



APRIL 11, 2011  
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from March 8, March 14 & March 28, 2011 **(page 4)**

Approval/Amendments to Agenda

Presentation: Marquin Hill - Wrestling

I. Consent Agenda:

- A. Declare – Surplus/Authorize Electronic Auction of Transformers and Miscellaneous Items through GovDeals **(page 40)**
- B. Adopt – Declaration of Official Intent to Reimburse itself for expenditures related to the building improvements of Impressions facility project incurred prior to the issuance of debt **(page 42)**
- C. Adopt – Capital Project Ordinance for Impressions Building Improvement Project **(page 44)**
- D. Authorize – Police Chief to proceed with the grant application through North Carolina Governor's Crime Control Commission (\$9,401) City's match (\$3,136) **(page 47)**
- E. Authorize – Re-advertisement of RFP for ARRA lighting retrofit **(page 52)**
- F. Approve – Purchase Orders over \$20,000 **(page 54)**

II. Comments from the Public:

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

- A. None

IV. Public Hearing – Other:

- A. None



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- V. Scheduled Public Appearances:
- A. Catherine Glover – Beer Garden request **(page 60)**
  - B. Stephen Cutler – Troop 21 request assistance with flag pole located at the Chamber of Commerce
  - C. Gary Miller – Temporary Cell Tower
- VI. Correspondence and Special Reports:
- A. Memo – Comprehensive Plan **(page 62)**
  - B. Memo – Load Management Device Report **(page 64)**
  - C. Memo – Green Fleets Policy Ordinance **(page 65)**
  - D. Memo – Police Facility Geotechnical Engineering report **(page 71)**
  - E. Memo – Funding for Main and Respress Pump Station **(page 75)**
- VII. Reports from Boards, Commissions and Committees:
- A. Human Relations Council **(page 78)**
  - B. Washington Tourism Development Authority **(page 79)**
  - C. Financial Reports **(emailed as available)**
- VIII. Appointments:
- A. Appointment - Washington Housing Authority and Recreation Advisory Committee **(page 80)**
- IX. Old Business:
- A. Approve – North Academy Street Parking Recommendations **(page 83)**
  - B. Adopt – Budget and Capital Project Ordinance Amendment E911 **(page 87)**
  - C. Adopt – Budget Schedule for FY 2011-12 **(page 89)**



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X. New Business:

- A. Approve & Authorize – City Manager to execute contract for Phase #2 at the “Festival” Park with Mark Smith Architect (\$24,950) **(page 91)**
- B. Approve & Authorize – Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement with Little Washington Sailing Club **and** to negotiate, enter and execute future Waterfront Docking agreements with Little Washington Sailing Club **(page 106)**
- C. Adopt – Budget Ordinance Amendment for Brown Street Bridge Replacement **(page 114)**
- D. Adopt – Ordinance Amendment deleting Chapter 38 – Water **and** Wastewater and Adopt Chapter 38 – Water and Chapter 39 – Wastewater/SUO **(page 116)**
- E. Award – Audit contract for fiscal year 2010-2011 **(page 174)**
- F. Authorize – Private Sale of Unimproved Real Properties on Keysville Road to Metropolitan Housing and Community Development Corporation, Inc. to Construct Single Family Homes to Low to Moderate Income Households under CDBG Project #05-C-1490 **(page 179)**
- G. Award – Negotiated Low Bid for Infrastructure Improvements for Keysville Road Project(CDBG) **and** Approve related Project Budget Ordinance Amendment **(page 194)**

XI. Any Other Items From City Manager:

- A. Delivery – Proposed Budget for FY 2011-12

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

- XIII. A. Closed Session – Under § NCGS 143-318.11(a)(6) Personnel

- XIV. Adjourn – Until April 25, 2011 at 5:30 pm, in the Council Chambers at the Municipal Building.

The Washington City Council met in a special session on Tuesday, March 8, 2011 at 8:00am in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Ed Moultrie, Councilman; Doug Mercer, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Pete Connet, Interim City Manager; Franz Holscher, City Attorney and Cynthia Bennett, City Clerk.

Also present were: Mick Reed, Police Chief; Mike Voss, of the Washington Daily News; Kevin Ratigan, Architects Design Group; Bianca Gentile, Community Development Planner; Lt. William Chrismon, Police Dept.; Matt Rauschenbach, CFO; and David Carraway, IT Dept.

Mayor Jennings called the meeting to order and discussed the prayer breakfast being held this week at the Shriner's Building for the high school/middle school children.

#### **APPROVAL/AMENDMENTS TO AGENDA**

Councilman Mercer requested adding a discussion of outsourcing to the agenda. By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council approved the agenda as amended.

#### **OUTSOURCING –GRASS MOWING**

Councilman Mercer stated he has spoken with Bishop Jones(Purpose of God) regarding the possibility of his staff submitting a proposal for grass cutting around the City. John Rodman, Planning Director explained he has a list of properties that the City is responsible for cutting and will make sure Bishop Jones receives a copy. Councilman Moultrie wants to insure that this would not put any City of Washington employees out of a job.

#### **PRESENTATION - POLICE FACILITY**

Pete Connet, Interim City Manager explained the presentation agenda to Council. Chief Reed will review the needs analysis, Matt Rauschenbach will review expenses/budget, Kevin Ratigen, ADG will review the floor plan and project timeline. We will need to move forward with the Geotech/soil survey and the FAA release.

Chief Reed reviewed the history of this project. In 2003 a space needs analysis was prepared and in 2008-2009 the process was started to choose a site and an architect. In March 2009 we entered the first contract with ADG and June 2009 Council authorized the agreement with ADG. Our needs go beyond a simple space needs, we have changes in rules and regulations that we need to comply with. Chief Reed reminded Council of the time a member of the District Attorney's office came and spoke during a previous public hearing commenting on the needs of the department.

Mayor Jennings asked what the logistical challenges to having a Police Department outside the City's core in regard to "walk-in" visitors to the facility. Chief Reed stated our officers rarely respond from the Police Department as they are deployed and already on patrol of the City. We have over 200 "walk-in" customers per month after 5:00pm and weekends, these customers don't actually walk to the facility, they drive. The community expects our facility to be open 24 hours a day and desires a facility to hold community meetings. The new police

facility will have a community meeting room. Mayor Pro tem Roberson stated he felt the selected location is the best place for the new Police Department.

Matt Rauschenbach reviewed the budget numbers and expenditures for this project. Mr. Rauschenbach stated Council approved \$3million for this facility. (\$1million –public safety fund; \$1million-borrowed; \$1million – other funding). Currently there is a shortfall of \$1,281,657 to build the facility as currently presented. The current space needs analysis is 15,638 sq.ft. and construction cost was based on that size structure. The City owns the land, but will have to contribute to airport improvements to offset the value of land for the facility.

Chief Reed stated the Emergency Operations Center located at Fire Station #2 is undersized for an EOC and training facility. The new Police Department is designed to house an appropriately sized EOC and community meeting facility. The current design incorporates the 2003 space needs, experience from himself and the architect on needed size and the function of the department. If we have to reduce the size from 15,000 sq. ft., then we will.

Councilman Moultrie stated if we are really serious about building the facility, then leave it to the professionals and let them do their jobs, this project has been going on for over a year. The longer we wait the price of construction could continue to increase. Mayor Pro tem Roberson stated we can reduce the amount of parking spaces and save approximately \$120,000. \*Currently 92 parking spaces are in the plans at a cost of \$2900 per space. He further stated it is important to build an appropriately sized Regional EOC. Bianca Gentile stated we are pursuing a grant to assist in the construction of the EOC. Mayor Pro tem Roberson explained he is ready to move forward with the project.

\*Councilman Pitt left the meeting at 9:00am.

Councilman Mercer asked if the soil will support the facility, has the site been tested? Mr. Connet noted the Geotech/soil analysis will cost approximately \$3900 and a detailed site survey/including topo at an estimated of \$6100. Staff was asked at the last meeting to get prices for the soil analysis. Mr. Rauschenbach stated in USDA funding allows for a 30 year term, up to \$3million at 4.125%.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized staff to proceed with the Geotech/soil analysis not to exceed \$3900.

Outstanding Debt and Debt Service

2/25/2011

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>O/S Debt @ YE</b>											
General Fund	624,736	1,348,336	3,632,311	3,756,711	3,662,599	3,263,981	2,937,196	2,835,530	2,730,386	2,621,634	2,509,140
Water Fund					1,487,222	832,708	567,583	324,765	69,806	0	0
Sewer Fund					4,005,622	3,329,135	2,867,152	2,414,536	1,964,152	1,601,644	1,329,839
Storm Water Fund					87,825	63,517	4,874,941	4,522,509	4,177,982	3,837,962	3,504,617
Electric Fund					1,992,399	2,321,836	2,490,357	1,701,612	973,441	314,424	127,392
Solid Waste Fund					211,431	159,735	250,927	185,236	117,722	65,441	36,040
<b>Total</b>	<b>15,166,907</b>	<b>14,451,068</b>	<b>14,909,516</b>	<b>13,874,755</b>	<b>11,447,097</b>	<b>9,970,911</b>	<b>13,988,156</b>	<b>11,984,188</b>	<b>10,033,488</b>	<b>8,441,106</b>	<b>7,507,028</b>

<b>Debt Service:</b>											
General Fund	448,781	384,143	376,483	383,693	564,182	545,191	514,189	224,284	224,211	224,140	224,067
Water Fund	1,214,328	1,175,212	1,175,616	1,087,306	949,405	717,840	301,749	268,499	269,713	73,091	-
Sewer Fund	821,372	1,028,492	1,031,903	993,415	931,876	809,270	571,898	544,759	524,733	418,950	314,172
Storm Water Fund	-	14,695	7,932	13,881	18,402	26,758	257,459	481,269	463,932	450,135	434,412
Electric Fund	387,908	825,719	880,675	979,168	1,163,652	1,532,777	799,181	856,594	771,144	678,870	192,756
Solid Waste Fund	-	-	66,523	61,687	65,340	57,221	53,187	71,160	71,160	54,136	30,301
<b>Total</b>	<b>2,872,389</b>	<b>3,428,261</b>	<b>3,539,132</b>	<b>3,519,150</b>	<b>3,682,857</b>	<b>3,689,057</b>	<b>2,497,664</b>	<b>2,446,566</b>	<b>2,324,893</b>	<b>1,899,322</b>	<b>1,195,708</b>

<b>Change in Debt Svc.</b>											
General Fund							(31,002)	(289,904)	(73)	(71)	(73)
Water Fund							(416,091)	(33,250)	1,214	(196,622)	(73,091)
Sewer Fund							(237,372)	(27,139)	(20,026)	(105,783)	(104,778)
Storm Water Fund							230,701	223,810	(17,337)	(13,797)	(15,723)
Electric Fund							(733,596)	57,413	(85,451)	(92,274)	(486,113)
Solid Waste Fund							(4,034)	17,972	-	(17,024)	(23,835)
<b>Total</b>							<b>(1,191,393)</b>	<b>(51,098)</b>	<b>(121,673)</b>	<b>(425,571)</b>	<b>(703,613)</b>

<b>Preliminary Cost Estimation of Police Department Facility.</b>			
<b>Numbers taken in part from USDA Loan Application and updated info as known</b>			
<b>For Discussion Purposes only</b>			
Expense Item		Est. Cost	Notes
Development and Construction		\$ 3,220,840	
	Building Cost	\$ 2,754,840	based on 14,438 SF x \$180/sf and 1200 SF x \$120/Sf
	Site Work Cost	\$ 466,000	
Land Surveys & Appraisals, sites 1&2		\$ 15,000	\$11,475 paid to date
Land Cost/FAA/airport Improvements	(spread out over 4yrs to CRF)	\$ 200,000	Two appraisals--1@\$300,000 and 1@\$100,000
Legal and Administrative		\$ 20,000	Estimate from Atty.
Architect /Engineering fees (max.per contract)		\$ 257,667	8% of Development and Construction Line
Interest on Construction Loan		\$ 112,500	\$3 million, 2.5%, 18 months
Furniture/Fixtures/Equipment (FFE)		\$ 200,000	6.2% of Development cost
Contingency		\$ 200,000	6.2% of Development cost
Geotech/soils analysis		\$ 3,900	from actual quote
Detailed site survey/including topo		\$ 6,100	Estimate
Preliminary Reports/prior to Design contract		\$ 10,650	paid to date
Estimated Moving cost of the Department		\$ 35,000	Est. moving \$35,000
		\$ 4,281,657	
<b>Revenue Sources</b>			
Public Safety Capital Reserve fund		\$ 1,000,000	
USDA Loan		\$ 2,000,000	They will go up to \$3,000,000
		\$ 3,000,000	
<b>Potential Funding Sources</b>			
FEMA BUY OUT <b>NET NEW MONEY</b>	\$ 600,000		
EOC Grant Program	\$ 457,000		
	\$ 1,057,000		
<b>Revenue/Expenses</b>		\$ (1,281,657)	

## Architect Phases and Associated Costs

As of March 1, 2011

Total Contract Fee		\$ 257,667
<b>Phase</b>		
Schematic Design (15%)	\$	38,650
Design Development (20%)	\$	51,533
Construction Documents (40%)	\$	103,067
Bid and Negotiation Phase (5%)	\$	12,883
Construction Phase (20%)	\$	51,533
	\$	257,667
		Total Design fees
<b>Other Related fees and costs</b>		
		<b>Phase</b>
Legal and administrative - full project	\$	20,000 All
Land surveys and Appraisals sites 1&2	\$	15,000 Schematic & DD
Preliminary Reports/prior to Design contract	\$	10,650 Schematic & DD
Geotech/soils analysis/detail site survey	\$	3,900 Schematic & DD
detail site survey inc topo	\$	6,100 Schematic & DD
	\$	55,650

Kevin Ratigen, ADG said when the project was originally considered as a feasibility we looked at the 500 year flood plain, USGS Soil Survey of the general area and the survey indicated that the site was suitable. But in order to know for certain would require soil borings. In order to get the maximum benefit of the soil borings, you need to know where the building is going to go so you can take deep penetration borings. You also need to have a concept of where the stormwater retention area will go so the perk analysis can be performed. This is where we are now and we have the design and layout of the building and stormwater retention and are ready for the soil analysis, detailed site survey including topo. The Board of Adjustment approved the site plan with the setbacks, variances and parking. We've looked at the needs for parking and ways to economize on the needs of the project. The proposed size accommodates the current staff, allowing for the potential growth of approximately 15 officers/investigators in the next 5-10 years. The initial space needs study completed in 2003 recommended approximately 15,000sq.ft. and suggested in 2015 about 19,000 sq.ft. Councilman Mercer asked for an updated copy of the floor plan showing the appropriate square footage of offices/rooms.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized staff to proceed with the detailed site survey including topo for a price not to exceed \$6,100.

Mr. Ratigan stated we need approval from the City Council to continue developing the plan, we can wait until we get the soil study back. The longer we wait, the possibility of the cost increasing also increases and we are approaching an end date for USDA funding. The project

needs to be completed at the end of 2012 to accommodate for the complete close out of the project at the end of the first quarter 2013. The project needs to go out for bids in September/October 2011 in order to meet the schedule. The floor plan and design changed to reflect the plan that was approved by the Board of Adjustment.

Recess: 9:30-9:40am (Councilman Pitt returned at 9:45am)

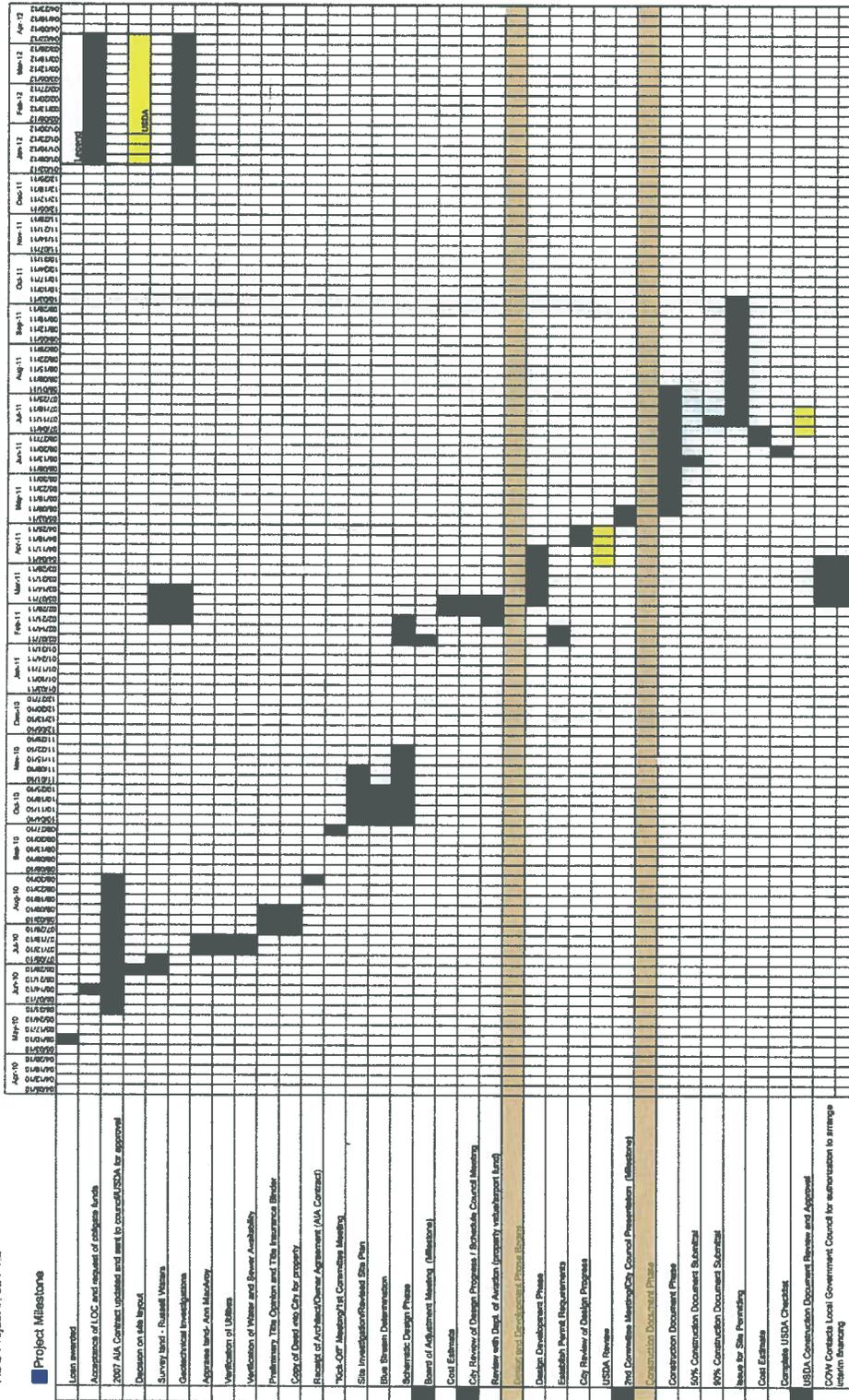
Kevin Ratigan reviewed the Police Department project schedule and the layout of the structure, reviewing the need for secure locations in the building. There are currently 92 parking spaces in the plan and a 15,150sq.ft. structure. Councilman Mercer voiced concern with the design and layout of the structure on the property and felt the ditch needed to be filled in to square off the property. Mayor Pro tem Roberson stated it is not cost effective to fill in the ditch and we should use the design we have because it will fit on the parcel as it is. Mr. Ratigan stated we reconfigured the site, so we would only need a variance on the ditch side, it would be detrimental to the project to have to fill the ditch and change the layout and design. By a straw poll, Council agreed with the design and layout of the structure(Councilman Mercer opposed).

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council authorized the City Attorney to proceed with the necessary documents to file the FAA Release, subject to the soil reports being returned with the appropriate findings.

Council gave staff a general direction to continue moving forward with the project to remain on schedule and to continue searching for cost saving efforts. Mr. Ratigan will bring a copy of the floor plan showing the square footage of each room and refined financial numbers for the April 11<sup>th</sup> Council meeting.

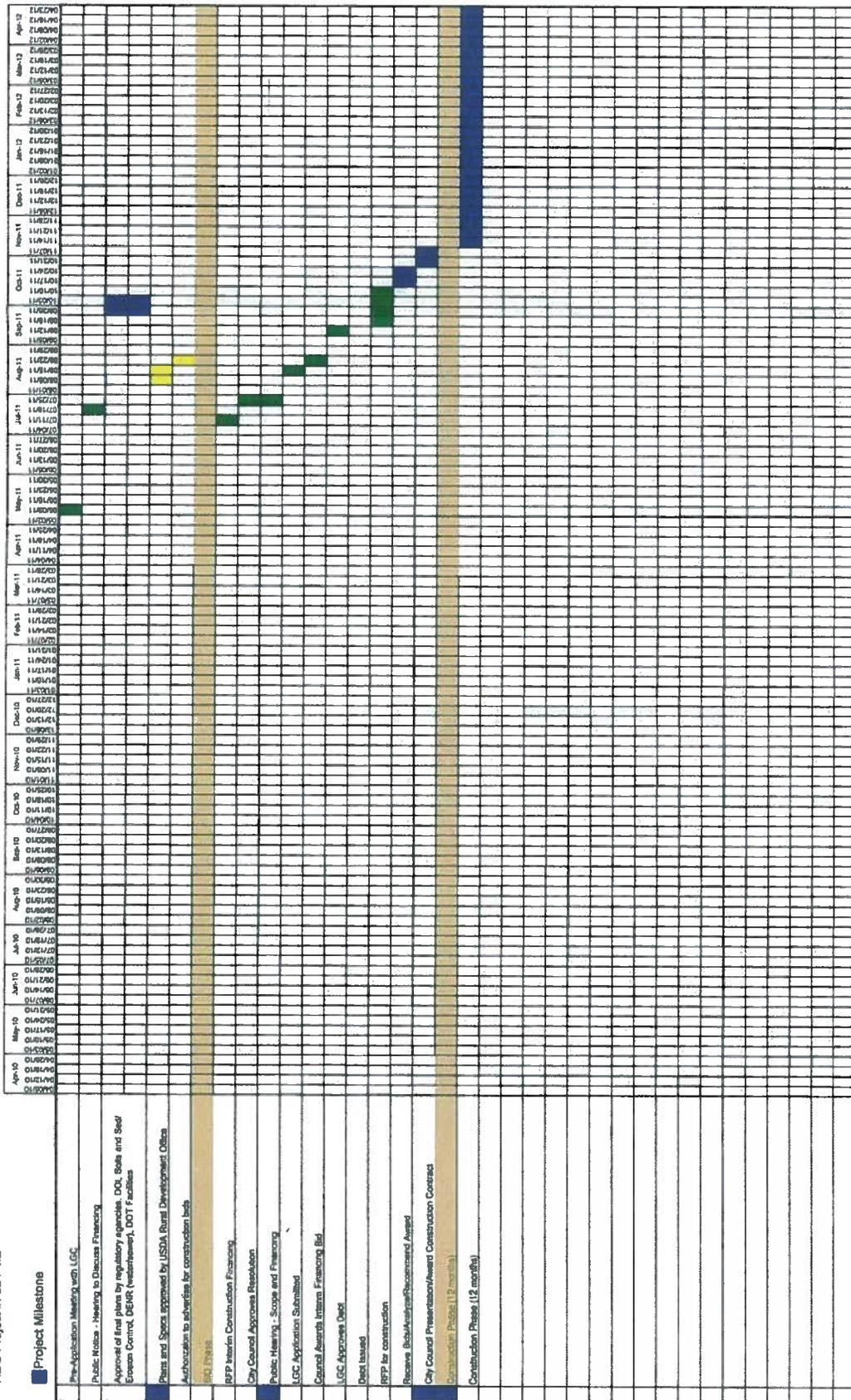
Washington Police Facility

Project Schedule/List of Tasks  
Washington, NC Police Facility  
ADG Project #: 824-1.2



Washington Police Facility

Project Schedule/List of Tasks  
Washington, NC Police Facility  
ADG Project #: 824-1.2



**ADJOURN**

By motion of Councilman Davis, seconded by Councilman Pitt, Council adjourned the meeting until March 14, 2011 at 5:30 pm in the Council Chambers at the Municipal Building.

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

**(Subject to approval of the City Council)**

DRAFT

**CITY COUNCIL MINUTES  
WASHINGTON, NORTH CAROLINA**

**March 14, 2011**

The Washington City Council met in a regular session on Monday, March 14, 2011 at 5:30 pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Pete Connet, Interim City Manager; and Cynthia Bennett, City Clerk.

Councilman Moultrie was absent and excused from the meeting.

By motion of Councilman Davis, seconded by Councilman Pitt, Council formally excused Councilman Moultrie due to an out of town funeral.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Mick Reed, Police Chief; Allen Lewis, Public Works Director; Keith Hardt, Electric Director; John Rodman, Planning Director; Philip Mobley, Parks and Recreation Director; Susan Hodges, Human Resource Director; Lynn Lewis, Tourism Authority Director; Mike Voss, of the Washington Daily News and Delma Blinson, of the Beaufort Observer.

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

**APPROVAL OF MINUTES**

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the minutes of February 14, and February 28, 2011 as presented.

**APPROVAL/AMENDMENTS TO AGENDA**

Interim City Manager, Pete Connet requested adding under Old Business as item 1: Impression Lease Agreement and to move item X. D. under New Business: Approve – Legally binding Commitment between the City and Metropolitan Housing & CDC Inc. – Keys Landing subdivision to item IV. B. Public Hearing – Other: and all other items move down consecutively.

Mayor Jennings requested adding under Old Business as item 2: a discussion on marketing.

1. **Approve** – Impression Lease
2. **(Move item X. D. to IV. B) – Approve** – Legally Binding Commitment between the City and metropolitan Housing & CDC Inc. – Keys Landing subdivision
3. **Discussion** –Marketing Presentation - Andrea McGhee

By motion of Councilman Mercer, seconded by Councilman Pitt, Council approved the agenda as amended.

**CONSENT AGENDA**

By motion of Councilman Pitt, seconded by Councilman Mercer, Council unanimously accepted the consent agenda as presented.

- A. Adopt – Budget Ordinance Amendment for Rebates \$8,000  
(copy attached)
- B. Accept – and ratify Letter of Credit from Northgate **and** Authorize City Attorney or City Manager to effectuate the City’s authority if necessary  
(copy attached)
- C. Adopt – Budget Ordinance to amend the Storm Water Capital Project Ordinance to redistribute the appropriation to specific accounts  
(copy attached)
- D. Approve – Purchase Orders over \$20,000  
(copy attached)

**COMMENTS FROM THE PUBLIC**

No public comments at this time.

**MARC FINLAYSON – HWY. 17 PROGRESS & UPDATES**

Highway 17 Association Representative, Marc Finlayson presented updates and progress on Highway 17. The presentation included construction progress, accomplishments, status report for US 17 Corridor and additional projects. Mr. Finlayson shared the year end progress report tracking against stated goals.

Mr. Finlayson presented a statement of accomplishments to date and the progress on highway 17 projects as of January along with funded and unfunded projects. Mr. Finlayson shared that Segment A. Chocowinity/South should be completed by early summer and Segment A. Old Ford will be let for bid Tuesday. There are five (5) projects at the same time under construction and ten (10) projects on tap – five (5) underway now. Also, Mr. Finlayson addressed the following issues:

- Highway 17 Association Stakeholder Relationships
- Highway 17 Legislative Issues Federal and State

**GEORGE SCHRYER, BETSEY, LEE HODGES & SCOTTE TAYLOR – VETERAN’S PARK SIGNAGE**

Commander of Veterans of Foreign Wars Post 6088, Mr. George Schryer explained the request for funding of the Veterans Park Signage. Mr. Schryer shared several veterans groups came together and were active in planning the sign monument. These groups included: American Legion Posts 15 (Washington), 249 (Belhaven), 263 (Cherry Road), 313 (Blounts Creek), American Legion Auxiliary, Disabled American Veterans, and Veterans of Foreign Wars.

Architect Susan Suggs, assisted the group in selecting the site for the sign monument.

Phases of the Veteran's Park have included:

Stage One – Installation of flags (Army, Navy, Marines, Air Force, Coast Guard, National Guard, Merchant Marines, POW/MIA, and American and their respective plagues, walkway, commemoration plaque, benches, trash cans, and some landscaping

Stage Two – Installation of the nesting eagle sculpture

Stage Three – Installation of Fallen Soldier statue

Stage Four – Installation of bench donated in memory of Michael Morlock

Stage Five – Beaufort County's WWI and WWII monuments relocated to the park and repaired and cleaned (funded by American Legion Post and American Legion Auxiliary (15)

Stage Six – The Veterans Park hosted the traveling version of "The Wall That Heals" in the summer of 2009

Stage Seven – Build a sign/monument to replace the old sign. This will serve three purposes:

Clearly define the location of the park

Provide a recognition system for past and future donors

Firmly establish the community's appreciation of its Veterans and fallen soldiers

Mr. Schryer noted the Washington Parks and Recreation Department has been involved in every stage of the planning and development of this project. Also, local brick mason NCNG Sgt. William Rodgers, who has built the bases for the other two sculptures, has reviewed the design and provided a very reasonable quote to build the masonry portion of the sign monument. Sculptor David Turner has reviewed the design and is satisfied with its artistic and structural integrity in regard to its ability to support the eagle sculpture, which he has agreed to sell for \$6,000 less than his advertised price. Mr. Turner designed and made the existing eagle sculpture at the park. Mr. Schryer had dedicated all the remaining proceeds from the Wall that Heals event to the sign and monument project.

The proposed sign will be made with bricks. At one end, it will be 4 feet tall and the other end will be 12 feet tall. Atop the sign's high end will be a sculpture of an eagle, which is 8 feet tall. On one side of the sign, 24-inch-high letters made from cast aluminum will spell out "Veterans Park." That side will be illuminated at night. On the other side of the sign, 18-inch-high letters will spell out "Freedom Is Not Free." Also on that side, an 18-inch-by-24-inch bronze plaque will list "everyone who has ever contributed anything to the park."

Mr. Schryer is requesting \$10,000 funding from the City of Washington, \$10,000 from Beaufort County, and \$5,000 from the Wall that Heals proceeds and \$12,239 from

private sector donations. The total cost of the monument is \$37,239. Mr. Schryer suggested the expected dedication date for the sign is Veterans Day 2011 and expressed his appreciation to the Mayor and City Council.

Councilman Mercer voiced he certainly would like to encourage and endorse the Veterans Park but expressed his concern as to what would be the ultimate design of this park. If we have a comprehensive plan, it would be much easier for the City to endorse. Mr. Schryer suggested this group had discussed that issue and would like a group sanctified by the City Council, stating this is the Veterans Park Commission because we have plans for further development down the road. Mayor Jennings agreed with this idea and suggested setting a vision that we can all agree on. A committee could possibly be formed under Parks and Recreation alongside the advisory board to focus specifically on Veterans Park. Council agreed to make this a part of the budget discussions.

#### **TIM WARE – MID-EAST COMMISSION**

Mr. Tim Ware, advised the Mid-East Commission is one of seventeen (17) Regional Councils in the State of North Carolina. Mr. Ware shared that this particular Council works in Beaufort, Bertie, Hertford, Martin and Pitt County with the 40 municipalities included in those counties.

Mr. Ware presented the 2011 Legislative Priorities and the financial involvement of the Mid-East Commission with Washington. There will be four (4) goals going before the General Assembly this year:

- Goal 1: Support Regional Water Resource Planning
- Goal 2: Support for rural Transportation Planning Organizations
- Goal 3: Restore State Technical Assistance Funding for Regional Councils
- Goal 4: Support Increased Area Agency on Aging Funding

Mr. Ware stated the financial involvement side consists of mainly three areas:

- Area Agency on Aging (sharing that 90% of funding is Federal which is primarily through Block grants and is basically on the Area Agency on Aging)
- Workforce Development (largest program and better known as the Job-Link Center)
- Planning, Community Development and Economic Development

Mr. Ware stated that Washington has 320 citizens participating in the Area Agency on Aging and 200 participating in the Workforce Development, totaling 520 participants being served.

Mr. Ware summarized by stating the City has taken advantage of \$2,964,313 in funding for their dues of \$2,583 with a return of \$1,148 that the City is investing. Mr. Ware mentioned they now have two small business loan programs where they can lend anything from \$500-\$150,000. Mr. Ware also mentioned that Councilman Mercer is a member of their board and will be nominated to be the second vice president coming up at the annual meeting in April.

Mayor Pro tem Roberson inquired if the (\$750,000) under funding for Gold Leaf was accurate. Mr. Ware explained that it has been obligated..

(copy attached)

**ACCEPT & ADOPT – THE RECOMMENDATION OF THE PLANNING BOARD AND APPROVE THE PRELIMINARY SITE PLAN OF ALDERBROOK POINTE DEVELOPMENT LOCATED OFF WEST 15<sup>TH</sup> STREET & PIERCE ST. EXT.**

Mayor Jennings opened the public hearing. Planning Board Chairman, Dot Moate stated on the 22<sup>nd</sup> of February the Planning Board had a request from Mr. Steve Rice & Associates for a preliminary site plan of Alderbrook Pointe Development subject to conditions by the Technical Review Committee. The development is located off West 15<sup>th</sup> Street & Pierce Street Ext. The development will have 64 assisted living units and is currently zoned O & I (Office & Institutional) and multi-family is a permitted use within that zoning classification. When the Planning Board met a number of things were considered and felt the subject parcel and proposed development is consistent with the adopted Comprehensive Land Use Plan. The development will meet the conditions of the Technical Review Committee. The Planning Board had additional conditions added:

- existing picnic table area be enlarged and relocated
- a fence be added around the storm water pond
- off-site/ on-site signage be corrected
- future sidewalks be included as part of the extension of Pierce Street and Rodman's Road

The Planning Board has determined that the proposed development will have no detrimental effect to the surrounding property or the immediate neighbors; therefore, based on these findings and facts, we recommend that Council approve the preliminary site plan.

Mr. Steve Rice with Rice and Associates stated they prepared the plan and suggested they concur with the comments by staff and the Planning Board. Also, he noted the site plan had been revised to reflect the increase in the picnic area, the fence around the storm water pond and in the process of putting in place an agreement to provide the funds for building of the sidewalk.

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

Councilman Mercer has concerns regarding the site plan although the site plan technically meets the criteria established. Councilman Mercer there is only one way in and one way out of the facility and it is in effect an extension of Pierce Street. The sketch does in effect show a future development of Rodman's Road but there is no time line for the development of that road. Councilman Mercer stated we already have a major problem with traffic coming out of 15<sup>th</sup> Street and would like to see some modification of the design that will allow for a 2<sup>nd</sup> entrance or 2<sup>nd</sup> exit. Mayor Jennings inquired of Mr. Rodman and Ms. Moate if this had been taken into consideration as part of the process.

Mr. Rodman stated that Rodman's Road is a residential area and they did not want to start connecting these areas until such time as you would have future development. Ms. Moate stated the Planning Board did address the concern with traffic but could not figure out an equitable way to fix it. The Planning Board decided it was up to the Council to determine whether we should require them or maybe set aside some fees for future development. It would be ideal if the entrance could be over on Rodman's Road but felt it would create a problem.

Mayor Pro tem Roberson asked Mr. Rice to give Council some historical facts about their firm. How many projects they have developed like this one? Mr. Rice stated they were working in conjunction with EDA Architect and Planners. Mr. Rice noted he has personally designed about twelve or more of these projects over approximately thirty years of practice and he is a license Civil Engineer. EDA prepared the master plan as Councilman Mercer indicated it is a master plan that envisions a total development of a larger area and he does have a copy of the plan. This is the first phase of Eskridge Crossing. They worked with staff to develop the plan and all comments have been incorporated. Mayor Pro tem Roberson inquired if Mr. Rice felt there was a safety hazard by developing that project and Mr. Rice responded 'no'. He is not a traffic engineer but he understands the general rule of thumb for thresholds for number of units for single access (if you have less than 100 units it is accepted to have one entrance/exit). There is a circular drive that will allow access for emergency vehicles.

Mayor Jennings inquired about future connectivity and maybe using Rodman's Road as some kind of egress as the project expands and doesn't see how it would connect with the loop. Mayor Jennings inquired if that was in the plan and Mr. Rice responded no it was not.

Mayor Jennings suggested one issue they came across when reviewing this project was some ambiguity in the proposed sidewalk agreement and requested the City Attorney, Franz Holscher speak to this issue. Mr. Holscher asked if Council was approving and authorizing this agreement as written because it's part of the material that's being presented to Council with this plan. Mr. Holscher would like to suggest there are other ways to go at this concept. If the plan does go forward we could have a more general understanding about that commitment, we could work on the details of that commitment when we would be better served as far as the sidewalks go. Mr. Rice stated the Planning Board recommended approval to Council contingent on funding being put in place to guarantee the construction of the sidewalks down North Pierce Street and up Rodman's Road - in the intent of this draft of this agreement is to provide a guarantee that those funds will be provided. Mayor Jennings suggested taking up the issue of approval, again with that contingency in mind, then fall back and deal with the particulars of that contingency. Mr. Holscher stated this was what he had in mind but with a lot of specifics questions – i.e. exhibit A. not being attached, interest rate, pre-audit certificate, things that need to be worked through. Mr. Rice stated they were not requesting formal approval of the agreement tonight and they concur with the City Attorney's recommendation.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council accepted the recommendation of the Planning Board and approved the preliminary site plan of Alderbrook Pointe Development subject to conditions by the Technical Review Committee. Motion carried 3-1 vote with Councilman Mercer opposing.

(copy attached)

**ACCEPT– THE PROGRAM AMENDMENT TO THE FY05 CDBG HOUSING DEVELOPMENT PROJECT AT KEY’S LANDING SUBDIVISION**

Mayor Jennings opened the public hearing. Mr. Reed Whitesell with Holland Consulting Planning presented the history of the project to Council. Mr. Whitesell stated the City was in receipt of a \$250,000 FY 05 Community Development Block Grant Housing Development project. During the time the City was preparing Environmental review record for the project, it was determined that the original site was unsuitable for the development due some heir and transfer issues. The City staff, Holland Planners and Metropolitan Housing CDC defines an alternate parcel which is approximately 2/10 of a mile northeast of the original parcel which was undeveloped. The State Agency was informed of that formally by a formal map amendment and due to some staffing changes at their end the City received release of funds and staff who took over the project was not aware that the site had changed and that the City had obtain release of funds. By relocating the site to the north required a sewer out fall to get to one of the main City’s trunk lines and there was some increase in the street & water cost of the project. Also, getting the design done for the alternate site, survey and transferring the property the City involved a good deal of legal surveying and engineering cost. The original 12 unit project was bid as phase 1 in May of 2010 and came in well over the amount available for phase 1. This was communicated to the State during their monitoring visit shortly thereafter and at that time funds were frozen on the project. A number of steps were taken to get the funds unfrozen and to get the State to accept the 5 unit project to be completed by April of 2012. This is contingent upon receipt of a legally binding commitment between Metropolitan and the City of Washington and receipt of a formal program amendment (which he has prepared for delivery to Raleigh on Friday contingent upon receipt of some material signed by Mayor Jennings & Metropolitan).

Mr. Whitesell noted they have been successful in negotiating Rivers and Associates as the project engineer and was successful in negotiating with the low bidder from \$275,000 to \$190,000 for phase 1 which will now be 5 units. Mr. Reed stated they are very hopeful base on some de-obligated funds being available at the current time that with file and completion on 2-3 of the houses this fall-winter and will be able to go back to DCA and request the funds to complete phase II and do the whole 12 unit project.

The City has committed to date \$60,000 toward the project (that was the original commitment). The legal binding commitment before Council is providing that City assistance in the form of a forgiving loan (as each unit is competed the City offers give \$12,000 of the note and Metropolitan has agreed to that contingency). That will recuse the City’s cost or the grant cost for the land. In the event of total non performance by Metropolitan the City could request that \$60,000 back with the infrastructure in place.

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

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council unanimously accepted the program amendment and proceeds with the completion of a smaller scale infrastructure project to serve Phase 1 of the proposed Keys Landing Subdivision.

(copy attached)

**MOVED TO PUBLIC HEARING - APPROVE – LEGALLY BINDING**  
**COMMITMENT BETWEEN THE CITY AND METROPOLITAN HOUSING &**  
**CDC INC. – KEYS LANDING SUBDIVISION**

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously approved the legally binding commitment, promissory note and deed of trust.

(copy attached)

**ADOPT – ORDINANCE TO AMEND CH. 40, ARTICLE IV, SECTION 40-**  
**93 TABLE OF USES, BY ADDING DOUBLE WIDE MANUFACTURED HOMES**  
**AS A SPECIAL USE IN THE RA-20 (RESIDENTIAL AGRICULTURE) ZONING**  
**DISTRICT**

Mayor Jennings opened the public hearing. Planning Board Chairman, Dot Moate stated on the 22<sup>nd</sup> of February meeting there was a request from the Planning Department to amend the zoning ordinance to include Double Wide Manufactured Homes as a Special Use in the Residential Agricultural zoning district.

