

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE EXCHANGE OF PROPERTY BETWEEN CITY OF
HENDERSONVILLE AND HENDERSON COUNTY BOARD OF PUBLIC EDUCATION**

WHEREAS, the Henderson County Board of Public Education, hereinafter “Board of Education,” is the owner of that property, commonly known as Edwards Park, being that +/- 1.47 acre parcel of property shown on plat slide 13621 of the Henderson County Registry, having acquired it by that deed recorded in Book 825 at Page 670 of the Henderson County Registry, said 1.47 acre parcel being hereinafter referred to as “Edwards Park”;

WHEREAS, the City of Hendersonville, hereinafter “City,” is the owner of that property, commonly known as “Berkely Park, being that property shown on Plat Slide 7333 of the Henderson County Registry, having acquired it by that deed recorded in Deed Book 1363 at Page 221 of the Henderson County Registry, said property being hereinafter referred to as “Berkely Park,”; and

WHEREAS, the City of Hendersonville wishes to acquire Edwards Park, for the relocation of the Laura Corn Mini-Golf; and

WHEREAS, Board of Education wishes to acquire approximately 16 acres of Berkeley Park, including the historic baseball stadium, for Hendersonville High School athletic facilities, the approximate 16 acres being substantially shown and identified as “+/- 16.0-acre parcel” on Exhibit A, attached hereto and incorporated herein by reference, said +/- 16.0 acre parcel being hereinafter referred to the “+/- 16.0 Acre Tract; and

WHEREAS, the City of Hendersonville is willing to convey the +/- 16.0 Acre Tract and pay \$250,000, to the Board of Education in exchange for the Board of Education’s conveyance of Edwards Park to the City; and

WHEREAS, the City of Hendersonville is willing to give the Board of Education a right of first refusal for the +/- 21.34 acre remaining portion of Berkely Park located on the north side of Balfour Road if not used or conveyed by the City for economic development purposes, upon the terms set forth hereinbelow, said +/- 21.34 acres being shown and identified on the attached Exhibit A as “+/- 21.34 acre parcel,” and referred to hereinafter as the “Berkely Remainder Parcel”; and

WHEREAS, NCGS 160A-274 authorizes the City to sell, lease convey or exchange properties with the Board of Education upon such terms as City Council deems advisable.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The proposed property exchange with the Board of Education is approved upon the following terms and conditions:
 - a. The City will convey the +/- 16.0 Acre Tract to the Board of Education.

- b. The City will pay \$250,000 to the Board of Education.
 - c. The Board of Education will convey Edwards Park to the City.
 - d. The City will grant an option to the Board of Education for the Berkely Remainder parcel upon the following terms:
 - i. The option shall only be effective if the Berkely Remainder Parcel is not used or conveyed by the City for economic development purposes within a reasonable time from the date of closing on the property exchange approved by this Resolution (+/- 16.0 Tract plus \$250,000.00 for Edwards Park), and once effective, the option shall be valid for a term of one year;
 - ii. The price for the Board of Education's exercise of the option (i.e. the purchase of the Berkely Remainder Parcel) shall be the payment to the City of \$350,000, plus the conveyance to the City of a +/- 1.0 acre tract that is a portion of the Board of Education administrative offices property, located at 414 4th Avenue West, Hendersonville, NC, having a PIN of 9568676778, said 1.0 acre tract being substantially as shown on Exhibit B, attached hereto and incorporated by reference.
 - e. If conveyed to the City of Hendersonville, the +/- 1.0 acre tract shown on Exhibit B shall be restricted to use as a park or green space available for public use between the hours of 7am and 7 pm only. The City of Hendersonville may hold supervised events after 7 pm upon advanced notice to the Superintendent.
 - f. The City of Hendersonville will reserve an easement around the perimeter of the +/- 16.0 Acre Tract, and if conveyed to the Board of Education, the Berkely Remainder Parcel for the purposes of a greenway, and for the future installation of utilities (water & sewer) and stormwater improvements, as may be required. Said easement shall have a minimum width of 20 feet.
 - g. At no cost to the public, the Board of Education will grant the public access to the +/- 16.0 Acre tract, and if conveyed, the Berkely Remainder Parcel, including but not limited to any tennis courts constructed, but specifically excluding the historic baseball stadium and any athletic fields constructed by or on behalf of the Board of Education.
 - h. The City will grant a right of first refusal to the Board of Education for Edwards Park and the 1.0 acre tract shown on Exhibit B.
 - i. The Board of Education will grant a right of first refusal to the City for the +/- 16.0 acre tract and, if conveyed, the Berkely Remainder Parcel. Any right of first refusal granted by the Board of Education will be subject to Henderson County's statutory right of first refusal.
2. The Mayor, City Manager and City Attorney are authorized to negotiate, make, enter into, and execute contracts, deeds, easements, boundary line agreements, the right of first refusal,

and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of this Resolution, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.

3. Notwithstanding the foregoing, the adoption of this Resolution shall not be considered as a contract, nor as a legally binding obligation of the City of Hendersonville, but this Resolution shall serve as the authority for the Mayor, City Manager, City Attorney to enter into legally binding obligations on behalf of the City of Hendersonville, consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney