



Patrick Byker, Partner
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Durham, NC 27701
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February 3, 2022

VIA OVERNIGHT DELIVERY

Mr. Eric Peterson, Town Manager
101 E. Orange St.
Hillsborough, NC 27278

Mr. Joel Lashley, Utility System Superintendent
715 Dimmocks Mill Road
Hillsborough, NC 27278

RE: Inquiry regarding Town of Hillsborough water and sewer capacity to serve The Expedition School

Dear Mr. Peterson and Mr. Lashley:

We represent Hubrich Contracting, Inc. ("Hubrich") and The Expedition Charter School ("Expedition"). Expedition serves grades K-8 and is currently located at 437 Dimmocks Mill Road, Suite 33, in Hillsborough. Due to its success, Expedition has worked with Hubrich to identify a site to serve as a future location (the "Proposed School Facility") for Expedition due to its enrollment growth. This Proposed School Facility for Expedition is along the east side of Lawrence Road, just south of US-70A.

Pursuant to recently enacted N.C.G.S. §§ 115C-521(i) and 115C-218.35(e) (attached for your convenience), the purpose of this letter is to submit a written inquiry to the Town of Hillsborough (the "Town") as the public water and sewer system closest to the Proposed School Facility. We ask for your response within thirty (30) days of the date of this letter that the Town's public water and sewer system has capacity to serve the Proposed School Facility. Furthermore, pursuant to this letter, Expedition hereby requests confirmation that the Town will reserve the necessary capacity for the Proposed School Facility for the next 24 months.

Hubrich and Expedition understand that the extension of the Town's water and sewer infrastructure are costs that must be borne solely by Hubrich and Expedition.

Mr. Eric Peterson, Town Manager
Mr. Joel Lashley, Utility System Superintendent
Town of Hillsborough
February 3, 2022
Page 2

We greatly appreciate your assistance with this important infrastructure task. If you need any more information from our team, please let me know.

Sincerely,



Patrick Byker

Enc.

cc: Bob Hornik, Esq., Town Attorney

Matt Panning, Chairman, The Expedition Charter School

and the methods students and schools used to address the lack of access during the 2019-2020 and 2020-2021 school years. Based on the assessed data, the Departments shall identify and make recommendations for effective programs and policies to close the student digital access gap and shall recommend effective approaches to maintain current granular data on the student digital access gap.

SECTION 7.61.(h) The Superintendent of Public Instruction shall coordinate (i) access to available data from each public school unit for the Departments and (ii) the reporting of the recommendations of the Departments as provided in this section. The Superintendent of Public Instruction shall report to the Joint Legislative Education Oversight Committee on the assessment of the student digital access gap no later than January 15, 2022.

SECTION 7.61.(i) No later than January 15, 2022, the State Board of Education shall combine the NC Digital Learning and Media Inventory with the digital learning dashboard required by G.S. 115C-102.9, as enacted by this section.

SECTION 7.61.(j) Notwithstanding G.S. 115C-102.9, as enacted by this section, the following shall apply:

- (1) Public school units shall submit the information required pursuant to G.S. 115C-102.9(b) for the 2021-2022 school year by January 15, 2022.
- (2) The State Board of Education shall submit its annual report required pursuant to G.S. 115C-102.9(c) for the 2021-2022 school year by April 15, 2022.

SECTION 7.61.(k) This section is effective the date this act becomes law. Subsections (a) through (f) of this section apply beginning with the report due January 15, 2022, pursuant to G.S. 115C-102.9(b), as enacted by this section, and subdivision (1) of subsection (j) of this section, based on data for the 2021-2022 school year.

WATER AND SEWER SERVICES TO CHARTER SCHOOLS

SECTION 7.64.(a) G.S. 115C-521 reads as rewritten:

"§ 115C-521. Erection of school buildings.

...

(d) Local boards of education shall make no contract for the erection of any school building unless the site upon which it is located is owned in fee simple by the ~~board~~ local board of education and the local board of education has complied with subsection (i) of this section.

(d1) ~~Provided, that the~~ Notwithstanding subsection (d) of this section, the local board of education of a local school administrative unit, with the approval of the board of county commissioners, may appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of the boards, whereby children from the administrative unit making the appropriations shall be entitled to attend the school so established. The boards of education shall comply with subsection (i) of this section with respect to securing water and sewer to the school facility.

(d2) In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to the property shall be vested in the local board of education of the county embracing the former special charter district.

...

(i) Prior to any application for any development approval under Chapter 160D of the General Statutes, the local board of education shall inquire, in writing, of the public water system, public sewer system, or public water and sewer system, currently serving the site or closest to the site as to whether that public system has capacity to serve the proposed school facility. The public system shall respond to the local board of education within a reasonable time, not to exceed 30 days as to whether that public system has capacity to serve the proposed school facility. Unless the public system does not have capacity to serve the proposed school facility or is under

a moratorium precluding expansion, the public system shall reserve the necessary capacity for the proposed school facility for 24 months from the date of the written inquiry from the local board of education."

SECTION 7.64.(b) G.S. 115C-218.35 is amended by adding a new subsection to read:

"(e) A charter school shall comply with G.S. 115C-521(i). For the purpose of this subsection, "charter school" shall mean "local board of education" as it is written in G.S. 115C-521(i)."

SECTION 7.64.(c) This section is effective when it becomes law. Any local board of education or charter school denied service by a public water system, public sewer system, or public water and sewer system between October 1, 2020, and the date this section becomes effective may seek reconsideration by the public water system, public sewer system, or public water and sewer system under G.S. 115C-521(i), as enacted by this act, and notwithstanding G.S. 115C-521(i), as enacted by this act, the public water system, public sewer system, or public water and sewer system shall have 15 days to respond as to whether that public system has capacity to serve the proposed school facility.

REVISE PERSONAL LEAVE COSTS FOR TEACHERS

SECTION 7.67.(a) G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – The following shall apply to personal leave:

(1) Calculation and Benefits. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave.

(2) Use. – Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A supervisor, as follows:

a. Unless the request is approved by the principal, a teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal day.

b. On all other days, days other than those referenced in sub-subdivision a. of this subdivision, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave.



Patrick Byker, Partner
112 W. Main Street | Second Floor
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March 2, 2022

VIA OVERNIGHT DELIVERY

Robert E. Hornik, Esq.
Town Attorney, Town of Hillsborough
1526 E. Franklin St., Suite 200
Chapel Hill, NC 27514

RE: Reply to letter dated February 23, 2022, regarding Town of Hillsborough water and sewer capacity to serve The Expedition School

Dear Bob:

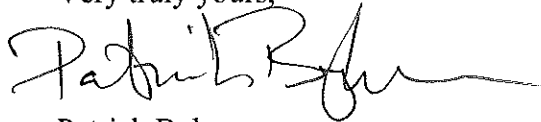
We represent The Expedition School and Hubrich Contracting, Inc. Thank you for your letter dated February 23, 2022. To address the issues raised in your Feb. 23 letter, our reply is as follows:

1. Our requested utilities allocation to the Town of Hillsborough (the "Town") is solely for The Expedition School ("Expedition").
2. The amount of the requested utilities allocation is 7,200 gallons per day. For further details in response to your Feb. 23 letter, please see letter from Summit Design and Engineering Services to Hubrich Contracting, Inc. dated February 25, 2022, which is signed and sealed by James W. Parker, P.E., a Professional Engineer licensed by the State of North Carolina, attached hereto as Exhibit A and incorporated herein by reference.
3. Your letter dated Feb. 23 raised issues regarding the sewer capacity in the Elizabeth Brady Pump Station basin, and we propose that this issue be addressed in accordance with the terms set forth in Exhibit A. We are happy to discuss how to cover the costs of the proposed third party draw down test for the Elizabeth Brady Pump Station.
4. Based on Exhibit A and the contents of our previous letter dated February 3, 2022, please confirm that the Town will reserve an allocation of 7,200 gallons per day and agrees that Expedition may utilize this allocation within the next two (2) years.

5. Hubrich Contracting and Expedition recognize that the costs of connecting Expedition's proposed new charter school to the Town's utilities shall be borne solely by Hubrich Contracting and Expedition.
6. To reiterate Section 1 above, and as stated in Exhibit A, no other uses besides the charter school at the proposed site for Expedition will need to be connected to the Town's utilities.

