

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 6 February 2017

SUBJECT: Approval of Duke Energy right of way for Advanced High School construction

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Proposed easement

SUMMARY OF REQUEST:

Duke Energy has proposed a new easement to serve the Advanced High School building on the Blue Ridge Community College campus. A new easement is needed since the Advanced High School is a new parcel, created for the project.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Duke Energy proposed easement.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the proposed Duke Energy easement, and authorize the Chair and staff to execute the same.

EASEMENT

NORTH CAROLINA
HENDERSON COUNTY

Prepared By: Rebecca Pittman
Return To: Duke Energy Carolinas
957 Spartanburg Hwy
Hendersonville, NC 28792

THIS EASEMENT ("Easement") is made this _____ day of _____, 2017 ("Effective Date"), from COUNTY OF HENDERSON, NORTH CAROLINA, a public body politic and a political subdivision of the State of North Carolina, ("GRANTOR," whether one or more), to Duke Energy Carolinas, LLC, a North Carolina limited liability company ("DEC"); its successors, licensees, and assigns.

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEC, its successors, lessees, licensees, transferees, permittees, apportionees, and assigns, the perpetual right, privilege, and easement to go in and upon the land of GRANTOR situated in Hendersonville Township, described as follows: PIN# 9578-94-9055, containing 3.33 acres, more or less and being the land described in a deed from The Trustees of Blue Ridge Community College to County of Henderson, dated August 8, 2016, recorded in Deed Book 1674, Page 535, and also shown as Lot 1, 3.33 acres, on a plat dated March 17, 2016, entitled "Special Subdivision survey of a portion of the property owned by Blue Ridge Technical Institute also known as Blue Ridge Community College", recorded in Plat Slide 10120, all Henderson County Registry, (the "Property"), LESS AND EXCEPT any prior out-conveyances, and to construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove electric and/or communication facilities thereon including but not limited to, supporting structures such as poles, cables, wires, guy wires, anchors, underground conduits, enclosures/transformers, vaults and manholes, and other appurtenant apparatus and equipment (the "Facilities") within an easement area being thirty (30) feet wide for the overhead portion of said facilities and twenty (20) feet wide for the underground portion of said facilities together with an area ten (10) feet wide on all sides of the foundation of any DEC enclosure/transformer, vault or manhole (the "Easement Area"), for the purpose of transmitting and distributing electrical energy and for communication purposes of DEC and Incumbent Local Exchange Carriers. The centerline of the Facilities shall be the center line of the Easement Area.

The right, privilege and easement shall include the following rights granted to DEC: (a) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways and paved areas where practical as determined by DEC); (b) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening or improvement; (c) to trim and keep clear from the Easement Area, now or at any time in the future, trees, limbs, undergrowth, structures or other obstructions, and to trim or clear dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of DEC, might interfere with or fall upon the Facilities; (d) to install guy wires and anchors extending beyond the limits of the Easement Area; and (e) all other rights and privileges reasonably necessary or convenient for DEC's safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein.

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEC, its successors, licensees, and assigns, forever, and GRANTOR, for itself, its heirs, executors, administrators, successors, and assigns, covenants to and with DEC that GRANTOR is the lawful owner of the Property and the Easement Area in fee and has the right to convey said rights and Easement.

IN WITNESS WHEREOF, this EASEMENT has been executed by GRANTOR and is effective as of the Effective Date herein.

COUNTY OF HENDERSON, NORTH CAROLINA,
a public body politic and political subdivision of the
State of North Carolina-

By: _____

J. Michael Edney, Chairman,
Board of Commissioners

ATTEST:

Teresa L. Wilson, Clerk
Board of Commissioners

(Affix Official Seal)

NORTH CAROLINA, _____ COUNTY

I, _____, a Notary Public of _____ County, North Carolina, certify that Teresa L. Wilson personally appeared before me this day and acknowledged that she is Clerk of the Board of Commissioners for the County of Henderson, North Carolina, and that by authority duly given and as the act of said County, the foregoing EASEMENT was signed in its name by J. Michael Edney, Chairman of the Board of Commissioners, sealed with its official seal, and attested by herself as its Clerk.

Witness my hand and notarial seal, this _____ day of _____, 20____.

Notary Public

My commission expires: _____

CONSENT OF LESSEE

The premises described as "Lot 1, 3.33 acres" in the foregoing Easement is subject to that certain lease dated December 1, 2016 between The COUNTY OF HENDERSON, NORTH CAROLINA, a public body politic and a political subdivision of the State of North Carolina, as Lessor/Landlord, and THE TRUSTEES OF BLUE RIDGE COMMUNITY COLLEGE, a body corporate which has general control and supervision of matters related to Blue Ridge Community College, and HENDERSON COUNTY BOARD OF PUBLIC EDUCATION, a body corporate which as general control and supervision of all matters pertaining to the public schools in Henderson County, as Lessee/Tenant, recorded in Deed Book 1691 at Page 666 in the Henderson County Registry (the "Lease"). The undersigned Lessee has joined in the execution of this Easement for the sole purpose of consenting to the Easement granted therein.

THE TRUSTEES OF BLUE RIDGE COMMUNITY COLLEGE

By: _____
Title: John C. McCormick, Jr. CHAIRMAN

ATTEST:

BY: _____

Title: Molly Parkhill, Board Secretary

NORTH CAROLINA, _____ COUNTY

I, _____, a Notary Public of _____ County, North Carolina, certify that _____ personally appeared before me this day and acknowledged that she is Board Secretary to the Trustees of Blue Ridge Community College and that by authority duly given and as the act of said Board, the foregoing EASEMENT was signed in its name by John C. McCormick, Jr, Chairman of the Board of the Trustees of Blue Ridge Community College, and attested by _____ as its Clerk.

Witness my hand and notarial seal, this _____ day of _____, 20_____.

Notary Public

My commission expires: _____

CONSENT OF LESSEE

The premises described as "Lot 1, 3.33 acres" in the foregoing Easement is subject to that certain lease dated December 1, 2016 between The COUNTY OF HENDERSON, NORTH CAROLINA, a public body politic and a political subdivision of the State of North Carolina, as Lessor/Landlord, and THE TRUSTEES OF BLUE RIDGE COMMUNITY COLLEGE, a body corporate which has general control and supervision of matters related to Blue Ridge Community College, and HENDERSON COUNTY BOARD OF PUBLIC EDUCATION, a body corporate which as general control and supervision of all matters pertaining to the public schools in Henderson County, as Lessee/Tenant, recorded in Deed Book 1691 at Page 666 in the Henderson County Registry (the "Lease"). The undersigned Lessee has joined in the execution of this Easement for the sole purpose of consenting to the Easement granted therein.

HENDERSON COUNTY BOARD OF PUBLIC EDUCATION

By: _____
Title: AMY LYNN HOLT, BOARD CHAIRMAN

ATTEST:

BY: _____

Title: _____ Board Secretary

NORTH CAROLINA, _____ COUNTY

I, _____, a Notary Public of _____ County, North Carolina, certify that _____ personally appeared before me this day and acknowledged that (s)he is Board Secretary to the Henderson County Board of Public Education and that by authority duly given and as the act of said Board, the foregoing EASEMENT was signed in its name by Amy Lynn Holt, Chairman of the Board of Henderson County Board of Public Education, and attested by _____ as its Clerk.

Witness my hand and notarial seal, this _____ day of _____, 20_____.

Notary Public

My commission expires: _____