



JANUARY 24, 2011

5:30 PM

*Meeting postponed from Jan. 10th due to inclement weather.

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from December 13, 2010 **(page 4)**

Approval/Amendments to Agenda

I. Consent Agenda:

- A. Approve – CDBG Housing Development Grant - WHI Deed of Trust and Promissory Note **(page 22)**
- B. Adopt – Budget Ordinance Amendment for the Brooks Boatworks tax incentive (\$6903) **(page 39)**
- C. Adopt – Budget Ordinance Amendment for the actual debt service for the Recovery Zone Projects (RZEDB) **(page 41)**
- D. Adopt – Budget Ordinance Amendment for Interim City Manager Employment **(page 43)**
- E. Approve – Purchase Orders in excess of \$20,000 **(page 45)**
- F. Authorize – The Repurchase of Cemetery Lot G-36, Plot 6 in Cedar Hill Cemetery for \$600 **and** Adopt Budget Ordinance Amendment **(page 51)**

II. Comments from the Public:

III. Public Hearing on Zoning: **6:00 PM**

- A. None

IV. Public Hearing – Other:

- A. Accept & Approve – The Beaufort County Multi-Jurisdictional Hazard Mitigation Plan Update **(page 55)**



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V. Scheduled Public Appearances:

- A. Tim Prichard – Parking & Traffic on North Academy Street (**page 58**)
- B. William Barnville – Martin County Community Action (MCCA) Weatherization Program

VI. Correspondence and Special Reports:

- A. Memo - FYI – FEMA Fire Prevention and Safety Grant Application (**page 63**)
- B. Memo – Load Management Device Report (**page 64**)
- C. Memo – Apply for an LSTA Technology Grant (**page 65**)
- D. Memo – Update Police Facility (**page 66**)
- E. Memo – Debt Setoff Results (**page 67**)
- F. Memo – Audit Report Correction (**page 68**)
- G. Memo – Draft - Impressions Lease Update (**page73**)

VII. Reports from Boards, Commissions and Committees:

- A. Washington Harbor District Alliance (**page 112**)
- B. Washington Tourism Development Authority (**page 116**)
- C. Financial Reports (**emailed as available**)

VIII. Appointments:

- A. Appointment – Fireman's Relief Association (**page117**)



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IX. Old Business:

- B. Adopt – Resolution to convey the property located at 507 West Second Street to Reilly Software, LLC **and** Authorize the Mayor to sign all necessary legal documents to convey surplus property **and** Award upset Bid (\$3,500) **(page 119)**
- C. Authorize – Interim City Manager to enter into a one year web cam advertising agreement with WITN (\$500/month) **(page 121)**
- D. Accept Bid and Award Contract - to TD Eure, **Authorize** City Manager to sign contract, **Adopt** Budget Ordinance Amendment in the amount of \$211,627 for the BIG-P Y08 Project. **(page 122)**

X. New Business:

- A. Authorize – The Mayor and City Clerk to execute the Utility and Municipal Agreements with the North Carolina Department of Transportation for Project R-2510 C **(page132)**

XI. Any Other Items From City Manager:

- A. Discuss – TDA Agreements and Lease for February Agenda
- B. Discuss –Strategic Planning Meeting which was originally scheduled for January 24, 2011 at 3:00 pm – Brown Library

XII. Any Other Business from the Mayor or Other Members of Council

- A. None

XIII. Closed Session – Under NCGS 143-318.11(a)(3) Attorney/Client Privilege and under NCGS 143-318.11(a)(6) Personnel

XIV. Adjourn - Until February 14, 2011 at 5:30 pm, in the Council Chambers at the Municipal Building.

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

December 13, 2010

The Washington City Council met in a regular session on Monday, December 13, 2010 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Pete Connet, Interim City Manager; Franz Holscher, City Attorney and Cynthia Bennett, City Clerk.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Mick Reed, Police Chief; David Carraway, Information Technology Department; Susan Hodges, Human Resource Director; Mike Voss, of the Washington Daily News and Delma Blinson, of the Beaufort Observer.

Shabazz Mallison, representing Boy Scout Troop 99 was in attendance working toward the Citizenship in the Community Merit Badge.

Mayor Jennings called the meeting to order and Councilman Pitt delivered the invocation.

APPROVAL OF MINUTES

Councilman Mercer suggested the following amendments to the November 8th minutes: By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council awarded the construction contract to T.A. Loving Company for storm water improvements in various parts of the City in the amount of \$3,500,774.00 ~~which included~~ and negotiate the additional storm water improvements ~~in~~ at Smallwood(Northwood, Rowan and Eden area) ~~not to exceed~~ ~~which will not exceed~~ \$400,000.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the minutes from November 4th, 16th and 22nd as presented and November 8th as amended.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Pro tem Roberson requested the following items to be added to the agenda:

1. Amendment to CAMA Land Use Plan – Floating Bathrooms
2. Tattoo parlors inside Central Business District

These items were referred to the Planning Board for further discussion and will be discussed by Council at a later date.

Councilman Mercer requested moving the following items:

1. Moved to Old Business J –Consent A: Approve – Purchase Orders over \$20,000
2. Moved to New Business I –Consent D: Adopt – Budget Ordinance Amendment Powell Bill allocation

3. Moved to Old Business C – Consent E: Amend – Storm Water Capital Project Ordinance
4. Moved from New Business E. to Consent Agenda: Authorize – Mayor to execute Withdrawal of Deed of Easement and Reconveyance and execute new Deed of Easement with the Partnership for the Sounds Inc.

Mayor Jennings added the following items under XII. Other Business from Mayor and Council:

1. Update on softball tournament activity at the sports complex
2. Library operating hours during holidays

Councilman Pitt moved item XII. A. NC Electronics recycling to New Business Item J.

By motion of Councilman Mercer seconded by Mayor Pro tem Roberson, Council approved the agenda as amended.

PRESENTATIONS

Mayor Jennings and Interim City Manager, Pete Connet made the following presentations:

1. **Memorial Resolution to the family of:**
 - A. Jesse Ray Norris: 38 years & 11 months
 - B. Donald Gilbert Roberson: 24 years & 5 months
 - C. James Noah Satchell: 13 years & 2 months
2. **Retirement Resolutions to:**
 - A. Brenda O. Curtis: 25 years & 6 months
 - B. Scottie Allen Taylor: 25 years & 8 months
 - C. William Larry Tingen: 31 years & 7 months
 - D. Mark A. Wesley: 30 years & 9 months
 - E. Ernest Lee Williams: 29 years & 2 months
3. **North Carolina Certified Finance Officer: Matt Rauschenbach**
4. **Certified Municipal Clerk Designation: Cynthia Bennett**

CONSENT AGENDA

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the Consent Agenda as amended.

- A. **Moved to Old Business J -Approve** – Purchase Orders over \$20,000
- B. Accept & Adopt – ARRA Funded Lighting Retrofit Grant (\$259,979)
(copy attached)
- C. Approve – Departmental Roster for Calendar Year 2011
(copy attached)
- D. **Moved to New Business I -Adopt** – Budget Ordinance Amendment Powell Bill allocation

- E. **Moved to Old Business C - Amend** – Storm Water Capital Project Ordinance
- F. **Moved from New Business E - Authorize** – Mayor to execute Withdrawal of Deed of Easement and Reconveyance and execute new Deed of Easement with the Partnership for the Sounds Inc.
(copy attached)

COMMENTS FROM THE PUBLIC

Charles Daniels, 115 Ore Court (Iron Creek Subdivision) discussed with Council the need for Iron Creek to be included in the drainage improvements taking place in the Smallwood area. There is a serious problem with flooding at Iron Creek. He is requesting that the City conduct a drainage study to determine what needs to be done to remedy the problem. The Smallwood area is not the only area in Washington that floods.

Darwin Woolard, 113 Ore Court stated that when he was a Council member he thought a study was supposed to be done to review the drainage problems at Iron Creek. At that time, Bobby Roberson(then Planning Director), Archie Jennings, Darwin Woolard(Council members) and Charles Daniels met to discuss a study at Iron Creek. Mr. Woolard praised the Public Works Department for the work they do. He stated we were promised a study, but that was not done. He would like for Iron Creek to be added to the drainage improvements scheduled to take place in the City.

Council members agreed there is a serious problem with the drainage at Iron Creek. (A drainage study was prepared in 2007 that included the Mitchell Branch Basin & Iron Creek.)

Mayor Jennings noted this could not be included in the current contract, but could be reviewed at another time.

JAMES PORTER – UTILITIES (ABSENT)

TIM PRICHARD – PARKING & TRAFFIC ON NORTH ACADEMY STREET (ABSENT)

CORRESPONDENCE AND SPECIAL REPORTS

Mayor Jennings stated there are seven memos and he would like to group them together as written information unless Council needs to discuss them. Councilman Mercer voiced concern over Fleet Maintenance and Solid Waste Services.

MEMO – REQUEST FOR PROPOSALS FOR FLEET MAINTENANCE

(begin memo from Allen Lewis, Public Works Director) A request for proposals for the City of Washington's fleet maintenance was advertised for and one (1) proposal was received on Monday, November 15, 2010 at 1:00 P.M. Additionally, two (2) other equipment repair facilities requested and received copies of the specifications, requirements, etc. but did not submit proposals. The lone proposal was from First Vehicle Services, Inc., a nation-wide company with a price \$475,000. As you may recall, we reduced our staff at the garage this FY by one employee. So, for comparison's sake, if we take all of the expenses in the FY 10-11 budget except parts, fluids and tires, and then add FY 09-10 expenditures for parts, fluids and tires, our in-house costs for these services total

approximately \$327,000. This amount includes all labor, materials, fringe benefits, fluids, etc. It also includes work that was contracted out that we could not perform ourselves. Naturally, this figure is exclusive of fuel purchases. Due to the substantial difference, staff does not recommend privatizing this service. (end memo)

Councilman Mercer voiced concern with only receiving one bid and suggested this was probably due to the request being too broad. He suggested that we go back to bid and break the items into groups. Allen Lewis, Public Works Director stated he will review the RFP.

MEMO – REQUEST FOR RESIDENTIAL SOLID WASTE SERVICES

(being memo from Allen Lewis, Public Works Director) A request for proposals for the City of Washington's residential solid waste services was advertised for and one (1) proposal was received on Monday, November 15, 2010 at 2:00 P.M. Additionally, one (1) other solid waste disposal company requested and received copies of the specifications, requirements, etc. but did not submit proposals. We received telephone calls from other providers as well, but only one proposal. The lone proposal was from David's Trash Service, Inc. Their total bid price was \$562,440.00. Our in-house costs for these services for FY 10-11 are budgeted at \$570,043. This figure excludes existing debt service, administrative charges to the general fund and installment and non-capitalized purchases for this FY. However, it does include an amortized (over ten years) portion of the installment and non-capitalized purchases as well as \$30,459 in depreciation of fixed assets for FY 10-11. The existing debt service and the administrative charges we excluded because these are costs that would be realized regardless. The same argument could be made for fixed asset depreciation as well but we included it to provide a conservative number that would be accurate if we retained our assets even if we chose to privatize. If we were to exclude the depreciation figure, our in-house cost drops to \$539,494. Regardless, staff does not recommend privatizing this service due to the negligible cost differential and the high level of service now provided.(end memo)

Councilman Mercer requested to review the bid documentation with Mr. Lewis. Mayor Jennings stated we only receive positive comments regarding our employees and this is an intangible service. He also discussed the possible need for a subcommittee to review the fleet maintenance as well as solid waste services. Any outside provider would have a hard time matching our in-house service.

MEMO – LOAD MANAGEMENT DEVICE REPORT

Listed herein is the load management switch installation activity for October 2010 and November 2010.

Total Load Management Switch Installations 78
Air Conditioner/Heat Pump Control Installations 68
Auxiliary Heat Strip Control Installations 43
Water Heater Control Installations 35
Total Appliance Control Installations for period 146

MEMO – DRAFT MINIMUM HOUSING CODE

John Rodman, Planning Director stated a copy of the Planning Board's 1st draft and review for the update of the Washington Minimum Housing Code was included in the agenda. The Planning Board with the assistance of the Planning Department, the City Attorney's Office and the Code Enforcement Division has prepared the draft Code. The Planning Department took

a comprehensive approach to preparing the Minimum Housing Code which included: reviewing existing codes, comparing other local government housing codes, and reviewing recommendations from the NC General Statutes for minimum housing codes. Adoption of a minimum housing code is recommended as part of the Comprehensive Plan. Planning Staff request the Council review the draft code. The code will be scheduled for a future meeting for further discussion. Staff requests feedback for corrections or changes to the draft code.

Councilman Mercer discussed the draft housing code and that it was difficult to determine what had changed. Mr. Rodman will shade the items that were changed instead of placing them in italics.

MEMO – LEASE AGREEMENT WITH MOSS PROPERTY PARTNERS, LLC

Council was presented a copy of a proposed lease agreement between the City and Moss Property Partners, owners of Moss Marina, to utilize City property for the possible location of an upland bathhouse facility as an accessory use to the marina. This would replace the proposed floating bathhouse planned for the marina area. The property is located to the south of the current pump station property that adjoins Moss Landing and contains .11 acres. Moss Property Partners are seeking to construct an upland bathhouse facility that will serve the owners and users of boating slips located at the marina.

MEMO – REPORT SET UP FOR LOAD MANAGEMENT DEPARTMENT IN THE ELECTRIC FUND AND REALLOCATION OF \$300,000 FUNDING FROM SUBSTATION DEPARTMENT TO LOAD MANAGEMENT

Transfer load management program funding into a separate department as discussed in the November Council meeting. Councilman Mercer voiced concern over setting up a separate budget line.

Electric Fund:

-Decreased Substation Department in the following account and amount:

35-90-8370-7000 Non Capitalized Purchases (\$298,412)

-Increased Load Management Department in the following accounts and amounts:

35-90-8375-0200	Salaries	\$78,234
35-90-8375-0500	FICA	5,985
35-90-8375-0600	Group Insurance	5,850
35-90-8375-0700	Retirement	5,046
35-90-8375-0701	Employer 401K	320
35-90-8375-0705	Employer 457	1,280
35-90-8375-1201	Marketing	20,000
35-90-8375-1700	Maint/Repair Vehicles	2,412
35-90-8375-4500	Contract Services	80,485
35-90-8375-5600	Materials	<u>98,800</u>

Total

\$298,412

MEMO – IT MANAGED SERVICES

Council authorized the Manager to execute an IT managed services agreement contingent on the City Attorney’s review. Mr. Holscher modified the agreement to include some insurance, waiver of subrogation, indemnification, and other requirements. SoundSide was able to comply with all modifications except the professional errors and omissions liability coverage. The NC League of Municipalities strongly recommended that we include this coverage in our agreement. SoundSide has acquired the errors and omissions insurance and the City agreed to split the cost with them resulting in a \$150/ month increase. Councilman Mercer voiced concern over the City paying a portion of the required insurance.

ADOPT - ORDINANCE TO AMEND CHAPTER 40 SECTION 40-93, TABLE OF USES OF THE CODE OF ORDINANCES BY ADDING COMMERCIAL MARINAS WITH DRYSTACK STORAGE AS A SPECIAL USE IN THE OFFICE & INSTITUTIONAL ZONING DISTRICT

Mayor Jennings opened the public hearing. Dot Moate, Planning Board Chairman stated a request was received from Quibble and Associates for a text amendment to allow marinas and dry stack boat storage as a special use in the Office and Institutional Zoning District. The Planning Board met on November 30th and developed the following findings: currently marinas and dry stack boat storage is allowed in the General Business Zoning District with a Special Use Permit from the Board of Adjustment. The request is consistent with the CAMA Land Use Plan that states marinas should be built in non-wetland sites or in deep waters that do not require dredging. In addition, the CAMA Land Use Plan states that marinas should minimize interference with public waters by using a mixture of dry storage areas, public launching facilities and docking spaces. The Planning Board felt the request was reasonable due to the consistency with said plan and because the additional placement of the marina and dry stack boat storage would be compatible to the surrounding areas. Based on the findings and conclusions the Planning Board voted unanimously to request to City Council that the text amendment to allow commercial marinas and dry stack boat storage as a special use under the O & I zoning should be approved.

Mayor Pro tem Roberson inquired of the maximum height allowed in the O & I Zoning District? John Rodman, Planning Director advised currently the maximum height is 96ft.

There being no public comments, the public hearing was closed.

Councilman Mercer noted a typographical error on (8)Off Street Parking should stated “no” closer, not “to” closer than 10 feet to any property line and 40 feet to any shoreline. He also voiced concern with allowing dry stack storage in the O & I district as that district is located in other locations in the City. He suggested this be reviewed further with the Planning Board. He stated he will vote no for this request. Glenn Moore, Planning Administrator stated this would be a Special Use Permit and the text amendment states specific criteria that only allows dry stack storage when contiguous with public trust waters.

Mayor Pro tem Roberson stated he has concern with the 96ft. height limitation in that area. He also voiced concern with allowing this in the O & I District and he will vote against

this request as well. Glenn Moore stated the text amendment is consistent with the CAMA Land Use Plan.

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council voted not to accept the recommendation of the Planning Board and deny the request to amend Chapter 40, Article IV, Zoning Districts, Section 40-93, Table of Uses, by adding Commercial Marinas with Drystack Boat Storage as a Special Use in the O&I (Office & Institutional) Zoning District. Motion carried 3-2. Voting for the motion: Mercer, Roberson & Davis; against: Pitt & Moultrie.

ADOPT - ORDINANCE TO AMEND CHAPTER 40 SECTION 40-93, TABLE OF USES, BY ADDING ELECTRONIC GAMING OPERATIONS (INTERNET SWEEPSTAKES) AS A SPECIAL USE IN THE I-2 (LIGHT INDUSTRIAL) ZONING DISTRICT

Mayor Jennings opened the public hearing. Dot Moate, Planning Board Chairman stated a request was presented to the Board on November 30th in order to allow a text amendment adding electronic gaming operations(internet sweepstakes) as a special use in the I-2(Light Industrial) Zoning District. Currently, electronic gaming operations aren't listed in the current zoning ordinance as a permitted or special use within its jurisdiction nor is it considered an accessory use to any permitted use. The current moratorium on electronic gaming and internet cafés will end on December 15, 2010. Although HB 80 took effect December 1, 2010 and was designed to ban internet sweepstakes, most electronic gaming operations are still open. The Planning Board felt it was necessary to add text to the Zoning Ordinance to help regulate these activities in case the Internet Sweepstakes were able to continue to operate. The Planning Board voted 4-1 to recommend to Council to approve the ordinance to amend Chapter 40 Section 40-93, Table of Uses, by adding Electronic Gaming Operations (Internet Sweepstakes) as a special use in the I-2 (Light Industrial) Zoning District.

Mayor Pro tem Roberson asked if the Planning Board had considered the General Business zoning classification. Ms. Moate stated the Planning Board considered all the zoning districts and felt the I-2 Zoning District was most appropriate. John Rodman stated the hours of operation will be M-Sat. 8:00am-12:00 midnight and on Sunday 1:00pm-12:00midnight. The maximum numbers of machines allowed will be twenty. The business must be a minimum of 2500 linear feet from any other gaming operation. It must be 2500 linear feet from any residential structure and 2500 linear feet from any church, religious institution, public/private school, daycare facility, playground or park. Councilman Roberson also suggested the Planning Board review ABC permits for on/off premises.

There being no further public comments, the public hearing was closed.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council accepted the recommendation of the Planning Board and approved the Ordinance to amend Chapter 40, Article IV, Zoning Districts, Section 40-93, Table of Uses by adding Electronic Gaming Operations (Internet Sweepstakes) as a Special Use in the I-2(Light Industrial) Zoning District. (note: subsection (qq) will need to be (rr)).

(copy attached)

**ADOPT – BEAUFORT COUNTY MULTI-JURISDICTIONAL HAZARD
MITIGATION PLAN UPDATE AS RECOMMENDED BY THE HAZARD
MITIGATION ADVISORY COMMITTEE**

Mayor Jennings opened the public hearing. John Rodman, Planning Director explained that the City worked in conjunction with Beaufort County in reviewing and updating this plan. The plan has been sent to the stated and reviewed it and they recommend that the County and each community that participated adopt/endorse the plan. Mr. Rodman stated that Beaufort County adopted the plan last week.

There being no further comments, the public hearing was closed.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council continued this item until January 10, 2011 to allow more time for the document to be reviewed.

**ACCEPT – RECOMMENDATION OF THE PLANNING BOARD AND
APPROVE THE PRELIMINARY SUBDIVISION PLAT OF GEORGE E’S
PLACE SUBDIVISION LOCATED OFF KEYSVILLE ROAD (SR 1506)**

Mayor Jennings opened the public hearing. Dot Moate stated that on November 30th, Mr. Hood Richardson presented a preliminary subdivision plat of George E’s Place located off Keysville Road. The property is currently zoned RA-20(Residential-Agriculture) and contains 18.85 acres of land. The Planning Board determined the subject parcel and preliminary subdivision plat are consistent with the Land Use Plan because the adopted plan designates the subject parcel as appropriate for low density residential. The preliminary plat was reviewed by the technical review committee and is subject to conditions set by the committee members and the Planning Board. The Planning Board has determined that the proposed subdivision will have no detrimental impact on the surrounding property or immediate neighborhood. Based on the findings and conditions the Planning Board voted unanimously to approve the preliminary subdivision plat of George E’s Place subject to the conditions by the Subdivision Review Committee and the Planning Board.

CONDITIONS

Fire Dept:

1. Six inch waterlines required for fire hydrants.
2. Maintain Fire Apparatus Access Road of 20 feet width inside curb with radius inside curb radius of 25 feet of the N. C. fire Code with-in 150 feet of any portion of building.
 - Dead end turn around provisions per section 503
 - 120 feet hammerhead, 60 feet Y or 96 ft Cul de sac
 - 750 feet max dead-end
3. Signs and markings per City of Washington Code and NC Fire Code
4. Buildings Exceeding 30 feet or 3 stories parallel to one side No closer than 15 or more than 30 ft from building
5. Cul de sac’s shall have 48 feet Radius roadway surface
6. Fire Hydrant See Appendix C of The NC Fire Code Fire (Contact Fire Marshal for Hydrant Placement)
7. 6 inch or larger mains

8. No more than 400 feet any portion of facility to hydrant, 600 if sprinkled
9. Along all fire access roads and adjacent streets
10. Number and distribution of hydrants per table C 105.1
11. Hydrant must be on 6 in or larger line
12. Hydrant must be with-in 200 feet end of road end by cul de sac

Planning Dept:

1. Plat needs to show individual lot dimensions
2. Minimum building setback lines
3. Table denoting total number of lots and total acreage of tract.
4. May 15, 200r FIRM Map is based on 1983 Datum. Elevation is 10 feet conversion factor between 1929 datum and 1983 datum is -1.07 feet.

Parks and Recreation Dept.: utilize any unbuildable areas as common areas or as a natural trail for residents.

Electric Dept.: There is a \$500 per lot infrastructure fee for installation of U.G. electric facilities, plus contractor/developer will be responsible for installing pipes with pull cords for all necessary road/drainage easement crossings. Property must be within 6” of final grade and our easement must be clear of trees, shrubs, etc.

Mayor Pro tem Roberson inquired if curb and gutter would be installed? Hood Richardson, P.A. representing the owners, stated the City does not require them as this is a rural subdivision and not connected to any other curb and gutter street. Councilman Roberson inquired about the storm drainage for the subdivision as this resembles Iron Creek Subdivision. Mr. Richardson stated there is a 10-15ft. fall across the site and there will be no residential building across the flood zone, this area will be used for storm water treatment. Councilman Roberson also inquired about water/sewer. Mr. Richardson discussed the schedule for the design, permitting and annexation.

There being no further comments, the public hearing was closed.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council accepted the recommendation of the Planning Board and approved the preliminary subdivision plat of George E’s Place Subdivision subject to the conditions previously listed by the Subdivision Review Committee and the Planning Board.

MARTIN-STARNES & ASSOCIATES, CPAS, P.A. – AUDIT PRESENTATION

Matt Rauschenbach, CFO introduced Crystal Wadell, with Martin-Starnes & Associated, CPA’s, P.A. to present the audit. She noted they offered and unqualified opinion and there were no significant deficiencies or material weaknesses in internal control.

Fund Balance Position – General Fund

□ Total Fund Balance	\$ 8,407,407
□ Required Reservations -	2,643,875
□ Unreserved Fund Balance	\$ 5,763,532
□ Unreserved 2009	\$ 6,547,583
□ Decrease in unreserved FB	\$ 784,051
□ Unreserved Undesignated	\$ 5,763,532

Other Governmental Funds

□ Total Revenues 2010	\$ 836,661
□ Total Expenditures 2010	801,566
□ Other Financing Sources	808,334
□ Net Change in Fund Balance	843,429
□ Ending Fund Balance	1,818,938

Fund Balance – General Fund Current vs. GASB 54

2010 GASB 54

Reserved by State statute	1,406,906	Restricted
Reserved for inventories	55,407	Nonspendable
Reserved for encumbrances	778,893	Assigned
Reserved for surety bond	3,100	Restricted
Reserved for Powell Bill	331,119	Restricted
Reserved for controlled substance tax	23,559	Restricted
Reserved for seized funds – local and federal	11,161	Restricted
Reserved for Veteran's Park contributions	616	Restricted
Reserved for Recreation land	9,941	Restricted
Reserved for PEG Channel	23,173	Restricted
Undesignated	5,763,532	Unassigned
 Total fund balance	 8,407,407	

What Does Our State Legislature Face?

The 2009-10 budget included:

- \$1.3 billion in temporary taxes
- \$1.6 billion federal stimulus dollars
- \$0.3 billion in non-recurring budget reductions
- **Summary: Static budget gap going into 2011-2012 \$3.2 billion**

(Source: NC County Commissioners Association)

What Does The State Problems Mean to Local Government?

- Expect “transformational” government at the State level
- Everything is on the table
- Local Revenue Options?
- Cuts (15%) / New Taxes / Tax Reform?
- Potential loss of 10,000+ state jobs
- Retirement System

(Source: NC County Commissioners Association)

TOM STROUD – ADOPT RESOLUTION ON BEHALF OF THE PARTNERSHIP FOR THE SOUNDS AND THE NORTH CAROLINA ESTUARUM

Mayor Jennings stated that Tom Stroud was not in attendance tonight, but the resolution is to show the City Council supports the Estuarium. By motion of Councilman Mercer, seconded by Councilman Pitt, Council adopted a resolution on behalf of the Partnership for the Sounds and the North Carolina Estuarium as presented.

(copy attached)

Recess 7:15pm - 7:25pm

DISCUSSION – STATUS OF CURRENT GRANTS (2010 DEPARTMENTAL AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) AND NON-ARRA FUNDING OPPORTUNITIES)

The City of Washington will host a community meeting to discuss the construction of the POLICE FACILITY proposed for Market Street extension. Citizens are encouraged to attend and share their thoughts about this important capital improvement project.

When: Thursday, December 16, 2010

Where: Grace Harwell Senior Center -310 West Main Street

Time: 5:30-7:00pm

Councilman Davis advised there are some issues with the BIG-P grant and the Parks and Recreation Department is trying to resolve those issues before a moratorium is placed on pile driving in the river.

HUMAN RELATIONS COUNCIL

1. **Update** – Joint meeting with Pitt/Greenville Human Relations Council on November 3, 2010. The Greenville meeting was very informative and the agenda consisted of the following:

- Youth Council – Community Dialogue: “Bullying” and “Sexuality”, Brother Towns Film (Immigration Video).
- Hindu Temple Visit
- Human Relations Council Awards Ceremony
- Native America Heritage month

Diversity of Board Members

- Youth
 - Korean
 - Disabled American
 - Native American
 - Black American
 - Caucasian
2. **Update** – Ed Peed commemoration
 3. **Free Flu Clinic**
 4. **FYI** – Annual Brotherhood/Sisterhood Citation Award Dinner

TOURISM DEVELOPMENT AUTHORITY

Virginia Finnerty has been contracted to represent the Washington Civic Center in a sales capacity. She is presently working to identify leads, meet with businesses, and develop marketing programs to increase the use of the Civic Center for meetings. Judy Randall of Randall Travel Marketing (RTM) visited recently to consult with the Board of Directors regarding a potential visitor center near the intersection of the 17 bypass and 264. While the location is ideal for a visitor center to attract more traffic into the community, Randall recommended that a significant investment be made in billboards in the immediate future to drive traffic into the city. Based on her recommendation and the concern over continuous funding for a new visitor center, the board of directors had decided not to pursue a new visitor center at this time.

Tourism Director Lynn Lewis represented the City at a regional eco-tourism planning retreat hosted by the City of Greenville. Representatives from a number of communities in the area were present to discuss possible collaborations and interest in such an effort. No action was taken at this retreat.

The WTDA Board has voted to move its regular monthly meetings to the Leff Room at the Civic Center. The WTDA Board meets on the 3rd Wednesday of each month at noon.

Bill Oden has completed the annual financial audit for the WTDA. He will present the audit at the December meeting of the WTDA.

The WTDA has recently adopted legislative goals for 2011. These goals were also adopted by several statewide tourism organizations. The goals include: support for the current school start date, support for continued funding of the NC Division of Tourism.

APPOINTMENT – ECONOMIC DEVELOPMENT COMMISSION

Mayor Jennings stated that Buster Humphreys' term will end December 31, 2010 on the Economic Development Commission. The City has three positions on the EDC, with one being a City Council member and the other two appointed to represent the City. Mr. Humphreys' has agreed to serve on the EDC again.

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council re-appointed Buster Humphreys to the Economic Development Commission with a term to expire on December 31, 2013.

AUTHORIZE – CITY MANAGER TO ENTER INTO AN ADDITIONAL 90 DAY LEASE EXTENSION WITH IMPRESSIONS MARKETING GROUP, INC. FOR THE PROPERTY LOCATED AT 234 SPRINGS ROAD

Pete Connet, Interim City Manager stated the current lease extension will expire on December 31, 2010 the permanent lease should be ready for Council action in January 2011.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized the City Manager to enter into an additional 90 day lease extension with Impressions Marketing Group, Inc. for the property located at 234 Springs Road with a term to expire on March 31, 2011.

ADOPT – RESOLUTION AUTHORIZING THE LEASE OF CERTAIN REAL PROPERTY TO MARTIN COUNTY COMMUNITY ACTION FOR THE WEATHERIZATION ASSISTANCE PROGRAM RESOURCE COORDINATOR'S OFFICE SPACE AND AUTHORIZE THE INTERIM CITY MANAGER TO EXECUTE THE LEASE AGREEMENT

Pete Connet advised that the current lease agreement is set to expire and this is a renewal of that agreement. The term of the lease will be January 5, 2011 through January 4, 2012 at \$400 per month. Mayor Pro tem Roberson requested a status report be presented next month and that

a representative be present from MCCA. He also voiced concern that appliances are being purchased through this program.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council adopted a resolution authorizing the lease of certain real property to Martin County Community Action for the Weatherization Assistance Program Resource Coordinator's office space and Authorize the Interim City Manager to execute the Lease Agreement.

(copy attached)

**AUTHORIZE – MANAGER TO SIGN A CONSTRUCTION CONTRACT WITH
T.A. LOVING COMPANY FOR STORMWATER (\$3,800,902)**

Allen Lewis, Public Works Director explained that staff has negotiated with T.A. Loving to include the most effective portions of the drainage improvements that were originally bid in the project, as well as the Northwood area of Smallwood. As proposed, these improvements include improvements in the Jack's Creek drainage basin from a point just south of 8th Street, southward and eastward toward Park Drive. This portion of the project will include replacing the culvert at/near the intersection of 7th and Harvey Streets, removing and/or upgrading the culvert between 7th Street and John Small Avenue and installing a submersible pump at the Jack's Creek storm water pump station. Improvements within Smallwood include replacing undersized pipe in the Northwood Road area near Rowan Place and Eden Drive as well as replacing undersized pipes under and/or along Reed Drive, Alderson Road and Lawson Road and laying the slopes back along the ditch east of South Reed Drive to Keysville Road. The Airport Canal drainage area will see additional storage capacity in swales in and around Heritage Park, siltation removed from sections of the canal bottom as well as undersized culverts upgraded under the Wilco-Hess station and the Grimes farm path. See attached maps for locations and narrative describing the proposed work for more information. A revised recommended budget is also attached. These projects, once completed, should help reduce the frequency and duration of flooding during severe rain events.

Durk Tyson, Rivers and Associates stated the project was bid in November with a base bid of some work in each of the three drainage districts and included some bid alternates. After last month's Council meeting some additional work in Smallwood was priced with T.A. Loving. Councilman Mercer stated that last month Council authorized the signing of the contract with T.A. Loving. For \$3.5 million. Mr. Lewis stated that Alternate 1 originally included Lawson Road to Lodge Road and redoing all the storm drains in that area. What we did in order to accommodate the Northwood project was reduce the scope of Alternate 1 to include one set of cross pipes at Reed Drive, north of Lawson Road. This allowed the construction portion to be kept at \$3.5 million. Mr. Lewis said the motion should have been to "tentatively" award the contract to T.A. Loving. Mr. Lewis stated that if we don't lay back the banks of Jack's Creek and install submersible pumps this will allow the water level to be pumped down in the Creek an additional four feet prior to a storm to allow extra storage capacity. Also by installing the pump and not laying the banks back will allow the Greenway Plan to stay on target in that area.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council authorized the Manager to sign a construction contract with T.A. Loving Company for storm water

improvements in various parts of the City and accept the recommended budget as revised in the amount of \$3,800,902.

AMEND – STORM WATER CAPITAL PROJECT ORDINANCE

The storm water project was revised to include work in the Northwood area and final construction bids.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council amended the Storm Water Capital Project Ordinance by \$1,042,000 to reflect the final scope of the project.

**APPROVE AND AUTHORIZE – DIRECTOR OF PARKS AND RECREATION
TO EXECUTE WATERFRONT DOCKING FOR NC ESTUARIUM RIVER
ROVER**

Philip Mobley, Parks and Recreation Director stated staff and the City Attorney have been working with the NC Estuarium to update the Waterfront Docking Agreement for the River Rover. The River Rover gives tours of the Pamlico and Tar Rivers to patrons of the NC Estuarium. The Washington Recreation Advisory Committee has approved this proposed updated Waterfront Docking Agreement for NC Estuarium when we reviewed the docking agreement with the RIV Riggs, the ECU Research Vessel.

Franz Holscher, City Attorney stated Council may want to grant the authority to the Parks and Recreation Director to enter into the agreement in the future with the understanding there would be a yearly report and that if entered into in the future would not be for any more than one year. If there are substantial changes, the agreement would come before Council. This is the process that had been used for the ECU research vessel.

By motion of Councilman Davis, seconded by Councilman Pitt, Council approved and authorized the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement for NC Estuarium, River Rover and to provide for the continuation of agreement in the future with the understanding there would be a yearly report and that if entered into in the future would not be for any more than one year. If there are substantial changes made in the future the agreement is required to return to Council.

**AUTHORIZE – CITY MANAGER TO ENTER INTO A ONE YEAR MAXIMUM
EXPOSURE AND WEBCAM AGREEMENT WITH WITN**

Matt Rauschenbach, CFO stated Electricities recommended a Washington utilities education initiative program endorsed by Council during the November 22 Committee of the Whole. WITN presented an advertising program to facilitate communicating our message quickly and effectively. The maximum exposure program is \$24,000/year and webcam is \$6,000. This year's marketing budget includes \$15,000 in the Billing Department and \$20,000 in Load Management.

Councilman Pitt stated the education information needs to get to the citizens. Mayor Jennings explained we need to correct our image by giving the citizens the needed information and help the customer change the way they use electricity. Councilman Mercer voiced concern over spending \$6,000 for the City's logo on the webcam. Councilman Davis asked if the

agreement could be separated to allow more time to review the webcam agreement. Mr. Rauschenbach stated the two could be separated. Councilman Davis stated he was in Asheville and had people comment to him about our beautiful waterfront they had seen on the webcam. This is a good promotion tool for the City. The webcam will be researched and reported back to Council at a later time for consideration.

By motion of Councilman Pitt, seconded by Councilman Davis, Council authorized the City Manager to enter into a one year maximum exposure advertising agreement with WITN to complement the City's utilities education initiative at a cost of \$24,000. Motion carried 3-2. Voting for the motion: Pitt, Moultrie and Davis; Voting against the motion: Mercer and Roberson.

APPROVE – STRATEGIC BUDGET PLANNING SESSION

A strategic budget planning session with City Staff has been tentatively set for January 18th from 8:30 a.m. to 1 p.m. at Goose Creek State Park. Councilman Mercer will be unavailable to attend. Council opted to have the strategic budget planning session on January 24th (which was the scheduled Comm. of the Whole) at Brown Library beginning at 3:00pm. Council will suspend the time limitations for this meeting.

ADOPT – BUDGET ORDINANCE AMENDMENT POWELL BILL ALLOCATION

The City's 2010 Powell Bill Allocation distribution was reduced by \$112,495 for the first of fifteen payments for DOT utility relocation expense. Councilman Mercer stated he didn't feel it was appropriate at this time to take money from the Water/Sewer Funds and transfer funding to the Powell Bill account until the issues with NCDOT are resolved.

APPROVE – PURCHASE ORDERS OVER \$20,000

Matt Rauschenbach, CFO stated Requisition #8340, Booth & Associates, \$28,916.23, engineering for US Hwy. 17 utility relocation reimbursable from DOT. Account 35-90-7220-0411. Requisition #8401, Inner Banks Land & Timber Co, \$26,735, clearing trees from airport runway approach. Account 37-90-4530-4511.

Councilman Mercer inquired about the purchase order to Booth and Associates for work that has already been completed. Keith Hardt, Electric Director stated the purchase order was written after the work was completed and is a reimbursable expense from NCDOT.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council approved purchase order numbers 8401 and 8340.

AUTHORIZE – MANAGER TO SIGN NOTICE OF LANDING AREA PROPOSAL IN ORDER TO CLOSE RUNWAY 11-29

Due to the condition of runway 11-29 at Warren Field Airport being in such a poor state of disrepair, it has become a liability. The concrete runway is well over 60 years in age and is in need of significant repairs due to spalling and expansion joint "blow-ups". To resurface the runway would take several hundred thousand dollars that the Airport Fund does not have and since this is considered a third runway, the NC Division of Aviation (DOA) would not consider participating in assisting the City in repairs. The rough surface and loose pieces of concrete that

accumulate on this runway, despite sweeping, present a liability to the City due to damages that can easily occur if planes land on this runway. Both the DOA and the City's Airport Advisory Board recommend closing this runway.

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council authorized the City Manager to sign the Notice of Landing Area Proposal closing runway 11-29.
(copy attached)

**APPROVE AND AUTHORIZE – CITY MANAGER TO EXECUTE THE
CONTRACT FOR SITE MANAGEMENT SERVICES AT THE “FESTIVAL”
PARK SITE WITH MARK SMITH ARCHITECT (\$19,350)**

Philip Mobley, Parks and Recreation Director stated the “Festival” Park Planning Team has been working with designs for structures and surveying this park site, while all the time staying within the scope of the recommendations from the LandDesign's Plan. For the construction phase we will need a professional to compile RFPs, assist with the bidding/tabulations and communicating with contractors as work progresses. This park project will be divided in to two phases. Phase I will consist of the construction of the Events Stage, Picnic Shelter and Grasscrete walk/drive ways. This phrase will consist of foundation engineering, concrete pouring, footings, brick work, electrical panels and wiring diagrams with light/outlet locations, ground work for foundations, the handicap ramps, steps/handrail designs, the setting and the erection of two structures, communicating with City Inspectors and staying abreast of City easements/right-of-ways and NCDENR requirements, developing a project timeline, keeping the City informed with timely updates for PARTF, reviewing invoices with staff for payment and monitoring safety for the site for participants using the waterfront area. Phase I is scheduled for completion by early Spring 2011.

By motion of Councilman Davis, seconded by Councilman Pitt, Council approved and authorized the City Manager to execute the Contract for Site Management Services at the “Festival” Park site with Mark Smith Architect in the amount \$19,350.
(copy attached)

**AWARD – CONTRACT FOR ENERGY AND DEMAND REDUCTION
TECHNOLOGIES (\$20,000)**

Keith Hardt, Electric Director explained that Mr. Bob Gary with e-dux Energy Reduction Technologies came before the City Council during the November Committee of the Whole meeting to discuss their residential demand and energy reduction technology. Mr. Gary was asked to present his program to the Washington Electric Utilities Advisory Committee. The Committee met on Wednesday, 1 December 2010. A quorum of the Committee was not present, but the Committee members present did endorse the program. Mr. Gary is requesting Council approval to commence with a 40 unit project in Washington.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council awarded a contract in the amount of \$20,000 to e-Dux Energy Reduction Technologies for 40 residential demand and energy controllers as part of a pilot project.

**NORTH CAROLINA'S ELECTRONICS RECYCLING LAW AND OVERVIEW
OF PROVISIONS AFFECTING LOCAL GOVERNMENTS IN SENATE BILL
887**

Councilman Pitt discussed the electronics recycling law and suggested that the City begin looking at joint efforts with the County to start an electronics recycling program. He also discussed the Allen Road recycling facility in Pitt County where electronics are currently being recycled. Councilman Mercer noted there will be one program required in each County (which will be a County function) and an inter-local government agreement will be required for the municipalities to join the program.

LIBRARY OPERATING HOURS DURING HOLIDAYS

Pete Connet, Interim City Manager discussed the operating hours during the Christmas holiday. Mr. Connet suggested closing the library on Friday, Saturday and Sunday then open back on Monday. Council by consensus agreed to the change in operating hours during the Christmas holidays.

UPDATE ON SOFTBALL TOURNAMENT ACTIVITY AT THE SPORTS COMPLEX

Mayor Jennings stated as you may recall we have given instruction to staff to attempt to hold more tournaments at the Complex. We have been in contact with the organizers of these events and they want to hold three softball tournaments, outside of league play at the sports complex. The end of March, August and after the soccer season would be the possible times for the tournaments. The group envisions this as being a fundraiser for the league to reduce fees for those playing softball. Mayor Jennings is suggesting that the City will prepare the field for play for the first time on Friday afternoon. We would allow limited volunteer configuration of the fields which includes chalking the fields and manually dragging the infield. In return we wouldn't charge anything for the preparation of the fields and allow all the funds raised to go to the softball league. Councilman Mercer stated the complex should be used to the maximum degree possible.

By motion of Councilman Davis, seconded by Councilman Pitt, Council agreed to allow the softball league to hold up to three tournaments at the sports complex with the City preparing the fields for play for the first time then the league is responsible for maintaining the fields for the remainder of the tournament.

NORTHGATE UPDATE

Mayor Pro tem Roberson voiced concern in regards to the Letter of Credit for Northgate Subdivision. Franz Holscher stated that a letter was received from the State that Mr. Briley has been awarded another extension until December, 31, 2011. Mr. Holscher has contacted Mr. Briley's attorney to prepare a replacement Letter of Credit. Mr. Holscher stated the current Letter of Credit is valid through March 1, 2011.

**CLOSED SESSION – UNDER NCGS 143-318.11(A)(3) ATTORNEY/CLIENT
PRIVILEGE, DEKEVION ROULHAC ET. AL, V. CITY OF WASHINGTON ET. AL,
BCSC 09-CVS-1129, UNDER NCGS 143-318.11(A)(6) PERSONNEL AND 143-
318.11(A)(3) ATTORNEY/CLIENT PRIVILEGE**

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council agreed to enter into Closed Session under NCGS 143-318.11(a)(3) Attorney/Client Privilege, Dekevion

Roulhac et. al, v. City of Washington et. al, BCSC 09-CVS-1129, under NCGS 143-318.11(a)(6) Personnel and 143-318.11(a)(3) Attorney/Client Privilege.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council came out of closed session at 9:40pm.

HOMETOWN CONNECTION

Mayor Jennings stated on Wednesday, December 15th at 3:00pm Hometown Connections will be here to do an assessment of the City. Councilman Pitt and Councilman Mercer will attend this meeting to represent the Council.

ADJOURN

By motion of Councilman Davis, seconded by Councilman Pitt, Council adjourned the meeting at 9:45pm until December 16, 2010 at 5:00 pm in the Council Chambers at the Municipal. (*This meeting was canceled due to inclement weather)

(subject to the approval of City Council)

**Cynthia S. Bennett, CMC
City Clerk**



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Director of Planning and Community Development
Date: January 5, 2011
Subject: CDBG Housing Development Grant: 08-C-2050, WHI Deed of Trust and Promissory Note
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that council approve the Deed of Trust and Promissory Note, related to the proposed development of 13 new stick built homes with FY 08 CDBG funds.

BACKGROUND AND FINDINGS:

As you will recall, the Legally Binding Commitment (LBC) by and between the City of Washington and Washington Housing Nonprofit Inc. (WHI) requires WHI to execute and provide the City with a Promissory Note (Note) and Deed of Trust in a form satisfactory to the City, in the City's sole discretion, that is secured, singularly or collectively, by all properties acquired in conjunction with the LBC and the related grant, including through grant funds. Please find attached a Note and Deed of Trust that has been compiled for this purpose.

PREVIOUS LEGISLATIVE ACTION

- 6.14.10 Approval of LBC
- 6.14.10- Adopt budget ordinance
- 7.13.09- Approval to submit the application to DCA

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

- Promissory note
- Deed of Trust

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *JRC* Concur _____ Recommend Denial _____ No Recommendation *1/5/11* Date
January 24, 2011
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PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned jointly and severally (collectively, the “Borrower”) promise to pay to the City of Washington or order (the “Holder”) the principal sum of \$227,700.00, together with interest after default, all as described below.

The Borrower acknowledges that the Holder has agreed to advance up to the dollar amount indicated above pursuant to the Legally Binding Commitment by and among the Borrower and the Holder (the “Agreement”) that is attached hereto as Exhibit “A” and incorporated herein by reference as if fully set forth. As more specifically provided for therein, said Agreement requires the Borrower to, among other things, acquire, construct, and convey thirteen (13) affordable housing units to low to moderate income individuals (“LMI”) as well as to fulfill all of Borrower’s and Holder’s obligations under the related Grant and Grant Application that are either directly or indirectly dependent upon Borrower for fulfillment. The terms of said Grant and Grant Application also are incorporated herein by reference as if fully set forth. In the event that 1) all or a portion of the required number of affordable housing units are not acquired, constructed, and conveyed to LMI within the time period provided for in the Agreement or 2) the North Carolina Department of Commerce, Division of Community Assistance (“DCA”) requires the City to reimburse DCA for any Grant funds as more specifically provided for in said Agreement, all or a portion of the amount indicated above shall be subject to repayment to the Holder or its designee. The Borrower hereby agrees to repay to the Holder, in accordance with the Agreement, \$17,515.39 for every affordable housing unit not acquired, constructed, and conveyed to an LMI within the time period indicated within the Agreement and/or any amount of reimbursement required of the City by DCA under said Grant. All such amounts due thereunder and hereunder shall be due upon demand by the Holder, and may be paid directly to DCA if so required. The Holder shall have the right to assign this Note at any time to DCA. If not paid within thirty (30) days following demand hereunder, the unpaid principal of this Promissory Note (“Note”), and all other sums due under this Note or any instrument securing this Note, shall bear interest at the rate of 10 % per annum after demand until paid.

Upon default, the Holder may employ an attorney to enforce the Holder’s rights and remedies, and the Borrower, maker, principal, surety, guarantor, and endorsers of this Note hereby agree to pay the Holder reasonable attorney’s fees not exceeding a sum equal to 15% of the outstanding balance owing on the Note, plus all other reasonable expenses incurred by the Holder in exercising any of the Holder’s rights and remedies upon default. The rights and remedies of the Holder as described in this Note and any instrument securing this Note shall be cumulative and may be pursued singularly, successively, or together against the Borrower, the property described in any such security instrument, or any other funds, property, or security held by the Holder for payment or security, in the sole discretion of the Holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

All parties to this Note, including the Borrower and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest, and all other sums due under this Note or the Agreement and any instrument securing this Note or the Agreement notwithstanding any change or changes by way of release, surrender, exchange, modification, or substitution of any security for this Note, or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of

such change or changes and agree that the same may be made without notice or consent of any of them.

Holder shall not, by any act, delay, omission, or otherwise, be deemed to have waived any of its rights under this Note or the Agreement. No waiver by the Holder of any of its rights under this Note or the Agreement shall be valid unless in writing, and then only to the extent therein set forth. Waiver by the Holder of any right or remedy under the terms of this Note or the Agreement on any one occasion shall not be construed as a bar to the Holder exercising any right or remedy on any future occasion. This Note may not be amended, changed, or altered except in writing executed by the Holder and the Borrower.

This Note evidences a debt payable by the Borrower and is given for monies that may become owed under the Agreement and is secured by a Deed of Trust of even date herewith, which Deed of Trust is a lien upon the property therein described.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina, excluding its conflict of laws provisions.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed under seal, pursuant to authority duly given, the day and year first above written.

Dated as of the _____ day of _____, 20__.

WASHINGTON HOUSING NONPROFIT INC.

By: _____ (SEAL)

Printed Name

Title

Date

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that _____ personally appeared before me this day, and being duly sworn by me, acknowledged that he/she is _____ of **Washington Housing Nonprofit Inc.**, and that by authority duly given and as the act of Washington Housing Nonprofit Inc. the foregoing instrument was signed by him.

Witness my hand and notary seal this _____ day of _____ 2010.

Notary Public

My Commission expires: _____

Exhibit "A"

**Legally Binding Commitment
City of Washington and Washington Housing Nonprofit Inc.
FY2009 CDBG Housing Development Program**

This Legally Binding Commitment for the City of Washington FY09 CDBG Housing Development Program (hereinafter referred to as the "Agreement") is entered into as of the 8th day of November, 2010, by and between the City of Washington (hereinafter referred to as the "City") and Washington Housing Nonprofit Inc. d/b/a Washington Housing Incorporated (hereinafter referred to as "WHI").

RECITALS

WHEREAS, the City has received a Community Development Block Grant-Housing Development (hereinafter referred to as "Grant") in the amount of \$227,700.00 from the North Carolina Department of Commerce, Division of Community Assistance (hereinafter referred to as "DCA"). The purpose of the Grant is to provide funds for acquisition, development, construction and conveyance of thirteen (13) stick built homes specifically for and to low to moderate income individuals (hereinafter referred to as "LMI") within the time period allowed by the Grant and/or DCA, which Grant is incorporated herein by reference as if fully set forth.

WHEREAS, WHI is a nonprofit organization that promotes asset building strategies for LMI in the City and Beaufort County, and will perform its obligations under this Agreement consistent with the terms, conditions, and considerations contained herein, said Grant, and the FY09 Grant Project Application (hereinafter referred to as "Grant Application"), which Grant Application is incorporated herein by reference as if fully set forth.

WHEREAS, release of Grant funds by DCA is contingent upon a legally binding commitment between the City and WHI that obligates both parties to fulfill the terms of the Grant and, more particularly, defines WHI's specific commitment to utilize Grant funds to acquire, develop, construct and convey said homes to LMI.

NOW, THEREFORE, in consideration of and in exchange for the mutual promises set forth herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the City and WHI mutually agree as follows.

PART A – ACTIVITIES AND PERIOD OF PERFORMANCE

Section 1 WHI will perform the following.

1. Acquire thirteen (13) proposed development sites from the Washington Housing Authority, or some other entity acceptable to DCA, utilizing Grant funds.
2. Complete construction and conveyance of thirteen (13) affordable housing units as described in the Grant and Grant Application to LMI no later than April 26, 2013 (36 months from the date of the executed Grant).
3. Qualify and counsel potential homebuyers to purchase completed units.
4. Market and coordinate the sale of the properties to LMI.
5. Address all questions regarding the Grant to the City-appointed Grant contact, not DCA.
6. Fulfill all of its and the City's obligations under the Grant and Grant Application that are either directly or indirectly dependent upon WHI for fulfillment. Such obligations include, but are not limited to complying with all applicable certifications and requirements, including but not limited to those certifications and

¹ LBC Between City of Washington and Washington Housing Nonprofit Inc. – Adopted by City Council - 11-08-2010

requirements required by the North Carolina Department of Commerce and DCA. As more specifically provided for in the Grant, WHI shall, among other things, comply with the procurement standards set forth in 4 N.C. Administrative Code 19L. 0908.

Section 2 The City will perform the following.

1. Provide financial management of Grant funds.
2. Assist WHI with property acquisition and the real estate closing process.
3. Establish benchmarks and monitor the project for progress toward goals.
4. Provide WHI with copies of relevant DCA correspondence regarding the project including, but not limited to, policy interpretation or changes, reporting requirements, monitoring visits, etc.
5. Assist WHI with establishment of procedures for establishing homeowner eligibility and homeowner counseling.
6. Manage all Grant compliance activities, including environmental, labor standards, procurement, fair housing, and EEO requirements.

PART B – TERM OF AGREEMENT

This Agreement shall commence on the day first above written and continue until April 26, 2013 or until such time as DCA requires in order to close out the Grant and receive any reimbursement that may then be due DCA.

PART C – MISCELLANEOUS/SPECIAL CONDITIONS

1. The City and DCA, or their respective duly authorized representatives, shall have the right to request status reports from WHI regarding requests for reimbursement of WHI staff and overhead costs with Grant funds, the disposition of Grant funds, and the progress of programmed activities funded through the Grant.
2. Amendments: The Grant, Grant Application, and this Agreement may not be amended or revised without written approval of both parties and concurrence from DCA.
3. WHI shall keep and maintain all books, records, and other documentation that are its responsibility, under its control, and directly related to its receipt and disbursement of Grant funds and its fulfillment of this Agreement as well as the Grant.
4. Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of the Grant between the City and DCA, and agree that any conflict between the provisions, requirements, duties, or obligations of this Agreement and the Grant shall be resolved in favor of the Grant.
5. This Agreement constitutes a legally enforceable contract and shall be governed by and construed in accordance with the laws of the State of North Carolina.
6. Liabilities and Loss: The City assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities undertaken by WHI under this Agreement, whether with respect to persons or property of WHI, or third parties. WHI agrees to obtain insurance or otherwise protect itself or others as it may deem desirable. Further, WHI agrees to indemnify, defend and save harmless the City and its officers, agents and employees from any and all claims and losses arising from this Agreement, including but not limited to those claims and losses accruing or resulting to any and all subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or

2 LBC Between City of Washington and Washington Housing Nonprofit Inc. – Adopted by City Council - 11-08-2010

- resulting to any person, firm, corporation who may be injured or damaged by WHI or its agents in the performance of this Agreement.
7. WHI shall at all times comply with all laws, ordinances, and regulations of federal, state, and local governments which may in any manner affect or be related to the performance of this Agreement.
 8. WHI may not assign any interest in this Agreement, nor transfer any interest in the same, without the written consent of the City.
 9. WHI represents that it has, or will secure at its own expense, all personnel required to monitor, carry out, and perform the scope of services of this Agreement and the Grant. Such employees shall not be employees of the City. Such personnel shall be fully qualified and shall be authorized under state and local law to perform the required services.
 10. In carrying out the terms and conditions of this Agreement, WHI is an independent party from the City and is not an agent or employee of the City. Nothing in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between the City and WHI.
 11. This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same Agreement which shall be sufficiently evidenced by one of such original counterparts.
 12. WHI shall execute and provide the City with a promissory note(s) and deed(s) of trust, in a form satisfactory to the City in the City's sole discretion, secured, singularly or collectively, by all properties acquired in conjunction with this Agreement and the Grant, including Grant funds. Said promissory note(s) and deed(s) of trust shall, among other things, secure WHI's performance of its obligations arising from this Agreement, the Grant, and the Grant Application. WHI may make application to the City for a release(s) from said promissory note(s) and deed(s) of trust. Said application must include, among other things, such evidence and documentation as the City may, in its sole discretion, require in order to verify that WHI has a LMI qualified purchaser(s) who has(have) secured qualified financing for the lot or lots to be released. WHI shall cause \$6,000.00 from each closing/sale of a lot, including home constructed thereon, that was initially purchased by WHI with Grant funds or otherwise obtained and is subsequently sold by WHI in conjunction with this Agreement to be set aside and deposited into a joint account in the name of the City and WHI. The parties hereto agree that the funds deposited in said joint account initially shall be dedicated, disbursed and paid toward any reimbursement that may be required of the City by DCA under the Grant. Once the City is fully collateralized, WHI will no longer be required to make such deposits and WHI shall, subject to prior written permission received from the City Attorney, in the City Attorney's sole discretion, receive disbursements from said account in an amount(s) that allows the City to remain fully collateralized. For the purposes of this Agreement, fully collateralized shall mean security or collateral totaling \$227,000.00 and shall be realized through a combination of sales of lots, including homes constructed thereon, that DCA confirms were made to LMI qualified purchasers and otherwise satisfies the requirements of the Grant (valued at approximately \$18,000.00 per lot) plus funds in said joint account. Any funds remaining in said joint account after the Grant is closed out shall be disbursed to WHI upon confirmation that either DCA will not require any reimbursement under the Grant or any reimbursement required by DCA under the Grant has been satisfied.

PART D – NON-PERFORMANCE BY WHI AND REIMBURSEMENT OF GRANT FUNDS

If WHI fails to acquire, develop, construct, and convey thirteen (13) affordable housing units to LMI as described in this Agreement, the Grant, or the Grant Application by April 26, 2013 and if the City is required to reimburse DCA any Grant funds expended due to WHI's non-performance, including but not limited to deliberate or non-deliberate improper

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expenditure of Grant assistance, which reimbursement may include any pro rata portion (approximately \$18,000.00 per unit), WHI agrees to pay or reimburse the City for 100% of any reimbursement required by DCA of Grant funds. Among other possible remedies and recourses of action, the City may utilize said set aside funds or pursue collection of the above referenced promissory note(s) as well as deed(s) of trust through foreclosure of the same to fund said reimbursement or otherwise upon WHI's failure to perform any obligation required by or arising from this Agreement, the Grant, or the Grant Application.

PART E – COMMUNITY DEVELOPMENT BLOCK GRANT PROVISIONS

If through any cause either party shall fail to fulfill in a timely and proper manner the obligations under this Agreement or violate any of the covenants, agreements, or stipulations of this Agreement, one party may, without waiving any claim or recourse it may have against the other party, terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date of such termination. In such event, all finished or unfinished documents, data, studies, drawings, maps, models, photographs, and reports prepared by WHI under the terms of this Agreement shall, at the option of the City, become City property without additional consideration. In the event this Agreement is terminated by either party, all related accounts shall be frozen, an accounting may be obtained as directed by the City, and the City may elect, in its sole discretion, to administer the remaining funds, consistent with DCA policy.

1. CONFLICT OF INTEREST: MEMBERS, OFFICERS, OR EMPLOYEES OF THE LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS:

No member, officer, or employee of the City, no members of the governing body of the locality or localities who exercise any functions or responsibilities with respect to the CDBG-HD program during his tenure and for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The City and WHI shall incorporate, or cause to be incorporated, in all contracts arising herefrom a provision prohibiting such conflict of interest consistent with the purpose of this section.

2. NON-DISCRIMINATION

No person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the performance of this Agreement.

No qualified personnel shall, on the basis of age or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the performance of this Agreement.

3. EXECUTIVE ORDER 11246 CLAUSE

(i) WHI and the City will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. WHI and the City will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment; upgrading, demotion, or transfer; recruitment and advertising; layoff or termination; rates

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of pay or other forms of compensation; and selection for training including apprenticeships. WHI and the City agree to post, in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

- (ii) WHI and the City will, in all solicitations or advertisements for employees placed by or on behalf of WHI or the City, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (iii) WHI and the City will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers representative of WHI and the City commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (iv) WHI and the City will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (v) WHI and the City will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (vi) In the event WHI or the City fails to comply with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and WHI or the City may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- (vii) WHI and the City will include the provisions of this and the preceding Paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor Issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. WHI and the City will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event WHI or the City become involved in, or are threatened with litigation by a subcontractor or vendor as a result of such direction by the contracting agency, WHI or the City may request the United States to enter into such litigation to protect the interests of the United States.

4. **SECTION 3 COMPLIANCE IN THE PROVISION OF EMPLOYMENT AND BUSINESS OPPORTUNITIES**

- (i) The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is

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subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

- (ii) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- (iii) WHI and the City will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other Contractor or understanding if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- (iv) WHI and the City will include these Section 3 clauses in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. Neither WHI nor the City will subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (v) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135 and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be conditions of the federal financial assistance provided for in conjunction with the project and shall be binding upon the applicant or recipients for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors, and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

5. NON-DISCRIMINATION CLAUSE CONCERNING HANDICAP AND AGE

WHI/the City will not discriminate on the basis of age under the Age Discrimination in Employment Act of 1975, as amended (42 U.S.C 6101 et seq.), or with respect to any otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), or as otherwise prohibited by state or federal law.

6. ACCESS TO RECORDS AND RECORD RETAINAGE CLAUSE

In general, all official project records and documents must be maintained during operation of this project and for five (5) years following close out in compliance with 15 NCAC13.1 Rule 0922, Record Keeping.

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The Department of Commerce, the North Carolina Department of Treasurer, the Controller, the Attorney General of North Carolina, the United States Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the administering agency which are pertinent to the execution of this Agreement for the purpose of making audits, examinations, excerpts, and transcripts.

7. LOBBYING CLAUSE

- (i) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person by the undersigned for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grants, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLC, "Disclosure Form to Report Lobbying" in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

IN WITNESS THEREOF, the City and WIII have executed this Agreement through duly authorized representatives, all as of the date written above.

(Signatures On Following Page)

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited per North Carolina General Statute § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach

Matt Rauschenbach, Chief Financial Officer
City of Washington

WASHINGTON HOUSING NONPROFIT INC.

CITY OF WASHINGTON

By: *[Signature]* (SEAL)

By: *[Signature]* (SEAL)

Marc A. Reeks
Printed Name

James C. Smith
Printed Name

Executive Director
Title

City Manager
Title

11/17/10
Date

11/13/2010
Date

NORTH CAROLINA
BEAUFORT COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that Marc A. Reeks personally appeared before me this day, and being duly sworn by me, acknowledged that he/she is ~~Exec Director / Asst Secy~~ of Washington Housing Nonprofit Inc., and that by authority duly given and as the act of Washington Housing Nonprofit Inc. the foregoing instrument was signed by him.

Witness my hand and notary seal this 17 day of Nov. 2010.

[Signature]
Notary Public

My Commission expires: 9/11/2013

NORTH CAROLINA
BEAUFORT COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that James C. Smith personally appeared before me this day, and being duly sworn by me acknowledged that he is City Manager of the City of Washington, and that by authority duly given and as the act of the City the foregoing instrument was signed by him.

Witness my hand and notary seal this 10 day of December 2010.

[Signature]
Notary Public

My Commission expires: 12/14/2014



**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

NORTH CAROLINA DEED OF TRUST

SATISFACTION: The debt secured by the within Deed of Trust together with the note(s) secured thereby has been satisfied in full.

This the _____ day of _____, 20__

Signed: _____

PREPARED BY AND RETURN TO:
RODMAN, HOLSCHER, FRANCISCO & PECK, P. A.
Attorneys at Law
320 North Market Street
Post Office Box 1747
Washington, NC 27889
Telephone: (252) 946-3122

Property Address: _____

THIS DEED OF TRUST, made this _____ day of _____, 20__, by and between Washington Housing Nonprofit Inc. d/b/a Washington Housing Incorporated and having an address of P.O. Box 231, Washington, North Carolina 27889 ("Grantor"); Franz F. Holscher having an address of P.O. Box 1747, Washington, North Carolina 27889 ("Trustee"); and the City of Washington having an address of P.O. Box 1988, Washington, North Carolina 27889 ("Beneficiary"). The designation Grantor, Trustee, and Beneficiary as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH:

WHEREAS, the Beneficiary agrees to advance to the Grantor up to the sum of Two Hundred Twenty Seven Thousand Seven Hundred and 00/100 DOLLARS (\$227,700.00) (the "Loan") as evidenced by a Promissory Note ("Note") from the Grantor to the Beneficiary of even date herewith, the terms of which are incorporated herein by reference as if fully set forth, which sum together with any amounts advanced to protect the security of this Deed of Trust shall be the total amount secured.

WHEREAS, it has been agreed that the Loan will be advanced subject to the terms and conditions for repayment and use of the property as set forth in the Note and this Deed of Trust. If not paid sooner or required to be paid sooner, the Loan shall be paid in full on or before the later of the following: 1) April 26, 2013, 2) if the related North Carolina Department of Commerce Division of Community Assistance Community Development Block Grant signed by Beneficiary and effective May 17, 2010 ("Grant") is extended, on or before the expiration of any such extension, 3) the date any notice of reimbursement of Grant funds is received by Beneficiary or 4) the date said Grant is formally closed out. The terms of said Grant and related Grant Application are incorporated herein by reference as if fully set forth.

WHEREAS, it has been agreed that the loan shall be secured by the conveyance of the land described in this Deed of Trust.

NOW, THEREFORE, as security for said indebtedness, advances and other sums extended by Beneficiary pursuant to this Deed of Trust and cost of collection (including attorneys fees as provided in the Note) and other valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Grantor has bargained, sold, given and conveyed and does by these presents, bargain, sell, give, grant, and convey to said Trustee, his heirs, or successors, and assigns, the parcel(s) of land situated in the City of _____, _____ Township, Beaufort County, North Carolina, (the "Premises"), together with all heating,

plumbing, and lighting fixtures and equipment now or hereafter attached to or used in connection with the Premises, and more particularly described as follows.

See attached Exhibit A

TO HAVE AND TO HOLD said Premises, with all privileges and appurtenances thereunto belonging to said Trustee, his heirs, successors, and assigns forever, upon the trusts, terms and conditions and for the uses herein set forth.

If the Grantor shall pay the Note secured hereby in accordance with its terms, together with interest thereon, and any renewals or extensions thereof in whole or in part, and all other sums secured hereby and shall comply with all of the covenants, terms and conditions of this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and the expense of the Grantor.

If, however, there shall be any default (a) in the payment of any sums coming due under the Note, this Deed of Trust or any other instrument securing the Note and such default is not cured within ten (10) days from the due date, or (b) if there shall be any default in any of the terms, covenants or conditions of the Note secured hereby or any failure or neglect to comply to the satisfaction of the Beneficiary, in its sole discretion, with the covenants, terms or conditions contained in this Deed of Trust or any other instrument securing the Note and such default is not cured within the time period established by written notice to cure said default, or if no time period is provided for then within fifteen (15) days after written notice, then and in any of such events, without further notice, the Note shall, at the option of and upon demand of the Beneficiary, at once become due and payable and it shall be lawful for and the duty of the Trustee, upon request of the Beneficiary, to sell the land herein conveyed at public auction for cash, after having first giving such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as may then be required by law and giving such notice of and advertising the time and place of such sale in such manner as may then be provided by law, and upon such sale and any resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey title to the purchaser in as full and ample manner as the Trustee is empowered. The Trustee shall be authorized to retain an attorney to represent him in such proceedings.

The proceeds of the Sale shall, after the Trustee retains the Trustee's commission, together with reasonable attorneys fees incurred by the Trustee in such proceedings, be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, costs of recording, service fees and incidental expenditures, the amount due on the Note hereby secured and advancements and other sums expended by the Beneficiary according to the provisions hereof and otherwise as required by the then existing law relating to foreclosures. The Trustee's commission shall be five percent (5%) of the gross proceeds of the sale. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by Trustee, including reasonable attorneys fees, and a partial commission computed on five percent (5%) of the outstanding indebtedness, in accordance with the following schedule, to wit: one-fourth (1/4) thereof before the Trustee issues a notice of hearing on the right to foreclosure; one-half (1/2) thereof after issuance of said notice, three-fourths (3/4) thereof after such hearing; and the full commission after the initial sale.

The Grantor does hereby covenant and agree with the Trustee and Beneficiary as follows.

1. **INSURANCE.** Grantor shall keep the Premises and all improvements on said land, now or hereafter erected, constantly insured for the benefit of the Beneficiary against loss by fire, windstorm and such other casualties and contingencies, in such manner and in such companies and for such amounts, not less than that amount necessary to pay the sum secured by this Deed of Trust, and as may be satisfactory to the Beneficiary. Grantor shall also insure all improvements on the Premises, whether now in existence or subsequently erected, against loss by flood as may be required by the Beneficiary. Grantor shall purchase such insurance, pay all premiums therefor, and shall deliver to Beneficiary such policies along with evidence of premium payment as long as the Note secured hereby remains unpaid. If Grantor fails to purchase such insurance, pay premiums therefor or deliver said policies along with evidence of payment of premiums thereon, then Beneficiary, at his option, may purchase such insurance. Such amounts paid by Beneficiary shall be added to the principal of the Note secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary. All proceeds from any insurance so maintained shall at the option of Beneficiary be applied to the debt secured hereby and if payable in installments, applied in the inverse order of maturity of such installments or to the repair or reconstruction of any improvements located upon the Property.

2. **TAXES, ASSESSMENTS, CHARGES.** Grantor shall pay all taxes, assessments and charges as may be lawfully levied against said Premises before the same shall become past due. In the event that Grantor fails to so pay all taxes, assessments, and charges as herein required, then the Beneficiary at its option, may pay the same and the amount so paid shall be added to the principal of the Note secured by this Deed of Trust and shall be due and payable upon demand of Beneficiary.
3. **ASSIGNMENTS OF RENTS AND PROFITS.** Grantor assigns to Beneficiary, in the event of default, all rents and profits from the land and any improvements thereon, and authorizes Beneficiary to enter upon and take possession of such land and improvements, to rent same, at any reasonable rate of rent determined by Beneficiary, and, after deducting from any such rents the cost of reletting and collection, to apply the remainder to the debt secured hereby.
4. **PARTIAL RELEASE.** Grantor shall not be entitled to the partial release of any of the above described property unless a specific provision providing therefor is included in this Deed of Trust. In the event a partial release provision is included in this Deed of Trust, Grantor must strictly comply with the terms thereof. Notwithstanding anything herein contained, Grantor shall not be entitled to any release of property unless Grantor is not in default and is in full compliance with all of the terms and provisions of the Note, this Deed of Trust, and any other instrument that may be securing said Note.
5. **WASTE.** Grantor covenants that he will keep the Premises herein conveyed in as good order, repair and condition as they are now, reasonable wear and tear excepted, and will comply with all governmental requirements respecting the Premises or their use, and that he will not commit or permit any waste.
6. **CONDEMNATION.** In the event that any or all of the Premises shall be condemned and taken under the power of eminent domain, Grantor shall give immediate written notice to Beneficiary and Beneficiary shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Beneficiary who shall have the discretion to apply the amount so received, or any part thereof, to the indebtedness due hereunder and if payable in installments, applied in the inverse order of maturity of such installments, or to any alteration, repair or restoration of the Premises by Grantor.
7. **WARRANTIES.** Grantor covenants with Trustee and Beneficiary that he is seized of the Premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that he will warrant and defend the title against the lawful claims of all persons whomsoever, except for the exceptions, if any, hereinafter stated on Exhibit B.
8. **SUBSTITUTION OF TRUSTEE.** Grantor and Trustee covenant and agree to and with Beneficiary that in case the said Trustee, or any successor trustee, shall die, become incapable of acting, renounce this trust, or for any reason the holder of the Note desires to replace said Trustee, then the holder may appoint, in writing, a trustee to take the place of the Trustee; and, upon the probate and registration of the same, the trustee thus appointed shall succeed to all rights, powers and duties of the Trustee.
9. **SALE OF PREMISES.** Grantor agrees that, if the Premises or any part thereof or interest therein is sold, assigned, transferred, conveyed or otherwise alienated by Grantor, whether voluntarily or involuntarily or by operation of law without the prior written consent of Beneficiary, Beneficiary, at its own option, may declare the Note secured hereby and all other obligations hereunder to be forthwith due and payable. Any change in the legal or equitable title of the Premises or in the beneficial ownership of the Premises, including the sale, conveyance or disposition of a majority interest in the Grantor if a corporation or partnership, whether or not of record and whether or not for consideration, shall be deemed to be the transfer of an interest in the Premises.
10. **ADVANCEMENTS.** If Grantor shall fail to perform any of the covenants or obligations contained herein or in any other instrument given as additional security for the Note secured hereby, the Beneficiary may, but without obligation to do so, make advances to perform such covenants or obligations, and all such sums so advanced shall be added to the principal sum, shall bear interest at the rate provided in the Note secured hereby for sums due after default and shall be due from Grantor on demand of the Beneficiary. No advancement or anything contained in this paragraph shall constitute a waiver by Beneficiary or prevent such failure to perform from constituting an event of default.
11. **INDEMNITY.** If any suit or proceeding be brought against the Trustee or Beneficiary or if any suit or proceeding be brought which may affect the value or title of the Premises, Grantor shall defend, indemnify and hold

harmless and on demand reimburse Trustee or Beneficiary from any loss, cost, damage or expense and any sums expended by Trustee or Beneficiary shall bear interest as provided in the Note secured hereby for sums due after default and shall be due and payable on demand.

12. **WAIVERS.** Grantor waives all rights to require marshaling of assets by the Trustee or Beneficiary. No delay or omission of the Trustee or Beneficiary in the exercise of any right, power or remedy arising under the Note or this Deed of Trust shall be deemed a waiver of any default or acquiescence therein or shall impair or waive the exercise of such right, power or remedy by Trustee or Beneficiary at any other time.

13. **CIVIL ACTIONS.** In the event that the Trustee is named as a party in any civil action as Trustee in this Deed of Trust, the Trustee shall be entitled to employ an attorney at law, including himself if he is a licensed attorney, to represent him in said action, and the reasonable attorney's fees of the Trustee in such action shall be paid by the Beneficiary and added to the principal of the Note secured by this Deed of Trust, and shall be due and payable by Grantor upon demand of the Beneficiary, and bear interest at the rate provided in the Note for sums due after default.

14. **PRIOR LIENS.** Default under the terms of any instrument secured by a lien to which this Deed of Trust is subordinate shall constitute default hereunder.

15. **SUBORDINATION.** Any subordination of this lien to additional liens or encumbrances shall be only upon the written consent of the Beneficiary.

16. **RIGHT TO INSPECT.** To assure and protect its right in this Deed of Trust and the Premises, the Beneficiary shall have the right of access to and inspection of the Premises at reasonable times and with reasonable notice to the Grantor.

17. **NOTICES.** Any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or mailing it by first class mail to the respective addresses stated herein or any address a party hereto designates by notice to the other.

18. **HAZARDOUS MATERIALS.** Borrower warrants that:

- (i) the Property shall be kept free of Hazardous Materials,
- (ii) Borrower shall not permit the installation, generation, transportation or release of Hazardous Materials in or on the Property.
- (iii) Borrower shall at all times comply with all applicable Environmental Laws affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any Environmental Laws.
- (iv) Borrower shall immediately give Lender oral and written notices in the event that Borrower knows of a violation of these warrants or receives any notice from any governmental agency or other party with regard to Hazardous Materials affecting the Property,

Borrower hereby agrees to indemnify Lender and hold Lender harmless from any losses, liabilities, damages, injuries (including but not limited to attorney's fees) and claims incurred or suffered by or asserted against Lender, as a direct or indirect result of any warranty or representation made by Borrower in this paragraph (Hazardous Materials) being false or untrue in any material respect.

For purposes of this Deed of Trust, "Hazardous Material" means petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, defined as such in the Environmental Laws.

For purposes of this Deed of Trust, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, any "Superfund" or "Superlien" law, or any other federal, state or local law relating to standards of conduct concerning any petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or hazardous, toxic or dangerous waste.

16. **GOVERNING LAW.** This Deed of Trust is to be governed and construed in accordance with the laws of the State of North Carolina.

Exhibit A
PROPERTY DESCRIPTION

Exhibit B
EXCEPTIONS



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Budget Ordinance Brooks Boatworks Incentive
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance Amendment to appropriate funds for the Brooks Boatworks tax incentive.

BACKGROUND AND FINDINGS:

The City entered into a five year tax incentive agreement in conjunction with the County for economic development in 2007. \$20,250 was appropriated 7/30/07. Two payments have been made thus far and payments for the 2009 and 2010 tax bills (\$6,903) should be made this year and \$3,452 for the final year budgeted next year.

PREVIOUS LEGISLATIVE ACTION

Council made original appropriation 7/30/07 that was not carried forward or budgeted in future years.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *PRC* Concur _____ Recommend Denial _____ No Recommendation
1/5/11 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following accounts in the Economic Development Department portion of the General Fund appropriations budget be increased:

10-00-4650-4507 Brooks Boatworks Incentive \$6,903

Section 2. That account number 10-00-9990-9900, Contingency, of the General Contingency appropriations budget be decreased in the amount of \$6,903.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 10^h day of January, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Budget Ordinance RZEDB Debt Service
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance Amendment to appropriate funds for the actual debt service of the final amount borrowed for the Recovery Zone Projects.

BACKGROUND AND FINDINGS:

The Recovery Zone Projects were expanded from the budgeted \$4,000,000 to \$5,040,000.

PREVIOUS LEGISLATIVE ACTION

Council approved the project scope and financing award on November 8, 2010.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PTC Concur _____ Recommend Denial _____ No Recommendation
1/5/11 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following accounts in the Debt Service Department portion of the General Fund appropriations budget be increased or (decreased):

10-50-4020-8400	Recovery Zone Principal	\$265
10-50-4020-8401	Recovery Zone Interest	<u>(205)</u>
	Total	\$ 60

Section 2. That account number 10-00-9990-9900, Contingency, of the General Contingency appropriations budget be decreased in the amount of \$60.

Section 3. That the following accounts in the Debt Service Department portion of the Storm Water Fund appropriations budget be increased or (decreased):

34-90-4020-8400	Recovery Zone Principal	\$66,063
34-90-4020-8401	Recovery Zone Interest	<u>(2,725)</u>
	Total	\$63,338

Section 4. That account number 34-90-9990-9900, Contingency, of the Storm Water Fund appropriations budget be decreased in the amount of \$2,225.

Section 5. That account number 34-90-3991-9910, Fund Balance Appropriated portion of the Storm Water Revenue budget be increased in the amount of \$61,113.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. This ordinance shall become effective upon its adoption.

Adopted this the 10^h day of January, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Budget Ordinance Amendment for Interim City Manager/Manager Recruiting
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance Amendment to appropriate funds for the Interim City Managers employment and advertising for City Manager position.

BACKGROUND AND FINDINGS:

The City entered into an Interim City Manager Employment Agreement with Pete Connet on November 22, 2010. City is beginning recruiting process for a City Manager.

PREVIOUS LEGISLATIVE ACTION

Council approved agreement on November 22, 2010

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PTC Concur _____ Recommend Denial _____ No Recommendation
1/5/11 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following accounts in the City Manager Department portion of the General Fund appropriations budget be increased:

10-00-4120-0200	Salaries	\$65,100
10-00-4120-0500	FICA	4,980
10-00-4120-1400	Employee Devl.	10,432
10-00-4120-2600	Employee Advertising	<u>4,000</u>
	Total	\$84,512

Section 2. That account number 10-00-9990-9900, Contingency, of the General Contingency appropriations budget be decreased in the amount of \$84,512.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 10^h day of January, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Purchase Orders > \$20,000 Approval
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council approve the attached purchase orders.

BACKGROUND AND FINDINGS:

Requisition #8468, Capital Ford, \$22,239.30, Ford Crown Vic Police Interceptor to replace vehicle 160, a 2005 Crown Vic. Account 10-10-4310-7402.

Requisition #8489, Asplundh Tree Expert Company, \$102,000, tree clearing crew for the remainder of the year. Account 35-90-8380-4501.