We look forward to your reply and our team is happy to meet with you and your Town colleagues if that would help moving forward towards a new facility for Expedition. Expedition sorely needs to move out of its current location on Dimmocks Mill Road in order to serve its students and the Hillsborough Community.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick Byker", with a long horizontal flourish extending to the right.

Patrick Byker

Enc.

cc: Eric Peterson, Town Manager
Marie Strandwitz, Utility Director
Matt Panning, Chairman, The Expedition Charter School



320 Executive Court, Hillsborough, NC 27278
Phone // 919.732.3883 Web // www.summitde.net

Hubrich Contracting, Inc
Steve Hubrich
President

Subject: DESIGN FLOW LETTER FOR THE EXPEDITION SCHOOL

Dear Steve,

As requested, the flow rate for the proposed new school location for The Expedition School is calculated below. The current school population is 360 students. The school will build out for 720 students at the new location. With 720 students and using 10 gal/student per day the anticipated flow is 7200 gpd. The proposed school will not have a cafeteria nor showers.

As you know historical data from the charter schools you have been involved with generate a lower GPD, due to increased efficiency with plumbing fixtures and water conservation methods that are becoming common practice.

The design flowrates are found in 15A NCAC 02T,
here: https://link.edgepilot.com/s/7ec62ea1/b2ny80FruESHfw_oXTdtUQ?u=http://reports.oah.state.nc.us/ncac/title%252015a%2520-%2520environmental%2520quality/chapter%252002%2520-%2520environmental%2520management/subchapter%2520t/subchapter%2520t%2520rules.pdf

Look in the tabulation in paragraph .0114, under schools.

Summary is:

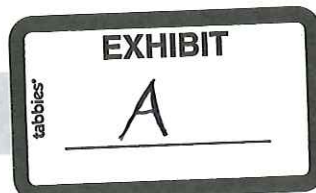
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
720 students x 10 gal/student = 7200 gpd	

Furthermore, after reading Mr. Hornick's letter, I suggest that a 3rd party be hired to conduct a draw down test on the Elizabeth Brady Pump Station to get an actual result of capacity of that pump station. As I understand the legislation that requires municipalities to give water/sewer allocation to a public charter school, if there is capacity, is directly referring to the capacity to treat the flow at the wastewater treatment plant. The pump, if at capacity, can be retrofit and/or upgraded to allow this new flow to reach the wastewater treatment plant.

This proposed site on Lawrence Road has other uses also proposed. Those uses will operate on a well and septic system should the town not allow connection to the public utilities for those uses.

Jim Parker, PE, PLS
CEO

Summit Design and Engineering





G. Nicholas Herman	herman@broughlawfirm.com
Robert E. Hornik, Jr.	hornik@broughlawfirm.com
T.C. Morphis, Jr.	morphis@broughlawfirm.com
Albert M. Benshoff	benshoff@broughlawfirm.com
S. Ellis Hankins	hankins@broughlawfirm.com
Kevin R. Hornik	khornik@broughlawfirm.com
Brady N. Herman	bherman@broughlawfirm.com

March 25, 2022

BY ELECTRONIC MAIL TO
phyker@morningstarlawgroup.com
& 1st CLASS U.S. MAIL

Patrick Byker, Esq.
Morningstar Law Group
112 West Main St., 2nd Floor
Durham, North Carolina 27701

Re: Town of Hillsborough Reservation of Water and Sewer Capacity/
The Expedition School

Dear Patrick:

In response to your letters dated February 3, 2022 and March 2, 2022, and as required by N.C. Gen. Stat. 115C-521(i), the Town of Hillsborough will reserve 7,200 gallons per day of water and sewer capacity for the proposed Expedition School site located on U.S. Highway 70A on the east side of Lawrence Road for a period of 24 months, beginning on February 3, 2022 (the date of your original inquiry), and expiring on February 3, 2024. The reservation of capacity is limited to that property, only, and for the charter school use now being proposed for that property, only.

