Pines; Asheville Airport Tracon and ATCT (Terminal Radar Approach Control &amp; Air Traffic Control Tower);</a> <a href="#">Busbee Phase 1A; Crestview Street; Dulce Lomita Community;</a> <a href="#">Fairhaven Summit; Hawthorne @ Holbrook; Mountain Home Dunkin Donuts; Rockberry Apartments; Westview Village</a>	Hartye
	c. <a href="#">Presentation of Audit &amp; Annual Report – FY ended June 30, 2025</a>	Powell
	d. <a href="#">First Quarter Budget to Actual Review – FY 2026</a>	Powell
	e. <a href="#">Cash Commitment/Investment Report-Month ended September, 2025</a>	Powell
	09. <a href="#">Developer Appeal for Private Pump Station and Force Main to Serve Subdivided Property</a>	Hartye
	10. Old Business:	
	11. New Business:	VeHaun
	12. Adjournment: (Next Meeting 12/17/25)	VeHaun
	<a href="#">STATUS REPORTS</a>	

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**October 15, 2025**

**1. Call to Order and Roll Call:**

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 2:00 pm, Wednesday, October 15, 2025. Chairman Vebaun presided with the following members present: Ashley, Bryson, Dearth, Lapsley, Manheimer, Player, Tarleton, Watts, Wisler, and Whitesides. Moore, Pelly, and Pennington were absent.

Others present were William Clarke, General Counsel; Forrest Westall, PE, McGill Associates; Drew West with CIBO; Hunter Carson, Scott Powell, Mike Stamey, Derrick Swing, Darin Prosser, Wesley Banner, Spencer Nay and Pam Nolan, MSD.

**2. Inquiry as to Conflict of Interest:**

Mr. VeHaun asked if there were any conflicts of interest with the agenda items. No conflicts were reported.

**3. Approval of Minutes of the September 17, 2025 Board Meeting:**

Mr. VeHaun asked if there were any changes to the Minutes of the September 17, 2025 Board Meeting. Mr. Ashley moved for approval of the minutes as presented. Mr. Whitesides seconded the motion. Voice vote in favor of the motion was unanimous.

**4. Discussion and Adjustment of Agenda: None.**

**5. Introduction of Guests:**

Mr. VeHaun welcomed Drew West with CIBO.

**6. Informal Discussion and Public Comment: None.**

**7. Report of Committees:**

**a. Planning Committee – October 10, 2025.**

Mr. Carson reported that the Planning Committee met on Friday, October 10, 2025 at 9 am to discuss a developer appeal. MSD does not allow private pump stations and force mains to serve subdivided, separately owned parcels. KLP Pinnars EAT, LLC, the Developer, proposed a solution that they feel addresses MSD's concern and meets the spirit of MSD's Policy. The Planning Committee called for a motion to continue discussion amongst the full Board at the November 19<sup>th</sup> Board Meeting and all were in favor. Between now and that time those meeting minutes will be passed out to this Board so that everyone may be prepared for that discussion.

**8. Report of General Manager:**

Mr. Carson reported that Tom Hartye is not at this meeting because he will be having surgery today for a new knee replacement and asked that everyone be thinking of him.

Mr. Carson reported that MSD's Grayson Hensley and Josh Matthews just returned from the Utility Expo in Louisville, Kentucky. They took part in the Hyundai Equipment Excavator Challenge which is a series of events using an excavator. There were about 70 contestants at this event. Grayson Hensley came in First place and Josh Matthews came in Third place. This is a testament to the talent we have here at MSD. Congratulations to both of them.

Mr. Carson reported that there are articles attached from the Watch Dog and Citizen Times regarding the ongoing construction of the Carrier Bridge Pump Station River Crossings. He presented photos of the construction of the coffer dam, excavation, and the force mains that are now installed roughly halfway across the river. These are anchored into bedrock for security and encased in concrete. The deconstruction of the coffer dam will now begin and a second cofferdam will be constructed on the opposite side of the river. Mr. Ashley asked if the concrete over the pipes was at the bottom of the river. Mr. Carson stated that they had to leave approximately a foot for native material to be placed over the top of the concrete, so it is not flush with the base of the riverbed.

Mr. Carson reported that the System Performance Annual Report (SPAR) is now updated on the MSD website. Thanks to Bart Farmer and Angel Reece for putting this together.

Mr. Carson reported that the next Right of Way Committee meeting will be held on October 22, 2025 at 9 am. The next regular Board Meeting will be held on November 19<sup>th</sup> at 2 pm.

**9. Consolidated Motion Agenda:**

**a. Consideration of Bids – Montford Avenue @ Montford Park:**

Mr. Carson reported that this project is located in Asheville near Montford Park. It is comprised of 804 LF of 8-inch DIP (installed by dig and replace) and 325 LF of HDPE (installed by pipe bursting). The existing clay pipe is in poor condition and has experienced SSO's. The project was advertised formally and no bids were received on September 25, 2025. The project was re-advertised and one bid was received on October 2, 2025, as follows: Terry Brothers Construction Company with a bid amount of \$645,430.00. Terry Brothers Construction Company has extensive experience with District rehabilitation projects and continues to provide excellent workmanship. The FY 25-26 construction budget for this project is \$590,000.00. Sufficient funds are available in the CIP contingency fund to cover the overage of \$55,430.00. Staff recommends award of this contract to Terry Brothers Construction Company in the amount of \$645,430.00, contingent upon review and approval by District Counsel.



**b. Consideration of Bids - Intermediate Clarifier Trough Rehabilitation Phase 2:**

Mr. Carson reported that the intermediate clarifiers were placed into service in 1990. Clarified water flows upward through one of the four clarifier basins and overflows into a series of aluminum effluent troughs. As water passes upwards, the solids settle to the bottom of the basin, which are then collected by a chain and flight system which are fiberglass boards on a chain driven system that brings all of the solids to a sump. The troughs are in poor condition and are leaking due to significant corrosion, while the chains, flights and other underdeck equipment need replacement due to wear during operation. This is a phased project with Phase 1 being completed several months ago. Because of long lead times Staff pre-purchased some of the equipment which was the chain and flight system. This Phase 2 Contract is for the purchase of the fiber-reinforced polymer effluent troughs and installation of troughs and chain and flight system. Phase 2 of this project was advertised formally and one bid was received on August 28, 2025. Per General Statutes, the project was re-advertised and one bid was received on September 4, 2025, as follows: Cove Utility LLC with a bid amount of \$4,116,000.00. Cove Utility was the chosen contractor for Phase 1 of this project and has experience with other similar projects. The bid amount exceeds the funds available for this phase of the project. Per Statutes, District staff negotiated a reduction in the scope to bring the contract price within the budget for this phase. A copy of the reduced scope proposal is attached. The remaining work will be re-budgeted and bid in FY 26-27 as Phase 3 of this project. The construction budget for this phase is \$3,100,000.00, spread over two fiscal years. The construction budget includes \$831,900.00 for the purchase of the underdeck equipment, leaving \$2,268,100.00 for this contract. The negotiated price of \$1,464,000.00 is within the budget for this phase. Staff recommends award of the contract to Cove Utility, LLC in the amount of \$1,464,000.00 and approval of the attached Capital Project Ordinance, contingent upon review and approval by District Counsel.

**c. Consideration of Bids – Incinerator Rehabilitation Sludge Hauling Contract:**

Mr. Carson reported that the Fluidized Bed Incinerator (FBI) at MSD's Water Reclamation Facility is the District's primary means of solids disposal. Originally placed into service in 1992, the FBI has undergone multiple component rebuilds. Next week a shutdown is scheduled to begin a major internal rehabilitation. The FBI rehabilitation contract was awarded by the MSD Board on September 17, 2025. This contract is for hauling of biosolids to the Buncombe County Landfill during the rehabilitation period. The contract is based on a per-load cost for approximately 20 weeks, with an estimated total of 1,160 loads. Hauling operations will be performed using six dump trucks, operating six days per week while the landfill is open. Trucks will remain on-site until the rehabilitation is complete and the FBI is fully operational. The project was formally advertised and one bid was received on September 19, 2025. Per General Statutes, the project was re-advertised and three bids were received on September 26, 2025 as follows: J&A CCM, LLC with a bid amount of \$763,036.40; TransMountain Industries with a bid amount of \$742,400.00 and Carroll Gentry Hauling with a

bid amount of \$503,440.00. The apparent low bidder is Carroll Gentry Hauling with a bid amount of \$503,440.00. This will be Carroll Gentry Hauling's first contract with the District. The vendor has prior experience providing material and debris hauling services for NCDOT. A reference check was initiated with the NCDOT. At the time this item was prepared for this meeting, Staff had received no response for reference checks. Those references have been received. One is from NCDOT. Carroll Gentry Hauling has done work for the NCDOT since 2008 with very favorable references. The second was a positive reference from LBM Industries. The FY 25-26 construction budget for the Incinerator Rehabilitation project is \$2,000,000.00 and includes sludge hauling. The Incinerator Rehabilitation construction contract was awarded in the amount of \$1,845,000.00, leaving \$155,000.00 available for sludge hauling, a deficiency of \$348,440.00. Sufficient funds are available in the CIP Contingency fund to cover the overage. Staff recommends award of this contract to Carroll Gentry Hauling in the amount of \$503,440.00, contingent upon review and approval by District Counsel.

**d. Consideration of Developer Constructed Sewer Systems – 3927 Sweeten Creek (Rumi Way); Encore Townhomes Phase 1; Focus Homes (Mallard Run); Rockdale Development :**

Mr. Carson reported that the 3927 Sweeten Creek (Rumi Way) project is located along Sweeten Creek Road in the City of Asheville and included extending approximately 590 linear feet of 8-inch public gravity sewer to serve 16 Single-Family residences.

Mr. Carson reported that the Encore Townhomes Phase 1 project is located along Reems Creek Road in Buncombe County and included extending approximately 1,563 linear feet of 8-inch public gravity sewer to serve 139 Single-Family residences.

Mr. Carson reported that the Focus Homes (Mallard Run) project is located along Mallard Run Drive in Buncombe County and included extending approximately 1,564 linear feet of 8-inch public gravity sewer to serve 50 Single-Family residences.

Mr. Carson reported that the Rockdale Subdivision project is located along Rockdale Avenue in Buncombe County and included extending approximately 630 linear feet of 8-inch public gravity sewer to serve 9 Single-Family residences.

All MSD requirements have been met. Staff recommends acceptance of the aforementioned developer constructed sewer system.

Mr. Lapsley asked if there was a rough number of the value of all of these extensions. Mr. Carson stated that each of those agenda items includes an estimated cost of \$78,425.00, \$210,000.00, \$150,000.00, and \$145,700.00. Mr. Lapsley stated that it was probably around \$1 million and that the public's perception is that the developers pay for this. He stated that the point he is trying to make is that the developer may pay for the initial cost but it is the consumer that ends up paying for it. He stated that it is his opinion that all of that cost just

plays into the cost of affordable housing. He stated that people lose sight of the fact that the developer doesn't lose money, the developer passes that cost on. He stated that he is confronted all of the time with his local government and county commissioners about the cost of affordable housing. He stated that he would submit that it is things like extension of sewer service, extension of water service, road construction, all of those things that are a cost to the developer in the beginning end up being cost to the buyer. He stated that he feels that it is incumbent on everyone's part to try to keep the cost of these utilities down to make housing affordable.

**e. Cash Commitment Investment Report – Month ended August, 2025:**

Mr. Powell reported that Page 35 presents the makeup of the District's Investment Portfolio. There has been no significant change in the makeup of the portfolio from the prior month. Page 36 presents the MSD Investment Manager's report as of the month of August. The weighted average maturity of the investment portfolio is 110 days. The yield to maturity is 4.29%. Page 37 presents the analysis of the District's Cash Receipts. Monthly and YTD domestic are considered reasonable based on timing of cash receipts and historical trends. Monthly and YTD Industrial User Fees as well as Facility and Tap Fees are considered reasonable based on timing of cash receipts and historical trends. Page 38 presents an analysis of the District's Expenditures. Monthly and YTD expenditures are considered reasonable taking into consideration the current year budget and historical trends. Page 39 presents MSD's Variable Debt Service report. The 2008A Series is performing at budgeted expectations. As of the end of September, the issue has saved the District's rate payers approximately \$8 Million in debt service since April, 2008.

With no further discussion, Mr. VeHaun called for a motion to approve the Consolidated Motion Agenda. Mr. Watts moved, Ms. Wisler seconded the motion. Roll call vote was as follows: 11 ayes; 0 Nays.

**10. Old Business:** None.

**11. New Business:**

Mr. Clarke reported that there has been negotiation and a proposed settlement of a condemnation case so this Board will need to go into a closed session so that they may discuss. Mr. VeHaun called for a motion to go into closed session at 2:25 pm. Mr. Whitesides moved, Mr. Watts seconded. Voice vote was unanimous.

Mr. Clarke reported that he and Wesley Banner participated in mediation of a condemnation case, MSD v. Regal Hospitality 20 CVS 1341-100 arising out of the Christian Creek Interceptor Replacement Project. During mediation, the parties discussed a proposed settlement of \$25,000. Mr. Clarke is seeking the Board's approval of that settlement. The board discussed the project briefly and the property involved. The Board then returned to open session.



Mr. Watts made the motion to accept the \$25,000 settlement for MSD vs. Regal Hospitality. Ms. Wisler seconded the motion. Roll call vote was as follows: 11 ayes; 0 Nays.

**12. Adjournment:**

With no further business, Mr. VeHaun called for adjournment at 2:34 pm.

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Jackie W. Bryson, Secretary/Treasurer

**RIGHT OF WAY  
COMMITTEE RECOMMENDATIONS  
AND MINUTES  
OCTOBER 22, 2025**

**I. Call To Order**

The regular monthly meeting of the Right of Way Committee was held in the Boardroom of the William H. Mull Building and called to order at 9:00 a.m. on Wednesday, October 22, 2025. The following Right of Way Committee members were present: Matt Ashley, Chairman; Esther Manheimer, Chris Pelly, Nathan Pennington and Al Whitesides. Jackie Bryson was absent.

Others present: William Clarke, MSD Counsel; Jerry VeHaun Board Chairman; Bob Watts, Board Member; Hunter Carson, Wesley Banner, Shaun Armistead, Darrell Hess, Spencer Nay and Pam Nolan, MSD.

**II. Inquiry as to Conflict of Interest**

Mr. Ashley inquired if anyone had a conflict of interest with Agenda items. There were none.

**III. Consideration of Compensation Budget- ITT Pump Station Replacement, Project No. 2020061**

Mr. Banner reported that the attached Compensation Budget is based on current ad valorem tax values and follows the MSD approved formula. This project consists of installing 2,650 LF of force main, 440 LF of which will be encased at the French Broad River crossing. The project will also consist of 910 LF of 12-inch PVC, 410 LF of 24-inch PVC and 10 LF of 30-inch DIP. 800 LF of access road will be installed to service the pump station. This project also includes the construction of a new pump station to replace the existing pump station which is undersized.

The FY 25-26 compensation budget for this project is \$70,000.00. Due to a significant amount of easement area being added to the project for a pump station access road, the proposed compensation budget is \$116,964, a difference of \$46,963. Sufficient funds are available in the CIP contingency and will be transferred accordingly.

**STAFF RECOMMENDATION: Approval of Compensation Budget.**

Mr. Ashley called for a motion. Mr. Pennington made the motion to accept Staff's recommendation. Mr. Whitesides seconded the motion. Voice vote was unanimous.

**COMMITTEE RECOMMENDATION: Approval of Compensation Budget.**

**IV. Consideration of Condemnation – Logan Avenue Sewer Rehabilitation – Cheng Tsai, Parcel Number 9638-86-1969:**

NOTE: Mr. Banner reported that due to the hard work and tenacity of MSD's Right of Way Agent, Darrell Hess, the owner settled and signed easement agreement this past Monday and is removed from this Agenda.

**V. Quarterly Report – First Quarter:**

Mr. Banner presented the Project Status Summary for all active acquisition projects through September 30, 2025.

**STAFF RECOMMENDATION: For information only. No action required.**

**VI. Other Business:**

There being no further business, the meeting adjourned at 9:03 am.



## MEMORANDUM

TO: MSD Board

FROM: Thomas E. Hartye, P.E., General Manager

DATE: November 14, 2025

SUBJECT: Report from the General Manager

- FY 2025 Audit and Annual Comprehensive Financial Report

The Districts Auditor, Cherry Bakaert, will give a presentation of the FY 2025 Audit. The Full Annual Comprehensive Financial Report for FY2025 can be accessed with the following link:

<https://www.msdbc.org/documents/annualreports/FY2025.pdf>

Scott Powell will go over the Document as a part of the Consolidated motion agenda.

- Design-Build Presentation

Many Utilities across the country are pivoting to Design-Build form of delivery for the larger construction projects, particularly those that require technical performance guarantees or scheduled timelines. This differs from the conventional Design, Bid, Build form of delivery. MSD is in the preliminary engineering stages for two very large projects at the Treatment Plant for which Design-Build would be the most beneficial form of delivery. MSD's consultant will give a brief presentation on this method.

- Board/Committee Meetings/Events

The next Regular Board Meeting will be held on December 17<sup>th</sup> at 2 pm. The November Right of Way Committee meeting is cancelled. The next Right of Way Committee meeting will be held on January 28<sup>th</sup> at 9am.

# Metropolitan Sewerage District of Buncombe County

## Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 10/22/2025      BOARD MEETING DATE: 11/19/2025

SUBMITTED BY: Tom Hartye, PE, General Manager  
PREPARED BY: Wesley Banner, Right of Way Manager  
REVIEWED BY: Hunter Carson, PE, Director of CIP

**SUBJECT:                    Consideration of Compensation Budget-  
ITT Pump Station Replacement, Project No. 2020061**

The attached Compensation Budget is based on current ad valorem tax values and follows the MSD approved formula.

The FY 25-26 compensation budget for this project is \$70,000.00. Due to a significant amount of easement area being added to the project for a pump station access road, the proposed compensation budget is \$116,964, a difference of \$46,963. Sufficient funds are available in the CIP contingency and will be transferred accordingly.

### **STAFF RECOMMENDATION: Approval of Compensation Budget.**

Mr. Banner reviewed the above information and added that this project consists of installing 2,650 LF of force main, 440 LF of which will be encased at the French Broad River crossing. The project will also consist of 910 LF of 12-inch PVC, 410 LF of 24-inch PVC and 10 LF of 30-inch DIP. 800 LF of access road will be installed to service the pump station. This project also includes the construction of a new pump station to replace the existing pump station which is undersized. Mr. Ashley called for a motion. Mr. Pennington made the motion to accept Staff's recommendation. Mr. Whitesides seconded the motion. Voice vote was unanimous.

### **COMMITTEE RECOMMENDATION: Approval of Compensation Budget.**

# ITT Pump Station Replacement

Project Number: 2020061

## Compensation Budget

15-Oct-25

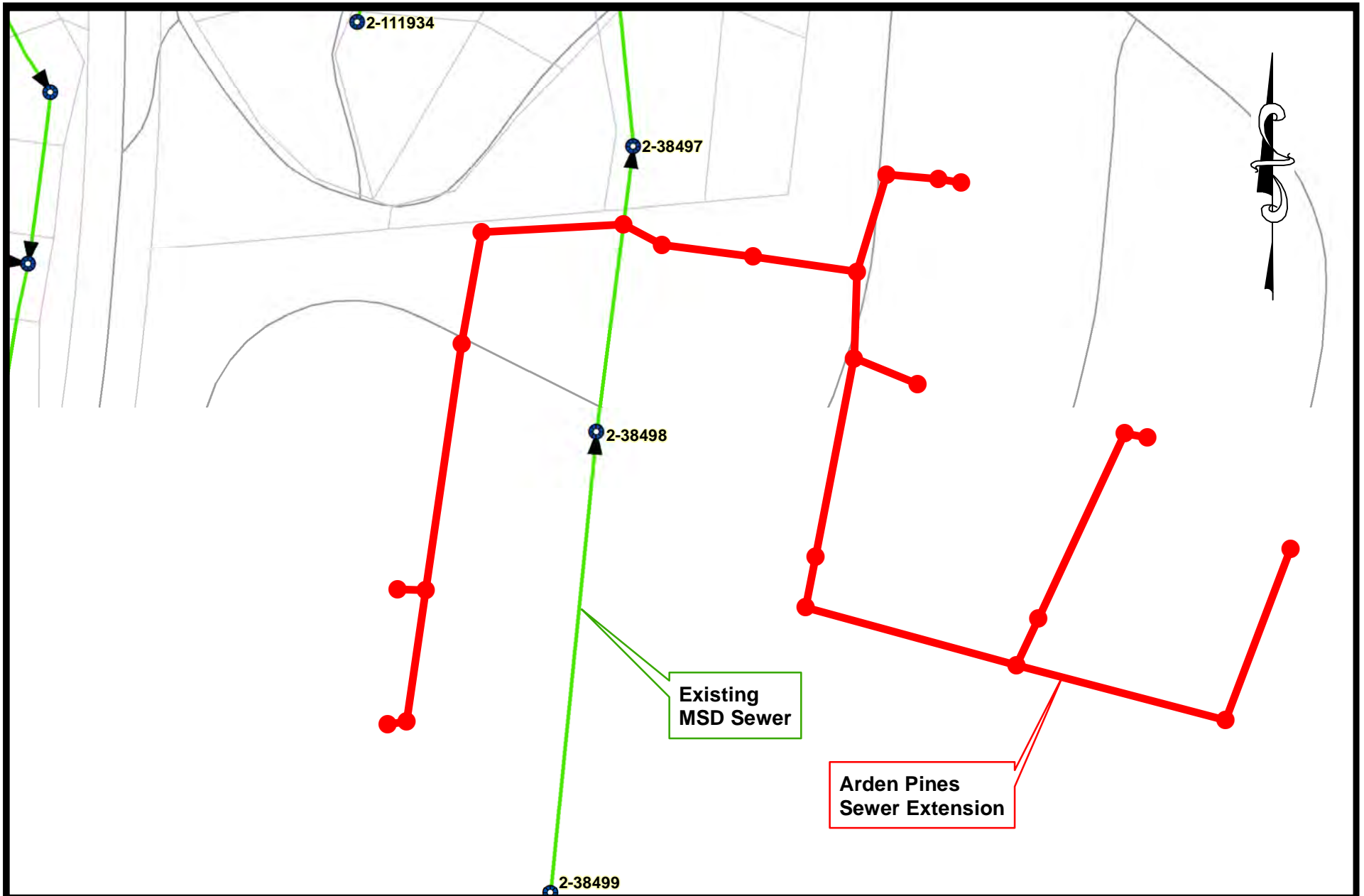
PIN and Name						Net PE	PE Assd.	50% PE		TCE Assd.	10% Annl	Proj	TCE Rent	Total Comp.
27 Pin	83 Pin	Acres	Parcel SF	Land Value	LV/SF	SF	Value	Assd. Value	TCE SF	Value	Return	Time	Value	(Rounded)
	9642380737					3,796.00			7,092.00			18		
	9642383057					5,169.00			15,833.00			18		
	9642471366					625.00			2,536.00			18		
	9642361779	38.28	1,667,476.80	\$4,168,700.00	\$2.50	39,642.00	\$99,105.00	\$49,552.50	68,736.00	\$171,840.00	\$17,184.00	18	\$25,776.00	\$75,329
	9642298175													
	9642284413					2,574.00			17,030.00			18		
	9642275609	17.57	765,349.20	\$1,913,400.00	\$2.50	5,784.00	\$14,460.00	\$7,230.00	10,812.00	\$27,030.00	\$2,703.00	18	\$4,054.50	\$11,285
	9642299794	32.19	1,402,196.40	\$1,752,700.00	\$1.25	20,795.00	\$25,993.75	\$12,996.88	39,221.00	\$49,026.25	\$4,902.63	18	\$7,353.94	\$20,351
TOTALS:														\$106,964
Staff Contingency:														\$5,000
GM's Contingency														\$5,000
Amendment														
Total Budget:														\$116,964

PIN No. 9642-47-1366 belongs to Henderson County. PIN 9642-28-4413, 9642-38-0737 and 9642-38-3057 belong to the State of North Carolina.MSD does not compensate state agencies, county agencies, municipalities, etc.

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

<b>BOARD MEETING DATE:</b>	November 19, 2025
<b>SUBMITTED BY:</b>	Tom Hartye, P.E. - General Manager
<b>REVIEWED BY:</b>	Hunter Carson, P.E. - Engineering Director
<b>PREPARED BY:</b>	Samuel Gettleman, P.E. – Planning and Development Manager
<b>SUBJECT:</b>	Acceptance of Developer Constructed Sewer System for the Arden Pines Extension MSD Project No. 2022069.
<b>BACKGROUND:</b>	<p>This project is located inside the District boundary along Atrium Trail in Buncombe County, NC. The developer of the project is Austin Bodner of Brevard Road Apartments.</p> <p>The project included extending approximately 2,020 linear feet of 8-inch public gravity sewer to serve the Multi-Family Residential Development.</p> <p>The wastewater allocation is 40,400 GPD for the two-hundred and forty-four (244) Multi-Family Units. The estimated cost of the sewer construction is \$360,000.</p> <p>All MSD requirements have been met.</p>
<b>STAFF RECOMMENDATION:</b>	Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Arden Pines Sewer Extension MSD Project # 2022069

Metropolitan Sewerage District of Buncombe County

11/5/2025



# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Asheville Airport Tracon and ATCT Extension MSD Project No. 2022191.

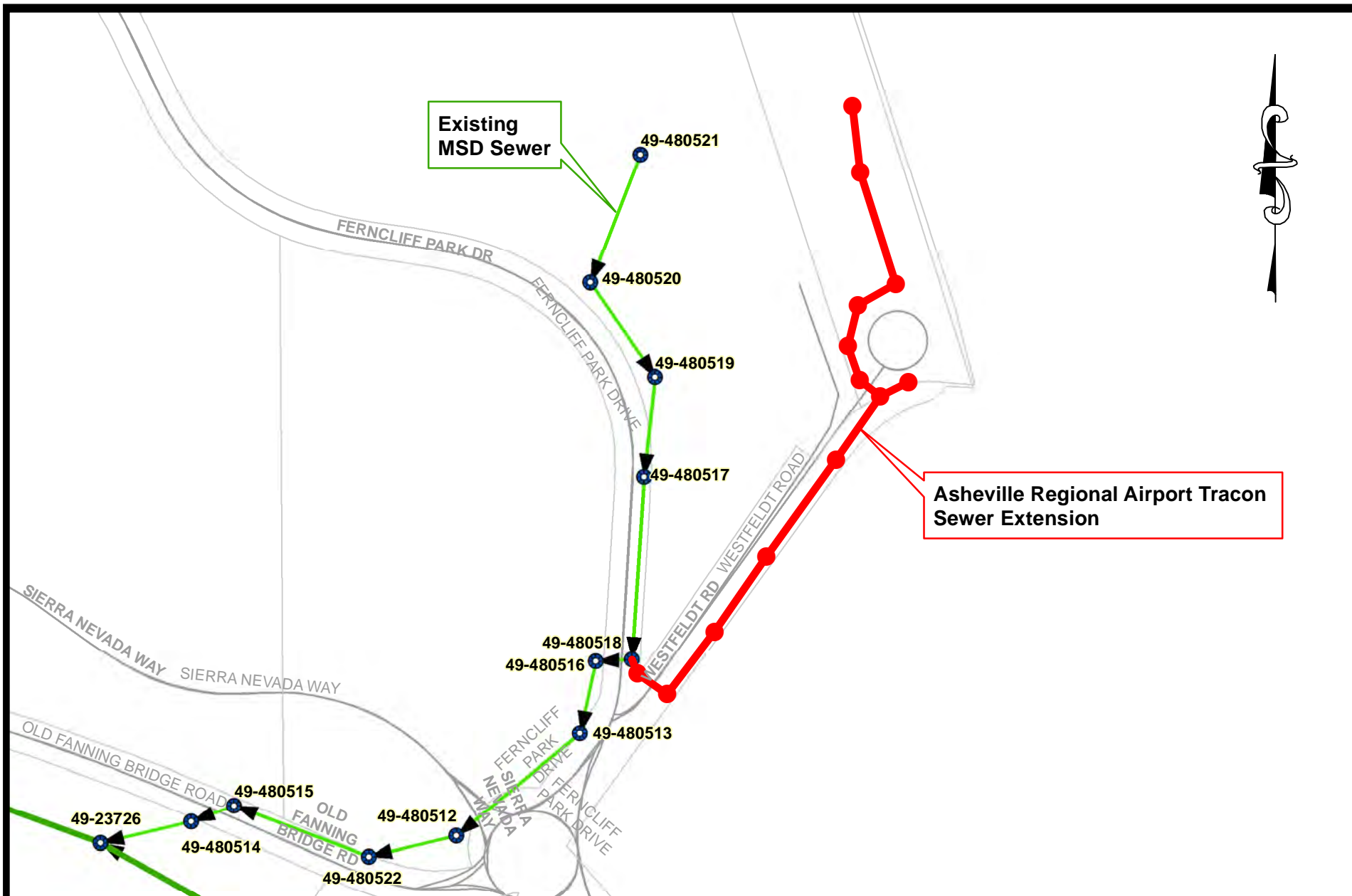
**BACKGROUND:** This project is located inside the District boundary along Westfeldt Road in Buncombe County, NC. The developer of the project is Lew Bleiweis of the Greater Asheville Regional Airport Authority.

The project included extending approximately 1,205 linear feet of 8-inch public gravity sewer to serve the onsite construction of the Tracon and ATCT Buildings.