Listed are the finding, facts and conclusions:

1. Currently Manufactured Homes are not allowed within the City's planning jurisdiction unless they are located in an established mobile home park.
2. Individual mobile homes on individual lots were removed as a special use in the zoning ordinance in 2003.
3. The Planning staff felt the addition of Double Wide Manufactured Homes as a special use met requirements and was warranted as one of another affordable housing choice.
4. The requested Double Wide Manufacturing Homes will not be located within the City limits or within a special flood zone area.
5. The request is consistent with Smart Growth which states "to plan and zone for affordable and manufacturing housing development in rural area".
6. The Planning Board felt the request is unreasonable due to inconsistency with the zoning ordinance and because the placement of Double Wide Manufactured Homes is not compatible to the surrounding areas in which they are located or would be located and the adjacent zoning districts.
7. There was concern by the Planning Board of consideration that mobile homes depreciate in value over time vs. modular homes increase in value.

Based on findings, facts and conclusion, the Planning Board voted 5-0 to recommend to City Council that the request for Double Wide Manufactured Homes as a special use in the RA-20 (Residential Agricultural) zoning district be denied.

Ms. Johanna Huber lives in the ETJ was in favor of the Planning Boards recommendation to deny.

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

Councilman Mercer shared he attended the Planning Board meeting and there was approximately 30-40 minutes of discussion regarding this matter. Listed are some things the Council needs to consider and that several safeguards have been built into the proposal: 1: Requires a special use permit (the applicant must come to the board to receive the permit) and the neighborhood will be notified and will be allowed to come before Council to speak for or against that permit 2: Double Wide in this case is not Mobile Home – unit comes in two pieces, placed on a foundation and joined physically on site & probably will not be moved again and 3: Permanent bricked foundation, tongue removed and feels it should be allowed in the ETJ in the RA-20 category.

Mayor Jennings inquired of Ms. Moate if the Planning Board had reviewed closely and discuss the 13 features that are included in terms of the definition and Ms. Moate responded 'yes'. Ms. Moate mentioned during the hearing the board discussed that if there was a number of people who would like to have a mobile home that maybe we ought to consider amending the code in allowing certain areas for mobile home parks. Ms. Moate stated it was in the code and allowed prior to 2003 then removed in 2003.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council accepted the recommendation of the Planning Board to deny the request as submitted (or this use). Motioned carried 3-1 with Councilman Mercer opposing.

**(copy attached)**

**ACCEPT & ADOPT – THE RECOMMENDATION OF THE PLANNING BOARD AND ADOPT THE ORDINANCE TO AMEND CH. 40, ARTICLE IV, SECTION 40-93 TABLE OF USES BY ADDING COMMERCIAL MARINAS, PERMITTED ONLY BY SPECIAL USE PERMIT ISSUED BY THE BOARD OF ADJUSTMENT WITHIN THE OFFICE AND INSTITUTIONAL ZONING DISTRICT**

Mayor Jennings opened the public hearing. Planning Board Chairman, Dot Moate reminded Council attention that the request has been presented before as Marinas and Dry Stack Storage. The Planning Board had another hearing at the request of Quibble and Associates to allow a text amendment to allow Commercial Marinas that fronts on waterfront property as a Special Use permit in the O & I (Office & Institutional) zoning district.

The meeting held on February 22<sup>nd</sup>, the Planning Board listed the finding, facts and conclusions:

1. Currently marinas are allowed in the B-2 (General Business) zoning district with a special use approved by the City of Washington Board of Adjustment.
2. Request consistent with the CAMA Use Plan (marinas should be built in non wet land sites or in deep waters that do not require dredging).
3. Planning Board felt the request was reasonable due to consistency with the Lane Use Plan and Harbor Management Plan and because of the additional placement of the Commercial Marina would be compatible to the surrounding areas.

Based on findings, facts and conclusion, the Planning Board voted 5-0 to recommend to City Council to approve the request of the amended ordinance.

Mayor Pro tem Roberson expressed several concerns - Commercial Marinas would be in compliance with our CAMA Lane Use Plan and also in the language regarding #11 (Navigation - the location of any docks/piers and drystack storage must not impede safe navigation of public trust waters). Mr. Rodman stated it would be corrected it had already been discussed.

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

City Attorney, Franz Holscher shared the conversation he had earlier with Mr. Rodman. Mr. Holscher needed clarification about some of the language in the definition section (its primary use it to provide both in-water docking/mooring of boats). Also, the wording needed to be corrected under #8. (~~to closer~~ – no closer) and again under section 11. Remove the wording of drystack storage.

Bill Sykes stated if the City on the other side of the river was to designate a mooring field then it could be included and the mooring field could be managed out at the marina. Mr. Sykes inquired if the City ordinance would also be addressing garbage issues or is it addressed elsewhere. In the CAMA Lane Use Plan the marina is not required to have a garbage management plan. There was a problem with Moss Landing where it was not require by the City. Mr. Rodman had not thought about it and Mayor Jennings suggested it would be a lot easier to deal with it on the front end and he appreciated Mr. Sykes bringing it to their attention. :

By motion of Councilman Mercer, seconded by Councilman Pitt, Council unanimously accepted the recommendation of the Planning Board with the exception of item 8 be reworded (no closer than (10) feet to any property line – ~~to closer~~) and item 11 (remove ~~and drystack storage~~) and approve the Ordinance to amend Chapter 40, Article IV, Zoning districts, Section 40-93, Table of Uses, by adding **Commercial Marinas** will be permitted only by Special Use Permit issued by the City of Washington Board of Adjustment within the O&I (Office & Institutional) Zoning District with corrections.

Mayor Pro tem Roberson requested having the garbage collection system as an agenda item at the next City Council meeting.

(copy attached)

**ACCEPT & ADOPT – THE RECOMMENDATION OF THE PLANNING BOARD AND ADOPT THE ORDINANCE TO AMEND CH. 40, ARTICLE XVA, SIGNS, SECTION 40-407, TEMPORARY SIGNS, BY ADDING THEATRICAL EVENT SIGNS AS A TEMPORARY SIGN ALLOWED WITHOUT A SIGN PERMIT**

Mayor Jennings opened the public hearing. Planning Board Chairman, Dot Moate shared this hearing was held on February 22<sup>nd</sup> and was received from the Planning Department for a text amendment to add theatrical event signs as a temporary sign permitted without a sign permit.

The meeting held on February 22<sup>nd</sup>, the Planning listed the finding, facts and conclusions:

1. Currently temporary signs are allowed without a sign permit in all areas if certain requirements are met.
2. Temporary signs are limited in their duration and can only be put up in conjunction with a special event.
3. Theatrical event signs would meet specific requirements.

Base on the findings and conclusions the Planning Board approved unanimously to recommend that City Council text amendment be approved as recommended.

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

Councilman Mercer made an observation that section 5. should read “no more than instead of no more that thirty days”.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council unanimously accepted the recommendation of the Planning Board and approved the Ordinance to amend Chapter 40, Article XVI, Signs, Section 40-407, Temporary Signs, by adding theatrical event signs as a temporary allowed without a sign permit.

(copy attached)

**ADOPT – RESOLUTION ORDERING THE CLOSURE AND ABANDONMENT OF A PORTION OF STEWART PARKWAY**

Mayor Jennings opened the public hearing. Public Works Director, Allen Lewis shared this item was carried forward from the February 14<sup>th</sup> meeting. The request is to officially close a portion of Stewart Parkway from near the intersection of Water Street, Bonner Street back around the Old Evan Seafood property.

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

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously adopted the resolution ordering the closure and abandonment of a portion of Stewart Parkway as described on the map attached to the agenda.

**(copy attached)**

### **JOEY TOLER – BEER GARDEN REQUEST**

Executive Director, BCAC Mr. Joey Toler, explained the Arts Council will be holding its 3<sup>rd</sup> annual music festival on April 16<sup>th</sup>, 2011. Mr. Toler is requesting they be allowed to operate a beer garden for the first time this year. This year events will be scheduled until 10:00pm.

Mr. Toler stated that Council has been supplied with a map describing the location of the beer garden and how the festival will be laid out. Also, Council has been provided a list of Q & A in anticipation of questions. Mr. Toler pointed out that they have modified the operational time of the beer garden if approved. Instead of 4-10 pm it would be operated from 4:30-9:30 pm.

Mayor Pro tem Roberson suggested as a cautionary measure be sure to get the insurance for non-profits. Mr. Toler stated this has already been done and ready to go. Mr. Toler stated he would also like to request Council consider waiving the \$1 wristband fee that is required for each person purchasing alcohol. This request is based on the precedent set by the Council when the Washington Harbor District Alliance (formerly DWO) held their first “Pickin on the Pamlico”. Mr. Toler stated they are asking for this waiver because this is a first-time venture for BCAC and there are many unknowns.

A motion was made by Councilman Pitt, seconded by Councilman Davis, to approve the beer garden per request of Joey Toler and to initiate a onetime waiver of the wristband fee. Voting for the motion: Pitt and Davis; Against: Roberson and Mercer. The vote was tied resulting in Mayor Jennings voting. Mayor Jennings voted in favor of the request and the motion carried 3-2.

Recess at 7:10 pm.

### **MEMO – WASHINGTON FIRE DEPT. AUXILIARY FUNDRAISER**

(Begin memo) This memo is to inform you of the Washington Fire-Rescue-EMS Auxiliary’s intentions to conduct a fund raising event involving Summit Productions by way of soliciting portrait photography packages. Our department has worked with Summit Productions on several occasions in the past to successfully raise funds for boats, extrication equipment and defibrillators. This event is being proposed to raise funds to purchase a specially designed golf cart for EMS and transporting patients. This cart will be used during special events where large crowds are present and access with EMS units is not practical. For many years now we have been borrowing a cart like this from Williamston Fire Department during these events and with the number of events growing in our area we are in need of one of our own.

The Auxiliary anticipates raising adequate funds to cover their purchase of this cart and plans on beginning the fund raising event in April. We welcome any comments or questions concerning proceeding with this process.(end memo)

**MEMO – LOAD MANAGEMENT DEVICE REPORT**

Councilman Mercer requested clarification on the total number of switches installed (is this total through September or February). Mr. Hardt stated total (we have installed 234 out of the 1000 we purchased with 317 appliances).

Councilman Davis inquired if we still have a waiting list and Mr. Rauschenbach stated we still have a waiting list as this information is kept in Finance. Mayor Jennings commended that he really likes the marketing effort and that is thanks to Ms. McGhee.

(Begin memo) Listed herein is the load management switch installation project (by our contractor) activity through February 2011.

Total Load Management Switch Installations	234
Air Conditioner/Heat Pump Control Installations	200
Auxiliary Heat Strip Control Installations	134
Water Heater Control Installations	130
Total Appliance Control Installations for Project	317

(end memo)

**MEMO – DRAFT - NON – RESIDENTIAL MAINTENANCE CODE**

(Begin memo) Attached is the Planning Board’s 1<sup>st</sup> draft and review for the adoption of a Non-Residential Maintenance Code.

For a number of years NC local governments had expressed an interest in adopting a local commercial and industrial property maintenance code. Specific statutory authority was lacking. The unsafe-building condemnation statutes that the state had applied to nonresidential buildings and structures, but those statutes and the process were never intended to support a true property maintenance code. The concept of a nonresidential maintenance code is to establish minimum standards of maintenance, sanitation, and safety for nonresidential buildings that are not necessary so unsafe that they are fit for condemnation. This ordinance would be similar to a minimum housing ordinance, except that it would apply to nonresidential properties.

S.L. 2007-414 authorizes the adoption of a nonresidential maintenance code by municipalities. Any city is authorized to adopt such a code but is not compelled to do so. The Planning Board is taking a comprehensive approach to preparing property maintenance codes.

Planning Staff request that City Council review the draft code. Staff requests feedback for changes or corrections to the draft code. (end memo)

(copy attached)

### HUMAN RELATIONS COUNCIL

#### Scheduled Public Appearances:

Beaufort County Arts Council Executive Director, Mr. Joey Toler and Mr. Jovanni Argeles with Care-O-World Enrichment Center presented the idea of a Multicultural Festival to be co-sponsored by the Human Relations Council and the Chamber of Commerce. Mr. Toler informed Board members the Arts Council would sign up for the following if the project should be considered by the board:

1. Facilitate
2. Physical Agent (monies raised)
3. Reaching out to the community (will not develop or dictate)
4. 3-4 hours small festival

Mr. Toler explained the concept had been looked at in 2008 along with the support of the Human Relations Council but the project fell through and feels the project will go through this year. Draft agenda as followed:

- **Time: 3-6 pm**
  - Parade starts at 3 pm
  - Civic center arrival: 3:35-3:40 pm
  - Break - - - food taste, (booths) exhibits 3:40-4:00
  - Program starts at 4:00 pm
  - ECU function: 40 min
  - Break for children games: 4:40-5:00 pm
  - Second show: 5:10 to 5:45 (three individual shows – each 10 to 15 min)
  - End: food taste, (booths) exhibits until 6:00-6:30 pm (last person leaves)
- **Locations**
  - Children Games: (Civic Center green areas or by the waterfront)
  - Parade: Starting from the Chamber of Commerce building, going down the waterfront ending at the Washington Civic Center
  - Main Program at the Washington Civic Center

#### Suggestions from Human Relations Council

Alternate location (Turnage Theatre may be availability on a Saturday)  
 Alternate dates, place and time (feasible date for all concerned)  
 Combine with 'Taste of Washington'  
 Partnering with other groups  
 Contact Police Department

By motion of Vice Chair Gagliano, seconded by Board member Howard, Council unanimously agreed to combine the two events – Multicultural Festival and ‘Taste of Washington’ and to sponsor this event with the Beaufort County Arts Council. Promoting the Multicultural Festival and the ‘Taste of Washington’ together and canceling a separate event for the ‘Taste of Washington’.

#### **Update Homeless Shelter**

Board member Barr shared a business plan had been formulated with Mr. Lentz Stowe with a start up fee of \$5,000.

#### **Update – Ed Peed Commemoration**

Board member Lodge presented the menu and food items needed for the Ed Peed Commemoration services to be held on February 19<sup>th</sup> at Fire Station.

By motion of Board member Howard, seconded by Board member Castro, Council unanimously agreed to donate \$60 towards the Ed Peed Commemoration services. Board member O’Pharrow amended the motion to inclusive of “\$60 if needed”.

#### **Update – Lunch Recognition**

Committee members: Cherry, Harvey and Lodge updated the Board on the progression of the **Reception** recognizing organizations and individuals that supported events sponsored by the Human Relations Council. The event has been planned for March 22, 2011 – 6:30 pm at the Grace Martin Harwell Senior Center.

#### **Update – forum featuring Dr. Timothy Tyson of Duke Town University**

No definite plans at this time

#### **FYI**

Board member Davis contributed \$30 to the Human Relations Council budget for reimbursement of Jim’s reception.

### **WASHINGTON TOURISM DEVELOPMENT AUTHORITY**

#### **February – March Tourism Development Authority Report**

- Met with Eye Integrated to develop an aggressive marketing plan for the next 6 weeks regarding the Civic Center. The plan is targeted to businesses in Washington and Pitt County in an effort to attract weekday meetings. A draft format has also been developed for the civic center website.
- Heard a presentation from Eye Integrated about the process they use to develop product and community brands. The process is very community focused, with input from various stakeholder groups and visitors to the community.
- Continue to work with the SBI students from ECU developing a plan for the Civic Center. They are very energetic and have already presented several suggestions that are being considered. The group has made several trips to Washington to meet with me, Laura and Virginia (all separately).

- Met with Beth Byrd, Catherine Glover, and Priscilla Denney (Eco-Daisy products) to discuss ideas for “greening” tourism in our community.
- Met with Judy Jennette to discuss the role the WTDA can play in the upcoming Pirate Parley with regard to ticketing and promotional support.
- Met with David Sneed out of Greenville who is launching a new product line that celebrates the estuaries as opposed to the oceans. His line includes t-shirts, hats, etc. We are going to carry some of his t-shirts on a trial basis.
- Met with City representatives (Pete Connet, Bobby Robertson, Matt Rauschenbach, and Franz Holscher) along with Jackie Woolard of the TDA Board to discuss and begin negotiations for the Civic Center management contract. A draft will be included and reviewed at the WTDA Board Meeting with an expected presentation to Council in April.
- Began the development process of the WTDA budget. It is anticipated that I will meet with Mr. Connet during the week of the 14<sup>th</sup>. A draft budget will be presented to the WTDA in April.
- Developed an incentive plan to encourage hotel participation in the John Formica workshop on March 10. Also worked with Lentz Stowe and Catherine Glover to partner on this workshop that is valuable for all of our tourism partners.
- Began working to solicit sponsors for the proposed Professional Redfish Series tournament in August.
- Our new billboards are in place and have gotten very positive response. WITN even interviewed me about the campaign, the bypass, and attracting visitors to Washington.
- Discussed possible partnerships with Martin County travel and tourism related to bus tours, fishing trails, and the sportsman market.
- Provided items for hospitality bags at the NC Governor’s Conference for potential members of NCTIA and DMANC.
- Continue to work with Russ Haddad from Congressman Butterfield’s office to schedule an “Access to the Capital” event in Washington. This would be a regional event to be held at the Civic Center.

Have started to develop tentative plans for tourism week activities in Washington, specifically targeted to the front line employees of the hotels. This national event takes place in May.

#### **FINANCIAL REPORTS**

Councilman Mercer thanked Mr. Rauschenbach for adding installment purchases from the prior year as a column. Revenue statements for the general fund through the end of February carried the City up to 57%. However, when you look at the expenditures through the end of February the City is at 64% and looking at revenues vs. expenditures we are spending a \$1.2 million more than we have taking in so far this year (year to date).

#### **APPROVE – IMPRESSIONS MARKETING GROUP LEASE AGREEMENT**

City Attorney, Franz Holscher stated when this was presented to Council last month, it was his understanding that it was in the final form based upon conversations with the representatives of Impressions. Impressions had been provided with executed copies from the City and provided to Impressions for execution. Upon Impressions’ receipt and final review of the same, they reopened negotiations. This prompted more

conversation between him and their representative and ultimately that conversation boiled down to adding one thing. Mr. Holscher stated this will not affect the City or its legal position and it's the environmental indemnification section of the lease. The lease originally had mutually reciprocal indemnification paragraphs that stated "if either party exacerbated the current environmental condition they would be responsible for what flowed out of that" - Impressions representatives have asked that we add to that "it is still mutually reciprocal but if it's a willful, wanton, and/or negligent exacerbation.

By motion of Councilman Davis, seconded by Councilman Mercer, Council unanimously accepted the clarification as presented by the City Attorney, Franz Holscher on the Impressions Group Marketing Lease.

(copy attached)

#### **DISCUSSION – MARKETING PRESENTATION**

Ms. Andrea McGhee discussed a marketing presentation specifically for the Electric plan and for an idea that would stretch out beyond that. Ms. McGhee shared that at the beginning of the month Washington Daily News invited the City to partake in there VIP plan. It is greatly discounted marketing that we would be able to do through the newspaper. Ms. McGhee presented Council with a package containing what the project is and the benefit of using it. Also, Ms. McGhee shared this information with some the department heads and there is a mark-up calendar in which all departments could be involved with a rotation of ads in the newspaper.

Ms. McGhee felt certain facilities are not well marketed and this will get the name out for those facilities. There would also be an ad addressing recycling.

Mayor Jennings inquired if there was some estimated cost that the City uses via the Washington Daily News each year and Ms. McGhee stated she did not know off hand. Mr. Rauschenbach will look this up and report back to Council with the total cost for all departments.

Councilman Davis inquired if this should be acted upon during the budget deliberations and Ms. McGhee responded 'yes' this is something that Council will need to act upon as this is a yearlong agreement to be entered into with the Daily News.

#### **APPROVE – INTERLOCAL AGREEMENT BETWEEN WASHINGTON TOURISM DEVELOPMENT AUTHORITY AND THE CITY OF WASHINGTON**

Mr. Connet noted this is a project they have all been working on. Mr. Connet shared that Mayor Pro tem Roberson is a representative of the TDA and it was discussed at TDA's last meeting. The lease of the Civic Center should be presented at the next meeting.

Washington Tourism Authority Director, Lynn Lewis suggested this was just an official statement of the relationship between the Tourism Development Authority and the City of Washington.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council unanimously approved the proposed Interlocal Agreement between the Washington Tourism Development Authority and the City of Washington pertaining to the relationship of the two organizations.

(copy attached)

**APPROVE – TWO YEAR CONTRACTS WITH BEAUFORT COUNTY TO PROVIDE EMS INCLUDING AMBULANCE SERVICES TO OLD FORD & CLARKS NECK**

Mr. Rauschenbach mentioned that Mr. Connet had spoken with the County Manager about the increase of 2% from the current rate and he is in agreement and is planning to submit it to the County Commissioners at their April meeting. Mr. Rauschenbach stated it is a two year agreement and essentially the agreement is unchanged with the exception of the 2%.

By motion of Councilman Pitt, seconded by Councilman Mercer, Council unanimously authorized the Interim City Manager to enter into a two year contract with Beaufort County to provide EMS including ambulance services to Old Ford and Clark's Neck.

(copy attached)

**APPROVE – THREE YEAR CONTRACT WITH WASHINGTON PARK FIRE, RESCUE, AND EMERGENCY MEDICAL SERVICES**

Mr. Rauschenbach stated the current contract expires June 30, 2011. The annual payment is based on the total tax base value of Washington Park multiplied by the current fire tax rate for the Bunyan Volunteer Fire District and the emergency medical services tax rate for the Broad Creek Tax District this allows us to come up with our base year. Mr. Rauschenbach stated the payment for the first year is \$33,155 which compares to \$29,950 for the last year of the existing contract. This has been reviewed and approved by the Washington Park Town Board.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously authorized the Mayor to enter into a three year contract with Washington Park to provide fire, rescue, and emergency medical services.

(copy attached)

**AWARD – FINANCING BID FOR INSTALLMENT PURCHASES \$1,256,050**

Mr. Rauschenbach distributed a copy of the bid tabulation to Council and explained the RFP was sent out to seven financial institutions with five responding. Staff recommends Council award the financing bid for installment purchases to Bank of America based on the interest rate and other overall costs. In this year's budget, Council authorized the City to borrow \$1,256,050 to fund the projects on the attached list.

	BB&T	B of A	Wells Fargo	First Citizens	RBC
Interest rate	2.31%	2.22%	2.68%	3.38%	2.91%
Interest	73,884.93	70,956.04	85,969.90	109,020.69	91,377.48
Monthly Payment	22,541.27	22,491.63	22,746.10	23,136.79	Fixed principal
Prepayment	1%	1%	\$0 after 3/12	50000%	1%
Closing Costs	-	-	500	2,750	100
Term	59 months	59 months	59 months	59 months	59 months
Escrow Interest	yes	yes	yes	yes	yes

**INSTALLMENT PURCHASES**

			Detail \$	Budget \$	Summary \$
10-00-4132-7402	Information Technology			34,050	
		Storage Area Net	11,500		
		Ethernet Switches	12,500		
		Virtual Server Host	10,050		
10-00-4400-7401	Miscellaneous	Telephone system		100,000	
10-10-4310-7402	Police	Two Police vehicles		66,000	
10-20-4510-7401	Street Maintenance	Ditch bank mower		25,000	
	<b>Total General Fund</b>				225,050
35-90-7220-7401	Electric Director	Vehicle 614		22,000	
35-90-7250-7401	Electric Meter Services			104,000	
		Vehicle 658	24,000		
		3 phase meters	40,000		
35-90-8370-7401	Substation Maintenance			305,000	<b>Lien Allowable</b>
		Main sub B2 breaker replacement	45,000		No
		Generator relocation	120,000		Yes
		Distribution reclosers	22,000		Yes
		SCADA radios	15,000		Yes
		Load management switches	12,500		Yes
		Capacitors	8,500		Yes
		Wharton sub transformer	35,000		No
		Main sub T2 protection relay upgrades	12,000		No
		Travel Store Generator relocation (Crutch's)	15,000		Yes
		Substation recloser replacement 5 th St circuit	20,000		No
35-90-8390-7401	Power Line Construction			460,000	
		Vehicle 804, bucket truck	200,000		Yes
		6.5 miles of line rebuild Pinetown to Terra Ceia	260,000		No
	<b>Total Electric Fund</b>				891,000
38-90-4710-7401	Solid Waste Collection	Vehicle 488 rearload garbage truck		140,000	
	<b>Total Solid Waste Fund</b>				140,000
<b>Grand Total</b>				1,256,050	1,256,050

884,050 Security Interest  
 372,000 No Security Interest  
 1,256,050

March 14, 2011  
 Installment Purchases 2011 - Electric Lien

Councilman Mercer voiced concern regarding the amount that is needed to be borrowed (police vehicles, reline wet well & generator). The difference in the budgeted amount and the amount needed to be borrowed is approximately \$90,000. He stated we only need to borrow what we need. Mr. Rauschenbach stated the basis of going out for the installment bids were the budgeted amounts, we will also borrow the money much later this year making it closer to the actual spending date, resulting in reduced prices for some items. The amount to be borrowed can be adjusted; \$1,256,050 was the maximum amount that could be borrowed. If we under spend on some projects the unspent

proceeds from the note at the end of the project will be applied to the principal or the loan will be re-amortized.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council awarded a \$1,256,050 installment purchase financing bid to Bank of America, N.A. and authorized the C.F.O. to execute the necessary documents to close this transaction. With the understanding that he will review and remove any monies that we do not need to borrow.

**AWARD – CONTRACT FOR GENERATOR RELOCATION**

Electric Director, Keith Hardt stated this was an item included in the current fiscal year budget. There has been some engineering cost associated with this project and this is only for the labor and equipment to relocate. The existing generator is not in service and the Hospital currently has their own generator during peak shavings. This unit has not been saving any wholesale power purchases since September. The engineering purchase had to be completed during this fiscal year and we received bids in which we are now ready to award the contract.

Councilman Davis inquired where the generator would be moved and Mr. Hardt stated Stanadyne.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council unanimously awarded a contract in the amount of \$93,928 to C.T.E., Inc. to provide labor, equipment, and materials for the relocation of the City's Hospital Peak Shaving Generator to Stanadyne Corporation.

By motion of Councilman Mercer, seconded by Councilman Davis, Council unanimously approved the purchase order in the amount and not to exceed \$93,928 for C.T.E., Inc.

**(copy attached)**

**ANNOUNCEMENT**

Interim City Manager, Pete Connet distributed resumes to Council for the City Manager's position. Mayor Jennings instructed Council to go through and have another narrowed list back to Mr. Connet by Friday (March 18, 2011). Mr. Connet requested receiving the list of questions to be included in the package going to candidates as well.

**ADJOURN – UNTIL MONDAY, MARCH 28, 2011 AT 5:30 PM IN THE COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING**

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council adjourned the meeting at 8:15 pm until March 28, 2011 at 5:30 pm in the Council Chambers at the Municipal Building.

**(Subject to the Approval of the City Council)**

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

The Washington City Council met in a continued session on Monday, March 28, 2011 at 5:30 pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Ed Moultrie, Councilman; Doug Mercer, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Pete Connet, Interim City Manager; Franz Holscher, City Attorney and Cynthia Bennett, City Clerk.

Also present were: Mick Reed, Police Chief; Matt Rauschenbach, CFO; Keith Hardt, Electric Director; Allen Lewis, Public Works Director; Robbie Rose, Fire Chief; Mike Voss, Washington Daily News; and Delma Blinson, Beaufort Observer.

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

#### **APPROVAL/AMENDMENTS TO AGENDA**

Councilman Mercer requested adding a discussion regarding future meetings. Mayor Jennings requested adding a public appearance by Jeff Aydelette, Editor, Compass News/County Compass. Councilman Davis requested adding a closed session under NCGS 143.318.11(a)(6) Personnel.

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

#### **JEFF AYDELETTE, COMPASS NEWS**

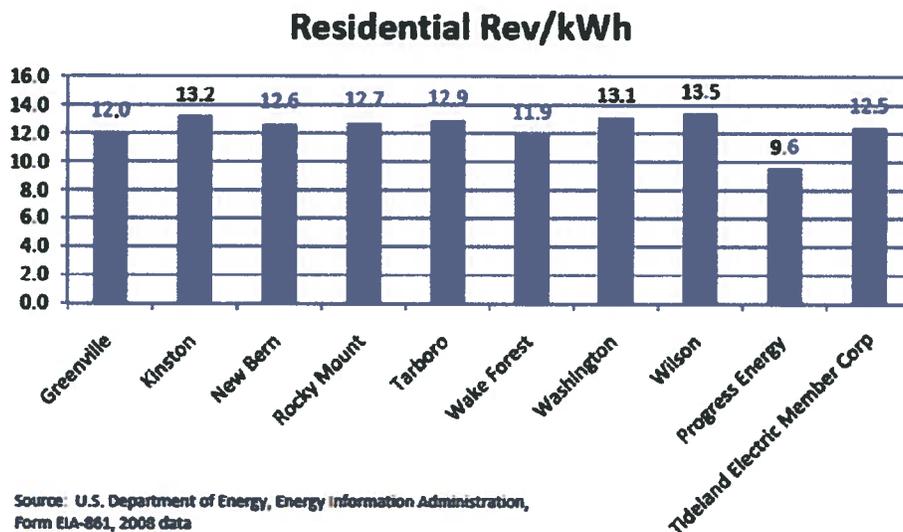
Mr. Jeff Aydelette stated he has been in the newspaper business since 1995. Recently he started a newspaper that has adopted a unique model: hard news, free to the reader and affordable ads for small businesses. On March 11<sup>th</sup> their newspaper made its debut in Beaufort County. He is asking Council to delay their consideration of an advertisement proposal from the Washington Daily News for an additional month to allow his paper to submit a proposal for advertisements as well.

#### **PRESENTATION - APPA'S HOMETOWN CONNECTIONS ORGANIZATIONAL CHECK UP**

Keith Hardt, stated this project started in October 2010, with authorization from City Council and financial assistance from ElectriCities. Tim Blodgett, President of Hometown Connections and Steve Vandamere, Senior VP of Planning/Marketing of Hometown Connections met with staff beginning in October 2010 to assess our organization. Hometown Connections is a subsidiary of the American Public Power Association. Mr. Hardt asked for the review to look at our operations and identify areas that are working well and areas that need improvement.

In 11 of 12 operational areas, Washington Electric Utilities received either strong or good ratings in a review of its operations, while strategic planning received a fair rating. "The electric division of Washington Utilities is well run and uniformly strong across all aspects of utility operations, including technical, financial and customer facing services," as stated in the report. "The community is well served by the utility."

The report addresses Washington’s electric rates, which received three stars out of a possible four-star rating. “Rates for Washington electric customers are competitive across all customer classes when compared to other North Carolina utilities,” reads the report. “North Carolina on average is low among states for electricity costs, ranked 20th nationally (lower being better) in the most recent report from the U.S. Energy Information Administration. Within this lower-cost state, Washington’s residential rates are higher than average, but remain close to the state-wide mean. Staff notes that among the 32 members of the North Carolina Eastern Municipal Power Agency (NCEMPA), they are the 12th least expensive.”



Washington Electric Utilities received a good mark for its rates, although the report states, “Currently no written rate policy is in place to guide rate making. The absence of a rate policy is not unusual within public power; however, in the anticipated economic and power supply climate, this will become increasingly important,” reads the report. The report suggests the development of a more-formalized rate policy that outlines what factors will trigger a rate increase or decrease. “This has the effect of minimizing political considerations that may conflict with the ability of the utility to operate objectively, in the best interests of the utility and its stakeholders.” The report recommends Washington Electric Utilities conduct a rate study every three to five years. It also strongly encourages the publication of its rates broadly, no matter how they compare to other utilities’ rates.

In the area of strategic planning, Hometown Connections recommends Washington Electric Utilities “push its strategic thinking ahead further and develop a strategic plan that addresses more far-reaching goals for how the utility can operate successfully while providing benefit to the city government, to its customers and to the community as a whole.” Mr. Blodgett also encouraged the City to review APPA’s “Public Power in the 21st Century” report as a road map to use in establishing longer-term strategies and goals.

## **Recommendations**

### **Overall**

Overall, Washington is a well run electric utility. It is strong across virtually all aspects of its operations, resulting in strong customer care and service delivery at competitive electric rates. Uncertainties around the future of both the national and local economy will no doubt pose ongoing challenges to the utility. Nonetheless, Hometown Connections is confident that it will weather these challenges better than most utilities and that the community itself will be better off because of the services provided by the Washington Utility Department. Washington should remain current on utility best practices and continue pursuing opportunities to work with others to benefit from aggregation, be it electric supply, technology, expertise or influence. As part of this, Hometown Connections would encourage staff to continue making use of the resources available through ElectriCities of North Carolina, as well as those through the American Public Power Association, including the recently launched energy efficiency website, [www.EERCnet.org](http://www.EERCnet.org), and the many listservs created to address a wide variety of issues facing public power. At the same time, the utility has much to offer the public power community, as many of its practices and policies are strong benchmarks from which others can and should learn. We would hope that utility staff will continue participating in the public power dialogue at both the state and national level.

### **Customer Service**

1. Washington should review what information is included on page two of the bill and consider streamlining the look of this page.
2. If bank drafts are the most cost effective payment option, Hometown Connections would encourage Washington to replace the credit card authorization with a bank draft authorization on page two of the bill.
3. Hometown Connections would encourage billing staff to evaluate periodically the look and various functions of the utility bill and explore ways to leverage this important monthly communication with its customers.
4. Washington should continue to track both the share of each form of payment as well as the fully loaded costs of those payments to the utility.
5. Hometown Connections strongly encourages the adoption of EBPP options for virtually any size public power utility with the ability to discontinue paper bills at the customer's wish.
6. Hometown Connections recommends using outreach tools, such as surveys of customers, to explore customer preferences around bill paying, and building awareness of the desired payment option to customers through expanded bill messaging and bill stuffers.
7. Hometown Connections would encourage Washington to adopt, and consistently apply, policy on what weather conditions will postpone service terminations.
8. Washington should periodically assess the costs of delinquency and termination activities (labor, fuel, depreciation, etc.) to ensure that the rest of the customer base is not subsidizing the additional costs incurred by delinquent customers.
9. Hometown Connections would encourage Washington to continue tracking its service termination rates to look for changes in trends.
10. Hometown Connections strongly recommends that any utility periodically review its revenue cycle process for improvement.

### **Community Outreach**

11. Hometown Connections would encourage Washington, as part of any future customer outreach, to test the need for additional or different office hours.
12. Hometown Connections would recommend that Washington provide after hours outbound messaging on its customer service line that provides office hours, the number to call in an emergency and online or other options available.
13. Hometown Connections would encourage Washington to include clearer "Contact Us" information on its website. (website has been updated since survey)
14. Hometown Connections would encourage Washington to celebrate Public Power Week.
15. Hometown Connections would encourage Washington to track resources, in-kind and monetary donations and employee volunteer hours donated and report these to customers and staff on a periodic basis.
16. Hometown Connections would encourage Washington to explore options for a citywide newsletter to its customers.
17. Hometown Connections would encourage greater redundancy of utility billing and payment information throughout the Washington website.
18. Hometown Connections would encourage the Washington staff to review websites of similar sized utilities for comparison.
19. Hometown Connections would encourage Washington to conduct more in-depth customer satisfaction surveys at regular intervals.

### **Utility Programs**

20. Hometown Connections would encourage Washington to benchmark other public power energy efficiency efforts, including both their program offerings and how they convey energy efficiency information to the customer.
21. Washington and Electricities of North Carolina should continue monitoring state and federal renewables rulemaking as well as renewables technology that make the most economic sense to the utility and its customers.
22. Hometown Connections would strongly encourage Washington to leverage the resources available through APPA.

### **Power Supply**

23. While Hometown Connections was impressed with the level of power supply knowledge of Washington's Electric Utility Director, who also participates on the NCEMPA Rates Committee, it recommends that other staff members become more educated in the area of power supply.
24. Hometown Connections would encourage Washington to continue playing an active role in power supply planning and ensure that customers are educated on the benefits of local control, especially as it relates to peak shaving.
25. Hometown Connections recommends that if not already in place, Washington develop, continuously update and maintain a contingency plan in the event the single transmission feed is interrupted.

### **Distribution Operations**

26. Hometown Connections recommends the completion of looping the entire system when economically feasible as this will help achieve higher reliability and greater customer satisfaction.

27. Hometown Connections would encourage Washington to begin tracking line losses, enabling the utility to measure and improve in this operational area over time.
28. Hometown Connections would suggest that Washington begin tracking and trending outages.
29. Hometown recommends the easy to use APPA software, *Reliability Tracker* to manage outage information.
30. Hometown Connections would encourage Washington to assess its physical security plan and make the appropriate improvements to ensure security and safety at its facilities.
31. Hometown Connections would encourage staff to submit its application for RP<sub>3</sub> at the earliest opportunity.

#### **Employee Safety**

32. Hometown Connections would encourage the utility to develop a policy, with timelines, for locating AEDs on utility property and vehicles.
33. Hometown Connections would encourage Washington to review its disaster planning and to participate in any future disaster drills occurring at the county or city level.
34. Hometown Connections would encourage Washington to consider a broader slate of safety metrics that would more fully describe the effectiveness of the city and utility's safety efforts.
35. Hometown Connections would encourage the utility to establish departmental and individual safety goals that heighten awareness and support a strong safety culture.
36. Hometown Connections would encourage the utility to embrace meaningful ways of recognizing safety practices and milestones.

#### **Governance**

37. Hometown Connections would encourage the city council to view favorably those city manager candidates that possess experience in a public power community.
38. The electric utility should develop a formal orientation program for new city council members on the utility's operations.
39. Washington should consider a change in city council terms from two year terms to staggered, four year terms.

#### **Strategic Planning**

40. Hometown Connections recommends that Washington executive staff and governing body review APPA's *Public Power in the 21st Century* report as a road map in establishing longer term strategies and goals.
41. Hometown Connections would encourage Washington to push its strategic thinking ahead further and develop a strategic plan that addresses more far reaching goals for how the utility can operate successfully while providing benefit to the city government, to its customers and to the community as a whole.

#### **Rates**

42. Hometown Connections strongly encourages Washington – and all public power utilities -- to publicize electric rates broadly, regardless of how they compare.
43. Hometown Connections would encourage Washington to investigate the inclining block rate structure for its residential rates.
44. Hometown Connections would encourage a more formalized rate policy that outlines what factors will trigger a rate increase or decrease.

45. Hometown Connections would recommend that as part of any cost-of-service study, rate subsidization between electric customer classes, as well as between utility services, be examined and opportunities to minimize these subsidies be explored.
46. Hometown Connections would encourage Washington to conduct an outside rate study every three to five years.

#### **Administration, Accounting and Finance**

47. Hometown Connections would encourage the city to examine CIS providers who have an established solution with a good track record within public power.
48. Hometown Connections would recommend that Washington review its cash reserve policy and make the changes necessary to ensure that it has the support of utility and municipal decision-makers.
49. Hometown Connections strongly encourages Washington to track in-kind services and contributions, assign a monetary value to them and include this dollar amount in the overall promotion of the electric utility's value to the Washington Utility stakeholders.
50. Washington's should review capital expansion options and develop a policy on system development fees that are adequate to fund the utility's new construction requirements driven by that development.

#### **Technology**

51. Hometown Connections would encourage Washington – either at the utility level or city-wide – to expand and firm up a plan that identifies and prioritizes cost-effective technologies and outlines actionable goals and timelines toward their implementation.
52. Hometown Connections would encourage Washington to evaluate AMI technologies most suitable for its service territory characteristics and understand fully the paybacks of the various solutions.
53. Hometown Connections would strongly encourage staff to allocate the necessary resources to develop a viable GIS that remains current and effective. At a minimum we would encourage that all new equipment going into the field is being captured, including both geospatial and age information.
54. Hometown Connections would strongly encourage a thorough evaluation and upgrade of the existing phone system with an eye toward greater ease of use and customer service.
55. Hometown Connections would strongly encourage Washington to stay current on cyber-security issues and work with Electricities of North Carolina and others to monitor the security of its infrastructure, including an independent vulnerability assessment.
56. Hometown Connections would encourage staff to take advantage of the technology resources available through Electricities of North Carolina and APPA, in particular the technology-focused listserv they maintain, which is an excellent forum for dialogue with utility peers across the country.

#### **Human Resources**

57. Hometown Connections would encourage Washington to consider an employee survey facilitated by an outside firm.
58. Hometown Connections would encourage Washington to find more current data in the establishment of its employee salary ranges.