Requisition #8504, Ilderton Dodge, \$27,096, Dodge Durango to replace vehicle 614. \$22,000 was budgeted based on last year's State contract price for a Ford Explorer. Explorer's are no longer available and the Dodge is the most reasonably priced vehicle that is suitable. Account 35-90-7220-7401.

Requisition #8517, Atlantic Power Systems, \$40,000, rebuild Camfil Farr peak shaving generator. Account 35-90-8370-1600.

PREVIOUS LEGISLATIVE ACTION

2010-2011 adopted budgets

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Requisition # 8468, 8489, 8504, 8517
Camfil Farr generator email

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PTC Concur _____ Recommend Denial _____ No Recommendation
1/5/11 Date January 24, 2011
Page 45 of 145

Requisition Form

City Of Washington

P.O BOX 1988

WASHINGTON, NC 27889

Requisition #:8468
PO #: 46198
User Name: Sandy Blizzard

Date: 12/17/2010

Approved By: Beverly Clark

Approved Code: Approved

Total Amount: \$22,239.30

Ship To:
WASHINGTON POLICE DEPARTMENT
201 WEST 3RD STREET
WASHINGTON, NC 27889

CAPITAL FORD, INC.
PO BOX 58678
RALEIGH, NC 27658

Vendor Instructions: WASHINGTON POLICE DEPARTMENT
SANDY BLIZZARD
252-948-9431

DO NOT MAIL - SEND PO TO MAJOR BLIZZARD

Quantity	Description	Job Number	Unit Price	Extended
1	2011 FORD CROWN VICTORIA POLICE INTERCEPTOR - PACKAGE ORDER CODE 720A - (BLACK GRILL & DECKLID) - INTERIOR COLOR - CHARCOAL BLACK - EXTERIOR COLOR - VIBRANT WHITE - KEYED ALIKE CODE # 1284X - \$47.00 #65A - POLICE PREP PACKAGE - \$723.80 #53M - RADIO SUPPRESSION PACKAGE - \$89.30 #61H - DECKLID RELEASE ON DOOR - \$56.40 #127 - VINYL FLOORING - \$0 #175 - HORN SIREN PREP PKG - \$ 37.60 #51A - DRIVER'S SPOT LIGHT - \$178.60 #45C - LIMITED SLIP DIFFERENTIAL - \$117.50 #179 - POLICE POWER PIGTAIL - 23.50 #189 - ROOF WIRING, NO HOLE IN ROOF - \$79.90 #14T - TRUNK PACK W/KEVLAR FR LINER - \$178.60 #IN,IJ,IL - VINYL REAR SEAT - \$61.10		\$22,239.30	\$22,239.30
Sub Total				\$22,239.30
Total Tax				\$0.00
Total				\$22,239.30

Account Number	Account Description	Amount
10-10-4310-7402	INSTALLMENT PURCHASES	\$22,239.30
Total		\$22,239.30

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
12/17/2010	DEPT LEVEL APPROVAL	Mick Reed	46198
12/19/2010	DEPT LEVEL APPROVAL	Mick Reed	46198
12/20/2010	PO Approved	Beverly Clark	46198

Approval List

Dept Level Approval: _____
Department Head: _____
PO Level Approval: _____
Purchase Order Prep: _____

Requisition Form

City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889

Requisition #:8489
PO #: Not Assigned
User Name: Al Leggett

Date: 12/29/2010
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$102,000.00

ASPLUNDH TREE EXPERT COMPANY
TREE TRIMMING DIVISION
ATLANTA, GA 30353

Ship To:
CITY OF WASHINGTON WAREHOUSE (ELF
203 GRIMES ROAD
WASHINGTON, NC 27889

Vendor Instructions: Al Leggett
Electric T&D
975-9315

Quantity	Description	Job Number	Unit Price	Extended
1	Tree crew for the rest of budget year 10/11.		\$102,000.00	\$102,000.00
Sub Total				\$102,000.00
Total Tax				\$0.00
Total				\$102,000.00

Account Number	Account Description	Amount
35-90-8380-4501	CONTRACT SERVICE-TREE TRIMMING	\$102,000.00
Total		\$102,000.00

Approval List

Dept Level Approval: _____
Department Head: _____
PO Level Approval: _____
Purchase Order Prep: _____

Requisition Form

City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889

Requisition #:8504
PO #: Not Assigned
User Name: Mike Whaley

Date: 01/04/2011
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$27,096.00

ILDERTON DODGE
PO BOX 350
HIGH POINT, NC 27260

Ship To:
CITY OF WASHINGTON WAREHOUSE
203 GRIMES ROAD
WASHINGTON, NC 27889

Vendor Instructions: Warehouse for Electrical Director, Mike Whaley, 252-975-9308. Relaces vehicle #614. ATTN: Amy Hill .

Quantity	Description	Job Number	Unit Price	Extended
1	2011 Dodge Durango SUV, 3.6Liter, gasoline, automatic, air, AM/FM radio, power steering and brakes, cruise control and tilt, rear wiper, power door locks, towing package. A) Coor: white. B) interior: blue or gray vinyl. C) freight included. D) Title to: City of Washington, PO Box 1988, Washington, NC 27889.		\$27,096.00	\$27,096.00
Sub Total				\$27,096.00
Total Tax				\$0.00
Total				\$27,096.00

Account Number	Account Description	Amount
35-90-7220-7401	INSTALLMENT PURCHASES	\$27,096.00
Total		\$27,096.00

Approval List

Dept Level Approval: _____
Department Head: _____
PO Level Approval: _____
Purchase Order Prep: _____

Requisition Form

City Of Washington

P.O BOX 1988

WASHINGTON, NC 27889

Requisition #:8517

PO #: Not Assigned

User Name: Beverly Clark

Date: 01/05/2011

Approved By:

Approved Code: Awaiting Final Approval

Total Amount: \$40,000.00

Ship To:

CITY OF WASHINGTON WAREHOUSE (ELI

203 GRIMES ROAD

WASHINGTON, NC 27889

ATLANTIC POWER SYSTEMS OF NC, INC.

3252 SAINT DELIGHT'S CH. RD.

NEW BERN, NC 28560

Vendor Instructions: ELECTRIC DEPT. ED PRUDEN 252-975-9365

Quantity	Description	Job Number	Unit Price	Extended
1	LABOR, MATERIAL, EQUIPMENT, TESTING FOR REPAIR AND REBUILD CAMFIL FARR PEAK SHAVING GENERATOR		\$40,000.00	\$40,000.00
Sub Total				\$40,000.00
Total Tax				\$0.00
Total				\$40,000.00

Account Number	Account Description	Amount
35-90-8370-1600	MAINT/REPAIR EQUIP	\$40,000.00
Total		\$40,000.00

Approval List

Dept Level Approval: _____

Department Head: _____

PO Level Approval: _____

Purchase Order Prep: _____

Matt Rauschenbach

From: Keith Hardt
Sent: Wednesday, January 05, 2011 9:34 AM
To: Ed Pruden; Matt Rauschenbach
Cc: Peter T. Connet
Subject: RE: Camfil Farr Generator

Each month that this unit is not in service costs us an additional \$3,000 in wholesale charges.

Keith

Keith Hardt, P.E.
211 West Washington Electric Utilities
City of Washington, North Carolina
(252) 975-9313
o||||o

From: Ed Pruden
Sent: Wednesday, January 05, 2011 9:08 AM
To: Keith Hardt; Matt Rauschenbach
Subject: Camfil Farr Generator

Keith/Matt,

Per our conversation yesterday, I have completed the REQ. # 8511 (\$40,000.) for the Camfil Farr generator. This is an unexpected non-budgeted expense. Prior to this encumbrance the un-encumbered balance of my generator maintenance budget was \$68,154 leaving a balance of \$28,154 for the remaining 6 months of this budget year. Oil test reports indicated high levels of metal contaminants. Further inspection found worn bearings and other parts within the power drive system of the generator. Without repairs catastrophic failure would result in complete loss of the unit. This generator is used for peak shaving and averages around 200 to 250 kW savings to our wholesale power costs monthly.

Thanks,
Ed

Edmund J. Pruden, III
Washington Electric Utilities
Utilities Support Superintendent
250 Plymouth Street
Washington, NC 27889

Office: 252-975-9365
Fax: 252-975-0249
e-mail: epruden@washingtonnc.gov



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Public Works Director *Allen Lewis*
Date: 12-30-10
Subject: Authorize the Repurchase of Cemetery Lot G-36, Plot 6 in Cedar Hill Cemetery for \$600.00 and Adopt Budget Ordinance Amendment.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the repurchase of Lot g-36, Plot 6 in Cedar Hill Cemetery from Ms. Jamie Ruth Moore in the amount of \$600.00 and adopt the attached budget ordinance amendment to cover the cost.

BACKGROUND AND FINDINGS:

The purpose of this Council Action is to receive authorization to repurchase a plot in Cedar Hill Cemetery. The City has received a written request from Ms. Jamie Ruth Moore for the repurchase of this plot which she purchased in 2006. She states that she no longer has the need for the plot.

Section 8-5(c) of the City Code states, "No cemetery lot may be sold or transferred by its owner to any other party. If the owner finds that he has no use for a lot, the city will buy it back at the same price originally paid for same; provided no interments have been made thereon." Staff has checked our records and has verified that there are currently no interments on this plot.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Attached request from Ms. Jamie Ruth Moore, copy of plot "deed" and budget ordinance amendment.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: January 24, 2011 (if applicable)
 City Manager Review: *ALC* Concur _____ Page 5 of 14 Send Denial _____ No Recommendation _____ Date _____

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the Cemetery Fund be increased in the amount of \$600 in the account Transfer Form General Fund, account number 39-90-3980-1000.

Section 2. That account number 10-00-4400-3900, Transfer to Cemetery Fund be increased in the amount of \$600.

Section 3. That account number 39-90-4740-4901, Repurchase Cemetery Lots, portion of the Cemetery Fund appropriations budget be increased in the amount of \$600 to provide funds for the repurchase of cemetery lot G-36, plot 6.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this the 10th day of January, 2011.

MAYOR

ATTEST:

CITY CLERK

JAMIE SPENCER MOORE

726 W 13th Street
Washington, NC 27889
(252) 948-0015

December 16, 2010

To Whom It May Concern

I, Jamie Spencer Moore, being of sound mind and body, wish to return my burial plot back to the city of Washington. I no longer have a need for the plot and have agreed to exchange the plot for the sum of \$600.

Sincerely,

Jamie Ruth Moore

This Certifies that the CITY OF WASHINGTON,
NORTH CAROLINA, for and in consideration of:

2668

FEE.....\$ 1200.00

has sold and conveyed to Mrs. Jamie Moore
Louis Randolph FH 219 N. Bonner St. Washington NC 27889

the right of interment for LOT(S) G-36 in Cedar Hill
PLOT(S) 5 & 6

Cemetery according to the plan or map of said cemetery.

PROVIDED that this conveyance shall be subject
to all the rules and regulations now existing or
hereafter adopted by the said City with reference
to said Cemetery.

IN WITNESS WHEREOF, The Mayor and City
Clerk of said City have set their hands and affixed
the corporate seal of said City hereto this the

15th day of August, 2006

City Clerk

[Signature]

Mayor

[Signature]



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning & Development
Date: January 4, 2011
Subject: Public hearing: Consider the adoption of the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan Update
Applicant Presentation: None
Staff Presentation: John Rodman, Planning and Development

RECOMMENDATION:

I move that the City Council accept the recommendation of the Hazard Mitigation Advisory Committee and approve the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan Update.

BACKGROUND AND FINDINGS:

Beaufort County has received a preliminary letter of approval from the Federal Emergency Management Agency (FEMA) stating that all jurisdictions should proceed with the adoption of the draft plan. A public hearing is required to adopt the plan.

PREVIOUS LEGISLATIVE ACTION

City Council Meeting – 12/13/10 – continued item
Beaufort County Hazard Mitigation Advisory Committee began meeting in October 2009.
Final Public Informational meeting June 2010

FISCAL IMPACT

Currently Budgeted (Account _____) requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Committee Members
Resolution

City Attorney Review:	_____	Date By:	_____	(if applicable)
Finance Dept Review:	_____	Date By:	_____	(if applicable)
City Manager Review:	<u>prc</u> Concur _____	Recommend Denial	_____	No Recommendation
	<u>1/5/11</u>	Date	_____	

CITY OF WASHINGTON

**RESOLUTION ADOPTING THE
BEAUFORT COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN UPDATE**

WHEREAS, the citizens and property within Beaufort County are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damages to property, and with the knowledge and experience that certain areas, i.e., flood hazard areas, are particularly susceptible to flood hazard events; and

WHEREAS, the county desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section 1 Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214 – Senate Bill 300 effective July 1, 2001), states in Item (a) (2) “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act that is updated every five years”; and

WHEREAS, it is the intent of the Board of Commissioners of Beaufort County to fulfill this obligation in order that the county will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the county; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan and update it every five years in order to receive future Hazard Mitigation Grant Program Funds; and

WHEREAS, the City of Washington actively participated in the planning process of the multi-jurisdictional Beaufort County plan and has fulfilled all their part of the multi-jurisdictional planning elements required by FEMA;

NOW, THEREFORE, be it resolved that the City Council of the City of Washington hereby:

1. Adopts the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan; and
2. Separately adopts the sections of the plan that are specific to the City of Washington; and

3. Vests the City Manager with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
4. Appoints the City Manager to assure that, in cooperation with Beaufort County, the Hazard Mitigation Plan is reviewed annually and in greater detail at least once every five years.
5. Agrees to take such other official action as may be reasonably necessary to carry out the strategies outlined within the 2010 Beaufort County Multi-Jurisdictional Hazard Mitigation Plan.

Adopted this __10th__ day of __January____, 2011.

Mayor, N. Archie Jennings

ATTEST:

City Clerk, Cynthia S. Bennett

Tim Prichard

To: alewis@washingtonnc.gov
Subject: FW: North Academy St
Attachments: Academy St. - room for one way traffic 082.jpg; Academy St First Christain Parking lot 081.jpg; First Christian Church in middle of Academy 083.jpg; First Christian only no parking area on 2nd St 084.jpg

Hi Allen – Thank you for taking the time to speak with me regarding our issues on Academy Street last month. Please see attached additional pictures taken yesterday and a couple of weeks ago. The street continues to be the most congested street in the residential area of the Historical District largely due to First Christian's lack of use of their own property across from church between 2nd and Third Streets. For some reason, North Academy parking is different than Bonner St. (St. Peter's Episcopal) and Harvey St. (First Baptist) and this can be seen from Second Street. Why are the yellow line/no parking distances different? Why is parking allowed so much closer to the corner of Second on North Academy? We believe parking should be opened up in front of First Christian church on 2nd Street – especially for the handicapped since their 2nd Street entrance is their only street level entrance and requires no stairway. Less parking should be allowed on the residential Street of North Academy – a street with only three street addresses. Further, First Christian Church has a driveway and parking on the 2nd Street that is perfect for the storage of their garbage cans instead of leaving them out on Academy Street in full view 24/7/365 days a year.

Over time, the Pre-School at First Christian has obviously grown at the same time city codes have evolved. We know of no other school where parents, teachers and students don't have a short walk from their cars to the school entrance and wonder if operating a school with such a large enrollment out of a basement location is within code. From a street view, it appears that there are too many children, teachers, and staff for such a small location.

Additionally, it seems in the best interest of all that parking be limited to the marked spaces on the east side of North Academy, the west side directly across from the church, on 2nd Street in front of the church and on their property across 2nd & 3rd Streets. This is more parking than a combination of any two other churches in the Historical District. Otherwise, we may need city police to direct traffic at 9am and 12pm M-Thursday and at other times when the street becomes a parking lot. Even with the current conditions, there are parking violations every Sunday an most any day that should be enforced.

We only have three houses on the southwest end of Academy Street and we all have driveways. We do not need street parking on the west side of North Academy from the corner of Main and North Academy to 120 North Academy. Our neighbors on the corner of 2nd and N. Academy need two street parking spaces.

Can you please reply back with the day and time this situation will be discussed. My wife & I would like to attend, if possible.

Thank you again Allen for lending an ear to our problem.

Tim Prichard

WITN NBC TV

Direct Representation by Station Decision Makers

WITN & witn.com Greenville/New Bern/Washington, NC



BEST WEB SITE IN NORTH CAROLINA
Television Division 2 • 2008 and 2009

252-946-3131 main
252-974-7435 direct
252-946-0279 Fax

Tim & Teresa Prichard

120 North Academy St.

Allen Lewis

Public Works Director

City of Washington, NC

Re: Parking & Traffic on North Academy Street

Good afternoon Allen:

You may not recall our previous conversation since a number of months have passed, but at that time you gave me your card and asked that I put our North Academy Street parking and traffic concerns in writing. We have tried to keep communication lines open with the First Christian Church located on 2nd Street in Washington, but ultimately, their response was to "take it up with the city". This is why we've taken the time to provide you with information, photographs and ask for your help.

Like us, not everyone has the fortune of being born in Washington, NC. We are a family that chose to move here because we thought it would be a great place to live and raise our two children – now 2.5 years and nine months old. Since purchasing a home in the Residential Historic District on North Academy Street in Washington, NC, we have been unable to live in peace. We have not found that city zoning ordinances as they have been applied have promoted the health, safety or the general welfare of our family. If the goal of the city remains "to promote desirable living conditions and the sustained stability of neighborhoods" then we feel our cause matches the desire of the City of Washington.

Further, we believe our safety is at risk and our property value is being compromised. That being said, we are not seeking legal counsel, but are supplying our family attorney copies of all correspondence to hold should a fire or other such emergency arise and one or more of our family members are harmed. We have had to call the police several times over the past few months because cars who's owners were attending functions at First Christian Church either blocked or were parked too close to our driveway. Our goal is to work something out with the city where we can have some peace, privacy and live safely.

When both sides of North Academy is filled with parked cars, Fire and Rescue as well as the normal flow of traffic have trouble making the turns onto and then driving on the street. The street has basically become one lane most hours of the day. We have witnessed several near accidents as vehicles try and turn onto North Academy while facing oncoming traffic and two lanes of parked cars. Drivers have had to actually back up and find a driveway to pull into to allow traffic to continue. Currently, vehicles are allowed to park too close driveways, street corners and stop signs and this has created a hazard. We also believe NC law is being violated in several areas parking is currently allowed. Further, if our 90 year old wood home should catch fire, every second would become extremely important. We live in fear because we know that our home, our safety and the lives of our two children will be compromised if

such an event occurs. Fire and rescue would have difficulty maneuvering on the street as it is currently used.

Specifically, we feel Article 1 of the General Provisions Section 27-2 Purposes a, b, e, f, g and h are not being met and that those attending functions held at First Christian Church on 2nd Street in Washington are the main reason these purposes are unfulfilled for our family. First Christian Church (FCC) should be encouraged to develop their "parking lot" between 2nd and 3rd streets as the city code directs in our zoning ordinances including proper lighting (they have one light), surfaces, standards and criteria in order to provide their members safe and adequate parking.

It is our opinion that FCC has been allowed over the years to put their interests ahead of taxpaying residents by treating a public street as their personal parking lot and trash storage area. They keep four city of Washington trash containers out in full view on North Academy Street 24 hours a day, seven days a week instead of behind the church or out of sight on the east side of their building. They have a 2nd Street address, but are allowed to keep trash on North Academy. Their trash should be picked up on 2nd Street – not stored in full view on North Academy and it should be hidden by landscaping or other such means.

FCC owns a 3-4 acre lot between 2nd Street and 3rd Street that could more than accommodate their needs for church, pre-school and community organization meeting parking. However, they choose fill up both sides of Academy Street before parking on their property. They start before 7:30am on Sunday and it continues through Friday night most weeks. They have no "peak hours". This goes on 6-7 days a week. We used get a slight break some Friday nights or Saturdays when there were no weddings, dinners, funerals or meetings, but a Bed & Breakfast opened recently at the corner of Academy and East Main – The Pamlico House and it keeps the street busy with overnight guests, parties, rehearsal dinners, weddings etc. most weekends. The street resembles a Central Business Historic District more than a RDH at this point in time. **We feel that someone needs to draw the city's attention to how this street has evolved over time. With only three homes with a North Academy address, it should be a much more peaceful part of the city.**

FCC has more parking than any church in the historical district, yet they have been allowed to fill both sides of North Academy Street. They have paved parking on the east side of the church in front of their pre-school playground, street parking on 2nd Street and acres of land directly across 2nd street. For some reason, FCC has been allowed a yellow curb, no parking area on 2nd Street in front of the church that could allow for 3-4 street parking spaces. There is public parking on the south side (FCC side) of 2nd both before and after church property. We feel the spaces in front of the church should be open to parking just like the rest of that area of 2nd Street. As an example, parking is allowed all around the First Baptist Church, only a block away. So, it seems FCC does not desire to see vehicles in front of their church, but have no problem parking in front of our homes.

The entire east side (FCC & Pamlico House side) of North Academy Street has designated, painted parking spaces including four handicap (more *street* handicap spaces than any other church in the historic district and more than the county courthouse) spaces. They park on both sides of Academy and

in our case, vehicles are allowed to park less than fifteen feet from our front porch. We are asking that parking on North Academy Street be limited to the east side of the street only to restore some peace and tranquility to a street that only has three homes with a North Academy Street address. As it stands now, we reside in the middle of a congested parking lot.

North Academy Street is currently one of the most congested streets in the historic district. Traffic and parking from the First Christian Church starts around 7:30am on Sundays and continues all week due to their Pre-School and various nightly meetings. As previously stated, the street now accommodates parking for a Bed & Breakfast located on East Main Street. It is also used as a cut though for speeding drivers crossing back and forth between 2nd Street and East Main Street. This is causing a safety concern as well. **We would also like you to consider making North Academy Street a one way street flowing north from East Main to 2nd Street. This would be similar to Bonner Street where one-way traffic is in the area of the Episcopal Church.**

Included in this correspondence you will find pictures for your review. They show more than enough parking available to FCC on their own land between 2nd and 3rd Streets, the congestion on North Academy Street and one side parking on Bonner. In addition you may notice how the open lot next to our home is being used. Vehicles are parking as close the sidewalk as possible. Many times cars are parked in this lot and their owners walk across the street to attend a function at First Christian. We feel this violates the spirit of the ordinance that states "parking in front yards is not permitted". (Guidelines 4.3.3) As you can see, these vehicles are clearly in front of neighboring homes.

We are asking for your help and for you to consider the following possible resolutions:

- **Converting North Academy Street in a similar fashion as Bonner Street - a one way street flowing north from East Main to 2nd**
- **Making North Academy Street parking available on only one side of the street – the east side along FCC or at least one side from 120 N. Academy to East Main Street. This would allow for parking on both sides of the street directly across from the FCC.**
- **Requiring First Christian Church to develop its off street parking in order to relieve the congestion they have placed on North Academy.**
- **Requiring FCC to move city of Washington trash containers stored on North Academy to an out of sight location for weekly pick up from 2nd Street.**
- **Placing "slow children at play" or speed limit signs on North Academy Street**
- **Painting yellow curb, no parking areas twenty – thirty feet from corners and stop signs to avoid head on collisions**
- **Painting yellow curb, no parking areas at least five feet from each North Academy driveway**
- **Limit parking to at least 15 feet from the sidewalk in the empty lot along the west side of North Academy Street (see pictures of cars parked parallel to and in front of homes)**

Thank you for your time and consideration, Allen.

Sincerely,



Tim and Teresa Prichard

946 9942 - H
974 7435 - W

cc Brian S. Demidovich P.A.

3200 Beechleaf Court Suite 100

Raleigh, North Carolina 27604

North Carolina Laws 20-162 – Parking

- (a) No person shall park a vehicle ... in front of a private driveway or ... nor within 25 feet from the intersection of curb lines

Parking or standing is not allowed:

- In front of a driveway.
- Within 20 feet (6 m) of a crosswalk at an intersection.
- Within 30 feet (10 m) of a traffic light, STOP sign or YIELD signs.
- Within 20 feet (6 m) of a fire station driveway, or within 75 feet (23 m) on the opposite side of the road.
- Along a curb that has been cut down, lowered or constructed for access to the sidewalk.



CITY OF WASHINGTON

Department of Fire-Rescue-EMS

Dedicated to Serve Trained to save

MEMORANDUM

TO: Mayor Jennings and City Council Members
Pete Connet, Interim City Manager

FROM: Robbie Rose, Fire Chief 

SUBJECT: FYI - Grant Application

DATE: January 10, 2011

This memo is to inform you of our intentions to apply for the FEMA - Fire Prevention and Safety Grant to purchase automatic extinguishing devices that attach under residential cooking hoods to assist in reducing the occurrence of cooking fires. Our intentions are to apply for funding in the amount of \$30,000.00 to purchase at least 1000 of these devices; and hopefully more with competitive pricing. Federal funding, if granted, would be 95% (\$28,500), with our 5% match of \$1,500. Our matching amount could be absorbed out of current or upcoming budget depending on award time line if application is successful.

This is a highly competitive grant with an application period from January 4, 2011 to February 4, 2011 and we welcome any comments concerning proceeding with this application.

Washington Electric Utilities

A City of Washington Enterprise



Post Office Box 1988 • Washington, North Carolina 27889-1988

Office of the Director

MEMORANDUM

To: Pete Connet, Interim City Manager
From: Keith Hardt, P.E., Electric Utilities Director
Ref: Load Management Device Report
Date: 4 January 2011

Listed herein is the load management switch installation activity for December 2010.

Total Load Management Switch Installations	103
<hr/>	
Air Conditioner/Heat Pump Control Installations	89
Auxiliary Heat Strip Control Installations	57
Water Heater Control Installations	49
Total Appliance Control Installations for period	195





City of Washington

P. O. Box 1988, Washington, NC 27889-1988

MEMORANDUM

TO: Washington City Council
FROM: Gloria J. Moore, Library Director
DATE: January 4, 2011
RE: Applying for an LSTA Technology Grant

I would like to apply for an LSTA Technology grant for a computer mobile lab. The grant would add 10 laptop computers that would be used to teach patrons how to fill out resumes, how to fill out job applications, how to use the internet, and email protocol. In addition, it would include adding an access point in the multi-purpose room where the classes would be taught by volunteers.

The grant would be approximately \$25,000 with a 20% match that would be included in this year's fiscal budget.

January 24, 2011



G. Mitchell Reed
Chief of Police

Washington City Police

201 W. 3rd Street, Washington, NC 27889
Telephone: (252) 946-1444 Fax: (252) 948-9448
www.washingtonnc.gov



Sandy Blizzard
Deputy Chief of Police

January 5, 2011

MEMO POLICE FACILITY

Chief Reed would like to update Council on the outcome of the community meeting regarding the construction of the new police facility held January 6, 2011, at 7pm at Beaufort County Agricultural Center.