The wastewater allocation is 2,200 GPD for the onsite Airport Authority Development. The estimated cost of the sewer construction is \$323,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Asheville Regional Airport Tracon Sewer Extension MSD Project # 2022191

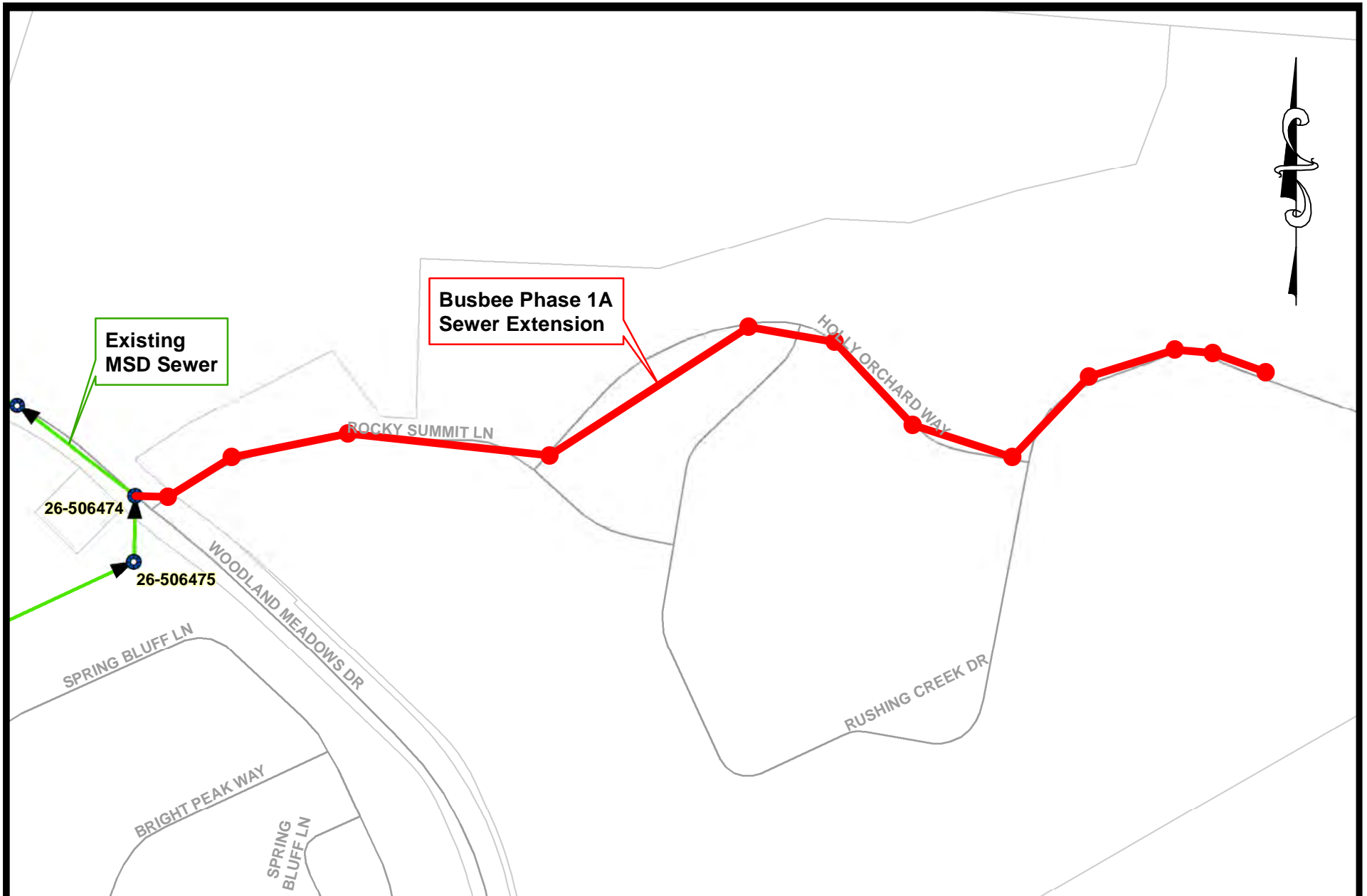
Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

<b>BOARD MEETING DATE:</b>	November 19, 2025
<b>SUBMITTED BY:</b>	Tom Hartye, P.E. - General Manager
<b>REVIEWED BY:</b>	Hunter Carson, P.E. - Engineering Director
<b>PREPARED BY:</b>	Samuel Gettleman, P.E. – Planning and Development Manager
<b>SUBJECT:</b>	Acceptance of Developer Constructed Sewer System for the Busbee Phase 1A Extension MSD Project No. 2022102.
<b>BACKGROUND:</b>	<p>This project is located inside the District boundary along Sweeten Creek Road in Buncombe County. The developer of the project is Ryan Foster of FDG Sweeten Creek Holdings, LLC.</p> <p>The project included extending approximately 1,325 linear feet of 8-inch public gravity sewer to serve the Multi-Family Residential Development.</p> <p>The wastewater allocation is 35,800 GPD for the one-hundred and seventy-nine (179) Multi-Family Units. The estimated cost of the sewer construction is \$220,000.</p> <p>All MSD requirements have been met.</p>
<b>STAFF RECOMMENDATION:</b>	Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Busbee Phase 1A Sewer Extension MSD Project # 2022102

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Crestview Street Extension MSD Project No. 2023176.

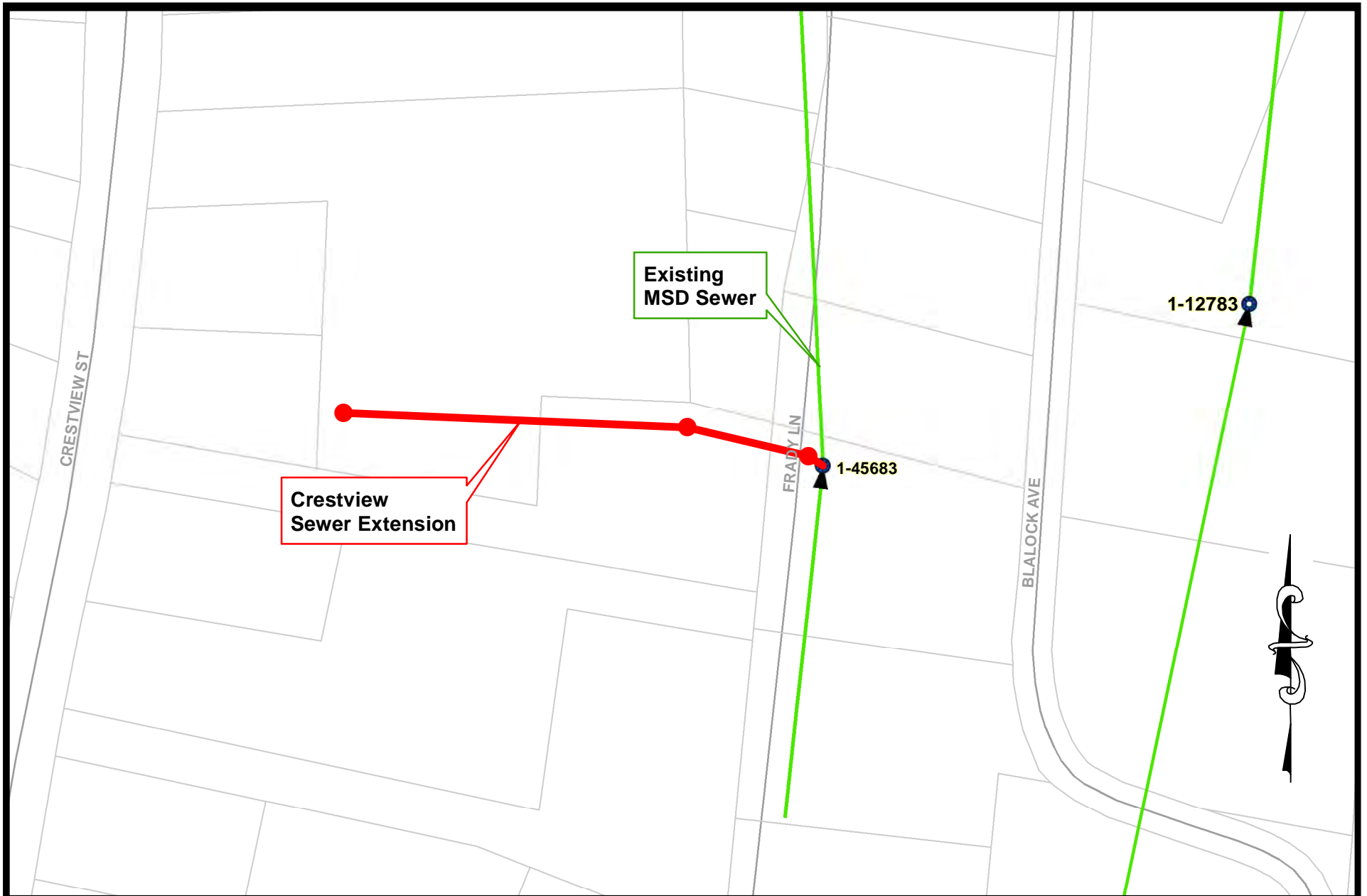
**BACKGROUND:** This project is located inside the District boundary along Crestview Street in Asheville, NC. The developer of the project is Katie Beane of Asheville Small Homes.

The project included extending approximately 204 linear feet of 8-inch public gravity sewer to serve the Single-Family Residential Development.

The wastewater allocation is 750 GPD for the five (5) Single-Family Units. The estimated cost of the sewer construction is \$75,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Crestview Sewer Extension MSD Project # 2023176

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Dulce Lomita Community MSD Project No. 2023076.

**BACKGROUND:** This project is located inside the District boundary along Gatewood Road in Buncombe County, NC. The developer of the project is Ingrid Johnson with Dulce Lomita, LLC.

The project included extending approximately 1,177 linear feet of 8-inch public gravity sewer to serve six (6) existing Single-Family units. The units were previously served by failing septic systems.

The project qualified for the District's Failing Septic Tank Reimbursement Program making it eligible for 10 years of estimated revenue generated by user fees. The estimated revenue is \$18,936.00 and was approved by the MSD Board on October 18, 2023. Per MSD policy, District staff also provided design, easement acquisition, and construction administration services.

During design, MSD included six (6) additional services (i.e. cleanout assemblies) to serve future customers along the 1,177 linear foot route. MSD agreed to reimburse Dulce Lomita for the six services, a total of \$25,494.00 upon completion and acceptance of the sewer system.

The existing community also qualified for Affordable Housing Development Fee rates, as confirmed by Buncombe County.

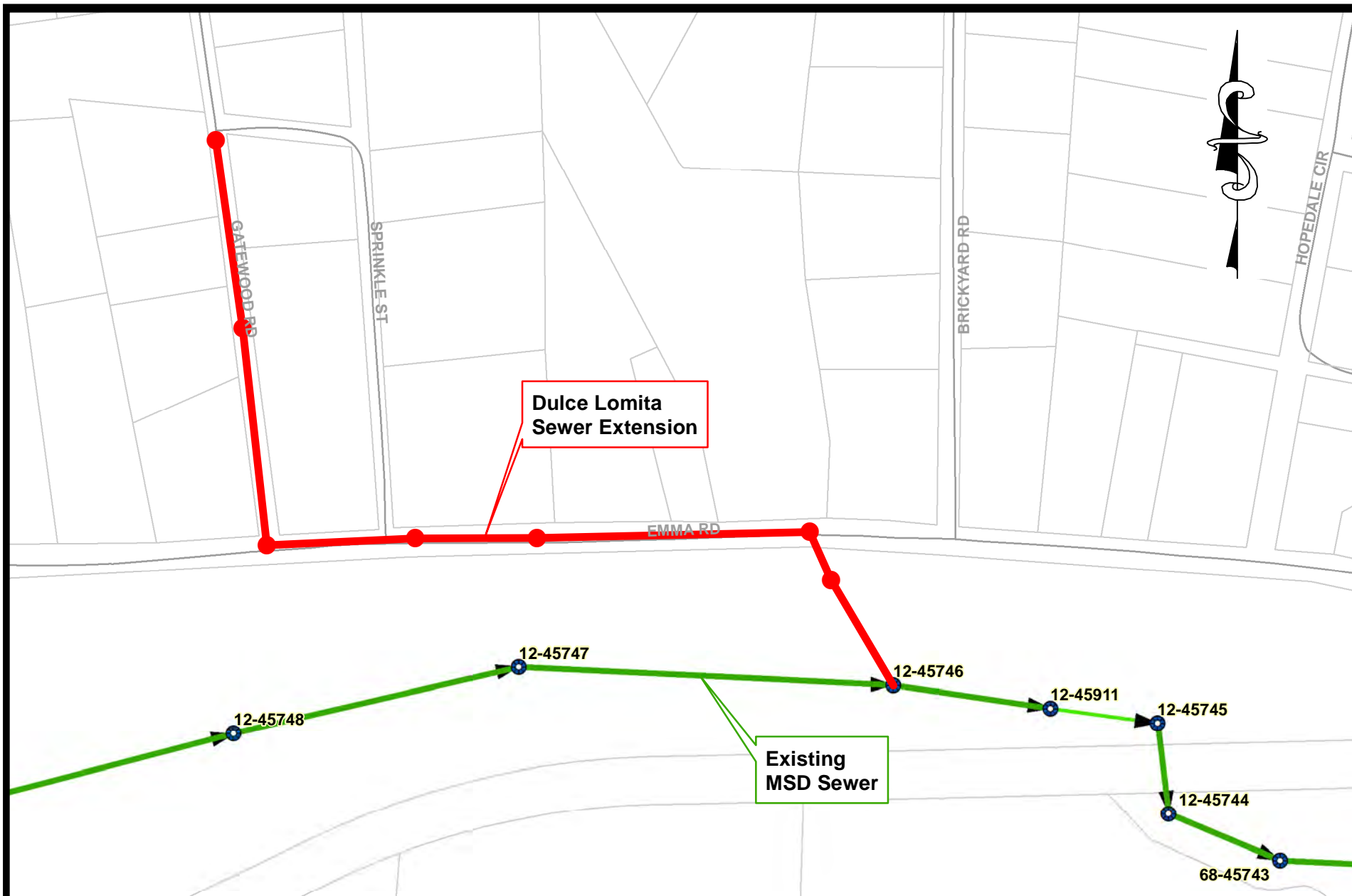
A wastewater allocation was issued in the amount of 1,300 GPD for the six (6) Single-Family Units. The estimated cost of the sewer construction is \$350,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:**

Staff recommends acceptance of this developer constructed sewer system and authorizes the General Manager disburse \$44,430.00 to Dulce Lomita, LLC.





**MSD**  
Engineering Division

## Dulce Lomita Sewer Extension MSD Project # 2023076

Metropolitan Sewerage District of Buncombe County

11/6/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Fairhaven Summit Apartments Extension MSD Project No. 2023061.

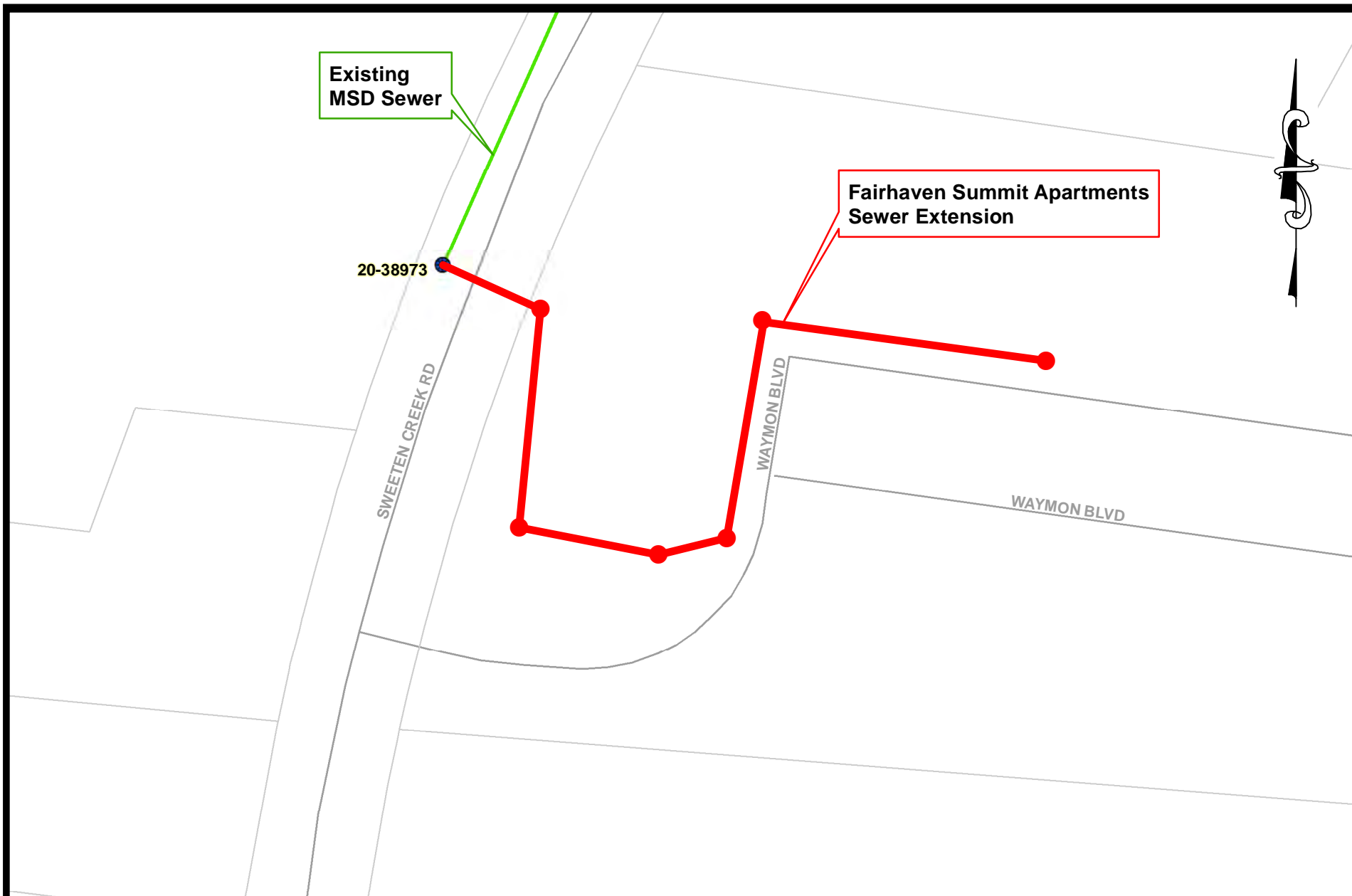
**BACKGROUND:** This project is located inside the District boundary along Sweeten Creek Road in Asheville, NC. The developer of the project is Kristi Morgan of Commonwealth Development Corporation.

The project included extending approximately 530 linear feet of 8-inch public gravity sewer to serve the Multi-Family Residential Development.

The wastewater allocation is 18,200 GPD for the seventy-seven (77) Multi-Family Units. The estimated cost of the sewer construction is \$150,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Fairhaven Summit Apartments Sewer Extension MSD Project # 2023061

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Hawthorne at Holbrook Extension MSD Project No. 2021229.

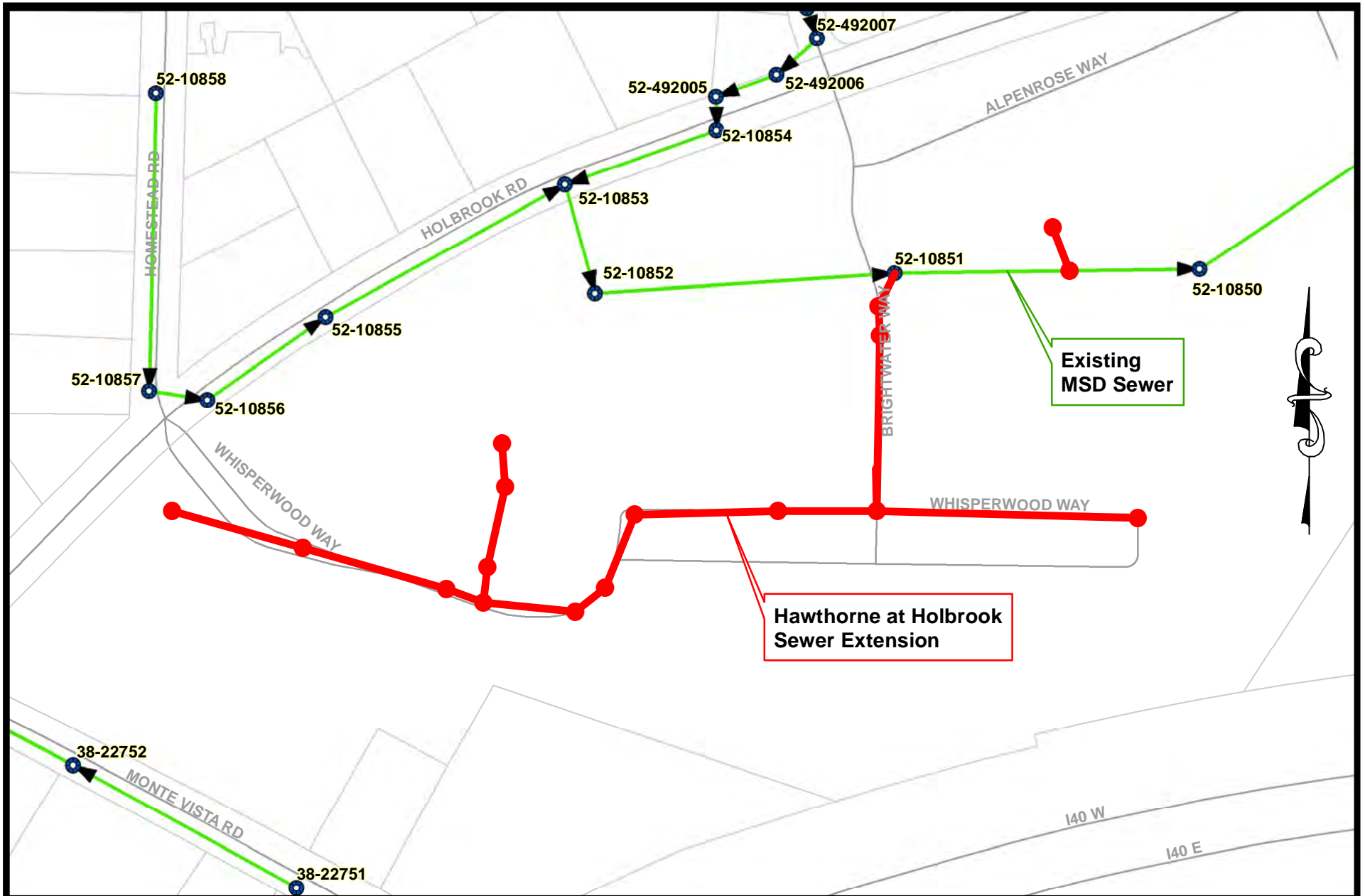
**BACKGROUND:** This project is located inside the District boundary along Crowell Road in Buncombe County, NC. The developer of the project is Phillip M. Payonk of Hawthorne Residential Partners.

The project included extending approximately 1,876 linear feet of 8-inch public gravity sewer to serve the Multi-Family Residential Development.

The wastewater allocation is 108,500 GPD for the three-hundred and fifty (350) Multi-Family Units. The estimated cost of the sewer construction is \$375,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Hawthorne at Holbrook Sewer Extension MSD Project # 2021229

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Mountain Home Dunkin Extension MSD Project No. 2024086.

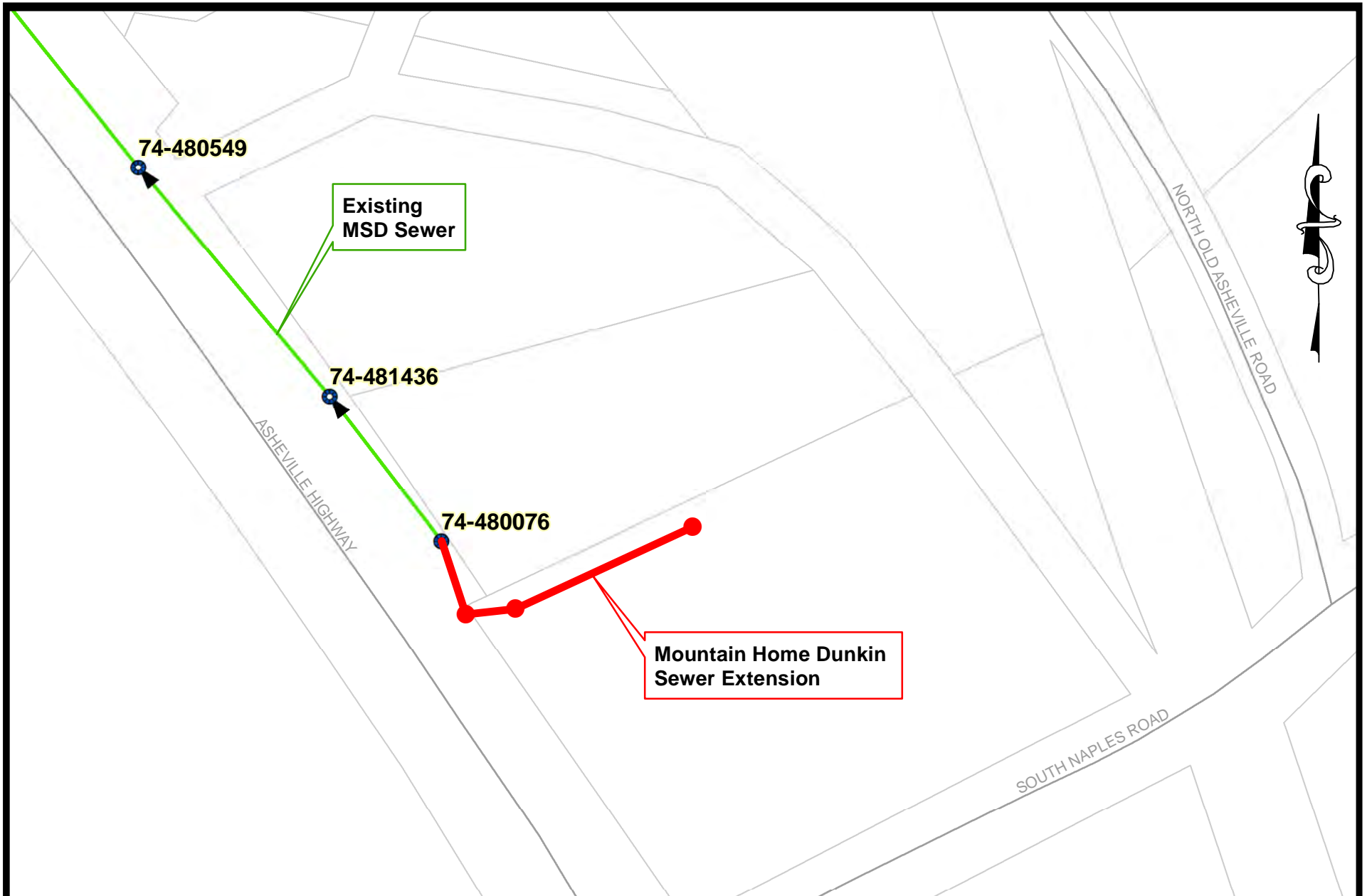
**BACKGROUND:** This project is located inside the District boundary along Asheville Highway in Henderson County, NC. The developer of the project is Rick Moore with Moore and Son.

The project included extending approximately 211 linear feet of 8-inch public gravity sewer to serve the proposed Dunkin Donuts and existing post office.

The wastewater allocation is 3,300 GPD for the restaurant and post office. The estimated cost of the sewer construction is \$90,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

**Mountain Home Dunkin Sewer Extension**  
**MSD Project # 2024086**  
Metropolitan Sewerage District of Buncombe County

11/6/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Rockberry Apartments Extension MSD Project No. 2021116.

**BACKGROUND:** This project is located inside the District boundary along Rockwood Road in Buncombe County, NC. The developer of the project is Payne Kassinger of Kassinger Development Group.