59. Hometown Connections would encourage Washington to create expectations for two or more years of continued work for those obtaining journeyman training.
60. Washington's tuition policies are within the norm, but we would encourage the city to remain current on changing national and state expectations around tuition support.
61. Hometown Connections would encourage Washington staff to develop support for policies that give management greater flexibility in addressing the anticipated loss of skills within the utility.

Ken Raber, ElectriCities stated this has been a very good process from beginning to end. He commended Council for everything they are doing in communications, customer service and the organization checkup. Washington is the first in the state to do the organizational checkup. This has been a valuable learning experience for everyone involved. Mr. Raber asked if Council would be willing to let Keith Hardt or someone else present this process to NCEMPA and explain the value that this project has had. Council, by consensus agreed to allow Keith Hardt to present this project to the NCEMPA board. Mayor Jennings asked Mr. Raber if he could assist the City with a customer survey and Mr. Raber responded "yes".

#### **WASHINGTON DAILY NEWS VIP PLAN**

Matt Rauschenbach, CFO stated that a brief presentation was made at the last Council meeting by Andrea McClain McGee. This is a follow up to that presentation. Mr. Rauschenbach stated we spent \$8500 last year on advertisements and to date we have already spent \$9700. The City Page was started in the Fall at a cost of approximately \$350-\$385 per publication(\$4200 per year), also customer education initiative advertisements will be the responsibility of the City and not ElectriCities. We will save money over all and will give us the ability to run more ads than we could've run before for the same or even less money. Councilman Mercer wants to delay discussions on this item until budget meetings and not take any action on this tonight.

#### **FUTURE MEETINGS**

Councilman Mercer stated that last year during budget discussions we had several items in the Personnel Policy that directly impacted the budget. It was determined that these items would be addressed during this year's budget discussions. Several personnel policy meetings were held to discuss these items. Councilman Mercer stated he would like to see personnel policy items that directly impact budgeting discussions presented to Council before the end of the budget year to determine inclusion or exclusion in the budget. Mayor Jennings and Councilman Mercer continued discussions regarding the budget process. Councilman Mercer requested the numbers so they can be incorporated into the budget discussions.

#### **CLOSED SESSION UNDER NCGS 143-318.11(a)(6) PERSONNEL**

By motion of Councilman Mercer, seconded by Councilman Pitt, Council agreed to go into closed session under NCGS 143.318.11(a)(6)Personnel at 6:40pm.

By motion of Councilman Davis, seconded by Councilman Pitt, Council agreed to come out of closed session at 7:05pm.

**ADJOURN**

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council adjourned the meeting at 7:10pm until April 11, 2011 at 5:30 pm in the Council Chambers at the Municipal Building.

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

**(Subject to approval of the City Council)**

DRAFT



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**From:** Mike Whaley, Purchasing Agent  
**Date:** April 11, 2011  
**Subject:** Declare Surplus/Authorize Electronic Auction of Transformers and Miscellaneous Items through GovDeals

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

**RECOMMENDATION:**

I move that City Council declare surplus and authorize the sale of the following transformers and miscellaneous items through electronic auction using GovDeals.

**BACKGROUND AND FINDINGS:**

The purpose of this Council Action is to declare surplus the following transformers and miscellaneous items and authorize the sale of these items through electronic auction using GovDeals.

<u>Quantity</u>	<u>Item Description</u>
4	15 KVA Transformer, 34.5/19.9, 120/240 Volt, CSP, OH
2	10 KVA Transformer, 34.5/19.9, 120/240 Volt, CSP, OH
2	25 KVA Transformer, 34.5/19.9, 120/240 Volt, Conv, OH
4	25 KVA Transformer, 34.5/19.9, 120/240 Volt, CSP, OH
3	50 KVA Transformer, 34.5/19.9, 120/240 Volt, CSP, OH
1	50 KVA Transformer, 34.5/19.9, 120/240 Volt, Conv, OH
3	50 KVA Transformer, 34.5/19.9, 277/480 Volt, CSP, OH
3	50 KVA Transformer, 12.4/7.2, 277/480 Volt, CSP, OH
7	100 KVA Transformer, 12.4/7.2, 240/480 Volt, Conv, OH
2	167 KVA Transformer, 12.4/7.2, 277/480 Volt, Conv, OH
6	167 KVA Transformer, 12.4/7.2, 120/240 Volt, Conv, OH
6	167 KVA Transformer, 12.4/7.2, 240/480 Volt, Conv, OH
4	250 KVA Transformer, 12.4/7.2, 120/240 Volt, Conv, OH
1	Above Ground Irrigation System with 6 spray heads and pipe
1	Homemade Fork Lift extension boom with hook

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  
 No Fiscal Impact

**SUPPORTING DOCUMENTS**

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**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**  Concur \_\_\_\_\_ Recommend Denial \_\_\_\_\_ No Recommendation  
4/6/11 Date



# DECLARATION OF OFFICIAL INTENT TO REIMBURSE

This declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of the City of Washington, North Carolina (the "Issuer") with respect to the matters contained herein.

1. **Expenditures to be Incurred.** The issuer anticipates incurring expenditures (the "Expenditures") for building improvements of the Impressions facility (the "Projects").
2. **Plan of Finance.** The issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing").
3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Projects is \$769,566.
4. **Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted this the 11th day of April, 2011

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Mayor

Seal:

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City Clerk



**A CAPITAL PROJECT ORDINANCE FOR THE IMPRESSIONS BUILDING  
IMPROVEMENT PROJECT  
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, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is for building improvements at the Impressions site funded by Installment Note Proceeds.

Section 2. The officers of this unit are hereby directed to proceed with the project within the terms of the financing documents.

Section 3. The following amounts are appropriated for the project:

56-60-4930-4500	Construction	\$666,291
56-60-4930-0400	Professional Services	36,646
56-60-4930-9900	Contingency	<u>66,629</u>
	Total	\$769,566

Section 4. The following revenue is anticipated to be available for this project:

56-60-3920-9101	Installment Note Proceeds	\$769,566
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Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the financing agreement.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments that are due. Reimbursement requests should be made to the loan agency in an orderly and timely manner.

Section 7. The Finance Director is directed to report, on a monthly basis, the financial status of each project element in Section 3 and on the total revenues received or claimed.

Section 8. The Budget Officer is directed to include a detail analysis of past and future costs and revenues on this capital project in every budget submission made to the City Council.

Section 9. Copies of this capital project ordinance shall be furnished to the City Clerk, Budget Officer, and Finance Director for direction in carrying out this project.

Section 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. This ordinance shall become effective upon its adoption.

Adopted this the 11th day of April, 2011.

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MAYOR

ATTEST:

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CITY CLERK



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**From:** G. M. Reed, Chief of Police  
**Date:** April 4, 2011  
**Subject:** Grant application through NCGCCC  
**Applicant Presentation:** n/a  
**Staff Presentation:** G.M. Reed

**RECOMMENDATION:**

I move that the City Council authorize the Police Chief to proceed with the grant application through North Carolina Governor’s Crime Control Commission in the amount of \$9,410 which requires a local match of \$3,136.

**BACKGROUND AND FINDINGS:**

During the February 14, 2011 Council session, Council was notified via memo, that the Washington Police Department had submitted a pre-application for a grant available through the North Carolina Governor’s Crime Commission. The pre-application involved a proposed use for overtime for law enforcement to continue the efforts of combating illegal drug activity within the City.

On April 4, 2011, the Washington Police Department was notified that approval had been granted by NGCC to proceed with the full grant application (see attached). As noted, the deadline for this step in the process is April 30, 2011.

The grant request is in the amount of \$9,410.00, which would require a local match of \$3,136.00.

Permission is hereby requested, to proceed with the grant application through NCGCC. One of the important issues during this budget year, is to allow sufficient time for our officers to continue investigations, in the area of illegal drug activity. It must be noted that submission of this application, does not guarantee award.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  No Fiscal Impact

**SUPPORTING DOCUMENTS**

CJI Special Conditions Letter

**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**  Concur  Recommend  Denial  No Recommendation 4/6/11 Date  
 Page 47 of 204



## North Carolina Department of Crime Control and Public Safety Governor's Crime Commission

Beverly Eaves Perdue, Governor  
Reuben F. Young, Secretary

Scott Thomas, Chair  
Gwendolyn W. Burrell, Executive Director

March 31, 2011

Mrs. Angela Flowers  
Washington Police Department  
201 West 3rd Street  
Washington, NC 27889

Dear Mrs. Flowers:

The Governor's Crime Commission is pleased to inform you that your pre-application entitled *Disruption of Street Drug Sales*, application number 139 has been selected to move forth in the grant process to submit a revised application.

Please be aware that because of the uncertainty of the federal budget debates in the Congress of the United States at this time, the U.S. Department of Justice federal grant programs may be subject to federal cuts and revisions for U.S. Department of Justice funding for this fiscal year. As a result, unlike in previous years, a submission of full application does not guarantee that your final application will be funded or funded in the amount requested. All applications are subject to the availability and level of federal funding that the state will receive once a federal budget is approved by Congress and accepted by the President. Consequently, please be prepared for the fact that there may be a delay in determining the grants selected for funding and the amount of each grant award.

In order to be considered for funding, all applications must be completed using the new on-line Grants Enterprise Management System (GEMS) by 11:59 p.m. on April 30, 2011. GEMS may be accessed via <http://gems.nccrimecontrol.org>. Subsequently, the application will be reviewed by staff of the Governor's Crime Commission to ensure all special conditions and budget modifications have been completed as required.

You **do not** need to mail a copy of the application or signature pages. In person training to assist with completing your application using the GEMS system will be offered by staff of the Governor's Crime Commission. You may avail yourself of this training on April 14, 2011. The training will begin promptly at 10:00 a.m. and end at 12:00 p.m. The training will take place in the large conference room at The Governor's Crime Commission, 1201 Front St., Ste. 200, Raleigh, NC, 27609. You must register for this training on the GCC website at <http://www.ncgccd.org> to secure a slot.

**MAILING ADDRESS:**  
4708 Mail Service Center  
Raleigh, NC 27699-4708  
Telephone: (919) 733-4564



An Equal Opportunity/Affirmative Action Employer

**OFFICE LOCATION:**  
1201 Front St., Ste. 200  
Raleigh, NC 27609  
Fax: (919) 733-4625

April 11, 2011  
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# SPECIAL CONDITIONS

**PRE-APPLICATION NUMBER: 139**

**GEMS PROJECT NAME: Washington - Disruption of Street Drug Sales - 2011**

**IMPLEMENTING AGENCY: Washington Police Department**

The Governor's Crime Commission is pleased to inform you that your pre-application has been selected to submit a final revised application.

Please be aware that because of the uncertainty of the federal budget debates in the Congress of the United States at this time, all federal grant programs may be subject to federal cuts and revisions for U.S. Department of Justice funding for this fiscal year. As a result, unlike in previous years, a submission of full application does not guarantee that your final application will be funded or funded in the amount requested. All applications are subject to the availability and level of federal funding that the state will receive once a federal budget is approved by Congress and accepted by the President. Consequently, please be prepared that there may be a delay in determining the grants selected for funding and the amount of each grant award.

**In order to be considered for funding, all applications must be completed using the new on-line Grants Enterprise Management System (GEMS) by 11:59 p.m. on April 30, 2011. Subsequently, the application will be reviewed by staff of the Governor's Crime Commission to ensure all special conditions and budget modifications have been completed as required.**

Your agency's Pre-Application has been reviewed for compliance with federal and state guidelines in consideration of being awarded a grant. The following items must be changed in the full application. Please review these necessary changes carefully. Please put check marks in the boxes on the left side of the page to denote that the changes have been made.

It is vital that this information be included on each budget page and that it is consistent with the information provided in the application per all Special Conditions that are listed below. If additional addendums are necessary to complete a detailed line item budget, please submit additional budget pages denoting the pre-application number and federal tax identification number at the top of each additional page and upload the documents into the GEMS application:

## **Required Budget and Programmatic Changes –**

1. GEMS requires the Project Name be entered into the application as it is stated above.
2. Please review each of the following sections carefully. Check the box indicating the sections have been read, understood and the project will be compliant to the requirements stated.

## **COVER PAGE**

Budget Totals: **This is not a guaranteed amount or award.** Totals may change after your agency has responded to this letter and the federal budget is approved.

Total Federal Amount Requested - \$9,410.00

Total Federal Amount Approved - \$9,410.00

Please make the necessary changes to the individual line items of the budget to reflect the federal amount approved, as indicated above. This does not reflect the required match amount, if applicable. If the revised amount of funding results in your agency's inability to effectively administer this project, please contact Craig Turner immediately at (919) 733-4564.

## **DETAILED BUDGET PAGES**

**Additional budget pages may be attached to illustrate the detailed line item budget information. It is vital that the additional information be included and is consistent with the information that was included in your pre-application budget pages.**

## **Unallowable Costs**

The NC Office and Management and Budget, April 11, 2011 the NC State Auditor's have clearly defined rules  
Page 49 of 204

regarding unallowable costs including following but not exclusive to:

- Indirect Costs
- Travel & Compensation for Federal/GCC Employees
- Lobbying
- Fund Raising
- Land Acquisition
- Bonuses or Commissions
- Military-Type Equipment
- State and Local Sales Taxes
- Corporate Formation
- Honorariums
- Stipends
- Incentives
- Fines and Penalties
- Entertainment
- Aircraft & Vehicle Purchases
- Building Insurance
- Audits
- Construction
- State tax for Law Enforcement Agencies
- Sporting events
- Visa fees / Passport Charges
- Tips
- Bar Charges / Alcoholic Beverages
- Laundry charges
- Travel & lodging in excess of state per diem
- Membership fees to organizations whose primary activity is lobbying
- Premium pay
- Costs incurred outside the project period

**Match Requirements**

All Criminal Justice Improvement grants are subject to a 25 percent cash match with the exception of VIPER Radios (Priority E) which require a 50 percent match!

Your agency is required to provide a match of 25%

**In-Kind Matches**

In-Kind Match is not allowable.

**PERSONNEL**

All personnel listed in the application must include a complete job description for each position listed and must include the job title as listed on the grant application, key responsibilities, and all required day-to-day activities of that position. In addition, the job description should specify whether the position is part-time or full-time, the percentage of time allocated to the grant funded project and the specific duties as they directly relate to the grant. Also, non-profits are required to provide a full staff roster and a list of current board of directors indicating their place of employment (if applicable). These items must be uploaded into GEMS at the time of the full application.

**CONTRACTUAL**

- All contractual services must be approved in advance by Governor's Crime Commission (GCC). Compensation for individual consultant services cannot exceed \$450.00 per 8-hour day or \$56.25 per hour (excluding travel and subsistence costs) without written PRIOR APPROVAL from the awarding agency. Prior approval requests require additional justification. A draft format of the contract for services between the two agencies must be forwarded to GCC for approval prior to its execution. **Funds will not be reimbursed for expenses incurred prior to the approval of the draft contract.** For your convenience a sample contract is provided on our website at [www.ncgccd.org](http://www.ncgccd.org). After contract templates are approved by GCC, contracts should be executed and a copy sent to GCC to be placed in the official file.

**TRAVEL**

- All out of state travel must be requested in advance and approved by the Grants Management Director. A current Travel Policy must be submitted within 90-days of the grant project's implementation and must not exceed the allowable State rate based on fiscal year 7/1/2011 allowances for mileage and per diem. Prior approval from GCC is required for consideration to utilize the federal per diem rate for subsistence and lodging. You must verify that your travel reimbursement request is consistent with the Travel Policy of your agency. **If your agency does not have a Travel Policy** you may follow the state of North Carolina's Travel Policy and the IRS rate for ground travel. The IRS rate for ground travel is .51 cents/mile. State rates for lodging: \$65.90 per night for in-state lodging and \$78.05 per night for out-of-state lodging. State rates for meals: \$35.15 per day for in-state meals and \$37.50 per day for out-of-state meals. Receipts are required, regardless of your agency's travel policy. Please show all calculations if applicable:

Please show your calculation for mileage (example: 20 miles x \$\_\_\_/mile).

Please show your calculation for lodging (example: # people x # nights x \$ per night).  
Please show your calculation for subsistence (example: # people x # days x \$ per day).  
Please show your calculation for airfare.

**OPERATING/SUPPLIES**

- All printing, training and office supplies must be itemized with corresponding calculations. For example: 100 pens X \$1.00 per unit = \$100.00. Please delete all unallowable costs (refer to the list at the beginning of this section under Detailed Budget) from the Supplies Category as applicable.

**EQUIPMENT**

- Please delete the following from the Equipment Category as these items not fundable under OMB guidelines:
  - **Vehicles (unless rental or lease)**
  - **Aircraft**

Drafts of lease agreements for equipment must be pre-approved by GCC prior to execution.

\*\*\*\*\*ATTENDANCE AT A GRANT AWARD WORKSHOP OF YOUR CHOICE IS MANDATORY\*\*\*\*\*

**PLEASE ENSURE THAT ALL CORRECTED BUDGET TOTALS ARE UPDATED IN THE GEMS APPLICATION ON THE RESPECTIVE BUDGET PAGES IN THE FULL APPLICATION AND THE BUDGET SUMMARY PAGE.**

If you have any questions, please contact this office at (919) 733-4564.

This form must be signed by both parties and uploaded into GEMS prior to finalizing the application submission. Should this project be selected to receive a grant award, mandatory attendance at the grant award workshop is required in order for your account to be activated.

I fully understand and hereby agree to adhere to all Special Conditions as listed above by the Governor's Crime Commission.

I also fully understand and accept that any failure to meet any part of or all of these Special Conditions can and will constitute grounds for grant funds to be either suspended pending corrective compliance as directed by the Governor's Crime Commission or terminated for gross or repeated violation of this policy.

\_\_\_\_\_  
Authorizing Official

\_\_\_\_\_  
Agency/Organization Name

\_\_\_\_\_  
Project Director



City of Washington  
**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Archie Jennings & Members of the City Council  
**From:** Allen Lewis, Public Works *Allen Lewis*  
**Date:** March 31, 2011  
**Subject:** ARRA Funded Lighting Retrofit Grant  
**Applicant Presentation:** N/A  
**Staff Presentation:** Allen Lewis, Bianca Gentile

**RECOMMENDATION:**

I move that council reject all bids submitted for the Request for Proposals (RFP) associated with Washington's Lighting Retrofit Project and allow staff to re-advertise the RFP.

**BACKGROUND AND FINDINGS:**

As you may recall, six (6) municipal buildings were chosen to for the Energy Efficiency in Government Buildings grant opportunity. On March 17, 2011 the City of Washington received three (3) bids in response to a Request for Proposals. Staff evaluated the proposal and a bid tabulation sheet is included. Of the three responses, two bidders submitted non-responsive proposals, in that they did not meet the requirements of the Request for Proposals and were therefore not considered, while the third bidder's price was over \$100,000 more than funds available. Staff recommends rejecting all bids and re-advertising at this point due to the difference in funds available and the lone responsive contractor's bid. With your approval, we hope to advertise and receive another set of bids and recommend award of a contract at the May 9 council meeting.

**PREVIOUS LEGISLATIVE ACTION**

Most recently, adopted budget ordinance on 12-13-10.

**FISCAL IMPACT**

\_\_\_ Currently Budgeted \_\_\_ Requires additional appropriation  X  No Fiscal Impact

**SUPPORTING DOCUMENTS**

See attached bid tabulation.

City Attorney Review: \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
Finance Dept Review: \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
City Manager Review:  Concur  Recommend  Denial  No Recommendation *4/6/11* Date

# BID TABULATION

## Washington's Lighting Retrofit Project

Bidder	Performance Bond Form	Payment Bond Form	Safety Record	Price	Days to Complete	Responsive?
Electrical Services Limited	Certified Check at time NTP is issued	YES	YES	\$277,087.30	180 days	YES
Coastline Electric	Included BID Bond	YES	NO	\$248,896.00	180 days	No
CS lighting	Yes	Yes	Yes	\$199,924.00	NO, project schedule not included	NO



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**From:** Matt Rauschenbach, C.F.O.  
**Date:** April 11, 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:**

Purchase Order #46607, Utility Service Co., \$31,259, rehab filter media in eight water softeners. \$100,000 was budgeted this year to replace the media in two filters and a like amount planned for the next three years. Rehabbing the filter media vs. replacing saves \$368,741. Account 30-90-8100-7000.

Requisition #8803, Bobby Murray Chevrolet, \$19,511.56, Chevrolet Extended Cab to replace vehicle 416, recently out of service 1997 Ford F-150 with 159,734 miles. Account 30-90-8140-7400.

Requisition #8916, Mark Smith Architect, \$24,950, engineering contract for Phase 2 of Festival Park. Account 62-40-6120-0400.

Requisition #8931, TD Eure Construction Co., \$354,400, construction contract for water front docks, account 10-40-6124-7400.

Requisition #8966, WIMCO Corp., \$125,700, construction of Festival Park Project, account 62-40-6120-8000.

**PREVIOUS LEGISLATIVE ACTION**

2010-2011 adopted budget and amended budget, TD Eure bid award 1/24/11 Council Meeting.

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  
 No Fiscal Impact

**SUPPORTING DOCUMENTS**

PO # 46607 & Requisition # 8803, 8916, 8931, 8966

**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:** \_\_\_\_\_ Concur \_\_\_\_\_ April 11, 2011 \_\_\_\_\_ Denial \_\_\_\_\_ No Recommendation  
 \_\_\_\_\_ Date Page 54 of 204

**Purchase Order**

**Original**

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

**PO Number: 46607**

**Issued To: 4275**

**UTILITY SERVICE CO. INC.  
200 OLD COVERED BRIDGE RD.**

**MADISON NC 27025**

**FOB : SHIPPING POINT**

**Phone: (252) 975-9301  
Fax: (252) 946-1965**

**Date: 03/31/11  
Required: 03/30/11  
Ship Via: Best Method  
Ship To:**

**CITY OF WASHINGTON WAREHOUSE (PW)  
203 GRIMES ROAD**

**WASHINGTON NC 27889**

**Terms: Net 30**

**Special Instructions:** PUBLIC WORKS  
WATER RESOURCES  
ADAM WATERS  
252-975-9310

Quantity	UOM	Asset	Item Description	Unit Price	Extended
1	EA		REHAB ZEOLITE MEDIA IN SOFTENERS 1-8 AS PER PROPOSAL DATED 3/30/11. (ATTACHED)	\$31,259.0000	\$31,259.00

<b>Sub Total</b>	<b>\$31,259.00</b>
<b>Total Tax</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$31,259.00</b>

Account Number	Type	Account Description	Amount
30-90-8100-7000	E	NONCAPITALIZED PURCHASES	\$31,259.00
<b>Total</b>			<b>\$31,259.00</b>

**Finance Officer**

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER REQUIRED BY THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT.

**Purchasing Agent**

THIS DOCUMENT IS GOVERNED BY THE PROVISIONS OF NCGS, CHAPTER 25 UNIFORM COMMERCIAL CODE ARTICLE 2, SALES.

**Received By:** \_\_\_\_\_

April 11, 2011  
Date Received: \_\_\_\_\_  
Page 55 of 204

# Requisition Form

City Of Washington

P.O BOX 1988

WASHINGTON, NC 27889

Requisition #:8803

PO #: Not Assigned

User Name: Mike Whaley

Date: 03/11/2011

Approved By:

Approved Code: Awaiting Final Approval

Total Amount: \$19,511.56

Ship To:

CITY OF WASHINGTON WAREHOUSE

203 GRIMES ROAD

WASHINGTON, NC 27889

BOBBY MURRAY CHEVROLET

P.O. BOX 40639

RALEIGH, NC 27629

Vendor Instructions: Warehouse for Public Works, Mike Whaley, 252-975-9308. Replaces Vehicle #416.ATTN: Gilbert Hay.

Quantity	Description	Job Number	Unit Price	Extended
1	2011 Chevrolet Extended Cab, 2 WD, 6 1/2 Foot Bed. Color 50 white. A) Color: white B) Interior: Blue or Gray vinyl C) Freight included D) Title to: City of Washington, P.O. Box 1988, Washington, NC 27889.		\$19,046.26	\$19,046.26
1	Z82 Trailing for Reg/Ext cab.		\$418.30	\$418.30
1	V76 Tow Hooks for 2WD.		\$47.00	\$47.00
			<b>Sub Total</b>	<b>\$19,511.56</b>
			<b>Total Tax</b>	<b>\$0.00</b>
			<b>Total</b>	<b>\$19,511.56</b>

Account Number	Account Description	Amount	
30-90-8140-7400	CAPITAL OUTLAY	\$19,511.56	
		<b>Total</b>	<b>\$19,511.56</b>

## 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 #:8931  
PO #: Not Assigned  
User Name: Teresa Hamilton

Date: 04/05/2011  
Approved By:  
Approved Code: Awaiting Final Approval  
Total Amount: \$354,400.00

T D EURE CONSTRUCTION COMPANY  
P.O. BOX 650  
MOREHEAD, NC 28557

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

**Vendor Instructions:** BIG-P Y08 DOCK PROJECT  
PARKS AND RECREATION  
TERESA HAMILTON  
252-975-9367 EXT 221

DO NOT MAIL

Quantity	Description	Job Number	Unit Price	Extended
1	BOND		\$3,253.00	\$3,253.00
1	MOBILIZATION		\$20,000.00	\$20,000.00
84	PILES		\$1,000.00	\$84,000.00
2	FRAMING		\$26,100.00	\$52,200.00
1	ELECTRICAL		\$141,147.00	\$141,147.00
1	PLUMBING		\$4,800.00	\$4,800.00
1	FIRE PROTECTION		\$22,000.00	\$22,000.00
1	PUMP OUT		\$2,500.00	\$2,500.00
1	ALTERNATE 1- DECKING		\$22,000.00	\$22,000.00
1	ALTERNATE 2		\$2,500.00	\$2,500.00
			<b>Sub Total</b>	<b>\$354,400.00</b>
			<b>Total Tax</b>	<b>\$0.00</b>
			<b>Total</b>	<b>\$354,400.00</b>

Account Number	Account Description	Amount
10-40-6124-7400	CAPITAL OUTLAY	\$354,400.00
<b>Total</b>		<b>\$354,400.00</b>

**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 #:8916  
PO #: Not Assigned  
User Name: Teresa Hamilton

Date: 03/31/2011  
Approved By:  
Approved Code: Awaiting Final Approval  
Total Amount: \$24,950.00

MARK SMITH ARCHITECT  
2020-A CAMBRIA DRIVE  
GREENVILLE, NC 27834

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

Vendor Instructions: Philip Mobley  
Festival Park  
252-975-9367 Ext 224

Quantity	Description	Job Number	Unit Price	Extended
1	Contract for Phase 2, Festival Park for Project Management		\$24,950.00	\$24,950.00
<b>Sub Total</b>				<b>\$24,950.00</b>
<b>Total Tax</b>				<b>\$0.00</b>
<b>Total</b>				<b>\$24,950.00</b>

Account Number	Account Description	Amount
62-40-6120-0400	PLANNING & DESIGN	\$24,950.00
<b>Total</b>		<b>\$24,950.00</b>

## 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 #:8966  
PO #: Not Assigned  
User Name: Teresa Hamilton

Date: 04/08/2011  
Approved By:  
Approved Code: Awaiting Final Approval  
Total Amount: \$125,700.00

WIMCO CORPORATION  
P.O. BOX 121  
WASHINGTON, NC 27889

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

**Vendor Instructions:** Festival Park Project  
Parks and Recreation Department  
Philip Mobley  
252-975-9367 ext 224

DO Not Mail

Quantity	Description	Job Number	Unit Price	Extended
1	Construction of Shelter, Event Stage and Grasscrete		\$125,700.00	\$125,700.00
<b>Sub Total</b>				<b>\$125,700.00</b>
<b>Total Tax</b>				<b>\$0.00</b>
<b>Total</b>				<b>\$125,700.00</b>

Account Number	Account Description	Amount
62-40-6120-8000	CONSTRUCTION	\$125,700.00
<b>Total</b>		<b>\$125,700.00</b>

## Approval List

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

March 31, 2011

Washington City Council  
c/o Cynthia Bennett  
102 E. 2<sup>nd</sup> St.  
Washington, NC 27889

Dear Mayor and Council Members,

The Washington-Beaufort County Chamber of Commerce's Washington Summer Festival Committee is requesting permission from the Washington City Council to sell alcohol as part of a beer garden during the 2011 Summer Festival. We have had a beer garden at the past two Summer Festival's and it was successful and a great addition. We work very closely with the Washington Police Department to ensure everyone is of age and the garden is a relaxing place for adults. We will locate the beer garden in the same place we have the previous two years. The beer garden will be held in conjunction with the festival on June 10<sup>th</sup> and June 11<sup>th</sup> with operating hours of 5:00pm to 10:00pm on Friday and 5:00pm-10:00pm on Saturday. We estimate that we will have 500 participants, close to what we had last year. Like many festivals in surrounding counties, a beer garden is an addition to the festival that not only enhances the enjoyment of the weekend but also is seen as a revenue generator. We plan to sell beer and wine. Contacts for the event are Catherine Glover, Executive Director of the Washington-Beaufort County Chamber of Commerce, Robin McKeithan, Business Manager with the Chamber, Anne Crumpler, Summer Festival Organizer, and Tom Atkins, Past Board Chair and Beer Garden Chairperson. We will provide various food items under the roped off area and are confident with the garden's location as it will be surrounded by over forty food vendors at the festival. We will also be providing appropriate signage regarding checking ID's, taxi cab phone numbers, and staying in the roped off area. We will have the proper amount of liability insurance, as we have the previous years, and will make sure Kristi Hardison has all this information.

Please know that we take the responsibility serious and we work very closely with Chief Mick Reed to ensure safety. Just like other events in downtown Washington that sell alcohol, we will work with city officials to make sure we follow the proper guidelines and safety precautions. Please know you have our full cooperation at any time. I have attached more detailed information. If you have any questions, please don't hesitate to call.

Sincerely,

Catherine Glover  
Executive Director

cc: Washington-Beaufort County Chamber of Commerce Board of Directors

# 2011 Beer Garden – Summer Festival

## June 10th-11th, 2011

- **Beer Garden** area will be Tent & roped off area with an entrance and exit (in the parking lot adjacent to the Band Stage). Tables/Chairs will be available for participants.
- **Everyone will be “carded”** and given an arm-band “Drinking Age Verified”
- **Ticket booth inside Beer Garden** for purchase of no more than (3) tickets at a time. Anyone purchasing beer tickets must have arm band showing they have been carded. Note: If the ticket sellers have any doubt that someone has already had too much to drink; they have the authority to “refuse” to sell tickets to that person.
- **ALE Agents will be contacted about the event.** Contact name is: Mr. Rusty King, ALE Agent from New Bern office (Phone: 514-4720, Cell: 402-7408). Mr. King will meet with all Staff/workers/volunteers the week before the festival to train them on selling/serving at a Beer Garden.
- **R.A. Jeffery’s Distributor will be the Beer Vendor** for this event. Hired Bartenders dispensing the beer will not handle any money. They will take tickets only from persons that are wearing the arm-band. They also, can refuse to serve anyone they feel has had too much to drink. (R.A. Jeffery’s/Greenville, NC, Phone: 758-1515)
- **Committee Chairman is Tom Atkins: (Co-Chairmen: Mitch St. Clair and Ed Hamrick)** A Chamber Summer Festival Staff person will be on site during the entire time of the Beer Garden operating hours. Operating Hours: Friday: 5:00pm – 10:00pm and Saturday: 5:00pm – 10:00pm.
- **ABC “Special One-Time Permit”** Application is in process from the NC Alcoholic Beverage Control Commission in Raleigh, NC (Contact: Ms. West @ (919) 779- 0700)
- **City of Washington-Special Events application** has been made through Kristi Hardison/Events & Facilities Supervisor for all events of the 2011 Washington Summer Festival. City Council approved the “Beer Garden” at their April, 2010 meeting last year.
- **Insurance : Lewis Sloan/Sloan Insurance Agency** will provide the “Liquor Liability Insurance Coverage” for the Beer Garden. A copy will be sent to Kristi Hardison (Events & Facilities Supervisor) with the City of Washington.
- **Hired Security** The Chamber will work with the Washington Police Department to have paid police officers on site while the beer garden is open.



**MEMORANDUM**

DATE: March 31, 2011  
 TO: Mayor Jennings & Members of City Council  
 FROM: John Rodman, Planning & Development  
 RE: Comprehensive Plan

The purpose of a Comprehensive Plan is to anticipate growth and to guide this growth in a manner that will provide a community with a balance of land uses that promote economic growth while retaining a superior quality of life component. A Comprehensive Plan is a guide for all future activities by City Government

The Comprehensive Plan is the central statement of public policy of the City, and contains the City's goals, objectives, and operating policies for land use and development. The plan, through its goals, becomes a framework for guiding responsible growth and action by the City.

The current "Comprehensive Plan" was developed as an addendum to the City's 2006 CAMA Land Use Plan.

One of the major goals for the Planning Board and the Planning & Development Department is to update the current plan into a "true" comprehensive plan.

In November 2010, the Council authorized Planning & Development to proceed with a competitive process to secure a qualified firm to assist with the preparation of a Comprehensive Plan for the City of Washington. The City received bids as follows:

RFP Process

- |   |          |
|---|----------|
| 1. Clarion Associates, Chapel Hill, NC      | \$48,000 |
| 2. Wooten Company, Raleigh, NC              | \$66,000 |
| 3. Studio Cascade, Spokane, WA              | \$70,000 |
| 4. URS Corporation, Morrisville, NC (phone) | \$90,000 |

Late Bid

- |                       |          |
|-----------------------|----------|
| 5. Holland Consulting | \$37,500 |
|-----------------------|----------|

Planning & Development had budgeted \$30,000 for the development of a Comprehensive Plan for FY 10-11. With the current bids exceeding the budgeted funds there are several options that may be available to the Planning & Development Department:

1. Reject bids and do the project at a later date.
2. Conduct the project over 2 budget cycles – budget additional funds to FY 11-12. If this is a possible option continue with items # 3 & 4.
3. Negotiate with the lowest RFP bidder to reduce scope of work and reduce the project costs.
4. Reject all bids and negotiate with the lowest late bidder to reduce scope of work and reduce the project costs.

The Planning & Development Department is seeking a recommendation from City Council on how to proceed with the process of developing a Comprehensive Plan for the City of Washington. If you have any questions or I may further assist you in any way please don't hesitate to let me know.

# 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 *KHA*  
Ref: Load Management Device Report  
Date: 1 April 2011

Listed herein is the load management switch installation project (by our contractor) activity through March 2011.

---

Total Load Management Switch Installations	313
<hr/>	
Air Conditioner/Heat Pump Control Installations	263
Auxiliary Heat Strip Control Installations	192
Water Heater Control Installations	197
Total Appliance Control Installations for Project	652

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City of Washington  
**MEMORANDUM**

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**To:** Mayor Jennings & Members of the City Council  
**From:** Matt Rauschenbach, C.F.O.  
**Date:** April 11, 2011  
**Subject:** Green Fleets Policy Ordinance

In June of 2009 Council adopted a Green Fleets Policy Ordinance (attached) recommended by staff. The purpose of the policy was to qualify the City's fleet for economic stimulus funds and other grants to reduce vehicle emissions, reduce dependency on fossil fuel, and reduce emissions.

Our green fleets initiative began with the conversion to bio-diesel and usage of E-85 gasoline in flex fuel vehicles. The highway diesel fuel tank was cleaned and transitioned to B20 bio-diesel and a tank installed for E85 gasoline. Our anticipation was for cost and efficiency of fuel to be equal or better than conventional fuels while reducing emissions and be eligible for grants to defray the cost of migrating to these alternative fuels. Our expectations have not been realized: 1) funding was not available for the improvements made to transition to alternative fuels; 2) bio-diesel is more expensive than conventional diesel; 3) some vehicles are unable to operate on bio-diesel; 4) E-85 mileage/gallon loss more than offset the reduced cost per gallon. As a result we currently use B5 bio-diesel and have discontinued the use of E85. We will likely convert back to diesel with next year's fuel bid award. A Green Fleets Review Committee as outlined in the policy was not established.

We will continue purchasing the most fuel/cost efficient vehicles suitable for their use, anit-idling efforts, and use reduction in an effort to reduce our cost and emissions.

## Green Fleet Policy Ordinance

### Section 1 Basis for ordinance

1. The total energy bill from June 2008 to May 2009 for the City of Washington was \$1.899 million and is projected to increase by 3.9% percent to about \$1.974 million by May 2010.
2. Departments in the City of Washington operate vehicle fleets that account for about 42% percent of the City's total energy bill.
3. The City of Washington recognizes that energy use associated with the operation of its motor vehicle fleets exacerbates local air quality problems and results in greenhouse gas emissions that contribute to global climate change.
4. The City of Washington recognizes that its departments have a significant role to play in improving local air quality and reducing greenhouse gas emissions by improving the energy efficiency of its fleets and reducing emissions from fleet operations.
5. The City of Washington recognizes that by improving the energy efficiency of its fleets significant monetary savings will result in the long term.
6. The City of Washington wishes to exercise its power as a participant in the marketplace to ensure that purchases and expenditures of public monies are made in a manner consistent with the policy of improving local air quality and reducing greenhouse gas emissions.
7. The City of Washington wishes to establish a "Green Fleets" policy addressing the management, operation, and procurement of fleet vehicles under the control of the City of Washington in order to improve the energy efficiency of its fleets and reduce emissions from its fleets.

### Section 2 Definitions

1. "Passenger Vehicle" means any motor vehicle designed primarily for the transportation of persons and having a design capacity of twelve persons or less.
2. "Light Duty Truck" means any motor vehicle, with a manufacturer's gross vehicle weight rating of 6,000 pounds or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.
3. "Medium Duty Vehicle" means any vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less and which is not a light-duty truck or passenger vehicle.
4. "Heavy Duty Vehicle" means any motor vehicle, licensed for use on roadways, having a manufacturer's gross vehicle weight rating greater than 14,000 pounds.
5. "Zero-Emission Vehicle" means (i) any motor vehicle that produces zero exhaust emissions of all criteria pollutants under any and all possible operational modes and conditions or (ii) any vehicle that has been certified as a zero-emission vehicle.

6. **“Partial Zero Emission Vehicle”** means any vehicle that has zero evaporative emissions from it’s fuel system.
7. **“Electric Drive-train Vehicle”** means any vehicle that employs an electric drive-train and motor as its primary means of motive force. The vehicle can be powered by fuel cells, electric batteries, petroleum- or alternatively-fueled electric generators, or any combination thereof.
8. **“Alternative Fuel”** means any fuel that is substantially non-petroleum in nature, is not gasoline or diesel, and is defined as an alternative fuel by the U.S. Department of Energy through the authority granted by the Energy Policy Act of 1992.
9. **“Bi-Fuel Vehicle”** means any motor vehicle designed to operate on two (2) fuels, one of which is an alternative fuel, but not on a mixture of fuels.

### **Section 3 Fleet Inventory**

1. In order to establish a baseline of data so that the **“Green Fleets”** policy can be established, implemented, and monitored each department and/or agency fleet manager shall develop an inventory and analysis of the fleet vehicles within that department or agency as of the close of fiscal year June 30, 2009. This inventory shall include:
  - a. Number of vehicles classified by the model year, make, model, engine size, vehicle identification number (VIN), and drive-train type (2-wheel drive, 4-wheel drive), and the rated vehicle weight and classification (light-duty, medium-duty, heavy-duty);
  - b. Miles per gallon (or gallon equivalent) per vehicle;
  - c. Type of fuel (or power source, e.g., electricity) used;
  - d. Average cost per gallon (or gallon equivalent) of fuel;
  - e. Average fuel cost per mile;
  - f. Annual miles driven per vehicle;
  - g. Total fuel (or power) consumption per vehicle;
  - h. Vehicle function (i.e. the tasks associated with the vehicle’s use);
  - i. Estimated emissions per mile for each pollutant by vehicle type/class based on EPA tailpipe standards for the following: Carbon Monoxide (CO), Nitrogen Oxides (NOx), and Particulate Matter (PM).
  - j. Carbon Dioxide (CO<sub>2</sub>) calculations based on gallons (or gallon equivalent) of fuel consumed.
2. Fleet managers from City departments shall be responsible for providing these baseline data in a reliable and verifiable manner.