The agenda topics included:

1. Project overview: WPD Philosophy, facility need, site selection and funding (Chief Reed)
2. Design process (Kevin Ratigan, ADG)
3. Question and Answer (all)

Additionally, we seek the council's guidance regarding both a variance and special use permit from the Board of Adjustment.



City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Debt Setoff Results

The City of Washington participates in a debt setoff program administered by the NC League of Municipalities. The program applies delinquent debts to State tax refunds and education lottery winnings. As of December 2010 our results are as follows:

Total Debt Submitted \$668,046

Amount Collected:

2007	26,817
2008	42,247
2009	42,778
2010	<u>42,837</u>
Total	154,679

These results are due to the diligent efforts of Sharon Probert, our Revenue Collections Assistant and the Revenue Collections Department.



City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Audit Report Correction

Councilman Mercer's questioned the schedule of revenue and expenditures of the Sewer Fund in our annual audit report during the December Council meeting. There was formula error in the revenues over (under) expenditures total. The corrected number is \$401,601 and can be found on the attached.

CITY OF WASHINGTON, NORTH CAROLINA

ENTERPRISE FUND - SEWER FUND
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET AND ACTUAL (NON-GAAP)
FOR THE YEAR ENDED JUNE 30, 2010
WITH COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED JUNE 30, 2009

	2010			2009
	Budget	Actual	Variance Positive (Negative)	Actual
Operating Revenues:				
Sewer sales	\$ 2,900,000	\$ 2,937,486	\$ 37,486	\$ 2,910,493
Other Operating Revenues:				
Sewer taps	11,600	6,939	(4,661)	9,765
Total operating revenues	2,911,600	2,944,425	32,825	2,920,258
Non-Operating Revenues:				
Rural Center grant	-	40,000	40,000	-
Recovery of doubtful accounts	450	1,417	967	636
Late penalty charges	15,000	22,533	7,533	14,403
Interest earnings	15,000	8,214	(6,786)	30,930
Sewer assessments	30,111	9,090	(21,021)	6,233
FEMA assistance	-	-	-	4,834
Miscellaneous	-	1,250	1,250	1,340
Total non-operating revenues	60,561	82,504	21,943	58,376
Total revenues	2,972,161	3,026,929	54,768	2,978,634
Operating Expenditures:				
Sewer Administration:				
Public Works Director:				
Salaries and employee benefits	78,793	78,005	788	76,412
Supplies	300	294	6	22
Employee development	75	-	75	-
Dues and subscriptions	-	-	-	295
Telephone	600	564	36	486
Total Public Works Director	79,768	78,863	905	77,215
Miscellaneous - Non-Departmental:				
Workers' compensation	16,687	16,331	356	26,809
Printing and publishing	4,120	3,246	874	3,481
Insurance and bonds	76,446	67,273	9,173	69,250
Utility service fee - General Fund	283,376	283,376	-	286,177
Maintenance	480	397	83	397
Inventory reimbursement	100	-	100	55
Other expenses	4,000	-	4,000	308
Utility service fee - Electric Fund	49,675	49,675	-	40,494
Total miscellaneous - non-departmental	434,884	420,298	14,586	426,971
Total sewer administration	514,652	499,161	15,491	504,186
Waste Collection and Treatment:				
Wastewater Treatment:				
Salaries and employee benefits	443,610	421,597	22,013	414,672
Employee advertising	100	-	100	73
Employee development	3,031	3,027	4	1,039
Telephone	600	416	184	475
Printing and publishing	1,000	185	815	90

CITY OF WASHINGTON, NORTH CAROLINA

ENTERPRISE FUND - SEWER FUND
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET AND ACTUAL (NON-GAAP)
FOR THE YEAR ENDED JUNE 30, 2010
WITH COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED JUNE 30, 2009

	2010		Variance Positive (Negative)	2009
	Budget	Actual		Actual
Water and electric service	296,600	295,837	763	273,544
Maintenance	81,965	53,051	28,914	95,034
Supplies	89,411	68,500	20,911	68,767
Dues	5,730	4,800	930	4,345
Professional services	36,984	27,745	9,239	58,667
Contract services	100,412	98,758	1,654	96,502
Licenses and permits	6,960	6,910	50	7,060
OSHA safety mandates	1,820	1,636	184	633
Total wastewater treatment	<u>1,068,223</u>	<u>982,462</u>	<u>85,761</u>	<u>1,020,901</u>
Wastewater Collection Maintenance:				
Salaries and employee benefits	123,960	123,259	701	119,265
OSHA safety mandates	500	231	269	118
Employee development	750	238	512	118
Telephone	3,000	2,689	311	2,621
Printing and publishing	26	-	26	115
Maintenance	13,721	12,700	1,021	12,552
Supplies	2,500	1,490	1,010	2,088
Materials	13,000	12,321	679	10,930
Contract services	114,260	34,669	79,591	32,233
Insurance	625	612	13	1,516
Professional services	203	203	-	144
Total wastewater collection maintenance	<u>272,545</u>	<u>188,412</u>	<u>84,133</u>	<u>181,700</u>
Sewer Pumping Station:				
Salaries and employee benefits	54,802	54,693	109	52,995
Water and electrical service	111,500	111,486	14	100,399
Maintenance	64,737	61,645	3,092	45,495
Supplies	2,130	1,905	225	1,299
Chemicals	-	-	-	23
Professional services	10,000	306	9,694	32,969
Total sewer pumping station	<u>243,169</u>	<u>230,035</u>	<u>13,134</u>	<u>233,180</u>
Total waste collection and treatment	<u>1,583,937</u>	<u>1,400,909</u>	<u>183,028</u>	<u>1,435,781</u>
Debt Service:				
General Obligation Bonds:				
Principal retirement	452,744	452,743	1	558,681
Interest	79,871	78,138	1,733	103,638
Installment Notes:				
Principal retirement	91,825	91,939	(114)	74,106
Interest	6,465	6,225	240	6,371
State Loan:				
Principal retirement	131,806	131,805	1	131,805
Interest	51,035	48,420	2,615	57,275
Total debt service	<u>813,746</u>	<u>809,270</u>	<u>4,476</u>	<u>931,876</u>
Capital outlay	<u>314,330</u>	<u>171,032</u>	<u>143,298</u>	<u>427,408</u>
Total operating expenditures	<u>3,226,665</u>	<u>2,880,372</u>	<u>346,293</u>	<u>3,299,251</u>
Revenues over (under) expenditures	<u>(254,504)</u>	<u>146,557</u>	<u>(291,525)</u>	<u>(320,617)</u>

401,061

CITY OF WASHINGTON, NORTH CAROLINA

ENTERPRISE FUND - SEWER FUND
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET AND ACTUAL (NON-GAAP)
FOR THE YEAR ENDED JUNE 30, 2010
WITH COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED JUNE 30, 2009

	2010			2009
	Budget	Actual	Variance Positive (Negative)	Actual
Total operating expenditures	<u>3,226,665</u>	<u>2,880,372</u>	<u>346,293</u>	<u>3,299,251</u>
Revenues over (under) expenditures	<u>(254,504)</u>	<u>146,557</u>	<u>(291,125) 401,061</u>	<u>(320,617)</u>
Other Financing Sources (Uses):				
Long-term debt issued	-	-	-	157,500
Appropriated fund balance	214,504	-	(214,504)	-
Transfers from:				
Sewer Capital Reserve Fund	80,000	80,000	-	-
Transfer to:				
Sewer Capital Project Fund	<u>(40,000)</u>	<u>(40,000)</u>	<u>-</u>	<u>-</u>
Total other financing sources (uses)	<u>254,504</u>	<u>40,000</u>	<u>(214,504)</u>	<u>157,500</u>
Revenues and other financing sources over (under) expenditures and other financing uses	<u>\$ -</u>	<u>\$ 186,557</u>	<u>\$ 186,557</u>	<u>\$ (163,117)</u>
Reconciliation from Budgetary Basis (Modified Accrual) to Full Accrual Basis:				
Revenues and other financing sources over (under) expenditures and other financing uses		\$ 186,557		\$ (163,117)
Capital outlay		171,032		427,408
Principal retirement		676,487		764,592
Installment note proceeds		-		(157,500)
Increase in accrued vacation and sick pay		16,652		(8,284)
Change in OPEB liability		(20,869)		(20,195)
Depreciation		(633,363)		(606,294)
Bad debt (provision) recovery		(13,042)		(420)
Inventory adjustment		5		186
Loss on disposal of capital assets		(9,302)		-
Capital contributions, grant revenue from				
Pennsylvania Avenue Sewer Extension Project		405,639		-
Transfer to Sewer Capital Project Fund		40,000		-
Capital contributions		<u>139,135</u>		<u>142,789</u>
Change in net assets		<u>\$ 958,931</u>		<u>\$ 379,165</u>

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

WASHINGTON HOUSING NONPROFIT INC.

By: _____ (SEAL)

Printed Name

Title

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that _____ personally appeared before me this day, and being duly sworn by me, acknowledged that he/she is _____ of **Washington Housing Nonprofit Inc.**, and that by authority duly given and as the act of Washington Housing Nonprofit Inc. the foregoing instrument was signed by him.

Witness my hand and notary seal this _____ day of _____ 20____

Notary Public

My Commission expires: _____



City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Impressions Lease Update

Impressions has leased from the City since 2006 and from Hamilton Beach for a period prior. The rent was \$.50/square foot through August 2009 and is currently \$1 or \$392,736 annually. The facility was in dire need of significant repair prior to Hamilton Beach's exit and to date minimal maintenance has been performed, none at the City's expense. The rent and any other revenue generated from this facility contribute to the General Fund with little offsetting expense.

The major focus of the lease negotiations has been to address the maintenance of the facility. City Staff and Counsel have met with Impressions on numerous occasions and are close to an agreement of which a draft is attached. A general contractor evaluated the building condition, identified the areas in most need of immediate repair, and provided cost estimates outlined below. Work will be bid out per NC General Statute requirements and costs finalized. The City will fund the improvements and recoup through an increase in rent of \$.45/ square foot over a five year period.

Building Improvement Summary:

\$457,430	Roof replacement/repair
108,861	Fire protection system
36,646	General Contractor
66,629	Contingency
<u>100,000</u>	Other repairs
\$769,566	Total

Staff will be meeting with Impressions January 14th with the intent of concluding the basis of the lease agreement and input from Council is appreciated.

**NORTH CAROLINA
BEAUFORT COUNTY**

THIS LEASE made and entered into as of the ~~1st~~ 1st day of ~~July~~ April, ~~2010~~2011, by and between the **CITY OF WASHINGTON**, a municipal corporation organized under the laws of the State of North Carolina with an office located at 102 East Second Street, Washington, North Carolina, (hereinafter referred to as “Landlord”) and **IMPRESSIONS MARKETING GROUP, INC.**, a Virginia corporation, with offices located at 7951 Angleton Court, Lorton, Virginia (hereinafter referred to as “Tenant”).

WITNESSETH:

WHEREAS, Landlord is the owner of the real property and the improvements thereon and appurtenant thereto, including, without limitation all buildings and parking lots located at 234 Springs Road, Washington, North Carolina and as shown on that survey recorded in the Beaufort County Register of Deeds in Plat Cabinet H, Slide 52-9.

WHEREAS, Hamilton Beach Brands, Inc. f/k/a Hamilton Beach/Proctor-Silex, Inc. (hereinafter referred to as “HBBI”) formerly leased said property and improvements from the City until August 31, 2006.

WHEREAS, in or about 1992, HBBI discovered that portions of the property were contaminated, the nature of, extent of, and responsibility for such contamination is recognized, understood, and acknowledged by the parties hereto as the same is defined, described and established by the administrative record, including various reports and other documentation currently on file with the North Carolina Department of Environment and Natural Resources.

WHEREAS, Tenant has leased the property and the improvements thereon or portions thereof from Landlord under a series of letter agreements since September 1, 2006, which letter agreements incorporated the terms and provisions of the City’s former lease with HBBI.

WHEREAS, it was contemplated by the parties hereto that the Beaufort County Committee of 100 would purchase a portion of said property as well as the improvements located thereon, assist Tenant in obtaining certain financing necessary to renovate the improvements located thereon, and enter a long-term lease with Tenant.

WHEREAS, for various reasons, the contemplations of the parties have not come to fruition.

WHEREAS, the parties hereto agree that this Lease shall be subject to that Grant of Easement and Indemnity Agreement (hereinafter referred to as "HBBI Access Agreement") by and between HBBI and the Landlord, effective October 2, 2008 and recorded in Deed Book 1661, Page 951, Beaufort County Registry.

WHEREAS, Tenant desires to lease from Landlord those portions of said property and the improvements that are identified and defined hereinafter as the "Leased Premises" and Landlord desires to lease the Leased Premises to Tenant, on the terms and conditions set forth herein.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Landlord does hereby lease and let unto Tenant and Tenant hereby takes and accepts, together with all privileges and appurtenances thereto, the Leased Premises. In consideration of the mutual promises and covenants hereinafter contained, the benefits to Landlord and Tenant, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. **COMMENCEMENT DATE.** This Lease shall commence on the "Commencement Date" which is the date the Lease was made and entered into, effective as of ~~July 1, 2010~~ April 1, 2011.

1A. **LEASED PREMISES.** Subject to the terms and conditions contained herein, Landlord leases to Tenant and Tenant leases from Landlord that certain tract or parcel of land, including the facility as well as other improvements or fixtures located thereon ("Leased Premises") lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING all of Tract 3 as shown on that survey for the City of Washington by Mayo and Associates, P.A. dated April 29, 2008 and recorded in Plat Cabinet H, Slide 52-9, Beaufort County Registry, to which reference is herein made for a more complete and ~~adequate~~accurate description, a copy of which survey is attached hereto as Exhibit B and the same is incorporated herein by reference.

- a. The parties hereto acknowledge, understand, and shall be bound by the following. Landlord shall retain Tract 1, Tract 2, Tract 4 and an easement over a portion of Tract 3, all as more specifically shown on said survey. Landlord intends to convey to the North Carolina Department of Transportation (“NC DOT”) so much of Tract 1 retained by Landlord as may be necessary to provide sufficient right of way within which NC DOT may construct a road running from State Road 1509 (Cowhead Springs Road) and connecting to a road to be constructed and/or improved by NC DOT that extends the existing State Road 1536 (Linnie Perry Road) and runs along the southern boundary of the Leased Premises. As additional consideration for the Lease contemplated herein, Tenant shall hereafter release to NC DOT without consideration so much of the Leased Premises as may be necessary to provide sufficient right of way within which NC DOT may construct said roads. If Landlord conveys Tract 1 or a portion thereof to NC DOT, Tenant shall accept, as part of the Leased Premises, any portion of Tract 1 that is not conveyed to NC DOT. With the possible exception of a portion of the easternmost parking area and a section of the southernmost fence, it is understood by the parties hereto that said roads will in no way interfere with or impact those improvements currently located on the Leased Premises or Tenant’s intended use of the property. Landlord shall allow Tenant to utilize said portion of the easternmost parking area until such time as the same is needed by Landlord; at which time, said portion of the easternmost parking area may be removed by Landlord or NC DOT, as the case may be, such area as may be removed

shall be released from this Lease, and the parties shall execute any document that may be required to effectuate all of the foregoing.

2. TERM. The agreements between the parties set forth herein, including but not limited to all obligations to provide insurance coverage, shall be effective from and after the date hereof. The initial rental term of this Lease shall commence on the Commencement Date at 12:01 a.m. and shall terminate at midnight on the fifth (5th) anniversary of the Commencement Date (the “Initial Term”).

Provided that Tenant is not then in default beyond any applicable cure period, Tenant shall have the right to extend the term of this Lease for an additional two (2) year term (the “First Extended Term”), such First Extended Term to commence at the expiration of the Initial Term and terminate at midnight on the seventh (7th) anniversary of the Commencement Date. Tenant may exercise Tenant’s right to extend the term of this Lease for such First Extended Term by giving Landlord written notice of Tenant’s intention to extend this Lease for the First Extended Term on or before the date that is the later of (i) one hundred eighty (180) days prior to the expiration of the Initial Term of this Lease and (ii) the date that is thirty (30) days following the date that Tenant receives written notice from Landlord that Tenant has failed to exercise its option to extend the term of this Lease for the First Extended Term (which notice Landlord shall not be entitled to give to Tenant earlier than the date which is two hundred ten (210) days prior to the expiration of the Initial Term of this Lease).

Provided that Tenant is not then in default beyond any applicable cure period and subject to the parties reaching an entering a written agreement regarding that establishes the annual rental amount at least forty-five (45) days prior to the expiration of the First Extended Term, Tenant shall have the right to extend the term of this Lease for an additional two (2) year term (the “Second Extended Term”), such Second Extended Term to commence at the expiration of the First Extended Term and to terminate at midnight on the ninth (9th) anniversary of the Commencement Date. Tenant may exercise Tenant’s right to extend the term of this Lease for such Second Extended Term by giving Landlord

written notice of Tenant's intention to extend this Lease for the Second Extended Term on or before the date that is the later of (i) ninety (90) days prior to the expiration of the First Extended Term of this Lease and (ii) the date that it is thirty (30) days following the date that Tenant receives written notice from Landlord that Tenant has failed to exercise its option to extend the term of this Lease for the Second Extended Term (which notice Landlord shall not be entitled to give to Tenant earlier than the date which is one hundred twenty (120) days prior to the expiration of the First Extended Term of this Lease).

3. USE. Landlord agrees that Tenant, during the term of this Lease, shall have control and use of the Leased Premises for the operation of a light manufacturing facility and for all other ancillary uses customarily associated with the operation of a light manufacturing facility, or for any other lawful use, subject to all applicable governmental laws, ordinances, regulations, reservations contained herein, private restrictions of record in the chain of title, and any Brownfields Agreement ~~to which Landlord is or may become a party~~ that may hereafter pertain to the property Leased Premises.
4. RENT. Tenant agrees to pay to Landlord during the term of this Lease, rent as set forth below.
 - a. The annual rental amount for the Initial Term, shall be THREE HUNDRED NINETY-TWO THOUSAND SEVEN HUNDRED THIRTY-SIX AND 00/100s DOLLARS (\$392,736.00) and shall be due and payable monthly, in advance, in equal monthly installments of THIRTY-TWO THOUSAND SEVEN HUNDRED TWENTY-EIGHT and 00/100s DOLLARS (\$32,728.00) per month beginning on the Commencement Date, and thereafter on the first day of each subsequent month for sixty (60) months except that any rent which may have accrued prior to ~~July 1, 2010~~ April 1, 2011 shall be paid on ~~July 1, 2010~~ April 1, 2011.
 - b. In the event Tenant exercises Tenant's right to extend the term of this Lease for the First Extended Term, the annual rental amount due

hereunder for said First Extended Term shall continue to be the same as the Initial Term, THREE HUNDRED NINETY-TWO THOUSAND SEVEN HUNDRED THIRTY-SIX and 00/100s DOLLARS (\$392,736.00) and shall be due and payable monthly, in advance, in equal monthly installments of THIRTY-TWO THOUSAND SEVEN HUNDRED TWENTY-EIGHT and 00/100s DOLLARS (\$32,728.00) per month beginning on ~~July 1, 2015~~ April 1, 2016 and thereafter on the first day of each subsequent month of the ~~first~~ First extended ~~Extended term~~ Term.

In the event Tenant exercises Tenant's right to extend the term of this Lease for the Second Extended Term and subject to the parties reaching an entering a written agreement regarding that establishes the annual rental amount at least forty-five (45) days prior to the expiration of the First Extended Term, the annual rental amount due hereunder for said Second Extended Term shall be the amount reestablished by the parties to reflect any average adjustment increase in the Consumer Price Index (CPI All Urban Consumers, South - Size Class D, All Items) over the previous four (4) years, but capped at a maximum of four percent (4%). Said reestablished amount shall be due and payable monthly, in advance, in equal monthly installments beginning on ~~July 1, 2017~~ April 1, 2018 and thereafter on the first day of each subsequent month for the remainder of the Second Extended Term.

- c. The rent referenced above in Subsections 4(a) and 4(b) represents the minimum amount of rent to be paid under this Lease. All monetary obligations due by Tenant to Landlord, including, without limitation, Supplemental Rent (as that term is defined in Exhibit A, which eExhibit A is incorporated herein by reference as if fully set forth), late charges, payments due for taxes, insurance or other payments not specifically designated as rent, shall nevertheless constitute rent due hereunder (hereinafter sometimes called "additional rent"), and Tenant's failure to make such payments for additional rent when due shall entitle Landlord to

pursue the remedies available to Landlord pursuant to the provisions of Section 12 hereof.

Without otherwise limiting Landlord's rights and remedies hereunder, Tenant shall pay to Landlord a late payment fee equal to five percent (5%) of any payment due if the payment due is not received by Landlord within ten (10) days after the date it is due. Should Landlord at any time either extend the time of payment or accept partial payment of any payment due hereunder, neither of such actions shall prejudice Landlord's right to subsequently insist upon Tenant's strict compliance with the requirements hereof. Landlord's acceptance of any partial rent payment shall be without prejudice to Landlord's right to recover the balance of rent then owing or to pursue any other remedy provided for in this Lease or otherwise provided by law.

~~d. Any increase in rent attributable to an average adjustment increase in the Consumer Price Index shall be set aside by Landlord and contributed to mutually agreed upon improvements made to the Leased Premises.~~

5. MAINTENANCE, REPAIR AND REPLACEMENT; DESTRUCTION OF LEASED PREMISES.

a. Maintenance, Repair and Replacement.

Except as specifically provided for in Section 5.a.1. Tenant shall repair and improve the Leased Premises to the extent required to bring the Leased Premises into compliance with the requirements of all applicable local, state and federal building codes and any requirements of Beaufort County and/or the City of Washington, as may be applicable, at Tenant's sole expense. Except in the instance of (i) a casualty affecting the Leased Premises (which shall be addressed as set forth in Subsection 5(b) hereinbelow), or (ii) a condemnation affecting the Leased Premises (which shall be as set forth in Section 17 hereinbelow), Tenant shall perform all needed maintenance, repairs and replacements to the Leased Premises, including but not limited to, all needed maintenance, repairs and

replacements to all structural and nonstructural, exterior and interior, items; the roof; structure; walls; parking areas; drives; walks; signs; the ceiling; the lighting system; the heating, ventilating and air conditioning systems; all water, sewer, electrical and sprinkler systems located within the Leased Premises; and all doors and door opening mechanisms. Tenant shall perform all preventative maintenance to the Leased Premises as needed. Tenant promptly shall replace any cracked or broken plate glass or window glass used in any exterior or interior windows and doors in the Leased Premises. All repairs, replacements and maintenance which are the responsibility of Tenant shall be completed promptly and shall be in quality and class at least equal to the original work. The obligations of Tenant hereunder include maintaining, repairing and replacing the Leased Premises and the improvements thereon in a manner so as to keep the Leased Premises in a good condition and state of repair; in compliance with all applicable laws, rules, ordinances, orders and regulations of governmental authorities; and in accordance with reasonable requirements by any insurance company insuring all or any part of the Leased Premises. Tenant shall maintain the Leased Premises in a clean, orderly and sanitary condition and free of any insects, rodents, vermin and other pests; shall not permit the accumulation of garbage, trash, rubbish or other refuse on the Leased Premises and shall remove such items from the Leased Premises prior to their accumulation; shall obtain and pay the cost for proper refuse containers, including dumpsters; shall maintain temperatures within the Leased Premises sufficient to prevent the freezing and bursting of water and sewer pipes serving the Leased Premises; and shall always keep the Leased Premises landscaped and mowed and the paved areas of the Leased Premises clean, sealed and striped as needed.

Tenant shall provide Landlord with reasonable notice prior to making any repair, maintenance, or improvement that involves a corresponding lump sum expenditure in excess of \$50,000.00.

Upon written notice received in accordance herewith by Landlord from Tenant of ~~In the event~~ a maintenance or repair issue that arises hereafter, is not the result of an act or omission of Tenant, ~~that 1)~~ is not covered by insurance, ~~2)~~ and either materially impacts the ability of Tenant to occupy the Leased Premises as well as to substantially conduct its normal business operations therein for an appreciable period of time, and ~~3)~~ or exceeds _____ \$75,000.00, ~~then that particular maintenance or repair issue shall be the subject of immediate~~ the parties shall immediately enter into good faith negotiations by the parties to affect a timely resolution to the issue. If the parties are unable to reach a written agreement to affect a timely resolution to the maintenance or repair issue contained in said written notice within sixty (60) days of Landlord's receipt thereof, either party shall have the option and right to terminate this Lease and, after such termination, neither party shall have any further rights or obligations hereunder, other than those rights or obligations that accrued or arose prior to Landlord's receipt of said written notice from Tenant. Notwithstanding the foregoing, Tenant's obligation to pay Supplemental Rent shall continue and survive any such termination hereinabove described.

Upon any default by Tenant in making any repairs or replacements or in performing any maintenance which is the responsibility of Tenant that is not remedied within thirty (30) days following written notice thereof from Landlord (or if it is not feasible to remedy such default within such period, if Tenant shall not have commenced to remedy such default within such period and be prosecuting such remediation with due diligence), Landlord ~~may~~, in its sole discretion, may make, but shall not be required to make, such repairs and replacements and perform such maintenance on Tenant's account. The cost thereof shall constitute and be collectible as additional rent, payable by Tenant on demand. Alternatively, Landlord ~~may~~, in its sole discretion, may obtain, but shall not be required to, obtain, an estimate of repairs from a company licensed to make such

repairs. In which case, Tenant shall pay to Landlord the amount of the estimate, collectible as additional rent and payable by Tenant on demand, to be used solely for such repairs and any additional costs associated with such repairs.

a.1. See Exhibit A entitled "Improvements to the Leased Premises" which is incorporated herein by reference as if fully set forth.

b. Casualty. If (i) the Leased Premises are totally destroyed by fire or other casualty, or (ii) the Leased Premises are damaged by fire or other casualty to such an extent that such damage cannot be repaired within two hundred forty (240) days following such damage ("Major Damage"), then, subject to the proviso set forth below, rent hereunder shall be equitably abated to the extent of untenantability until the Leased Premises are again ready for occupancy. If the Leased Premises are damaged by fire or other casualty but only to an extent that such damage can be repaired within two hundred forty (240) days following such damage ("Minor Damage") then, subject to the proviso set forth below, rent hereunder shall also be equitably abated to the extent of such untenantability. Unless otherwise agreed by the parties at that time, upon the occurrence of either Major Damage or Minor Damage, and only in the event the damage or destruction is insured by the insurance policies required by Paragraph 7 hereof, and only to the extent of Landlord's recovery under those policies and the availability of such funds to Tenant for such purpose, plus the amount of applicable deductibles, Tenant (subject to Landlord's obligation to make such insurance proceeds available to Tenant for the purpose of such restoration) shall promptly restore the Leased Premises to substantially the same condition as it was immediately prior to the damage or destruction. All applicable insurance proceeds required by Section 7 hereof shall be paid to Landlord and, to the extent actually received by Landlord, promptly made available to Tenant for restoration purposes on a monthly "draw request" basis in amounts equivalent to the percentage of completion of such restoration as may be required to return the Leased Premises to the

condition which existed prior to the fire or other casualty. If Tenant reasonably is required to close its operations during the period of repair or restoration, rent shall be abated during the period of such untenantability. If Tenant is able to continue its operations during repairs, Tenant shall be obligated to pay rent. In such event, the rent shall be adjusted and reduced by an amount equal to the proportion that the Leased Premises is untenable. For all purposes of determining any applicable rent abatement under this Section 5, the Leased Premises shall be deemed untenable to the same extent that such damage or destruction shall prevent Tenant's ability to conduct operations and produce a completed product in the Leased Premises.