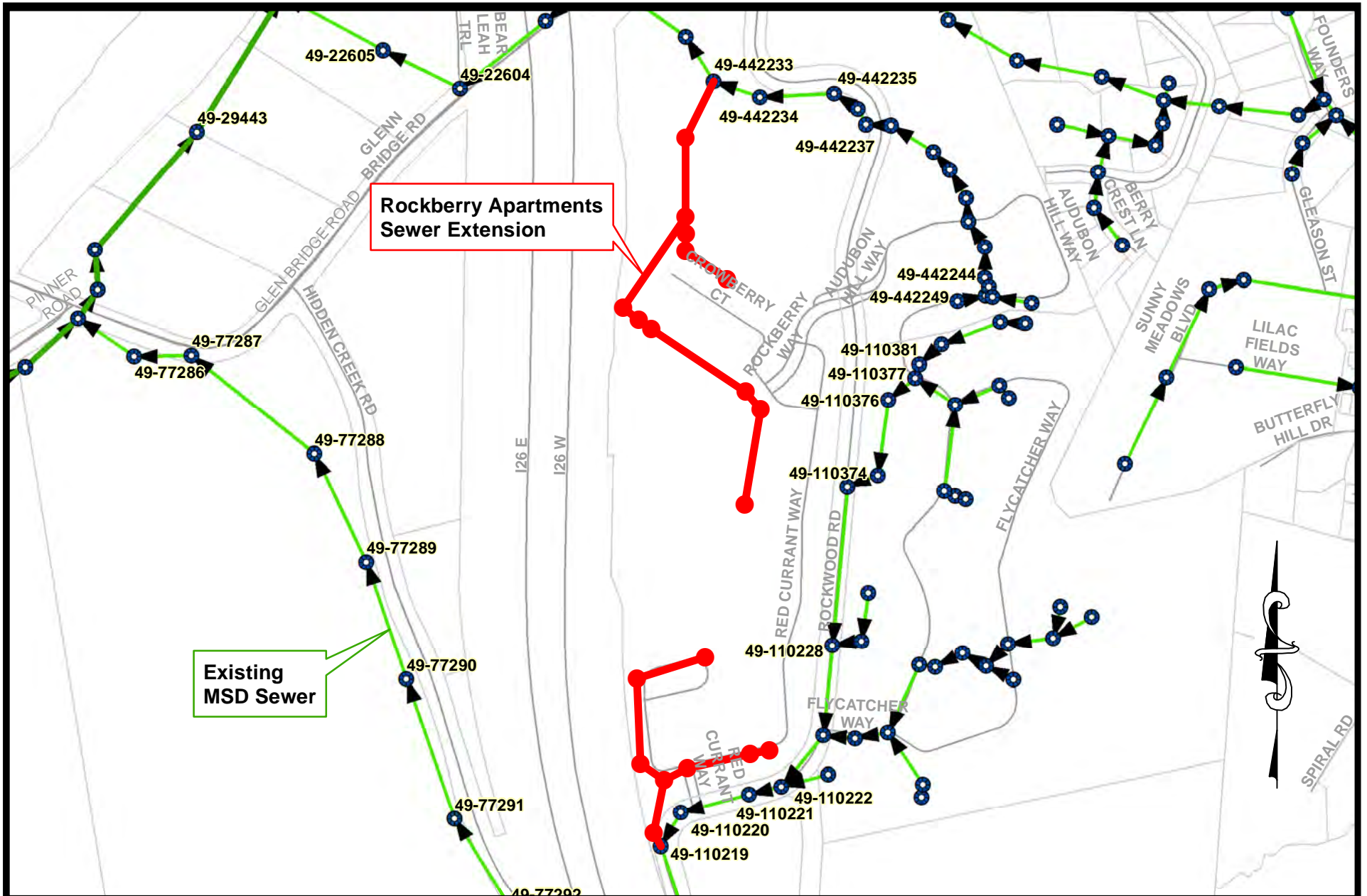
The project included extending approximately 2,420 linear feet of 8-inch public gravity sewer to serve the Multi-Family Residential and Commercial Development.

The wastewater allocation is 71,450 GPD for the four-hundred and twenty (420) Multi-Family Units and Commercial Space. The estimated cost of the sewer construction is \$286,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.





**MSD**  
Engineering Division

## Rockberry Apartments Sewer Extension MSD Project # 2021116

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## Board Action Item

**BOARD MEETING DATE:** November 19, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Hunter Carson, P.E. - Engineering Director

**PREPARED BY:** Samuel Gettleman, P.E. – Planning and Development Manager

**SUBJECT:** Acceptance of Developer Constructed Sewer System for the Westview Village Extension MSD Project No. 2023183.

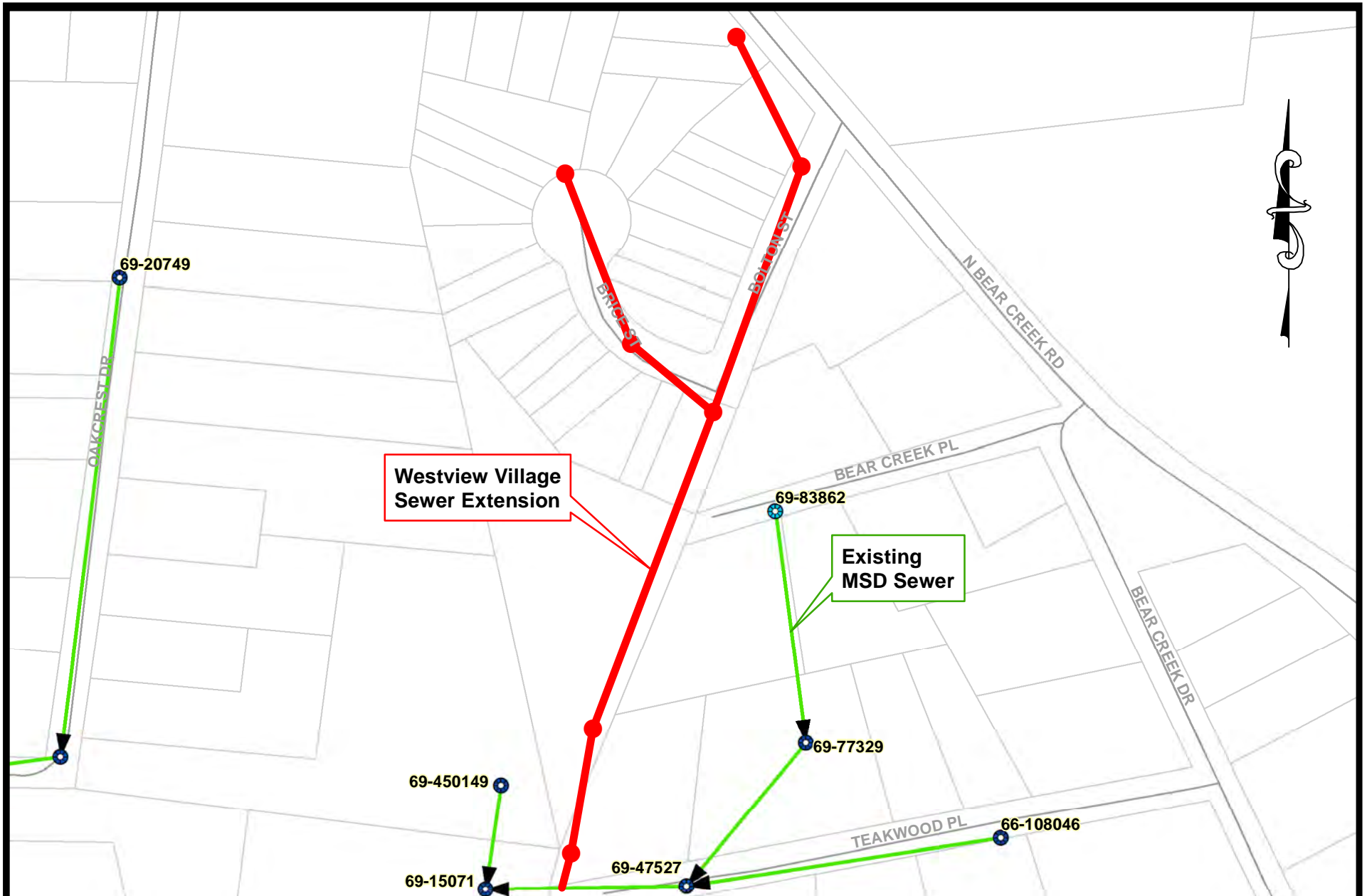
**BACKGROUND:** This project is located inside the District boundary along Huffman Road in Asheville, NC. The developer of the project is Kyle Gilliland of Amarn Construction.

The project included extending approximately 824 linear feet of 8-inch public gravity sewer to serve the Single-Family Residential Development.

The wastewater allocation is 5,850 GPD for the twenty-six (26) Single-Family Units. The estimated cost of the sewer construction is \$200,000.

All MSD requirements have been met.

**STAFF RECOMMENDATION:** Staff recommends acceptance of this developer constructed sewer system.



**MSD**  
Engineering Division

## Westview Village Sewer Extension MSD Project # 2023183

Metropolitan Sewerage District of Buncombe County

11/5/2025

# Metropolitan Sewerage District of Buncombe County

## BOARD ACTION ITEM

**Meeting Date:** November 19, 2025  
**Submitted By:** Thomas E. Hartye, PE., General Manager  
**Prepared By:** W. Scott Powell, CLGFO, Director of Finance  
Jody Germaine, Budget Analyst  
**Subject:** Presentation of Audit & Annual Report – Fiscal Year Ended June 30, 2025

### **Background**

Both North Carolina law and the Bond Order require an annual audit of the District's financial records. The District has incorporated the audited financial statements into an Annual Comprehensive Financial Report, which adds transmittal and statistical data to assist readers in analyzing the audited financial statements. The Annual Report is also used to satisfy continuing disclosures required by the Bond Order and other contractual agreements.

### **Discussion**

The auditors' unmodified (commonly called "clean") opinion is the first document behind the "Financial Section" tab.

Included with the Annual Report is a standard letter from the independent auditors describing the auditors' responsibilities under accounting standards, their understanding of District policies and estimates, and assurance that no significant adjustments to the District financial records are required.

Finally, the District did not have any reportable conditions or other issues requiring additional auditor communication with the Board.

### **Staff Recommendation**

Acceptance of the Annual Comprehensive Financial Report. To view the document, click the hyperlink below:

<http://www.msdbc.org/documents/annualreports/FY2025.pdf>

#### **Action Taken**

Motion by:

Second by:

Other:

Follow-up required:

Person responsible:

to

☐ Approve

☐ Table

☐ Disapprove

☐ Send to Committee

Deadline:

# Schedule of Revenues and Expenditures

## Budget to Actual (Non-GAAP)

### For the Year Ended June 30, 2025

	<u>Amended Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
<b>Revenues:</b>			
<b>Operating revenues:</b>			
Sewer charges (net):			
Domestic users	\$ 38,825,740	\$ 41,334,124	\$ 2,508,384
Industrial users	3,536,962	4,051,632	514,670
Billings and collections	1,203,773	1,099,178	(104,595)
	<u>43,566,475</u>	<u>46,484,934</u>	<u>2,918,459</u>
Facility and tap fees	3,300,000	7,597,834	4,297,834
Rental income	96,000	99,936	3,936
Miscellaneous	426,643	1,447,407	1,020,764
<b>Total operating revenues</b>	<u>47,389,118</u>	<u>55,630,111</u>	<u>8,240,993</u>
<b>Nonoperating revenues:</b>			
Investment income	3,495,667	4,289,383	793,716
<b>Total nonoperating revenues</b>	<u>3,495,667</u>	<u>4,289,383</u>	<u>793,716</u>
<b>Total revenues</b>	<u>50,884,785</u>	<u>59,919,494</u>	<u>9,034,709</u>
<b>Expenditures:</b>			
<b>Operating expenditures:</b>			
Salaries and employee benefits		15,219,603	
Contractual services		2,057,203	
Utilities		2,036,484	
Repairs and maintenance		1,097,008	
Other supplies and expenses		2,505,159	
Insurance claims and expenses		2,841,265	
<b>Total operating expenditures</b>	<u>24,082,860</u>	<u>25,756,722</u>	<u>(1,673,862)</u>
<b>Capital Projects:</b>			
Equipment		909,581	
Infrastructure		29,228,107	
<b>Total capital projects</b>	<u>38,076,119</u>	<u>30,137,688</u>	<u>7,938,431</u>
<b>Debt service</b>			
Principal		5,631,824	
Interest		2,728,401	
<b>Total debt service</b>	<u>8,696,737</u>	<u>8,360,225</u>	<u>336,512</u>
<b>Total Expenditures</b>	<u>70,855,716</u>	<u>64,254,635</u>	<u>6,601,081</u>
<b>Revenues over (under) expenditures</b>	<u>(19,970,931)</u>	<u>(4,335,141)</u>	<u>15,635,790</u>
<b>Other Financing Sources:</b>			
Use of available funds	19,970,931	-	(19,970,931)
	<u>19,970,931</u>	<u>-</u>	<u>(19,970,931)</u>
<b>Revenues and other financing sources over (under) expenditures and other financing uses</b>	<u>\$ (0)</u>	<u>\$ (4,335,141)</u>	<u>\$ (4,335,141)</u>

**Schedule of Revenues and Expenditures**  
**Budget to Actual (Non-GAAP)**  
**For the Year Ended June 30, 2025** (continued)

	<u><b>Actual</b></u>
<b>Reconciliation from budgetary basis (modified accrual) to full accrual:</b>	
<b>Revenues and other financing sources over (under) expenditures and other financing uses</b>	<u>\$ (4,335,141)</u>
<b>Reconciling items:</b>	
Unamortized discount recognized in interest expense	287,165
Debt principal payments	5,631,824
Capital project transfers	29,670,626
Change in allowance for doubtful accounts	(681,836)
Change in compensated absences	2,381,199
Change in health insurance IBNR	(394,392)
Deferred outflows of resources for contributions made in current fiscal year:	
Pension plan	1,552,062
OPEB plan	159,000
Pension expense	(1,636,101)
OPEB expense	(354,000)
Contributed assets	10,523,414
Depreciation	(13,169,966)
Loss on disposal of surplus property	<u>(9,435)</u>
<b>Total reconciling items</b>	<u>33,959,560</u>
<b>Change in net position</b>	<u><u>\$ 29,624,419</u></u>

## Metropolitan Sewerage District of Buncombe County

### BOARD INFORMATIONAL ITEM

Meeting Date: November 19, 2025  
Submitted By: Thomas E. Hartye, PE., General Manager  
Prepared By: W. Scott Powell, CLGFO Director of Finance  
Subject: First Quarter Budget to Actual Review – FY2026





#### Background

At the end of each quarter, actual revenue and expenditure amounts are compared with the budget to evaluate performance. This information is based on cash revenues and invoices received prior to September 30, 2025 and may not include some accruals of revenue and expenditures.

#### Discussion

There are several explanatory notes at the bottom of the attached Budget to Actual schedule.

Other considerations are as follows:

-  Domestic and Industrial Revenue are at budget expectations. Staff monitors consumption trends as they have a direct effect on the District's current revenue projections.
-  Facility and Tap Fees are budgeted conservatively. The better than expected variance as of the end of the first quarter is due to receiving revenue from various development.
-  Interest and miscellaneous income are above budgeted expectations. Actual short-term interest rates are higher than anticipated for the fiscal year.
-  Rental income reflects are at budgeted expectations.

Meeting Date: November 19, 2025  
Subject: First Quarter Budget to Actual Review – FY2026  
Page 2

Discussion (continued)

- ✚ O&M expenditures are at 29.7% of budget. The expenditures include encumbered amounts, which has elevated the budget to actual ratio above 25%. The aforementioned encumbrances will be spent in future quarters.
- ✚ Bond principal and interest are at 83.6%. This reflects principal and semi-annual interest payments on July 1, 2025.
- ✚ Amounts budgeted for capital equipment are rarely expended proportionately throughout the year and are expected to be fully spent prior to the end of the year.
- ✚ Capital Project expenditures are at 79.8%. The expenditures include encumbered amounts which has elevated the budget to actual ratio. Actual expenditure was approximately \$11.3 million or approximately 19.7% of budget. The aforementioned encumbrances will be spent in future quarters.

Staff Recommendation

None - Information Only.

Action Taken

Motion by:

to

☐ Approve

☐ Disapprove

Second by:

☐ Table

☐ Send to

Committee

Other:

Follow-up required:

Person responsible:

Deadline:



# Metropolitan Sewerage District

## Budget to Actual Revenue and Expenditure Report

For the three months ended September 30, 2025

UNAUDITED--NON-GAAP

	Budget	Actual to Date	% Budget to Actual
<b>REVENUES</b>			
Domestic User Fees <sup>1</sup>	\$ 41,647,839	\$ 12,019,573	28.86%
Industrial User Fees	3,745,368	1,055,524	28.18%
Facility Fees <sup>2</sup>	3,000,000	2,225,640	74.19%
Tap Fees <sup>3</sup>	300,000	106,496	35.50%
Billing and Collection	1,212,306	389,681	32.14%
Interest and Misc. Income	2,475,452	1,390,886	56.19%
Employee Contribution to Health Ins.	355,000	86,980	24.50%
Rental Income	96,000	22,885	23.84%
Use of (Contributions to) Available Funds <sup>4</sup>	<u>36,342,237</u>	<u>41,680,312</u>	114.69%
Total Revenues <sup>5</sup>	<u>\$ 89,174,202</u>	<u>\$ 58,977,977</u>	66.14%
<b>EXPENDITURES</b>			
Operations and Maintenance <sup>6</sup>	\$ 22,689,757	\$ 6,735,167	29.68%
Bond Principal and Interest <sup>7</sup>	8,685,468	7,256,383	83.55%
Capital Equipment (Other than O&M) <sup>6</sup>	528,346	72,672	13.75%
Capital Projects <sup>6</sup>	56,270,631	44,913,755	79.82%
Contingency	<u>1,000,000</u>	<u>-</u>	0.00%
Total Expenditures	<u>\$ 89,174,202</u>	<u>\$ 58,977,977</u>	66.14 %

### Notes:

<sup>1</sup>Revenues are accounted for on the cash basis method

<sup>2</sup>Increase due to unanticipated revenue from various developments

<sup>3</sup>Increase in number of Taps requiring Pavement Disturbance

<sup>4</sup>Pay-as-go funds to be used for CIP

<sup>5</sup>Budget-to-Actual Ratio does not include use of available funds

<sup>6</sup>Includes encumbered amounts as well as actual insurance expenditures

# Metropolitan Sewerage District of Buncombe County

## BOARD INFORMATIONAL ITEM

Meeting Date: November 19, 2025  
 Submitted By: Thomas E. Hartye, PE., General Manager  
 Prepared By: W. Scott Powell, CLGFO, Director of Finance  
 Cheryl Rice, Accounting Manager  
 Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

### Background

Each month, staff presents to the Board an investment report for all monies in bank accounts and specific investment instruments. The total investments as of September 30, 2025 were \$94,972,758. The detailed listing of accounts is available upon request. The average rate of return for all investments is 4.351%. These investments comply with North Carolina General Statutes, Board written investment policies, and the District's Bond Order.

The attached investment report represents cash and cash equivalents as of September 30, 2025 do not reflect contractual commitments or encumbrances against said funds. Shown below are the total investments as of September 30, 2025 reduced by contractual commitments, bond funds, and District reserve funds. The balance available for future capital outlay is \$ 18,839,386.

Total Cash & Investments as of 09/30/2025		94,021,684
Less:		
Budgeted Commitments (Required to pay remaining FY26 budgeted expenditures from unrestricted cash)		
Construction Funds	(44,938,814)	
Operations & Maintenance Fund	<u>(18,364,536)</u>	
		(63,303,350)
Bond Restricted Funds		
Bond Service (Funds held by trustee):		
Funds in Principal & Interest Accounts	(69,057)	
FY26 Principal & Interest Due	<u>(1,411,846)</u>	
		(1,480,903)
District Reserve Funds		
Fleet Replacement	(1,768,361)	
Pump Replacement	(187,318)	
WWTP Replacement	(493,589)	
Maintenance Reserve	<u>(1,379,924)</u>	
		(3,829,192)
District Insurance Funds		
General Liability	(118,419)	
Worker's Compensation	(210,985)	
Post-Retirement Benefit	(3,300,862)	
Self-Funded Employee Medical	<u>(3,889,661)</u>	
		<u>(7,519,927)</u>
Designated for Capital Outlay		<u>18,839,386</u>

Meeting Date: November 19, 2025

Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

Page 2

Staff Recommendation

None - Information Only.

Action Taken

Motion by:

to

☐ Approve

☐ Disapprove

Second by:

☐ Table

☐ Send to Committee

Other:

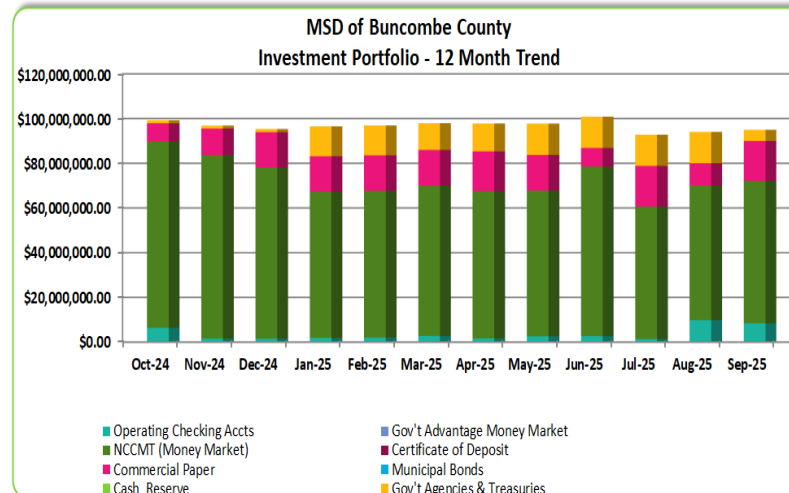
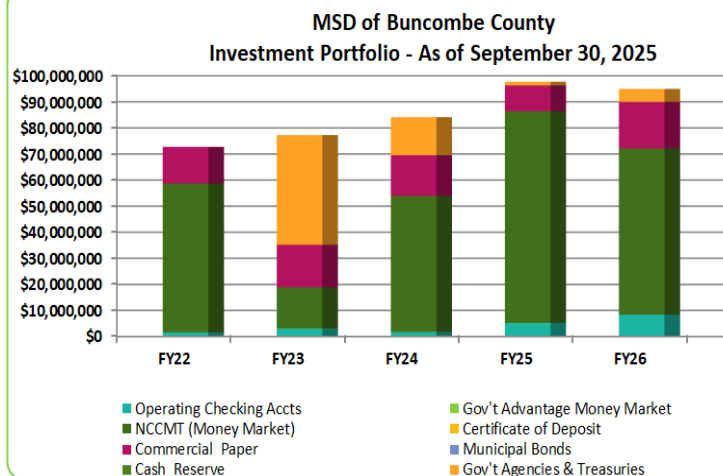
Follow-up required:

Person responsible:

Deadline:

	Operating Checking Accounts	Gov't Advantage Money Market	NCCMT (Money Market)	Certificate of Deposit	Commercial Paper	Municipal Bonds	Cash Reserve	Gov't Agencies & Treasuries	Total
Held with Bond Trustee	\$ -		\$ 69,057			\$ -	\$ -		\$ 69,057
Held by MSD	8,433,063	0	63,586,209	-	17,885,804	-		4,998,625	94,903,701
	\$ 8,433,063	\$ -	\$ 63,655,266	\$ -	\$ 17,885,804	\$ -	\$ -	\$ 4,998,625	\$ 94,972,758

Investment Policy Asset Allocation	Maximum Percent	Actual Percent	
U.S. Government Treasuries,			No significant changes in the investment portfolio as to makeup or total amount.
Agencies and Instrumentalities	100%	5.26%	
Bankers' Acceptances	20%	0.00%	
Certificates of Deposit	100%	0.00%	
Commercial Paper	20%	18.85%	All funds invested in CD's, operating checking accounts, Gov't Advantage money market are fully collateralized with the State Treasurer.
Municipal Bonds	100%	0.00%	
North Carolina Capital Management Trust	100%	67.01%	
Checking Accounts:	100%		
Operating Checking Accounts		8.88%	
Gov't Advantage Money Market		0.00%	



Meeting Date: November 19, 2025

Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

Page 4

## Metropolitan Sewerage District Investment Managers' Report On September 30, 2025

### Summary of Asset Transactions

	Original		Interest	
	Cost	Market	Receivable	
Beginning Balance	\$ 75,566,778	\$ 75,606,398	\$ 204,029	
Capital Contributed (Withdrawn)	1,920,166	1,920,166		
Realized Income	315,681	315,681	(131,081)	
Unrealized/Accrued Income		57,945	18,021	
Ending Balance	\$ 77,802,625	\$ 77,900,190	\$ 90,969	

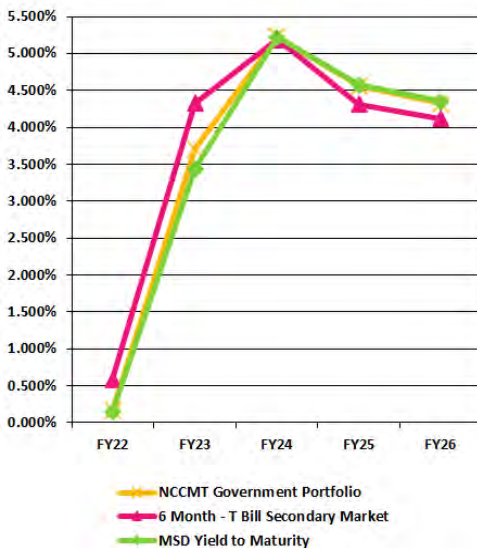
### Value and Income by Maturity

	Original Cost	Income
Cash Equivalents <91 Days	\$ 72,803,999	\$ 243,825
Securities/CD's 91 to 365 Days	1,499,625	5,022
Securities/CD's > 1 Year	3,499,000	11,718
	\$ 77,802,625	\$ 260,566

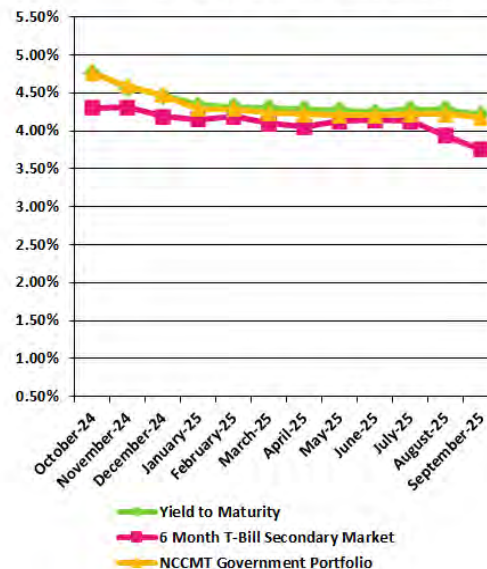
### Month End Portfolio Information

Weighted Average Maturity	64
Yield to Maturity	4.21%
6 Month T-Bill Secondary Market	3.75%
NCCMT Government Portfolio	4.17%

Metropolitan Sewerage District  
Annual Yield Comparison



Metropolitan Sewerage District  
Yield Comparison - September 30, 2025

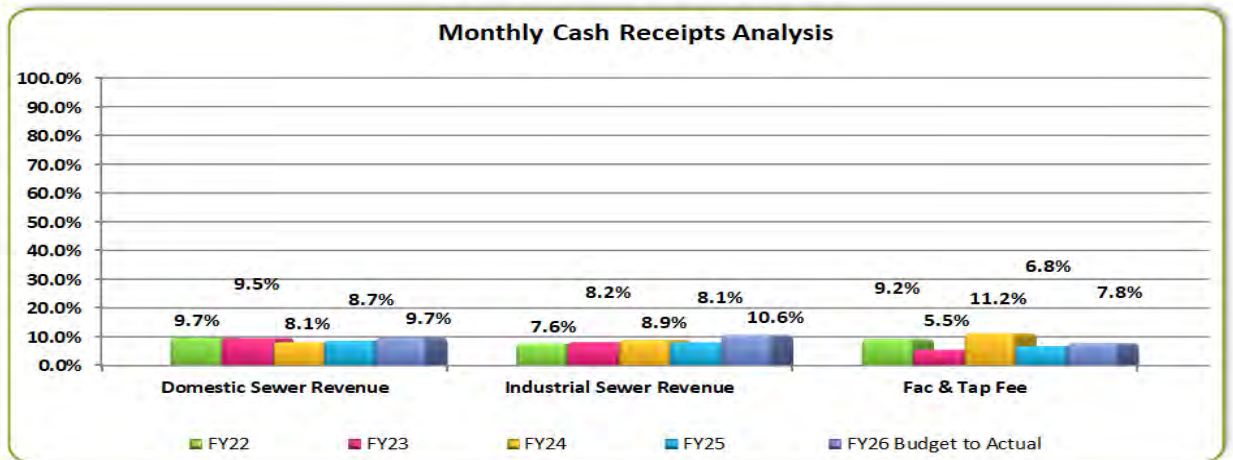


Meeting Date: November 19, 2025

Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

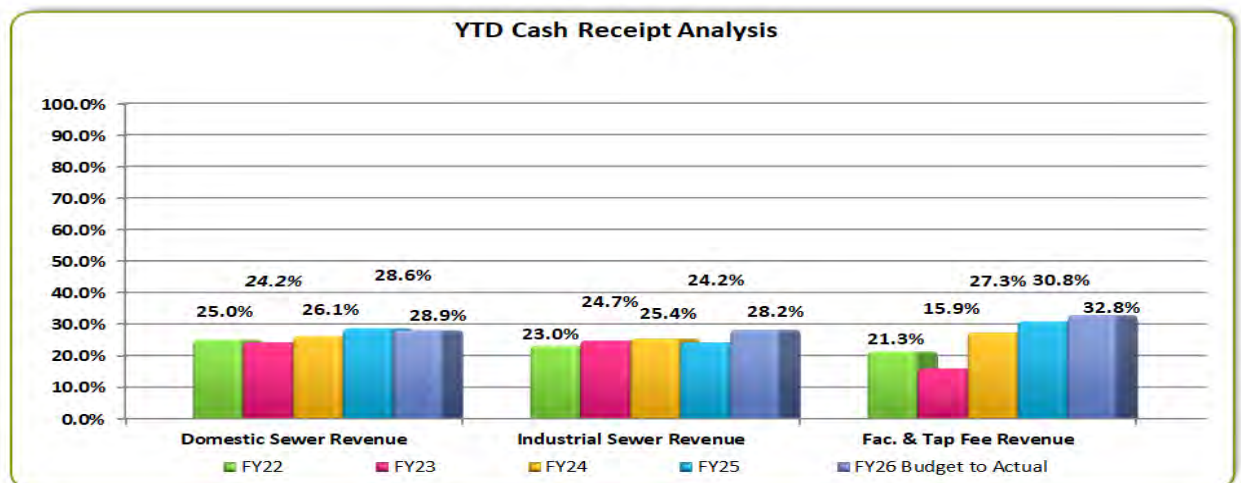
Page 5

**Metropolitan Sewerage District**  
**Analysis of Cash Receipts**  
**As of September 30, 2025**



Monthly Cash Receipts Analysis:

- \* Monthly domestic sewer revenue is considered reasonable based on timing of cash receipts in their respective fiscal periods.
- \* Monthly industrial sewer revenue is reasonable based on historical trends.
- \* Due to the unpredictable nature of facility and tap fee revenue, staff considers facility and tap fee revenue reasonable.



YTD Actual Revenue Analysis:

- \* YTD domestic sewer revenue is considered reasonable based on historical trends.
- \* YTD industrial sewer revenue is reasonable based on historical trends.
- \* Due to the unpredictable nature of facility and tap fee revenue, staff considers facility and tap fee revenue reasonable.

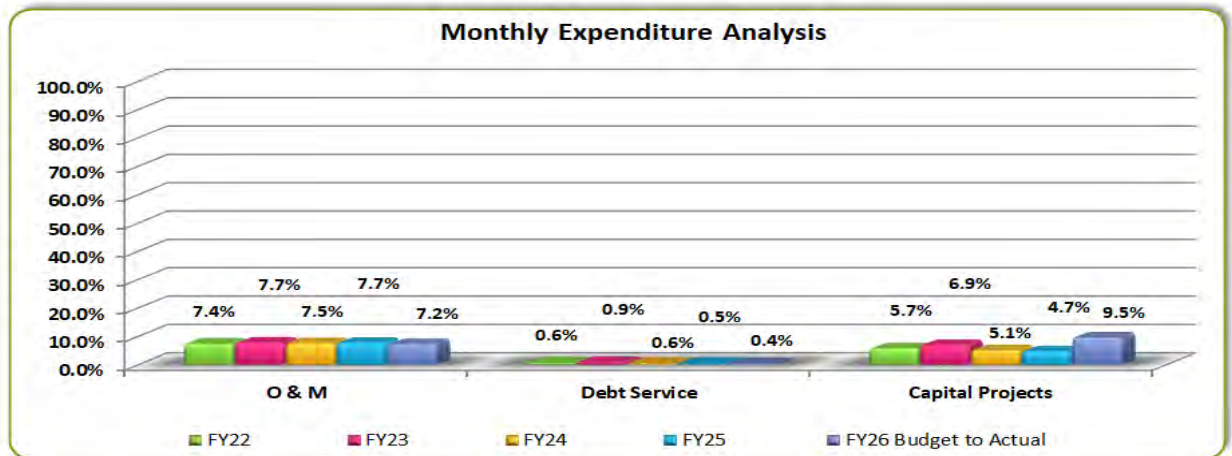


Meeting Date: November 19, 2025

Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

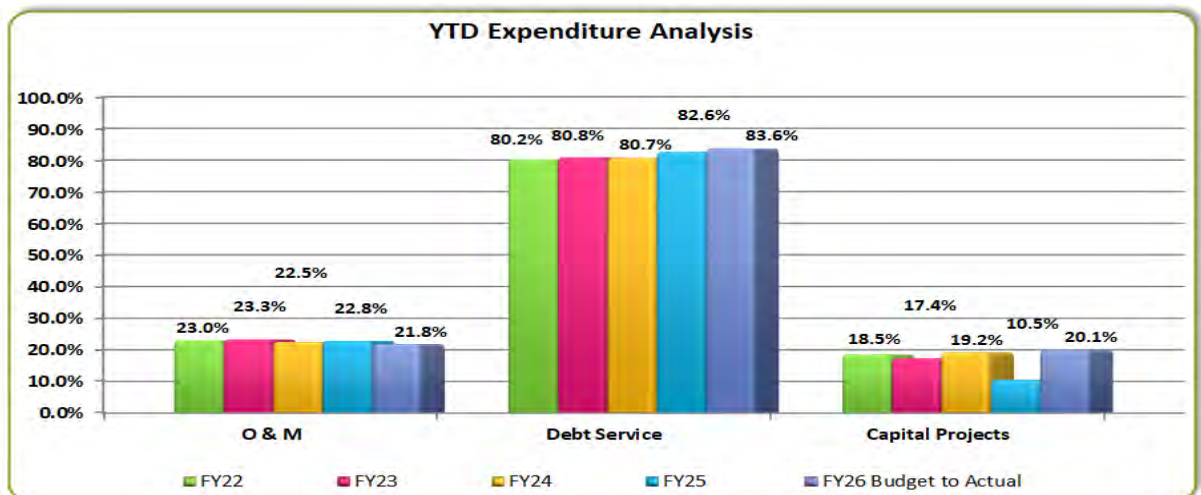
Page 6

**Metropolitan Sewerage District**  
**Analysis of Expenditures**  
**As of September 30, 2025**



**Monthly Expenditure Analysis:**

- \* Monthly O&M expenditures are considered reasonable based on historical trends and timing of expenditures in the current year.
- \* Due to the nature of the variable rate bond market, monthly expenditures can vary year to year. Based on current variable interest rates, monthly debt service expenditures are considered reasonable.
- \* Due to the nature and timing of capital projects, monthly expenditures can vary from year to year. Based on the current outstanding capital projects, monthly capital project expenditures are considered reasonable.



**YTD Expenditure Analysis:**

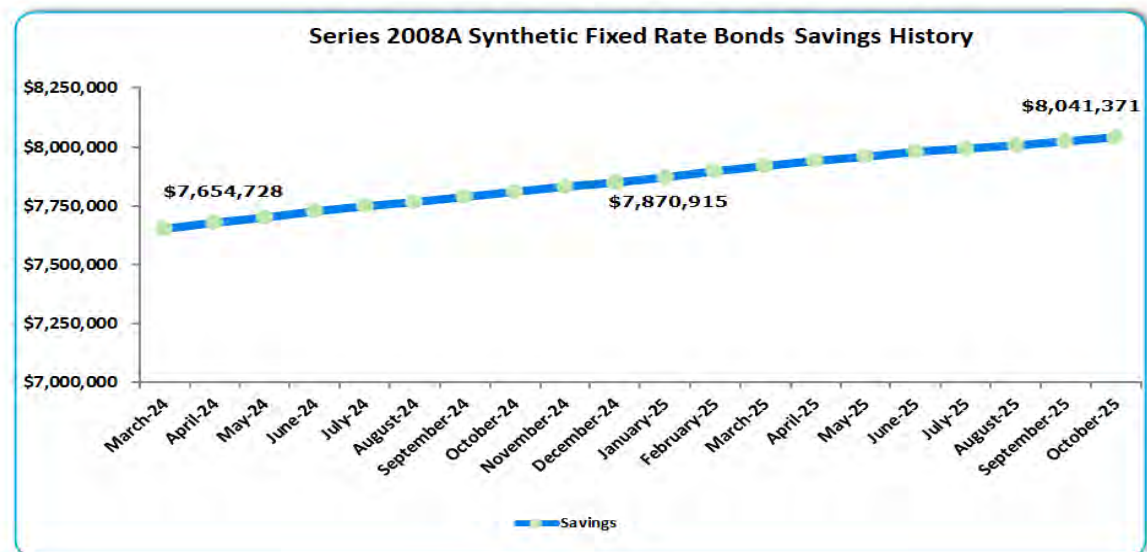
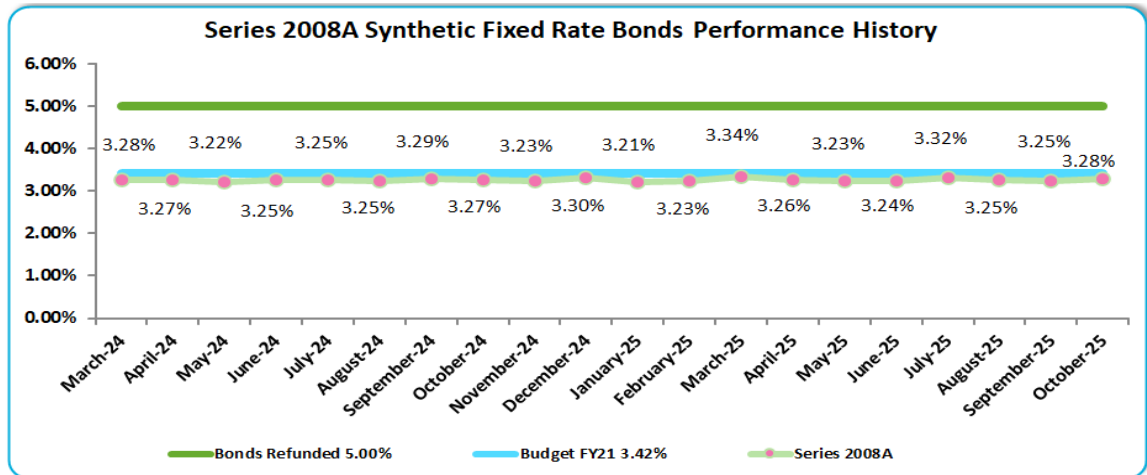
- \* YTD O&M expenditures are considered reasonable based on historical trends.
- \* Due to the nature of the variable rate bond market, YTD expenditures can vary year to year. Based on current variable interest rates, YTD debt service expenditures are considered reasonable.
- \* Due to nature and timing of capital projects, YTD expenditures can vary from year to year. Based on the current outstanding capital projects, YTD capital project expenditures are considered reasonable.

Meeting Date: November 19, 2025

Subject: Cash Commitment/Investment Report-Month Ended September 30, 2025

Page 7

**Metropolitan Sewerage District**  
**Variable Debt Service Report**  
As of September 30, 2025



**Series 2008A:**

- \* Savings to date on the Series 2008A Synthetic Fixed Rate Bonds is \$8,041,371 as compared to 4/1 fixed rate of 4.85%.
- \* Assuming the rate on the Series 2008A Bonds continues at the current all-in rate of 3.7210%, MSD will achieve cash savings of \$4,670,000 over the life of the bonds.
- \* MSD would pay \$265,984 to terminate the existing Bank of America Swap Agreement.

# Metropolitan Sewerage District of Buncombe County

## Planning Committee

**COMMITTEE MEETING DATE:** October 10, 2025    **BOARD MEETING DATE:** October 15, 2025

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**SUBJECT:** Developer Appeal for Private Pump Station and Force Main to serve Subdivided Property

**BACKGROUND:** A developer is proposing to construct 266 single family residences on a 175.3-acre tract (PIN 9655-87-3857) located on Pinners Cove Road in south Asheville. They propose to construct a private pump station and force main to serve the development and also wish to subdivide and sell lots.

Sewer extensions of this type are specifically prohibited by MSD policy. Any time that sewer is to serve subdivided property, it must be a public gravity system. This is to ensure that the sewer system is properly maintained by a public entity (as opposed to a private Homeowners Association). This policy not only protects the public health and safety but also keeps this ongoing burden from future homeowners within a given development.

MSD approved the flow from the subdivision and provided four options for providing sewer service, all of which comply with MSD Policy. Options include:

1. Construct the gravity master plan line.
2. Extend public sewer to the parcel by gravity from Ballantree Drive, under MSD issued permit, and permit a private system through NCDEQ to include a private pump station and force main within the parcel.
3. Construct onsite treatment (i.e. septic systems). This is allowed since the subject parcel is more than three hundred linear feet from the nearest public sewer.
4. Construct a public pump station further downstream that can serve additional properties. This requires public gravity sewer within the development, and construction of a portion of the master plan route down to the pump station. The designated public pump station location is 455 Mills Gap Rd.

The proposed private pump station and force main to serve subdivided property was denied. To date there have been three appeals – two at staff level and this third appeal which is presented to the Committee for consideration.

It should be noted that MSD offered support with design and ROW acquisition, and cost participation (via Additional Capacity Reimbursement Program) for the routes identified in the Master Plan. This has been offered because the master plan route can serve other properties and future development along this primary corridor.

Please refer to the attached memorandum for further details.

**STAFF RECOMMENDATION:** Staff recommends that the private pump station and force main to serve subdivided lots be denied, and that sewer service be required in accordance with the options provided to the developer.

**COMMITTEE RECOMMENDATION:** The Planning Committee called for a motion to continue discussion amongst the full Board at the November 19<sup>th</sup> Board Meeting and all were in favor.

# Interoffice Memorandum

**TO:** Tom Hartye, General Manager

**FROM:** Hunter Carson, Engineering Director

**DATE:** October 6, 2025

**RE:** Developer Appeal for Private Pump Station and Force Main to serve Subdivided Property Pinnars Cove Road Development

The "Pinnars Cove Road Development" project was originally submitted to MSD for allocation approval in July 2021 with a request for 136,200gpd to serve 454 individually owned residential units. The developer requested that the units be served by an onsite public pump station. Pursuant to MSD policy, the request for the public pump station was denied. Sewer extensions of this type are specifically prohibited by MSD policy. Any time that sewer is to serve subdivided property, it must be a public gravity system. This is to ensure that the sewer system is properly maintained by a public entity (as opposed to a private Homeowners Association). This policy not only protects the public health and safety but also keeps this ongoing burden from future homeowners within a given development.

With the denial of the onsite public pump station, MSD provided two alternate options for sewer service; (1) Extend public gravity sewer to the development in accordance with MSD's Collection System Master Plan, or (2) Construct a private pump station and collection system to serve rental units on a single, undivided parcel.

The developer appealed MSD's denial of a public pump station on August 10, 2021 and the appeal was answered on September 13, 2021. A copy of MSD's response is attached as Exhibit A. The response provided two additional options for sewer service (a total of four options now offered to the developer). One additional option was onsite treatment (i.e. septic systems) which complies with MSD policy since the parcel is located more than 300ft. from existing public sewer. The other was construction of a public pump station further downstream to serve additional properties. This option required a public collection system within the development, and a portion of the gravity master plan route be constructed down to the pump station. The public pump station location identified by MSD was 455 Mills Gap Rd.

Three of the four sewer service options provided to the developer would allow property subdivision.

In November 2021, the developer notified MSD they would pursue the private pump station and collection system option, permitted through NCDEQ. The parcel would remain under single ownership and contain rental units only. A public gravity extension to the property was required from Ballantree Dr. and would be permitted through MSD.

In late 2022, the project scope was revised and resubmitted with a reduced density of 266 single family units and a wastewater allocation request of 80,800gpd. Allocation approval was provided in March 2023 and included the same sewer service options as defined two years prior. MSD understood the developer would again pursue the private pump station option, with single ownership.

In September 2023, the developer approached MSD with various agreement terms that would allow for the subdivision and selling of lots while being served by a private sewer system and pump station. MSD denied all proposed agreement terms.

No permit activity occurred within one year of the March 2023 allocation approval so it expired in March 2024. Later in 2024, the developer requested a third allocation approval, this time for 59,850gpd for 266 single family residential units. Approval was issued on January 26, 2025 with the same sewer service options as defined in 2021.

In July 2025, the developer's attorney sent a letter citing the recently incorporated Section 900 of North Carolina General Statute Chapter 162A. Section 900 states that local governments (such as MSD) "*shall not require an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law*". The letter acknowledges MSD as a delegated permitting authority but suggests that MSD was not authorized to reject a public pump station if built to MSD standards, nor dictate its location. The argument was predicated on MSD's sewer service option of constructing a public pump station at 455 Mills Gap Rd. By law, the developer believes they should have the right to construct an onsite public pump station.

MSD Legal Counsel answered the argument on August 11, 2025 stating that MSD is not in violation of Section 900 and does have the right to dictate the location of public pump stations. Copies of both letters are attached for reference as Exhibits B and C.

On September 10, 2025, the developer's attorney formally appealed MSD's denial of a public pump station on the development site. A copy of the appeal is attached for reference as Exhibit D. To date there have been three appeals – two at staff level and this third appeal which is presented to the Committee for consideration.

The September 2025 appeal includes a litany of arguments as to why MSD policies and positions should be adjusted. The following items summarize these arguments. Below each argument (*in italicized font*) is MSD's rebuttal.

1. MSD policies interfere with the ability for developers to meet housing demand. Interferences include major financial burdens and lengthy timeframes for completing sewer extensions.

*MSD does not believe its policies interfere with the area's housing shortage. Regarding development density and quantity of units, values are the same whether served by public or private sewer infrastructure.*

*MSD agrees that extensions of the public sewer system can be costly, especially to remote parcels such as Pinnars Cove. Furthermore, design and construction of said extensions can take many months, or years. It should be noted that MSD offered support for design, ROW acquisition, and material cost participation early in the project for the route identified in the Master Plan. This is pursuant to MSD policy.*

2. The Master Plan does not include a public pump station at 455 Mills Gap Rd. MSD's Extension Policy prohibits pump stations outside the Master Plan, unless they are private and in compliance with MSD policy.

*This is true. Developers are not allowed to construct public pump stations if gravity sewer is achievable. This helps facilitate orderly growth of MSD's collection system. If left unchecked, developers would choose the quicker, cheaper pump station option every time, leaving MSD with operation and maintenance responsibilities.*



*Correct, a public pump station is not shown at 455 Mills Gap Rd. However, as creator and technical designer of the public sewer system (and Master Plan), and owner and operator of said system, MSD has the right and obligation to make planning revisions that benefit the system and protect public health.*

*MSD acknowledges that the gravity master plan route in its full length is significant, challenging and cost prohibitive. The option of constructing an “intermediate pump station” at 455 Mills Gap Rd. greatly reduces the length of Master Plan route required by the developer. The proposed pump station at 455 Mills Gap Rd. is a temporary solution that benefits both the developer and the orderly development of the system.*

*The developer was made aware of another proposed development at 455 Mills Gap Rd. whose owner was also seeking public sewer. This was presented for its cost share potential among the two developers.*

3. MSD’s assertion that gravity sewer service for Pinners Cove is achievable is “incorrect and logically inconsistent” with previous approvals. Since a (private) pump station was approved on site, then MSD has determined that gravity sewer is not achievable.

*MSD’s Extension Policy states that “Pump stations will only be allowed on extensions to the District Sewerage System where, in the opinion of the District, gravity service is not achievable.” This statement has been misinterpreted and refers only to public pump stations. Private pump stations are allowed regardless of gravity serviceability but must comply with single ownership requirements.*

4. MSD must review and approve applications for sewer extensions based on rules that are “compatible” with those of NCDEQ. The appeal suggests that MSD’s Extension Policy is not “compatible” and that MSD must allow systems that offer equal or better solutions – regardless of internal policy.

*Pursuant to Title 15A North Carolina Administrative Code 2T .0306, permitting authority for sewer extensions within the MSD service area has been delegated to MSD by the North Carolina Department of Environmental Quality (“NCDEQ”). As part of that process, NCDEQ approved MSD’s process for reviewing and approving applications for sewer extensions, including MSD’s Sewer Service Policy. MSD’s policies for review and approving sewer extensions are compatible with those of NCDEQ.*

*The proposals from the Pinners Cove Development are not equal to or better than the options that MSD has provided which are in line with the Master Plan as adopted by the MSD Board in 2008.*

5. Construction of an onsite public pump station is consistent with orderly development of the MSD system. It could be designed to serve future upstream users.

*Technically, it is “possible” to construct a pump station onsite to serve upstream portions of the Robinson Creek basin. However, the proposed pump station location is approximately 350 feet away from Robinson Creek, and approximately 20 vertical feet higher than the creek. This results in an unnecessarily deep pump station, and a gravity sewer interceptor alignment that is inconsistent with natural topography. MSD is not supportive of a public pump station in this location.*

*Furthermore, the option to construct an “intermediate pump station” downstream at 455 Mills Gap Rd. enables the orderly growth of the system. If a public pump station is allowed on the Pinners Cove Subdivision site, the burden falls entirely on upstream or downstream users to extend the gravity sewer system.*



## EXHIBIT A

# Metropolitan Sewerage District OF BUNCOMBE COUNTY, NORTH CAROLINA

September 13, 2021

Mr. Warren M. Sugg, P.E.  
Civil Design Concepts, PA  
168 Patton Avenue  
Asheville, NC 28801

**Re: Response to Appeal of Denial of Public Pump Station for Pinners Cove Road Development, MSD  
Project Number 2021138**

Dear Mr. Sugg:

This letter is in response to your appeal of MSD denying your request for a public pump station for the Pinners Cove Road Development. Please see responses to each of your numbered points below:

**1) Public gravity sewer does not exist within the proposed property.**

*MSD acknowledges this point. However, there is a gravity master plan route that has been identified in MSD's Sewer Master Plan dated November 2008 that could serve this property.*

**2) Per MSDBC.org mapping a new public gravity sewer to serve this property would require several miles of public sewer infrastructure upgrades which would encroach on more than 100 parcels which would require negotiation of easement and/or condemnation of land.**

*MSD agrees that the gravity master plan line would be approximately five (5) miles of new gravity sewer all twelve-inch pipe diameter and larger. It does appear that approximately 40 to 50 parcels would be crossed and require easements to construct the gravity master plan line.*

*The appeal dated August 10, 2021 proposes a public pump station to serve the development. Upon further review and discussion, MSD will consider a public pump station but only if it is located further downstream and can serve additional properties. If this option were to be pursued, you would also be required to provide public gravity sewer throughout your development and down to the pump station following the gravity master plan route. MSD pump station fees would also apply.*

*There is another property (455 Mills Gap Road, PIN 9664181014), whose owner has been seeking public sewer as well. We believe that the pump station could be located on this property and the forcemain could then connect to the MSD system on Mills Gap Road. You and the other owner/developer would be responsible to coordinate this project, provided that it is a viable option.*

**3) Onsite treatment systems have been considered and may be used if MSD will not accept the public pump station. We, however, believe this to be an inferior option.**

*Since this property is not within 300 linear feet of the existing public (MSD) sewer, there is no obligation to connect to same. Therefore, MSD does not have issue with you applying for onsite treatment systems for this development.*

~ Protecting Our Natural Resources ~



- 4) The project is 100% rental units under common ownership and for that reason MSD would have one point of contact on all sewer related items.**

*Since the units will all be for rent under one ownership entity, a private sewer system to include a pump station/force main permitted through NCDEQ would be allowed with a public gravity extension to the property from Ballantree Drive. This option was listed on the allocation approval, and still retains one point of contact for all sewer related items.*

- 5) The pump station would allow for much needed housing at a time when the population that is covered by MSD and its constituent members desperately need it.**

*The private pump station would not reduce the amount of housing for this development but would limit it to rental units, as currently planned.*

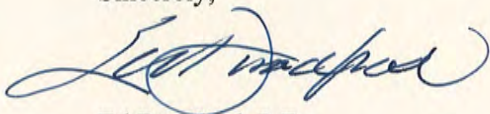
**MSD will therefore allow any of the four options listed below:**

1. Build the gravity master plan line. We understand that this is a significant, challenging, and cost prohibitive project due to its length and the number of easements that would be required.
2. Extend the public sewer to the subject parcel by gravity from Ballantree Drive, under MSD issued permit and permit a private system through NCDEQ to include a private pump station and force main within the parcel. This meets MSD policy since the private system will not cross another property and will only serve the subject parcel with all buildings and land under a single ownership.
3. MSD will allow onsite systems permitted through Buncombe County Environmental Health since the subject parcel is more than three hundred linear feet by gravity to the nearest public line. We do understand that this option may reduce the number of residential units for the proposed development.
4. A public pump station will be allowed only if it is located further downstream and can serve additional properties. This would also require that the system within your development is public gravity sewer, including that portion of the master plan route down to the pump station. Note that there are additional pump station fees associated with this option, as well as approval by the MSD Board.

Please contact me at (828) 225-8261 or [ebradford@msdbc.org](mailto:ebradford@msdbc.org) if you have further questions or need additional information.

If you decide to pursue one of these options, please contact Kevin Johnson at (828) 225-8289 or [kevinj@msdbc.org](mailto:kevinj@msdbc.org) for more specific details and next steps.

Sincerely,



Ed Bradford, P.E.  
Director of Engineering

cc: Tom Hartye, P.E., General Manager  
Hunter Carson, P.E., Assistant Director of Engineering  
Kevin Johnson, P.E., Planning and Development Manager  
File



828.254.4778 | asklawnc.com  
20 Town Mountain Rd., Suite 100  
Asheville, NC 28801

JESSE M. SWORDS  
Attorney  
[jswords@asklawnc.com](mailto:jswords@asklawnc.com)  
828-412-5248

July 14, 2025

**VIA U.S. MAIL AND EMAIL**

Billy Clarke  
Roberts & Stevens  
301 College Street, Suite 400  
Asheville, NC 28801  
[bclarke@roberts-stevens.com](mailto:bclarke@roberts-stevens.com)

**Re: Pinners Cove Subdivision – New Section 162A-900**

Dear Billy:

This firm represents Pinners Cove, LLC, a residential real estate developer that has for some time now been seeking a workable solution to connect its planned 266-unit subdivision (the “Pinners Cove Subdivision”) to public sewer. The most recent iteration of the plan utilizes a private pump station approved by MSD in 2022. However, the single-ownership restriction that came along with that approval has become infeasible under current market conditions, and a new solution is needed.

Early in the planning process, via letter dated September 13, 2021, MSD provided four options for connection of the Pinners Cove Subdivision to the MSD system. The letter states, in pertinent part:

*MSD will therefore allow any of the four options listed below:*

...

- 4. A public pump station will be allowed only if it is located further downstream and can serve additional properties. This would also require that the system*

*within your development is public gravity sewer, including that portion of the master plan route down to the pump station. Note that there are additional pump station fees associated with this option, as well as approval by the MSD Board.*

This “Option 4,” in other words, approves a public pump station for the Pinners Cove Subdivision, on the condition that the developer build it somewhere other than where it was proposed. Notably, in a letter dated September 5, 2023, MSD confirmed that the four original options remained available, even after the 2022 private pump station approval.<sup>1</sup>

More recently, in 2024, the General Assembly added Section 900 to Chapter 162A of the North Carolina General Statutes. It provides—specifically with respect to “residential development”—that a local government unit such as MSD

*shall not require an applicant for water or sewer service for residential development to agree to any **condition not otherwise authorized by law**, or to accept any offer by the applicant to consent to any **condition not otherwise authorized by law**. These conditions include, without limitation, any of the following:*

- (1) Payment of taxes, impact fees or other fees, or contributions to any fund.*
- (2) Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).*
- (3) Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).*

N.C. Gen. Stat. § 162A-900(a-b) (emphasis added). The obvious function of this statute is to increase housing supply by reducing obstacles to the development of residential projects such as the Pinners Cove Subdivision.

As you know, in addition to numerous North Carolina and Federal statutes and regulations relevant to MSD’s organization, authority, requirements, and duties, Chapter 162A also provides MSD with the power “[t]o adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the district .....” N.C. Gen. Stat. § 162A-69(13a). It has adopted just such a Sewer Use Ordinance, which, in turn, incorporates several adopted policies, standards, and procedures related to its sewer system. These adopted documents

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<sup>1</sup> Copies of the September 13, 2021, and September 5, 2023, letters are attached, for your convenient reference.

include the MSD “Policy and Procedures for Extension of Sewer Service” (a/k/a the “Sewer Extension Policy”), and “Sewer Extension Manual.”

However, based on a review of these materials, it is not clear what, specifically, authorizes MSD to reject *any* public pump station that is designed according to its technical standards for public sewers. See, e.g., Sewer Extension Policy § I.A(1)). It is even less clear, in light of Section 162A-900, what authorizes MSD to approve a public pump station for a residential development—serving hundreds of residential units, some potentially separately-owned, some under common ownership—but condition that approval on a directive that it be built somewhere other than where the developer has proposed to build it.

We believe the General Assembly’s enactment of Section 162A-900 changes what is required of MSD when it comes to accommodating residential development. Therefore, we respectfully request that MSD revisit its position regarding the Pinners Cove Subdivision, and work collaboratively with us to find a path forward that will allow our client to deliver these much-needed housing units to our community.

Sincerely,



Jesse M. Swords



ROBERTS  
& STEVENS  
ATTORNEYS AT LAW

WILLIAM CLARKE  
VINCENT D. CHILDRESS, JR.  
DAVID L. ENGLISH  
KENNETH R. HUNT  
DENNIS L. MARTIN, JR.  
ANN-PATTON HORNTAL  
PHILLIP T. JACKSON  
JAMES W. K. WILDE  
MARY ROBINSON HERVIG  
JOHN D. NOOR  
KATHRYN MAULTSBY MADISON  
L. ASHLEY SAVILLE-AMTOWER  
SUSAN RUSSO KLEIN  
STEVEN W. SIZEMORE  
CHARLES E. MCGEE  
GRACIE K. PAULSON

CITY CENTRE BUILDING  
301 COLLEGE STREET, SUITE 400 (28801)  
POST OFFICE BOX 7647  
ASHEVILLE, NORTH CAROLINA 28802  
TELEPHONE (828) 252-6600  
FACSIMILE (828) 258-6955  
[www.roberts-stevens.com](http://www.roberts-stevens.com)

CINDY M. RICE  
JORDAN P. BARNETTE  
L. KATHLEEN POTTER HARGROVE  
DAVID C. HAWISHER  
ABBIE N. HORNBERGER  
BRYANT G. CROSS  
BENJAMIN H. VAN STEINBURGH  
DENISE A. LOCKETT  
KELLY E. MCLAUGHLIN

LANDON ROBERTS, FOUNDER (1921-2007)  
JOHN S. STEVENS, FOUNDER (1933-2019)  
WYATT S. STEVENS (1969-2024)  
GREGORY D. HUTCHINS (1962-2024)

Writer's Direct No.: 828/258-6919  
Writer's E-mail: [bclarke@roberts-stevens.com](mailto:bclarke@roberts-stevens.com)

August 11, 2025

Jesse M. Swords  
Allen Stahl & Kilbourne  
20 Town Mountain Road  
Asheville, N.C. 28801

Via E-mail: [jswords@asklawnc.com](mailto:jswords@asklawnc.com)

*Re: Pinnars Cove Subdivision – New Section 162A-900*

Dear Jesse:

Thank you for your letter of July 14, 2025. I have reviewed with MSD and am responding on its behalf.