### **Section 4 “Green Fleets” Policy**

1. It shall be the policy of the City of Washington to purchase, lease, or otherwise obtain the most energy efficient vehicles possible that meet the operational needs of the department for which the vehicles are intended.
2. It shall be the policy of the City of Washington to manage and operate its fleets in a manner that is energy efficient and minimizes emissions.
3. The City of Washington shall decrease energy expenditures for its vehicle fleets by a total of 10 percent by the year 2012, adjusting for inflation and relative to the baseline data established for year 2009 through the fleet inventory taken in compliance with Section 3 above.
4. The City of Washington shall reduce the emission of carbon dioxide (CO<sub>2</sub>) from its fleet by a total of 10 percent by the year 2012, relative to the baseline data established for year 2009 in the fleet inventory taken in compliance with Section 3 above.

### Section 5 "Green Fleets" Policy Strategies

1. In order to accomplish the goals stated in Section 4 above, the City of Washington shall modify procurement procedures, implement policies, conduct reviews, and take other actions as outlined in sub-sections (2) through (12) below.
2. Include a minimum efficiency standard in miles per gallon (or gallon equivalent) for each vehicle class for which the City has a procurement specification for and include such a standard in any new vehicle procurement specification.
3. Include a minimum emissions standard for each vehicle class for which the City has a procurement specification for and include such a standard in any new vehicle procurement specifications. This emission standard shall be based on North Carolina EPA designations of LEV, ILEV, ULEV, ZEV, and PZEV.
4. Ensure that a minimum of 5 percent of the passenger vehicles purchase, leased, or otherwise obtained within a fiscal year by the City of Washington are partial zero-emission vehicles. Partial zero-emission vehicles purchased, leased, or otherwise obtained that quantify in another vehicle weight class may, for the purposes of this requirement, qualify as a passenger vehicle PZEV on a one vehicle for one vehicle basis.
5. Review all vehicle procurement specifications and modify them as necessary to ensure that the specifications are written in a manner flexible enough to allow the purchase or lease of alternatively fueled or electric drive-train vehicles.
6. Review every new vehicle purchase request and modify them as necessary to ensure that the vehicle class to which the requesting vehicle belongs is appropriate for the duty requirements that the vehicle will be called upon to perform.
7. Review the fleet inventory taken in Section 3 above to identify older vehicles that are used infrequently (or not at all), as well as those vehicles that are disproportionately inefficient, and schedule their elimination or replacement.
8. Implement an anti-idling policy prohibiting City employees from idling City owned or operated vehicles for an excessive period of time.

9. Equip vehicles with an anti-idling device.
10. Implement an incentive program for City employees to drive efficiently and utilize efficient vehicle operating techniques.
11. Prohibit the use of non-alternative fuels in bi-fuel vehicles for more than 25 percent of the time that they are operated within the City.
12. Maintain vehicle at optimal efficiency by reviewing current maintenance schedule for all fleet vehicles and increasing maintenance wherever cost-effective benefits will accrue as a result.

#### Section 6 Monitoring of the "Green Fleets" Policy

1. In order to ensure compliance with the goals outlined in Section 4 above, as well as to monitor the actions outlined in Section 5 above, a "Green Fleets" Review Committee is to be formed. The Office of the Mayor/County Executive will appoint the members of this review committee, with one representative from each of the following Departments and/or Agencies:
  - a. Finance Department
  - b. Recreation Department
  - c. Purchasing Department
  - d. Public Works Department/Agency
  - e. Electric Department
  - f. Police Department
  - g. Fire Department
2. The "Green Fleets" Review Committee shall also include the City Manager and a City Council Member, as determined by the City Council. The Council Member will be a non-voting member of the Review Committee.
3. On an annual basis, Department fleet managers shall submit a draft "Green Fleets" plan to the Green Fleets Review Committee detailing how vehicle procurement, fleet operations, and employee travel activity are intended to conform to the "Green Fleets" policy and the "Green Fleets" strategies outlined in Section 5. The "Green Fleets" plan will also include, as an appendix or addendum, an updated fleet vehicle inventory list in the same format as the fleet vehicle inventory completed in Section 3.
4. Each "Green Fleet" plan shall be reviewed by the Review Committee for overall conformity with the "Green Fleets" policy and for completeness in addressing the "Green Fleets" strategies outlined in Section 5. Inadequate plans shall be returned to the submitting Department for revisal and discussion with the Review Committee.

5. Any appeal of the Review Committee's decisions must be made in writing to the Committee accompanied by appropriate documentation. Valid reasons for an appeal include unavailability of appropriate fleet vehicles, incremental costs in excess of the full life-cycle savings that would accrue from the acquisition of a given vehicle, and the primacy of a given vehicle's mission to public safety or a similar area judged to be applicable by the Review Committee.
6. Approval of vehicle procurement requests for each Department is contingent upon a satisfactory recommendation from the "Green Fleets" committee as to the merit of the Department's "Green Fleets" plan.
7. The most innovative "Green Fleets" plan implemented shall receive recognition in an annual award to the Department submitting the winning plan. The "Green Fleets" review committee shall determine the recipient of the award during the annual "Green Fleets" plan review process.



**G. Mitchell Reed**  
Chief of Police

# Washington City Police

201 W. 3<sup>rd</sup> Street, Washington, NC 27889  
Telephone: (252) 946-1444 Fax: (252) 948-9448  
[www.washingtonnc.gov](http://www.washingtonnc.gov)



**Sandy Blizzard**  
Deputy Chief of Police

To: City Council  
From: G.M. Reed, Chief of Police  
Date: April 5, 2011  
Re: Police Facility

With Councils permission, a geotechnical Engineering report was completed at the Market Street location of the future Police facility. Terracon Consultants, Inc. was contracted to produce the report. The resulting document from Terracon is included for Council.

The report indicates no issues related to the building project. The results have been forwarded to ADG for informational purposes, and I will continue to provide Council and the Manager with future documents related to this project.

G.M. Reed  
Chief of Police

May 31, 2011

City of Washington  
Special Projects  
102 East Second Street  
Washington, North Carolina 27889

Attention: Ms. Bianca Gentile

Subject: Addendum Letter of Geotechnical Engineering Services  
Proposed Police Station  
Market Street Extension and Airport Road  
Washington, NC  
Terracon Project Number 72115009

Dear Ms. Gentile:

Terracon Consultants, Inc. (Terracon) has completed the geotechnical engineering services for the above referenced project. This study was performed in general accordance with our proposal P72100275 dated November 18, 2010. A "Geotechnical Engineering Report" was issued on March 30, 2011, Terracon Project Number 72115009. After the report was issued, we were made aware of several changes that had occurred with respect to the project since our initial proposal. The purpose of this addendum is to address those changes and how they affect our initial recommendations.

1. We understand that the building is now planned to be single-story, metal framed with a brick veneer. The loads used on our original report remain unchanged. This change does not affect our original recommendations.
2. The building was moved approximately 75 feet towards the west with respect to the drawing initially provided to us. The parking lot footprint has also changed, as has the stormwater structures. Due to the relative consistency of the soils encountered in our borings, this change does not affect our original recommendations. A revised drawing is attached with this addendum letter.

In the documents provided after our report was issued, we were to provide infiltration testing for the proposed BMP stormwater detention structures. Based on the high water table and the surface zone of clay encountered in the borings, the use of a 'dry' pond does not appear feasible and alternatives should be explored. In addition, the soils excavated from detention ponds will likely be wet and difficult to adequately compact without extensive drying effort. The use of off-site borrow to raise site grades should be planned and specified.

Sincerely,  
Terracon Consultants, Inc.

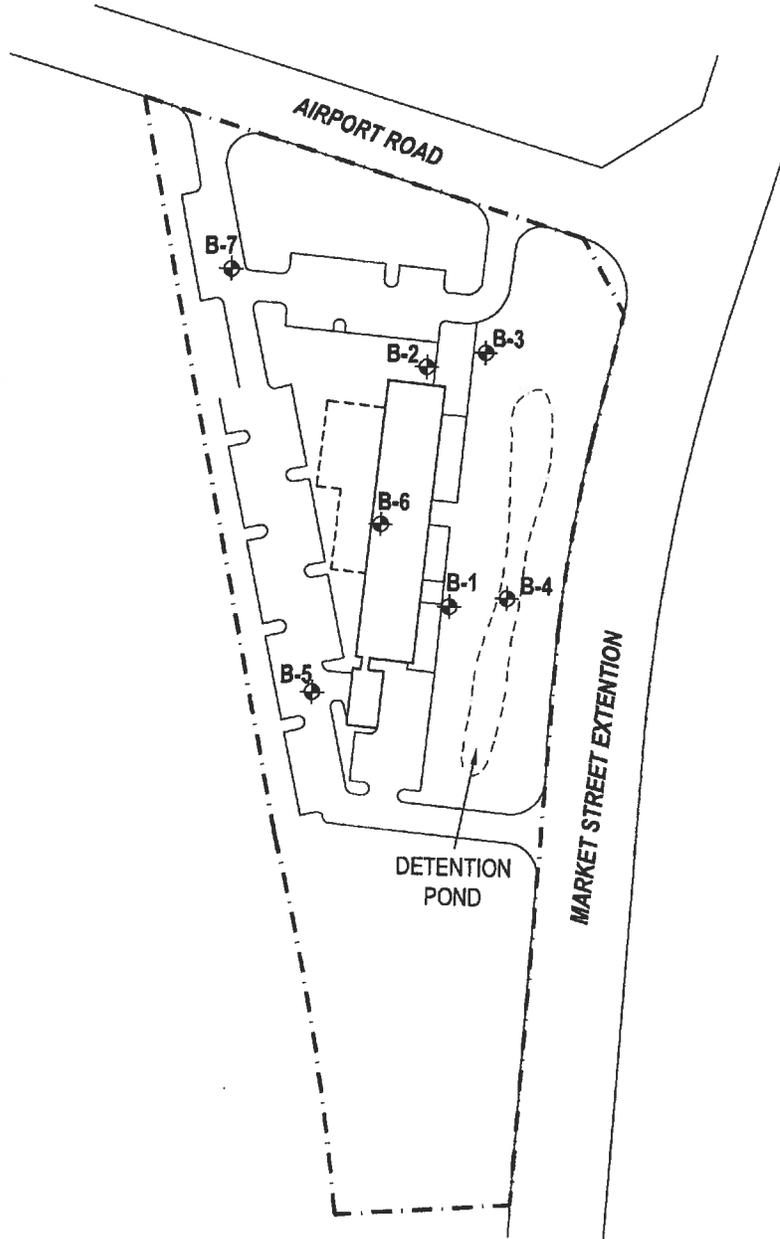
*Carl F. Bonner*  
Carl F. Bonner, PE  
Principal / Office Manager

Attachments



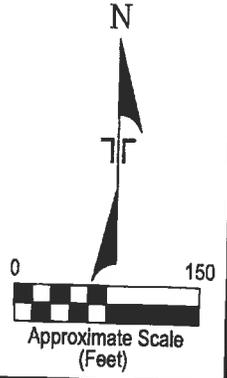
*Barney C. Hale*  
Barney C. Hale, PE  
Senior Principal

Terracon Consultants, Inc. 314 Beacon Drive, Winterville, NC 28590  
P [252] 353-1600 F [252] 353-0002 terracon.com Registered NC F-0869



**LEGEND**

- SUBJECT SITE
- APPROXIMATE BORING LOCATION



THIS DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

Project Mgr:	CB
Drawn By:	TLY
Checked By:	CB/MRF
Approved By:	CB

Project No.	72115009
Scale:	AS SHOWN
File No.	GEO72115009-2
Date:	MARCH 2011

**Terracon**  
Consulting Engineers and Scientists

314 Beacon Drive      Wintery, NC 28590  
(252) 353-1600      (252) 353-0062

**BORING LOCATION PLAN**

GEOTECHNICAL ENGINEERING REPORT  
PROPOSED WASHINGTON POLICE STATION  
MARKET STREET EXTENSION AND AIRPORT ROAD  
WASHINGTON, NC

2011

**EXHIBIT**

A-2



WASHINGTON POLICE FACILITY - WASHINGTON, NC  
DESIGN REVIEW - 04/05/2011 ARCHITECTS DESIGN GROUP, INC.



# City of Washington

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

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## MEMORANDUM

DATE: April 5, 2011

TO: Mayor and City Council

FROM: Allen Lewis   
Public Works Director

SUBJECT: Funding for Main and Respass Pump Station.

This is in reference to the above subject and discussion of the same at the February 28, 2011 Council meeting, as well as previous meetings in the last two (2) years.

As you can tell from the copy of the attached April 1, 2011 letter from Daniel M. Blaisdell, P.E., with the Division of Water Quality, we have been awarded a loan of \$612,000 for the replacement of the sewer pump station near the intersection of Main and Respass Streets. This project was included in our most recent addition of the CIP and is also included in the budget you will receive on April 11. This is just provided for your information at this time.

/al

Attachment



RECEIVED APR 04 2011

North Carolina Department of Environment and Natural Resources

Division of Water Quality

Beverly Eaves Perdue  
Governor

Coleen H. Sullins  
Director

Dee Freeman  
Secretary

April 1, 2011

Mr. James C. Smith, City Manager  
City of Washington  
Post Office Box 1988  
Washington, North Carolina 27889

SUBJECT: Clean Water State Revolving Fund  
Notice of Intent to Fund  
Main & Respass Pump Station  
March 1<sup>st</sup>, 2011 Application Cycle

Dear Mr. Smith:

Congratulations! Your application for a Clean Water State Revolving Fund loan has been reviewed and your proposed project found eligible to receive a low interest SRF loan. The total loan amount will be \$ 612,000 at the prevailing SRF interest rate at the time of approval by the Local Government Commission (LGC).

Please note that this intent to fund is contingent on approval of the loan through the Local Government Commission. This intent to fund is also contingent on meeting all milestones outlined in our 2009/2010 Intended Use Plan (IUP) as shown below.

<u>Milestone</u>	<u>Date</u>
Engineering Report Submittal	July 1, 2011
Engineering Report Approval	Dec. 1, 2011
Plans & Specifications Submittal	June 1, 2012
Plans & Specifications/Permit Approval	Sept. 4, 2012
Advertise Project, Receive Bids, Submit Bid Information, <u>and</u> Receive CG&L's Authority To Award	Dec. 3, 2012
Execute Construction Contract(s)	Jan. 2, 2013

The next milestone is the submittal of an Engineering Report by close of business on July 1, 2011. The Engineering Report must be developed using the guidance found on our website. Reports not received in this office on or before July 1, 2011 will be returned and CWSRF funding for the proposed project will be forfeited.

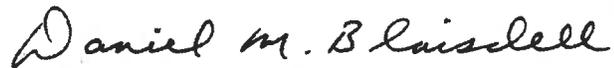
Failure to meet this or any other IUP milestone will result in the forfeit of CWSRF funding for your proposed project, and a new application must be submitted for consideration during a future application cycle.

Mr. James C. Smith  
April 1, 2011  
Page Number Two

Please note that if funding is based on the recipient's agreement to develop an Asset Management Plan, that plan **must** be adopted by the recipient and approved by CG&L before the contract execution milestone. Otherwise, project funding will be forfeited. The 2009/2010 IUP and an overview of our CWSRF funding process is available on our website (<http://portal.ncdenr.org/web/wq/cgls>).

If you have questions, please contact the Mr. Kim H. Colson, P.E. Assistant Section Chief, Engineering Branch at 919-715-6212.

Sincerely,



Daniel M. Blaisdell, P.E., Chief  
Construction Grants & Loans Section

DMB

cc: Mark Hubbard  
Jennifer Haynie  
Kim Colson  
SRF File



## HUMAN RELATIONS COUNCIL

*102 East 2nd Street*

*Washington, NC 27889*

*Phone: 252-975-1280*

*Fax: 252-974-6461*

### **Human Relations Council (HRC) Report for the month of March Monday April 11, 2011 City Council Meeting**

#### **MISSION STATEMENT**

- To promote social and economic equality in the community, working with Local Government and other resources
- To appreciate the cultural and ethnic diversity of the citizens of Washington and Beaufort County
- To encourage citizens to live and work together in harmony and mutual respect

#### **Update – Multicultural Festival**

Board member Castro reported the following:

- Turnage not available; therefore will host at the Civic Center
- Meeting planned with the Cultural Program Director from ECU
- Following the meeting, will set a date during the month of October

#### **Update – Conclusion of Ed Peed Commemoration**

#### **Update – Recognition of Honoree's & revisited date – date changed to 3-29-11**

#### **Update – 'Hope for the Future'**

Still working on proposal to present to City Council

#### **Discuss – Appreciation letter to be presented to Mayor and City Council members**

**Washington Tourism Development Authority  
March-April 2011**

Tourism Director Lewis participated in a regional heritage tourism workshop presented by Hanbury Preservation. This is part of a 3-region (Northeastern, East, Southeast) effort to earn the federal designation of National Heritage Area for all of eastern North Carolina. The purpose of the workshop was to describe the project, timeline, and opportunities for involvement from communities and community leaders in the region. If successful, the Heritage Area designation will result in federal funds being used to preserve and protect the heritage tourism assets of the region.

As new members of the Historic Albemarle Tour, Washington is now featured as a destination in the 2011 HAT brochures that are in circulation now.

Advertisements appeared in Southern Living, Our State, and Carolina Country for April and May. Response to Southern Living advertising is very high.

New billboard campaign is in place. The feedback on the new, more visible signage has been great. NCDOT signage is anticipated to be in place by the end of April.

We are in the midst of an end-of-year marketing push to increase bookings at the Civic Center through the end of June. This effort includes direct mail, incentive offers, sales calls, and a revamped website. The effort is directed specifically to local (Beaufort and Pitt County) businesses who may or may not have used the Civic Center for meetings.

Students at the ECU School of Business are developing an operations plan for the Civic Center. The findings of their research will be presented later this month. Recommendations/suggestions will be made based on all aspects of operations (staffing, marketing, signage, energy efficiency, technology).

A committee has been formed to explore the development of an inclusive branding campaign for Washington. Partners in the project are WTDA, Washington Harbor District Alliance, City of Washington, Washington-Beaufort County Chamber of Commerce. The committee is presently exploring offerings of agencies who do this type of work in the hopes of selecting an agency by May to conduct the necessary research and brand development.

The WTDA has secured a stop on the Professional Redfish Series fishing tournament scheduled. This Series is based out of Florida. This is the first year that North Carolina has been involved with the tournament. Tournament officials anticipate more than 250 room nights being booked as a result of the tournament. Dates are August 25-28.

The WTDA will be hosting a familiarization tour for local hotel staff and operators on April 19. The busy hotel and travel season begins in April. This is an effort to showcase the area and its attractions to those working directly with the traveling public.



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

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**To:** Mayor Jennings & Members of the City Council  
**From:** Cynthia S. Bennett, City Clerk  
**Date:** March 31, 2011  
**Subject:** Appointments  
**Applicant Presentation:** N/A  
**Staff Presentation:** N/A

**RECOMMENDATION:**

I move that the City Council appoint \_\_\_\_\_ to the Washington Housing Authority to fill the un-expired term of Melanie Everett, term to expire June 30, 2014.

I move that the City Council appoint \_\_\_\_\_ to the Parks and Recreation Advisory Board to fill the un-expired term of Cindy Cochran, term to expire June 30, 2013

**BACKGROUND AND FINDINGS:**

Mr. Marc Recko, Executive Director, Washington Housing Authority submitted a letter to the Clerk's office regarding Melanie Everett. The Board passed a resolution requesting Council to replace Melanie Everett as a result in her lack of participation with the Board.

Ms. Cindy Cochran resigned from the Parks and Recreation Board due to work constraints, resulting in a vacancy on the board.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

\_\_\_ Currently Budgeted (Account \_\_\_\_\_) \_\_\_ Requires additional appropriation \_\_\_ No Fiscal Impact

**SUPPORTING DOCUMENTS**

Applications

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**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:** \_\_\_\_\_ Concur \_\_\_\_\_ April 11, 2011 \_\_\_\_\_ Recommend \_\_\_\_\_ Denial \_\_\_\_\_ No Recommendation \_\_\_\_\_ Date \_\_\_\_\_

Primary Board Washington Housing Act Other Boards \_\_\_\_\_

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

NAME Rosalind Elaine Bailey  
(Please Print)

ADDRESS 812 N Market Street

PHONE NO. (BUSINESS) \_\_\_\_\_ (HOME) 252 975 3318

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

HOW LONG HAVE YOU BEEN A RESIDENT OF BEAUFORT COUNTY? 9 YEARS

YEARS OF EDUCATION \_\_\_\_\_

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

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  
Interested in fair housing for all. Volunteer  
Senior Center @ Park + Recreation

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.

Rosalind E. Bailey  
Signature  
3/22/11  
Date

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

Primary Board Washington Recreation Other Boards \_\_\_\_\_  
Advisory Committee

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

NAME Edmund J. Paszt Jr. (E.J.)  
(Please Print)

ADDRESS 404 Lodge Rd

PHONE NO. <sup>cell</sup> (BUSINESS) 945-9291 (HOME) 946-1170

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

HOW LONG HAVE YOU BEEN A RESIDENT OF BEAUFORT COUNTY? 30 YEARS

YEARS OF EDUCATION 16

HAVE YOU SERVED ON A BOARD/COMMISSION OF THE CITY? YES ( ) NO ()  
IF YES, PLEASE INDICATE \_\_\_\_\_

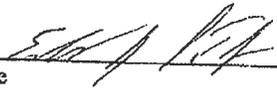
DO YOU ANTICIPATE A CONFLICT OF INTEREST BY SERVING AS A MEMBER OF A  
BOARD/COMMISSION? No IF YES, EXPLAIN \_\_\_\_\_

STATE REASONS WHY YOU FEEL QUALIFIED FOR THIS APPOINTMENT(S)

(OPTIONAL): Use back of sheet if additional space is needed

- work with recreation department facilitating Adult Church League Softball
- board member of Washington Girls Softball League
- active family that uses many of the departments facilities

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.

Signature 

Date 4-3-11

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:** Peter T. Connet, Interim City Manager  
**Date:** April 5, 2011  
**Subject:** North Academy Street Parking Recommendation  
**Applicant Presentation:** N/A  
**Staff Presentation:** Peter T. Connet, Interim City Manager

**RECOMMENDATION:**

I move that Council approve the following items to address the parking congestion issues on North Academy Street between East Second Street and East Main Street:

1. Parking on the west side of North Academy Street between East Second and East Main be marked as "no parking" zone.
2. Direct Public Works Department to mark all curbs at the intersections of East Main and North Academy, and East Second and North Academy Street, 25 feet back from the intersecting curb-lines.
3. The yellow curb on south side of East Second Street will be removed, except for that area needed as site distance from its intersection with North Academy.
4. Mark all curbs on North Academy five feet each side of the driveway entrances.
5. Create/mark a new crosswalk on East Second Street from the FCC parking lot to the front entrance area of FCC. Erect Pedestrian Crossing signs as needed on East Second Street.

**BACKGROUND AND FINDINGS:**

Mr. Connet and staff have received several correspondences from Mr. Tim Prichard and the First Christian Church regarding parking congestion on North Academy Street between East Main and East Second Street. The Public Works Director and Planning Director have met with Mr. Prichard regarding his concerns. The Police & Fire Departments have visited the area to see firsthand the congestion/parking concerns in which Mr. Prichard has brought to the City's attention. Based on written information provided, onsite inspection, and meetings with Mr. Prichard the recommendation dated 3/29/11 from staff are attached and made a part of the action request.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  No Fiscal Impact

**SUPPORTING DOCUMENTS**

1. Memorandum from Interim City Manager to Council dated March 29, 2011
2. Email from Fire/EMS Chief Rose to Manager

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**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**  Concur  Recommend Denial  No Recommendation 4/6/11 Date



# City of Washington

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

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## Memorandum

To: Mayor and City Council

From: Pete Connet, Interim City Manager 

Date: March 29, 2011

Subj: Traffic and Parking on N. Academy Street - Complaint of Mr. Tim Prichard

At the March 14, 2011 Council meeting I gave Council copies of correspondence from both Mr. Prichard (120 N. Academy Street) and Jesse Dail and Dr. Price of the First Christian Church. This memo is a follow-up report on the information that has been presented to the City Staff and first hand inspection of the area in question by several department heads and myself at various dates and times.

On March 24, 2011, I, as Interim City Manager, met with Chiefs Reed and Rose (Police, and Fire/EMS), Public Works Director Allen Lewis, and Planning Director John Rodman to discuss the information that we had received recently and to arrive at a suggested solution to some of the main issues raised by both parties. Our recommendation is as follows:

1. Eliminate parking on the West side of N. Academy between Main and E. Second Street, to allow the safe passage of two-way traffic on this street and to greatly enable the safer movement of emergency response vehicles to the area. At the current time it is very difficult, if not impossible, to drive one of our larger fire trucks down this street when cars are parked on both sides.
2. Mark all curbs at the intersections of E. Main and N. Academy, and E Second Street and N. Academy Street, 25 feet back from the intersecting curb-lines. At the intersection of Second and Academy there will be a loss of 1 handicapped space that can be relocated to the E. Second Street side of the Church.
3. The yellow curb on the south side of E. Second Street, in front of the Church, will be removed, except for that area needed as site distance from its intersection with N. Academy. This will allow the relocation of one of the handicap parking space being eliminated on N. Academy to allow for the 25 foot setback from the intersection. Additional spaces can also be gained in front of the church.
4. Mark the curbs on N. Academy Street five feet each side of the driveway entrances.
5. Create/mark a new crosswalk on E. Second Street from the FCC parking lot to the front entrance area of FCC. Erect Pedestrian Crossing signs as needed on E. Second Street.
6. The location of the garbage carts is being addressed by the church after consultation with the Public Works staff.

April 11, 2011

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7. At the present time, the staff does not see the need for any formal action on the request to address the parking of the patrons/workers at the First Baptist Church in their grass lot adjacent to 120 N. Academy Street. This can be handled by contacting the FBC and asking for their cooperation in not parking too close to the sidewalks.
8. Also, staff does not see the need for Speed Limit signs on N. Academy Street. This is a very short street and speed does not appear to be an issue. As for "Children At Play" signs, the City does not install these on public Rights-of-way.

The Interim Manager, and the staff shown above, feels that the implementation of these recommendations will help a great deal to remedy the traffic congestion and parking issues on N. Academy Street between E. Main and E. Second Street.

Cc: Franz Holscher

## Peter T. Connet

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**From:** Robbie Rose  
**Sent:** Wednesday, January 26, 2011 4:18 PM  
**To:** Peter T. Connet  
**Subject:** N. Academy Street

Pete:

In response to the parking issues on and around North Academy Street referred to at the City Council meeting, I offer the following comments in relation to emergency vehicle access.

As a whole, the historic district presents challenges to access because of the widths of streets, on street parking, and overhead obstructions. When areas are more congested with traffic the issues of access become even more challenging. Access for our Ladder Truck is more difficult and requires more turning radius because of its length, and any vehicles parked too close to the intersection will restrict access.

Also, when setting up for use of the aerial ladder; the outriggers require 19 feet of width. The width of the block of N. Academy in question is 29 feet; with cars parked on either side this would present a challenge, and with cars parked on both sides it would be impossible to set up the apparatus in that situation.

With cars parked on both sides of Academy Street we still have access for fire engines and EMS units, however would be a close fit.

Please let me know if you require additional input in regards to this response.

Thank you,

***Robbie Rose, Fire Chief***  
***Washington Fire-Rescue-EMS***  
***410 N. Market Street Washington, NC 27889***  
***Office (252) 948-9400 Fax (252) 975-6048***





City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**From:** Matt Rauschenbach, C.F.O.  
**Date:** April 11, 2011  
**Subject:** Budget & Capital Project Ordinance Amendment E911  
**Applicant Presentation:** N/A  
**Staff Presentation:** Matt Rauschenbach

**RECOMMENDATION:**

I move that City Council adopt a Budget and Capital Project Ordinance Amendment for PSAP revenue received and to transfer eligible PSAP expenses to the E-911 Surcharge Fund with the budget reductions in the E-911 Department of the General Fund being transferred to the Police Station Capital Project Fund.

**BACKGROUND AND FINDINGS:**

No PSAP revenue or expenses were budgeted in the E-911 Surcharge Fund. Eligible expenses for this fund were budgeted in the E-911 Department of the General Fund in anticipation of moving E-911 call answering to the County. The transfer occurred in January and the City has received \$43,385 in PSAP funding. To utilize the PSAP funding, \$40,000 of eligible PSAP expenses will be transferred from the E-911 Department of the General Fund to the E-911 Surcharge Fund. The budget in the E-911 Department of the General Fund will be reduced by a like amount and this reduction will be transferred to provide additional funding for the Police Station Capital Project.

A Fund Balance of approximately \$27,000 will remain in the E-911 Surcharge fund at the end of this fiscal year. Next year a similar transfer can take place to utilize these funds and provide additional funding for the Police Station Capital Project.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  
 No Fiscal Impact .

**SUPPORTING DOCUMENTS**

Budget and Capital Project Ordinance Amendment

**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: April 11, 2011 (if applicable)  
**City Manager Review:**  Concur  Recommend  Denial  No Recommendation  
 4/6/11 Date

**AN ORDINANCE TO AMEND THE BUDGET & POLICE STATION CAPITAL  
PROJECT 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 account number 10-10-4311-4500, Contract Services, E-911 Department portion of the General Fund appropriations budget be decreased in the amount of \$40,000 to provide for transfer of funds to the Police Station Capital Project Fund.

Section 2. That account number 10-10-4400-6400, Transfer to Police Station Capital Project Fund, Miscellaneous Non-Departmental portion of the General Fund appropriations budget be increased in the amount of \$40,000 to provide for transfer of funds to the Police Station Capital Project Fund.

Section 3. That the Estimated Revenues in the Police Station Capital Project Fund be increased in the amount of \$40,000 in the account Transfer from General Fund, account number 64-10-3434-1000.

Section 4. That account number 64-10-4310-4500, Construction, line item of the Police Station Capital Project Fund appropriations budget be increased in the amount of \$40,000.

Section 5. That the Estimated Revenues in the E-911 Surcharge Fund be increased in the amount of \$43,385 in the account E-911 Surcharge Collections, account number 14-70-3255-8900.

Section 6. That account number 14-70-4310-4501, Contract Services – E-911 System, portion of the E-911 Surcharge Fund appropriations budget be increased in the amount of \$43,385 to provide for payment of eligible expenses.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 11<sup>th</sup> day of April, 2011.

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**MAYOR**

**ATTEST:**

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**CITY CLERK**



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

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**To:** Mayor Jennings & Members of the City Council  
**From:** Matt Rauschenbach, C.F.O.  
**Date:** April 11, 2011  
**Subject:** Budget Schedule  
**Applicant Presentation:** N/A  
**Staff Presentation:** Matt Rauschenbach

**RECOMMENDATION:**

I move that City Council adopt the attached revised budget schedule for fiscal year 2011-2012.

**BACKGROUND AND FINDINGS:**

Please review the attached recommended budget schedule for the order and timing of workshops and establish Council's preferred schedule.

**PREVIOUS LEGISLATIVE ACTION**

Budget schedule adopted November 8, 2010

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  
 No Fiscal Impact .

**SUPPORTING DOCUMENTS**

Budget schedule

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**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**  Concur \_\_\_\_\_ Recommend Denial \_\_\_\_\_ No Recommendation  
4/6/11 Date

**Budget Schedule 2011 - 2012**

<b>Week Of</b>	<b>Scheduled Date</b>	<b>Budget Task</b>
10/25/2010	Complete	CIP template worksheet available on Intranet
11/29/2010	Complete	CIP worksheets due back to Finance
1/10/2011	Complete	CIP reviewed by City Manager with Department Heads
1/10/2011	Complete	Revenue Estimate- Finance
1/17/2011	Complete	CIP document to Council
1/24/2011	Complete	Budgetary & Strategic Planning Retreat
1/24/2011	Complete	Council reviews CIP
1/24/2011	Complete	Fees & Charges Schedules Distributed
1/24/2011	Complete	Budget Packets Distributed to Management Team
1/24/2011	Complete	Budget Goals Provided to Management Team
2/14/2011	Complete	Council approval of CIP
2/14/2011	Complete	External Agency Budget Requests
2/14/2011	Complete	Budgets Submitted to Finance
3/14/2011	Complete	Budget Review with Manager- General Fund
3/7/2011	Complete	Budget Review with Manager- Water/Sewer/Storm Water/Solid Waste/Cemetery Funds
3/14/2011	Complete	Budget Review with Manager- Electric Fund
4/11/2011		Manager's Recommended Budget Presented to Council
4/11/2011		Budget Available for Public Viewing at City Clerk's Office
4/25/2011		Budget Workshop- Electric Fund
5/16/2011		Budget Workshop- Benefits & Pay, General Fund
5/23/2011		Budget Workshop- Water/Sewer/Storm Water/Solid Waste/Cemetery Funds
5/23/2011		Public Hearing
6/13/2011		Budget Adopted (complete budget included, not just workshop changes and budget ordinance)



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: April 11, 2011
Subject: Approve and Authorize City Manager to execute contract for Phase #2 at the "Festival" Park with Mark Smith Architect in the amount of \$24,950
Applicant Presentation: None
Staff Presentation: None

RECOMMENDATION:

I move City Council approve and authorize the City Manager to execute contract with Mark Smith Architect for Phase #2 at the "Festival" Park in the amount of \$24,950.

BACKGROUND AND FINDINGS:

Phase # I construction is well underway in the "Festival" Park. The Park planning team has started its work on Phase # 2 and is recommending the services of Mark Smith, Architect for design and bidding/tabulations and communicating with contractors for phase # 2.

PREVIOUS LEGISLATIVE ACTION

9/13/10 Council accepted PARTF Grant and adopted Budget Ordinance Amendment \$295,125.
10/11/10 Mr. Taylor, Chair. WRAC showed proposed design of structures to City Council.
12/13/10 Council approved Mark Smith, Architect for Phase I, "Festival" Park.

FISCAL IMPACT

\_X\_ Currently Budgeted (Account 62-40-6120-0400 ) \_\_\_ Requires additional appropriation \_\_\_ No Fiscal Impact

SUPPORTING DOCUMENTS

Contract

City Attorney Review: \_\_\_ Date By: \_\_\_ (if applicable)
Finance Dept Review: \_\_\_ Date By: \_\_\_ (if applicable)
City Manager Review: [X] Concur \_\_\_ Recommend Denial \_\_\_ No Recommendation 4/6/11 Date

*AIA Document B 141*

## Standard Form of Agreement Between Owner and Architect

1987 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH  
AN ATTORNEY IS ENCOURAGED with RESPECT TO ITS COMPLETION OR MODIFICATION.*

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### AGREEMENT

made as of the **Thirtieth** day of **March** in the year of **Two Thousand Eleven**.

**BETWEEN** the Owner:

*(Name and address)*

City of Washington.  
PO Box 1988 / 310 West Main Street  
Suite 200, Peterson Building  
Washington, NC 27889

and the Architect:

*(Name and address)*

Mark Smith Architect  
2020-A Cambria Drive  
Greenville, North Carolina 27834

For the following Project:

*(Include detailed description of Project, location, address and scope.)*

Festival Park Development  
Phase 2 Buildings and Site Improvements  
Water Street, Washington, NC

The Owner and Architect agree as set forth below.

**ARTICLE 1**  
**ARCHITECT'S RESPONSIBILITIES**

**1.1 ARCHITECT'S SERVICE**

**1.1.1** The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other services included in Article 12.

**1.1.2** The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

**1.1.3** The services covered by this Agreement are subject to the time limitations contained in Subparagraph 11.5.1.

**ARTICLE 2**  
**SCOPE OF ARCHITECT'S BASIC SERVICES**

**2.1 DEFINITION**

**2.1.1** The Architect's Basic Services consist of those described in Paragraphs 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, and include normal structural, mechanical and electrical engineering services.

**2.2 SCHEMATIC DESIGN PHASE**

**2.2.1** The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

**2.2.2** The Architect shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 5.2.1.

**2.2.3** The Architect shall review with the Owner alternative approaches to design and construction of the Project.

**2.2.4** Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

**2.2.5** The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current area, volume or other unit costs.

**2.3 DESIGN DEVELOPMENT PHASE**

**2.3.1** Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

**2.3.2** The Architect shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost.

**2.4 CONSTRUCTION DOCUMENTS PHASE**

**2.4.1** Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

**2.4.2** The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

**2.4.3** The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

**2.4.4** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**2.5 BIDDING OR NEGOTIATION PHASE**

**2.5.1** The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

**2.6 CONSTRUCTION PHASE ADMINISTRATION OF THE CONSTRUCTION CONTRACT**

**2.6.1** The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the earlier of the issuance to the Owner of the final Certificate for Payment of 60 days after the date of Substantial completion of the Work.

**2.6.2** The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement.

**2.6.3** Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent shall not be unreasonably withheld.

**2.6.4** The Architect shall be a representative of and shall advise and consult with the Owner (1) during construction until final payment to the Contractor is due, and (2) as an Additional Service at the Owner's direction from time to time during the correction period described in the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

**2.6.5** The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and Architect in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work, when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work. *(More extensive site representation may be agreed to as an Additional Service, as described in paragraph -3.2.)*

**2.6.6** The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of another persons performing portions of the Work.

**2.6.7** The Architect shall at all times have access to the Work wherever it is in preparation or progress.

**2.6.8** Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect.

**2.6.9** Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

**2.6.10** The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections to minor deviations from the Contract Documents correctable prior to completion and to special qualifications expressed by the Architect. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check quality of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or the Contractor's right to payment or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**2.6.11** The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility, of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

**2.6.12** The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all

of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by, the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of a material, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the criteria is required by the Contract Documents.

**2.6.13** The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Subparagraphs 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may, authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

**2.6.14** The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

**2.6.15** The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

**2.6.16** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

**2.6.17** The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**2.6.18** The Architect shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

**2.6.19** The Architect's decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, except

for those relating to aesthetic effect as provided in Subparagraph 2.6.17, shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

## **ARTICLE 3 ADDITIONAL SERVICES**

### **3.1 GENERAL**

**3.1.1** The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Paragraph 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

### **3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES**

**3.2.1** If more extensive representation at the site than is described in Subparagraph 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

**3.2.2** Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefore as agreed by the owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as the date of this Agreement, unless otherwise agreed.

**3.2.3** Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify, the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

### **3.3 CONTINGENT ADDITIONAL SERVICES**

**3.3.1** Making revisions in Drawings, Specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary, by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or
- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

**3.3.2** Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 5.2.5.

**3.3.3** Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

**3.3.4** Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

**3.3.5** Providing consultation concerning replacement of Work damaged by fire or other Cause during construction, and furnishing services required in connection with the replacement of such Work.

**3.3.6** Providing services made necessary by the default of the Contractor, by, major defects or deficiencies in the Work of tile Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

**3.3.7** Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

**3.3.8** Providing services in connection with public hearing, arbitration proceeding or legal proceeding except where the Architect is party thereto.

**3.3.9** Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the construction Documents Phase.

#### **3.4 OPTIONAL ADDITIONAL SERVICES**

**3.4.1** Providing analyses of the Owner's needs and programming the requirements of the project.

**3.4.2** Providing financial feasibility or other special studies.

**3.4.3** Providing planning surveys, site evaluations or comparative studies of prospective sites.

**3.4.4** Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

**3.4.5** Providing services relative to future facilities, systems and equipment.

**3.4.6** Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

**3.4.7** Providing services to verify the accuracy of drawings or other information furnished by the Owner.

**3.4.8** Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

**3.4.9** Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

**3.4.10** Providing detailed estimates of Construction Cost.

**3.4.11** Providing detailed quantity surveys or inventories of material, equipment and labor.

**3.4.12** Providing analyses of owning and operating costs.

**3.4.13** Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

**3.4.14** Providing services for planning tenant or rental spaces.

**3.4.15** Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

**3.4.16** Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

**3.4.17** Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

**3.4.18** Providing services after issuance to the Owner of their final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

**3.4.19** Providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

**3.4.20** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

#### **ARTICLE 4 OWNER'S RESPONSIBILITIES**

**4.1** The Owner shall provide full information regarding requirements for the Project, including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

**4.2** The Owner shall establish and update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

**4.3** if requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.

**4.4** The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

**4.5** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.

**4.6** The Owner shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity, tests, including necessary operations for anticipating sub-soil conditions, with reports and appropriate professional recommendations.

**4.6.1** The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

**4.7** The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

**4.8** The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the

Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

**4.9** The services, information, surveys and reports required by Paragraphs 4.5 through 4.8 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

**4.10** Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

**4.11** The proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least 14 days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

## **ARTICLE 5 CONSTRUCTION COST**

### **5.1 DEFINITION**

**5.1.1** The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

**5.1.2** The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction.

**5.1.3** Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in article 4.

### **5.2 RESPONSIBILITY FOR CONSTRUCTION COST**

**5.2.1** Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

**5.2.2** No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

**5.2.3** If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

**5.2.4** if a fixed limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bonafide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in such fixed limit;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 if the Project is abandoned, terminate in accordance with Paragraph 8.3; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

**5.2.5** If the Owner chooses to proceed under Clause 5.2.4.4, the Architect, without additional charge, shall modify, the Contract Documents as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of Contract Documents shall be the limit of the Architect's responsibility arising out of the establishment of a fixed limit. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

## **ARTICLE 6**

### **USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

**6.1** The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The

Architect's Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

**6.2** Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

## **ARTICLE 7** **ARBITRATION**

**7.1** Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.

**7.2** Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

**7.3** No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement except by written consent containing a specific reference to this Agreement signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**7.4** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

## **ARTICLE 8** **TERMINATION, SUSPENSION OR ABANDONMENT**

**8.1** This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially

to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**8.2** If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitable adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services.