Tenant shall not have the option to terminate this Lease, regardless of the cause or the extent of damage or destruction; provided however, if reconstruction and restoration of the improvements on the Leased Premises is not completed within one (1) year of the date of damage or destruction, then either party may terminate this Lease at any time after the one (1) year period and, after such termination, neither party shall have any further rights or obligations hereunder, other than those rights or obligations that accrued or arose prior to the date of such fire or other casualty, or for damages incurred during the period after the casualty, and Landlord may retain the Leased Premises and the benefit of all casualty insurance proceeds.

Notwithstanding anything herein to the contrary, if any fire or other casualty occurs either in the last year of the Initial Term or during the First Extended Term, and if Tenant has not theretofore exercised Tenant's right to extend the term of this Lease further, Tenant shall have thirty (30) days or so many days as are left in the then current term, whichever is less, to notify Landlord concerning whether Tenant is exercising Tenant's right to extend the term of this Lease further. If Tenant declines to exercise Tenant's right to extend the term of this Lease further as hereinabove specifically provided or if said fire or other casualty

occurs in the Second Extended Term, Tenant shall have no maintenance, repair, or replacement responsibility hereunder, but shall ensure that any insurance proceeds as may be recovered on account of said fire or other casualty are received and retained by Landlord.

6. DELIVERY OF POSSESSION, SUBSEQUENT ADDITIONS AND IMPROVEMENTS BY TENANT.

- a. Tenant acknowledges that it has inspected and is familiar with the condition of the Leased Premises prior to the execution of this Lease and Tenant agrees to accept the Leased Premises in its current "AS IS" condition. Tenant's taking possession of the Leased Premises shall be conclusive evidence as against Tenant that Tenant has accepted said Leased Premises AS IS and that Landlord is under no duty to repair anything, furnish any services for, or otherwise improve in any way the Leased Premises except as specifically provided for in Section 5.a.1.

The parties acknowledge that, at the time Tenant began occupying the Leased Premises under letter agreements in 2006, the original structure was approximately forty (40) years old and that the condition of the Leased Premises is generally depicted by pictures taken on or around the fall of 2010, which pictures are contained on a disk, a copy of which disk is in the possession of each party. Upon completion of the improvements as provided for in Section 5.a.1., the parties shall collaborate to update the pictures on said disk in order to accurately depict the condition of the portions of the Leased Premises improved by such improvements.

- b. Tenant, at the sole cost and expense of Tenant, shall have the right to make renovations, additions and improvements, in addition to those things required of Tenant under Section 5 hereof, of or to the Leased Premises only in accordance with plans and specifications submitted to and approved in writing by Landlord, which approval Landlord agrees not to unreasonably withhold, condition or delay. All such approvals and related work will be subject to subsequent inspection of such renovations,

additions and improvements for conformity with their initial approval and, in the event of any inconsistency therewith, Tenant shall remedy the same for consistency. Any and all repairs, replacements, renovations, additions or improvements of or to the Leased Premises that are permitted by this subsection or are otherwise required elsewhere in this Lease and that shall be permanently affixed to or become a part of the Leased Premises shall remain to be surrendered as part of the Leased Premises, without cost to Landlord, at the expiration or earlier termination of this Lease; provided however, that Tenant may at any time remove its trade fixtures and other business related equipment to the extent such fixtures and equipment were paid for by Tenant and all damage caused by such removal shall be repaired by Tenant in a good and workmanlike manner.

7. INSURANCE.

- a. Throughout the term of this Lease, Tenant, at its sole cost and expense, shall keep or cause to be kept insured for the benefit of both Landlord and Tenant, as their interests may appear, all improvements (including all buildings) now or hereafter located on or appurtenant to the Leased Premises against loss or damage by fire and windstorm and such other risks as are now or hereafter may be included in standard extended coverage endorsements providing vandalism, explosion and malicious mischief coverages, in a form and with companies reasonably satisfactory to Landlord. The amount of such insurance coverage shall be sufficient to prevent either Landlord or Tenant from becoming a coinsurer under the provisions of the policy(ies), but in no event shall the amount be less than Five Million Dollars_(\$5,000,000) (the "Full Insurable Value"). All policies of insurance required by this Subsection 7(a) shall provide that the proceeds shall be paid to Landlord, and Landlord agrees that, except when specifically provided for herein to the contrary, such proceeds shall be timely made available by Landlord to Tenant to repair, restore and/or reconstruct the improvements upon the Leased Premises or as otherwise

provided in this Lease to the extent Landlord actually receives such proceeds.

- b. Tenant shall maintain, at its own expense, all insurance on its personal property, including without limitation its equipment and trade fixtures.
- c. Throughout the term of this Lease, Tenant, at its sole cost and expense, shall keep or cause to be kept in force, for the mutual benefit of Landlord and Tenant, comprehensive broad form commercial general liability insurance against claims and liability for personal injury, death or property damage arising from the use, occupancy, misuse or condition of the Leased Premises, the improvements located thereon and adjoining streets or ways, providing, at the date hereof, protection of at least Three Million and no/100 Dollars (\$3,000,000.00) combined single limit coverage for bodily injury or property damage, all in a form and with companies reasonably satisfactory to Landlord and having a deductible not to exceed Five Thousand and no/100 Dollars (\$5,000.00), together with appropriate worker's compensation insurance in connection with any work on or about the Leased Premises. Coverage in excess of Three Million and no/100 Dollars (\$3,000,000.00) may be obtained by Landlord or Tenant at such party's expense; provided however, any such excess coverage obtained by either party shall name the other party as an additional insured.
- d. Such policies as are required by this Section 7 or duly executed certificates of insurance, with original policies to follow promptly thereafter, shall be delivered to Landlord within thirty (30) days following the full execution of this Lease, and thereafter at least ten (10) days prior to the expiration of the policy term. All casualty insurance policies carried by either party hereunder shall provide for a waiver of subrogation against the other party by the insurance carrier. In the event Tenant fails to obtain and provide to Landlord all of the policies of insurance as specified above, Landlord may obtain such insurance at Tenant's expense. All costs incurred by Landlord in obtaining such insurance as it is required to obtain by the terms of this

Lease and in obtaining such insurance which Tenant is required to obtain by the terms of this Lease but has failed to do so, shall constitute and be collectible by Landlord as additional rent, payable by Tenant to Landlord on demand. All liability insurance policies shall name Tenant as the insured and Landlord and such other persons or entities as may be designated by Landlord and/or Tenant, as additional insureds, as their interests may appear. All casualty and flood insurance policies shall name Landlord and such other persons or entities as may be designated by Landlord as insureds. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in a forfeiture of the insurance, (ii) the policies are primary and noncontributing with any insurance that may be carried by Landlord, and (iii) the policies cannot be cancelled or materially changed except after thirty (30) days' notice by the insurer to Landlord.

- e. For the purpose of waiver of subrogation, the parties mutually release and waive unto the other all rights to claim damages, costs or expenses for any injury to person or property caused by a casualty of any type whatsoever in, on or about the Leased Premises, to the extent covered by insurance carried or required to be carried hereunder. With the exception of any worker's compensation insurance required of Tenant hereunder, all insurance policies carried with respect to this Lease, if permitted under applicable law, shall contain a provision whereby the insurer waives, prior to loss, all rights of subrogation against either Landlord or Tenant.

8. INDEMNIFICATION.

- a. Indemnity by Tenant. Tenant indemnifies Landlord, its directors, officers, and employees and agrees to save them harmless and, at the option of any of them, defend them from and against any and all claims, actions, damages, liabilities and expenses (including attorneys' and other professional fees) judgments, settlement payments, and fines paid,

incurred or suffered by any of them in connection with the loss of life, personal injury, or damage to property, suffered by third parties, in or upon the Leased Premises, and arising from or out of the negligence or intentional misconduct of the Tenant, or its directors, officers, employees, contractors or agents in or about the Leased Premises during the Term of this Lease, unless caused by the negligence or intentional misconduct of Landlord, or its directors, officers, employees, contractors or agents.

- b. Indemnity by Landlord. Landlord indemnifies Tenant, its directors, officers and employees and agrees to save them harmless and, at the option of any of them, defend them from and against any and all claims, actions, damages, liabilities and expenses (including attorneys' and other professional fees) judgments, settlement payments, and fines paid, incurred or suffered by any of them in connection with loss of life, personal injury, or damage to property suffered by third parties in or upon the Leased Premises, and arising from or out of the negligence or intentional misconduct of the Landlord, or its directors, officers, employees, contractors or agents in or about the Leased Premises during the Term of this Lease, unless caused by the negligence or intentional misconduct of Tenant, or its directors, officers, employees, contractors or agents.
- c. Survival of Indemnities. Tenant's obligations pursuant to Subsection 8a and Landlord's obligations pursuant to Subsection 8b shall survive any termination of this Lease with respect to any act, omission or occurrence which took place prior to such termination.
9. ASSIGNMENT AND SUBLETTING. Tenant shall not assign or in any manner transfer this Lease or any interest therein or sublet the Leased Premises or any part thereof, without the prior consent of Landlord, which consent shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, however, no transfer of interests between or among the shareholders of Tenant shall be deemed a transfer requiring Landlord's consent hereunder. As a condition

of Landlord's approval of any assignment of this Lease requiring Landlord's consent, Tenant shall obtain the written agreement of the assignee in form reasonably acceptable to Landlord, providing for the assumption of all of Tenant's obligations and covenants hereunder. Consent by Landlord to one (1) or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignment or subletting. Notwithstanding the assumption of liability by the assignee or subtenant, Tenant shall remain fully responsible and liable for the payment of the rent herein specified and for compliance with all other obligations and covenants of Tenant as set forth in this Lease.

In connection with any request to approve an assignment or sublease, Tenant shall deliver to Landlord a notice specifying the identity of the proposed assignee or subtenant and such other information as Landlord reasonably may require in order to evaluate such request.

10. UTILITIES AND TAXES. Tenant shall be responsible for and shall pay any and all utility charges, including but not limited to electricity, heating/air conditioning, water and sanitary sewer, which it may require for use in or on the Leased Premises. Tenant shall be responsible for and promptly pay before default any and all real and personal property taxes, if any, that may be levied or assessed against the Leased Premises or any improvements or other property situated on the Leased Premises, it being the mutual intention of the parties that Landlord shall not be required to pay any taxes on either real or personal property by reason of permitting Tenant to use said real property as herein described. Tenant also agrees to indemnify Landlord against any loss or liability resulting from any and all claim or liens in connection with such taxes and assessments. Any unpaid amounts arising from the above shall be deemed and treated as additional rent as more specifically described herein.
11. LANDLORD'S ACCESS TO LEASED PREMISES. Landlord shall have the right, either itself or through its authorized agents, to enter the Leased Premises at all reasonable times to examine same, and to make repairs, alterations or additions to the Leased Premises. Landlord shall give reasonable advance notice of its

intention to enter, and shall not interfere with Tenant's business operations. The foregoing shall include the right to construct, maintain, operate, repair, alter, or add to any and all utility, including electric, water, and sewer, infrastructure deemed necessary by Landlord in Landlord's sole discretion and the right of access necessary to accomplish the same.

12. DEFAULT. The happening of any one or more of the following shall be deemed to be an Event of Default under this Lease:

- a. The failure of Tenant to pay any installment of rent, additional rent, Supplemental Rent, or other charge or money obligation herein required to be paid by Tenant to Landlord when due, which failure is not remedied within five (5) business days after written notice to Tenant thereof; or
- b. The failure of Tenant to comply with any covenant or provision of this Lease (except payment of any installment of rent, additional rent, Supplemental Rent, or other charge or money obligation described in Subsection 12(a) above) which failure is not remedied within thirty (30) days after written notice of such failure to comply is given by Landlord, or if it is not feasible to cure such failure within such period, to begin performance of such covenant within such period and to diligently pursue performance to completion in a reasonable period of time thereafter; or
- c. The occurrence of any of the following events: (i) Tenant shall file with any bankruptcy court a voluntary bankruptcy petition; (ii) Tenant shall be the subject of any order for relief issued under the bankruptcy code; (iii) Tenant shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or other relief for debtors; (iv) Tenant shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator, or liquidator for Tenant or all or any substantial part of the assets of Tenant; (v) Tenant shall be the subject of any order, judgment, or decree entered by any court approving a petition filed against Tenant for

any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or other relief for debtors which shall not be set aside or otherwise dismissed within sixty (60) days following actual notice to Tenant regarding same; or (vi) Tenant shall make an assignment for the benefit of creditors.

Upon the occurrence of any such Event of Default, and prior to same having been remedied by Tenant, Landlord shall have the option to pursue any one or more of the following remedies and any other remedy provided at law or in equity:

- (i) Terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Leased Premises and remove Tenant and any other person who may be occupying said Leased Premises or any part thereof, and relet the Leased Premises for such rent and on such terms as Landlord may deem advisable; and Tenant shall be liable to Landlord for all loss and damage which Landlord may suffer by reason of such termination, including, but not limited to, rent for the remainder of the term of this Lease plus all of Landlord's costs and expenses identified in Section 12(c)(iv) of this Lease. In this instance, Tenant's liability for rent shall be set off by any rent received by Landlord from any subsequent tenant for any time period during which this Lease would have been in effect but for such termination.
- (ii) Enter upon and take possession of the Leased Premises without terminating this Lease and remove Tenant and any other person who may be occupying said Leased Premises or any part thereof, by force if necessary, without being liable for prosecution or any

claim for damages therefor and if Landlord so elects, but without obligation to do so, relet the Leased Premises for such rent and on such terms as Landlord may deem advisable. Tenant shall be liable to Landlord for any deficiency and expenses that may arise by reason of any reletting of the Leased Premises.

- (iii) With or without terminating this Lease, enter upon the Leased Premises and (i) perform, correct or repair any condition or any matter which Tenant has failed to perform, correct or repair hereunder, or (ii) perform any of Tenant's other obligations under this Lease.
- (iv) Enforce Tenant's obligations under the Lease, including bringing suit from time to time for the collection of the rent or other amounts for which Tenant may be in default or for any expenses incurred in connection with the enforcement of any of the foregoing remedies, including, without limitation, brokerage fees, attorneys' fees, unamortized sums expended by Landlord for the construction of tenant improvements, all costs relating to the recovery of the Leased Premises, and the cost of alteration of or repair to the Leased Premises which is necessary or proper to prepare the same for reletting; or bring suit for the performance of any other covenant or agreement of Tenant and recovery of any other damages, all without entering into possession or terminating this Lease. Tenant further agrees that no suit or recovery of any amount due Landlord hereunder shall be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord.

No reentry or taking possession of the Leased Premises by Landlord or any other action taken by or on behalf of Landlord shall be construed to be an acceptance of surrender of this Lease or an election by Landlord to terminate this Lease.

Pursuit of any of the remedies set forth herein shall not preclude pursuit of any other remedies available under this Lease or provided by law. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such default.

13. NOTICES. Any notice or communication required or permitted in connection with this Lease shall be in writing and shall be sent by either of the following methods: (a) by a reputable overnight delivery service, providing a delivery receipt, addressed to the respective party at the address specified herein; or (b) by personal delivery. Notices or communications sent by overnight delivery service or personal delivery shall be deemed received upon receipt or refusal of delivery. The addresses to be used are as follows:

to Landlord: City of Washington
Attn: ~~Jim Smith~~, City Manager
P.O. Box 1988
102 East Second Street
Washington, NC 27889

with a copy to: Rodman, Holscher, Francisco & Peck, P.A.
Attn: Franz F. Holscher
Attorney for the City of Washington
P.O. Box 1747
320 North Market Street
Washington, NC 27889

to Tenant: Impressions Marketing Group, Inc.
Attn: Kevin R. Goodale, CFO
7951 Angleton Ct.
Lorton, VA 22079

Any party may change or add to the addresses to which such notices shall be sent by providing written notice to the other parties.

14. QUIET ENJOYMENT. If Tenant promptly and punctually complies with each of its obligations hereunder, Tenant shall peacefully have and enjoy possession of

the Leased Premises during the term of this Lease, subject, however, to any contrary provisions hereof.

15. MISCELLANEOUS.

- a. Headings of paragraphs are for convenience of reference only and shall not be used to construe the meaning of the contents of such paragraphs.
- b. The invalidity of any portion of this Lease shall not affect the balance thereof.
- c. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, the prevailing party in such action shall, in addition to any other recovery, be entitled to recover its costs and expenses from the losing party including its reasonable attorney's fees.
- d. This Lease shall be binding upon the respective parties hereto, and upon their heirs, successors and, if expressly permitted herein, assigns.
- e. This Lease incorporates all prior negotiations between the parties, and any changes hereto must be in writing and signed by both parties.
- f. Other than as specifically provided herein, Landlord and Tenant each warrant to the other that they have had no dealings with any real estate broker, agent or finder in connection with the negotiation or execution of this Lease. If either party has dealt with a broker or agent, they shall pay that broker or agent and indemnify and hold the other party harmless from all claims by that broker or agent.
- g. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto.
- h. No waiver of any covenant, term or condition of this Lease by either party shall be construed as a waiver of a subsequent breach of the same covenant, term or condition.

- i. The consent or approval of either party to any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary the consent to, or approval of, any subsequent similar act.
- j. Landlord and Tenant shall be excused for the period of any delay in the performance of any of their obligations hereunder when prevented from performance by causes beyond their reasonable control, including, without limitation, injunction, labor disputes, civil commotion, war, weather, fire, flood or other casualty, acts of God or inability to obtain materials or service. Provided however, that the preceding sentence shall not excuse the payment of rent or any other monetary payment.
- k. This Lease was negotiated by the parties and their counsel. Each party had input into the terms and provisions of this Lease. The provisions of this Lease shall not be construed against the party who drafted the Lease as a result of that party's drafting of the Lease.
- l. The parties agree that this Lease shall not be recorded. Upon demand by either Landlord or Tenant, the other party agrees to execute a memorandum of this Lease suitable for recording in the office of the Register of Deeds of Beaufort County. In the event of the recording of any memorandum of lease, upon the termination of the Lease, the parties agree to record a memorandum of termination of lease. Tenant agrees to indemnify Landlord and hold Landlord harmless from all loss, cost, liability, claim, suit, damage or expense (including attorneys' fees) caused to Landlord as a result of Tenant's refusal to execute a memorandum of termination of this Lease in the event this Lease has terminated.
- m. The Exhibits attached hereto are incorporated herein by reference.
- n. Landlord shall notify Tenant concerning any inquiry Landlord receives from a third party concerning Landlord's willingness to sell or otherwise convey the Leased Premises or a portion thereof and keep Tenant timely informed of any subsequent negotiations. With the exception of a privately negotiated sale that is in accordance with North Carolina General Statutes

and consented to by Tenant, any potential sale of the Leased Premises or a portion thereof during the Initial or Extended Terms hereof shall be accomplished only through the negotiated offer, advertisement and upset bid process authorized by North Carolina General Statute § 160A-269 or a functionally equivalent statutorily authorized process that will ensure Tenant has the opportunity to receive notice of, and to upset, any bid or offer to purchase from any third party.

o. Reporting requirements. Tenant shall keep or cause to be kept annual financial statements, as are customarily kept by businesses in Tenant's industry, of the business conducted or transacted in relation to the Leased Premises and Tenant's operations thereon. Upon request of the Landlord, Tenant shall provide such financial statements to Landlord's Chief Financial Officer. Nothing in this Lease, however, shall be construed to permit the Landlord to copy documents of Tenant that contain trade secrets or attorney client privileged information or to disclose Tenant's proprietary information.

p. Option to Purchase. Upon written notice from Tenant, Landlord shall initiate the upset bid process authorized by North Carolina General Statute § 160A-269 to sell the Leased Premises so long as said written notice contains an offer from Tenant to purchase the Leased Premises, which offer shall be equal to or more than the appraised value of the Leased Premises as determined by an appraiser or appraisal process mutually agreed upon in writing by the parties.

16. SUBORDINATION, NON-DISTURBANCE, ATTORNMENT AND ESTOPPEL. Subject to the non-disturbance provisions set forth below, Tenant agrees that this Lease is and shall be subordinate and subject to any mortgage, deed of trust, or any other hypothecation for security which has been or which hereafter may be placed upon the Leased Premises by Landlord, and to any and all advances to be made under any such mortgage, deed of trust, or other such encumbrance and all renewals, modifications, extensions, consolidations and

replacements thereof. The aforesaid provision shall be self-operative and no further instrument shall be required to evidence same. Notwithstanding the self-operative nature of the foregoing, however, Tenant agrees to execute any reasonable document(s) which may be required or requested by Landlord to evidence such subordination. It is further understood and agreed, however, that neither such subordination, nor any foreclosure of any mortgage or deed of trust, shall affect Tenant's right to continue in possession of the Leased Premises under the terms of this Lease, and Tenant's rights hereunder shall continue and not be disturbed, so long as no Event of Default on the part of Tenant shall have occurred and be continuing. Landlord agrees to execute and deliver affirmation of such non-disturbance, and to take reasonable steps to cause the owner and holder of each such mortgage, deed of trust or other applicable party to execute and deliver an affirmation of such non-disturbance, reasonably satisfactory to Tenant and Landlord's lender and in recordable form so long as Tenant has fully complied in all material aspects with all terms and requirements of this Lease.

If the holder of any mortgage, deed of trust or other instrument encumbering the fee title to the Leased Premises shall succeed to the rights of Landlord under this Lease, at the election of such holder, Tenant shall attorn to and recognize such holder as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument (in form reasonably satisfactory to such holder) that may be necessary to evidence such attornment.

Each party hereto agrees that it will, from time-to-time and within ten (10) business days after written request by the other party or any lender of such other party, execute and deliver to the requesting party a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified); that all conditions and agreements hereunder have been satisfied or performed, except as set forth in such statement; the dates to which rent and other charges payable under this Lease have been paid; and the status of any other matters as may be reasonably requested by the requesting party.

17. CONDEMNATION. If the whole or any part of the Leased Premises shall be appropriated and taken by virtue of any condemnation proceeding for any public or quasi-public use or purpose so as to render the remaining portion untenable for the uses and purposes contemplated by the parties, this Lease immediately shall terminate on the date possession thereof shall be so appropriated and taken. In the event of any lesser condemnation, the Lease shall continue but the rent shall abate proportionately to the untenability of the Leased Premises. For the purposes of this Section 17, untenability shall be determined in the same manner as untenability is determined under the provisions of Section 5 hereinabove. In any such case, each party shall be entitled to claim and receive an award of damages suffered by it by reason of such taking or conveyance, but Tenant shall not be entitled to any award attributable to the unexpired portion of the term or to any renewal option or purchase option. Tenant shall be allowed to share in the award only if a portion of the award is expressly attributed to the value of its leasehold improvements or moving expenses, and only to the extent that its award shall not affect the amount of any award to Landlord. Landlord shall promptly, following any partial condemnation that does not result in a termination of the Lease, restore the Leased Premises as nearly as possible to the condition as existed immediately prior to such taking and rent shall equitably abate during such restoration, only to the extent that such restoration may be completed with the proceeds of the condemnation.

18. SPECIAL MATTERS.

- a. During the final one hundred eighty (180) days of the Initial or any Extended Term of this Lease, Landlord or its agents shall have the right to enter the Leased Premises at all reasonable times, for the purpose of showing the Leased Premises to any prospective tenant or purchaser; provided however, Landlord shall not interfere with Tenant's business operations. At any time during the final one hundred eighty (180) days of the Initial or any Extended Term of this Lease, Landlord shall also have the right to erect on the Leased Premises a sign, consistent with any applicable zoning regulations, indicating that the Leased Premises is for

sale or for rent, effective at the date of termination of the then current term.

- b. This Lease shall be subject to that Grant of Easement between HBBI and the Landlord recorded in Deed Book 1661, Page 952, Beaufort County Registry.
19. APPLICABLE LAW. This Lease shall be construed and interpreted under the laws of the State of North Carolina.
20. OTHER PROVISIONS.
- a. Tenant shall have no power to create a lien of any kind or character upon the title of Landlord in the Leased Premises and no person shall be entitled to any lien directly or indirectly derived through or under Tenant, or its agents or servants, on or account of any act or omission of Tenant, which lien shall be superior to the interest of Landlord in the Leased Premises. All persons contracting with Tenant, or furnishing materials or labor to Tenant, its contractors or subcontractors, or to their agents or servants, shall be bound by this provision. Should any lien be filed against either Landlord's or Tenant's interest in the Leased Premises because of work contracted for by Tenant, Tenant shall cause the same to be cancelled and discharged of record by bond or otherwise within twenty (20) days after Tenant receives actual notice of such filing. If Tenant shall fail to cause such lien to be cancelled or discharged within the period aforesaid, Landlord may, in addition to any other right or remedy, pay the amount of such lien or discharge the same by deposit or bond or pay any judgment recovered on such claim, and any such amount paid or expense incurred by Landlord shall be deemed additional rent for the Leased Premises and shall be due and payable by Tenant to Landlord upon demand.
 - b. Tenant will comply with all applicable laws, ordinances, orders, rules, restrictions, covenants, regulations, and other federal, state, and local governmental requirements relating to the use, condition, or occupancy of the Leased Premises, and all applicable rules, orders, regulations, and

reasonable requirements of the Board of Fire Underwriters or Insurance Service Office, or other similar body, having jurisdiction over the Leased Premises, and the requirements of any insurance company providing insurance coverage for the Leased Premises. The cost of such compliance will be borne by Tenant.