MSD has issued multiple allocations to your client since 2022, the most recent being on 11/27/24.<sup>1</sup> At that time, and during the issuance of prior allocations, your client's plan was to construct a private sewer collection system and pump station on your client's property. Your client would also construct a gravity extension of the public MSD system to connect its property to the existing MSD Sewer System. MSD was told this project was to provide affordable rental housing in Buncombe County.

I understand your client now wants to build a public sewer system on its property, subdivide the property into lots, and build a public pump station adjacent to its property and a force main to connect to the MSD system. You argue that MSD's requirement that this pump station be built further downstream violates North Carolina General Statutes §162A-900.

G.S. §162A-69 authorizes MSD to adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the District. To this end, MSD has adopted a Sewer Extension Policy. The Sewer Extension Policy makes it clear that pump stations will only be allowed where, in the opinion of the District, gravity service is not achievable. Gravity sewer service is achievable on your client's property by way of the master plan line, identified early in the planning process.

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<sup>1</sup> MSD allocations are good for only one year from date of issuance



Pump stations require significant ongoing inspection and maintenance and are prone to mechanical failure. Pursuant to Title 15A North Carolina Administrative Code 02T. 0306, MSD has been delegated permitting authority for extensions of the public sewer system in its service area. It clearly has the authority to decide if pump stations can be allowed and where such pump stations should be located, if allowed and permitted. The purpose of this is to facilitate the orderly development of the sewerage system. MSD has this authority under the law, and its requirement that your client's project connect to a pump station further downstream is not barred by G.S. §162A-900.

A pump station is planned downstream from the proposed Pinner's Cove Project at 455 Mills Gap Road. Subject to review, permitting and approval by MSD, your client can construct a gravity sewer from its property to connect to that pump station. Subject to review, permitting and approval by MDS, your client can also construct a public sewer system on its property and convey that system to MSD upon completion of construction and final inspection. Lots served by a public sewer system can be sold.

Sincerely,

ROBERTS & STEVENS, P.A.

A handwritten signature in dark ink, appearing to read "William Clarke". The signature is fluid and cursive, with the first name "William" and last name "Clarke" clearly distinguishable.

William Clarke

BC/sh

cc: Tom Hartye, P.E. - MSD General Manager  
Hunter Carson, P.E. – MSD Engineering Director  
Samuel Gettleman, P.E. – MSD P&D Manager

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

BEFORE THE METROPOLITAN  
SEWERAGE DISTRICT BOARD

In the Matter of:	)	
	)	
	)	
Proposed Pinners Cove Public Pump Station	)	<b>NOTICE OF APPEAL TO DISTRICT BOARD</b>
	)	
	)	
_____	)	

The following is hereby submitted as an appeal to the District Board according to Article IX of the Sewer Extension Policy.

**1. Background and Policy**

Buncombe County continues to face a housing crisis. Report after report, including the latest Asheville Region Housing Needs Assessment commissioned by the Land of Sky Regional Council ([August 2025](#)), identify a severe housing shortage across Western North Carolina. Shortages of available and attainable housing are linked to high home prices and rents, which, among a cascade of other problems, lead to higher rates of homelessness. See endnote (i). Local land use regulations and related policies obviously play a part in both the cause of the housing crisis and the solutions our community needs.

Where, as here, local government policies could better serve the needs of the community, they should be adjusted. This includes MSD’s policies, which provide foundational support for growth and development in Buncombe County. Simply put: our community needs more housing, and MSD policies are important because dense residential development generally requires access to public sewer.

In 2008, MSD published its Collection System Master Plan (“Master Plan”), based, in part, on Buncombe County’s 2006 Comprehensive Land Use Plan Update. A central goal of the Master Plan was to “provid[e] wastewater planning and technical guidance to ensure that wastewater infrastructure is designed, operated and maintained to meet both the immediate and future needs of the community.” Master Plan, p. 4. In other words, the Master Plan was created as a tool to support local government land use policies and needs, and also to be responsive to them. Id.

The Master Plan also emphasizes MSD’s responsibilities to the public, which include fiscal responsibility, technical expertise, and public health and environmental protections. These responsibilities obviously justify a technically rigorous approach to expanding the public sewer system, and a degree of caution. However, overly rigid adherence to the Master Plan and MSD’s other policies can cause problems, too—for example, by unnecessarily raising barriers to the residential development projects we need.

The Pinnars Cove Subdivision (the “Subdivision”) provides an illustrative example.

MSD initially provided an option to construct a gravity line from the Subdivision to either the nearest Master Plan line, or to a potential future public pump station to be located at 455 Mills Gap Rd. Either option involves the installation of several miles of sewer line at a cost of several million dollars. Even more than the cost, it is the timeframe that is prohibitive. The planning, engineering RFP, engineering design work, easement acquisition, and contracting

for these lines would take 2-3 years (possibly more) before construction could even begin. And while the 455 Mills Gap Road option is the more feasible of the two, it is uncertain whether (and when) that pump station will actually be built.

Instead, the developers proposed a system for the Subdivision consisting of gravity lines (built in accordance with MSD's standards for public sewers) serving each of the lots, and a pump station and force main facilitating a connection to the MSD system via the gravity line at Ballantree Drive.

This proposal has been approved by MSD. However, the pump station is approved only as a ***private*** pump station, which, according to MSD policy, may serve only a single property (or, in this case, multiple adjacent properties under common ownership). See MSD's Sewer Extension Policy (the "Extension Policy") § III.

The developers and MSD have already negotiated and executed a Declaration of Restrictive Covenants (the "Covenants"; see Attachment 1) in relation to this approved system, with terms addressing the permitting process, and ownership and maintenance. Due to MSD's single-ownership policy for private pump stations, the Covenants also require the lots in the Subdivision to be held in common ownership (i.e., they cannot be sold to individual homeowners) unless and until gravity sewer becomes available and the pump station and force main are no longer needed.

Unfortunately, due to changing market conditions and other factors, the economic feasibility of the Pinners Cove Subdivision (originally, entirely build-for-rent) now requires flexibility to sell some of its lots, if needed. However, MSD will

not allow the approved pump station to become a **public** pump station such that it may serve multiple property owners. Essentially, the Master Plan does not call for a pump station in the proposed location, and the Extension Policy rigidly prohibits pump stations outside of the Master Plan as a general rule, unless they are **private** (complete with single-ownership restriction).

On July 14, 2025, we submitted a letter to MSD requesting approval of a public pump station pursuant to the recently enacted Section 162A-900 of the North Carolina General Statutes. Section 162A-900 was specifically enacted by the General Assembly to increase housing production by reducing water- and sewer-related obstacles to the construction of residential developments such as the Pinners Cove Subdivision.

The subject of this appeal is MSD's denial of that request, dated August 11, 2025 (the "Denial Letter").

## **2. Reasons for the Appeal**

### **A. MSD's assertion that gravity sewer service for the Pinners Cove Subdivision is "achievable" is both incorrect and logically inconsistent with MSD's previous approval.**

MSD's preferred gravity connections are "achievable" only in theory. The timeframe involved in making those connections is simply incompatible with the realities of planning and financing a development like the Pinners Cove Subdivision. The Master Plan or 455 Mills Gap Rd. options were as unworkable at the early stages of the development as they are today.

In addition, MSD explains its denial of the public pump station proposal based on the Extension Policy, which "makes it clear that pump stations will only be

allowed where, in the opinion of [MSD], gravity service is not achievable,” whether public or private. (Emphasis in Denial Letter). This justification cannot be reconciled with the fact that MSD has already approved a private pump station for the Subdivision, meaning it has already determined that gravity service is, in fact, not achievable.

**B. The proposed public pump station meets the applicable criteria set forth by, *inter alia*, Article 21, Part 1, of Chapter 143 of the North Carolina General Statutes, and Chapter 15A, Subchapter T, of the North Carolina Administrative Code.**

MSD has been delegated permitting authority by NC DEQ pursuant to Chapter 162A of the North Carolina General Statutes. Under this enabling legislation and related regulations, MSD must review and approve applications for sewer extensions based on rules that are “compatible” with the rules governing NC DEQ’s handling of similar applications. N.C. Gen. Stat. § 143-215.1(f). See also 15A NCAC 02T .0306(b)(3) (“Local ordinances and rules governing processing permit applications, setting permit requirements, enforcement, and penalties shall be compatible with rules and statutes governing permits issued by the Division.”).

Here, it is debatable whether the Extension Policy’s broad prohibition against pump stations could be “compatible” with the NC DEQ rules. In any case, however, MSD “shall” allow application submittals that do not meet the letter of the Extension Policy where the applicant can demonstrate that the proposed system will provide:

- (1) *equal or better treatment of the waste;*
- (2) *equal or better protection of the waters of the state; and*

- (3) *no increased potential for nuisance conditions from noise, odor or vermin.*

15A NCAC 02T .0105(n). In other words, MSD's policies must be aligned with state permitting rules. These rules require MSD to consider systems that offer equal or better environmental and public health outcomes—even if they don't meet every internal policy requirement.

Here, MSD's existing approval again belies the fact that a **public** pump station in place of the proposed **private** pump station meets the criteria for consideration, and must be evaluated by MSD regardless of the Extension Policy rule.

**C. The proposed public pump station is consistent with orderly development of the MSD system in light of Buncombe County's housing needs.**

Finally, a **public** pump station on the Pinners Cove Subdivision property could serve as a beneficial supplement to MSD's Master Planned system. As shown on the attached bulletin prepared by Civil Design Concepts (see Attachment 2), a Pinners Cove public pump station could be designed to serve potentially several hundred existing and future property owners within an approx. 1,620-acre basin. This proposal is not in perfect sync with the Master Plan, but it is fully consistent with orderly development of the MSD system, because it would serve current needs without interfering with the possibility of a future Master Plan connection.

**3. Conclusion & Relief Sought**

The circumstances of the housing crisis highlight the fact that strict adherence to the Master Plan does not make sense in every case—and particularly



when a technically and economically sound proposal is ready to meet important community needs. MSD's mission "to provide wastewater collection and treatment to its users which promotes the health and safety of affected citizens in the most effective and efficient manner possible **today and in the future**" (emphasis added) must be viewed in the context of the community's current needs and the details of the specific system being proposed.

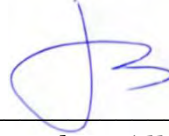
There are sound reasons for MSD to adopt new policies allowing for a more flexible, dynamic approach to building out its system overall. The General Assembly's enactment of Section 162A-900 (which MSD has asserted does not apply) underscores, at the very least, the need for MSD to thoroughly evaluate whether its policies unintentionally and unnecessarily inhibit our community's efforts to address the housing crisis.

In the specific case of the Pinnars Cove Subdivision, the proposed public pump station and force main have, in large part, already been planned and designed, would be located entirely on property owned and controlled by the developer, and can be constructed in a timely manner at a fraction of the cost of the Master Plan or 455 Mills Gap Rd. options. This proposal could serve hundreds of properties in addition to the Subdivision, all without compromising MSD's responsibilities to the public, or inhibiting future build out of the Master Plan.

We therefore respectfully request approval of the proposed system for the Pinnars Cove Subdivision, including a public pump station and force main capable of serving the Subdivision and surrounding properties.

This, the 10th day of September, 2025.

**ALLEN STAHL & KILBOURNE, PLLC**



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Derek J. Allen  
NC State Bar No. 24091  
Jesse M. Swords  
N.C. State Bar No. 52419  
20 Town Mountain Road, Suite 100  
Asheville, NC 28801  
828-254-4778  
828-254-6646 fax  
[dja@asklawnc.com](mailto:dja@asklawnc.com)  
[jswords@asklawnc.com](mailto:jswords@asklawnc.com)  
*Attorneys for Appellants*

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<sup>i</sup> E.g.,: Kirsten Klurfield, "Exploring the Affordable Housing Shortage's Impact on American Workers, Jobs, and the Economy," Bipartisan Policy Center, March 2024. Available at: [https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2024/03/Exploring-the-Aff-Housing-Shortage-Impact-on-American-Workers-Jobs-and-the-Economy\\_BPC-3.2024.pdf](https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2024/03/Exploring-the-Aff-Housing-Shortage-Impact-on-American-Workers-Jobs-and-the-Economy_BPC-3.2024.pdf); Alexei Alexandrov and Laurie Goodman, "Place the Blame Where It Belongs Lack of Housing Supply Is Largely Responsible for High Home Prices and Rents," Urban Institute Housing Finance Policy Center, January 2024. Available at: <https://www.urban.org/sites/default/files/2024-01/Place%20the%20Blame%20Where%20it%20Belongs.pdf>; Thomas Heston, "The Cost of Living Index as a Primary Driver of Homelessness in the United States: A Cross-State Analysis," Cureus, October 13, 2023. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC10574586/>

## **Attachment 1**

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

Prepared by and Return to: Allen Stahl & Kilbourne, PLLC. – Box # 80

### **DECLARATION OF RESTRICTIVE COVENANTS**

**THIS DECLARATION OF RESTRICTIVE COVENANTS** (this “Declaration”) is made and entered into as of the 11th day of October, 2022, by KLP Pinners EAT, LLC, a Minnesota limited liability company (“Declarant”) and all prospective purchasers and future property owners of that property described in Exhibit A (the “Property”).

WITNESSETH:

**WHEREAS**, KLP Pinners EAT, LLC is the record owner of the Property described in Exhibit A; and

**WHEREAS**, Declarant desires to subdivide the Property into multiple parcels and construct housing on the same, but restrict the transfer of the property such that the separate parcels cannot be sold separately and must be held and owned or sold as one parcel, until such time as the terms and conditions of this Declaration are satisfied; and

**WHEREAS**, the Declarant desires that the restrictive covenants stated herein below attach to the Property for the benefit of the resulting tracts after subdivision occurs, and the Declarant accepts, consents, and agrees with said restrictions; and

**WHEREAS**, Declarant intends to construct a private sewer system and pump station (“the Private Sewer System”) on the Property to serve the housing; and

**WHEREAS**, Declarant has received sewer allocations and approval for a private pump station for the planned development use; and

**WHEREAS**, Declarant intends to extend a portion of the Sewerage System owned and operated by the Metropolitan Sewerage District of Buncombe County (“the MSD Sewerage

System”) to the Property so that Private Sewer System can be connected to the MSD Sewerage System; and

**WHEREAS**, Declarant understands, acknowledges, and agrees that because the Property is served by a Private Sewer System, it must remain in single ownership.

**NOW THEREFORE**, in reasonable pursuit of these objectives and in consideration of these premises, Declarant hereby places and imposes restrictive covenants upon the Property, to the end that the Property shall henceforth be held, encumbered, and conveyed subject to the following:

1. Declarant shall extend the MSD Sewerage System to the Property in approximately the location shown on the attached Exhibit B. The extension of the MSD Sewerage System shall be constructed in accordance with MSD Standards for public sewer systems. Declarant shall apply for and obtain a permit from MSD for the extension of the MSD Sewerage System and shall, upon completion, convey the extension to MSD.
2. Declarant shall obtain a permit from the State of North Carolina for and construct the Private Sewer System including pump station on the Property. The Private Sewer System shall be constructed in a good and workmanlike manner. Copies of the as-built drawings for the Private Sewer System shall be furnished to MSD.
3. Declarant shall own, operate, and maintain the Private Sewer System including pump station in accordance with applicable law and regulation and shall make any repair or replacement necessary to maintain the operation of the Private Sewer System and pump station in accordance with applicable law and regulation.
4. Restriction on Transfer. Title to the subdivided parcels, once subdivided, may not be held by separate owners and if transferred must be transferred to the same record owner(s). The terms and conditions of this Declaration of Restrictive Covenants shall apply to and be binding upon any successor to Declarant.
5. Duration. These Restrictive Covenants shall terminate if a gravity fed public sewer system owned and operated by MSD or its successor becomes available to serve the Property, and the Private Sewer System on the Property is connected to the gravity fed public sewer system. In the event that MSD desires to require conveyance of the Private Sewer System to MSD, MSD reserves the right to inspect the Private Sewer System, to require upgrades to the Private Sewer System so that such system is in compliance with MSD Standards for public sewer systems, and to require conveyance of the Private Sewer System to MSD. To the extent the pump station is no longer necessary, Declarant shall be responsible for decommissioning and disposing of the pump station. Upon connection of the Private Sewer System to the MSD Sewerage System and acceptance for ownership by the MSD Board, Declarant may terminate this Declaration of Restrictive Covenants.

6. Enforcement. Enforcement of these Restrictive Covenants shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages. The Metropolitan Sewerage District of Buncombe County, North Carolina shall have specific authority to enforce the restrictive covenants against Declarant or any future owner(s).

**IN WITNESS WHEREOF**, the undersigned named have hereunto set their hand and seal, individually, and by their duly authorized trustee, this the 11th day of October, 2022.

**KLP PINNERS EAT, LLC, Declarant**

By: [Signature]

Name: Andrew I. Levin

Its: Vice President

STATE OF NORTH CAROLINA )

COUNTY OF BUNCOMBE )

The foregoing instrument was acknowledged before me this 11th day of October, 2022, by Andrew I. Levin, the Vice President of KLP Pinnners EAT, LLC, a Minnesota limited liability company, on behalf of the company.



[Signature]  
Notary Public

3-18-2023

My commission expires

## **EXHIBIT A**

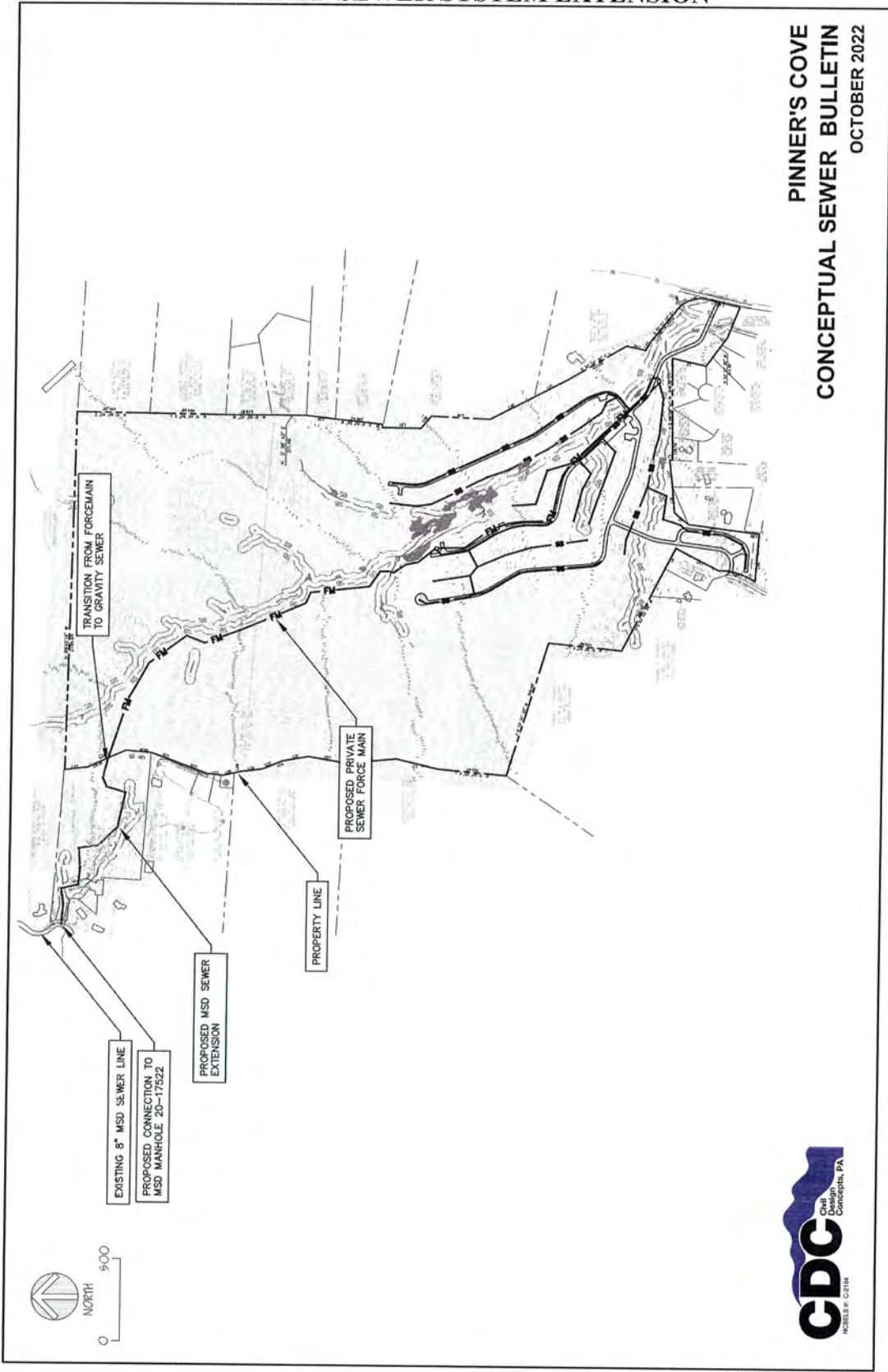
### **LEGAL DESCRIPTION OF PROPERTY**

Being all of Lot 1 and Lot 2 as shown on that plat recorded in Plat Book 195, at Page 133 of the Buncombe County, NC Register's Office; reference to which Plat is hereby made for a more particular description of said Property.

The above-described Property being a portion of that property conveyed in that deed recorded in Record Book 3394, at Page 532 and being all of that property conveyed in that deed recorded in Record Book 5602, at Page 503 of the Buncombe County, NC Register's Office.



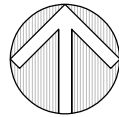
EXHIBIT B  
PLANNED SEWER SYSTEM EXTENSION



PINNER'S COVE  
CONCEPTUAL SEWER BULLETIN  
OCTOBER 2022



## **Attachment 2**



NORTH

0 2000'

CATCHMENT INFORMATION

TOTAL CATCHMENT AREA: ±1,620 AC

100' CONTOURS

EXISTING MSD SEWER

APPROXIMATE LOCATION OF  
PROPOSED PUBLIC PUMP STATION

EXISTING MSD SEWER SYSTEM

## **October 10, 2025 MSD Planning Committee Meeting Transcript**

Developer Appeal for Private Pump Station and Force  
Main to serve Subdivided Property

APPEAL HEARING  
MSD PLANNING COMMITTEE

October 10, 2025  
1-4

Page 1	Page 3
STATE OF NORTH CAROLINA )  ) COUNTY OF BUNCOMBE )  IN THE MATTER OF THE DEVELOPER APPEAL FOR  PRIVATE PUMP STATION AND FORCE MAIN  GOLDEN HOUR COLLECTIVE, LLC, PETITIONER  To the  MSD PLANNING COMMITTEE  ASHEVILLE, NORTH CAROLINA  Friday, October 10, 2025  9:02 a.m. - 10:20 a.m.  Asheville, North Carolina  PREPARED BY:  Julie B. Surles, Notary Public  Esquire Deposition Solutions  1500 Centre Parkway, Suite 100  East Point, Georgia 30344  Phone: 404-495-0777	I N D E X  PAGE NO.  OPENING STATEMENT  By Mr. Hunter Carson 5  By Mr. Derek Allen 15  DIRECT TESTIMONY  By Jesse Gardner 21  * * * * *
Page 2	Page 4
A P P E A R A N C E S On Behalf of Golden Hour Collective, LLC: Mr. Derek Allen, Esquire Mr. Jesse Swords, Esquire Allen Stahl + Kilbourne, PLLC 20 Town Mountain Road, Suite 100 Asheville, North Carolina 28801 dja@asklawnc.com jswords@asklawnc.com On Behalf of Buncombe County MSD: Mr. William Clarke, Esquire Roberts & Stevens, P.A. Post Office Box 7647 Asheville, North Carolina 28802 bclarke@roberts-stevens.com MSD Planning Committee: Mr. Chris Pelly, Chairman Mr. Douglas H. Dearth Mr. William G. Lapsley Mr. Nathan Pennington Ms. Esther Manheimer Also Appearing: Mr. Tom Hartye, MSD General Manager Mr. Hunter Carson, MSD Engineer/Project Manager Mr. Drew Levin, Representing Golden Hour Collective, LLC Mr. Jesse Gardner, Civil Design Concepts Mr. Warren Sugg, Civil Design Concepts Quoted material is verbatim and may/may not reflect a direct quote.	1 P R O C E E D I N G S 2 MSD Planning Committee Hearing, 3 October 10, 2025 4 CHAIRMAN PELLY: Let's call to order this meeting 5 of the planning committee of the Metropolitan 6 Sewer District. I think we have a quorum so 7 we can go forward. We'd ask all the guests 8 here if you would identify yourself before 9 you speak initially. And Tom, you want to 10 take it away? 11 MR. HARTYE: Okay. Thank you, Mr. Chairman. 12 Today we have representatives of the Pinners 13 Cove subdivision here to appeal MSD's 14 requirements for connecting to the sewer 15 system. The original submittal for 16 allocation came back in 2021. There have 17 been several iterations since. MSD's 18 extension policies are guided by our 19 collection system master plan that was 20 approved by this MSD board back in 2008. 21 This document provides for the guidance for 22 the orderly expansion of the collection 23 system. Along with the adoption of that plan 24 were new policies identifying how MSD would 25 financially assist with these expansions

<p style="text-align: right;">Page 5</p> <p>1 pursuant to the plan.</p> <p>2 Hunter can go over some slides and</p> <p>3 details regarding MSD's policies and</p> <p>4 positions and then we can open the floor to</p> <p>5 Pinners Cove representatives. Hunter.</p> <p>6 OPENING STATEMENT BY MR. CARSON:</p> <p>7 Good morning everybody. I'm Hunter Carson,</p> <p>8 engineering director here. So I just want to start</p> <p>9 out. The title of my presentation doesn't exactly</p> <p>10 match the agenda item and that is really because there</p> <p>11 have been multiple appeals or opposition to various</p> <p>12 policies. So I'm going to talk about those in detail</p> <p>13 here. I'm also just going to give a brief overview of</p> <p>14 the whole project. It has been going on for quite some</p> <p>15 time. So I just want to give some history on that and</p> <p>16 our policies and why they're in place.</p> <p>17 (Mr. Carson begins PowerPoint presentation.)</p> <p>18 So a little bit about the Pinners Cove</p> <p>19 subdivision. It is located in South Asheville in the</p> <p>20 Skyland area. Right down here you can see the</p> <p>21 intersection of Mills Gap Road and Sweeten Creek Road,</p> <p>22 just to give you approximate location there. We're</p> <p>23 talking about a 175-acre parcel. It is located outside</p> <p>24 MSD's district which you can see the blue line there</p> <p>25 designates the district boundary. And I say that just</p>	<p style="text-align: right;">Page 7</p> <p>1 Creek, which is the much larger area in blue and green</p> <p>2 that you see there. So again, the development is</p> <p>3 pretty close to the top of the drainage basin. As I</p> <p>4 mentioned earlier, there is no public sewer</p> <p>5 infrastructure located in the Robinson Creek or Cane</p> <p>6 Creek subbasins now.</p> <p>7 So I want to go over our extension policies.</p> <p>8 Really, there are two policies that we're going to</p> <p>9 really highlight today. The first one, we only do</p> <p>10 gravity extensions. We want to limit the number of</p> <p>11 pump stations in our system for various reasons, which</p> <p>12 I'll get into in the next slide. But we only want</p> <p>13 gravity extensions to our system. So, period, just</p> <p>14 keep that in mind. The other thing is that if we have</p> <p>15 subdivided properties, we want to serve those with</p> <p>16 public infrastructure, not private infrastructure. So</p> <p>17 just keep those two policies in mind as we get through</p> <p>18 this.</p> <p>19 The background and the purpose for those, gravity</p> <p>20 is always preferred, period, and it's easy to convey</p> <p>21 why. Pump stations are mechanical systems. They have</p> <p>22 moving parts; they have electronics, controls,</p> <p>23 instrumentation. All this stuff is prone to failure</p> <p>24 over time. And so pump stations are generally at the</p> <p>25 low point of a system. And so if a pump station fails,</p>
<p style="text-align: right;">Page 6</p> <p>1 because we are entitled to provide service but not</p> <p>2 obligated to provide service outside of our district.</p> <p>3 The property was purchased in 2021 by the current</p> <p>4 property owner and that is KLP Pinners EAT or EAT, LLC.</p> <p>5 And so the current proposal for the development is 266</p> <p>6 single-family unit residences.</p> <p>7 Also as you can see, all of the green lines here,</p> <p>8 that's existing public sewer. So this is a ridgeline</p> <p>9 right here. And clearly there's no public</p> <p>10 infrastructure on the east side, especially where the</p> <p>11 subject property is.</p> <p>12 Some of you have seen maps similar to this. This</p> <p>13 is a snippet from our collection system master plan</p> <p>14 that was done in 2008. It basically provides us a tool</p> <p>15 to reference as to how to build our system out in an</p> <p>16 orderly fashion. All these colored lines here</p> <p>17 represent sewer extensions to the district and what</p> <p>18 size lines those should need to be to provide service</p> <p>19 to that particular area. All these black lines that</p> <p>20 you see here, those were existing sewer lines back in</p> <p>21 2008 when this was developed.</p> <p>22 So a little bit about the Pinners Cove area. It</p> <p>23 is located towards the top end of the Robinson Creek</p> <p>24 subbasin, silvershed, if you will. That's the area in</p> <p>25 red. And so Robinson Creek is a tributary to Cane</p>	<p style="text-align: right;">Page 8</p> <p>1 it ends up resulting in a sanitary sewer overflow.</p> <p>2 They're expensive to operate. They all require</p> <p>3 electrical energy. And not only that, they require a</p> <p>4 lot of man hours, labor hours to maintain them properly</p> <p>5 and to do proper inspection. So that's why we only</p> <p>6 want gravity. We want to minimize the number of pump</p> <p>7 stations.</p> <p>8 I want to highlight, you know, again, they require</p> <p>9 frequent maintenance and inspection, but sometimes this</p> <p>10 does not happen. And we have a lot of examples of</p> <p>11 where this has not happened out in our system,</p> <p>12 especially on private systems that are under multi</p> <p>13 ownership or even HOA situations. A lot of times there</p> <p>14 is no responsibility taken for these systems,</p> <p>15 especially when you have subdivided properties. You've</p> <p>16 got multiple entities that are trying to operate a</p> <p>17 single private system. Nobody takes ownership, they're</p> <p>18 not well funded. And so a lot of times they fail.</p> <p>19 And so a very good example of that is MSD's</p> <p>20 private sewer rehab project, or program. We have</p> <p>21 probably 20 of those projects currently. And those</p> <p>22 were generated entirely because of failed private</p> <p>23 systems that serve subdivided properties. Honestly,</p> <p>24 they turn into disasters. So MSD's policy is intended</p> <p>25 to maintain a single point of ownership if served by a</p>