**8.3** This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Architect may terminate this Agreement by giving written notice.

**8.4** Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

**8.5** If the owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

**8.6** In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 8.7

**8.7** Termination Expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination. Termination Expenses shall be computed as a percentage of the total compensation for Basic Services and Additional Services earned to the time of termination, as follows:

- .1 Twenty percent of the total compensation for Basic and Additional Services earned to date if termination occurs before or during the predesign, site analysis, or Schematic Design Phases; or
- .2 Ten percent of the total compensation for Basic and Additional Services earned to date if termination occurs during the Design Development Phase; or
- .3 Five percent of the total compensation for Basic and Additional Services earned to date if termination occurs during any subsequent phase.

## **ARTICLE 9 MISCELLANEOUS PROVISIONS**

**9.1** Unless other-wise provided, this Agreement shall be governed by the law of the principal place of business of the Architect.

**9.2** Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

**9.3** Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial completion.

**9.4** The Owner and Architect waive all rights against each other and against the contractors, consultants, agent and employees of the other for damages but only to the extent covered by property insurance during construction, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner and Architect each shall require similar waivers from their contractors, consultants and agents.

**9.5** The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

**9.6** This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

**9.7** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

**9.8** Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

**9.9** The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

**ARTICLE 10**  
**PAYMENTS TO THE ARCHITECT**

**10.1 DIRECT PERSONNEL EXPENSE**

**10.1.1** Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave holidays, vacations, pensions and similar contributions and benefits.

**10.2 REIMBURSABLE EXPENSES**

**10.2.1** Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect employees and consultants in the interest of the Project, as identified in the following Clauses.

**10.2.1.1** Expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project. .

**10.2.1.2** Expense of reproductions, postage and handling of Drawings, Specifications and other documents for bidding and permitting purpose. Incidental design phases expense of reproductions, postage and handling of Drawings, Specifications and other documents prior to bidding is included as a Basic Service.

**10.2.1.3** If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates. .

**10.2.1.4** Expense of rendering, models and mock-up requested by the Owner. .

**10.2.1.5** Expense of additional insurance coverage or limits, including professional liabilities insurance, requested by the Owner in excess of that normally carried by the Architect and Architect's consultants. .

**10.2.1.6** Expense of computer-aided design and drafting equipment time when used in connection with the Project. .

**10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES**

**10.3.1** An initial payment as set forth in Paragraph 11.1 is the minimum payment under this Agreement.

**10.3.2** Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Subparagraph 11.2.2.

**10.3.3** If and to the extent that the time initially established in Subparagraph 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Subparagraph 11.3.2.

**10.3.4** When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Subparagraph 11.2.2, based on (1) the lowest bonafide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

**10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES**

**10.4.1** Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

**10.5 PAYMENTS WITHHELD**

**10.5.1** No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable.

**10.6 ARCHITECT'S ACCOUNTING RECORDS**

**10.6.1** Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

**ARTICLE 11**  
**BASIS OF COMPENSATION**

Owner shall compensate the Architect as follows:

**11.1 AN INITIAL PAYMENT of**            **None**

shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

**11.2 BASIC COMPENSATION**

**11.2.1** FOR BASIC SERVICES, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows:

*(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)*

**Lump Sum fee of \$24,950.00 as described below**

1. Schematic design	\$ 4,990.00
2. Construction documents Architectural	\$ 4,990.00
3. Construction documents Plumbing, Mechanical, Electrical	\$ 7,485.00
4. Bidding	\$ 1,247.50
5. Construction Phase services	\$ 6,237.50

**11.2.2** Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

*(insert additional phases as appropriate.)*

At completion of each phase 1 through 4 described above, phase 5 shall be invoiced monthly prorated according to construction progress.

**11.3 COMPENSATION FOR ADDITIONAL SERVICES**

**11.3.1** FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as follows:

Hourly Rates are as follows:	Professional Time:	\$105/ per hour
	Professional intern:	\$65/ per hour
	Technical Time:	\$55 / per hour
	Clerical Time	\$35 / per hour

**11.3.2** FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Paragraph 3.2, and (2) services included in Article 12 as part of Basic Services, but excluding services of consultants, compensation shall be computed as follows:*(Insert basis of compensation, including rates and /or multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)*

Hourly Rates are as follows:	Professional Time:	\$105/ per hour
	Professional intern:	\$65/ per hour
	Technical Time:	\$55 / per hour
	Clerical Time	\$35 / per hour

**11.3.3** FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical and electrical engineering services and those provided under Subparagraph 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of one and two tenths (1.2) times the amounts billed to the Architect for such services.

*(Identify specific types of consultants in Article 12, if required.)*

**11.4 REIMBURSABLE EXPENSES**

**11.4.1** FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of one and one tenths (1.1) times the expenses incurred by, the Architect, the Architect's employees and consultants in the interest of the Project.

**11.5 ADDITIONAL PROVISIONS**

None Applicable

11.5.1 IF THE BASIC SERVICES covered by this Agreement have not been completed within **twenty-four (24)** months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Subparagraphs 10.3.3 and 11.3.2.

11.5.2 Payments are due and payable **fifteen ( 15 )** days from the date of the Architect's invoice. Amounts unpaid **thirty (30)** days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. *(Insert rate of interest agreed upon.)*

**One percent (1%) per month**

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

11.5.3 The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

**ARTICLE 12  
OTHER CONDITIONS OR SERVICES**

*(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)*

The attached letter of proposal from MSA to Mr. Philip Mobley dated March 16, 2011 describing the scope of proposed services shall be incorporated into this agreement and shall take precedent over any conflict in scope of standard services that may be present above.

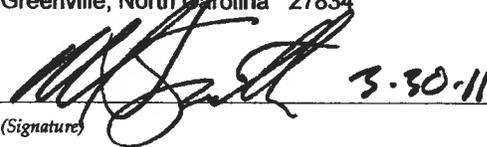
This Agreement entered into as of the day and year first written above.

OWNER **City of Washington**

ARCHITECT **Mark Smith Architect  
2020-A Cambria Drive  
Greenville, North Carolina 27834**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*



\_\_\_\_\_  
*(Printed name and title)*

**Mark Joseph Smith**  
*(Printed name and title)*



Mark Smith Architect

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March 16, 2011

Mr. Philip W. Mobley, CPRP  
Director, Parks & Recreation  
PO Box 1988  
310 West Main Street  
Suite 200, Peterson Building  
Washington, NC 27889-1988

**Re: Festival Park Phase 2  
Water Street, Washington, NC**

Mr. Mobley,

Thank you for your consideration of MSA for your design needs, I look forward to working with you. The following fee proposal is submitted for your review and acceptance based upon our conversation. Please call if any of the following assumptions are incorrect, if you have any questions or require additional information.

This proposal is based on providing Design and Construction Administration Services for the City of Washington Parks and Recreation Festival Park Phase 2 project. Scope of project includes construction of a Restroom building and site development. Restroom facilities are for two Women's stalls and one lavatory; one Men's stall, urinal and lavatory. Design shall accommodate expansion. Building design shall be "floodproof" construction. Site design includes park amenities. Landscape vegetation and irrigation concept plans shall be prepared for design / build solicitation under a budget allowance.

Complete design services shall include the project bidding and construction administration.

**Following are the Scope of Design Services proposed:**

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**Schematic Design – Building and Site Planning**

- Collect input from the Owner to establish and document the desired design objectives, plan configuration, appearances and design features.
- Note – this proposal allows for three (3) design scheme reiterations.
  1. Documentation of design objectives followed by preparation of several design schemes for review – ie. Schemes #1A, 1B, etc
  2. Review / select a design scheme, followed by continued development of the selected design scheme – issue Scheme 2
  3. Review developed Scheme 2, followed by revision to the scheme to create the final schematic design.- issue Scheme 3.

In our experience 3 reiterations normally result in an approved final Scheme 3. Changes in design objectives and re-visiting previous design decisions may result in additional reiterations. Additional design reiterations beyond Scheme 3 shall be reimbursable additional services.

### **Site Planning and Civil Engineering Services**

- Site Grading and Layout Plan
- Schematic Landscape Vegetation and Irrigation concept layout – final design by contractor
- Site Details
- Exclusions:
  - Surveying is not included
  - No Stormwater Management is anticipated
  - No CAMA permit is anticipated
  - No Erosion Control permit is anticipated
  - No NCDENR permit is anticipated

### **Architectural Design Services**

- Schematic plan designs – see above
- Title Sheet / Building Code Data
- Architectural Floor Plan
- Finish Schedules
- Door Schedules and details
- Exterior Elevations
- Wall Sections
- Details as required

### **Floodproofing**

- Floodproof building design per FEMA standards
- FEMA Certifications

### **Structural Engineering Services**

- Foundation Plan
- Roof Framing Plan
- Schedules and Details

### **Plumbing Engineering Services**

- Plumbing Plans, Schedules and Details

### **HVAC Engineering Services**

- None included

### **Electrical Engineering Services**

- Building Power and Lighting Plans / schedules / details
- Site electrical service; utility company coordination
- Site lighting is not proposed

### **Project Manual / Specifications**

- Technical Specifications
- General Conditions and Bidding Documents

### **Bidding / Negotiations with Contractors**

- Assist the Owner with selection of Bidders
- Distribute Bid Documents, conduct pre-bid conference, coordinate bidder's questions and requests for clarifications.
- Conduct bid opening, evaluation and recommend award.
- Negotiate contract as required.

**Construction Administration Services**

- Conduct Pre-Construction conference
- Review submittals
- Perform periodic construction site visits as required based on activities and progress; note this proposal includes six (6) site visits – more than six (6) shall be additional services.
- Conduct monthly Construction Progress meetings; note this proposal includes three (3) meetings – more than three (3) shall be additional services

**Printing and Reproduction**

- Normal printing and reproduction incidental to design is included in the fee.
- Three final sets and a .pdf file is included
- Multiple sets for bidding and construction shall be reimbursable expense.

**Compensation**

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<b>Services as described above</b>	<b>Lump Sum Fee</b>	<b>\$24,950</b>
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**Hourly Rates**

For proposed hourly services and for services by your request and approval beyond the scope described herein the following hourly rates shall apply:

- Professional \$105 / hr
  - Professional Intern \$65 / hr
  - Technical \$55 / hr
  - Clerical \$35 / hr
- 

If you are in agreement with the Scope of Design Services and Compensation as described above we will draft an AIA Document B 141 Standard Form of Agreement between Owner and Architect.

Thank you for your consideration of this Proposal. Please call if you have any questions or require additional information.

Sincerely,



Mark J. Smith  
Mark Smith Architect



# City of Washington REQUEST FOR CITY COUNCIL ACTION

**To:** Mayor Jennings & Members of the City Council  
**From:** Philip Mobley, Director Parks and Recreation *pm*  
**Date:** April 11, 2011  
**Subject:** Approve and Authorize Director to execute Waterfront Docking Agreement with Little Washington Sailing Club  
**Applicant Presentation:** None  
**Staff Presentation:**

**RECOMMENDATION:**

I move City Council approve and authorize the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement with Little Washington Sailing Club and further authorize the Director of Parks and Recreation or his designee to negotiate, enter and execute future Waterfront Docking Agreements with Little Washington Sailing Club so long as such future Agreements are substantially similar to the Agreement approved hereby and Council receives an annual report concerning the relationship with Little Washington Sailing Club , including a notice regarding the intention to enter and term for such future Agreements.

**BACKGROUND AND FINDINGS:**

Staff and the City Attorney have been working with Little Washington Sailing Club to update the Waterfront Docking Agreement for Little Washington Sailing Club.  
The Washington Recreation Advisory Committee has reviewed and approved this proposed updated Waterfront Docking Agreement for Little Washington Sailing Club.

**PREVIOUS LEGISLATIVE ACTION**

- January 9, 2010 – City Council approved the Little Washington Sailing Club to attach their floating dock to a free dock on the waterfront for their program for the 2010 season.
- February 8, 2010- City Council authorized the City Manager to sign the Authorized Agent Consent Agreement as the property owner to obtain the Temporary CAMA permit on the waterfront.
- February 14, 2011- City Council approved the amendment of the CAMA permit and to allow the enhanced usage of Dock J.

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  No Fiscal Impact

**SUPPORTING DOCUMENTS**

Proposed Waterfront Docking Agreement for Little Washington Sailing Club

**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**  Concur  Recommend Denial  No Recommendation 4/6/11 Date  
 April 11, 2011  
 Page 106 of 204

**NORTH CAROLINA  
BEAUFORT COUNTY**

**WATERFRONT DOCK AGREEMENT**

THIS AGREEMENT, is made and entered as of the 1<sup>st</sup> day of April, 2011, by and between the City of Washington, North Carolina (hereinafter referred to as "Waterfront Docks") and Downtown Washington on the Waterfront, Inc. d/b/a Washington Harbor District Alliance d/b/a The Little Washington Sailing Club (hereinafter referred to as "Club"). For and in consideration of \$1.00 and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein as well as valuable consideration paid and to be paid, Waterfront Docks and Club agree as follows.

1. **GRANT OF LICENSE.** Subject to the satisfaction of the condition contained in Section 1.a. below, Waterfront Docks hereby grants to Club and Club hereby accepts from Waterfront Docks a license to use a certain portion of Waterfront Docks' piers known to Waterfront Docks as Dock J (hereinafter referred to as "Fixed Dock") subject to the terms and conditions set forth herein. It is agreed between the parties that this license is personal to Club and shall not inure to the successors or assigns of Club. Club agrees that it does not possess and shall not claim at any time an interest or estate of any kind or extent whatsoever by virtue of this license or Club's exercise or use hereunder of the same and Waterfront Docks conveys no interest in property, including but not limited to Fixed Dock or pier, to Club by this Agreement.

a. Club shall obtain whatever permission is legally required, including but not limited to a CAMA permit or a modification to the CAMA permit the City currently holds, from the appropriate agency(ies) or entity(ies) that will give Club the legal right and authority (hereinafter referred to as "Permit") to exercise the rights and authority granted and contemplated by this Agreement. Club shall not exercise any of the rights and authority granted and contemplated by this Agreement until Club has received said Permit, provided said Permit to Waterfront Docks, and received approval of the Permit from Waterfront Docks. Upon receipt of approval from Waterfront Docks of said Permit, Club shall exercise its rights and authority hereunder consistent with the terms and conditions of said Permit, as may be amended.

b. **BOAT AND OWNER IDENTIFICATION AND CONTACT INFORMATION.**

Name of Primary Boat: \_\_\_\_\_ Make: \_\_\_\_\_ Model: \_\_\_\_\_  
Year: \_\_\_\_\_ Registration/Documentation # \_\_\_\_\_ Length: \_\_\_\_\_ Beam: \_\_\_\_\_ Draft: \_\_\_\_\_  
Owner's Address: \_\_\_\_\_ Social Security No.: \_\_\_\_\_  
Work Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Emergency Phone: \_\_\_\_\_  
Insurer: \_\_\_\_\_ Policy #: \_\_\_\_\_ Insurer's Phone: \_\_\_\_\_

Contemporaneously with the execution hereof, Club shall provide Waterfront Docks with the above information concerning any and all dinghies, vessels, boats, etc. that Club will utilize in its program and/or locate or berth at the Fixed Dock or Floating Dock. The information provided above is true and accurate. Club agrees that, if any of the above information subsequently changes, Club will provide updated information to Waterfront Docks within fourteen (14) days of such change.

2. **USE OF DOCK.** Notwithstanding anything herein or anything contained in the Rules to the contrary, Waterfront Docks authorizes Club to utilize Fixed Dock in conjunction with its sailing instruction program (herein referred to as "Program"). Club will attach a 20 foot by 40 foot Floating Dock (hereinafter referred to as "Floating Dock") to one-half of Fixed Dock using mooring lines. The Club will attach fixed fenders to the Fixed Dock pilings between said pilings and the Floating Dock to prevent damage to said pilings and Fixed Dock from the Floating Dock. The Club will provide access from Fixed Dock to Floating Dock by installing a ladder (boarding steps) to the Floating Dock that will lead to the Fixed Dock. The Club will utilize said Floating Dock for stowage of and access to sailing dinghies (hereinafter referred to as "Vessels") utilized in the Program. Subject to advance permission from and any related requirements of Waterfront Docks, Club may dock two chase boats at the Floating Dock to be used solely in conjunction with said Program. Said chase boats shall be subject to the same relocation and removal terms and conditions as are applicable to the Floating Dock and Vessels. Club shall not be entitled to berth any other boat at the Fixed Dock or Floating Dock or attach other appurtenances to Fixed Dock, other than as identified above, without the express written consent of Waterfront Docks. Club shall not use the Fixed Dock as rental property, a dwelling, or for any purpose other than the purposes stated herein without prior written consent of Waterfront Docks. Club shall have no interest in the Fixed Dock other than the right to use said space in accordance with the terms and conditions of this Agreement and any rules and regulations as Waterfront Docks may make respecting the use thereof. Club shall coordinate all activities with Waterfront Docks. Club shall perform all activities associated with its Program in such a manner that such activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of slips by boat owners. Club agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

a. Club shall require all participants in its Program, including but not limited to instructors, volunteers, and students, to execute and return a release and indemnification in a form provided by and satisfactory to Waterfront Docks prior to commencement of any

activity related to the Program.

3. **TERM.** Club may utilize Fixed Dock for a twelve (12) month term, beginning on the 1<sup>st</sup> day of April, 2011 and ending on the 31<sup>st</sup> day of March, 2012. Either party may terminate this Agreement, with or without cause, upon thirty (30) days notice. Upon expiration or termination of this Agreement, Club shall remove said Floating Dock and Vessels from Fixed Dock within ten (10) days. Should Club fail to relocate Floating Dock and Vessels within the time allowed, Waterfront Docks shall have the right to relocate the Floating Dock and Vessels from the Fixed Dock, including but not limited to placing them at anchorage or storing them on land, and receive reimbursement and indemnification from Club for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules").

a. Waterfront Docks waives the two-day maximum stay for use of Dock J in the area known as the free docks by the Club for its Program during the term of this Agreement.

4. **CONDITION OF FIXED DOCK.** Club hereby accepts the condition of the Fixed Dock and common areas of Waterfront Docks "AS IS" and Club acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Fixed Dock, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of Waterfront Docks. Club covenants to satisfy itself that the Fixed Dock and berthing space is adequate for safe berthing of its Floating Dock and Vessels. Club shall exercise due caution in occupation of the Fixed Dock and shall take good care of the Fixed Dock and, at the expiration or sooner termination of this Agreement, surrender and deliver the Fixed Dock to Washington Docks in as good condition as when received by Club from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of in any manner Club's personal property not removed from the Fixed Dock or waterfront docks by Club at the expiration or termination of this Agreement. Club waives all claims against Waterfront Docks for any damage to Club resulting from Waterfront Docks' removal of Club's personal property at the expiration or termination of this Agreement. Club shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Club's personal property at prevailing rates.

a. Waterfront Docks, in its discretion, may retain, or require Club to remove, any alteration, addition, or improvement made by the Club to the Fixed Dock or to any common area pursuant to advance written approval of Waterfront Docks. Any such alteration, addition, or improvement retained by Waterfront Dock constitutes further consideration for this Agreement.

b. Club shall keep the waterfront area around the Fixed Dock clean as well as litter free and in a presentable, acceptable and satisfactory condition to the City.

5. **BAILMENT.** It is understood and agreed that this Agreement does not constitute a bailment. Except as otherwise provided herein, Club retains and has exclusive care, custody, control, and access to the Floating Dock, Vessels, chase boats and their respective contents at all times.

6. **GENERAL RESPONSIBILITIES AND OBLIGATIONS.** Waterfront Docks' employees, in their sole discretion, may make reasonable efforts to inform Club of dangerous conditions requiring Club's attention, but Waterfront Docks assumes no responsibility or liability for the same, including but not limited to tending mooring lines, moving the Floating Dock or Vessels, or moving boats from berths to which they are or were assigned. Club further agrees to provide Waterfront Docks a key or combination to locks securing the Vessels, if any. It is expressly agreed that Waterfront Docks shall not be liable to Club if for any reason Waterfront Docks fails to move the Floating Dock or Vessels.

7. **RATIFICATION OF ACTIONS.** Notwithstanding anything herein to the contrary and although Waterfront Docks has absolutely no obligation to do so, should Waterfront Docks enter upon the Floating Dock or Vessels or take any action to protect the Floating Dock or Vessels, which action is hereby approved and authorized by Club, including but not limited to relocating the Floating Dock or Vessels, installing mooring lines, or pumping the Vessels, or similar services, Club agrees to reimburse and indemnify Waterfront Docks as more specifically provided for in the attached Rules and to hold Waterfront Docks, its representatives, agents, or contractors harmless for any loss or damage as the result of such action undertaken regardless of the action taken or circumstances giving rise to the action.

8. **HAZARDOUS MATERIALS.** Club covenants and agrees to comply with all applicable environmental and all other federal, state and local governmental statutes, ordinances, rules and regulations relating to the presence of hazardous substances, hazardous wastes, pollutants or contaminants. Club agrees and does hereby fully indemnify and shall hold Waterfront Docks absolutely harmless from any loss, damage, or expense, including reasonable attorney's fees and costs and expenses of any appeal, which Waterfront Docks may incur or suffer by reason of any claim or liability arising from Club's noncompliance with applicable environmental laws and the terms of this paragraph. Club specifically covenants and agrees that no hazardous substances, hazardous wastes or waste by-products, pollutants or contaminants, shall be dumped in any trash receptacle, or otherwise, in, on or about the Fixed Dock or Waterfront Docks' facilities, and that all such substances shall be stored or disposed of in specially marked containers/areas. These covenants and indemnities shall survive the expiration or termination of this Agreement.

9. **NO ASSIGNMENT OR SUBLICENSING.** This Agreement is not transferable or assignable and runs to Club only. Club may not assign this Agreement or sublicense the Fixed Dock. In the event Club suspends its Program, Waterfront Docks shall have the right to cancel this Agreement.

10. **INSURANCE.** Club shall, throughout the term of this Agreement and any renewal thereof, at its own expense, keep and maintain in full force and effect the following insurance coverages.

a. Commercial General Liability Insurance, including general marine liability, products and completed operations liability, personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.

Each such policy shall list Waterfront Docks as additional insured and provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Waterfront Docks. Club shall deliver to Waterfront Docks certificates of insurance for all insurance policies required hereunder. Club shall, within a reasonable time prior to the expiration of any such policy, furnish Waterfront Docks with certificates of insurance evidencing renewal thereof. Waterfront Docks may, in its sole discretion, require Club to expand the form and/or increase the amounts of all such insurance.

11. **WAIVER OF SUBROGATION.** Club releases and relieves Waterfront Docks and waives Club's entire rights of recovery against Waterfront Docks for loss or damage arising out of or incident to any of the perils insured against under this Agreement as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Club might own, whether loss or damage is due to the negligence of Waterfront Docks or their agents, employees, and/or invitees. Club shall give notice to its insurance carriers that this waiver of subrogation is contained in this Agreement and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

12. **UTILITIES.** Water, sewer, and electric utilities are not available at Fixed Dock.

13. **CHANGES TO COMMON AREA/DOCK ASSIGNMENT.** Waterfront Docks reserves the right, without recourse to Club, to relocate and/or change any access ways, parking and similar areas, as may be necessary in Waterfront Docks' sole discretion for the efficient operation of the Waterfront Docks or for any other purpose. Waterfront Docks may permanently reassign the Club to another dock only upon written request to and written acceptance from Club. In which case, said written request and acceptance shall serve as an amendment hereto, but only as to the dock to be licensed and shall not affect any other provision hereof unless such further revision is reduced to writing and signed by the parties hereto. Waterfront Docks reserves the right, without recourse to Club, to temporarily relocate the Club to another location on the Waterfront, including another dock, in Waterfront Docks' sole discretion. Club shall temporarily relocate their Floating Dock and Vessels as and when directed by Waterfront Docks if practical and reasonable. If Club's assistance in such temporary relocation is not practical and reasonable, Waterfront Docks is authorized to perform such temporary relocation of the Floating Dock and Vessels. The term "Fixed Dock" as used herein shall also apply to the location or dock to which the Floating Dock and Vessels are permanently reassigned or temporarily relocated as provided for hereinabove.

14. **SECURING THE FLOATING DOCK, GANGWAY AND VESSELS.** The Floating Dock and gangway shall be secured to the Fixed Dock in a manner acceptable to Waterfront Docks. Club Vessels will be secured when stowed or docked. If Waterfront Docks secures the Floating Dock, gangway or Vessels, Waterfront Docks is entitled to reimbursement and indemnity as more specifically provided for in the attached Rules.

15. **COMMON AREAS.** This Agreement grants the Boat Owner only a license to use the Fixed Dock and non-exclusive access to piers, docks, sidewalks, parking lots and other nearby common areas that are reasonably necessary to use the Fixed Dock.

16. **RULES AND REGULATIONS.** Club shall comply with all rules and regulations of Waterfront Docks, including but not limited to the Rules, as the same may be amended from time to time, during the existence of this Agreement. Any crew or guest of the Club are the responsibility of the Club and must comply with the Rules. The current version of said Rules is attached hereto as Exhibit "A" and is incorporated herein by reference. Club acknowledges having received and read the Rules currently in effect. Waterfront Docks reserves the right to reasonably amend the Rules in its sole and absolute discretion from time to time, and Club further agrees to comply with such amended Rules. Any amended Rules shall also automatically be incorporated herein. If Club or those under the responsibility of Club fail to comply with the Rules or otherwise cause disorder, depredations or indecorous conduct that might injure a person, cause damage to property, or harm Waterfront Docks' reputation, the same shall be cause for immediate removal of the Floating Dock and Vessels, without prejudicing Waterfront Docks' right to damages and any financial obligation of Club to Waterfront Docks.

a. Notwithstanding anything herein or anything contained in the Rules to the contrary, Floating Dock, gangway and Vessels must be removed when the Pamlico area is placed under a NOAA weather warning in accordance with Rule 21 of the Rules.

b. Notwithstanding anything herein or anything contained in the Rules to the contrary, with the exception of Club Vessels, there shall be no storage of any items of any kind upon the Fixed Dock or Floating Dock without advance permission from Waterfront Docks.

17. **DEFAULT.** Club shall be in default under this Agreement if any of the following occur.

a. Club becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for Club or the business of Club. In no event shall this Agreement or any rights or privileges hereunder be an asset of Club under any bankruptcy, insolvency, or reorganization proceedings.

b. Club violates any rule or regulation of Waterfront Docks.

c. Club violates, breaches, or fails to keep or perform any covenant, term or condition of this Agreement.

18. **NO WAIVER.** Waterfront Docks shall not be deemed to have waived any right, power, privilege or remedy unless such waiver is in writing and duly executed by Waterfront Docks. No failure or delay in the exercise of any right or remedy shall be construed as a waiver of such right or remedy, and no partial exercise of any right or remedy shall preclude the further exercise of such right or remedy.

19. **REMEDIES.** SHOULD CLUB FAIL TO COMPLY WITH ANY OF THE PROVISIONS OF THIS AGREEMENT, WATERFRONT DOCKS MAY INSTITUTE ANY ACTION, SUIT OR PROCEEDING TO ENFORCE THE TERMS OF THIS AGREEMENT OR TO COLLECT ANY AMOUNTS DUE HEREUNDER, AND WATERFRONT DOCKS SHALL BE ENTITLED TO REIMBURSEMENT FROM CLUB FOR ALL COSTS AND EXPENSES REASONABLY INCURRED IN ENFORCING ITS RIGHTS HEREUNDER, INCLUDING BUT NOT LIMITED TO, COLLECTION OF ALL COURT COSTS AND REASONABLE ATTORNEYS' FEES.

20. **INDEMNIFICATION.** Club does for itself, its agents, successors, assigns, customers, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Club's operation of the Program, Club's sailing instruction operation and/or Club's use of the Fixed Dock and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to 1) any injury, including death, to any person, 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence, and 3) any claim of Club's participants, customers, invitees, guests, and/or boarders of the Vessels caused by, related to, or arising from Club's use of the Fixed Dock, Club's Program or the contemplated sailing instruction operations or this Agreement.

21. **ADHERENCE TO REGULATIONS.** Club agrees to comply with all applicable laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or anytime hereafter may be applicable to the Fixed Dock, the waterfront docks, public waters, the Club, any improvements made by Club pursuant to advance written consent of Waterfront Docks, and Club's operation of the Program, including but not limited to the sailing instruction operations contemplated hereby and the related enterprise. Club shall indemnify and hold Waterfront Docks harmless for any and all damage of any kind arising from Club's failure to comply with the aforementioned rules and regulations, including attorney's fees.

22. **REPORTING REQUIREMENTS.** Club shall keep or cause to be kept complete records of the business it conducts or transacts as a result of this Agreement and any additional records reasonably requested and, upon request, provide any such records or reports required by the City Council or City Manager.

23. **RELATIONSHIP OF PARTIES.** In carrying out the terms and conditions of this Agreement, Club is an independent contractor and is not an agent or employee of Waterfront Docks. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between Waterfront Docks and Club.

24. **ILLEGAL PROVISIONS, GOVERNING LAW.** If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

IN WITNESS WHEREOF, the parties have executed this Agreement this the day and year first above written.

DOWNTOWN WASHINGTON ON THE WATERFRONT, INC.  
d/b/a WASHINGTON HARBOR DISTRICT ALLIANCE  
d/b/a THE LITTLE WASHINGTON SAILING CLUB

CITY OF WASHINGTON

By: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT "A"

**Rules and Regulations For Washington Waterfront Docking**

1. All vessels must register with the dock attendant ("Management") upon arrival to the Washington Waterfront Docks ("the Waterfront"). "Management" may also refer to the City of Washington ("City") where required by context.
2. Major repairs of such extent and nature as are normally performed at boat yard facilities, including but not limited to rebuilding or replacing engines, and the sanding, painting, or refinishing of any portion of a boat, shall not be performed at or near a slip or the Waterfront. No other type of work may be performed at or near a slip or the Waterfront unless the boat owner obtains advance approval from Management and the contractor who intends to perform such work satisfies Management that the contractor possesses adequate insurance coverage.
3. Boat owner shall not make any alterations, additions or improvements in or to a slip, the Waterfront or to any adjacent common area without prior written approval from Management. In addition, no dock boxes, steps or any other objects can be installed or kept on the docks or piers without the written consent of Management. No flammable materials, cleaners or pollutants may be kept on the docks or piers. Shore power cables, hoses, dock lines or any other connecting apparatus between the dock and a boat owner's vessel must be kept safely clear of both the passageway on the dock or pier and clear of the fairway to adjacent slips.
4. At all times when on the Waterfront property, or on any boat therein, boat owners shall conduct themselves so as to not violate any City Ordinance nor to create any annoyance, hazard, or nuisance at or to the Waterfront, other boat owners, their guests or other patrons of the Waterfront. Boat owners further accept responsibility for insuring like conduct of their guests, crew or any others in their company.
5. Absolutely no pollutants, including but not limited to sewage, oil, or fuel, will be dumped, pumped or allowed to run into the waters surrounding the Waterfront. All sewage shall be disposed of at the proper facility for such purpose.
6. No swimming, diving or crabbing is permitted at the Waterfront.
7. No advertising or soliciting, including "For Sale" signs, is permitted on any boat or slip at the Waterfront without prior written consent of Management.
8. Vessels may tie to a Waterfront dock only by the cleats or pilings provided for such purpose. No vessel nor any other gear or items may be tied to any other structure, fixture or point along the Waterfront.
9. No commercial vessels may be berthed at the Waterfront and no commercial transactions shall be permitted from the Waterfront without the prior written consent of Management. Soliciting of any kind for any purpose is prohibited without prior written consent of Management.
10. Open fires for cooking, grilling or for any reason are strictly prohibited on the piers and docks at the Waterfront. Boat owners accept liability for any open flames aboard their vessel that may, directly or indirectly, endanger other vessels, docks, piers or any other property at the Waterfront.
11. Laundry is not to be hung from a vessel or the docks.
12. Pets must be leashed at all times when not aboard a vessel. No pets are allowed on the wetland boardwalk.
13. To be berthed at the Waterfront, a vessel must be registered or documented, identified, marked, equipped and maintained as required by law and safe practice. At all times, vessels berthed at the Waterfront must be in a clean, seaworthy, sanitary, fully operational condition, dry within, and regularly repaired and maintained. No vessel berthed at the Waterfront shall be an eyesore or

Adopted by City Council - 3/9/2009

constitute a fire, safety, sinking or pollution hazard. Any vessel considered to be unsafe; a pollution hazard; threatening to the dock structure, other vessels, or to people; inappropriately sized or shaped; or whose watertight integrity is questionable will be required to vacate the Waterfront.

14. Unsafe conditions or practices on the Waterfront or aboard a vessel are prohibited. Such conditions must be corrected or practices terminated or the responsible party and/or the vessel must vacate the Waterfront at the discretion and direction of Management.
15. Slips, piers, docks, and surrounding areas shall be kept clean, clear and trash free. No garbage, trash or any other materials in violation of MARPOL 73/78 regulations, as may be amended, will be thrown overboard. Shore disposal receptacles intended for that purpose will be utilized.
16. Consumption of alcoholic beverages is prohibited on the Waterfront except while aboard a vessel.
17. Management reserves the right to have raised and repaired at the owner's expense any vessel which sinks for any reason while at the Waterfront.
18. NO REFUNDS will be given.
19. All boats must have an assigned space. Except for slips that are governed by a Waterfront Docking Agreement, assigned spaces are subject to change in Management's discretion. Additional boats, regardless of type or size, are not permitted to be placed on the walkways, docks, or finger piers, tied along side another boat or placed on shore. Rafting will only be allowed in conjunction with special events authorized by Management.
20. Refueling any vessel by any means (including portable gas cans) is prohibited at the Waterfront unless consented to by Management and approved by the Fire Marshal. See Section 2210.4 of the Fire Code, as may be amended.
21. Boat owners shall, in times of unusual, predictable water surges, such as a tropical depression or hurricane, move their boats from the Waterfront, including slips, within a reasonable period of time after the Pamlico Sound area is given a NOAA Weather Warning Condition. If a boat owner fails or refuses to remove their boat within said reasonable period of time, Management shall have the right, but not the obligation, to relocate a boat and the owner of any boat that is relocated shall reimburse and indemnify the City as more specifically provided for herein and not hold the City, its representatives, agents, or contractors liable or responsible for damages done to a boat during relocation, subsequent mooring, or anchorage; during a storm; or any incident thereafter. Should conditions prohibit any movement of a boat from the Waterfront, including a slip, boat owners assume all liability for any damages suffered to the property, pier, or other facilities of the City. In addition to all of the other liabilities and obligations of boat owners to the City set forth in these Rules and Regulations and any Waterfront Docking Agreement that may be applicable, boat owners shall pay the City for any and all damages suffered by the City as a result of any damage caused by a boat owner or their boat to the City's property, including but not limited to the Waterfront, slip, docks, pilings, bulkhead, utility lines, and any other real or personal property in which the City has an interest. As used herein, damages include all damages which the City may suffer, including but not limited to property damage, business interruption damage, loss of rentals, personal injury, and any other damages, including incidental and consequential damages, be they direct or indirect and regardless of whether the damage is aggravated or incurred in whole or in part by the negligence of the City or its agents, representatives, employees, invitees, partners, or any other person, firm or entity.
22. Live-aboards are not permitted except in the case of transient vessels.
23. If the owner of a vessel tied to the Waterfront cannot be determined or if the owner refuses to sign a registration form, transient dockage fees will immediately and automatically be applied and shall be assessed in the event the owner is identified. Non-payment of such fees within 90 days will cause the vessel to be declared "abandoned".

City Council Adopted - 3/9/2009

24. Any action, including but not limited to relocation of a boat, installing mooring lines, pumping a boat, or similar services, concerning a boat deemed by Management as necessary to be taken, or otherwise authorized to be taken pursuant to these Rules or a Waterfront Docking Agreement, may be taken by Management or a third party at Management's direction. It is expressly understood that Management shall not be liable to a boat owner if for any reason Management fails to take any such action under any circumstance. Boat owners expressly indemnify and hold harmless Management from any and all claims that may arise from Management taking any action contemplated hereby. In the event Management takes any such action contemplated hereby, boat owners shall reimburse Management for the labor, materials, and related expenses associated with such action at the prevailing Management's rates or market rates, if applicable, within ten (10) days upon receipt of a bill for such expenses. In the event a third party takes any such action contemplated hereby at Management's direction, boat owners shall be responsible for and pay the cost charged by said third party within ten (10) days upon receipt of a bill for such charges. Management shall have a lien against and security interest in a boat, her appurtenances and contents, for any unpaid sums due related to said boat, including but not limited to sums arising from these Rules or a Waterfront Docking Agreement and/or sums due for damage caused or contributed to by a boat owner, a boat owner's guests, or an owner's boat to any piers or property of Management or to any other person.
25. Management reserves the right to revoke docking privileges to any person or vessel failing to comply with a directive from Management, these Rules and Regulations, or a Waterfront Docking Agreement.



# 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:** 03-31-11  
**Subject:** Adopt Budget Ordinance Amendment for Brown Street Bridge Replacement.  
**Applicant Presentation:** N/A  
**Staff Presentation:** Allen Lewis

**RECOMMENDATION:**

I move that Council adopt a budget ordinance amendment to allocate funds for the Brown Street bridge replacement project shown on the attached budget ordinance amendment.

**BACKGROUND AND FINDINGS:**

This project is nearing the bid process and staff realized that a budget ordinance amendment was necessary to allow for all costs and revenues associated with the project. This project is estimated to cost \$600,000 with eighty percent (80%) being reimbursed by NCDOT, thus the \$480,000 revenue line item. The \$20,000 fund balance appropriated from Powell Bill will be added to the \$100,000 already appropriated to complete the twenty percent (20%) match requirement.

**PREVIOUS LEGISLATIVE ACTION**

FY 09-10 Budget Adoption.

**FISCAL IMPACT**

Currently Budgeted (Account )  Requires additional appropriation  No Fiscal Impact

**SUPPORTING DOCUMENTS**

See attached Budget Ordinance Amendment.

City Attorney Review: \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
 Finance Dept Review: \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
 City Manager Review:  Concur April 11, 2011  Recommend  Denial  No Recommendation 4/6/11 Date

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**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:

Account	Description	Amount
10-20-3316-3400	DOT Reimbursement- Brown St.	\$480,000
10-00-3991-9910	FB Appropriated- Powell Bill	20,000

Section 2. That account number 10-20-4511-7300, Property Improvements- Brown St. portion of the General Fund appropriations budget be increased in the amount of \$500,000 to provide funds for the completion of the Brown St. bridge replacement project.

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 11<sup>th</sup> day of April, 2011.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**



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:** 03-31-11  
**Subject:** Adopt an Ordinance to Delete Chapter 38 – Water and Wastewater and Adopt Chapter 38 – Water and Chapter 39 – Wastewater/SUO.

**Applicant Presentation:** N/A  
**Staff Presentation:** Allen Lewis

**RECOMMENDATION:**

I move Council approve the ordinance to repeal Chapter 38 - Water and Wastewater in its entirety and replace it with a new Chapter 38 - Water and Chapter 39 – Wastewater/SUO.

**BACKGROUND AND FINDINGS:**

For over a year, Public Works staff has been working with the State to implement a SUO, Sewer Use Ordinance, which would meet their new criteria. We originally tried to keep water and wastewater in the same ordinance but found it increasingly difficult to do so with each submittal for review. Therefore, we split the two into separate chapters and you have them before you now for your approval. As presented, Chapter 38 – Water, has no substantive changes. The changes on the wastewater side were as required by the State.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

\_\_\_ Currently Budgeted (Account \_\_\_) \_\_\_ Requires additional appropriation X No Fiscal Impact

**SUPPORTING DOCUMENTS**

See attached Chapter 38 and 39.