This reservation of capacity, compelled by recent statutory changes, is also subject to the Town's regulations and fees for extensions of water and sewer service to out of town properties which are or may be in effect at the time that the site developer requests actual connection to the Town's system. Moreover, the owner/developer of the property may be required to pay for or contribute to the cost incurred by the Town for any improvements to the Town's systems that may be necessary in order to accommodate the property at that time.

This letter does not constitute any type of approval by the Town of Hillsborough of any development of the site, or of any plans or specifications for any water/sewer infrastructure to serve the site.

If you have any questions, please do not hesitate to contact me.

Sincerely,

THE BROUGH LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'REH', with a stylized flourish extending to the right.

Robert E. Hornik, Jr.

REHjr:las

cc: Eric Peterson, Town Manager
Marie Strandwitz, Utilities Director



G. Nicholas Herman	herman@broughlawfirm.com
Robert E. Hornik, Jr.	hornik@broughlawfirm.com
T.C. Morphis, Jr.	morphis@broughlawfirm.com
Albert M. Benshoff	benshoff@broughlawfirm.com
S. Ellis Hankins	hankins@broughlawfirm.com
Kevin R. Hornik	khornik@broughlawfirm.com
Brady N. Herman	bherman@broughlawfirm.com

November 16, 2022

Via email and First Class US Mail

Mr. Patrick Byker, Esq.
Morningstar Law Group
112 W. Main Street, 2nd Floor
Durham, NC 27701

Re: Town of Hillsborough Reservation of Water and Sewer Capacity to Serve The Expedition School At Lawrence Road Site

Dear Patrick:

In February 2022 you requested on behalf of The Expedition School (TES; a charter school) and Hubrich Contracting, Inc. (Hubrich) that the Town of Hillsborough reserve 7,200 gallons per day of water and sewer capacity for 24 months for a proposed school site on Lawrence Road in Orange County based on amendments to G.S. 115C-521(i) and G.S. 115C-218.35(e). As required by the statutes, the Town responded by letter dated March 25, 2022, which included the reservation of the requested water and sewer capacity for the TES.

The Town recently learned that TES Board voted in May 2022 to terminate its contract with Hubrich regarding the Lawrence Road site. A relevant excerpt from the minutes of the May 2022 TES Board meeting (copy attached).

While the TES indicated continued interest in relocation to a new site, it may not be in the Lawrence Road location, nor does it appear likely that any relocation will occur within the 24-month reservation that the Town provided. As such, the Town of Hillsborough hereby rescinds the reservation of 7,200 gallons per day of water and sewer capacity. TES is welcome to request capacity when a firm plan and location of TES, if within the Town's service area, is determined and brought forth.

Sincerely,

THE BROUGH LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'Robert E. Hornik, Jr.', written over the printed name.

Robert E. Hornik, Jr.

REHjr:las

		<p>staff/faculty healthy. Finding substitutes for staff being out continues to be a challenge.</p> <p>Matt motioned to approve the current policy as written from the May 3, 2022 board meeting. Cheryl seconded. All approved.</p>
Other Committee Work		
5 min	Facility Discussion on Lawrence Rd Project	<p>Matt suggested closing current contract discussions and timeline with the Lawrence Rd Project land as a potential location for TES school construction. Other parties and timing has weakened the proposal for TES and that the current contract is not in the best interest of TES at this time, particularly in regards to generating the most viable financial plan and timeline compared to school growth. This will also help ensure quality of education. Rosemary agreed. Tammy agrees the timeline is not ideal. The proposal is strictly for the current contract, not the possibility of generating a new contract in the future (either for this location or another).</p> <p>Livia has created several proposals and suggestions that Tammy recommends should be discussed in the facility committee within the next month to talk about potential next steps, including procuring land before construction.</p> <p>TES is still locked into a lease at the Eno Mill for a few more years.</p> <p>The current contract does have a provision about purchasing land at the stated price. Tammy wondered if TES could purchase and hold the land at the given price, if this might be a potential option.</p> <p>Should renegotiation occur, Matt shared scheduling/timeline would need to be prioritized as would land purchase and construction plans. Rosemary suggested entering into communication with owner reps as well.</p> <p>Matt motioned to vote down the current contract as written with Hubritch Consulting and TES in the current timeline with the disclaimer that this reflects only on the current contract as written, and not TES' interest in Lawrence Road nor Hubritch Consulting. Cheryl seconded. All approved.</p>
Closed Session (as needed) When closed session items are necessary, the Chair of the Board will entertain a motion that the Board enter into closed session for the purpose of preventing the disclosure of confidential information pursuant to NC General Assembly Statute Section 143-318.11(a)(1).		
1 Min.	Motion to go into closed session	<p>Cheryl made a Motion to go into closed session according to NCGS 143-318.11 (a)(5) and 143-318.11 (a)(6). Rosemary seconded. All approved.</p>