<p style="text-align: right;">Page 9</p> <p>1 private pump station or collection systems. We don't 2 want multiple ownerships. And so the purpose of that 3 is ultimately for protection of public health and water 4 quality. That's what it comes down to. 5 So with our policies out of the way, I just want 6 to give a little bit of history on this project. It 7 does go back till July of '21 when the developer 8 submitted an application request to us to serve the -- 9 serve a subdivided parcel with an on-site public pump 10 station. So let's go back to policy number one. We 11 don't want pump stations. We want to serve them by 12 gravity if we can. And per our collection system 13 master plan, it shows that gravity sewer is certainly 14 achievable. It's a lengthy route, but it's achievable. 15 So we denied the request for a public pump station 16 because we know we can get gravity there. Initially, 17 the allocation was for 454 single-family unit 18 residences. We denied the public pump station, but we 19 gave them two options for sewer service on the 20 property. The first was to extend public sewer via the 21 master plan route and I'll show that in the next slide. 22 The second was to construct a private pump station on 23 site to serve the parcel, but everything had to -- it 24 had to remain one parcel under single ownership. We 25 don't want this broken up into pieces and have multiple</p>	<p style="text-align: right;">Page 11</p> <p>1 revenue sharing and developer to developer. 2 Option two, and this is to provide a private pump 3 station and collection system on site. Again, we're 4 maintaining single ownership of the parcel. In order 5 to do that, there would be a public gravity extension 6 coming up from basically the other side of that ridge. 7 So this section would be permitted by MSD. The private 8 pump station and force main, which is this line here, 9 would be permitted through NCDEQ because MSD is not a 10 delegated permitting authority for pump stations and 11 force main. So the idea there, this would all be 12 single ownership. They'd have a pump station here, 13 everything would gravity flow down to that and they 14 would pump up to this public extension that is brought 15 to their property line. 16 Okay, so we offered those two options and then in 17 August of '21, the developer appealed our denial of a 18 public pump station. So we subsequently responded to 19 that appeal and provided two additional options for 20 sewer service, so options three and four. Option three 21 was to provide on-site treatment, that is septic 22 systems. And that does comply with our sewer use 23 ordinance because the development was going to be 24 greater than 300 feet away from any existing public 25 sewer infrastructure. So we gave them that option.</p>
<p style="text-align: right;">Page 10</p> <p>1 properties served by a private pump station. 2 So this is option one. Pinners Cove Road here, 3 and this is where we would tie in per the master plan. 4 It is very lengthy. We acknowledge that. It's 26,000 5 feet of anywhere from 12-inch to 48-inch pipe per the 6 master plan. Obviously, as you go further down in the 7 subbasin and acquire more flow, your pipe size 8 increases. So that's where your large pipes are going 9 to be down here. 10 I do want to point out that from day one we did 11 alert the developer of our capacity reimbursement 12 program. So that -- and that is our policy. And so 13 for master plan alignments with diameters 12-inch and 14 greater, MSD will survey the line, design the line, 15 acquire rights-of-way for the line and not only that, 16 but cost participate in the construction. So for 17 example, Pinners Cove is probably, you know, they're 18 only going to need an eight-inch gravity pipe to 19 service the, service their development. However, as I 20 mentioned earlier, we need much bigger pipes to build 21 out the entire basin. So we, MSD would pay the 22 differential of those pipes. So we did offer those, 23 that program, but the reimbursement program was not 24 applied for. Furthermore, the project does qualify for 25 other reimbursement programs through MSD such as</p>	<p style="text-align: right;">Page 12</p> <p>1 The fourth option was to construct a public pump 2 station further downstream, something that could serve 3 a larger area than just the development itself. That 4 would require also a shorter section of the master plan 5 to come from the development down to this further 6 downstream pump station. So I'll show an image of that 7 just to clarify how that works. Option three was 8 pretty self explanatory with septic systems. So this 9 is option four that we've provided, Pinners Cove up 10 here. We had proposed to put a private, or excuse me, 11 a public pump station located at 455 Mills Gap Road. 12 And so the developer would be responsible for the 13 installation of that and 6,500 feet of interceptor 14 versus the 26,000 that we had talked about in option 15 one. 16 Again, the Capacity Reimbursement Program would 17 have applied to this 6,500-foot section. We would have 18 done survey design; we would have acquired all the 19 rights-of-way, and again, cost shared on the 20 construction. We also would have done the same thing 21 for the pump station because we were sizing the pump 22 station for a greater development area. So we would 23 have cost shared in multiple ways on option four. 24 Just to look at the differences between option one 25 and four, here is 455 Mills Gap Road. So we're talking</p>



<p style="text-align: right;">Page 13</p> <p>1 about 25 percent of the original option that we 2 provided going all the way down to Cane Creek here. 3 The reason that we wanted to site a public pump 4 station further downstream obviously so it could serve 5 a larger area. All of these artery looking lines, 6 those red lines, those are feature master plan lines 7 that we've identified in our collection system master 8 plan. And so if we were to site a pump station further 9 downstream at 455 Mills Gap, we could serve about 2,400 10 acres versus siting the public pump station up here and 11 serving a much smaller area. 12 So with that, we had, at that point in November of 13 '21, we had provided four different options for sewer 14 service. And at that point the developer notified us 15 that they would pursue option two, which was the 16 private pump station and single ownership. 17 So this one slide fast forwards through the last 18 two and a half years. So the last slide left off in 19 '21. In March of '23 we received a revised sewer 20 service application where they reduced the scope of the 21 project from 454 units down to 266. So that was 22 approved. Again, we were, with the understanding that 23 they were going to pursue option two, the private pump 24 station. 25 In September of '23 I received a letter from the</p>	<p style="text-align: right;">Page 15</p> <p>1 OPENING STATEMENT BY MR. ALLEN: 2 Good morning. My name is Derek Allen. I 3 represent the developer here and have been involved 4 since the beginning of this. I have with me today my 5 law partner, Jesse Swords, our client representative, 6 Drew Levin. (inaudible) and Anne Behrendt are on, I 7 think, remotely. I have our engineers, Warren Sugg, 8 who was lead engineer for the project in the beginning, 9 and then our MSD and water expert Jesse Gardner. I'll 10 get to those folks in a minute. 11 I'm going to start just kind of with a couple of 12 big pieces and then get into our slide presentation. 13 The first part is we in the development community have 14 always thought that MSD's policies had problems 15 legally. We've always thought that they were 16 antiquated. We've always thought that they've not been 17 updated to address the needs of the constituent members 18 that make up the MSD board. And so that's something 19 that has been lingering in the development community 20 for a number of years. And most of the time the 21 developments aren't big enough to justify financially 22 challenging those pieces. The economics aren't right 23 for challenging those pieces or in the development 24 world on a particular site plan, were able to make it 25 work. Here, both those things were happening for a</p>
<p style="text-align: right;">Page 14</p> <p>1 developer with various proposed agreement terms that 2 would allow for the subdivision and selling of 3 individual lots while serving with a private pump 4 station. So of course all those proposed agreement 5 terms were denied. 6 Fast forward to January of this year, having no 7 permit activity on MSD's side, the allocation expired. 8 So we approved a third allocation for this development, 9 this time for 59,000 gallons per day. Still 266 10 single-family units. 11 July of '25, the developer sent a letter to MSD 12 contending that our option four was unlawful. That we, 13 the MSD under Section 900 of Chapter 162A of the North 14 Carolina General Statutes did not allow MSD to dictate 15 the location of a public pump station. Billy helped us 16 respond to that. And then two months later, the 17 developer again formally appeals the denial of a public 18 compensation to serve the property, which was the third 19 appeal. And that's what brings us all here today. 20 So that's the last four and a half years in a 21 nutshell. I know that's a lot of information, but I 22 will hand it over to the developer unless anybody's got 23 any questions. 24 MR. CARSON: Okay, Jesse, let me get your stuff up 25 here.</p>	<p style="text-align: right;">Page 16</p> <p>1 period of time at the beginning. And I'll sum up 2 Hunter's presentation real quickly in terms of how we 3 got here on this appeal process. 4 At the beginning, we were able to make it work 5 because we were able to justify a build-to-rent 6 product. The product itself, the way it looks, if you 7 drive by and how it operates from an MSD standpoint in 8 particular, all is the same under the build-to-rent and 9 the build-to-own. They all look the same. They're all 10 laid out the same. When the finances changed that made 11 that model unviable, we had to go back and look to see 12 what we could do. And that's where we said we don't 13 really have a choice but to take on the challenge that 14 no one's taken on yet. 15 Another thematic point I want to address is the 16 statement that MSD only wants gravity systems. That's 17 not going to happen. The master plan will never be 18 out, not in our -- be built out, not in our lifetimes. 19 Even when the options acknowledges that there needs to 20 be a pump station, that's just not going to happen. 21 Number two is that we hear generally that MSD -- 22 from MSD that private systems are currently 23 problematic. We asked for a list of those from Mr. 24 Clarke and no details were given, no examples were 25 given. We believe that those are probably all</p>

<p style="text-align: right;">Page 17</p> <p>1 predating 2006. Again, issues that are legacy issues 2 that have since been changed by DEQ. 3 Each of the concerns, the policy concerns, MSD has 4 listed to justify their policy reasons for their 5 decisions, ownership, financial stability, we have 6 addressed and can address in this situation 7 specifically. And to paint a finer point on the 8 options that have been offered, lots of mention of cost 9 share. The cost sharing options afford relief of tens 10 of thousands of dollars to our client. That is 11 balanced or potentially balanced against millions of 12 dollars in increased cost. It's literally a drop in 13 the bucket. It's financially unworkable. 14 What you see on this first slide is the system 15 that is approved. And blink your eyes and pretend 16 there's a new slide and that's the system we're 17 proposing. They're the exact same system. They're the 18 same design. They will be operated by the same third 19 party. We're not going to operate that even under the 20 system that's been approved. We don't operate pump 21 station systems. There are third parties that do that. 22 Billy Clarke and I assisted a client in turning one 23 over for the association to a private operator that is 24 regulated by the Utilities Commission. It takes about 25 a year for those to be approved. So it's not something</p>	<p style="text-align: right;">Page 19</p> <p>1 make it to planning and zoning, never make it to Board 2 of Commissioners of these constituent institution 3 members because they get killed at the MSD level 4 because the developer can't afford to build out to the 5 Master plan. 6 Specific to this point is that overly rigid 7 adherence to the master plan is not supportive of the 8 planning and policy goals of MSD's constituent 9 institutions, specifically housing policy, and fall 10 short of meeting the immediate needs of our bigger 11 community. 12 In terms of MSD's policies and how we think that 13 it butts up against the existing law, one of the things 14 I want to go to look at is what DEQ requirements are. 15 North Carolina's regulations require DEQ to consider 16 designs that are outside of the specific standards and 17 policies if the applicant demonstrate equal or better 18 performance of the waste, equal or better protection of 19 the waters of the state and no increased potential for 20 nuisance conditions from noise or odor. 21 In addition, and this is out of the administrative 22 code, MSD's treatment of the applications must be 23 compatible with that of DEQ. And referring back to the 24 block quote there, MSD's treatment of these 25 applications must also consider these alternatives to</p>
<p style="text-align: right;">Page 18</p> <p>1 that's done willy nilly. And any concerns that may 2 have predated 2006 have been resolved by DEQ now. 3 I want to get back to some policies that this 4 board does have that we do agree with. MSD describes 5 its role, and I'm quoting now from the Master Plan, as 6 one of support for the local governments that conduct 7 their planning processes on a more comprehensive scale 8 with a broader viewpoint. That's on page four, which 9 we've got an excerpt from here. It goes on, The Master 10 Plan seeks to provide, I'm quoting again, "wastewater 11 planning and technical guidance to ensure that 12 wastewater infrastructure is designed, operated and 13 maintained to meet both the immediate and future needs 14 of the community." 15 The top priority of every one of MSD's constituent 16 institutions right now is housing, number one across 17 the board. The Bowen Report just came out and called 18 for 30,000 units over the next five years to be built 19 in our area. The number one thing that we tell 20 electives and appointeds as we go through and they ask 21 where the housing is, how do we get housing approved, 22 how do we bring these things, how do we get them built 23 out? We talk about threshold issues. One of the 24 threshold issues is MSD's policies. We have a lot of 25 projects that never make it to City Council, that never</p>	<p style="text-align: right;">Page 20</p> <p>1 their established policies. If DEQ must consider 2 designs outside of their policies, MSD can't have a 3 blanket prohibition. And that's we're getting back 4 around to. So to say that you have to have a single 5 owner is a blanket prohibition on the kind of system 6 that we're putting out without any consideration of the 7 specifics of that proposal. That blanket prohibition 8 in itself flies in the face of a requirement of DEQ 9 that is also a part of MSD because of our 10 administrative code and our underlying state statutes. 11 The second legal point that we have brought up is 12 the one that was mentioned by Hunter and that is this 13 recent enactment. It's a new provision that was 14 enacted in the last two years. So the last time there 15 was an appeal to this board was in 2021. So it's in 16 between that last appeal and now. And that piece of 17 legislation prohibits local sewer authorities from 18 imposing conditions not otherwise authorized by law on 19 residential developments. We believe that the obvious 20 function of this statutory change is to increase the 21 housing supply by reducing obstacles to the development 22 of residential projects like Pinners Cove subdivision. 23 And it specifically prohibits conditions that require, 24 this is a quote from the statute, "adherence to any 25 restrictions related to land development or land use."</p>

<p style="text-align: right;">Page 21</p> <p>1 Why does that matter here? What we are asking for is 2 identical to what has been approved. The only 3 requirement that's changing is what the ownership piece 4 is. 5 In our specific example, we'll have testimony that 6 the operation of the system is going to be the same 7 whether it's one owner or multiple owners. The 8 financial responsibility for that maintaining the 9 system is going to be the same whether it's one owner 10 or multiple owners. In this particular instance, it's 11 a gravity collection system within the subdivision 12 built to MSD standards. It's a private pump station, 13 force main, permitted by DEQ and owned, maintained, 14 operated by a state licensed third-party utility 15 provider in either instance and connected to a gravity 16 line at the top of Ballantree Drive. 17 I would like for Jesse Gardner from CDC to provide 18 an explanation of our approved system. Jesse, if you 19 would, and for the record, give just a quick overview 20 of your background, education and experience 21 specifically in providing these kinds of systems that 22 we're discussing today. 23 DIRECT TESTIMONY BY MR. GARDNER: 24 Sure. Jesse Gardner, Civil Design Concepts. I've 25 been in practice, been at CDC for over 20 years.</p>	<p style="text-align: right;">Page 23</p> <p>1 So how, you know, simple -- normal gravity sewer, 2 as Derek explained, within a traditional sub -- what 3 would look, walk and talk like a traditional 4 subdivision. We've got two pump stations and a force 5 main going over the mountain to drain back into MSD's 6 district and collection system. 7 MR. ALLEN: Is there any difference in the 8 operation of the system if the underlying 9 lots are all owned by one owner or if they're 10 owned by individual owners? 11 MR. GARDNER: No. 12 MR. ALLEN: I'm sure everybody's picked up by now 13 that the issue that we're really dealing with 14 is MSD's single ownership policy for private 15 pump stations under which a private pump 16 station can only serve a single property 17 owner because here the subdivision has been 18 approved in terms of subdivided lots provided 19 that they're all owned by a single owner. 20 Now in digging into that, one of the 21 things that, things that come up are what are 22 the reasons for that? And you heard Hunter 23 talk about a couple of those things and I 24 want to talk about what I forecasted which is 25 we can address each of those items whether</p>
<p style="text-align: right;">Page 22</p> <p>1 Graduate, got a master's degree from NC State and been 2 practicing, started at DOT, then was at CDC for that 3 point forward and licensed engineer. Done a ton of 4 projects through MSD. And Tom, I want to -- appreciate 5 the working relationship we have with MSD. I think it 6 kind of -- we've done a ton of projects, ton of 7 extensions through this district. I think that speaks 8 to this point that we have a unique one as I've never 9 been in this room before and had to appeal a policy. 10 So I think that kind of speaks to the testament of this 11 one is unique. 12 High level, is starting with this, specific to 13 Pinners is it's 170 acres pretty much in South 14 Asheville, right? It is one parcel away from gravity 15 sewer to the west. It is 26,000 feet of gravity sewer 16 to the south. So what we've learned over the years is 17 we're creative. The market needs housing and we solve 18 complex engineering problems. And this, between the 19 site plan to the sewer is where we ended up over the 20 last four years. And we think it's a very creative 21 solution both from a zoning standpoint of working with 22 Mother Earth, doing a conservation subdivision. That 23 was one of the first ones the county has reviewed and 24 approved to get, you know, moving, getting water and 25 sewer to function at a permitted level.</p>	<p style="text-align: right;">Page 24</p> <p>1 there's a single owner or multiple owners. 2 This is coming from MSD's Intraoffice 3 Memorandum October 6, 2025. (As read) At the 4 same time that sewer is to serve subdivided 5 property must be public system in order to 6 ensure that the property is maintained by a 7 public entity. This protects the public 8 health and safety but also keeps the ongoing 9 burden from future homeowners within a given 10 development. 11 This is really a concern about the 12 financial responsible party, about having a 13 grown up taking care of the system. We 14 understand that and we're prepared to address 15 that. 16 Further from September 5th, 2023 17 rejecting one of our proposals along the way 18 here, it was talking about properly-owned 19 maintained systems and talking about 20 responsible parties. The thing I want to 21 make sure that folks understand in this room 22 is that we've made multiple proposals to 23 address MSD's concern about the financial 24 responsible party. In August 2023 in a 25 letter to MSD proposing a responsible party,</p>

<p style="text-align: right;">Page 25</p> <p>1 performance guarantees, indemnification</p> <p>2 provisions, we proposed those and those were</p> <p>3 rejected with MSD saying this concept even</p> <p>4 when accompanied by a performance guarantee</p> <p>5 is not acceptable to MSD. The following year</p> <p>6 in June in a letter to MSD we proposed a</p> <p>7 turnover ownership, operation and maintenance</p> <p>8 of the pump station like Billy and I have</p> <p>9 recently have done for an HOA over to a state</p> <p>10 licensed third-party provider and that was</p> <p>11 rejected by a phone call. And then recently</p> <p>12 this past summer in the letter, we proposed</p> <p>13 the pump station and force main be a public</p> <p>14 pump station and sized to preserve additional</p> <p>15 properties and turn it over to MSD. And that</p> <p>16 was also rejected. We'll add those three</p> <p>17 documents to this record.</p> <p>18 Jessie, if you would take care of that.</p> <p>19 MR. SWORDS: Billy, you want to see this stack of</p> <p>20 documents?</p> <p>21 MR. CLARKE: That'd be nice.</p> <p>22 MR. ALLEN: The point of me going through those</p> <p>23 items is that each of these proposals</p> <p>24 directly addresses MSD's stated concerns that</p> <p>25 underline the policy of having no multi-party</p>	<p style="text-align: right;">Page 27</p> <p>1 in ownership and legal responsibility to</p> <p>2 maintain the system in compliance. Often the</p> <p>3 ownership or the permit and system is not</p> <p>4 transferred when there's a property transfer.</p> <p>5 If the division does its due diligence before</p> <p>6 fast track issuance, then there should be a</p> <p>7 signed HOA DOA on file and attached to the</p> <p>8 permit and filed with the Register of Deeds</p> <p>9 and Secretary of State that the permit is</p> <p>10 properly executed with the required</p> <p>11 documentation. Then the division has an</p> <p>12 additional agreement that we can then utilize</p> <p>13 to take enforcement action if necessary.</p> <p>14 The point of this is they provide a</p> <p>15 mechanism to do that. DEQ knows how to do</p> <p>16 this. We do this all over the state.</p> <p>17 Jesse's done it. Warren's done it. We've</p> <p>18 done it in western North Carolina, We've done</p> <p>19 it in Wake County. Everywhere else across</p> <p>20 the state -- everywhere else. All across the</p> <p>21 state, this is happening. This is the way</p> <p>22 you get development done.</p> <p>23 Jesse, I think that you're currently</p> <p>24 working on one up in Haywood County, Maggie</p> <p>25 Valley. I think we've done one in</p>
<p style="text-align: right;">Page 26</p> <p>1 pump stations. Turning over ownership to a</p> <p>2 state licensed third-party provider addresses</p> <p>3 concerns related to ongoing maintenance. It</p> <p>4 provides clear legal responsibility to the</p> <p>5 system. And then we have the maintenance</p> <p>6 cost which gets covered in the HOA groups.</p> <p>7 So this is from a June 10, 2024 letter</p> <p>8 related to the cost. The common area</p> <p>9 maintenance cost for this proposed</p> <p>10 subdivision is \$108,000. The pump station</p> <p>11 maintenance is 15,000. So the cost of</p> <p>12 ongoing maintenance of this is something that</p> <p>13 is very doable and is really a small fraction</p> <p>14 of what the dues are going to be inside of</p> <p>15 any kind of subdivision, whether it is single</p> <p>16 owner or multi owner.</p> <p>17 I referenced earlier DEQ and what DEQ</p> <p>18 would allow. And we had a letter from Mikal</p> <p>19 Willmer, October 8, 2025. We asked them very</p> <p>20 specifically, Do you consider HOA owned pump</p> <p>21 station an issue from a regulatory</p> <p>22 standpoint? And we know the answer because</p> <p>23 we've done this before and they approved</p> <p>24 these. (As read) For all private pump</p> <p>25 stations, the division's concern is a change</p>	<p style="text-align: right;">Page 28</p> <p>1 Waynesville. I think that Burnsville is</p> <p>2 building one designed to promote this kind of</p> <p>3 development. Can you tell me a little bit</p> <p>4 about the one in Haywood County?</p> <p>5 BY MR. GARDNER:</p> <p>6 Sure. 155-lot subdivision off of J. Creek.</p> <p>7 Worked with town the of Maggie Valley. They are owning</p> <p>8 the gravity system that drains to a pump station. They</p> <p>9 are allowing me to or have allowed me to build a</p> <p>10 private pump station permitted through the state. HOA</p> <p>11 will be responsible for that pump station and we force</p> <p>12 main to their line in the middle of J Creek Highway and</p> <p>13 back to their system. So they were 100 percent on</p> <p>14 board and open to a private pump station for a 155-lot</p> <p>15 subdivision, you know, because they understand housing</p> <p>16 is a need.</p> <p>17 Waynesville, we have permitted a 60 something, 62-</p> <p>18 unit residential community to utilize what would be a</p> <p>19 public pump station. Current, we have just finished</p> <p>20 bidding a public pump station for the town of</p> <p>21 Burnsville, about 4,000 feet of force main just west of</p> <p>22 their downtown as a speculative play on their behalf to</p> <p>23 open up maybe 60 to 70 acres of developable property to</p> <p>24 promote housing. So they're doing it from their own,</p> <p>25 just to promote housing out of their own pocket.</p>

<p style="text-align: right;">Page 29</p> <p>1 You know, in the last five, in the last five to 10 2 years, we've designed more pump stations than I did the 3 first 15 years. I probably designed the last MSD 4 accepted pump station 20 years ago before this policy 5 changed. A lot has changed between then and now. 6 Economics, usually the economics of a pump station 7 would force you to pursue gravity to all ends. Those 8 economics have changed in today's time. So, yeah, I 9 just feel like we've done several pump stations, so 10 it's not a pump station problem. Like I think MSD's 11 policy -- we've done several pump stations in Buncombe 12 County that are private. Coming to your system that 13 you aren't aware of. Those just only for apartments, 14 single owner. Other municipalities, again, we prefer 15 gravity. We always. Everybody prefers gravity. But 16 the threshold between when does a municipality or the 17 receiving sewer authority, when do they say, okay, we 18 get it, we're good with the pump station, is much lower 19 in the surrounding communities as we go, approach them. 20 MR. ALLEN: I know that as part of the staff 21 presentation, they went through the proposals 22 that have been presented to our client. And 23 I don't want to get out of this presentation 24 without addressing those and why they don't 25 specifically work. I generally comment that</p>	<p style="text-align: right;">Page 31</p> <p>1 HOAs that own discharge plants in the Cane 2 Creek Basin versus a pump station that would 3 come to MSD. So holistically I think the 4 pump station is the best solution to this 5 specific project. 6 MR. SWORDS: And you're referring to the private 7 pump station? 8 MR. GARDNER: Yes. 9 MR. SWORDS: Okay. And I have this, another slide 10 here for you to talk about the gravity 11 options in 455 Mills Gap option. 12 MR. GARDNER: Yeah. So the, you know, primarily 13 the issues with going, I don't, I think it's 14 nearly 6,000 to 12,000 feet double and triple 15 the cost of what our on-site design system 16 would entail. In addition to acquiring 17 easements through 20 different property 18 owners, adds considerable time in my 19 experience. I know MSD would be responsible 20 for that, but we've just seen projects take 21 much longer as they go through that public 22 process. 23 And also, a pump station or a force main 24 along Mills Gap Road is not an easy feat. 25 It's a heavily traveled road. It is</p>
<p style="text-align: right;">Page 30</p> <p>1 they are cost prohibitive. Jesse, if you 2 would walk us through those with the help of 3 Mr. Gardner (sic), that would be great. 4 MR. GARDNER: So I think some of the early 5 concepts were, you know, do an on-site sewer 6 system, right, or options. I feel like when 7 sewer is proximate, you know, it's almost 8 that, what I hear from your policy standpoint 9 is an HOA can't maintain a pump station. 10 Well, I don't want to encourage them to 11 maintain a 60,000 gallon on-site sewer system 12 because that's way more complex than just a 13 pump station or a treatment plant. We design 14 on-site sewer systems. I've designed large 15 community systems. They are more expensive 16 than gravity sewer or public sewer, but 17 they're also more complex. Treatment plant, 18 I don't, you know, what I see in this 19 specific area is there -- not having public 20 sewer encourages discharge permits. I think 21 probably Cane Creek area has more discharge 22 permits than most areas in Buncombe County. 23 And holistically, you know, I don't think 24 that's a wise thing for growth is to allow, 25 you know, HOA, I think there's two or three</p>	<p style="text-align: right;">Page 32</p> <p>1 constrained both just in the width and then 2 finding the avenue to run a public force main 3 along that will have its challenges in 4 itself. 5 MR. SWORDS: Can you talk about the steps that go 6 into planning and constructing the public 7 sewer? 8 MR. GARDNER: Yeah. And so step one is we have to 9 kind of survey the route, survey the 10 constraints. Robinson Creek is, I believe, a 11 trout stream or feeding a trout stream as we 12 dealt with that environmental policy for our 13 impacts. And so the corridor has 14 environmental impacts and environmental 15 constraints as well. And laying a gravity 16 sewer along the stream bank is, is not always 17 the easiest path or the best path. And so 18 survey property owner notifications, 19 conceptual design, come back to easements, 20 easement negotiations, final design, bidding, 21 and then award all both add costs and time to 22 what would be an overall much expensive, much 23 more expensive and complicated project than 24 what we have designed and proposed already. 25 MR. ALLEN: One of the other options, and we keep</p>