**City Attorney Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:** \_\_\_\_\_ Concur April 14, 2011 Denial \_\_\_\_\_ No Recommendation \_\_\_\_\_ Date

**AN ORDINANCE TO AMEND CHAPTER 38, WATER AND WASTEWATER, OF THE  
CODE OF ORDINANCES OF THE CITY OF WASHINGTON**

WHEREAS, the NC Division of Water Quality, 15A NCAC2.H.0900, and 40 CFR 403 revisions authorizes local governments to amend ordinances regulating the collection and treatment of Publicly Owned Treatment Works (POTW); and

WHEREAS, the amendment set out below is intended to update and create uniform requirements for Publicly Owned Treatment Works (POTW) and the contributors into the wastewater collection and treatment system; and to promote the elimination of discharges of harmful pollutants to sanitary sewers.

BE IT ORDAINED by the City Council of the City of Washington that:

Section1: Chapter 38, Water and Wastewater Code of Ordinances be and is hereby repealed in its entirety and a new Chapter 38, Water, and a new Chapter 39, SUO/Wastewater, inserted as follows:

**CHAPTER 38  
WATER**

**ARTICLE I. GENERAL PROVISIONS**

**Sec. 38.1 Purpose and Policy**

This chapter sets forth uniform requirements for direct and indirect contributors into the water distribution and treatment system for the City of Washington, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws. This policy provides for the setting of fees for the equitable distribution of expenditures and the cost of the water. This chapter shall apply to the city and to persons who are, by permit or agreement with the city; except as otherwise provided herein, the Director shall administer the provisions of this chapter.

The objectives of this chapter are:

- (a) To ensure that the municipality complies with all Federal and State laws to which the municipal water system is subject, and
- (b) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal water system,

**Sec. 38.2 Definitions and Abbreviations**

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:
  - (1) City. The City of Washington or, where the context so indicates, the city council.
  - (2) Color. This represents the true color due to the substances in solution.
  - (3) Customer. The person that contracts with the city for provision of water service.
  - (4) Director. The Director of Public Works or his/her authorized representative.
  - (5) Operation and Maintenance. All costs, direct and indirect, not including debt service and capital related expenditures, but inclusive of expenditures attributable to administration, monitoring, inspections, reviewing applications, maintenance of equipment, and treatment and distribution of water, necessary to assure adequate water distribution and treatment on a continuing basis which conforms to applicable regulations and assures optimal long-term facility management.
  - (6) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

- (7) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
  - (8) Pollution. This means the manmade or man-induced alteration of chemical, physical, biological, and radiological integrity of water.
  - (9) Public Water System. A publicly or privately owned water system regularly serving drinking water to the public and having at least fifteen (15) service connections that area used at least sixty (60) days of the year or serve an average of twenty-five (25) individuals at least sixty days of the year. Plans and specifications must be approved by the NCDENR.
  - (10) Qualified Laboratory. Laboratories currently certified by the state to perform water and wastewater analyses.
  - (11) Standard Methods. The laboratory procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association, American Water Works Association, and Water Pollution Control Federation or an other procedures recognized by the DWQ, DPH, and EPA.
  - (12) State. Refers to the state of North Carolina.
- (b) This chapter is gender neutral and the masculine gender shall include the feminine and vice-versa.
  - (c) Shall is mandatory; may is permissive or discretionary.
  - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
  - (e) The following abbreviations when used in this chapter shall have the designated meanings:
 

(1)	CFR	Code of Federal Regulations
(2)	CWA	Clean Water Act
(3)	DPH	NC Division of Public Health
(4)	DWQ	NC Division of Water Quality
(5)	EPA	Environmental Protection Agency
(6)	gpd	Gallons per day
(7)	l	Liter
(8)	mg	Milligrams
(9)	mg/l	Milligrams per liter
(10)	N.C.G.S.	North Carolina General Statutes
(11)	O & M	Operation and Maintenance
(12)	USC	United States Code.

**Sec. 38.3 Authority**

All utilities owned, leased or used by the City, whether inside or outside the corporate limits, shall be under the full control of the city pursuant to authorization in Session Laws of 1953, Chapter 300. The duty of enacting and enforcing rules and regulations governing the management and control of city properties shall be vested in the city, and the duty of enforcing such rules and regulations may be delegated.

**Sec. 38.4 Visiting Utility Stations**

No visitor shall be permitted to enter the water treatment plant or any worksite unless accompanied by the person in charge, and under no circumstances shall any visitor handle or in any way come in contact with any part of the machinery.

**Sec. 38.5 Connections and Meters**

(a) Connections

All meters, meter boxes, pipes and other equipment furnished and used by the City in installing any water connection shall be and remain the property of the City.

(b) Maintenance of Meters.

All meters, except such as are required to be furnished by specified users of water, shall be kept in good repair and working order by and at the expense of the City.

- (c) Connections –Work to be done by the City  
The construction of taps for the connection of the public water lines on any lot with public water lines in any street and the necessary excavation thereof shall be done only by the city.
- (d) Connections—Application
  - (1) No connection shall be made to any public water line except after approval of the written application therefore.
  - (2) Every application for a water connection shall state the name of the owner of the lot, the name of the street on which lot is situated, the number of the house, if there is one (1) on the lot or, if not, a description of the location of the lot, the number and kind of connections required and the character of surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the proper fee for making the connection applied for.
- (e) Connections—Separate connections required; exceptions
  - (1) Every house or building abutting any public water shall have a separate connection. The city may construct a single water line of sufficient size to the curblin; provided each house or business is connected through a separate water meter. Approved projects may be served with a single master water meter if approved by the city
- (f) Connections—Where connection inside
  - (1) Water connections shall be made into existing connections constructed by the city to serve a lot. If a connection does not exist, one shall be provided as close as possible to the location requested by the customer. .

**Sec. 38.6 Standards and Provisions for Water Systems**

- (a) Provisions of water service
  - (1) Area outside City
    - a. *With adequate public water existing.* Upon receipt of a request for water service and payment of all fees and charges, the city may construct a water connection to serve the property. The property owner shall pay the then existing connection fee and capital investment fee prior to receiving a tap.
    - b. *Public water not existing.*
      - 1. Upon receipt of a request for water service, the city may approve the request and authorize construction of a line to serve the property. When a water line is constructed, it shall extend across the entire frontage of the property to be serviced.
      - 2. The owner or developer shall bear the cost of all materials and right-of way to construct a water line from the nearest adequately sized line to serve the property, and to construct all distribution lines required and approved by the city to serve the property to be developed. The city may bear the cost of labor and equipment to construct the line. The city may order that the construction be accomplished by a contractor, in which case the party requesting such service shall pay the full cost.
      - 3. If the city determines that sufficient advantages exist, it may choose to bear the cost of materials, labor and equipment to construct a line from the nearest adequately sized water line to the property to be served.
      - 4. Each property requesting service and abutting a water line constructed according to subsection (b)(1)b. 1 or 2 of this section shall comply with subsection (b)(1)a of this section.
    - c. *Charges after annexation into city.* After annexation into the city, property which abuts an existing water line shall pay the then existing inside capital investment fee and water connection fee prior to receiving a tap.
    - d. *Fire hydrants.* The city shall not install fire hydrants outside the corporate limits, except where arrangements are made to pay for construction of the hydrant, pay an annual fee, measure water flow and pay for water used.

- e. *Water rates.* Customers outside the city shall be charged the regular outside rate.
- (2) Area inside City.
- a. *With adequate water lines existing.* The city shall construct a water tap after receipt of the then existing water connection fee.
  - b. *Water lines not existing.* When a property owner within the city requests water service, the city may order the extension of a water main to serve the property and assess all abutting property owners an amount equal to the cost of materials, but such assessments shall not exceed an amount as established from time to time by ordinance.
  - c. *Other conditions.* When a subdivision or developer requests water service and conditions in subsection (1) or (2) of this section do not apply, or if an unusually large amount of construction is required, the conditions of payment shall be determined through negotiations and established in a contract between the property owner and city.

**Sec. 38.7 Taking water from public fire hydrants and inspection of fire hydrants**

No person, except the Director or Chief of the Fire-Rescue-EMS Department or a person in charge of street cleaning, shall take or in any way use water for private use from public fire hydrants, unless such person pay for a hydrant meter, as stated in section 38-16, for the privilege and receive the usual permit to do so.

It shall be the duty of the Director to examine, or cause to be examined, all fire hydrants in the city at least once every six (6) months.

**Sec. 38.8 Tampering with equipment**

- (a) It shall be unlawful for any person to tamper with, remove or otherwise interfere with the water meters or any other water utility equipment, apparatus or materials belonging to the distribution system of the city, with the exception of those licensed plumbing contractors so designated to do so by the city, and then only in the event of necessary repairs or emergency service to the property of the water consumers of the city, and with proper notification to the city by such licensed plumbing contractor. It shall be unlawful for any reason to remove or damage property of any kind belonging to the city.
- (b) A reward of up to two-hundred and fifty dollars (\$250.00) shall be offered to any person furnishing information leading to the arrest and conviction of any person violating this section.
- (c) A fee, in an amount established from time to time by ordinance, shall be charged for the city's cost in investigating customers who tamper with their water service without permission of the city. Service may be discontinued if this fee is not paid.
- (d) For customers who tamper with the water meters, fees shall be charged, in amounts and according to criteria as established from time to time by ordinance, to cover the additional costs to the city. Service may be discontinued if these fees are not paid.
- (e) Water utility customers shall protect water meters and related equipment on their premises from vandalism or being tampered with in any way, and shall promptly report to the city's Public Works Department any such vandalism or tampering. If any such vandalism or tampering is not so reported, the same shall constitute prima facie evidence that such vandalism or tampering was by the customer.

**Sec. 38.9 Right to shut off water for repairs and no claim for damages on account of accident**

The city reserves the right at any time to shut off the water, in case of an accident, for the purpose of making connections or repairs.

It is expressly agreed between the city, users, and customers that no claim for damages shall be made against the city on account of accidental failure to supply water, whether by quantity or quality.

**ARTICLE II - OPERATION OF SYSTEM**

**Division 1. General Water Use Requirements**

**Sec. 38.10 Public water system defined; approval of plans and specifications**

A public water system is a publicly or privately owned system regularly serving drinking water to the public

and having at least fifteen (15) service connections that are used at least sixty (60) days of the year or serve an average of twenty-five (25) individuals at least sixty (60) days a year. Plans and specifications must be approved by the State Department of Environment, Division of Environmental Health, and Public Water Supply Section.

**Sec. 38.11 Water system**

- (a) The Water system shall be considered as made up of two parts: the city of Washington water system and the customer's system.
- (b) The city system shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the city, up to the point where the customer's system begins.
- (c) The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.
- (d) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- (e) The customer's system shall include those parts of the facilities beyond the termination of the city's distribution system which are utilized in conveying potable water to points of use.

**Division 2. Operation of System**

**Sec. 38.12 Cross-connections**

- (a) No potable water supply shall be connected, by any means whatever to another source of water supply or to a storage facility unless such connection has been previously approved by the Public Water Supply Section and the Director.
- (b) No person shall introduce any water into the distribution system or the potable water supply through any means other than from a source of supply duly approved by the Public Water Supply Section and the Director, or make a physical connection between an approved supply and unapproved supply unless authorized in an emergency by the State Division of Environmental Health, and Public Water Supply Section and the Director.
- (c) All cross-connections between potable water supplies and nonpotable or unprotected supplies which are not specifically covered in the categories in this section shall be considered as special problems and the protective devices required shall be determined by the Public Water Supply Section and the Director on the basis of the degree of health hazard involved.
- (d) No person shall fill special tanks or tankers containing pesticides, fertilizers, other toxic chemicals, or their residues from the potable water system; except at a location with an over-the-rim free discharge of water or an approved reduced pressure backflow preventer properly installed on the potable water supply. The city shall not permit the filling of such special use containers except at locations so equipped.

**Sec. 38.13 Facilities that require assemblies**

- (a) Any customer either operating or planning to operate facilities identified by the city as having a potential for backflow into the city's public water supply system, shall install an approved backflow prevention assembly on all such service connections according to the degree of hazard present. The following facilities have been identified by the city as having a potential for backflow and require backflow prevention assemblies as indicated: These guidelines are supplemental to section 1006(b) of the Rules Governing Public Water Supplies.
- (b) Degree of hazard.
  - (1) Severe: Actual or potential threat of contamination that presents an imminent danger to the public health with consequence of serious illness or death.
  - (2) Moderate: One that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations of the drinking water supply.
- (c) Backflow prevention assembly requirements.

	RPZ	DCVA	
<u>Degree Of Hazard</u>	<u>Reduced Pressure Zone</u>	<u>Double Check Valve Assembly</u>	<u>Air gap</u>
Severe	X	-----	X
Moderate	-----	X	-----

Facilities that require installation of Backflow Preventer and this list is not intended to be an exhaustive list.

- (1) Automotive Service Station, Dealerships
  - i. Moderate Hazard: DCVA
  - ii. Severe Hazard (e.g. wash pits, hydraulic equipment): RP
- (2) Bakeries: DCVA
- (3) Beauty Shops/Barber
  - i. Moderate Hazard (e.g. hair cuts): DCVA
  - ii. Severe Hazard (e.g. washing hair, chemical treatment): RP
- (4) Beverage Bottling Plants or Breweries: RP
- (5) Canneries, Packing Houses or Rendering Plants: RP
- (6) Chemical Processing Plants: RP
- (7) Church Baptismal: DCVA
- (8) Commercial Car Wash Facilities: RP
- (9) Commercial Establishments using processed water:
  - i. Moderate Hazard: DCVA
  - ii. Severe Hazard: RP
- (10) Commercial Greenhouses: RP
- (11) Concrete/Asphalt Plants: RP
- (12) Dairies or Cold Storage Plants: RP
- (13) Dentist or Orthodontist: RP
- (14) Dye Works: RP
- (15) Film Laboratories or Photo Processing: RP
- (16) Fire Systems
  - i. Moderate Hazard: DCVA
  - ii. Severe Hazard (e.g. foam, antifreeze, booster pump): RP
- (17) Funeral Homes: RP
- (18) Hospital, Medical Buildings or Medical Clinics: RP
- (19) Laboratories: RP
- (20) Laundries
  - i. Moderate Hazard: DCVA
  - ii. Severe Hazard: (e.g. Dry Cleaners): RP
- (21) Lawn Irrigation Systems:
  - i. Moderate Hazard: RP
  - ii. Severe Hazard: (e.g. booster pump, chemical system): RP
- (22) Metal Manufacturing, Cleaning, Processing or Fabricating Plants: RP
- (23) Morgues, Mortuaries, or Autopsy Facilities: RP
- (24) Multi-Story Buildings:
  - i. (Three or Four stories) Moderate Hazard: DCVA
  - ii. (Five or more stories) Severe Hazard: RP
- (25) Nursing and Convalescent Homes: RP
- (26) Oil and Gas Production, Storage or Transmission Properties: RP
- (27) Pest Control (exterminating or fumigating): RP
- (28) Power Plants: RP
- (29) Restaurants: DCVA

- (30) Restricted, Classified or other Closed Facilities: RP
- (31) Sand or Gravel Plants: RP
- (32) Schools:
  - i. Moderate Hazard: DCVA
  - ii. Severe Hazard: RP
- (33) Sewage or Storm Drain Facilities: RP
- (34) Swimming Pools: RP
- (35) Veterinary Hospitals or Clinics: RP
- (36) Wastewater Treatment Plants: RP
- (37) Water Treatment Plants: RP
- (38) Waterfront Commercial Facilities and Industries: RP
- (d) Other types of facilities not listed may also be required to install approved backflow prevention assemblies if determined necessary by the city.
- (e) Approved backflow prevention assemblies shall be installed on the customer's system at the point of service to any facility that the city identifies as having a potential for backflow.
- (f) Approved backflow preventer assemblies. Meets American Society of Sanitary Engineering (ASSE) standard and carries an ASSE seal or is on the University of Southern California approval list or is an assembly approved by the city.
- (g) Backflow prevention assembly installation. Backflow prevention must be located in a place where it is readily accessible for regular testing, maintenance and inspection. Bypass lines parallel to a backflow prevention assembly shall have an approved backflow prevention assembly installed that is equal to that on the main line.
  - (1) Reduced pressure zone:
    - i. Above ground installation preferred.
    - ii. Below ground vault shall have positive drainage with adequate gravity drainage to atmosphere.
    - iii. Twelve (12) inches minimum clearance with manufacturer's recommendations.
  - (2) Double check valve assembly:
    - i. Vertical or horizontal installation acceptable.
    - ii. Adequate drainage shall be provided if installed below ground.

**Sec. 38.14 Policy**

- (a) When it has been determined by the city, that a requested service requires the installation of a backflow prevention assembly, the customer shall, prior to receiving such service, submit for review and approval, plans and specifications of the proposed facilities. The submittal shall include a description of proposed facilities. The submittal shall include a description of proposed processes, operations, etc., in such detail as needed to evaluate potential effects on the city's system. Proposed assemblies shall be identified by size, manufacturer and model number or by specification.
- (b) When it has been determined by the city, that an existing service may require the installation of a backflow prevention assembly, the customer shall submit for review such information as may be necessary to permit the city to evaluate the potential for undesirable effects on its system. Upon notification of the customer by the city that a backflow prevention assembly(ies) is necessary, the customer shall submit plans and specifications for approval and install or cause to be installed entirely at the customer's expense such assemblies as may be necessary.
- (c) If it has been determined by the city that an imminent health hazard exist, then the water service to the facility causing the imminent health hazard may be terminated.
- (d) All existing facilities which pose a potential severe hazard to the public water system shall install a reduced pressure principle backflow prevention assembly at the point of service within 60 days of notification by the city at the customer's expense.
- (e) All existing industrial and commercial facilities that have or may have an actual or potential cross-connection, that are not identified as a "severe hazard" shall be considered moderate hazard facilities. All existing moderate hazard facilities shall install a double-check valve assembly at the point of service within

- 90 days of notification by the city at the customer's expense.
- (f) When required, an approved backflow prevention assembly shall be installed on each service line to a customer's water system in accordance with the requirements of the city at the customer's expense.
  - (g) Reduced pressure principle assemblies shall be installed at the point of service in a horizontal position and in a location in which no portion of the assembly will become submerged under any circumstance or be subjected to temperatures below freezing. Pit and/or below grade installations are prohibited. An RP shall be installed in accordance with detailed specifications provided by the city's manual of water system details.
  - (h) All double-check valve assemblies shall be installed at the point of service in drainable pits wherever below ground installation is necessary, in accordance with detailed specifications provided by the city's manual of water system details. Double-check valve assemblies may be installed in a vertical position with prior approval from the city, provided the flow of water is in an upward direction.
  - (i) Backflow prevention assemblies shall be installed such that periodic testing and necessary repairs can be conveniently performed by city approved backflow testers.
  - (j) No water service shall be provided to any facility or service that requires the installation of a backflow prevention assembly until the installed assembly has passed the test performed by a certified tester, and the test results have been received by the city.
  - (k) No new or existing water service connection to any premises shall be installed or maintained by the city unless the water supply is protected by an approved backflow prevention assembly(ies) as required by Federal and State Laws and Regulations, and this city ordinance.
  - (l) Water mains served by the city but not maintained by the city shall be considered cross-connections. The degree of protection required shall be based upon the degree of hazard, as determined by the city.
  - (m) No person shall fill special use tanks or tankers from the public water system except at a city approved location equipped with an air gap or an approved reduced pressure backflow prevention assembly properly installed on the city's water supply.
  - (n) Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
  - (o) It shall be the customer's responsibility to notify the city if the customer's water system becomes contaminated or polluted or if there is reason to believe that a backflow incident has occurred from the customer's water system into the public water system.
  - (p) Upon notification to the customer by the city that the existing backflow prevention assembly is not in compliance with these regulations, the customer shall replace the existing backflow prevention assembly with an approved backflow prevention assembly in accordance with the requirements of the city.
  - (q) Removal of an approved backflow prevention assembly from a service connection that has been deemed a hazard by the city may result in immediate disconnection from the city's public water system.
  - (r) No person shall connect a hose to a fire hydrant unless an approved backflow prevention assembly is connected to the hydrant, unless otherwise approved by the city.
  - (s) The customer's system shall be open for inspection at all reasonable times to city personnel to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the city may deny or immediately discontinue service to the premise. The city shall bear no liability for direct or indirect damages caused by discontinuance of service. Should an inspection of the premise be refused, the city reserves the right to discontinue service until the customer has granted access to the premise. The customer may be subject to civil penalties outlined in item (v) of this section for refusing access or being in noncompliance of this chapter.
  - (t) Backflow prevention assemblies that shall be connected to the city's public water system shall be limited to those assemblies approved by the city, or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, or meets the American Society of Sanitary Engineering (ASSE) Standard and carries an ASSE seal.
  - (u) Installation of all backflow assemblies shall be the customer's responsibility unless otherwise stated by the city. Backflow prevention assemblies shall be located downstream of the meter, at the point of service or at a location approved by the city.
  - (v) Any facility or customer found to be in noncompliance with the provisions of these regulations will receive a notice of violation by certified mail with a time limit addressed to correct any deficiencies. If the customer neglects to correct a violation, they will be charged a civil penalty that shall not exceed \$100.00

per day of each continuous day of violation for moderate hazards. The civil penalty for willful neglect of moderate and severe hazard violations of any provision in this section shall not exceed \$500.00 per day for each day of continuous violation. The civil penalty will be assessed by the director of public works upon recommendation of the operator in responsible charge (ORC) of the water distribution system.

**Sec. 38.15 Testing and repair of assemblies**

- (a) Testing of backflow prevention assemblies shall be performed by a certified backflow prevention assembly tester. Such tests shall be conducted upon installation, prior to receiving service, and annually thereafter. A record of all testing and repairs is to be retained by the customer. Copies of the records shall be provided to the city within ten (10) business days after the completion of any testing, and/or repair work.
- (b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing, or routine inspection by the consumer or by the city, these repairs shall be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:
  - 1. Moderate Hazard Facilities - 15 business days
  - 2. Severe Hazard Facilities - 10 business days
- (c) Submission of falsified test results or material that is incomplete in any manner by a certified tester may result in the tester being removed from the city's tester list.
- (d) Only original manufactured parts may be used to repair an assembly.
- (e) All backflow prevention assembly testers shall submit a copy of their tester's certification to the city prior to testing any backflow prevention assembly(s) connected to the city's public water system.
- (f) All equipment used to test backflow prevention assemblies within the city's public water system shall be properly maintained and calibrated annually in accordance to the manufacturer's guidelines. A copy of the calibration certificate shall be submitted to the city.
- (g) Backflow prevention must be located in a place where it is readily accessible for regular testing, maintenance and inspection. By pass lines parallel to a backflow prevention assembly shall have an approved backflow prevention assembly installed that is equal to that on the main line.
  - (1) Reduced Pressure Zone:
    - i. Above ground installation preferred.
    - ii. Below ground vault shall have positive drainage with adequate gravity drainage to atmosphere.
    - iii. Twelve (12) inches minimum clearance with manufacturer's recommendations.
  - (2) Double Check Valve Assembly:
    - i. Vertical or Horizontal installation acceptable.
    - ii. Adequate drainage shall be provided if installed below ground.

**Sec. 38.16 Temporary water service**

Persons needing temporary water service for construction purposes only may apply for a hydrant meter. If hydrants and hydrant meters are available, temporary service will be provided under the following conditions:

- (a) The application fee for a hydrant meter shall be in an amount established from time to time by ordinance, for each ninety (90) days of usage or portion thereof plus the cost of the water used.
- (b) The customer shall be responsible for all damages to the meter and hydrant which occur as a result of their being used to provide a temporary water service;
- (c) The city will remove the hydrant meter at the end of the ninety (90) days unless requested to do so earlier. Hydrant meters will not be reinstalled in the same location if permanent water service is available.
- (d) City personnel shall install the hydrant meter with the fire hydrant valve left open. The customer shall not operate the fire hydrant. Unauthorized operation of a fire hydrant shall be cause for removal of the hydrant meter.
- (e) Only city personnel shall be allowed to move a hydrant meter. Unauthorized relocation of a hydrant meter shall be cause for removal of the hydrant meter.
- (f) A request to relocate a hydrant meter will be handled the same as a new application.

**Reserve 38.17 – 38.41**

### **Division 3. Fees**

#### **Sec. 38.42 Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the water system of the City for the implementation of the program established herein. A schedule of water rates shall be adopted by the City Council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City Clerk and the office of the Public Works Director, and copies shall be made available to the customers of the city's water system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon recommendations of the City Manager.

#### **Sec. 39.43 General Requirements within City**

- (a) Water extensions shall be made upon order of the city as it deems necessary, and in accordance with provisions of state law the cost of such extensions shall be shared jointly by city and owners of property abutting the water extension improvements, according to this policy.
- (b) Corner lots are exempt from front water improvement assessments for a maximum of one hundred fifty (150) feet on one (1) side of corner lot. In the event a water line is constructed across only one (1) side of a corner lot, that side shall be assessed at the then existing rate for its full distance. At such time in the future that a water line is extended across the other side of that corner lot, that side will be assessed at the then existing rate; except, that a corner lot exemption up to one hundred fifty (150) feet, but not exceeding the distance along that side, shall be allowed, provided an assessment has been paid for the first side. Lots having a double frontage shall be assessed for water improvements on both sides if both sides can be developed according to the zoning ordinance. If a double frontage lot is also a corner lot, one (1) corner lot exemption shall be allowed, unless both frontages can be developed according to the zoning ordinance and both frontages have been assessed. In such case the property shall be entitled to two (2) corner lot exemptions.
- (c) The city shall not assess any of the cost of enlarging water lines in use.
- (d) An assessment for water extensions made under this policy may be spread over a period of ten (10) years if requested by the property owner. Such assessments shall bear interest at the highest rate provided by state law per annum on the unpaid balance, with the first assessment becoming due in October next succeeding the date of improvements within the city limits only.

#### **Sec. 38.44 Water Connection Fees and Capital Investment Fees**

- (a) Water connection fees are fees for the installation of a tap at the right-of-way. These fees shall be adopted by the city council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the fee schedule will be on file in the office of the city clerk and the office of the public works director, and copies shall be made available to the customers of the city's water system. The fees shall be reviewed and adjusted by the city council, as needed, or upon recommendations of the city manager. Minimum fees shall be paid prior to construction of the tap. Any additional fees to equal the total actual construction cost shall be paid prior to customer making tie-in to the tap. For any tap larger than listed on the fee schedule, the cost shall be estimated by the Director at the time of the request. Any additional cost to equal the total actual construction costs shall be paid prior to customer making tie-in to the tap. For taps requiring more than the usual construction work, the city may require customer to employ an outside contractor to make the tap. Contractors shall obtain a permit for the public works department and all work shall be in accordance to city specifications.
- (b) Capital investment fees are charges for the construction of water lines which, at the time of construction, abut property outside the corporate limits. Fees shall be charged as established from time to time by ordinance. Property which is annexed into the city and abuts an existing water line, and has not previously paid a capital investment fee, shall pay the capital investment fee before service is provided. Property owners within the corporate limits may pay their capital investment fees in ten (10) equal annual installments, if requested by the property owners. Such capital investment fees will bear interest at the highest rate provided by state law per annum on the unpaid balance, with the first payment becoming due in October next succeeding the date the capital investment fee charge is made.

#### **Sec. 38.45 Service fees—New Customers**

New customers to the water system will be charged a service fee in the amount as established from time to time by ordinance and any deposit which is required of all customers.

**Sec. 38.46 Same-Transfers**

Customers moving from one (1) location to another within the water system shall be charged a service fee in the amount established from time to time by ordinance.

**Sec. 38.47 Water rates and bills**

A schedule of water rates shall be adopted by the city council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City Clerk and the office of the Director, and copies shall be made available to the customers of the city's water system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon recommendations of the City Manager.

(a) Residential service

- (1) This service is available for the supply of drinking water to single family residences within the city and outside the city limits where the city's water supply facilities are extended.
- (2) Service is not available under this schedule for any nondomestic use; such as from business operated in the residence, for commercial for multifamily use, such as, master metered apartments, motels, inns, and mobile home parks; or for resale.
- (3) This service is applicable when the customer's residence is served by a water service tap up to one (1) inch in diameter.
- (4) The minimum monthly charge for city customers will be determined by the current rate schedule.
- (5) Commodity charges will be based on the customer's total water consumption during the billing period. Water consumption will be metered and rounded to nearest cubic foot for billing, except when the amount of water used is not registered because of a defective meter, the method described in section 38-50 will be used.
- (6) The water service charge shall be billed to each customer at the same time the sewer bills are rendered and shall be collected at the same time and in the same manner as sewer accounts.

(b) General Service

- (1) This service is available for the supply of drinking water to commercial, industrial, institutional and other customers within the city and outside the city limits where the city's water facilities are extended. Service is not available for resale service.
- (2) The minimum monthly charge for inside city customers will be determined by the current rate schedule.
- (3) Commodity charges will be based on the customer's total water consumption during the billing period, except when the amount of water used is not registered because of a defective meter; the method described in Sec. 38-50 will be used.
- (4) Water consumption will be metered and rounded to the nearest cubic foot for billing.

**Sec. 38.48 Billing, Payments, and Late Payment Penalties**

- (a) All water meters shall be read monthly, and bills shall be mailed on a cycle basis.
- (b) Every bill shall be due when mailed to the customer at the last address provided by the customer. A bill shall reflect a due date of fifteen (15) days from the billing date shown on the bill. The same notice will serve as a notice of possible disconnect if payment is not received within thirty-two (32) days of the billing date, allowing greater than the statutory minimum
- (c) A late payment penalty in the amount of five (5) percent per month shall be imposed upon any outstanding unpaid balance twenty-five (25) days after the billing date shown on the bill. The late payment penalty will be reflected on the bill rendered the following month.
- (d) An automated telephone reminder system will attempt to contact all delinquent accounts prior to disconnection as a courtesy if the customer has provided a phone number.
- (e) If payment has not been received within thirty-two (32) days from the original billing date, services will be disconnected on the thirty-third (33<sup>rd</sup>) day. After payments in the night deposit are posted and the cutoff person has left the office for the purpose of disconnecting a delinquent customer, a service fee in an amount as established from time to time by ordinance will be charged on that date, whether services are disconnected or not.
- (f) A customer whose services are disconnected for such delinquency may have services restored during regular working hours by the payment of the bill in full plus the twenty-dollar service fee. If a customer

requests that services be reconnected after regular working hours, their service fee shall be in an amount as established from time to time by ordinance. Payment must be received by 11:00 a.m. the following day or services will be disconnected.

- (g) The customer shall pay all billed utility charges before transferring service from one (1) location to another. The final bill shall be mailed to the customer's new billing address. If a customer fails to pay his utility bills for any account where he is listed as the customer and such account becomes delinquent, the city may transfer the amount owed to any other account where the customer is a primary recipient of utilities and cutoff utilities to such account for nonpayment. The city may also refuse to transfer an account to a new customer's name or connect services to a new account where the delinquent customer will be a primary recipient of utilities. A customer is a primary recipient of utilities wherever he is listed as a customer, resides as a head of household or conducts a trade or business. The city's determination that a customer is primary recipient of utilities shall be effective until the customer proves otherwise.
- (h) Any customer who has a check or draft returned from a financial institution because of insufficient funds or closed account shall be charged a service fee in accordance with G.S. 25-3-506.
- (i) Customers requesting alternate payment due dates must make such request of the city and utilize the city's bank draft service. The customer may choose one of the following periods of the month for their bill to be drafted:
  - (1) Between the 7<sup>th</sup> and 16<sup>th</sup> of the month
  - (2) Between the 14<sup>th</sup> and 24<sup>th</sup> of the month
  - (3) Between the 22<sup>nd</sup> and 31<sup>st</sup> of the month
  - (4) Between the 28<sup>th</sup> and 9<sup>th</sup> of the month

#### **Sec. 38.49 Meter Testing; Protested Bills**

If a water customer has an excessive bill and thinks that it is caused by a faulty meter, he may, by making a deposit with the city, request that the meter be removed and checked. If the meter is found to be in error, the deposit will be refunded and the bill adjusted for the three (3) preceding months. The adjustment will be based on the percentage of error in the meter. If the meter is found to be accurate, the deposit will be retained by the city. The deposit amount shall be as established from time to time by ordinance.

#### **Sec. 38.50 Adjustment of Water Bills**

- (a) If the city determines that it has overcharged or undercharged a customer on account of its error, the city shall refund or recover the difference subject to the following:
  - (1) The adjustment period shall be limited to the lesser of the actual period during which the error occurred or twelve (12) month;
  - (2) The amount of adjustment shall be determined by the Director based upon such evidence as he deems appropriate; and
  - (3) Any overcharge may be either refunded or credited to the customer and any undercharge shall be billed to the customer.
- (b) If the city determines that it has undercharged a customer on account of any unlawful or materially misleading act of such customer, the undercharge shall be determined and collected as set out in this section, except the adjustment period shall be the greater of the actual period during which the error occurred up to thirty-six (36) months) or twelve (12) months, if the adjustment period cannot be determined. The city shall, in addition to collecting such undercharge, have the right to take such other action against such customer as is permitted by law.

#### **Sec. 38.51 Water Facilities Impact Fee**

- (a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - (1) Capital Equipment means equipment with an expected use life of three (3) years or more.
  - (2) Connection to the water system means the physical connect of a building, structure or use of land to the city's water lines, no matter if such connection is made through or by intermediate lines.
  - (3) Development order means a regulatory approval by City of Washington
  - (4) Fee payer means a person applying for connection to the city's water system

- (5) Water system means the physical public distribution and plant facilities of the City of Washington, administrative adjuncts to such system and the planned future improvements to such system.
  - (6) Water facilities means physical public distribution and plant facilities of the City of Washington.
- (b) Legislative findings. The city finds, determines and declares that:
- (1) The city has expanded and must further expand and upgrade its water facilities in order to maintain current and meet anticipated future standards of public health if new development is to be accommodated without decreasing current standards of health.
  - (2) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of water facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.
  - (3) Connecting to the city water system will create a need for the construction, equipping, expansion, and upgrading of water facilities.
  - (4) The fees established by this section are derived from, are based upon, and do not exceed the costs of providing additional and/or upgraded water facilities necessitated by the connection to the city's water system.
- (c) Short title, authority, and applicability
- (1) The ordinance from which this article is derived shall be known and may be cited as the "City of Washington Water Facilities Impact Fee Ordinance."
  - (2) The City Council has the authority to adopt the ordinance from which this article is derived pursuant to its general police powers and its obligation to protect the health, welfare, safety of its residents.
  - (3) This article shall apply in the incorporated and extraterritorial jurisdiction (ETJ) areas of city served by its water system.
- (d) Intent and Purposes
- (1) This article is intended to assist in the implementation of the city comprehensive plan.
  - (2) The purpose of this article is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide water facilities in the incorporated and extraterritorial jurisdiction (ETJ) areas of city served by its water system.
- (e) Rules of construction
- (1) The provisions of this article shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety, and welfare.
  - (2) For the purposes of administration and enforcement of this article, the following rules of construction shall apply to the text of this article:
    - a. In case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table, or illustrative table, the text shall control.
    - b. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
    - c. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
    - d. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
    - e. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
    - f. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", either or", the conjunction shall be interpreted as follows:
      1. The term "and" indicates that all the connected terms, conditions, provisions or events or events shall apply.

2. The term “or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  3. The term “either or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- g. The word “includes” shall not limit a term to the specific example but us intended to extend its meaning to all other instances or circumstances of like kind or character.
  - h. The term “City Manager” means the Washington City Manager or municipal officials he may designate to carry out the administration of this article.
- (f) Imposition of water facilities impact fee
- (1) Any person who, after the effective date of the ordinance from which this article is derived seeks to connect to the city water system is hereby required to pay a water facilities impact fee in the manner and amount ser forth in this article.
- (g) Computation of the amount of water facilities impact fee
- (1) Water Facilities Impact Fees shall be established from time to time by ordinance. A schedule of these fees shall be adopted by the City Council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City clerk and the office of the Director, and copies shall be made available to the customers of the city’s water system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon the recommendation of the City Manager.
  - (2) If a fee payer opts not to have the impact fee determined according to subsection (b) of this section, then the fee payer shall prepare and submit to the City Manager an independent fee calculation study for the land development activity for which a connection to the city’s water system is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for water demand prescribed by the North Carolina Department of Natural Resources (DENR). The documentation submitted shall show the basis upon which the independent fee calculation was made. The City Manager shall consider the documentation submitted by the fee payer but is not required to accept such documentation as he shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay water facilities impact fees based upon the current fee schedule. If an acceptable independent fee calculation study is presented, the City Manager may adjust the fee to that appropriate to the particular development. Determination made by the City Manager pursuant to this subsection may be appealed to the Washington City Council by filing a written request with the City Manager within ten (10) days of the City Manager’s determination.
- (h) Payment of Fee
- (1) The fee payer shall pay the water facilities impact fee required by this article to the city division of Revenue Collections prior to the connection to the city’s water system.
  - (2) All fines collected shall be properly identified by and promptly transferred for deposit in the appropriate Water Facilities Impact Fee Trust Fund to be held in separate accounts as determined in this article and used solely for the purposes specified in this article.
- (i) Water Facilities Impact Fee Trust Funds Established
- (1) There are hereby established two (2) separate Water and Sewer Facilities Impact Fee Trust Funds:
    - a. The Water Facilities Impact Fee Trust Fund; and
    - b. The Sewer Facilities Impact Fee Trust Fund
  - (2) Funds withdrawn from these accounts must be used in accordance with the provisions of this article.
- (j) Use of Funds
- (1) Funds collected from water facility impact fees shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to water facilities under the jurisdiction of the city, and shall not be used for maintenance or operations.

- (2) Funds from the Water Facilities Impact Fee Trust Fund may only be used for water facilities purposes. Funds shall be expended in the order in which they are collected.
- (3) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which water facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (b) of this section.
- (4) At least once each fiscal period the City Manager shall present to the City Council a proposed capital improvement program for water facilities, assigning funds, including any accrued interest, from the several Water Facilities Impact Fee Trust Fund to specific water facilities improvements projects and related expenses, monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Water Facilities Impact Fee Trust Fund until the next fiscal period, except, as provided by the refund provisions of this article.
- (5) Funds may be used to provide refunds as described in subsection (k) of this section.
- (6) Funds may be funded to rebate developer costs for providing water capital facilities to excess of the capacity required to the individual developer making the provision. Any rebates must be pursuant to a refunding agreement between the developer and the city after the effective date of the ordinance from which this article is derived. Prior refunding agreements may be renegotiated in order to bring such agreements into accord with the provisions of this article.

(k) Refund of fees Paid

Any funds not expended or encumbered by the end of the calendar quarter immediately following six years (6) from the date the water facilities impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of five (5) percent per annum, provided that the landowner submits an application for a refund to the City Clerk within one hundred eight (180) days of the expiration of the six year period.

(l) Exemptions and credits

(1) The following shall be exempted from payment of the impact fee:

- a. Alterations or expansions of an existing building where no additional; or larger water connections are requested and where the use is not changed.
- b. The replacement of a building or structure with a new building or structure of the same size and use where no additional or larger water connections are requested and where the use is not changed.
- c. The installations of a replacement mobile home on a lot or other such site when water capital facilities impact fee for such mobile home site has previously been paid pursuant to this article or where a mobile home legally existed on such site on or prior to the effective date of the ordinance from which this article is derived.
- d. Any claim of exemption must be made no later than the time of application for connection to the city's water system. Any claim not so made shall be deemed waived.

(2) Credits

a. Water facilities capital improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offeror must request a water facilities impact fee credit. If the City Manager accepts such an offer, whether the acceptance is before or after the effective date of the ordinance from which this article is derived, the credit shall be determined and provided in the following manner:

1. Credit for the dedication of land shall be valued at:

- a) One hundred ten (110) percent of the most recent assessed value by the county tax assessor;
- b) By such other appropriate method as the City Council may have accepted prior to the effective date of the ordinance from which this section is derived for particular water facilities improvements; or
- c) By fair market value established by private appraisers acceptable to the city. Credit for the dedication of water facilities land shall be provided when the property has been conveyed at no charge to; and accepted by, the city in a manner satisfactory to the City Council.

2. Applicants for credit for construction of water facilities improvements shall submit acceptable engineering drawings and specification and construction cost estimates to the City Manager. The City Manager shall determine credit for construction based upon either these cost estimates or upon alternated engineering criteria and construction cost estimates if the City Manager determines that such estimates submitted by the applicant are either unreliable or inaccurate. The City Manager shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the water facilities impact fee component to which the credit will apply the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of a duplicate copy of such letter or certificate and return such signed document to the City Manager before credit will be given. Failure of the applicant to sign, date and return such document within 60 days shall nullify the credit.

3. Except as provided in subsection (1) of this section, credit against impact fees otherwise due will not be provided until:

- (a) The construction is completed and accepted by the city; or
- (b) A suitable maintenance and warranty bond is received and approved by the City Clerk, when applicable.