- c. Tenant shall not permit, allow or cause any act or deed to be performed or any practice to be adopted or followed in and about the Leased Premises which shall cause or be likely to cause injury or damage to any person or said Leased Premises, the buildings, sidewalks, walkways and parking lots which are on or adjoin the Leased Premises.
- d. Tenant agrees to surrender the Leased Premises to Landlord at the expiration or earlier termination of this Lease in good order and condition, ordinary wear and tear and damage by fire or other casualty, if any, excepted. In the event Tenant remains in possession of the Premises after the expiration of the term of this Lease and without the execution of a new lease or a renewal of this Lease, Tenant shall be deemed to occupy the Leased Premises as a month-to-month tenant at a rental equal to the rental due for the last month of the then existing term and Tenant shall be responsible for any damages that Landlord may sustain as a result of Tenant's failure to make proper delivery of the Leased Premises to Landlord upon the termination of this Lease. In no event shall there be any renewal of this Lease by operation of law.
- e. Tenant shall not commit waste on the Leased Premises.
- f. In the event Landlord ceases to be the owner of the fee interest in the Leased Premises, and any new owner of the fee interest in the Leased Premises expressly assumes the obligations of Landlord hereunder, and a copy of such assumption instrument is provided to Tenant, Landlord's obligations hereunder first arising from and after the date of assumption of such obligations shall terminate and such new owner of the fee interest in

the Leased Premises shall be responsible for the performance of Landlord's obligations hereunder from and after such date.

21. ENVIRONMENTAL MATTERS.

a. Definitions.

1. For the purposes of this Section 21, the term "Hazardous Substance" shall mean, without limitation, any flammable explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulations, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, including, without limitation, those defined as such in: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. sections 9601 et seq.); (ii) the Hazardous Materials Transportation Act, as amended (49 U.S.C. sections 1801 et seq.); (iii) the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 6901 et seq.); or (iv) any other applicable Environmental Law and in regulations adopted pursuant thereto.

2. For the purposes of this Section 21, the term "Environmental Laws" shall mean all federal, state and local environmental, land use, zoning, health, chemical use, safety, and sanitation laws, statutes, ordinances, and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production, release, or disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, permits, decisions, orders, and directives of federal, state and local governmental agencies and authorities with respect thereto.

b. Current Condition. Tenant and Landlord acknowledge that each of them is aware of the presence of certain Hazardous Substances existing as of the

effective date of this Lease, in the soil and ground water on, under, around or within the Leased Premises as the same is defined, described and established by the administrative record, reports and other documentation currently on file with the North Carolina Department of Environment and Natural Resources (“NCDENR Record”), which shall expressly exclude for the purposes of this Lease, however, the presence of any Hazardous Substances that are not included in said Record (the “Current Environmental Condition”).

c. Environmental Indemnification.

1. Landlord shall defend, indemnify, and hold Tenant harmless from and against any and all claims, response or remediation costs, losses, damages, penalties, actions, judgments, expenses, and liabilities of every kind and nature whatsoever (including, without limitation, reasonable attorneys’ and consultants’ fees and costs of investigation, remediation and defense), to the extent they arise out of, result from or are connected to: (i) the exacerbation of the Current Environmental Condition of the Leased Premises during the Initial Term and any Extended Term attributable to the acts or omissions of Landlord, its employees, agents, representatives and contractors; (ii) a violation of any Environmental Laws at the Leased Premises during the Initial Term and any Extended Term by Landlord, its employees, agents, representatives and contractors; or (iii) the production, treatment, processing, handling, storage, disposal, spillage, or release of Hazardous Substances on or about the Leased Premises during the Initial Term and any Extended Term by Landlord its employees, agents, representatives and contractors.
2. Tenant shall defend, indemnify, and hold Landlord harmless from and against any and all claims, response or remediation costs, losses, damages, penalties, actions, judgments, expenses, and

liabilities of every kind and nature whatsoever (including, without limitation, reasonable attorneys' and consultants' fees and costs of investigation, remediation, and defense), to the extent they arise out of, result from or are connected to: (i) the exacerbation of the Current Environmental Condition of the Leased Premises during the Initial Term and any Extended Term attributable to the acts or omissions of Tenant, its employees, agents, representatives and contractors; (ii) a violation of any Environmental Laws at the Leased Premises during the Initial Term and any Extended Term by Tenant, its employees, agents, representatives and contractors; or (iii) the production, treatment, processing, handling, storage, disposal, spillage, or release of Hazardous Substances on or about the Leased Premises during the Initial Term and any Extended Term by Tenant, its employees, agents, representatives and contractors.

3. The indemnification obligations set forth in this Section 21(c) shall survive expiration or earlier termination of this Lease.

(THE REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be signed with all due authority under seal and in such form as to be binding, as of the day and year first above written.

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited pursuant to North Carolina General Statute § 159-28 in the manner required by the Local Governmental Budget and Fiscal Control Act.

THE CITY OF WASHINGTON

MATT RAUSCHENBACH,
Chief Financial Officer/
Assistant City Manager

LANDLORD

CITY OF WASHINGTON
a North Carolina municipal corporation

(corporate seal)

BY: _____ (Seal)
N. Archie Jennings, III, Mayor

ATTEST:

Cynthia S. Bennett, City Clerk

TENANT

IMPRESSIONS MARKETING GROUP, INC.
a Virginia corporation

(corporate seal)

By: _____
Name: _____
Title: _____

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, _____, a Notary Public of the State and County aforesaid, certify that CYNTHIA S. BENNETT personally appeared before me this day and acknowledged that she is City Clerk of the **CITY OF WASHINGTON**, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by N. ARCHIE JENNINGS, III, its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

| WITNESS my hand and official seal, this the ____ day of _____, ~~2010~~2011.

NOTARY PUBLIC

My Commission expires: _____.

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged that he/she is _____ of the **IMPRESSIONS MARKETING GROUP, INC.**, a Virginia corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed by _____, as _____.

| Witness my hand and official seal, this the ____ day of _____, ~~2010~~2011.

NOTARY PUBLIC

My Commission expires: _____.

Exhibit A

Improvements to the Leased Premises

Landlord shall diligently pursue and use its best efforts to obtain financing suitable to Landlord, in Landlord's sole discretion, in the amount of \$769,566.00, and, assuming said financing is obtained, commit up to the following dollar amounts for the corresponding prospective improvements. In the event Landlord is unable to obtain financing suitable to Landlord, in Landlord's sole discretion, Landlord shall have no further obligation hereunder other than that related to the grant referenced hereinbelow.

1. Up to \$457,430.00 for roof repair/replacement. The roof on the principal building has eight (8) sections. Sections 1, 3, and 6 have been replaced in the last ten years. Said sections shall be recoated with an aluminum-fibered roof coating. Sections 2, 4, and 5 have not been replaced and require major repair. A roof membrane shall be installed for these sections. The warehouse (upper level) has a membrane roof and requires no repair at this time. The office area roof shall be spot patched as leaks are identified.
2. Up to \$26,061.00 for interior fire protection system. The interior sprinkler system shall be inspected, tested, and repaired to current fire code if any deficiencies are noted.
3. Up to \$82,800.00 for exterior fire protection system. The existing water storage tank shall be abandoned due to its age and deterioration. The sprinkler system shall be connected to the City water system through, among other things, a connection to the water main at the fire pump.
4. Up to \$100,000.00 miscellaneous. Numerous other items have been identified and prioritized for repair, such as replacing certain loading dock doors, and additional items will likely be identified as the above improvements are made. Such items shall be addressed upon recommendation of the general contractor for this project and only after both parties consent to the items recommended to be addressed, the manner in which said items shall be addressed, and the manner in which said funds shall be expended.

\$36,646.00 of said financing will be utilized by the Landlord to contract with Turning Point Renovations and Remodeling, Inc. to be the general contractor for this project and to coordinate as well as monitor all improvements contemplated hereunder. The balance remaining from the financing shall be set aside as contingency and utilized for this project in the discretion of the general contractor.

Landlord shall procure said improvements in conformity with North Carolina law through the appropriate, statutorily required bidding process. Landlord shall provide Tenant with copies of any related requests for proposals, bid specifications, and responses, or similar documents, and the opportunity for Tenant to meet and confer with Landlord regarding the same. Except the amount committed to the general contractor and notwithstanding the monetary limits set forth above, all funding from financing shall be committed to first accomplish items 1 through 3 as described above (roof repair/replacement, interior fire protection system, and exterior fire protection system). Any funding remaining from said financing after said items are accomplished, excepting said amount committed to the general contractor, shall be utilized upon recommendation of the general contractor and only after both parties consent to the items recommended to be addressed, the manner in which said items shall be addressed, and the manner in which said funds shall be expended.

The improvements contemplated hereby shall be completed within fifteen (15) months of the Commencement Date.

During the Initial Term, additional, annual rent (hereinafter referred to as "Supplemental Rent") shall be ONE HUNDRED SEVENTY-SIX THOUSAND SEVEN HUNDRED THIRTY-ONE DOLLARS and 00/100s (\$176,731.00) and shall be due and payable monthly, in advance, in equal monthly installments of FOURTEEN THOUSAND SEVEN HUNDRED TWENTY-SEVEN and 58/100s (\$14,727.58) per month beginning on the Commencement Date, and thereafter on the first day of each subsequent month for sixty (60) months or until such time as Tenant has reimbursed Landlord for the amount of said financing (principal plus

the interest and borrowing associated costs) (collectively referred to as “Reimbursement to Landlord”). Upon completion of the improvements contemplated hereby and satisfaction of all expenditures associated with said improvements, the parties shall meet in good faith to make any consider certain adjustments that are necessary to reconcile payment of the Supplemental Rent as may be necessary in order to effectuate proper Reimbursement to Landlord during the Initial Term. Said adjustments shall be limited to the following: 1) an increase in the amount of the monthly installments, 2) a decrease in the number of monthly installments, and/or 3) a decrease in the amount of the last monthly installment. Notwithstanding the foregoing, other than the amount of the last monthly installment, the amount of the monthly installments shall not be reduced and the parties shall not consider such a reduction.

Notwithstanding anything in this Exhibit A or this Lease to the contrary, Tenant’s obligation to pay Supplemental Rent shall continue and be unaffected by any circumstance or event or any provision in this Exhibit A or this Lease, including but not limited to Casualty affecting the Leased Premises, termination of this Lease, an Event of Default, Condemnation affecting the Leased Premises or any other circumstance, event, or provision that might otherwise serve to reduce, set off, abate, or eliminated payment of rent or Supplemental Rent hereunder.

In addition to the foregoing, Landlord is the recipient of a lighting retrofit grant entitled “Energy Efficiency in Government Buildings”. The amount of said grant that is dedicated to the Leased Premises is \$230,000.00. Subject to grant compliance as well as any restrictions associated therewith and assuming sufficient grant funding is and remains available, Landlord shall utilize said amount of grant amount funding for toward the following. ~~If said grant funding is unavailable or becomes unavailable for any reason, Landlord shall have no further obligation hereunder.~~

A. Abandon the current air conditioning system and eliminate the current boiler heating system. Install a direct fired heating system. Associated improvements are estimated to cost \$98,000.00.

B. Employ a new lighting layout using modern high efficiency lighting.— Associated improvements are estimated to cost \$130,405.00.

Tenant shall contribute a \$23,000.00 match toward said grant. If said grant funding is unavailable or becomes unavailable for any reason, Landlord and Tenant shall have no further obligation hereunder regarding said lighting retrofit grant, said match, or the specific improvements related thereto.

The parties hereby acknowledge that Landlord has no maintenance or repair obligation other than that specified in this Exhibit A.

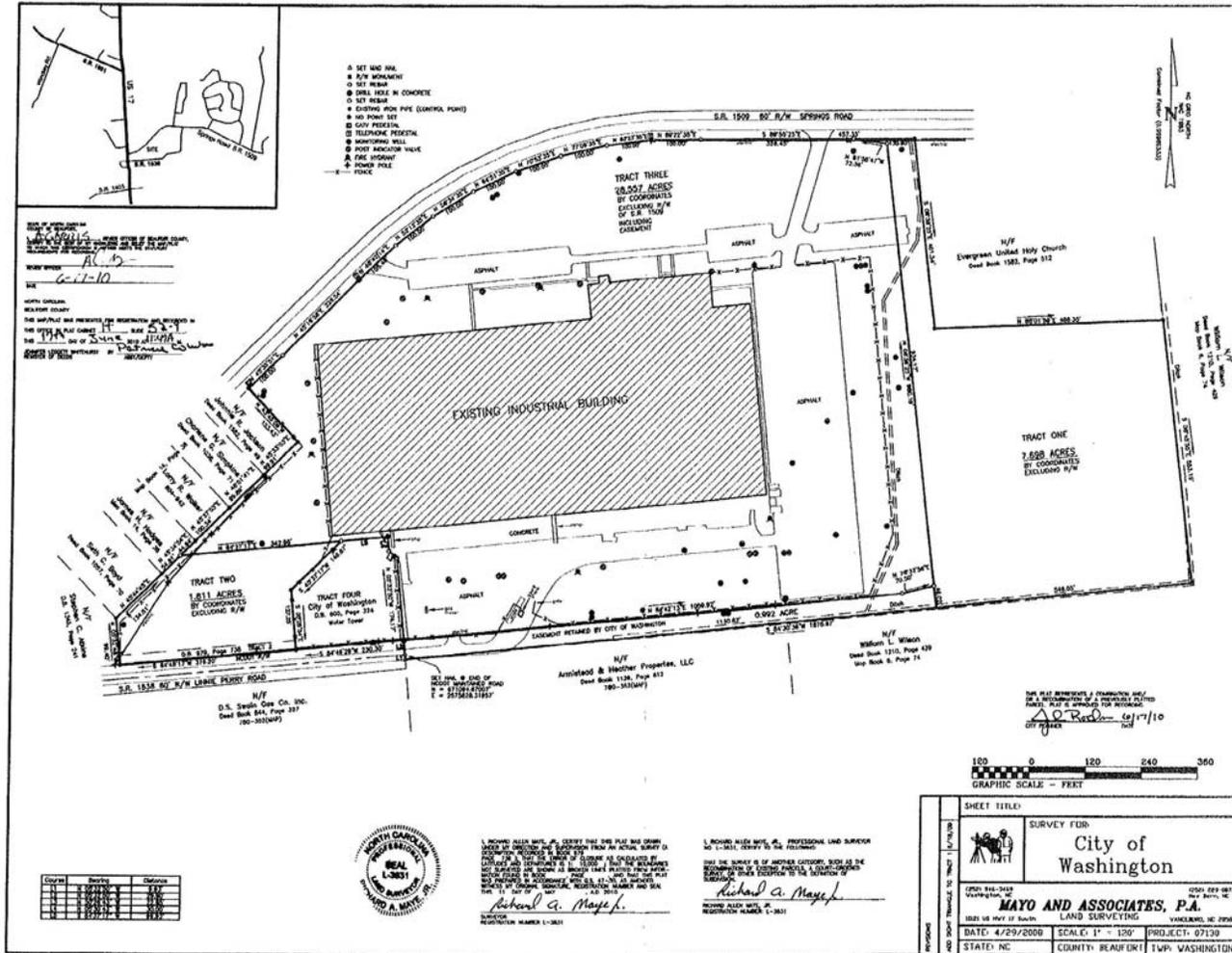


Exhibit B

Washington
Harbor District
Alliance
2010
Accomplishments



102 East 2nd Street, Suite 311A ■ Washington, NC 27889 ■ 252-946-3969
www.whda.org ■ whda@washingtononthewater.com

The mission of Washington Harbor District Alliance is to serve as a facilitator and catalyst to renew, restore, rebuild, and revitalize the downtown business district, improve economic conditions, encourage tourism, and preserve historical buildings and their significance.

The City Council adopted the Downtown Revitalization and Reinvestment Strategy developed by Land Design.

DWOW combined with the Historic Merchants Association and the Citizens for Revitalization Committee to form the Washington Harbor District Alliance. Two merchants were appointed to the WHDA Board and the events formerly handled by the Historic Merchants Association were assigned to the WHDA's Promotions Committee. The Chair of the Citizen's for Revitalization Committee joined the WHDA Board as the VP for Economic Restructuring bringing the members of the Revitalization Committee's working groups with him.

The Economic Restructuring Committee formed three subcommittees, City Government projects (Festival Park, restrooms/boaters facilities and city docks), New Construction and Adaptive Reuse.

The City Council formally named the downtown area the Harbor District

The large evergreen tree was removed from Harding Square, creating a view corridor down Market Street to the water. The square's brickwork was redone. The plantings and benches were purchased and maintained by the Washington Garden Club.

Working with the Parks Advisory Board, the Parks and Recreation Department and the City Council a \$295,000 grant was obtained to build a performance pavilion, a gazebo, a playground for small children and bathrooms (as agreed to in the Land Design Plan). The first phase of this effort – performance pavilion, gazebo, tot lot and landscaping, is scheduled for completion in the spring of 2011.

A grant for the construction of permanent public restrooms, boater showers and facilities on the west end of the promenade (including the dock master facility) has been applied for by the Planning Department. We are optimistic that we will be successful in obtaining this grant, as we were asked to apply after a pre-qualification review.

Developed a plan for the orderly expansion of the city docks which includes a public pier at the end of Market Street.

Enlisted the NC Department of Transportation to conduct a study of downtown traffic flow, to address the issue of one way versus two way streets – the study was to be completed in December of 2010, but will now be done in April of 2011.

Working with the Chamber of Commerce and the NC Department of Commerce- Main Street Agency surveys were conducted to develop a business recruitment and retention plan to attract new business to the Harbor District.

Obtained money from the City to hire the National Development Corporation for one year. The NDC is a nonprofit corporation which has expertise in obtaining funding for public private partnerships which provide for the adaptive reuse of downtown buildings and the new construction of needed facilities.

In concert with the Washington Area Historic Foundation and ECU's School of Interior Design, students presented several adaptive reuse designs for Old City Hall at two public meetings.

PROMOTIONS:

Formed a committee to run Music in the Streets, which revised the format of the event, including the placement of bands, and partnering with the Turnage Theater. Due to the efforts of our volunteers, lead by Mark Brunon of Notes Café and LaVon Drake, we had a highly successful season, conducting the series from April thru October.

Instituted a monthly Movie in the Park series. Providing free Movies to the public the third Friday of every month from May thru October.

Using \$18,000 provided by the City to promote the downtown, we instituted a program to advertise events using media outlets outside of Beaufort County, with the aim of drawing visitors to Washington from a broader geographic area. This money is used to support all events no matter who is the sponsor (e.g.: The Washington Noon Rotary, BC Arts Council, Wash/BC Chamber of Commerce, the Eastern Carolina Wildlife Guild).

Partnered with the Arts Council in staging two Art Walks, to promote downtown galleries and merchants.

Supported the Noon Rotary in putting on Smoke on the Water (an event traditionally conducted by the Merchants Association). Combining the event with Music in the Streets, and one of our Movies in the Park. WTDA and WHDA ran several advertisements in West Virginia markets to attract Marshall University Alumni to stay in Washington while in NC for the ECU game. The movie shown was: We are Marshall.

Put on Pickin' on the Pamlico (August), the Pirates Beach Music festival (September), and the Xmas Flotilla (December).

Instituted an informal monthly meeting with the Chamber, Turnage, WTDA, BC Arts Council, and Washington City Parks and Recreation to coordinate activities and leverage resources.

Coordinating with Parks and Recreation and Beaufort County Community College staff and students developed a web site aimed specifically at boaters to attract them to the City waterfront docks. www.washingtonncdocks.org

Our goal is to promote a major event conducted in the Harbor District each month - April through December (in addition to Music in the Streets). By using a coordinated advertising campaign, we will promote our City as an exciting place to live, work, shop and spend leisure time.

We conducted the Saturday Farmers Market weekly from May through October. This year we enjoyed a highly successful season, with the addition of several new vendors.

LITTLE WASHINGTON SAILING CLUB:

The school enjoyed its second successful season.

Floating Docks were purchased and the boats were given new sails.

After being funded from WHDA operational funds for the past several years, the club is now self funding.

ORGANIZATION:

Promoted Beth Byrd, our only paid employee, from a part time to a full time, salaried position. Beth is now the Director and remains the only full time employee.

Our treasurer instituted a comprehensive budget regime, which projects and tracks expenditures for each event and project.

After a two year hiatus we received \$27,000 in City funds for operating expenses.

We are conducting quarterly meetings with downtown merchants to assure that their interests are properly represented.

At the merchants request we successfully proposed that the city change the parking time limit on Main and Market Streets from two to three hours.

We have begun a Friends of the Alliance Campaign, to raise funds for operating expenses, to increase our volunteer membership, and to keep the public up to date with what is going on downtown.

DESIGN:

We conducted our annual "Spring Clean Up" enlisting the help of the Garden Clubs, to spruce up the waterfront, as well as Main and Market Streets.

Using \$3,000 from the City we coordinated with the Parks and Recreation Dept. and the Electric Dept. to replace the Christmas tree lighting on Main and Market Streets.

GENERAL:

This year we have made huge strides. We are now partnering with the City and other nonprofit organizations in projects and activities which benefit not just the Harbor District but the City and county as well. All the members of our Board, with the exception of the President and the Secretary have begun their service in the past year. With the introduction of new board members and the synergy generated by combining with the Merchants Association and the Citizen's for Revitalization, we have energized our committee structure and embarked on new projects.

WHDA has enjoyed excellent media support throughout the year, with a number of activities and initiatives earning reportorial, editorial and "Sound Off" support.

The Executive Director has an excellent and working relationships with, the downtown merchants, our sister nonprofit organizations and city officials. This has enabled us to leverage our efforts by partnering with others in conducting events, obtaining grants for park facilities, and making our downtown a community asset.

WASHINGTON HARBOR DISTRICT ALLIANCE BOARD OF DIRECTORS:

President - Ross Hamory

VP Economic Restructuring - Chris Furlough

VP Design - Bobby Roberson

VP Promotions - Mac Hodges

VP Organization - Rebecca Clark & Garleen Woolard

Merchant - Bob Henkel

Merchant - Glenn Wetherington

Secretary - Sharon Pettey

Treasurer - Bill Sykes

Ex-Officio:

Catherine Glover, Lynn Lewis & Jim Smith (retired)

Council Liaison: Bobby Roberson

WHDA currently has a staff of one F.T. employee
Director, Beth Byrd

**Washington Tourism Development Authority
December 2010**

At the December WTDA Board meeting, CPA William Oden presented the audit report for fiscal year 2009-10. While a few recommendations were made regarding the way to report accruals, the overall audit was favorable. Copies of the audit will be provided for each Council Member.

The Visitor Center is relocating temporarily to 141 S. Market Street (pink building) while work is being done to repair some issues in the current location. This transition will begin on Monday, January 3 and should end two weeks later. The Visitor Center will continue to be open daily from 10 AM to 4 PM.

Proposals have been received to improve the quality of wireless internet access available at the Civic Center. Options are being considered to determine when/if the work can be completed.

December and January are slow months of the year with regard to visitation. These two months are used primarily for planning and preparations for the busy Spring season.

The WTDA Board will be having a goal-setting and planning workshop following its January meeting.

The WTDA has discussed its interest in continuing the management agreement for the Civic Center beyond the 5 year contract period that ends in June, 2011. This has been communicated to Mr. Connet and Mr. Rauschenbach.

Washington will be re-joining the Historic Albemarle Tour for 2011. We have not been represented in this organization for several years, but the organization seems to have a renewed energy and direction.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Robbie Rose, Fire Chief *[Signature]*
Date: January 10, 2011
Subject: Fireman's Relief Fund Appointments
Applicant Presentation: Chief Robbie Rose
Staff Presentation:

RECOMMENDATION:

I move that the City Council reappoint William M. Alligood Jr. as the Fire Department appointee, and replace Fred Watkins Jr. with new appointee as designated by Council to the Fireman's Relief fund for a new term of two years to expire in January 2013.

BACKGROUND AND FINDINGS:

The purpose of this agenda item is to consider reappointment of William M. Alligood Jr. (Fire Department Appointee) and replace Fred Watkins Jr. (Council Appointee) with new appointee as designated by Council to the Fireman's Relief Fund Board. Both of these current appointments expire January 2011; and while William M. Alligood Jr. has agreed to serve another two year term, Fred Watkins Jr. has decided because of his age and health conditions to step down as an appointee, leaving vacant the Council appointee position.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *PR* Concur _____ Recommend Denial _____ No Recommendation *1/5/11* Date

Primary Board Fireman's Relief Other Boards _____

**CANDIDATES REQUEST FOR APPOINTMENT TO BOARDS, COMMISSIONS,
AND/OR AUTHORITY OF THE CITY OF WASHINGTON**

NAME Richard Brooks
(Please Print)

ADDRESS 820 Boston Avenue, Washington, NC 27889

PHONE NO. (BUSINESS) 252-946-6607 (HOME) _____

DO YOU LIVE WITHIN THE CORPORATE LIMITS OF WASHINGTON? YES NO

HOW LONG HAVE YOU BEEN A RESIDENT OF BEAUFORT COUNTY? _____ YEARS

YEARS OF EDUCATION _____

HAVE YOU SERVED ON A BOARD/COMMISSION OF THE CITY? YES NO
IF YES, PLEASE INDICATE City Council

DO YOU ANTICIPATE A CONFLICT OF INTEREST BY SERVING AS A MEMBER OF A
BOARD/COMMISSION? No IF YES, EXPLAIN _____

STATE REASONS WHY YOU FEEL QUALIFIED FOR THIS APPOINTMENT(s)
(OPTIONAL): Use back of sheet if additional space is needed

NOTE: This information will be used by the City Council in making appointments to Boards and
Commissions AND, in the event you are appointed, it may be used as a news release to identify you to the
community.

Richard Brooks
Signature

January 4, 2011
Date

NOTE: Application will remain on file for six (6) months Expiration Date: _____



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Cynthia S. Bennett, City Clerk
Date: January 4, 2011
Subject: Award the upset bid in the amount of \$3,500.00 for the disposition of 507 West Second Street

Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that the City Council adopt the attached Resolution to convey the property located at 507 West Second Street to Reilly Software, LLC in the amount of \$3,500.00 and authorize the Mayor to execute all the legal documents necessary to convey the surplus property consistent with the terms of the original and subsequent offers and public notices.

BACKGROUND AND FINDINGS:

During the regular scheduled meeting of the City Council on September 13, 2010, a resolution was adopted to begin the upset bid process to dispose of the property located at 507 West Second Street. The original offer of \$1,000.00 has been increased and the upset bid is now \$3,500.00. The staff has advertised the sale of the property at \$3,500.00 and, after the 10 day cycle was concluded, no one else submitted a legal upset bid. Therefore, the final 10 day period has ended and Reilly Software, LLC is now the highest bidder on the subject property. The recommendation is to accept the last offer in the amount of \$3,500.00 and adopt a Resolution authorizing the Mayor to execute all the legal documents necessary to convey the surplus property to Reilly Software, LLC consistent with the terms of the original and subsequent offers and public notices. If this Resolution is adopted, Council will be presented with a Special Warranty Deed containing certain restrictive and protective covenants as well as a preservation, rehabilitation and maintenance agreement for approval at a future meeting.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Resolution to accept bid

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *pr* Concur _____ Recommendation _____ Denial _____ No Recommendation _____

**RESOLUTION STATING THE INTENT OF THE CITY OF WASHINGTON
TO CONVEY SURPLUS PROPERTY LOCATED AT 507 WEST SECOND STREET**

WHEREAS, the City of Washington has declared the following real property, having an address of 507 West Second Street, to be surplus to the needs of the City.