<p style="text-align: right;">Page 33</p> <p>1 coming back around this piece, is this idea 2 that other developers will come along and 3 develop property to fit the system. We find 4 it interesting that the master plan on page 5 43 uses this area, the Robinson Creek Basin, 6 as an example of a challenging situation. 7 And we go so far as to state policies are 8 needed to consider how these situations will 9 be addressed. And we totally agree. We 10 think that the policy needs to be addressed 11 to address the very specific situation here. 12 If you look at the developable properties up 13 and down, I am speaking specifically to the 14 proposal for 455 Mills Gap. It is simply 15 unlikely there will be enough large projects 16 on a coordinated basis, because that's what 17 has to happen. It's not just the project, 18 but they have to be on a coordinated basis in 19 an order for the master plan to get built out 20 that way. Jesse, if you look at -- property? 21 MR. GARDNER: Yes. So, you know, what's unique, 22 specifically unique about us, we're 160 23 acres. We have the ability, you know, that's 24 a large tract. Between us and Mills Gap, I 25 think the largest tract was like 12 acres.</p>	<p style="text-align: right;">Page 35</p> <p>1 approved system, provides equal or better 2 treatment of waste, equal or better 3 protection of the waters of the state, and no 4 increased pollution produces conditions from 5 noise, odor or burning? 6 MR. GARDNER: Yes. 7 MR. ALLEN: One of the things that I know exists 8 at MSD -- and I echo what Jesse is saying; we 9 enjoy working with MSD and we're in an 10 adversarial posture now and that's is how 11 things go sometimes. But I do think that MSD 12 is the inheritors of policies that have been 13 around for maybe too long without being 14 looked at. I think that the constituent 15 members of MSD board have not had a real say 16 in any of the policy. And I think maybe they 17 need to re-look at that. And I think that's 18 something that's on the board and outside of 19 the scope of this hearing. However, I do 20 know that a concern of MSD, both as it 21 relates to this project and other projects, 22 is creating the proverbial slippery slope. 23 We invite this committee and the board in 24 approving our request, we invite it to add 25 conditions to that request.</p>
<p style="text-align: right;">Page 34</p> <p>1 And so when you have density and a size and 2 scale of a project, you can absorb off-site 3 improvements. That, that's normal. But when 4 I'm looking, when I, you know, when we're 5 looking at a 10-acre, 12-acre tract, those 6 are much smaller developments and you know, 7 they can absorb off-site improvements. So 8 the likelihood of any of any of these tracks 9 between A to B being developed succinctly and 10 having the fortitude to extend millions of 11 dollars worth of sewer is just unlikely. 12 I think we're in the time where the 13 supply is not meeting demand and projects are 14 looking at every -- my clients are looking at 15 every avenue possible, but for such small 16 tracks individually, just never like in my 17 mind, that rarely can get billed out, which 18 means it's not fulfilling its potential from 19 a zoning and a development standpoint because 20 it is suitable. 21 MR. ALLEN: Jesse, before I let you off the hot 22 seat, I want to ask you this very specific 23 question referring back to the DEQ standards. 24 And that is, is it your professional opinion 25 that the proposed system, as compared to the</p>	<p style="text-align: right;">Page 36</p> <p>1 This particular subdivision, and this 2 might be the condition. This particular 3 subdivision is a conservation subdivision. 4 Mr. Pennington, how long has that been on the 5 books? I don't know. 15 years? How long 6 has this -- 7 MR. SWORDS: Since 2010 or 2011. 8 MR. ALLEN: Since 2010. It's been over 15 years, 9 Conservation subdivisions. How many have 10 there been? 11 MR. PENNINGTON: Well, before I answer that, I 12 have comments that I'd like to add when it's 13 appropriate, but we can go back to that. 14 MR. ALLEN: Certainly. 15 MR. PENNINGTON: So it's been around for a while. 16 It's not been heavily utilized. 17 MR. ALLEN: Yeah. And I say that to offer up 18 something that might be an appropriate 19 condition on an approval of our appeal, that 20 it's only eligible for developments that are 21 using the conservation subdivision piece. 22 And real quickly, for those who don't know 23 what the conservation subdivision is, it 24 encourages development in the less critical 25 areas, environmentally sensitive areas, to</p>

<p style="text-align: right;">Page 37</p> <p>1 protect steep slope ridges. In this 2 particular instance, the conservation 3 easement that was granted is 100 acres. And 4 so it does encourage the right thing from 5 developers and encourages them to do things 6 like drop 100 acres into a conservation 7 easement. 8 We're specifically asking that this 9 board approve the private pump station and 10 force main to serve several properties within 11 the subdivision with the condition that we 12 turn the system over to a state-licensed, 13 third-party provider for ownership, operation 14 and maintenance. Or if MSD prefers that MSD 15 accept it as a public pump station. 16 With that, I'll open up to any questions 17 that the board has. 18 MS. MANHEIMER: So, and I apologize, I have to 19 leave shortly to go meet with another problem 20 that Derek's got for me out in Haw Creek. 21 But so one question I have is, and I 22 can't tell what these lot sizes are, but it 23 looks, you know, it looks like a pretty dense 24 subdivision. Is the, is this going to be 25 where lots are sold and owners then build</p>	<p style="text-align: right;">Page 39</p> <p>1 collect fees and cover the common area 2 expenses. But in other subdivisions that are 3 fully built out, they run like little cities 4 and they're, you know, they manage their 5 utilities and they do a great job. So I get, 6 I get the hesitation from a policy standpoint 7 for an MSD to look at something like this and 8 go, well, you know, we don't want to roll the 9 dice here on a subdivision that ends up 10 collapsing or only being very partially 11 occupied. So I get that challenge and I 12 don't know how to resolve that except 13 probably Nate has something really smart to 14 say about it. 15 But in general, my experience with 16 functioning homeowners' associations is that 17 they do a pretty good job with their utility 18 systems, even though they gripe and complain 19 about it, they manage them fairly well. But, 20 but that's not, you know, there's no 21 guarantee. 22 MR. LEVIN: Can I just jump in and say one thing? 23 We are going to be building a built-to-rent 24 community here who is going to be funding the 25 HOA and we'll fund all of it until the</p>
<p style="text-align: right;">Page 38</p> <p>1 their own house and so it'll kind of 2 gradually fill up or is it going to be, you 3 know, sort of spec houses and they're sold 4 off and so it'll be filled up in short order? 5 MR. LEVIN: I think we would still maintain that 6 part of the development as a build-to-rent 7 project. And we just want to have the right 8 to be able to build homes and sell them. Not 9 to have builders. We're just going to wait 10 for somebody to build. We'd actually build 11 them on spec and then have buyers come out 12 and buy it. 13 MS. MANHEIMER: And you might, you might rent 14 some, but it would be somebody, some entity 15 would be the owner? 16 MR. LEVIN: Right. So we're thinking 50, 50 at 17 this point. So half would be rentals and 18 half would be for sale. 19 MS. MANHEIMER: Well, and I'm just asking that 20 question because, you know, as you know, I do 21 a lot of HOA work and there are times where 22 someone envisions a wonderful subdivision and 23 they put it out there and there's like three 24 houses in it. And so there's really not a 25 good, cohesive governing body and a way to</p>	<p style="text-align: right;">Page 40</p> <p>1 homeowners and the, you know, until the 2 homeowners move in and start jumping in, 3 right? So there is a guarantee and we're 4 willing to sign that guarantee and 5 indemnification that that will stay intact. 6 MS. MANHEIMER: Well, I mean, and I appreciate 7 that. I have, I worked through the Great 8 Recession where many a guarantee were 9 abandoned and with no recourse. So I mean 10 there's, you know, a guarantee is only as 11 good as the guarantor and you know, at no 12 fault of anybody, but maybe the market, a lot 13 of times those aren't, aren't honored. So I 14 mean, so I, you know, but I wish there was a 15 way for MSD to say, well, build it and we 16 might come so we could see first. But you 17 know, obviously that's not how it works. 18 MR. ALLEN: Well, not to be overlooked and I know 19 I've said this, but the, the system will be 20 owned and operated by that third-party 21 approved by the utilities commission. 22 MS. MANHEIMER: But it's funded by the association 23 dues. 24 MR. LEVIN: Right. But it's currently, so as 25 approved today, it's funded by the rental</p>

<p style="text-align: right;">Page 41</p> <p>1 community. So same thing, so, you know, we 2 can -- 3 MS. MANHEIMER: And I'm not, I mean, that means no 4 difference to me in the world of HOA law 5 whether a property is owned by an LLC that 6 happens to be the developer and they rent the 7 property. It works the same as a property 8 owned by Joe Schmo individual. It's a 9 property that pays dues that go to cover the 10 common area expenses, including in this case, 11 funding the third-party operator of the 12 utility system. You know, my question is 13 just, I mean, I guess the concern is what if 14 there aren't -- what if there's no one there 15 to pay dues? 16 MR. LEVIN: That's our point exactly. That it's 17 already approved to be able to be run and 18 owned by a build-for-rent community. That's 19 no different than whether it's a build-for- 20 rent community that also has some For Sale 21 lots. 22 MS. MANHEIMER: I see what you're saying. 23 MR. LEVIN: So that's the whole point is no matter 24 what, it's the exact same thing. It's just 25 whether it's a build-for-rent community or</p>	<p style="text-align: right;">Page 43</p> <p>1 would be located on the property and it would 2 be operated -- you anticipate having it 3 operated by a third party, not -- not you all 4 or not homeowners? 5 MR. LEVIN: Correct. 6 MR. CLARKE: And the sewer system that you're 7 going to build on the property would be a 8 public sewer system? 9 MR. LEVIN: You mean the standards? 10 MR. CLARKE: I mean the sewer system that you're 11 going to construct on the property to serve 12 the rental portion and the private or the For 13 Sale portion would be designed and built in 14 accordance with public sewer standards? 15 MR. LEVIN: Yes. 16 MR. ALLEN: Yes. 17 MR. CARSON: But it would not be conveyed to be 18 private. 19 MR. ALLEN: Unless you own it. 20 MR. CLARKE: Okay. And the hundred acres, is it 21 in a conservation easement or is that just 22 planned? 23 MR. LEVIN: Planned. 24 MR. CLARKE: Okay. So it hasn't been done yet? 25 MR. LEVIN: I don't believe it's been effectuated.</p>
<p style="text-align: right;">Page 42</p> <p>1 built-for-rent, but also some For Sale. And 2 for the right product mix for a community 3 like this, 264 rentals just doesn't make 4 sense. It makes sense to be able to have 5 some for sale, some for rent. It's very 6 similar to what we're doing over on Old 7 Charlotte Highway where we're building out 8 very similar subdivisions. 9 MR. CLARKE: May I ask one question just to 10 clarify for the committee? The request today 11 is to approve a private pump station to serve 12 this community. Is that right? 13 MR. LEVIN: (Nodding head up and down) 14 MR. CLARKE: Okay. And the community is going to 15 be part rental and owned by KLP EAT, Pinners 16 Cove? 17 MR. LEVIN: Yeah, or another entity. 18 MR. CLARKE: And then some of it's going to be 19 lots will be sold? 20 MR. LEVIN: Correct. 21 MR. CLARKE: You have a plan showing which ones 22 are going to be rented, which one's are going 23 to be sold? 24 MR. ALLEN: We could share that with you. Yeah. 25 MR. CLARKE: Okay. And the private pump station</p>	<p style="text-align: right;">Page 44</p> <p>1 I haven't checked. 2 MR. ALLEN: I'm not sure about that. I'm not sure 3 about that, Bill. 4 MR. PENNINGTON: If the final plat has been 5 signed, that means we would have had to have 6 done whatever's in the ordinance to allow 7 them because they were given some breaks to 8 do that kind of -- do you know if the final 9 plat is signed yet? Because typically we 10 hold the final plat until we take care of all 11 the other -- 12 MR. ALLEN: I don't, I don't know. Let me find 13 out. I do know that it is a requirement of 14 moving forward. So I'll find out. 15 MR. CLARKE: But in that conservation, you get 16 some tax benefits, is that right? 17 MR. LEVIN: No. Zero. Can't have tax benefits if 18 we're getting the benefit of zoning. 19 MR. PENNINGTON: It allowed them to cluster the 20 development and allowed them to get smaller 21 lot sizes, so there were some advantages to 22 doing this. 23 MR. CLARKE: And no, no units will be built on the 24 100 acres in the conservation? 25 MR. LEVIN: No.</p>



<p style="text-align: right;">Page 45</p> <p>1 MR. CLARKE: Okay. Those are the questions I had.</p> <p>2 MR. PENNINGTON: And I've got some questions and</p> <p>3 points that I'd like to make.</p> <p>4 I think we all can agree, this is one of</p> <p>5 the most controversial projects I've worked</p> <p>6 on. So there's that. But aside from that,</p> <p>7 and let's take the housing conversation out</p> <p>8 of it, let's detach that for now. Because</p> <p>9 this is the same kind of conversation, the</p> <p>10 same points I hear about stormwater. It's</p> <p>11 necessary, but it's not liked. You know,</p> <p>12 it's one of those situations. But can we all</p> <p>13 agree this is a very tricky lot and this has</p> <p>14 been going on for four years. I've seen any</p> <p>15 number of iterations around this project and</p> <p>16 I think that a question for the developer, we</p> <p>17 can all agree market conditions have changed.</p> <p>18 I'm hearing that we started out with a higher</p> <p>19 number of units and now we've reduced the</p> <p>20 unit count. Is that correct?</p> <p>21 MR. LEVIN: Yes. When we acquired the property,</p> <p>22 just to put it into a number, the 10-year</p> <p>23 treasury was at 1.5. Today it's above 4, and</p> <p>24 it was above 4 a year later. So I mean, it</p> <p>25 changed pretty rapidly through the</p>	<p style="text-align: right;">Page 47</p> <p>1 MR. PENNINGTON: Sure, I get that. I'm just</p> <p>2 trying to paint a picture here holistically.</p> <p>3 We know that we don't speculatively extend</p> <p>4 lines. That goes for our water providers,</p> <p>5 our wastewater providers. It's a developer-</p> <p>6 driven process. Do we need to look at</p> <p>7 planning in the future? Absolutely. We need</p> <p>8 to look at it from an NCDOT perspective,</p> <p>9 water provider, sewer provider. These are</p> <p>10 known facts. We can all agree that a lot of</p> <p>11 the easy lots are gone. I work with Jesse, I</p> <p>12 work with Warren every single day. And we</p> <p>13 are left with some of the trickier</p> <p>14 properties.</p> <p>15 I will say that when the developer</p> <p>16 leaves, the planning director and the public</p> <p>17 utilities get to deal with the problems. And</p> <p>18 I think a lot of the reason that the policy</p> <p>19 was written the way it was is because we get</p> <p>20 to deal with the failed systems. We have to</p> <p>21 deal with the private lines. We have to deal</p> <p>22 with the fact that HOAs fail. So I think</p> <p>23 that's where that single entity versus having</p> <p>24 to deal with an entire neighborhood. And</p> <p>25 right now I'm dealing with one up on 9 where</p>
<p style="text-align: right;">Page 46</p> <p>1 acquisition. I don't know -- so I guess, I</p> <p>2 don't know, when you said it's a "tricky</p> <p>3 property." It was definitely controversial</p> <p>4 from the neighborhood's standpoint.</p> <p>5 MR. PENNINGTON: No, it's a tricky property to</p> <p>6 develop. It's got steep slope at the top end</p> <p>7 of it.</p> <p>8 MR. LEVIN: Right. Yes.</p> <p>9 MR. PENNINGTON: You knew going in you bought a</p> <p>10 piece of property without -- you've got</p> <p>11 public water, correct?</p> <p>12 MR. LEVIN: Yep.</p> <p>13 MR. PENNINGTON: But you didn't have public sewer</p> <p>14 and you knew that going in. So you've gone</p> <p>15 through any number of iterations to kind of</p> <p>16 solve the wastewater situation.</p> <p>17 MR. LEVIN: I believe we had a Will Serve letter</p> <p>18 when we acquired it and we were aware that it</p> <p>19 was going to be, you know, tied to single</p> <p>20 ownership, which ultimately changed as the</p> <p>21 economy changed. And as responsible</p> <p>22 developers, we have tried to work out a</p> <p>23 project that is viable and suitable for the</p> <p>24 site with the same sewer approval that we've</p> <p>25 already received.</p>	<p style="text-align: right;">Page 48</p> <p>1 it has a lien damage and it actually had a</p> <p>2 community water system that was completely</p> <p>3 compromised. And now we've got attorneys</p> <p>4 from both sides fighting over everything,</p> <p>5 whether it be road maintenance to the</p> <p>6 reconstruction of that system, et cetera, et</p> <p>7 cetera. So I'm just trying to like give an</p> <p>8 idea about why the policy may have been</p> <p>9 written the way it was, but at the end of the</p> <p>10 day, what are we here to do today? And that</p> <p>11 is this committee only gives, correct me if</p> <p>12 I'm wrong, Tom and Billy, this committee's</p> <p>13 role is to give a recommendation to the full</p> <p>14 board. The full board will then have to</p> <p>15 support the appeal. If the appeal is</p> <p>16 supported, then we have to change the policy.</p> <p>17 Is that sort of how this works?</p> <p>18 MR. CLARKE: I mean, yes, yes. You're right that</p> <p>19 this committee makes a recommendation to the</p> <p>20 district, full district board; the district</p> <p>21 board would consider it.</p> <p>22 MR. PENNINGTON: So I will say that I have worked</p> <p>23 extensively with package plants and private</p> <p>24 systems when I was planner down in the</p> <p>25 Florida Keys. Now, a lot of those systems</p>

<p style="text-align: right;">Page 49</p> <p>1 failed. When I left the Florida Keys, they 2 were under a state mandate to centrally sewer 3 and that central sewer was a series of 4 gravity systems with public pump stations to 5 get from island to island until you get to 6 your treatment system as a whole. We all 7 agree the package plants are ultra expensive. 8 You have to get them permitted through NC 9 DEQ. 10 So this, this idea then kind of is a 11 hybrid which takes a third-party utility 12 provider, like what's the Carolina Water or 13 some system like that. I'm just trying to 14 make sure I fully understand like all aspects 15 of this. So I think that's all I have. 16 MR. GARDNER: I would tell you that packaged 17 plants are becoming, in today's market, a 18 cost effective solution. They're all -- ten 19 years ago, we would never even look at it. 20 I'm now doing three package plants out west, 21 expansion of existing ones. So I'm with you. 22 I don't want to do one in Buncombe County. 23 Right. As you go to Highlands, out West, 24 they're normal, you know, owned by HOAs. 25 Ideal? No, but it's because, you know, it's</p>	<p style="text-align: right;">Page 51</p> <p>1 general. You know, there was an argument in 2 the letter as to how these policies were 3 leading to homelessness. In fact, I just 4 want to point out that since 2021, you know, 5 only four years ago, there have been 3,330 6 single-family units constructed, 5,593 multi- 7 family units constructed. And we currently 8 have 6,253 units permitted and/or in 9 construction at the moment. So I guess I 10 just want to make that clear that I don't 11 think our policies necessarily impact the 12 housing supply. 13 MR. PENNINGTON: Hunter, I think the point too is 14 that Buncombe County is now the primary 15 development area. I think Beverly Grant the 16 other day told me that they've switched from, 17 they do about 100 million a year and they 18 said 80 million now is out in the county 19 versus 20 million like in the city. That's a 20 huge monumental shift. And back to my point 21 earlier, do we need to look at planning, do 22 we need to look at policies? Absolutely. 23 And I'm talking multiple agencies. I think 24 one thing that Helene laid bare is the fact 25 that small local governments, small towns in</p>
<p style="text-align: right;">Page 50</p> <p>1 -- 2 MR. PENNINGTON: They're more rural, they don't -- 3 right. 4 MR. GARDNER: Yes. 5 MR. PENNINGTON: Not totally good. 6 MR. GARDNER: So 100 percent, but I think what I'm 7 hearing from my clients is we're looking for 8 larger tracts and we'll consider a package 9 plant and/or on-site sewer systems, but 10 that's where I want to encourage a policy 11 from MSD to get to these areas for sure. 12 MR. CARSON: I've got just two comments. Derek, 13 you had mentioned that the level of 14 participation was on the order of tens of 15 thousands. I do want to share this dates 16 back to 2023, which was the last time we did 17 an estimate for option four, which again was 18 that shorter section of the master plan 19 alignment. So at that time we had estimated 20 for the full project about \$2.8 million 21 internally. MSD's participation was 700,000. 22 So I just want to put that out there. And 23 that was shared with the developer. 24 Also, another point that you had about 25 MSD's policies impacting housing supply in</p>	<p style="text-align: right;">Page 52</p> <p>1 western North Carolina, they've done two 2 things. They've done deferred maintenance 3 and they've done, they've never like kept up 4 with their tax rate. And it's laid bare the 5 fact that a lot of these smaller systems, we 6 need to start looking at consolidation, we 7 need to start looking at things that better 8 support. 9 The problem in this area is it, just we 10 never sort of anticipated the growth sort of 11 jumping the mountain here. And I think 12 that's led to the issue of why there's been 13 multiple options considered for this. But 14 regardless of changing the policies, this is 15 a direct appeal for one specific project 16 before us. And if we do this then it changes 17 the policy for everyone. 18 MR. ALLEN: I don't think so. And so that having 19 to change the policy, I don't -- in fact, we 20 aren't asking for you to change the policy. 21 Now, I think the policy needs to be looked at 22 and re-evaluated for sure. But here what I'm 23 asking is that you look at your policies, 24 look at what the state requires, look at 25 equal or better performance and figure out a</p>

<p style="text-align: right;">Page 53</p> <p>1 way to condition our request given the unique 2 nature of this property that you talked about 3 that we know exist, the unique nature of the 4 situation that we're in with our housing 5 piece right now, the unique nature of the 6 market changing and where we are and what 7 would that safeguard look like? Is it a bond 8 in place? Is it requiring us to use a third- 9 party servicer and turn it over owner and 10 operator? I'm not aware of a third-party 11 servicer who owns a system walking away on 12 any system. I'm just, I'm just not, I'm not. 13 But what I'm saying is if the concern is that 14 giving this provides some precedential impact 15 where you feel like you have to change the 16 policy, I'm saying I don't think so. I think 17 that your policy already allows you to do 18 what we're asking and we're asking that you 19 appropriately condition any approval that 20 makes MSD feel comfortable that this is, in 21 fact, a unique circumstance. And there may 22 be other unique circumstances that come up 23 with other projects and you can look at those 24 then and appropriately condition and then of 25 asking the question always, is this equal or</p>	<p style="text-align: right;">Page 55</p> <p>1 MR. WATTS: Yeah. 2 MR. HARTYE: They'd all still be paying to us. It 3 depends on how they -- 4 MR. GARDNER: So we're individually metered, and 5 so every resident, it's going to act like a 6 normal bill. Every resident is going to get 7 a sewer bill based off their individual 8 meter. I would assume that's how you -- 9 MR. CLARKE: The City of Asheville supplies the 10 water, right? 11 MR. GARDNER: That's correct. 12 MR. HARTYE: And that, you know, that's typically 13 how it is. So the whole idea of the policy 14 was that when you have private lines serving 15 subdivided properties, 15 years down the 16 road, we've had this -- and we do have a 17 list. And I'm not sure why that wasn't 18 conveyed. We do have a long list and an ugly 19 list. And they've actually been to this 20 board since dealing with those systems. But 21 they've been paying, you know, for a sewer 22 bill, the MSD, for 25 years. They got a 23 problem out there, and the homeowner 24 association has gone defunct, and we're left 25 holding the bag. There's a, there's a</p>
<p style="text-align: right;">Page 54</p> <p>1 better performance? What do we need to do to 2 protect against the proverbial slippery 3 slope? And that policy reconsideration can 4 be a totally different lane that needs to 5 happen anyway both on the MSD side as well as 6 on the constituent member side. 7 MR. PENNINGTON: So you think this is one project 8 specific appeal to allow a third-party entity 9 to operate a private pump system? 10 MR. ALLEN: Yes. 11 MR. PENNINGTON: Is that kind of encapsulated? 12 MR. ALLEN: Correct. 13 MR. PENNINGTON: Okay. I just wanted to be clear 14 as to what -- 15 MR. WATTS: Hunter, I'd like to ask a question. 16 I'm getting older, but my memory is that we 17 did approve it when it was under one 18 ownership, right, this pump station? 19 MR. CARSON: Yes. Yes. 20 MR. WATTS: Okay. So now that it's not under one 21 ownership, we've denied it. Would we measure 22 this at one point or would we -- as far as 23 quantity, or would we deal with each 24 individual meter as far as billing? 25 MR. CARSON: As far as billing?</p>	<p style="text-align: right;">Page 56</p> <p>1 headline in the paper, sewage overflow. MSD 2 is trying to say, oh, well, we're trying to 3 hold at arm's length until, you know, until 4 it gets really bad. And then we have to step 5 in and affect some repairs, do replacements, 6 that type of thing. It's happened again and 7 again. That is the reason for the policy. 8 So I don't know, you know -- 9 MR. ALLEN: We were told there were 14. I think 10 that was the right number. 11 MR. CLARKE: Actually, let me clarify that. There 12 was a meeting, I sent Mr. Jesse, Mr. Swords, 13 minutes of a meeting with the planning 14 committee. He asked for the last time they 15 had a meeting to discuss one of these fields. 16 And in that, in the minutes of that meeting, 17 there was a reference to a, to multiple 18 private systems that had failed. And he 19 asked me if I had information on them. And I 20 said, we don't know. I talked to Hunter. We 21 didn't have that information. He was 22 available really briefly. We provided lots 23 of other information. I suggested that they 24 reach out to DEQ, because it's their issue, 25 and we just didn't have a list. But we can</p>

<p style="text-align: right;">Page 57</p> <p>1 put together a list if we need to. We can 2 provide. 3 MR. CARSON: Yeah, we can put together an updated 4 list, which I have since spoken to our system 5 services group about that. We still have 6 numerous pump stations and private collection 7 systems that are problematic, which they have 8 informed me of. That is all in addition to 9 the current projects that we have in our PSR 10 program, the Private Sewer Rehab program, 11 which has been ongoing problematic private 12 collection systems for some time. And we can 13 certainly give you a list of those. 14 MR. ALLEN: Yeah. And our reason for asking the 15 question was this; we believe that those 16 systems, those problematic systems happened 17 prior to 2006 when DEQ's review changed. And 18 so that's, that's what our hunch is. And so 19 we we're wanting to clarify that piece. So, 20 you know, not to, we're not trying to bust 21 anybody or, you know, gotcha anybody, but 22 that's what, that's where our hunch is. And 23 we think that it's changed now and having, 24 you know, gone through, you know, what we 25 went through on turning it over to a third</p>	<p style="text-align: right;">Page 59</p> <p>1 considers testimony, both the appellant and 2 general manager or designee shall be given an 3 opportunity to present testimony to cross 4 examine the witnesses. However, the rules of 5 evidence generally prevailing in the General 6 Courts of Justice in the State of North 7 Carolina will not apply to such a hearing. 8 The planning committee will make a 9 recommendation to the district board 10 regarding the appeal within 30 days of the 11 date the appeal is served on General Manager. 12 I think by agreement with the 13 Petitioner, we scheduled this hearing to 14 accommodate both sides. So the district 15 board does meet next week. It probably would 16 be appropriate for you to make a 17 recommendation for them to consider next 18 week. 19 CHAIRMAN PELLY: Thank you. 20 MR. ALLEN: And one more thing I wanted to add on, 21 on top of what Billy just said, just to put a 22 final point on avoiding that slippery slope 23 and also qualifying that this already is in 24 your policy. Inside the master plan, this 25 area is called out specifically by name as</p>
<p style="text-align: right;">Page 58</p> <p>1 party operator for, you know, the HOA that we 2 were dealing with, I mean, it's a rigorous 3 process to be approved by NCUC to get to the 4 third party. So I don't, I don't feel like 5 the third party is going to take it on 6 lightly. 7 CHAIRMAN PELLY: Tom, I think we're going to lose 8 our quorum soon here unless we -- are we 9 ready to consider a motion, Billy or -- 10 MR. CLARKE: You all -- it's up to you, Mr. Chair. 11 You can, you all can discuss and make a right 12 -- your obligation is to make a 13 recommendation to the full board. 14 CHAIRMAN PELLY: Did you mind to restate the -- 15 MR. CLARKE: Yes, be glad to. So the planning 16 committee, the district board will meet to 17 consider the appeal. Planning committee 18 considering the appeal may listen to 19 testimony and consider written evidence 20 presented by the appellant for the planning 21 committee may make a determination without 22 testimony. The planning committee may also 23 consider oral testimony and documentary 24 evidence from the general manager, the 25 district staff. If the planning committee</p>	<p style="text-align: right;">Page 60</p> <p>1 one that needs to have unique policies 2 considered. That's what we're proposing. 3 And that on top of the requirement that has 4 to be conveyed and owned, operated by a third 5 party, we think gives that protection to the 6 MSD. 7 CHAIRMAN PELLY: Okay, so I'm ready to ask for a 8 vote on this. I will say for myself, I do 9 have reservations, many similar to what 10 Nathan has expressed. However, I will 11 support you today because I think this is a 12 conversation that needs to continue. And so 13 that's where I'm coming from on this. 14 MR. PENNINGTON: And the motion would be just to 15 move this to the full board for 16 consideration. 17 CHAIRMAN PELLY: Correct. Correct. 18 MR. PENNINGTON: Thank you for the clarification. 19 CHAIRMAN PELLY: Correct. All those in favor? 20 MR. CLARKE: I think you're supposed to make a 21 recommendation to the district board, so 22 maybe somebody, if you're going to make a 23 motion, so let you clarify what that would 24 be. 25 MR. PENNINGTON: Okay. Mr. Chair, I make a</p>