4. Credit may be provided before completion of specified water facilities improvements if adequate assurances are given by the applicant that the standards set out in this section will be met and if the fee payer posts security, as provided in this subsection, for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the City Clerk in an amount determined by the City Manager. If the water facilities construction project will not be constructed in one (1) year of acceptance of the offer by the City Manager, the amount of the security shall be increased by ten (10) percent compounded, for each year of the life of the security. The security shall be reviewed and approved by the City Clerk of the City Council prior to acceptance of the security by the City Clerk. If water facilities construction project is not to be completed within five (5) years of the date of the fee payer's offer, the City Council must approve the water facilities construction project and its scheduled completion date prior to the acceptance of the offer by the City Manager.

- (a) Any claim for credit must be made no later than the time of application for connection. Any claim not so made shall be deemed waived.
- (b) Credits shall not be transferable from one project or development to another without the approval of the City Council.
- (c) Credits shall not be transferable from one (1) component of the water and sewer facilities impact to another component of this fee.
- (d) Determination made by the City Manager, pursuant to the credit provisions of this section, may be appealed to the City Council by filing a written request with the City Manager within ten (10) days of the City Manager's determination.

(m) Review. The fees contained in this section shall be reviewed by City Council at least once each fiscal biennium at the time of adoption of the city budget.

(n) Penalty Provision

A violation of this section 38-52 of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and, upon conviction, the violator shall be punishable according to law. However, in addition to or in lieu of any criminal prosecution city shall have the power to sue in civil court to enforce the provisions of this section.

**Reserve 38.52 – 38.60**

## Division 11. Conflict

### Sec. 38.61 Conflict

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

### Reserve 38.62 -38.80

## Division 12. Effective Date

### Sec. 38.81 Effective Date

This chapter shall be in full force and effect from and after its passage, approval and publication, as provided by law.

# CHAPTER 39

## WASTEWATER/SUO

### ARTICLE I. GENERAL PROVISIONS

#### Sec. 39-1 Purpose and Policy

This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Washington, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system; which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The City shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW Director; except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other city personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the city limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions, or orders issued hereunder.

#### Sec. 39-2 Definitions and Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:
  - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*

- (2) Ammonia nitrogen. The total amount of nitrogen in wastewater in the form of ammonia or ammonium.
- (3) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
- (4) Authorized Representative of the Industrial User.
  - a. If the industrial user is a corporation, authorized representative shall mean:
    - 1. the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
    - 2. the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
  - c. If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - d. The individuals described in Section 39-2(a)(4)-(c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the City.
  - e. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
- (5) Billable Biochemical Oxygen Demand. The discharge in pounds of BOD calculated using the billable flow and concentration of BOD in the wastewater in excess of two-hundred fifty (250) mg/l.
- (6) Billable Total Suspended Solids. The discharge in pounds of TSS calculated using the billable flow and concentration of TSS in the wastewater in excess of two-hundred fifty (250) mg/l.
- (7) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
- (8) Building Drain. That part of the lowest horizontal piping of a drainage system which receives wastewater and is located inside the walls of a building and conveys the wastewater to the building sewer, which begins five (5) feet outside the building wall.
- (9) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
- (10) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
- (11) Categorical Standards. This means the National Categorical Pretreatment Standards or Pretreatment Standard.
- (12) Chemical Oxygen Demand. The total amount of oxygen required to oxidize the organic matter in waste as described in standard methods.
- (13) City. The City of Washington, or, where the context so indicates, the city council.

- (14) Color. This represents the true color due to the substances in solution.
- (15) Concentration Based Limit. A limit based on the relative strength of a pollutant in wastewater, usually expressed in mg/l.
- (16) Direct Discharge. The discharge of wastewater directly to the waters of the state.
- (17) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (18) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- (19) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (20) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (21) Industrial User or User. Any person which is a source of indirect discharge.
- (22) Instantaneous Measurement. Represents a single reading, observation or measurement of the discharge.
- (23) Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (24) Local Limits. Concentration or mass-based limits developed by the director for controlling the discharge of pollutants.
- (25) Mass-based Limit. A limitation based on the actual quantity of a pollutant in a discharge, usually expressed in pounds per unit of production.
- (26) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (27) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (28) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (29) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 39.26 of this chapter and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (30) Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other surface water or groundwater.
- (31) New Source.
- a. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be

applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:

1. the building, structure, facility, or installation is constructed at a site at which no other source is located; or
  2. the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  3. the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- c. For purposes of this definition, construction of a new source has commenced if the owner or operator has:
1. Begun, or caused to begin, as part of a continuous on-site construction program:
    - a. Any placement, assembly, or installation of facilities or equipment; or
    - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (32) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (33) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (34) Operation and Maintenance. All costs, direct and indirect, not including debt service and capital related expenditures, but inclusive of expenditures attributable to administration, monitoring, inspections, reviewing applications, maintenance of equipment, and treatment and collection of wastewater, necessary to assure adequate wastewater collection and treatment on a continuing basis which conforms to applicable regulations and assures optimal long-term facility management.
- (35) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or Non-discharge Permit, or a downstream water quality standard.
- (36) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (37) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (38) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment,

- rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (39) POTW Director. The City administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.
- (40) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (41) Pretreatment or Treatment. This is the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (42) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (43) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (44) Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits.
- (45) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the POTW of the City.
- (46) Qualified Laboratory. Laboratories currently certified by the state to perform water and wastewater analyses.
- (47) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (48) Significant Industrial User. Any industrial user of the wastewater disposal system who
- a. has an average daily process wastewater flow of 25,000 gallons or more, or
  - b. contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
  - c. is required to meet a National categorical pretreatment standard, or
  - d. is found by the City, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (49) Significant Noncompliance or Reportable Noncompliance. A status of noncompliance defined as follows:
- a. Violations of wastewater discharge limits.
    1. Chronic Violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.

2. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements equal or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:

For the conventional pollutants: BOD, TSS, fats, oil and grease TRC = 1.4

For all other pollutants TRC = 1.2

3. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.
  4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
  - b. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - c. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
  - d. Failure to accurately report noncompliance.
  - e. Any other violation or group of violations that the control authority considers to be significant.
- (50) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature, a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 39-26 of this chapter.
- (51) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (52) Standard Methods. The laboratory procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association, American Water Works Association, and Water Pollution Control Federation or an other procedures recognized by the DWQ, DPH, and EPA.
- (53) State. Refers to the state of North Carolina.
- (54) Storm Sewer. A sewer that carries only stormwater, surface runoff, street wash, and drainage, and to which wastewater is not intentionally admitted.
- (55) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.
- (56) Total Kjeldahl Nitrogen. The sum of organic nitrogen and ammonia nitrogen content of a wastewater as determined by standard methods.
- (57) Total Nitrogen. The sum of TKN, nitrates, and nitrites content of a wastewater as determined by standard methods.
- (58) Total Phosphorus. All orthophosphates and condensed phosphates both dissolved and particulate, organic and inorganic.
- (59) Total Suspended Solids. The total suspended matter that either floats on the surface of, or is suspension with, wastewater and is removable by laboratory filtration as described in standard methods.
- (60) Toxic Substances. Any substances whether gaseous, liquid, or solid, which when discharged to the POTW in sufficient quantities may tend to interfere with any wastewater treatment process, or to constitute a hazard to the environment or recreation in the receiving waters of the effluent from the POTW. These substances include but are not limited to those pollutants

listed as toxic in regulations promulgated by the EPA under the provisions of 307(a) of the Act, or other acts.

- (61) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.
  - (62) User. Any person, who discharges, caused or permits the discharge of wastewater to the POTW.
  - (63) User Charge System. The system charges levied on users for the operation and maintenance costs of the water or wastewater.
  - (64) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
  - (65) Wastewater Permit. As set forth, in section 39-62 of this chapter.
  - (66) Waters of the State. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This chapter is gender neutral and the masculine gender shall include the feminine and vice-versa.
  - (c) Shall is mandatory; may is permissive or discretionary.
  - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
  - (e) The following abbreviations when used in this chapter shall have the designated meanings:
    - (1) BOD Biochemical Oxygen Demand
    - (2) CFR Code of Federal Regulations
    - (3) COD Chemical Oxygen Demand
    - (4) CWA Clean Water Act
    - (5) DPH NC Division of Public Health
    - (6) DWQ NC Division of Water Quality
    - (7) EPA Environmental Protection Agency
    - (8) gpd Gallons per day
    - (9) l Liter
    - (10) mg Milligrams
    - (11) mg/l Milligrams per liter
    - (12) N.C.G.S. North Carolina General Statutes
    - (13) NPDES National Pollution Discharge Elimination System
    - (14) O & M Operation and Maintenance
    - (15) POTW Publicly Owned Treatment Works
    - (16) RCRA Resource Conservation and Recovery Act
    - (17) SIC Standard Industrial Classification
    - (18) SWDA Solid Waste Disposal Act
    - (19) TKN Total Kjeldahl Nitrogen
    - (20) TSS Total Suspended Solids
    - (21) USC United States Code.

All utilities owned, leased or used by the City, whether inside or outside the corporate limits, shall be under the full control of the city pursuant to authorization in Sessions Laws of 1953, Chapter 300. The duty of enacting and enforcing rules and regulations governing the management and control of city properties shall be vested in the city, and the duty of enforcing such rules and regulations may be delegated.

#### **Sec. 39.4 Visiting Utility Stations**

No visitor shall be permitted to enter the wastewater treatment plant or any pumping station unless accompanied by the person in charge, and under no circumstances shall any visitor handle or in any way come in contact with any part of the machinery.

#### **Sec. 39.5 Connections and Meters**

(a) Connections

All meters, meter boxes, pipes and other equipment furnished and used by the City in installing any sewer connection shall be and remain the property of the City.

(b) Maintenance of Meters.

All meters, except such as are required to be furnished by specified users of water, shall be kept in good repair and working order by and at the expense of the city. Meters for measuring the flow of wastewater, where required, shall be provided and maintained by and at the expense of the customer.

(c) Connections –Work to be done by the City

The construction of laterals for the connection of the public sewer lines on any lot with public sewer lines in any street and the necessary excavation thereof shall be done only by the city.

(d) Connections—Application

(1) No connection shall be made to any public sewer line except after approval of the written application therefore.

(2) Every application for a sewer connection shall state the name of the owner of the lot, the name of the street on which lot is situated, the number of the house, if there is one (1) on the lot or, if not, a description of the location of the lot, the number and kind of connections required and the character of surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the proper fee for making the connection applied for.

(3) No person shall make any connection of roof downspouts, exterior foundation drains, area drains, or other sources of inflow, groundwater, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer.

(e) Connections—Separate connections required; exceptions

Every house or building abutting any public sewer shall have a separate connection.

(f) Connections—Where required

Within thirty (30) days after the time when any public sanitary sewer in any street is completed and ready for use, the owner of any abutting lot having thereon improvements for occupancy shall cause a sanitary closet and sink to be installed and to be connected with the sanitary sewer; provided, that where a house adjacent to a sanitary sewer is connected to an existing septic tank, a connection shall not be required as long as the septic tank operates properly or if the director determines that it is not feasible to connect. When, in the opinion, of the county health officer, the septic tank does not work properly or becomes a health hazard, he shall notify the owner in writing and send a copy of the notice to the director. The owner shall then be required to connect to the sanitary sewer within thirty (30) days from the date of the notice.

(g) Connections—Where connection inside

(1) Sewer connections shall be made into existing connections constructed by the city to serve a lot. If a connection does not exist, one shall be provided as close as possible to the location requested by the customer. The building sewer shall be constructed to the cleanout at approximately the start of the right-of-way or property line.

(2) Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the director, to meet all requirements of the city and this chapter. All new building sewers including necessary replacement of existing building sewers shall comply with the state building code, volume II, plumbing.

- (3) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer provided, however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of the city.
  - (4) It shall be the responsibility of the owner to keep and maintain the building sewer connected to the public sewer in good repair. The owner shall be responsible for making necessary repairs, at his own expense, to the building sewer when notified in writing by the director that repairs are necessary. Should the owner fail to repair the building sewer within fifteen (15) days after receiving written notification that such repairs are necessary, the city may make the necessary repairs and shall assess the owner for the cost of the repairs.
  - (5) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain may be lifted by a means approved by the city and discharged to the building sewer. The connection of the building sewer into the public sewer shall conform to the requirements of applicable building and plumbing codes and other applicable rules and regulations of the city. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures shall be approved by the city before installation.
- (h) Connections—Connections beyond the city limits.
- Any person owning or controlling premises located beyond the corporate city limits and desiring to install a plumbing system for the purpose of discharging wastewater into the public sewer may do so by complying with the requirements of this article and paying all applicable fees and charges.

**Sec. 39.6 Standards and Provisions for Sewer Systems**

- (a) Standards for sewer system
 

Plans for additions or alterations to the existing sewer system shall be approved by the director or DWQ. Septic tanks shall not be constructed within the city limits. Existing septic tanks may be used until any type of cleaning or repair is required, at which time the structure shall be connected to the public sewer and the septic tank removed or filled with dirt.
- (b) Provisions of sewer service
  - (1) Area outside City
    - a. *With adequate public sewer existing.* Upon receipt of a request for sewer service and payment of all fees and charges, the city may construct a sewer connection to serve the property. The property owner shall pay the then existing connection fee and capital investment fee prior to receiving a tap.
    - b. *Public sewer not existing.*
      - 1. Upon receipt of a request for sewer service, the city may approve the request and authorize construction of a line to serve the property. When a public sewer is constructed, it shall extend across the entire frontage of the property to be served.
      - 2. The party requesting service shall pay the entire cost of construction, including materials, labor, equipment and necessary lift stations.
      - 3. If the city determines that sufficient advantages exist, it may choose to bear the cost of constructing a public sewer from the nearest adequately sized public sewer to the property to be served.
      - 4. Each property requesting service and abutting a public sewer constructed according to subsection (b)(1)b. 1 or 2 of this section shall comply with subsection (b)(1)a of this section.
    - c. *Charges after annexation into city.* After annexation into the city, property which abuts an existing public sewer shall pay the then existing inside capital investment fee and connection fee prior to receiving a connection.
    - d. *Sewer rates.* Customers outside the city shall be charged the regular outside rate.
  - (2) Area inside City.

- a. *With adequate public sewer existing.* The city shall construct a sewer connection after receipt of the then existing connection fee.
  - b. *Public sewer not existing.* When a property owner within the city requests sewer service, the city may order the extension of a public sewer to serve the property and assess all abutting property owners an amount equal to the cost of materials, but such assessments shall not exceed fifteen dollars (\$15) per front foot. The city shall pay the cost of all lift stations and force mains.
  - c. *Other conditions.* When a subdivision or developer requests sewer service and conditions in subsection (1) or (2) of this section do not apply, or if an unusually large amount of construction is required, the conditions of payment shall be determined through negotiations and established in a contract between the property owner and city.
- (c) **Outdoor Privies**
- It shall be unlawful to construct, maintain, or use any outdoor privy; or use any device for collecting wastewater within the city limits which is not connected to the public sewer.

**Reserve 39.7-39.25**

**ARTICLE II. GENERAL SEWER USE REQUIREMENTS**

**Division 1. General Sewer Use Requirements**

**Sec. 39-26 Prohibited Discharge Standards**

- (a) **Discharging Wastewater to Natural Outlet Prohibited; Discharge of stormwater or unpolluted water.** Wastewater shall not be discharged to a natural outlet in the limits of the city. All stormwater shall be discharged to the storm sewer system. Unpolluted water may be discharged to the storm sewer system with approval of DWQ.
- (b) **Prohibited discharges into sewers—generally.**  
No person shall pour, throw or discharge any substance, or other solid or liquid, into any sanitary or storm sewer at any manhole or at any opening therein other than a sewer connection, nor shall any person discharge into any sanitary or storm sewer any substance likely to obstruct or to cause undue injury to the same or any substance of such high causticity or of a sufficiently acid nature to interfere materially with the equipment used in connection therewith.
- (c) **Prohibited discharges into sewers—specified waters and wastes**  
**General Prohibitions.** No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (d) **Specific Prohibitions.**  
No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater;
  - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140<sup>0</sup>F (60 <sup>0</sup>C) using the test methods specified in 40 CFR 261.21.
  - (2) Solid or viscous substance in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case, solids greater than one half inch (1/2") in any dimension.
  - (3) Any wastewater having a pH less than 5.0 or more than 10 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
  - (4) Wastewater containing pollutants in sufficient quantity either singly or by interaction with other pollutants which cause interference, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the POTW.
  - (5) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

- (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
  - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section 39-33 of this chapter.
  - (9) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
  - (10) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
  - (11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
  - (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
  - (13) Petroleum oil, nonbiodegradable cutting oil, solvents, or products of mineral oil origin in amounts that may cause interference or pass through.
  - (14) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
  - (15) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
  - (16) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
  - (17) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
  - (18) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B.0200.
  - (19) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
  - (20) Recognizable portions of the human or animal anatomy.
  - (21) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
  - (22) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.
  - (23) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.
- (e) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (f) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

- (1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with Article II-Division 7 of this chapter.
- (2) take appropriate actions in accordance with section 39-61 and section 39-62 for such user to protect the POTW from interference or pass through.

**Sec. 39-27 National Categorical Pretreatment Standards**

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

**Sec. 39-28 Local Limits**

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	250	mg/l	Lead	0.049	mg/l
TSS	250	mg/l	Mercury	0.0003	mg/l
NH <sub>3</sub>	25	mg/l	Nickel	0.021	mg/l
Arsenic	0.003	mg/l	Silver	0.005	mg/l
Cadmium	0.003	mg/l	Zinc	0.175	mg/l
Chromium	0.05	mg/l (total chromium)			
Copper	0.061	mg/l			
Cyanide	0.015	mg/l			

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

No person shall discharge wastewater in excess of the concentration set forth in pretreatment standards or their wastewater discharge permit. The POTW Director shall establish permit limitations on a case-by-case basis in accordance with DWQ and EPA regulations and an approved headworks analysis. State requirements and limitations on discharges shall apply in any case where they are more stringent than requirements or limitations developed by the city or EPA.

**Sec. 39-29 Right of Revision**

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 39-1 of this chapter or the general and specific prohibitions in section 39-26 of this chapter, as is allowed by 40 CFR 403.4.

**Sec. 39-30 Dilution**

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

**Sec. 39-31 Pretreatment of Wastewater**

- (a) Users shall provide pretreatment as required to comply with this chapter or discharge permit, and shall achieve compliance with all local limits and pretreatment standards within the specified time limitations.

Any facilities required to pretreat wastewater shall be constructed, operated, and maintained at the expense of the owner. Detailed plans showing the pretreatment facilities and operating procedure shall be submitted to and approved by the director before construction of the facilities. Submission and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the director under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the director prior to the initiation of the changes.

(b) **Additional Pretreatment Measures**

- (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- (2) In order to equalize flows over a twenty-four hour period, each user discharging in excess of forty thousand (40,000) gallons in any one (1) day shall construct and maintain at user's own expense a suitable storage tank. Such tank shall have a capacity of at least eighty (80) percent of the normal volume of one (1) twenty-four hour production period of waste and an outlet to the sewer which is controlled by a waterworks type rate controller or other approved devices, the setting of which shall be directed by the city. The POTW Director shall approve all plans prior to construction. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

**Sec. 39-32 Accidental Discharge/Slug Control Plans**

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 39-2(a)(50). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 39-75 and 39-76.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
  - (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section 39-76 of this chapter; and
  - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (d) Wastewater which constitutes a slug as defined herein will have a surcharge at the discretion of the POTW Director.

**Sec. 39-33 Hauled Wastewater**

- (a) Septic tank waste shall not be introduced into the POTW or any part of the collection system.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits.

The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

#### **Reserve 39.34-39.41**

### **Division 2. Fees**

#### **Sec. 39-42 Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the City for the implementation of the program established herein. A schedule of sewer rates shall be adopted by the City Council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City Clerk and the office of the Public Works Director, and copies shall be made available to the customers of the city's sewer system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon recommendations of the City Manager.

#### **Sec. 39-43 General Requirements within City**

- (a) Sewer extensions shall be made upon order of the city as it deems necessary, and in accordance with provisions of state law the cost of such extensions shall be shared jointly by city and owners of property abutting the sewer extension improvements, according to this policy.
- (b) Corner lots are exempt from front sewer improvement assessments for a maximum of one hundred fifty (150) feet on one (1) side of corner lot. In the event a sewer line is constructed across only one (1) side of a corner lot, that side shall be assessed at the then existing rate for its full distance. At such time in the future that a sewer line is extended across the other side of that corner lot, that side will be assessed at the then existing rate; except, that a corner lot exemption up to one hundred fifty (150) feet, but not exceeding the distance along that side, shall be allowed, provided an assessment has been paid for the first side. Lots having a double frontage shall be assessed for sewer improvements on both sides if both sides can be developed according to the zoning ordinance. If a double frontage lot is also a corner lot, on one (1) corner lot exemption shall be allowed, unless both frontages can be developed according to the zoning ordinance and both frontages have been assessed. In such case the property shall be entitled to two (2) corner lot exemptions.
- (c) The city shall not assess any of the cost of enlarging sewer lines in use.
- (d) An assessment for sewer extensions made under this policy may be spread over a period of ten (10) years if requested by the property owner. Such assessments shall bear interest at the highest rate provided by state law per annum on the unpaid balance, with the first assessment becoming due in October next succeeding the date of improvements within the city limits only.

#### **Sec. 39-44 Sewer Connection Fees and Capital Investment Fees**

- (a) Sewer connection fees are fees for the installation of a tap at the right-of-way. These fees shall be adopted by the city council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the fee schedule will be on file in the office of the city clerk and the office of the public works director, and copies shall be made available to the customers of the city's sewer system. The fees shall be reviewed and adjusted by the city council, as needed, or upon recommendations of the city manager. Minimum fees shall be paid prior to construction of the tap. Any additional fees to equal the total actual construction cost shall be paid prior to customer making tie-in to the tap. For any tap larger than listed on the fee schedule, the cost shall be estimated by the POTW Director at the time of the request. Any additional cost to equal the total actual construction costs shall be paid prior to customer making tie-in to the tap. For taps requiring more than the usual construction work, the city may require customer to employ an outside contractor to make the tap. Contractors shall obtain a permit for the public works department and all work shall be in accordance to city specifications.

- (b) Capital investment fees are charges for the construction of sewer lines which, at the time of construction, abut property outside the corporate limits. Fees shall be charged as established from time to time by ordinance. Property which is annexed into the city and abuts an existing sewer line, and has not previously paid a capital investment fee, shall pay the capital investment fee before service is provided. Property owners within the corporate limits may pay their capital investment fees in ten (10) equal annual installments, if requested by the property owners. Such capital investment fees will bear interest at the highest rate provided by state law per annum on the unpaid balance, with the first payment becoming due in October next succeeding the date the capital investment fee charge is made.

**Sec. 39-45 Service fees—New Customers**

New customers to the wastewater system will be charged a service fee in the amount as established from time to time by ordinance and any deposit which is required of all customers.

**Sec. 39-46 Same-Transfers**

Customers moving from one (1) location to another within the wastewater system shall be charged a service fee in the amount established from time to time by ordinance.

**Sec. 39-47 Sewer rates and bills**

A schedule of sewer rates shall be adopted by the city council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City Clerk and the office of the POTW Director, and copies shall be made available to the customers of the city's sewer system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon recommendations of the City Manager.

(a) Residential service

- (1) This service is available for the collection and treatment of domestic sewage from single family residences within the city and outside the city limits where the city's collection facilities are extended.
- (2) Service is not available under this schedule for any nondomestic sewage; such as from business operated in the residence, for commercial for multifamily use, such as, master metered apartments, motels, inns, and mobile home parks; or for resale.
- (3) This service is applicable when the customer's residence is served by a water service tap up to one (1) inch in diameter.
- (4) The minimum monthly charge for city customers will be determined by the current rate schedule.
- (5) Commodity charges will be based on the customer's total water consumption during the billing period. Water consumption will be metered and rounded to nearest cubic foot for billing. Except when the amount of water used is not registered because of a defective meter, the method described in section 39-50 will be used.
- (6) Existing customers not receiving water service shall provide a meter to measure total use. When total use is not known, bills will be rendered on the basis of estimates by the POTW Director.
- (7) The sewer service charge shall be billed to each customer at the same time the water bills are rendered and shall be collected at the same time and in the same manner as water accounts.

(b) General Service

- (1) This service is available for the collection and treatment of sewage discharged by commercial, industrial, institutional and other customers within the city and outside the city limits where the city's collection facilities are extended. Service is not available for resale service.
- (2) The minimum monthly charge for inside city customers will be determined by the current rate schedule.
- (3) Charges will be established periodically for billing of some costs attributable to wastewater with greater pollutant concentrations than normal domestic sewage. The following rates are applicable for five-day BOD and suspended solids:
  - a. BOD: \$0.24/pound for concentration in excess of 300 mg/l
  - b. TSS: \$0.29/pound for concentration in excess of 300 mg/l

Charges for additional costs attributable to other pollutants will be assessed to each customer, as applicable. All nondomestic customers that utilize two inch or greater meters shall be charged an additional \$0.00414 per cubic foot for administration of the industrial pretreatment program.

- (4) Commodity charges will be based on the customer's total water consumption during the billing period, except when the customer's water consumption significantly exceeds the discharge into the wastewater collection system. When applicable, the customer may pay the cost of installing and maintaining the necessary equipment to monitor the flow not returned to the wastewater collection system, and has the billing use reduced accordingly.
- (5) The sewer service charge shall be billed to each customer at the same time that the water bills are rendered and shall be collected at the same time and in the same manner as water accounts.

**Sec. 39-48 Wastewater Surcharges**

- (a) All persons discharging industrial wastewater into the public sanitary sewer shall be rendered a monthly bill as a surcharge covering the entire costs to the city incurred by treating all wastewater having pollutants in excess of those defined as billable. Such surcharge shall be evoked as herein provided in addition to the existing service charge if such charge is now imposed or in addition to any sewer charge imposed after the adoption of this article. The surcharge shall include:
  - (1) All fixed charges and amortization costs of plant capacity required for treating such wastewater.
  - (2) A charge covering the operational cost incurred by the city in treating such wastewater.
- (b) A surcharge in amounts established from time to time by ordinance per one hundred pounds of billable biochemical oxygen demand and suspended solids shall be made to cover the fixed charges and amortization cost of plant capacity. The POTW Director shall recommend a surcharge for the other billable pollutants.
- (c) The surcharge covering operational costs shall be fixed at the beginning of the fiscal year and shall be computed from the actual costs per pound of pollutant removed from the wastewater as experienced at the wastewater treatment plant during the preceding fiscal year.
- (d) The combined surcharge as set forth in subsections (b) and (c) of this section shall be billed and payable monthly on a separate bill rendered by the city. Such bill shall be sent through the United States mail notifying all persons of the amount and date due. Failure to receive notice is not an excuse for nonpayment of bills. Delinquencies shall be handled in accordance with the provisions of this section.
- (e) In case a person discharging wastewater into the public sanitary sewer does not procure his water supply from the city and becomes delinquent on his payment of the surcharge, his connection with the wastewater system may be severed and may only be reconnected at his expense.

**Sec. 39-49 Billing, Payments, and Late Payment Penalties**

- (a) All wastewater meters shall be read monthly, and bills shall be mailed on a cycle basis.
- (b) Every bill shall be due when mailed to the customer at the last address provided by the customer. A bill shall reflect a due date of fifteen (15) days from the billing date shown on the bill. The same notice will serve as a notice of possible disconnect if payment is not received within thirty-two (32) days of the billing date, allowing greater than the statutory minimum
- (c) A late payment penalty in the amount of five (5) percent per month shall be imposed upon any outstanding unpaid balance twenty-five (25) days after the billing date shown on the bill. The late payment penalty will be reflected on the bill rendered the following month.
- (d) An automated telephone reminder system will attempt to contact all delinquent accounts prior to disconnection as a courtesy if the customer has provided a phone number.
- (e) If payment has not been received within thirty-two (32) days from the original billing date, services will be disconnected on the thirty-third (33<sup>rd</sup>) day. After payments in the night deposit are posted and the cutoff person has left the office for the purpose of disconnecting a delinquent customer, a service fee in an amount as established from time to time by ordinance will be charged on that date, whether services are disconnected or not.
- (f) A customer whose services are disconnected for such delinquency may have services restored during regular working hours by the payment of the bill in full plus the twenty-dollar service fee. If a customer requests that services be reconnected after regular working hours, their service fee shall be in an amount as established from time to time by ordinance. Payment must be received by 11:00 a.m. the following day or services will be disconnected.
- (g) The customer shall pay all billed utility charges before transferring service from one (1) location to another. The final bill shall be mailed to the customer's new billing address. If a customer fails to pay his utility bills for any account where he is listed as the customer and such account becomes delinquent, the city may

transfer the amount owed to any other account where the customer is a primary recipient of utilities and cutoff utilities to such account for nonpayment. The city may also refuse to transfer an account to a new customer's name or connect services to a new account where the delinquent customer will be a primary recipient of utilities. A customer is a primary recipient of utilities wherever he is listed as a customer, resides as a head of household or conducts a trade or business. The city's determination that a customer is primary recipient of utilities shall be effective until the customer proves otherwise.

- (h) Any customer who has a check or draft returned from a financial institution because of insufficient funds or closed account shall be charged a service fee in accordance with G.S. 25-3-506.
- (i) Customers requesting alternate payment due dates must make such request of the city and utilize the city's bank draft service. The customer may choose one of the following periods of the month for their bill to be drafted:
  - (1) Between the 7<sup>th</sup> and 16<sup>th</sup> of the month
  - (2) Between the 14<sup>th</sup> and 24<sup>th</sup> of the month
  - (3) Between the 22<sup>nd</sup> and 31<sup>st</sup> of the month
  - (4) Between the 28<sup>th</sup> and 9<sup>th</sup> of the month

#### **Sec. 39-50 Meter Testing; Protested Bills**

If a water customer has an excessive bill and thinks that it is caused by a faulty meter, he may, by making a deposit with the city, request that the meter be removed and checked. If the meter is found to be in error, the deposit will be refunded and the bill adjusted for the three (3) preceding months. The adjustment will be based on the percentage of error in the meter. If the meter is found to be accurate, the deposit will be retained by the city. The deposit amount shall be as established from time to time by ordinance.

#### **Sec. 39-51 Adjustment of Sewer Bills**

- (a) If the city determines that it has overcharged or undercharged a customer on account of its error, the city shall refund or recover the difference, subject to the following:
  - (1) The adjustment period shall be limited to the lesser of the actual period during which the error occurred or twelve (12) months;
  - (2) The amount of adjustment shall be determined by the POTW Director based upon such evidence as he deems appropriate; and
  - (3) Any overcharge may be either refunded or credited to the customer and any undercharge shall be billed to the customer.
- (b) If the city determines that it has undercharged a customer on account of any unlawful or materially misleading act of such customer, the undercharge shall be determined and collected as set out in this section, except the adjustment period shall be the greater of the actual period during which the error occurred (up to thirty-six (36) months) or twelve (12) months, if the adjustment period cannot be determined). The city shall, in addition to collecting such undercharge, have the right to take such other action against such customer as is permitted by law.

#### **Sec. 39-52 Sewer Facilities Impact Fees**

- (a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - (1) Capital Equipment means equipment with an expected use life of three (3) years or more.
  - (2) Connection to the sewer system means the physical connect of a building, structure or use of land to the city's sewer lines, no matter if such connection is made through or by intermediate lines.
  - (3) Development order means a regulatory approval by City of Washington.
  - (4) Fee payer means a person applying for connection to the city's sewer system.
  - (5) Sewer system means the physical public collection and treatment facilities of the City of Washington, administrative adjuncts to such system and the planned future improvements to such system.
  - (6) Sewer facilities means physical public collection and treatment facilities of the City of Washington.
- (b) Legislative findings. The city finds, determines and declares that:

- (1) The city has expanded and must further expand and upgrade its sewer facilities in order to maintain current and meet anticipated future standards of public health if new development is to be accommodated without decreasing current standards of health.
  - (2) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of sewer facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.
  - (3) Connecting to the city sewer system will create a need for the construction, equipping, expansion, and upgrading of sewer facilities.
  - (4) The fees established by this section are derived from, are based upon, and do not exceed the costs of providing additional and/or upgraded sewer facilities necessitated by the connection to the city's sewer system.
- (c) Short title, authority, and applicability
- (1) The ordinance from which this article is derived shall be known and may be cited as the "City of Washington Sewer Facilities Impact Fee Ordinance."
  - (2) The City Council has the authority to adopt the ordinance from which this article is derived pursuant to its general police powers and its obligation to protect the health, welfare, safety of its residents.
  - (3) This article shall apply in the incorporated and extraterritorial jurisdiction (ETJ) areas of city served by its sewer system.
- (d) Intent and Purposes
- (1) This article is intended to assist in the implementation of the city comprehensive plan.
  - (2) The purpose of this article is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide sewer facilities in the incorporated and extraterritorial jurisdiction (ETJ) areas of city served by its sewer system.
- (e) Rules of construction
- (1) The provisions of this article shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety, and welfare.
  - (2) For the purposes of administration and enforcement of this article, the following rules of construction shall apply to the text of this article:
    - a. In case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table, or illustrative table, the text shall control.
    - b. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
    - c. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
    - d. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
    - e. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
    - f. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", either or", the conjunction shall be interpreted as follows:
      1. The term "and" indicates that all the connected terms, conditions, provisions or events shall apply.
      2. The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
      3. The term "either or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

- g. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- h. The term “City Manager” means the Washington City Manager or municipal officials he may designate to carry out the administration of this article.

(f) Imposition of sewer facilities impact fee

Any person who, after the effective date of the ordinance from which this article is derived seeks to connect to the city sewer system is hereby required to pay a sewer facilities impact fee in the manner and amount set forth in this article.

(g) Computation of the amount of sewer facilities impact fee

(1) Sewer Facilities Impact Fees shall be established from time to time by ordinance. A schedule of these fees shall be adopted by the City Council and made a part of the minutes of the meeting in which the action was taken. Certified copies of the rates will be on file in the office of the City clerk and the office of the POTW Director, and copies shall be made available to the customers of the city’s sewer system. The rates shall be reviewed and adjusted by the City Council, as needed, or upon the recommendation of the City Manager.

(2) If a fee payer opts not to have the impact fee determined according to subsection (b) of this section, then the fee payer shall prepare and submit to the City Manager an independent fee calculation study for the land development activity for which a connection to the city’s sewer system is sought. The independent fee calculation study shall follow the prescribed methodologies and formats for sewer demand prescribed by the North Carolina Department of Natural Resources (DENR). The documentation submitted shall show the basis upon which the independent fee calculation was made. The City Manager shall consider the documentation submitted by the fee payer but is not required to accept such documentation as he shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay sewer facilities impact fees based upon the current fee schedule. If an acceptable independent fee calculation study is presented, the City Manager may adjust the fee to that appropriate to the particular development. Determination made by the City Manager pursuant to this subsection may be appealed to the Washington City Council by filing a written request with the City Manager within ten (10) days of the City Manager’s determination.

(h) Payment of Fee

- (1) The fee payer shall pay the sewer facilities impact fee required by this article to the city division of Revenue Collections prior to the connection to the city’s sewer system.
- (2) All fines collected shall be properly identified by and promptly transferred for deposit in the appropriate Sewer Facilities Impact Fee Trust Fund to be held in separate accounts as determined in this article and used solely for the purposes specified in this article.

(i) Sewer Facilities Impact Fee Trust Funds Established

- (1) There are hereby established two (2) separate Water and Sewer Facilities Impact Fee Trust Funds:
  - a. The Water Facilities Impact Fee Trust Fund; and
  - b. The Sewer Facilities Impact Fee Trust Fund
- (2) Funds withdrawn from these accounts must be used in accordance with the provisions of this article.

(j) Use of Funds

- (1) Funds collected from sewer facility impact fees shall be used solely for the purpose of acquiring, equipping, and/or making capital improvements to sewer facilities under the jurisdiction of the city, and shall not be used for maintenance or operations.
- (2) Funds from the Sewer Facilities Impact Fee Trust Fund may only be used for sewer facilities purposes. Funds shall be expended in the order in which they are collected.
- (3) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which sewer facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (b) of this section.

- (4) At least once each fiscal period the City Manager shall present to the City Council a proposed capital improvement program for sewer facilities, assigning funds, including any accrued interest, from the several Sewer Facilities Impact Fee Trust Fund to specific sewer facilities improvements projects and related expenses, monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Sewer Facilities Impact Fee Trust Fund until the next fiscal period, except, as provided by the refund provisions of this article.
- (5) Funds may be used to provide refunds as described in subsection (k) of this section.
- (6) Funds may be funded to rebate developer costs for providing sewer capital facilities in excess of the capacity required for the individual developer making the provision. Any rebates must be pursuant to a refunding agreement between the developer and the city after the effective date of the ordinance from which this article is derived. Prior refunding agreements may be renegotiated in order to bring such agreements into accord with the provisions of this article.

(k) Refund of fees Paid

Any funds not expended or encumbered by the end of the calendar quarter immediately following six years (6) from the date the sewer facilities impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of five (5) percent annually, provided that the landowner submits an application for a refund to the City Clerk within one hundred eight (180) days of the expiration of the six year period.

(l) Exemptions and credits

- (1) The following shall be exempted from payment of the impact fee:
  - a. Alterations or expansions of an existing building where no additional or larger sewer connections are requested and where the use is not changed.
  - b. The replacement of a building or structure with a new building or structure of the same size and use where no additional or larger sewer connections are requested and where the use is not changed.
  - c. The installations of a replacement mobile home on a lot or other such site when sewer capital facilities impact fee for such mobile home site has previously been paid pursuant to this article or where a mobile home legally exited on such cite on or prior to the effective date of the ordinance from which this article is derived.
  - d. Any claim of exemption must be made no later than the time of application for connection to the city's sewer system. Any claim not so made shall be deemed waived.

(2) Credits

- a. Sewer facilities capital improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offeror must request a sewer facilities impact fee credit. If the City Manager accepts such an offer, whether the acceptance is before or after the effective date of the ordinance from which this article is derived, the credit shall be determined and provided in the following manner:
  - 1. Credit for the dedication of land shall be valued at:
    - a) One hundred ten (110) percent of the most recent assessed value by the county tax assessor;
    - b) By such other appropriate method as the City Council may have accepted prior to the effective date of the ordinance from which this section is derived for particular sewer facilities improvements; or
    - c) By fair market value established by private appraisers acceptable to the city. Credit for the dedication of sewer facilities land shall be provided when the property has been conveyed at no charge to; and accepted by, the city in a manner satisfactory to the City Council.
  - 2. Applicants for credit for construction of sewer facilities improvements shall submit acceptable engineering drawings and specification and construction cost estimates to the City Manager. The City Manager shall determine credit for construction based upon either these cost estimates or upon alternated engineering criteria and construction cost estimates if the City Manager determines that such estimates submitted by the applicant are either unreliable or

inaccurate. The City Manager shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the sewer facilities impact fee component to which the credit will apply the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of a duplicate copy of such letter or certificate and return such signed document to the City Manager before credit will be given. Failure of the applicant to sign, date and return such document within 60 days shall nullify the credit.

3. Except as provided in subsection (1) of this section, credit against impact fees otherwise due will not be provided until:
    - a) The construction is completed and accepted by the city; or
    - b) A suitable maintenance and warranty bond is received and approved by the City Clerk, when applicable.
  4. Credit may be provided before completion of specified sewer facilities improvements if adequate assurances are given by the applicant that the standards set out in this section will be met and if the fee payer posts security, as provided in this subsection, for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the City Clerk in an amount determined by the City Manager. If the sewer facilities construction project will not be constructed in one (1) year of acceptance of the offer by the City Manager, the amount of the security shall be increased by ten (10) percent compounded, for each year of the life of the security. The security shall be reviewed and approved by the City Clerk of the City Council prior to acceptance of the security by the City Clerk. If sewer facilities construction project is not to be completed within five (5) years of the date of the fee payer's offer, the City Council must approve the sewer facilities construction project and its scheduled completion date prior to the acceptance of the offer by the City Manager.
- b. Any claim for credit must be made no later than the time of application for connection. Any claim not so made shall be deemed waived.
  - c. Credits shall not be transferable from one project or development to another without the approval of the City Council.
  - d. Credits shall not be transferable from one (1) component of the water and sewer facilities impact to another component of this fee.
  - e. Determination made by the City Manager, pursuant to the credit provisions of this section, may be appealed to the City Council by filing a written request with the City Manager within ten (10) days of the City Manager's determination.

(m) Review. The fees contained in subsection (g)(1) of this section shall be reviewed by City Council at least once each fiscal biennium at the time of adoption of the city budget.