December 19, 2022

Robert E. Hornik, Esq.
Town Attorney, Town of Hillsborough
1526 E. Franklin St., Suite 200
Chapel Hill, NC 27514

RE: Inquiry regarding Town of Hillsborough water and sewer capacity to serve Triangle Schools of NC charter school (Orange County PIN 9883-19-4355)

Dear Mr. Hornik:

I serve as the Chair of the Board of Directors for Triangle Schools NC, which is duly-authorized under North Carolina law to operate a charter school. To follow up on the letter sent to you, the Town Manager and the Utility System Superintendent dated Nov. 22, 2022, I hereby confirm that Triangle Schools NC has Orange County PIN 9883-19-4355 under contract in order to construct a charter school upon this parcel located on the east side of Lawrence Road in Eno Township, Orange County, North Carolina.

We trust this letter will allow you and your colleagues with the Town of Hillsborough to move forward with a substantive response to the aforementioned November 22, 2022 letter from Patrick Byker with Morningstar Law Group.

We appreciate your assistance in this matter.

Very truly yours,



Alex Quigley, Chair of Board of Directors
Triangle Schools NC, a North Carolina
Non-profit corporation



G. Nicholas Herman	herman@broughlawfirm.com
Robert E. Hornik, Jr.	hornik@broughlawfirm.com
T.C. Morphis, Jr.	morphis@broughlawfirm.com
Albert M. Benshoff	benshoff@broughlawfirm.com
S. Ellis Hankins	hankins@broughlawfirm.com
Kevin R. Hornik	khornik@broughlawfirm.com
Brady N. Herman	bherman@broughlawfirm.com

January 4, 2023

BY ELECTRONIC MAIL TO
pbyker@morningstarlawgroup.com
& 1st CLASS U.S. MAIL

Patrick Byker, Esq.
Morningstar Law Group
700 West Main St.
Durham, North Carolina 27701

Re: Town of Hillsborough Reservation of Water and Sewer Capacity/
Triangle Schools of NC/Orange County PIN 9883-19-4355

Dear Patrick:

In response to your letter dated November 22, 2022 and the letter from Alex Quigley in his capacity as Chair of the Board of Directors for Triangle Schools NC, a North Carolina non-profit corporation, and as required by N.C. Gen. Stat. 115C-521(i), the Town of Hillsborough will reserve Six Thousand (6,000) gallons per day of water and sewer capacity for the proposed West Triangle High School under consideration for the parcel identified above located on U.S. Highway 70A, on the east side of Lawrence Road, for a period of 24 months, beginning on November 22, 2022 (the date of your original inquiry), and expiring on November 21, 2024. The reservation of capacity is limited to that property, only, and for the charter school use now being proposed for that property, only.

This reservation of capacity, compelled by recent statutory changes, is also subject to the Town's regulations and fees for extensions of water and sewer service to out-of-town properties which are or may be in effect at the time that the site developer requests actual connection to the Town's system. Moreover, the owner/developer of the property may be required to pay the costs to extend the necessary infrastructure to the site, and to pay for or contribute to the cost incurred by the Town for any improvements to the Town's systems that may be necessary in order to accommodate the property at that time.

This letter does not constitute any type of approval by the Town of Hillsborough of any development of the site, or of any plans or specifications for any water/sewer infrastructure to serve the site.

If you have any questions, please do not hesitate to contact me.

Sincerely,

THE BROUGH LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'REHjr', written over the printed name of Robert E. Hornik, Jr.

Robert E. Hornik, Jr.

REHjr:las

cc: Eric Peterson, Town Manager
Marie Strandwitz, Utilities Director