<p>Page 61</p> <p>1 motion. My recommendation is to move this 2 for consideration to the full board for 3 further discussion. 4 CHAIRMAN PELLY: Thank you. 5 MR. WATTS: I'll second that. 6 CHAIRMAN PELLY: All those in favor? 7 (Committee members affirmed.) 8 CHAIRMAN PELLY: Is there any additional business 9 this committee needs to take up, Tom? 10 MR. HARTYE: No. 11 CHAIRMAN PELLY: Okay with that, we're adjourned. 12 Thank you. 13 (WHEREUPON, this proceeding on October 10, 2025, 14 was adjourned at 10:20 a.m.) 15 * * * * * 16 17 18 19 20 21 22 23 24 25</p>	
<p>Page 62</p> <p>STATE OF NORTH CAROLINA)</p> <p>) C E R T I F I C A T E</p> <p>COUNTY OF RUTHERFORD )</p> <p>I, Julie B. Surles, Verbatim Reporter and Notary Public, do hereby certify that the aforesaid testimony was transcribed by me and that the foregoing pages constitute a verbatim and complete transcription of the testimony conducted herein as can be obtained from the audio record thereof.</p> <p>I do further certify that I am not of counsel for or in the employment of any parties to this action, nor do I have any interest, financial or otherwise, in the outcome thereof.</p> <p>IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 27th day of October, 2025.</p> <p><u>Julie B. Surles</u> Julie Surles</p> <p>Julie B. Surles</p> <p>N.P. Number: 201803900138</p>	

# **STATUS REPORTS**

MSD System Services In-House Construction FY 2025-2026									
PROJECT NAME	LOCATION	ZIP CODE	ESTIMATED FOOTAGE	ESTIMATED PROJECT DATES	WO#	CREW	COMPLETION DATE	ACTUAL FOOTAGE	NOTES
43 Woodfin Street IRS Rehabilitation	Asheville	28801	174	7/8/2025	251271	Cantrel	7/8/2025	174	Complete
51 Coxe Avenue Construction Rehabilitation	Asheville	28801	29	7/21/2025	315501	Cantrel	7/21/2025	29	Complete
286 Old Haw Creek Rd Sewer Rehabilitation	Asheville	28805	100	6/30/25 - 7/25/25	275815	McDevitt	7/28/2025	77	Complete
112 Enthoffer St Phase I	Black Mountain	28711	425	6/30/25 - 8/1/25	305189	Matthews	7/31/2025	429	Complete
112 Enthoffer St Phase II	Black Mountain	28711	200	8/1/25 - 8/15/25	315815	Matthews	8/22/2025	232	Complete
37 Lucerne Ave	Asheville	28806	320	7/30/25 - 10/1/25	310196	McDevitt	8/27/2025	340	Complete
16 Bear Leah Trail Construction Rehab Pipe Repair	Arden	28704	410	9/23/2025	316994	Meadows	9/23/2025	410	Complete
Lorraine Avenue	N Asheville	28804	378	8/29/25 - 10/1/25	300998	Matthews	9/30/2025	290	Complete
105 Timber Hollow Trail (Weaver Hill Rd) Construction Rehab	Asheville	28805	177	10/13/25-10/14/25	317487	Matthews	10/14/2025	177	Complete
12 Parker Road Construction Rehab	Asheville	28803	150	7/15/2025	317609	G. Hensley	10/20/2025	150	Complete
Eola Ave @ Lucerene Ave	Asheville	28806	270	9/2/25 -10/15/25	316196	McDevitt	10/24/2025	289	Complete
Woodbine Road Sewer Rehabilitation	N Asheville	28804	271	10/1/25 - 10/30/25	315556	Matthews	10/30/2025	302	Complete
615 Biltmore Ave	Asheville	28803	27	11/10/25 - 11/20/25	317910	Matthews			Construction Just Underway
Mud Creek Pump Station Valve Installation	Fletcher	28732	10	11/10/25 - 11/15/25	317912	McDevitt			Construction Just Underway
Baker Place @ Carrier Street Sewer Rehabilitation	Asheville	28806	1300	11/17/25 - 1/31/2026	284574	McDevitt			Ready for construction
Calvin Trail Sewer Rehabilitation	Montreat	28757	710	12/1/25 - 1/31/26	314843	Matthews			Ready for construction
Knauth Rd Rehabilitation Ph. 2	Asheville	28805	346	FY 25/26	275867	TBA			Ready for Construction
Old Asheland Ave to Phifer Street Sewer Rehabilitation	Asheville	28801	462	FY 25/26	258560	TBA			Ready for construction
Virginia Ave @ Lufty Ave	Asheville	28806	1400	FY 25/26	441499	TBA			Ready for construction
Vandalia Ave Sewer Rehabilitation	Asheville	28806	1325	FY 24/25	248041	TBA			Ready for construction
350 Old Haw Creek Road Sewer Rehabilitation Ph. 2	Asheville	28805	825	FY 24/25	312590	McDevitt			Ready for construction
500 Laurel Avenue Sewer Rehabilitation	Black Mountain	28711	230	FY 24/25	247281	TBA			Ready for construction
Carver Avenue @ Owenby Lane	Black Mountain	28711	785	FY 25/26	292540	TBA			In ROW
E Hiilcrest Rd Sewer Rehabilitation	Asheville	28804	590	FY 25/26	TBA	TBA			In ROW
Upper Glendale Avenue	Asheville	28803	695	FY 25/26	310029	TBA			In ROW
28 Vista Street Sewer Rehabilitation	Asheville	28803	900	FY 25/26	305205	TBA			In ROW
Applewood Drive @ New Haw Creek Road Sewer Rehab	Asheville	28805	360	FY 24/25	291537	TBA			In Design
15 Haith Drive	Asheville	28801	204	FY 24/25	285381	TBA			In Design
55 Congress Street Sewer Rehabilitation	Asheville	28801	823	FY 24/25	247631	TBA			In Design
Syrlin Street @ Edgewood Road	Asheville	28804	725	FY 25/26	228045	TBA			Preliminary Engineering
12 W. Cotton Ave	Black Mountain	28711	320	FY 25/26	309214	TBA			Preliminary Engineering
8 Ellenwood Dr	Asheville	28804	300	FY 25/26	308431	TBA			Preliminary Engineering
11 Shenandoah Rd Sewer Rehabilitation	Asheville	28805	1600	FY 25/26	275804	TBA			Preliminary Engineering
Country Club Road Sewer Rehab	Asheville	28804	113	FY 25/26	307035	TBA			Preliminary Engineering
14 Mineral Spring Rd	Asheville	28805	540	FY 25/26	280241	TBA			Preliminary Engineering
73 Argyle Lane	Asheville	28806	755	FY 25/26	219342	TBA			Preliminary Engineering
48 Clarendon Road Sewer Rehabilitation	Asheville	28806	500	FY 25/26	258562	TBA			Preliminary Engineering





## CONSTRUCTION TOTALS BY DATE COMPLETED - Monthly

From 7/1/2025 to 9/30/2025

	Dig Ups	Emergency Dig Ups	Dig Up ML Ftg	Dig Up SL Ftg	Manhole Repairs	Taps Installed	ROW Ftg	IRS Rehab Ftg *	Const Rehab Ftg *	D-R Rehab Ftg *	Manhole Installs	Bursting Rehab Ftg *	Total Rehab Ftg *
July 2025	38	14	126	702	19	20	3,000	174	179	506	1	0	859
August 2025	25	7	143	807	20	19	0	0	0	572	6	0	572
September 2025	19	8	27	623	15	18	53,623	0	410	290	1	0	700
Grand Totals	82	29	296	2,132	54	57	56,623	174	589	1368	8	0	2131

\* Used to calculate Total Rehab Footage



## CUSTOMER SERVICE REQUESTS

### Monthly - All Crews

CREW	MONTH	JOBS	AVERAGE RESPONSE TIME	AVERAGE TIME SPENT
<b>DAY 1ST RESPONDER</b>				
	July, 2025	113	26	48
	August, 2025	99	23	34
	September, 2025	99	21	32
		<b>311</b>	<b>23</b>	<b>38</b>
<b>NIGHT 1ST RESPONDER</b>				
	July, 2025	52	37	25
	August, 2025	46	38	26
	September, 2025	40	30	25
		<b>138</b>	<b>36</b>	<b>25</b>
<b>ON-CALL CREW *</b>				
	July, 2025	32	53	40
	August, 2025	24	65	38
	September, 2025	18	43	39
		<b>74</b>	<b>54</b>	<b>39</b>
<b>Grand Totals:</b>		<b>523</b>	<b>31</b>	<b>35</b>

\* On-Call Crew Hours: 8:00pm-7:30am (Jul. - Oct.) 11:30pm-7:30am (from Nov. onward) Monday-Friday, Weekends, and Holidays



PIPELINE MAINTENANCE TOTALS BY DATE COMPLETED - Monthly

July 01, 2025 to September 30, 2025

	Main Line Wash Footage	Service Line Wash Footage	Rod Line Footage	Cleaned Footage	CCTV Footage	Smoke Footage	SL-RAT Footage
2025							
July	99,965	2,860	6,145	106,110	17,790	0	0
August	101,116	2,308	2,543	103,659	13,579	0	26,587
September	116,467	2,412	380	116,847	14,502	883	12,881
Grand Total:	317,548	7,580	9,069	326,617	45,871	883	39,468
Avg Per Month:	105,849	2,527	3,023	108,872	15,290	294	13,156

## Right of Way Section 1st Quarter Summary Open Projects

<i>Project</i>	<i>Total ROW Budget</i>	<i>Total Expends to Date</i>	<i>Comment</i>
Bellevue Road SSR	\$55,536	\$0	Intro Letters went out on April 21, 2025; Alignment change affected several parcels on project; 0% of budget expended to date.
Carrier Bridge Pump Station Replacement	\$23,705	\$0	Intro letters went out on July 11, 2025; Access is 86% complete with 0% of budget expended to date.
Christian Creek Interceptor	\$100,477	\$91,885	Access 100% complete with 91% of Total Budget expended to date. Two condemnations filed. One case closed by Default Judgment. One case pending with Regal Hospitality.
Hazel Mill Rd @ Richland Street GSR	\$175,179	\$46,395	Intro letters went out on August 1, 2025; Access is 46% complete with 26% of budget expended to date.
ITT Pump Station Replacement	\$153,335	\$0	Intro letters went out on July 8, 2025; Access is 38% complete with 0% of budget expended to date.
Logan Avenue Sewer Rehabilitation	\$83,337	\$58,519	Access 92% complete with 70% of budget expended to date.
Montford Ave. @ Montford Park	\$87,109	\$110,389	Access 90% with one condemnation pending and 65% of budget expended to date.
West City View Dr. @ Riverside Drive SSR	\$20,130	\$11,866	Access 100% complete with 59% of budget expended to date.

Planning & Development Project Status Report								
Active Construction Projects Sorted by Work Location and Project Number								
November 6th 2025								
No.	Project Name	Project Number	Work Location	Zip Code	Units	LF	Pre-Construction Conference Date	Comments
1	First Baptist Relocation	2015032	Asheville	28801	Comm.	333	7/21/2015	Final Inspection complete, awaiting close-out docs
2	Hounds Ear (Mears Ave Cottages)	2016123	Asheville	28806	18	402	8/18/2017	Pre-con held, construction not yet started
3	Ashcroft Ph. 2	2016229	Asheville	28806	40	2,450	2/20/2018	On hold
4	RADTIP	2017052	Asheville	28801	0	919	2/13/2018	Final Inspection complete, awaiting close-out docs
5	North Bear Creek Subdivision Ph. I	2018117	Asheville	28806	5	105	9/6/2023	Final Inspection complete, awaiting close-out docs
6	Timber Hollow Subdivision	2019049	Asheville	28805	18	525	7/28/2020	On hold
7	Millbrook Cottages	2019066	Asheville	28806	7	322	2/15/2022	Pre-con held, construction not yet started
8	UNC-A Edgewood Road Parking Lot	2019078	Asheville	28801	Comm.	373	7/19/2019	Final Inspection complete, awaiting close-out docs
9	Onteora Blvd and May Street Relocate	2019207	Asheville	28803	0	16	1/17/2023	Pre-con held, construction not yet started
10	Burton Street	2021048	Asheville	28806	4	64	7/24/2024	Pre-con held, construction not yet started
11	Reserve at McIntosh	2021207	Asheville	28806	228	2,475	12/14/2023	Waiting on Final Inspection
12	Woodland Townhomes	2022074	Asheville	28806	72	1,445	4/16/2025	Waiting on Testing
13	Emma Road	2022083	Asheville	28806	5	311	4/22/2025	Final Inspection complete, awaiting close-out docs
14	16/18 Spring Drive	2022125	Asheville	28806	2	70	4/18/2023	Final Inspection complete, awaiting close-out docs
15	Holiday Villa	2022172	Asheville	28704	7	355	2/15/2023	Final Inspection complete, awaiting close-out docs
16	Star Point (aka Resturant Ct)	2023003	Asheville	28801	70	22	11/8/2024	Waiting on Testing
17	115 Fairview Road Apartments&Townhomes	2023019	Asheville	28803	269	1,036	1/29/2025	Waiting on Final Inspection
18	Helpmate, Inc.	2023041	Asheville	28801	26	484	8/27/2024	Waiting on Final Inspection
19	Evado at Tap Root	2023050	Asheville	28732	310	1,458	7/1/2025	In construction
20	1191 Bleachery Blvd	2023056	Asheville	28803	7	400	3/26/2024	Final Inspection complete, awaiting close-out docs
21	West Haywood Street Apartments	2023117	Asheville	28801	46	215	7/16/2024	Final Inspection complete, awaiting close-out docs
22	Enka Commerce Park	2023125	Asheville	28806	Comm.	1,525	7/9/2024	In construction
23	157 New Leicester Apartments	2023197	Asheville	28806	141	529	7/2/2024	In construction
24	Butler Road Apartments	2024011	Asheville	28704	279	1,205	10/7/2025	Pre-con held, construction not yet started
25	Chipotle Airport Road	2024056	Asheville	28732	Comm.	247	8/12/2025	Pre-con held, construction not yet started
26	The Shoppes at Winston's Corner	2024092	Asheville	28806	Comm.	777	8/7/2024	In construction
27	Novant Medical Center Hendersonville Road	2024148	Asheville	28803	Comm.	129	6/11/2025	In construction
28	Terra Futura	2025058	Asheville	28806	4	197	9/3/2025	Pre-con held, construction not yet started
29	123 Haywood Street	2025128	Asheville	28801	15	162	9/17/2025	Pre-con held, construction not yet started
30	Tudor Croft - Phase 2B, 2C, 2D	2018004	Black Mountain	28711	5	224	6/8/2022	Waiting on Final Inspection
31	Sweet Birch Lane Phase 3	2020151	Black Mountain	28711	20	800	6/30/2021	Waiting on Final Inspection
32	Old Toll Road Subdivision	2020182	Black Mountain	28711	14	637	8/17/2021	Waiting on Final Inspection
33	206 Padgettown Extension	2024251	Black Mountain	28711	7	244	6/24/2025	In construction
34	NCDOT I-5504 NC 191/I-26 Interchange	2016132	Buncombe Co.	28806	0	355	10/23/2017	Installing
35	605 Old US Hwy 70	2018097	Buncombe Co.	28711	64	1,215	4/8/2025	In construction
36	841 Charlotte Hwy	2019222	Buncombe Co.	28730	Comm.	110	4/20/2021	Waiting on Testing
37	Broad River Village Off-Site Sewer Extension	2021057	Buncombe Co.	28806	92	2,152	12/10/2025	Waiting on Final Inspection
38	Village at Bradley Branch Ph. 4B	2021120	Buncombe Co.	28704	16	393	11/2/2021	Final Inspection complete, awaiting close-out docs
39	Farmstead at Olivette	2021247	Buncombe Co.	28804	33	1,280	2/7/2024	Final Inspection complete, awaiting close-out docs
40	Asheville West Subdivision Ph. 2	2022032	Buncombe Co.	28806	50	1,570	7/26/2023	Final Inspection complete, awaiting close-out docs
41	The Duke Sewer Improvement	2022040	Buncombe Co.	28801	2	168	12/3/2024	In construction
42	Christ School Townhomes	2022127	Buncombe Co.	28704	87	2,050	4/16/2025	In construction
43	Argento on Broad	2022174	Buncombe Co.	28704	216	484	8/14/2024	Final Inspection complete, awaiting close-out docs
44	Double R Sewer Extension	2022200	Buncombe Co.	28715	7	263	1/31/2025	In construction
45	Meribel (Monticello Family)	2022204	Buncombe Co.	28787	168	295	2/5/2025	In construction
46	Edgewood Road S - Offsite Extension	2022262	Buncombe Co.	28803	0	165	10/25/2023	Final Inspection complete, awaiting close-out docs
47	Riverstone Phase 3	2023015	Buncombe Co.	28704	116	660	10/7/2025	In construction
48	Lakeshore Villas	2023112	Buncombe Co.	28803	120	936	5/10/2024	Waiting on Final Inspection
49	Edgewood Road S Subdivin Ph. 2	2023143	Buncombe Co.	28803	7	285	10/25/2023	Final Inspection complete, awaiting close-out docs
50	Crystal Country aka Sky Ridge Development	2023168	Buncombe Co.	28804	16	784	10/22/2024	Final Inspection complete, awaiting close-out docs
51	The Biltmore Park West Offsite	2023190	Buncombe Co.	28803	1	774	9/17/2025	Pre-con held, construction not yet started
52	The Apex at Brevard	2023202	Buncombe Co.	28704	197	859	9/23/2025	In construction
53	Old Charlotte Apartments Phase 1	2023216	Buncombe Co.	28803	210	1,723	10/22/2024	Final Inspection complete, awaiting close-out docs
54	Chestnut Ridge	2023234	Buncombe Co.	28804	5	257	9/20/2024	Final Inspection complete, awaiting close-out docs
55	Rydele Heights Pockets	2023235	Buncombe Co.	28804	20	935	3/12/2025	Final Inspection complete, awaiting close-out docs
56	Rolling Hills	2023244	Buncombe Co.	28715	132	4,398	4/15/2025	Waiting on Testing
57	Old Charlotte Phase 2	2024059	Buncombe Co.	28803	221	6,866	12/4/2024	Waiting on Testing
58	High Street	2024080	Buncombe Co.	28804	16	565	9/25/2024	Waiting on Testing
59	Altitude Apartments	2024096	Buncombe Co.	28704	114	340	8/8/2025	Pre-con held, construction not yet started
60	Reems Creek Village	2024120	Buncombe Co.	28787	35	1,440	6/24/2025	In construction
61	Pinner Road/Woodlights Trail	2024123	Buncombe Co.	28704	3	116	7/15/2025	Pre-con held, construction not yet started
62	The One at Candler	2024125	Buncombe Co.	28715	336	2,920	10/28/2025	In construction
63	WD Williams Sewer Relocation	2024153	Buncombe Co.	28806	1	183	11/20/2024	Final Inspection complete, awaiting close-out docs
64	Sheetz Arden	2024184	Buncombe Co.	28704	Comm.	208	7/25/2025	Pre-con held, construction not yet started
65	Broad River Village On-Site Sewer Extension	2024198	Buncombe Co.	28806	92	1,670	12/10/2024	Waiting on Final Inspection
66	Oak Hill Circle	2024281	Buncombe Co.	28806	8	320	5/2/2025	Waiting on Final Inspection
67	Collett Industrial (Banner Farm)	2020108	Cane Creek	28759	Comm.	255	11/20/2020	Final Inspection Complete, awaiting closeout docs
68	Seasons at Cane Creek Phase 2	2022170	Cane Creek	28732	84	566	5/1/2024	Final Inspection Complete, awaiting closeout docs
69	Taproot Phase 2A	2021161	Fletcher	28732	151	2,462	6/6/2023	Final Inspection complete, awaiting close-out docs
70	Mountain Green Landscaping	2022019	Fletcher	28732	3	427	7/2/2025	In construction
71	Taproot Phase 3	2023114	Fletcher	28732	128	4,130	2/7/2024	Waiting on Final Inspection
72	Asheville Airport Parking Lot Sewer Reloc	2023135	Fletcher	28732	0		8/8/2023	In construction
73	Ingles #140 Fletcher	2023139	Fletcher	28732	Comm.	715	11/30/2023	Final Inspection complete, awaiting close-out docs
74	Brickton Road Relocation	2023195	Fletcher	28732	Comm.	275	4/30/2024	Pre-con held, construction not yet started
75	Taproot Phase 4	2023237	Fletcher	28732	113	5,757	2/7/2024	Pre-con held, construction not yet started
76	Taproot Phase 5	2023238	Fletcher	28732	111	3,648	2/7/2024	Pre-con held, construction not yet started
77	Legacy at Mills River	2022117	Hendersonville	28759	456	9,679	6/18/2025	Pre-con held, construction not yet started
78	Advent Health Hendersonville MOB	2023069	Hendersonville	28792	Comm.	356	3/26/2024	Waiting on Final Inspection
79	Marketplace at Mills River	2023174	Hendersonville	28759	Comm.	1,901	4/30/2025	Waiting on Testing
80	Ohalo Sewer Extension	2024116	Hendersonville	28759	1	764	5/27/2025	Final Inspection complete, awaiting close-out docs
81	James River - Mills River Site	2022222	Mills River	28759	2	460	1/17/2024	Waiting on Final Inspection
82	18 Wildwood Park Sewer Relocation	2021129	Weaverville	28787	1	147	2/22/2022	Waiting on Final Inspection
83	Greenwood Park Phase 4	2024254	Weaverville	28787	73	262	4/25/2025	Waiting on Testing
84	Serenity Townhomes	2020037	Woodfin	28804	8	480	7/14/2020	On hold
85	Weaverville Road Subdivision	2020123	Woodfin	28804	4	600	4/6/2021	On hold
86	Terraces at Reynolds Mountain West Ph I & II	2021164	Woodfin	28804	42	1,990	6/26/2024	Waiting on Final Inspection
TOTAL					5,181	92,069		

## CAPITAL IMPROVEMENT PROGRAM

## STATUS REPORT SUMMARY

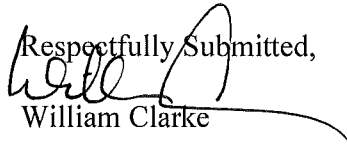
November 12, 2025

PROJECT	LOCATION OF PROJECT	CONTRACTOR	AWARD DATE	NOTICE TO PROCEED	ESTIMATED COMPLETION DATE	*CONTRACT AMOUNT	*COMPLETION STATUS (WORK)	COMMENTS
WEAVERVILLE PUMP STATION AND FORCEMAIN IMPROVEMENTS	Woodfin	Haren Construction Co.	1/17/2024	4/15/2024	7/4/2026	\$20,986,375.00	60%	Installing forcemain down Old Marshall Hwy and along Wiley Dr. Concrete work at pump station site complete.
2 & 55 BANKS TOWN RD (FLOOD RELATED)	Weaverville	TP Howard	1/21/2025	2/10/2025	11/1/2025	\$ 158,227.00	100%	Site work complete as of 11/6/25
CARRIER BRIDGE PS - RIVER CROSSINGS	Asheville	Cleary Construction	3/19/2025	5/12/2025	7/30/2026	\$ 12,932,000.00	30%	Cofferdam for section 2 complete. Removing rock from trenchline.
OLD COUNTY HOME ROAD	Asheville	Terry Brothers Construction Co.	7/16/2025	9/19/2025	1/17/2026	\$ 2,874,835.00	20%	Pipe installation continues
Sweeten Creek @ Buck Shoals	Asheville	Terry Brothers Construction Co.	11/25/2025	8/6/2025	5/3/2026	\$ 430,849.00	95%	Pipe installation complete, paving restoration in progress.
Incinerator Sand Transport System Replacement	WRF	Haynes Utility	7/2/2025	8/11/2025	10/1/2025	\$85,400.00	97%	All work complete with exception of one pipe connection.
MSD Warehouse/Fleet Resurfacing	Woodfin	C&T Paving	9/17/2025	10/27/2025	2/24/2026	\$96,490.00	20%	removal of subgrade underway
Incinerator Rehabilitation	WRF	Industiral Furnace	9/17/2025	11/3/2025	3/3/2026	\$1,845,000.00	3%	Demo underway
Intermediate Clairfier Effluent Trough Phase 2	WRF	Cove Utility	10/15/2025	11/3/2025	7/31/2026	\$1,464,000.00	3%	Basin measurement complete. Shop drawings being prepared.
Interceptor Line Assessment & Cleaning	Buncombe Co	Bio-Nomic Services	8/20/2025	11/17/2025	8/14/2026	\$1,291,375.00	0%	Scheduled to begin work mid November

**Metropolitan Sewerage District of Buncombe County**  
**Minutes of Closed Session MSD Board Meeting**  
**November 19, 2025**

The MSD Board went into Closed Session at approximately 3:30 PM to discuss the Pinner's Cove Appeal. Hunter Carson, Director of Engineering for MSD, presented the attached slides. Mr. Tarleton asked how a proposed development gets to this point. Mr. Pennington described briefly the process for a developer planning a subdivision in the County. He noted that the development started out as a Conservation Development with smaller lots and a portion of the property protected by a conservation easement. The developer then has to go to the City for water and MSD for sewer. Mr. Pennington noted that the developer in this case is pursuing an administrative appeal of a decision made by MSD and asking for a change in the MSD policy.

Mr. Lapsley noted that there had been several private sewer systems in Henderson County, and the residents had all turned to the County Commissioners for help. At approximately 3:50 PM, Mr. Whiteside moved to return to open session. Mr. Watts seconded the Motion. Voice vote in favor of the Motion was unanimous.

Respectfully Submitted,  
  
William Clarke

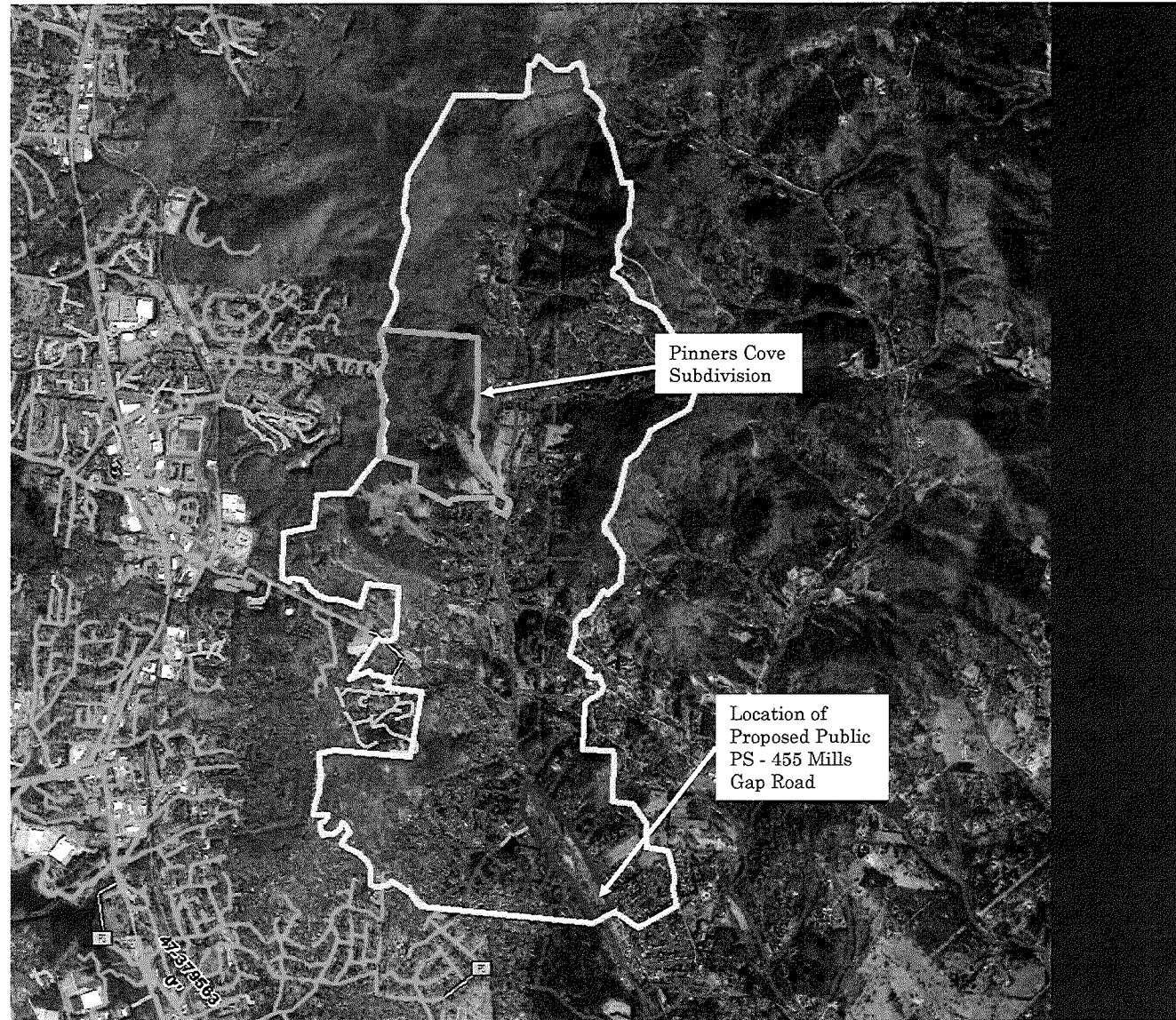


# Closed Session Slides

# Alternative Option #1

- Allow Public PS closer to Robinson Creek to serve upstream basin
- Require PS Maintenance Fee
  - Present worth of O&M for 20yrs
  - Replacement cost of electrical panels and generator
- Require downstream piping (Ballantree Dr) to be upgraded for additional capacity
- Likelihood of master plan extension to Public PS is very low; PS would remain
- Sets precedent for Developers to have emphasis on Public PS locations

This Option is **NOT RECOMMENDED** by Staff



# Alternative Option #2

- Private PS with ability to subdivide
- All facilities to MSD public standards
- Single entity ownership
- Require PS Maintenance Fee (reduces financial risk to MSD)
- Policy change to include requirement for conservation easement  $\geq 100$  acres