WHEREAS, the upset bid procedure for selling real property, as outlined and set forth in North Carolina General Statute § 160A-269, has been followed.

WHEREAS, the required notices for the upset bid process were advertised in the Washington Daily News. The notices described the property, set out the amount and terms of the offer as well as subsequent offers, and specified the requirements for submission of an upset bid and subsequent upset bids.

WHEREAS, after several upset bids, a qualified offer has been received and is now being reported to City Council for their consideration.

NOW THEREFORE BE IT RESOLVED: The final bid in the amount of \$3,500.00 is accepted by the City of Washington and the Mayor is hereby authorized to execute all the legal documents necessary to convey the property located at 507 West Second Street to Reilly Software, LLC consistent with the terms of the original and subsequent offers and public notices.

Adopted this 10th day of January, 2011.

N. Archie Jennings, III
Mayor

Attest:

Cynthia S. Bennett, CMC
City Clerk



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: January 10, 2011
Subject: Webcam Agreement with WITN
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council authorize the Interim City Manager to enter into a one year web cam advertising agreement with WITN.

BACKGROUND AND FINDINGS:

The City has experienced state wide exposure of our beautiful waterfront during WITN news segments for the last twelve months via the web cam. The web cam can also be viewed on the City's web site. This \$500/month program is an important facet of enhancing the City's exposure and marketing initiative. The City recently entered into WITN's maximum exposure program for \$24,000/year. This year's marketing budget includes \$15,000 in the Billing Department and \$20,000 in Load Management.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

WITN Presentation

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PR Concur _____ Recommend Denial _____ No Recommendation
1/5/11 Date.



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: January 24, 2011
Subject: Accept Bid, Award Contract to TD Eure, Authorize City Manager to sign contract, adopt Budget Ordinance Amendment in the amount of \$211,627 for the BIG-P Y08 Project.

Applicant Presentation: None
Staff Presentation: Philip Mobley

RECOMMENDATION:

- I move City Council accept the Bid from TD Eure in the amount of \$354,400 which includes Bid Alternates 1 and 2 in amount of \$24,500 for the BIG-P Y08 Project; and authorize the City Manager to sign a contract with TD Eure in the amount of \$354,400.
- I move City Council adopt a budget ordinance amendment in the amount of \$211,627.

BACKGROUND AND FINDINGS:

We have been working on the 2008 BIG-Project since late 2006. The application was submitted in 2007 and the City was awarded the grant in 2008. The City is now in its third extension to complete the project. Bids were opened on January 13, 2011. Notification for the CAMA Permit finally came via email on Friday, January 14, 2011. Total cost need for the project is \$432,391.

The City will need to appropriate \$211,627 to complete this project. There is a 10 year payback of all city monies in this project, with the increase of available permanent slips and projected increase of revenues for the new transient slips.

During the CAMA permitting process, the Army Corp of Engineers entertained a comment from the US Coast Guard about a perceived navigation concern in the Harbor. As a result, and because of a comment made by the Corp, CAMA placed a condition on the permit which disallows dockage on the face of the new boat docks.

Staff and Engineers disagree with the findings of the USACE and have been communicating with them, Representative Jones and the Coast Guard because of the width of the channel in the inner harbor. The Channel width in the inner harbor is 200' while the channel width on either side of the two bridges is 100'. Staff and Engineers have been working on a traffic report to appeal the USACE findings. Further work and possible action is needed on this issue at a later date.

PREVIOUS LEGISLATIVE ACTION

- September 30, 2008 Original Budget Appropriation
- April 2010 Engineering Agreement with Bay Design Group
- September 2009 Project PO carried forward
- October 2010 Project PO carried forward

FISCAL IMPACT

Currently Budgeted (Account \$170,938) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

- Executive Summary from Bill Forman Jr., P.E., Bay Design Group
- Notice of Award
- Bid Tabulation
- Memo from Recreation regarding increased costs
- Dock Plan
- Budget Amendment
- Cost Comparison Report

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: _____ Concur January 24, 2011 and Denial _____ No Recommendation _____ Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the following accounts and amounts:

10-40-3614-3600	Water Front Docks Grant	\$29,062
10-00-3991-9910	Fund Balance Appropriated	<u>182,565</u>
	Total	\$211,627

Section 2. That account 10-40-6124-7400, Capital Outlay in the Water Front Docks portion of the General Fund appropriations budget be increased \$211,627.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 24th day of January, 2011.

MAYOR

ATTEST:

CITY CLERK

MEMORANDUM

DATE: January 24, 2011
TO: Mayor and City Council
FROM: Philip Mobley, Director Parks and Recreation
SUBJ: Award of Bid for the BIG-P Y08 Project

Bids for the BIG-P Y08 Project were opened on Thursday, January 13, 2011. The Project had been held up for months because of the delay in receiving the CAMA permit. The CAMA permit notification came on Friday, January 14, 2011.

The increase of cost to this project has been identified in the following ways:

- Cost of materials higher within the 5 year period it took to obtain CAMA permit
Delay in CAMA permit because previous CAMA permit lapsed, necessitated Environmental Assessment, Harbor Line was an issue, Channel moved and USACE hadn't updated their maps, Coast Guard has issue with navigation.
- "In-kind" match written in grant proposal did not expense against construction
- Public outcry over reduction in free docks prompted public meeting (7/8/10) resulting in change in design and location of the docks
Change is also in keeping with LandDesign vision
- Change from extending "G" and "H" docks to extending "A" and "B" docks increased cost
- Change in design allows us to accommodate larger boats needing higher amp electrical service.
- Change in Fire Code necessitates dry line for length of new docks (approx \$20,000)
- Alternate 1 was included in this project in the amount of \$22,000 for the replacement of decking on docks A and B that has deteriorated.

- Alternate 2 was included in this project in the amount of \$2,500 for refinishing of existing pedestals on docks A and B. These pedestals are older and a different model than the pedestals on the other T Docks. This refinishing will help them blend in with the newer, fresher pedestals on the same dock.

It is Important to award the bid for this project tonight because if there is a February 15 moratorium against driving pilings in this area. Driving Pilings cannot resume until September 30.

In addition to the moratorium, we have a second extension on the grant deadline that expires June 30, 2011. This project is scheduled to be completed by that time with the current schedule:

Washington Marina – Phase 3
Washington, North Carolina

Project Schedule

Notice to Bidders – Advertise – December 12, 2010

Bids Documents available, December 14, 2010

Pre-bid conference – January 6, 2011, 2:00 PM at Parks and Recreation Department Conference Room

Bids received – January 13, 2011 2pm at Parks and Recreation Department Conference Room

Bids awarded by City Council – January 24, 2011

Notice to Proceed January 28, 2011 – Pending permit approvals

Substantial completion April 30, 2011

Final Completion – May 15

	2006 Original	Current
Project Cost Summary:		
Construction of T Docks (G&H)	100,000	
Water equipment & installation	12,000	
Electrical equipment & installation	122,488	
Construction of Addition to A & B		329,900
Replace old decking (A&B)		22,000
Refinish existing electrical pedestals	-	2,500
Total Construction	234,488	354,400
Engineering	18,000	54,793
Environmental Assessment for CAMA		22,726
NC DENR		400
Advertising		72
Contingency	52,188	-
Total Cost	304,676	432,391

Funding Source

Cash:		
City	25,000	
Down on Main Street	200	
The Meeting Place	100	
Total	25,300	-
In Kind:		
City providing water to dock service point	24,376	
DWOW promotion & special events	5,000	
WTDA promotion of docks in publications	50,000	
Total	79,376	
BIG Grant	200,000	200,000
Total Funding	304,676	200,000

Additional Funding Required	232,391
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Budget Amendment:

Total Project Cost	432,391
Spending to Date	66,526
Balance to Spend	365,865
2011 Budget	170,938
YTD Spending	(16,700)
Available Budget	154,238
Additional Appropriation Required	211,627

Expenditures

Year	Amount	Summary
2009	33,750.00	Coastal Science & Engineering
	(4,536.00)	29,214.00 Work related to Little Sailing Club and other projects
2010	18,039.39	Coastal Science & Engineering
	2,172.50	Bay Design Group
	400.00	20,611.89 NC DENR
	72.00	WDN
2011	<u>16,627.98</u>	<u>16,699.98</u> Bay Design Group
Total	66,525.87	66,525.87

Engineering Recap:

51,789.39	Coastal Science & Engineering
<u>(4,536.00)</u>	Work related to Little Sailing Club and other projects
47,253.39	Net Coastal Science
<u>30,265.35</u>	Bay Design Fee Proposal
77,518.74	Total Engineering

Open PO's

2011	11,464.87	11,464.87	Bay Design Group
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January 19, 2011



Ms. Philip W. Mobley, Director
Department of Parks and Recreation
310 W. Main Street
Washington, North Carolina 27889

Phone (252) 975-9367

Re: Washington Marina – Phase 3 (10121)
Notice of Award

Dear Mr. Mobley:

We received bids (copies enclosed) for the reference project on Wednesday, January 13, 2011 at 2:00 at your office. Bids were received from three well qualified contractors, T. D. Eure Construction Company, TJ's Marine Construction, LLC, and Cape Romain Contractors, Inc. A tabulation of the Bids is attached.

The low Base Bid was \$329,900 by T. D. Eure Construction Co. with bids for add alternates 1 and 2 of \$22,000 and \$2,500 respectively. I have reviewed the Bid and find that its meets the requirements of the Contract Documents.

We recommend award to the contract to T. D. Eure Construction Company, Inc. A Notice of Award is attached to be approved and executed by the City. The Notice of Award includes a general description of the project, the not-to-exceed Contract Price, the project schedule and other requirements of the Contract Documents that are the responsibility of the Contractor. A final negotiated Contract Price will be shown in the final Contract.

Let me know if I can help you in any way.

Please call me if you have any questions concerning this matter.

Sincerely,

BAY DESIGN GROUP, P.C.

A handwritten signature in black ink, appearing to read 'James W. Forman, Jr.', written in a cursive style.

James. W. Forman, Jr., P.E.
Senior Engineer

Attachments

NOTICE OF AWARD

Dated January 25, 2011

TO: T. D. Eure Construction Company, Inc.

(BIDDER)

ADDRESS: P. O. Box 650

Morehead City, North Carolina 28557

Contract: Washington Marina – Phase 3

(Insert name of Contract as it appears in the Bidding Documents)

Project: Washington Marina – Phase 3

You are notified that your Bid dated January 13, 2011 for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a Contract for the following work generally described as follows:

Base Bid:

- Heavy timber construction of 14 new fixed dock boat slips complete with water and marine power utilities.
- Construction of approximately 2,900 square feet of marine pile supported timber docks and decking.
- Installation of potable water and electrical utilities to serve the new fixed docks including relocation of an existing sewer pumpout device on Dock A.

Add Alternate 1 – Removal and disposal of approximately 2450 square feet of treated timber decking on Docks A and B and replacement with 2 x 8 treated timber decking in accordance with the requirements of the Contract Documents.

Add alternate 2 – Remove existing utility pedestals on Docks A and B and resurface fiberglass gel coat with marine paint products as indicated in the Contract Documents.

PROJECT SCHEDULE: The project start date will be approximately 2 weeks after approval of the contract award by the OWNER. Unless negotiated otherwise, all construction shall be substantially completed on or before May 20, 2011 and completed and ready for final payment on or before June 3, 2011.

The Contract Price of your Contract is not to exceed:

three hundred fifty-four thousand four hundred Dollars (\$354,400).

3 copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award. 5 sets of the Drawings will be delivered separately or otherwise made available to you immediately.

City of Washington Marina - Phase 3

January 13, 2011

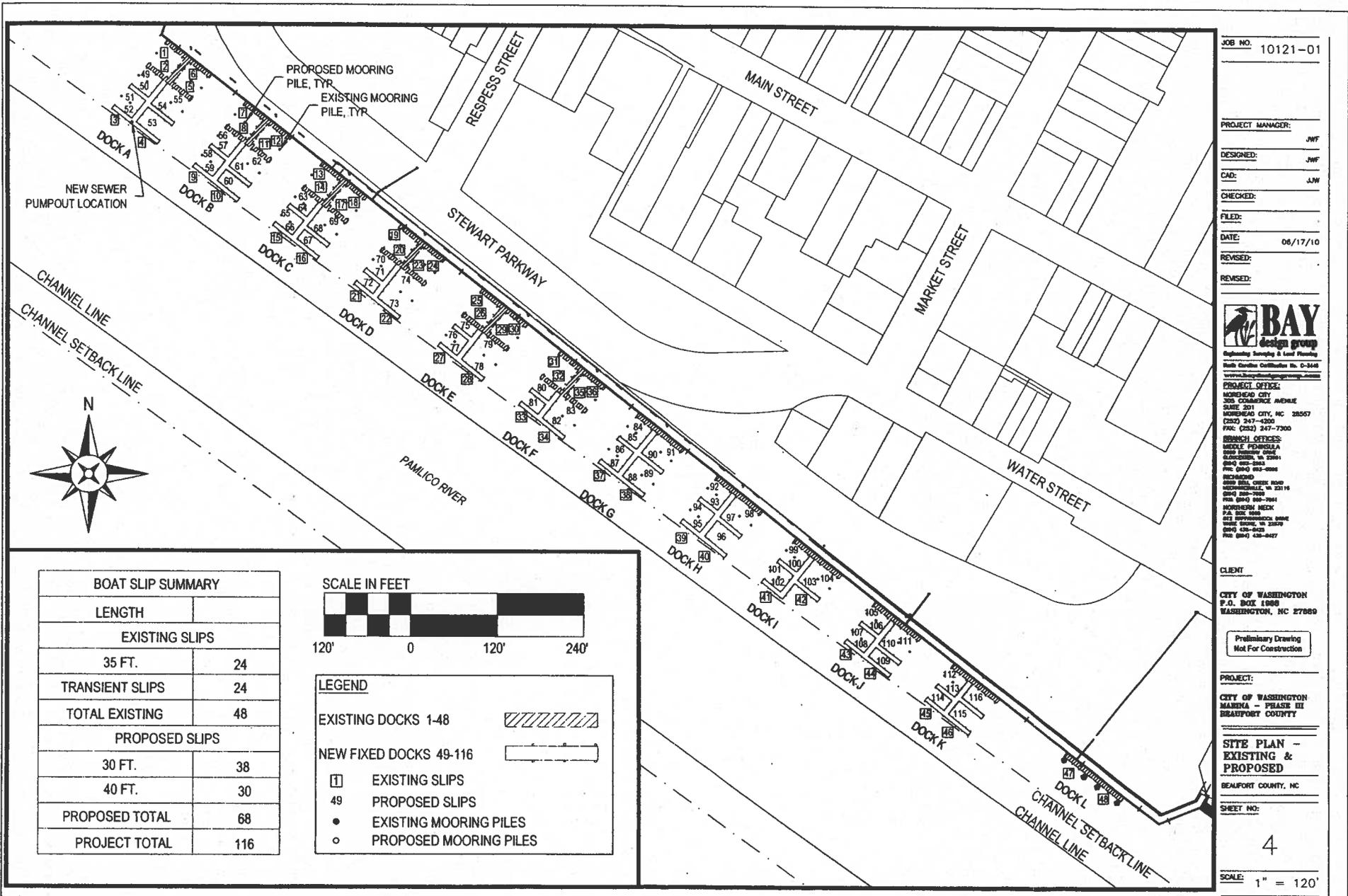
2:00 p.m.

Bid Tabulation

Contractor	Bid Bond	Ack Add. 1	Base Bid Lump Sum	Add Alternate 1	Add Alternate 2
Cape Romain Contractors, Inc.	Yes	Yes	\$476,000	\$26,300	\$10,800
T.D. Eure Construction Co., Inc.	Yes	Yes	\$329,900	\$22,000	\$2,500
T.J.'s Marine Construction, LLC	Yes	Yes	\$364,770	\$13,962	\$4,250

Add Alternate 1
Add Alternate 2

Replace Timber Decking, Docks A and B
Refinish Existing Utility Pedestals, Docks A and B



JOB NO. 10121-01

PROJECT MANAGER: JWF
 DESIGNED: JWF
 CAD: JWF
 CHECKED:
 FILED:
 DATE: 06/17/10
 REVISED:
 REVISED:



PROJECT OFFICE:
 MOREHEAD CITY
 305 COMMERCE AVENUE
 SUITE 301
 MOREHEAD CITY, NC 28557
 (252) 247-3300
 FAX: (252) 247-7300
 BRANCH OFFICES:
 MIDDLE PENINSULA
 1000 HUNTER CREEK
 BLANCKENHORN, VA 22804
 (540) 893-2943
 FAX: (540) 893-2948
 WASHINGTON
 1000 BELL CREEK ROAD
 WASHINGTON, VA 22114
 (540) 360-2800
 FAX: (540) 360-2841
 NORTHERN BEACH
 P.O. BOX 680
 812 WASHINGTON BLVD
 NORTHERN BEACH, VA 23570
 (804) 438-8823
 FAX: (804) 438-8427

CLIENT
 CITY OF WASHINGTON
 P.O. BOX 1888
 WASHINGTON, NC 27889

Preliminary Drawing
 Not For Construction

PROJECT:
 CITY OF WASHINGTON
 MARINA - PHASE III
 BEAUFORT COUNTY

SITE PLAN -
 EXISTING &
 PROPOSED

BEAUFORT COUNTY, NC

SHEET NO:

4

SCALE: 1" = 120'

BOAT SLIP SUMMARY	
LENGTH	
EXISTING SLIPS	
35 FT.	24
TRANSIENT SLIPS	24
TOTAL EXISTING	48
PROPOSED SLIPS	
30 FT.	38
40 FT.	30
PROPOSED TOTAL	68
PROJECT TOTAL	116

SCALE IN FEET

LEGEND

EXISTING DOCKS 1-48

NEW FIXED DOCKS 49-116

EXISTING SLIPS
 PROPOSED SLIPS
 EXISTING MOORING PILES
 PROPOSED MOORING PILES



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Public Works Director *Allen Lewis*
Date: 12-30-10
Subject: Authorize the Mayor and City Clerk to Execute the Attached Utility and Municipal Agreements with the North Carolina Department of Transportation for Project R-2510 C (US 17 North of Washington).

Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the Mayor and City Clerk to execute the attached Utility and Municipal Agreements with NCDOT for Project R-2510 C.

BACKGROUND AND FINDINGS:

The attached agreements are required by NCDOT for the construction of the next phase of the US 17 improvements north of Washington (R-2510 C). This project will continue the widening of US 17 from where the current project ends near Cherry Run Road, to a point just north of NC 171. Basically, the agreements call for the City to be responsible for all municipal-owned utilities within existing NCDOT right of way to be relocated for the construction project. There is a City water line that runs along US 17 and turns onto Cherry Run Road that will need to be relocated as part of this project. The preliminary estimate for the cost of relocating this line is \$131,120. The City is responsible for the relocation of this line because it is within the right of way US 17. It was placed there, with NCDOT's permission, under the stipulation that if it ever needed to be relocated due the maintenance or repairs of any portion of their roadways or structures, it would be done so at the City's expense. It is necessary to relocate this line as a result of the widening project. The final cost for the relocation of this line will be due and payable upon completion of the entire project.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Attached Utility and Municipal Agreements.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: _____ Concur _____ Recommend Denial _____ No Recommendation _____ Date

NORTH CAROLINA
BEAUFORT COUNTY

UTILITY AGREEMENT

DATE: 3/30/2009

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

Project: R-2510C

AND

WBS Elements: 34440.3.6

CITY OF WASHINGTON

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the Department and the City of Washington, hereinafter referred to as the "Municipality";

W I T N E S S E T H:

WHEREAS, the Department has prepared and adopted plans to make certain street and highway improvements under Project R-2510C, Beaufort County, said plans consisting of the improvements to US 17 from US 17 south of SR 1001 to north of NC 171; Beaufort County; said project having a right-of-way width as shown on the project plans on file with the Department's office in Raleigh, North Carolina; and,

WHEREAS, the parties hereto wish to enter into an agreement for certain utility work to be performed by the Department's construction contractor with full reimbursement by the Municipality for the costs thereof as hereinafter set out.

NOW, THEREFORE, it is agreed as follows:

1. The Department shall place provisions in the construction contract for Project R-2510C, Beaufort County, for the contractor to adjust and relocate water line. Said work shall be accomplished in accordance with cost estimate attached hereto as Exhibit "B" and the plan sheets attached hereto as Exhibit "C".
2. The Municipality shall be responsible for water line costs as shown on the attached Exhibit "C". The estimated cost to the Municipality is \$131,120.00 as shown on the attached Exhibit "B". It is understood by both parties that this is an estimated cost and is subject to change. The Municipality shall reimburse the Department for said costs as follows:

- A. Upon completion of the utility work, the Department shall submit an itemized invoice to the Municipality for cost incurred. Billing will be based upon the actual bid prices and actual quantities used.
 - B. Reimbursement shall be made by the Municipality in one final payment within sixty (60) days of said invoice.
 - C. If the Municipality does not pay said invoice within sixty (60) days of the date of the invoice, the Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105.241.21.
 - D. Any cost incurred due to additional utility work requested by the Municipality after award of the construction contract, shall be solely the responsibility of the Municipality. The Municipality shall reimburse the Department 100% of the additional utility cost.
3. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by North Carolina General Statute, Section 136-41.1, until such time as the Department has received payment in full.
4. Upon the satisfactory completion of the relocations and adjustments of the utility lines covered under this Agreement, the Municipality shall assume normal maintenance operations to the said utility lines. Upon completion of the construction of the highway project, the Municipality shall release the Department from any and all claims for damages in connection with adjustments made to its utility lines; and, further, the Municipality shall release the Department of any future responsibility for the cost of maintenance to said utility lines. Said releases shall be deemed to be given by the Municipality upon completion of construction of the project and its acceptance by the Department from its contractor unless the Municipality notifies the Department, in writing, to the contrary prior to the Department's acceptance of the project.
5. It is further agreed that the following provisions shall apply regarding the utilities covered in this Agreement.

- A. The Municipality obligates itself to service and to maintain its facilities to be retained and installed over and along the highway within the Department's right-of-way limits in accordance with the mandate of the North Carolina General Statutes and such other laws, rules, and regulations as have been or may be validly enacted or adopted, now or hereafter.

 - B. If at any time the Department shall require the removal of or changes in the location of the encroaching facilities which are being relocated at the Municipality's expense, the Municipality binds itself, its successors and assigns, to promptly remove or alter said facilities, in order to conform to the said requirement (if applicable per G.S. 136-27.1), without any cost to the Department.
6. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S.

CITY OF WASHINGTON

ATTEST:

_____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ of the local governing body of the City of Washington as

attested to by the signature of Clerk of said governing body on _____(Date)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Washington

DEPARTMENT OF TRANSPORTATION

BY: _____
(STATE HIGHWAY ADMINISTRATOR)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

NORTH CAROLINA
BEAUFORT COUNTY

1/22/09

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

TIP MUNICIPAL AGREEMENT

AND

CITY OF WASHINGTON

PROJECT: R-2510 C
WBS: 34440.3.6

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Washington, a local government entity, hereinafter referred to as the "Municipality";

W I T N E S S E T H:

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project R-2510 C, Beaufort County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT:

1. This project consist of the improvements to US 17 from US 17 south of SR 1001 (Cherry Run Road) to north of NC 171.

PLANNING, DESIGN AND RIGHT OF WAY:

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

UTILITIES:

4. The Municipality, without any cost or liability whatsoever to the Department, shall relocate and adjust all municipally-owned utilities in conflict with the Project and shall exercise any rights which it may have under any franchise to effect all necessary changes, adjustments, and relocations of telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately- or publicly-owned utilities.

(A) Said work shall be performed in a manner satisfactory to the Department prior to the Department beginning construction of the Project. The Municipality shall make every effort to promptly relocate said utilities in order that the Department will not be delayed in the construction of the Project.

(B) The Municipality shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the Project.

(C) The Department, where necessitated by construction, will make vertical adjustments of two (2) feet or less to the existing manholes, meter boxes, and valve boxes at no expense to the Municipality.

(D) If applicable, the Department shall reimburse the Municipality in accordance with the Municipally Owned Utility Policy of the Department approved by the Board of Transportation.

(E) If the Municipality requests the Department to include the relocation and/or adjustment of municipally owned utilities in its construction contract provisions, the Municipality shall reimburse the Department all costs associated with said relocation. The current estimated costs of this relocation is \$131,120.00 (estimate based on preliminary plans). Reimbursement will be based on final project plans and actual costs of relocation. If a request is received from the Municipality, a separate Utility Agreement will be prepared to determine the reimbursement terms and an updated cost estimate.

CONSTRUCTION AND MAINTENANCE:

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.

6. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.

7. Upon completion of the Project, the roadway shall be a part of the State Highway System and owned and maintained by the Department.

8. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.

9. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.

10. All terms of this Agreement are subject to available departmental funding and fiscal constraints.

11. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S.

ATTEST

CITY OF WASHINGTON

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by City Council of the City of Washington as attested to by the signature of _____, clerk of the City Council on _____ (date).

(SEAL)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer

Federal Tax Identification Number

City of Washington

Remittance Address:
City of Washington
P. O. Box 1988
Washington, NC 27889-1988

DEPARTMENT OF TRANSPORTATION

BY: _____

STATE HIGHWAY ADMINISTRATOR

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (date)

22-Dec-10		PROJECT QUANTITIES ESTIMATE REPORT				
R-2510C		BEAUFORT COUNTY				
		US-17 FROM NORTH OF SR-1509 (SPRINGS ROAD) TO NORTH				
		OF NC-1				
Item Number	Sec #	Description	QUANTITY		BID	AMOUNT
0318000000-E	1505	FOUNDATION CONDITIONING MATERIAL, MINOR STR	20.00	TON	\$30.00	\$600.00
5325800000-E	1510	8" WATER LINE	874.00	LF	\$40.00	\$34,960.00
5546000000-E	1515	8" VALVE	2.00	EA	\$1,200.00	\$2,400.00
5801000000-E	1530	ABANDON 8" UTILITY PIPE	1006.00	EA	\$10.00	\$10,060.00
5871500000-E	1550	TRENCHLESS INSTALLATION OF 8" IN SOIL	277.00	LF	\$100.00	\$27,700.00
5871510000-E	1550	TRENCHLESS INSTALLATION OF 8" NOT IN SOIL	277.00	LF	\$200.00	\$55,400.00
						\$131,120.00