(n) Penalty Provision

A violation of this section 39-52 of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and, upon conviction, the violator shall be punishable according to law. However, in addition to or in lieu of any criminal prosecution city shall have the power to sue in civil court to enforce the provisions of this section.

**Reserve 39-53 – 39-60**

### **Division 3 - Wastewater Discharge Permit Application and Issuance**

#### **Sec. 39-61 Wastewater Dischargers**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

## Sec. 39-62 Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) **Significant Industrial User Determination**

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) **Significant Industrial User Permit Application**

Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in section 39.62(a) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Article II Division 1 of this chapter, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Sections 39-80 and 39.81;
- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O & M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
  - a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
  - b. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established

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schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section 39-71 of this chapter.
- (14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(c) Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 39-2(a)(3) and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) Application Review and Evaluation

The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) Tentative Determination and Draft Permit

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
  - a. Proposed discharge limitations for those pollutants proposed to be limited;
  - b. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
  - c. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the City into a significant industrial user permit.

(f) Permit Synopsis

A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

- (1) a sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
- (2) a quantitative description of the discharge described in the application which includes at least the following:
  - a. the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

- b. the actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
  - c. the basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.
- (g) Final Action on Significant Industrial User Permit Applications
- (1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.
  - (2) The POTW Director is authorized to:
    - a. issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
    - b. issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    - c. modify any permit upon not less than 60 days notice and pursuant to section 39- 62(i) of this chapter;
    - d. revoke any permit pursuant to section 39-112 of this chapter;
    - e. suspend a permit pursuant to section 39-112 of this chapter;
    - f. deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Adjudicatory Hearings
- (1) Any significant industrial user whose permit is denied, terminated or is granted subject to conditions he deems unacceptable; assessed penalties; or assessed administrative orders shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW director upon making written demand, identifying the specific issues to be contested, to the POTW Director within thirty (30) days following notice of the final decision regarding any of the above. Unless such written demand is made, the above described decisions shall be final and binding. For modified permits, only those parts of the permit being modified may be adjudicated. The POTW Director, or other hearing officer, as appropriate, shall make a decision upon said demand and, within thirty (30) days of receipt of said demand, transmit a copy of the decision by registered or certified mail.
    - a. Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - (2) Any decision of a hearing officer, or the POTW Director, made as a result of an adjudicatory hearing held hereunder, may be appealed to the City Council or other unbiased entity designated by the City Council, upon filing written demand within ten (10) days of receipt of notice of the decision. Failure to make written demand within the time specified herein shall bar further appeal. The City Council, or other unbiased entity designated by the City Council, shall make a final decision on the appeal within ninety (90) days. This decision is the final decision. Appeal hearings shall be conducted in accordance with applicable provisions of the city regulations.
  - (3) Official record. When a final decision for the purposes of judicial review is issued, the city shall cause to be prepared an official record of the case that includes all notices, motions, and other like pleadings; copy of all documentary evidence introduced; certified transcript of all testimony taken, if testimony is transcribed, or if testimony is taken and not transcribed, then a narrative summary of any testimony taken; and copy of the final decision. Any person against whom a final order or decision for the purposes of judicial review is entered may appeal the order or decision by registered or certified mail within (30) days to the appropriate general court of justice. Upon such appeal the city shall send a certified transcript of all testimony and exhibits introduced the order or decision, and the notice of appeal to the general court of justice.

(i) Permit Modification

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below.
  - a. changes in the ownership of the discharge when no other change in the permit is indicated,
  - b. a single modification of any compliance schedule not in excess of four months,
  - c. modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
  - d. Modifications of the monitoring requirements in the permit.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance
- (2) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by section 39-62(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

(j) Permit Conditions

- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
  - a. a statement of duration ( in no case more than five years);
  - b. a statement of non-transferability;
  - c. applicable effluent limits based on categorical standards or local limits or both;
  - d. applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
  - e. requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in section 39-2;
  - f. requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in section 39-2(a)(51), if determined by the POTW Director to be necessary for the user and,
  - g. requirements for immediately notifying the POTW Director of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Section 39-2(a)(51). Also see sections 39-75 and 39-76;
  - h. a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
  - a. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
  - b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
  - c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
  - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - g. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  - h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - i. Compliance schedules for meeting pretreatment standards and requirements.
  - j. Requirements for submission of periodic self-monitoring or special notification reports.
  - k. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 39-83 and affording the POTW Director, or his representatives, access thereto.
  - l. Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  - m. Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
  - n. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
  - o. Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (k) **Permit Duration**  
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date.
- (l) **Permit Transfer**  
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (m) **Permit Reissuance**  
A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section 39-62 a minimum of 180 days prior to the expiration of the existing permit.

**Reserve 39-63 - 39-70**

**Division 4. Reporting Requirements**

**Sec. 39-71 Baseline Monitoring Reports**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
  - (1) **Identifying Information.** The name and address of the facility, including the name of the operator and owner.

- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants.
  - a. The categorical pretreatment standards applicable to each regulated process.
  - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 39-80 of this chapter.
  - c. Sampling must be performed in accordance with procedures set out in section 39-81 of this chapter and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 39-2(a)(4) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 39-72 of this chapter.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 39-62(c) of this chapter.

### **Sec. 39-72 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by section 39-71(b)(7) of this chapter:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

### **Sec. 39-73 Reports on Compliance with Categorical Pretreatment Standard, Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section 39-71(b)(4-6) of this . For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall

include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 39-62(c) of this chapter.

#### **Sec. 39-74 Periodic Compliance Reports**

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 39-80 and 39-81 of this chapter. All periodic compliance reports must be signed and certified in accordance with section 39-62(c) of this chapter.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section 39-80 and 39-81 of this chapter, the results of this monitoring shall be included in the report.

#### **Sec. 39-75 Reports of Changed Conditions**

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. See Section 39-76(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 39-62 of this chapter.
- (b) The POTW Director may issue a wastewater discharge permit under section 39-62 of this chapter or modify an existing wastewater discharge permit under section 39-62 of this chapter in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

#### **Sec. 39-76 Reports of Potential Problems**

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 39-2(a)(51), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 39-2(a)(51).

#### **Sec. 39-77 Reports from Unpermitted Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

#### **Sec. 39-78 Notice of Violation/Repeat Sampling and Reporting**

- (a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and

analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

- (1) if the POTW Director monitors at the user's facility at least once a month; or
  - (2) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
- (1) the POTW Director monitors at the user's facility at least once a month; or
  - (2) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
  - (3) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

#### **Sec. 39-79 Notification of the Discharge of Hazardous Waste**

The City prohibits the discharge of any hazardous wastes without notification and approval of the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 39-75 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 39-71, 39-73 and 39-74, of this chapter.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste a authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable Federal or State law.

#### **Sec. 39-80 Analytical Requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain

sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

#### **Sec. 39-81 Grab and Composite Sample Collection**

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

#### **Sec. 39-82 Timing**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **Sec. 39-83 Record Keeping**

- (1) Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the POTW Director.
- (2) The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this chapter. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Division 7-Enforcement of this chapter.

#### **Reserve 39-84 -39-91**

### **Division 5. Compliance Monitoring**

#### **Sec. 39-92 Monitoring Facilities**

The City requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the City and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

#### **Sec. 39-93 Inspection and Sampling**

The City will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged

shall allow the City, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW Director's approval authority's or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.

#### **Sec. 39-94 Search Warrants**

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the City.

#### **Reserve Sections 39-95 -39-102**

### **Division 6. Confidential Information**

#### **Sec. 39-103 Confidential Information**

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

#### **Reserve 39-104 -39-111**

### **Division 7. Enforcement**

#### **Sec. 39-112 Administrative Remedies**

##### **(a) Notification of Violation**

Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

##### **(b) Consent Orders**

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 39-112(d), below.

##### **(c) Show Cause Hearing**

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 39-113 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under section 39-62(h).

(d) Administrative Orders

When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination of Permit or Permission to Discharge

- (1) The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
  - a. Failure to accurately report the wastewater constituents and characteristics of his discharge;
  - b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
  - c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
  - d. Violation of conditions of the permit or permission to discharge, conditions of this chapter, or any applicable State and Federal regulations;
  - e. Tampering with or deliberately altering monitoring equipment;

- f. Changes in POTW NPDES permit, receiving stream water quality standards, POTW treatment plant process, sludge disposal practices or requirements, or other modifications of similar nature that impact the city's ability to accept industrial wastewater;
  - g. For causes necessitating an emergency suspension;
  - h. Failure to show cause; or
  - i. Nonpayment of sewer user charges
- (2) A user whose permission to discharge has been revoked may apply for new permission to discharge and shall pay all delinquent fees, charges, penalties, and such other sums as may be due to the city.
  - (3) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under Article II, Section 39-112(c) of this chapter why the proposed action should not be taken.

**Sec. 39-113 Civil Penalties**

(a) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder, may be fined up to twenty-five thousand dollars (\$25,000) per day per violation.

- (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
  - a. For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
  - b. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
  - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (2) The duration and gravity of the violation;
  - (3) The effect on ground or surface water quantity or quality or on air quality;
  - (4) The cost of rectifying the damage;
  - (5) The amount of money saved by noncompliance;
  - (6) Whether the violation was committed willfully or intentionally;
  - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
  - (8) The costs of enforcement to the City.

(c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 39-116.

**Sec. 39-114 Other Available Remedies**

Remedies, in addition to those previously mentioned in this chapter, and are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the City, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 201 of the General Statutes (G.S. 143-215.6B(i)).

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) Discontinuance of Sewer

(1) The POTW Director shall have the right to discontinue sewer service to the property of a user of such service in the event of nonpayment of sewer charges; provided that no discontinuation shall be made until the user shall have been given notice of his right to be heard in person or by counsel on the question of discontinuation before the city or any person designated by the City after not less than five (5) days written notice specifying the basis of the discontinuation. Any user whose permit has been terminated or who has failed to pay the user charge or any other charge imposed by the City shall be subject to termination of service by disconnection of the property from the sewer service. The City shall have the right of entry in and upon the premises and the right of ingress and egress to determine the location of the service line or to dig it up to uncover it for the purpose of disconnecting the service line from the property, or sealing, or plugging such line, or any collection line, upon the notice as provided under the city's regulations.

(2) Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the City governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(e) Judicial Remedies

If any person discharges wastewater contrary to the provisions of this chapter or any order or permit issued hereunder, or otherwise violates provisions of this chapter or any order or permit issued hereunder, the POTW, through the city's attorney, may commence an action for appropriate legal or equitable relief in the appropriate general court of justice.

(f) If a public sewer becomes obstructed or damaged because of any substances improperly discharged into it, the person responsible for such discharge shall be billed and shall pay for the expenses incurred by the city in cleaning out, repairing or rebuilding the sewer as well as damages incurred by the city arising from claims of private property owners which are caused by such obstruction or damage.

**Sec. 39-115 Remedies Nonexclusive**

The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

**Sec. 39-116 Adjudicatory Hearings For Users Other Than Significant Industrial Users**

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Adjudicatory hearing* means a hearing, other than those hearings involving significant industrial users, that is held pursuant to this section for a contested case. Adjudicatory hearings are trial-type proceedings where there is to be a determination made in a contested case pursuant to the power of the city. The procedures contained herein shall be used for any adjudicatory hearing pursuant to any statutory or regulatory power of the city relating to this chapter specifically and/or wastewater generally. The procedures contained herein are not applicable to other hearings which do not conform to the definition of adjudicatory hearings.

*Contested case* means an adjudicatory hearing, other than those hearings involving significant industrial users, as part of a final decision of the city pursuant to the city's licensing power regarding this chapter

specifically and/or wastewater generally in which rights, duties or privileges of a party are required by a law or regulation to be determined after an opportunity for hearing.

*License* means the whole or part of any permit, certificate, approval, registration, charter, or similar form of permission required by law including franchises, but it does not include license required solely for revenue purposed. Licensing shall mean the process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

*Party* means each person named or admitted as a party or properly seeking and entitled as a right to be admitted as a party.

*Violation* means any violation of the regulations of the city or its permits or law, regulation, or any court or administrative order which the city is required to enforce.

- (b) Requests for an adjudicatory hearing shall be served by the city within thirty (30) days following any final administrative decision by the city on an application; permit certificate or other licensing matter or on a violation which becomes a contested case as defined above. Requests for adjudicatory hearings shall include the name of the requestor, his interest and the names of parties which he represents, the reasons for the request, the major issues which are proposed to be contested at the hearing, and a statement of agreement by the requestor to be subject to examination and cross-examination and to make any employee or consultant of such requestor or other person represented by the requestor available for examination and cross-examination at the expense of the requestor. The director may grant or deny a request for an adjudicatory hearing on the basis of a consideration of whether the person making such a request has standing to seek a determination under the definition of contested case and other pertinent definitions under this chapter.
- (c) An initial pleading as used herein shall refer to any paper or document by which an adjudicatory hearing may be commenced. The papers or documents shall include, but not be limited to, applications, petitions, charges, complaints, and appeals, rule to show cause notices, and public hearing notices which comply with the following provisions. Every initial pleading shall, at a minimum, contain the following:
- (1) A title which indicates the nature of the proceeding and the parties involved therein;
  - (2) The complete name and address of the party filing the pleading and, if applicable, the organization or interest whom he represents;
  - (3) The legal authority and the jurisdictional basis for the hearing;
  - (4) A clear and concise statement of the issues upon which the pleading is maintained and identification of the particular regulation, standard, guideline, or provision of law which is the subject to the hearing; if the party is unable to state the matters in detail at the time of the initial pleading or other notice is served, such initial pleading or other notice may be limited to a simple statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished to all parties;
  - (5) A prayer setting forth the relief sought;
  - (6) If the party filing the pleading is represented by counsel, the name and address of the attorney;
  - (7) An agreement by the requestor to be subject to examination and cross-examination and to make any employee or consultant of such requestor available for examination and cross-examination at the expense of such requestor available for examination and cross-examination at the expense of such requestor or such person upon the request of the hearing examiner, on his own motion, or on the motion of any party.
- (d) Any party, including the city, may serve as the hearing examiner, if one has been appointed, or on the city, if a hearing examiner has not yet been appointed, an answer to the initial pleading within ten (10) days after service of the document to which the answer is directed unless additional time is required pursuant to provisions of this section. Allegations contained in the initial pleading which are not specifically admitted by the party filing an answer are deemed denied. The answer shall contain, but not be limited to, the following:
- (1) A clear and concise statement identifying the party filing the answer and the matter to which the answer relates; and
  - (2) A clear and concise statement of all matters upon which the party filing the answer relies.
- (e) There shall be no replies other than an answer.

- (f) Leave to file amendments to any pleading may be allowed or denied; provided, however, leave to amend shall be freely given when justice requires it.
- (g) A party desiring to withdraw a pleading filed with the city or the hearing examiner shall file a motion for withdrawal. If any party has an objection thereto, he shall, within ten (10) days after the receipt of the motion, serve a statement on the hearing examiner setting forth the reasons for his objection and serve a copy of the same on each party. In the absence of objections or a request for a hearing, a motion of withdrawal shall, within ten (10) days after filing thereof, be deemed allowed. The hearing examiner shall then file an order of dismissal, with or without prejudice, to the party requesting the withdrawal within the sole discretion of the hearing examiner. With prejudice shall mean that the party receiving the dismissal shall not enter the proceedings as a party but can be called as a witness.
- (h) Where a party makes a reasonable showing that he cannot frame an answer to the initial pleading based upon the allegations as they appear in the initial pleading, he may, at any time prior to the time within which the answer must be filed, ask for a more definite statement of allegations. Such a motion shall identify the defects complained of or the details desired. The hearing examiner may grant or deny such motions as justice requires and a more definite statement shall be served within ten (10) calendar days of being notified that a more definite statement is required.
- (i) Service by the city of complaints, orders, decisions, pleadings, motions, processes and other documents shall be by personal delivery or by first-class mail. Service on the city or hearing examiner shall be by filing two (2) copies of the paper with the City of Washington, P.O. Box 1988, Washington, NC 27889. All papers, including but not limited to applications, notices, pleadings, petitions, motions, briefs, memoranda, and other documents, filed by any party with the city or the hearing examiner shall be served by personal delivery or first-class mail upon all parties to the proceedings. A certificate of service shall accompany all papers when filed by any party, including the city, and shall be filed within ten (10) days after service is made.
- (j) The hearing examiner may, on motion, at any time during the course of any proceeding, permit such substitutions of parties as justice or convenience may require.
- (k) In the discretion of the hearing examiner, any person not a party may be permitted to intervene in any action or proceeding. A person or party desiring to intervene shall file a motion which shall state therein the grounds for intervention. Any request for intervention may be granted if that request or motion meets the requirements previously outlined. A motion for leave to intervene or a request for intervention in hearing shall be filed prior to the commencement of the hearing or any prehearing conferences which may be conducted prior to the hearing. Any motion filed after that time shall contain, in addition to the information required above, a statement of good cause for the failure to file the motion prior to the commencement of the proceedings, and shall be granted only upon a finding that extraordinary circumstances justify the granting of agreements, arrangements and other manners previously made in the proceedings.
- (l) The hearing examiner shall observe the rules of evidence observed by the court with the exception that hearsay evidence may be admissible provided that it is deemed necessary to ascertain facts not reasonably susceptible of proof without such evidence and the hearsay evidence and the hearsay evidence is properly identified as such and is given appropriate consideration in reaching a determination, and shall observe rules of privilege recognized by law. The hearing examiner shall make rulings of admissibility, which shall be noted on the record. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All testimony shall be taken under oath and all parties shall have the right to cross-examination of the witnesses. The hearing examiner shall exclude hearsay evidence when such testimony would violate fundamental fairness.
- (m) Official notice may be taken of such matters as might be judicially noticed by the courts, and in addition, notice may be taken of general, technical, or scientific facts within the party's specialized knowledge; provided, that any party shall on timely request be afforded an opportunity to contest by oral argument the matters of which official notice is to be taken.
- (n) Formal exceptions to rulings on evidence and procedures are unnecessary. It is sufficient that a party, at a time that a ruling of the hearing examiner is made or sought, makes known to the hearing examiner the action which he desires taken or his objections to such actions, and his grounds for objection.
- (o) The hearing examiner and all other parties, through the hearing examiner, shall have the right to issue subpoenas requiring the attendance and testimony of witnesses and the production of any documents in question in the proceeding; provided, however, that where the issuance of such a subpoena is resisted or contested, the hearing examiner shall rule on the availability of the subpoena in that particular case.

- (p) A party may file a motion for the production or view of any object which relates to the subject matter of any proceeding then pending before the hearing examiner. The motion shall be granted where justice requires.
- (q) Any time during the course of the proceeding, the hearing examiner may order that testimony of a witness be taken by deposition. Application to take testimony by deposition shall be made by motion directed to the hearing examiner. Such motion shall set forth the reasons for desiring the deposition, the time when, the place where, and the name and address of each witness, and the subject matter concerning which each witness is expected to testify. The hearing examiner shall allow the motion only upon a showing that circumstances are such that the witness to be deposed cannot appear before the hearing examiner without substantial hardship being caused. If such hardship is financial in nature, any party may agree to reimburse the witness for expenses including loss of wages incurred by appearing; and in such cases, the motion to allow taking of a deposition shall therefore be denied. Motions for the taking of depositions shall not be allowed if the depositions result in any undue burden to another party or in any undue delay of the proceeding. If the motion is allowed, the hearing examiner shall give at least five (5) days' notice of the taking of the depositions to all parties. Depositions shall be taken orally before a person having power to administer oaths. Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions shall be in short form, stating the grounds of objections relied upon. The question asked the answers thereto, and all objections shall be reduced to writing, and certified by the officer before whom the deposition is taken. The officer shall forward the deposition to the hearing examiner. Subject to appropriate rulings on evidence, the testimony taken as deposition shall be included in the record of the hearings as if the testimony contained therein had been given by the witness in the presence of the hearing examiner. After notice is served for taking a deposition, upon motion, made prior to the date set for such taking by any party or by the person to be examined, the hearing examiner may, for good cause shown, order that the deposition shall not be taken; that certain matters shall not be inquired into; or that the scope of the examination shall be limited to certain matters. The hearing examiner may make any other order necessary to protect the party or witness from harassment or oppression.
- (r) The parties may, by stipulation in writing, file with the hearing examiner at any stage of the proceeding, or orally made at that hearing, agree upon any pertinent facts in the proceedings. Contested cases may be resolved by informal disposition through means of stipulation, agreed settlement, consent agreement (with or without a financial penalty), or default.
- (s) The hearing examiner, after all preliminary matters have been disposed of, shall notify all parties and interveners of the precise time, date, and place of the scheduled hearing. This notification shall be served at least no less than ten (10) days prior to the hearing on all parties and interveners, and there shall be public notice in all cases where there has not been a previous public notice during the permission granting process.
- (t) The hearing shall be conducted by the hearing examiner. All testimony given at the hearing shall be under oath. The moving or complaining party shall present his evidence or testimony first. After the evidence and testimony of the complaining or moving parties have been received, all other parties shall be allowed to present their evidence or testimony. The staff shall make its presentation last. All parties, other than the party introducing the testimony, shall be allowed to cross-examine any witness immediately after his testimony has been received and there shall be opportunity for all parties to reply. All parties, counsel, witnesses and other persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in the courts of the state. Where such decorum is not observed, the hearing examiner may take such action as he finds appropriate. The hearing examiner may cross-examine any witness and may make requests of any party with regard to the submission of additional information, records, exhibits, or photographs.
- (u) All proceedings in a pending case shall be recorded by sound or be officially reported by a stenographer appointed for that purpose. The oral proceedings or party thereof shall be transcribed upon request of any party. If there is no such request, the oral proceedings may be presented to the city in a summary form to accompany the determination of the hearing examiner.
- (v) A party shall have the right before the close of the hearing to argue orally, but the hearing examiner may impose reasonable limitations upon the length of such argument. The hearing examiner may in his discretion permit additional oral argument at any time after the close of the hearing and before the determination is made, provided all parties are given reasonable opportunity to be heard.
- (w) Briefs may be filed by a party or any interested persons before, during or after the course of a hearing, if served within ten (10) days of the last day of hearing, either on their own volition or upon request of the hearing examiner; except where requested by the hearing examiner. Except where requested by the hearing

examiner, failure to file a brief shall in no way prejudice the rights of any party. There shall be no right to file reply briefs; however, reply briefs may be authorized by the hearing examiner in extraordinary circumstances. Parties shall be allowed the opportunity to present to the hearing examiner proposed findings of facts and conclusions of law and proposed exceptions to allegations or testimony of another party or rulings of the hearing examiner.

- (x) Any party may at any time prior to the rendering of a determination by the hearing examiner move that the hearing be reopened for the purpose of receiving new evidence. In addition, the hearing examiner may, at any time prior to rendering his determination, reopen the hearing on his own motion. In the case of such reopening of the hearing, the parties shall be notified and the hearings shall not be convened less than ten (10) days after service of the notice.
- (y) On the basis of the evidence presented, the hearing examiner may issue the determination as an initial decision or may refer the record to the city without a written recommendation. If an initial decision is prepared it shall consist of a written statement to the city recommending affirmation, modification or denial of the administrative decision involved. The hearing examiner shall deliver by certified mail to the parties a copy of the transcript or summary of the record and the initial decision, including findings of fact and conclusions of law as well as the reasons for such recommendation in the matter.
- (z) After a determination is made by the hearing examiner, any party may apply to the city for a review of the determination of the hearing examiner prior to a final decision in the matter by the city. However, application must be submitted in writing within fifteen (15) days of receipt of the determination stating specifically the grounds of objection of such determination. The city may on its own motion take up the review of the determination of the hearing examiner at a regularly scheduled city meeting. On the basis of the completed record of proceeding and testimony and evidence presented before the hearing examiner, the determination shall be affirmed, modified or set aside by the city in a final decision on the matter. Briefs may be submitted to the city by all parties but are not required unless specifically requested by the city. All briefs shall be submitted to the city at least fifteen (15) days prior to the scheduled meeting with ten (10) separate copies. Briefs shall state specifically the grounds for affirmation, modification, or denial of the determination of the hearing examiner. Reply briefs shall be filed five (5) days before the city meeting. Oral arguments shall be limited in duration to not more than one (1) hour from each party in the hearing, including intervening parties. A full and complete record shall be kept of all proceedings and reported and transcribed by the city. A copy of the transcript may be requested by any interested party, who shall pay the costs of preparing such transcript. The city may require a reopening of the adjudicatory hearing before the hearing examiner for the taking of additional testimony upon all issues or a particular issue prior to its final decision on the determination of the hearing examiner. The city may make a decision upon the record presented by the hearing examiner alone, or the city may consider additional evidence during its consideration of the determination of the hearing examiner provided that there is proper opportunity for rebuttal by a party which is affected adversely by such additional evidence. When the time prescribed in these rules expires on Sunday or legal holiday, such time shall extend to, and include the next succeeding day that is not a Sunday or legal holiday. The city or the hearing examiner may grant reasonable extensions of time to meet the filing deadlines specified therein. Any party aggrieved by a final decision of the city may appeal such decision to the general court of justice in the county in which the city is located.



- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**Sec. 39-135 Prohibited Discharge Standards Defense**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 39-26(a) of this chapter or the specific prohibitions in sections 39-26(b)(2), (3), and (5-7) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**Sec. 39-136 Bypass**

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.
- (b)
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c)
  - (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
    - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- c. The user submitted notices as required under paragraph (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

**Reserve 39-137 -39-144**

**Division 10. Severability**

**Sec. 39-145 Severability**

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

**Reserve 39-146 -39-153**

**Division 11. Conflict**

**Sec. 39-154 Conflict**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

**Reserve 39-155 -39-162**

**Division 12. Effective Date**

**Sec. 39-163 Effective Date**

This chapter shall be in full force and effect from and after its passage, approval and publication, as provided by law.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 11<sup>th</sup> day of April, 2011.

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MAYOR

ATTEST:

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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:** April 1, 2011  
**Subject:** Award Contract for fiscal year 2010-2011  
**Applicant Presentation:** N/A  
**Staff Presentation:** N/A

**RECOMMENDATION:**

I move that City Council award the audit contract for fiscal year 2010-2011 to Martin Starnes and Associates, CPA, PA located in Hickory, NC at a cost of \$32,000.

**BACKGROUND AND FINDINGS:**

Last month, the Finance Department went out on bids for an independent auditor to perform the fiscal year 2010-2011 audit. Bids were received March 28, 2011, with 5 certified accounting firms submitting bids. The Request for Proposal stated that the City intended to continue the relationship with the auditor for 5 years on the basis of annual negotiation after the completion of the first year's audit. The RFP stated that all firms should submit two proposals. Required information in the first proposal was used to assess the firm's educational background, technical qualifications, experience, and audit approach. The top three candidates from the 5 proposals were chosen to have the second part of their proposal opened, which was the cost. As detailed in the attached spreadsheet, Martin Starnes & Associate, CPA, PA submitted the lowest price bid and is well qualified to perform the City's annual audit. Therefore, we are recommending that Council award the audit contract for fiscal year 2010-2011 to Martin Starnes, & Associates, CPA, PA in the amount of \$32,000.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

\_\_\_ Currently Budgeted \_\_\_ Requires additional appropriation \_\_\_X\_\_\_ No Fiscal Impact in FY 10/11 budget; will be paid out of FY 11/12 budget.

**SUPPORTING DOCUMENTS**

**City Attorney Review:** \_\_\_ Date By: \_\_\_ (if applicable)  
**Finance Dept Review:** \_\_\_ Date By: \_\_\_ (if applicable)  
**City Manager Review:**  Concur  Recommend Denial \_\_\_ No Recommendation  
 4/6/11 Date April 11, 2011  
 Page 174 of 204

**City of Washington  
FY 10/11 Audit Proposals  
April 1, 2011**

<u>Audit Firm</u>	<u>FY 10/11 Contract Price</u>	<u>FY 11/12 Est. Cost</u>	<u>FY 12/13 Est. Cost</u>	<u>FY 13/14 Est. Cost</u>	<u>FY 14/15 Est. Cost</u>
Martin Starnes & Associates, CPA, PA	\$ 32,000	\$ 33,000	\$ 33,000	\$ 34,000	\$ 34,000
Pittard, Perry, & Crone, Inc.	\$ 36,500	\$ 37,500	\$ 38,600	\$ 39,750	\$ 41,000
McGladrey, Inc.	\$ 35,600	\$ 37,250	\$ 37,500	\$ 37,750	\$ 38,000
Petway, Mills, & Pearson, PA	*	*	*	*	*
Thompson, Price, Scott, Adams & Co., PA	*	*	*	*	*

\* The cost section of the bid proposal was not opened.

CONTRACT TO AUDIT ACCOUNTS

of City of Washington, NC  
Governmental Unit

On this 1st day of April, 2011, Martin Starnes & Associates, CPAs, P.A.

Auditor

730 13th Avenue Drive SE, Hickory, NC 28602

Mailing Address

\_\_\_\_\_ , hereinafter referred to as  
the Auditor, and City of Council of City of Washington, NC, hereinafter referred  
Governing Board Governmental Unit  
to as the Governmental Unit, agree as follows:

1. The Auditor shall audit all statements and disclosures required by generally accepted accounting principles and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit for the period beginning July 1, 2010, and ending June 30, 2011. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion will be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate discretely presented component units, each major governmental and enterprise fund, and the aggregate remaining fund information (nonmajor government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with generally accepted auditing standards. The Auditor shall perform the audit in accordance with Government Auditing Standards if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Circular A-133 and the State Single Audit Implementation Act, the auditor shall perform a Single Audit. This audit and all associated workpapers may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the LGC. If the audit and/or workpapers are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners.
3. *This contract contemplates an unqualified opinion being rendered.* If financial statements are not prepared in accordance with generally accepted accounting principles (GAAP), or the statements fail to include all disclosures required by GAAP, explain that departure from GAAP in the space below:
4. *This contract contemplates an unqualified opinion being rendered.* The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. *Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.* The audit will have no scope limitations except:
5. If this audit engagement is subject to the standards for audit as defined in Government Auditing Standards, July 2007 revisions, issued by the Comptroller General of the United States, then the Auditor warrants by accepting this engagement that he has met the requirements for a peer review and continuing education as specified in Government Auditing Standards. The Auditor agrees to provide a **copy of their most recent peer review report regardless of the date of the prior peer review report** to the Governmental Unit and the Secretary of the Local Government Commission prior to the execution of the audit contract. (See Item 21.)
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the LGC by October 31, 2011. If it becomes necessary to amend the due date of the audit a written explanation of the delay must accompany the amended contract.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's system of internal control and accounting as same relates to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor will make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report must include all matters defined as "significant deficiencies and material weaknesses" in AU 325 of the AICPA Professional Standards. The Auditor shall file a copy of that report with the Secretary of the Local Government Commission.
8. All local government and public authority contracts for annual or special audits, bookkeeping or other assistance necessary to prepare the Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina require the approval of the Secretary of the Local Government Commission. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the Local Government Commission. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices should be submitted in **triplicate** to the Secretary of the Local Government Commission. The original and one copy will be

returned to the Auditor. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

- 9. In consideration of the satisfactory performance of the provisions of this agreement, the Governmental Unit shall pay to the Auditor, upon approval by the Secretary of the Local Government Commission, the following fee which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts:

**Year-end bookkeeping assistance – [For audits subject to Government Auditing Standards, this is limited to bookkeeping services permitted by revised Independence Standards]** Standard hourly rates ranging from \$75-\$250 per hour

**Audit** \$27,000

**Preparation of the annual financial statements** \$5,000

- 10. The auditor working with local governmental unit that has outstanding revenue bonds will include in the notes to the audited financial statements, whether or not required by the revenue bond documents, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the auditor should be aware that any other bond compliance statements or additional reports required in the authorizing bond documents need to be submitted to the LGC simultaneously with the local government's audited financial statements unless otherwise specified in the bond documents.
- 11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, at least, Management's Discussion and Analysis, the financial statements of the governmental unit and all of its component units and notes thereto prepared in accordance with generally accepted accounting principles, combining and supplementary information requested by the client or required for full disclosure under the law, and the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the accounting period.
- 12. **The Auditor shall file** with the Local Government Commission two BOUND copies of the report of audit. If reports are received unbound they will **not** be reviewed by the LGC and will be returned to the auditor for binding. In addition, if the North Carolina Office of the State Auditor designates certain programs to be audited as major programs, a turnaround document and a representation letter addressed to the State Auditor shall be submitted to the Local Government Commission. Two bound copies of the report of audit should be submitted if the audit is performed only under the provisions of the State Single Audit Implementation Act or a financial audit is required to be performed in accordance with Government Auditing Standards. Three bound copies of the audit are to be submitted for Councils of Governments. Two bound copies of the audit should be submitted for tax levying Municipalities. Otherwise, one bound copy shall be submitted. Units that operate a 911 fund need to provide an additional copy to the number stated above. Bound copies of the report shall be filed with the Local Government Commission when (or prior to) submitting the invoice for the services rendered. The report of audit, as filed with the Secretary of the Local Government Commission, becomes a matter of public record for inspection and review in the offices of the Secretary by any interested parties. Any subsequent revisions to these reports must be sent to the Secretary of the Local Government Commission. These audited financial statements are used in the preparation of Official Statements for debt offerings (the auditors' opinion is not included), by municipal bond rating services, to fulfill secondary market disclosure requirements of the Securities and Exchange Commission, and other lawful purposes of the government, without subsequent consent of the auditor. If it is determined by the LGC that corrections need to be made to the unit's financial statements they should be provided within three days of notification unless, another time frame is agreed to by the LGC.
- 13. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the Local Government Commission, this agreement may be varied or changed to include the increased time and/or compensation as may be agreed upon by the Governing Board and the Auditor.
- 14. If an approved contract needs to be varied or changed for any reason, the change must be made in writing, signed and dated by all parties and pre-audited if the change includes a change in audit fee. This document and a written explanation of the change must be submitted in triplicate to the Secretary of the Local Government Commission for approval. No change shall be effective unless approved by the Secretary of the Local Government Commission, the Governing Board, and the Auditor.
- 15. Whenever the Auditor uses an engagement letter with the client, Item 16 is to be completed by referencing the engagement letter and attaching a copy of the engagement letter to the contract to incorporate the engagement letter into the contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract will control. Engagement letter terms are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 22 of this contract. Engagement letters containing indemnification clauses will not be approved by the Local Government Commission.

Contract to Audit Accounts (cont.)

City of Washington, NC

(name of unit)

- 16. There are no special provisions except:
- 17. A separate contract should not be made for each division to be audited or report to be submitted. A separate contract must be executed for each component unit which is a local government and for which a separate audit report is issued.
- 18. The contract must be executed, pre-audited, signed by all parties and submitted in triplicate to the Secretary of the Local Government Commission. The mailing address is 325 North Salisbury Street, Raleigh, North Carolina 27603-1385. The physical address is 4505 Fair Meadow Lane, Suite 102, Raleigh, North Carolina 27607-6449.
- 19. The contract is a tri-party agreement and is not valid until it is approved by the Local Government Commission. Upon approval, the original contract will be returned to the Governmental Unit, a copy will be forwarded to the Auditor, and a copy retained by the Secretary of the Local Government Commission. The audit should not be started before the contract is approved.
- 20. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the Local Government Commission.
- 21. If this audit engagement is not subject to Government Auditing Standards, then Item 5 shall be listed as a deleted provision in Item 22. An explanation must be given for deleting this provision.
- 22. All of the above paragraphs are understood and shall apply to this agreement, except the following numbered paragraphs shall be deleted: (See Item 15.)

Firm Martin Starnes & Associates, CPAs, P.A.

By N. Archie Jennings, III, Mayor  
(Please type or print name and title)

By Bryan W. Starnes, CPA, ABV  
(Please type or print name)

  
(Signature of authorized audit firm representative)

\_\_\_\_\_  
(Signature of Mayor/Chairperson of governing board)

Date \_\_\_\_\_

Email Address: BStarnes@MartinStarnes.com

Email Address \_\_\_\_\_

Date April 1, 2011

By \_\_\_\_\_  
(Chair of Audit Committee- please type or print name)

\_\_\_\_\_  
(Signature of Audit Committee Chairperson)

Date \_\_\_\_\_  
(If unit has no audit committee, this section should be marked "N/A.")

Approved by the Secretary of the Local Government Commission as provided in Article 3, Chapter 159 of the General Statutes or Article 31, Part 3, Chapter 115C of the General Statutes.

\_\_\_\_\_  
For the Secretary, Local Government Commission

Email address \_\_\_\_\_

\_\_\_\_\_  
(Signature)

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Matt Rauschenbach, CFO/Assistant City Manager  
Governmental Unit Finance Officer (Please type or print name)

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Date \_\_\_\_\_

(Preaudit Certificate must be dated.)

Email address \_\_\_\_\_



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**Compiled By:** Rodman, Holscher, Francisco & Peck, P.A., City Attorneys  
**Date:** April 11, 2011  
**Subject:** Authorize Private Sale of Unimproved Real Properties on Keysville Road to Metropolitan Housing and Community Development Corporation, Inc. to Construct Single Family Homes for Low to Moderate Income Households Under CDBG Project #05-C-1490

**Applicant Presentation:** TBD

**RECOMMENDATION:**

I move that City Council authorize the Mayor to negotiate the private sale of the vacant, unimproved real properties described in the attached Exhibit "A" and to execute all documents necessary to convey title in said properties to Metropolitan Housing and Community Development Corporation, Inc., a non-profit corporation, to carry out the public purpose of constructing and conveying single family homes for low to moderate income families.

**BACKGROUND AND FINDINGS:**

In 2006, the City of Washington, in conjunction with Metropolitan Housing and Community Development Corporation, Inc. (Metropolitan), was awarded a \$250,000 Community Development Block Grant (CDBG, Housing Development Grant - 05-C-1490) through the N.C. Department of Commerce's Division of Community Assistance (DCA) to support Metropolitan, a non-profit corporation, in developing a new subdivision, Keys Landing. The subdivision will contain single family homes that Metropolitan will sell to low to moderate income households with assistance from grants from other funding sources. The CDBG grant included \$60,000 to reimburse the City for acquisition of the property to be conveyed to Metropolitan for the subdivision development. The remaining CDBG funds will be used for water, sewer and street installation.

On November 13, 2007, the City purchased property for the site of the future subdivision for the established just compensation of \$64,000 plus closing costs. A preliminary subdivision plat for 12 lots and common areas was approved by City Council on September 21, 2009. On October 12, 2009, City Council held a public hearing on its intent to annex a portion of the property. DCA recently reinstated this CDBG grant with a reduced scope and under certain conditions, which are now referred to collectively as Phase One.

North Carolina General Statute § 160A-279 authorizes a city to convey real property by private sale to a non-profit entity so long as the city is authorized by law to appropriate money to said non-profit entity and the property to be conveyed was not acquired by the exercise of eminent domain. NCGS § 160A-20.1 authorizes a city to contract with and appropriate money to any private entity to carry out any public purpose that the city is authorized to carry out, including community development programs and activities under NCGS § 160A-456. In order to dispose of property by private sale, NCGS § 160A-267 requires City Council, at a regular council meeting, to adopt a resolution or order authorizing an appropriate city official to dispose of the property by private sale at a negotiated price.

**PREVIOUS LEGISLATIVE ACTION**

March 20, 2006	Approve short term back up funding for Metropolitan Housing
October 9, 2006	Adopt grant project budget ordinance for FY 06-07
August 13, 2007	Adopt resolution establishing just compensation at \$64,000; adopt grant project budget ordinance amendment
February 11, 2008	Award engineering services contract; adopt project budget ordinance amendment
September 8, 2008	Progress report
April 27, 2009	Progress report

Agenda Date: April 11, 2011

- August 10, 2009      Authorize City Attorneys to commence condemnation proceedings if necessary to acquire sewer easements to serve Keys Landing Subdivision; accept revised preliminary subdivision plat for Keys Landing Subdivision for 15 lots
- September 21, 2009      Adopt resolution stating City's intent to annex the Keys Landing Subdivision; accept revised preliminary subdivision plat for Keys Landing Subdivision from 15 to 12 lots
- October 12, 2009      Conduct public hearing on proposed non-contiguous annexation of Keys Landing
- September 24, 2010      Update on status of Keysville Rd. affordable housing project
- March 14, 2011      Conduct Public Hearing on program amendment to the City's FY 05 CDBG Housing Development project at Keys Landing

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)     Requires additional appropriation     No Fiscal Impact

**SUPPORTING DOCUMENTS**

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**City Attorney Review:**      \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**Finance Dept Review:**      \_\_\_\_\_ Date By: \_\_\_\_\_ (if applicable)  
**City Manager Review:**      4/6/11 Date Concur \_\_\_\_\_ Recommend Denial \_\_\_\_\_ No Recommendation \_\_\_\_\_

**EXHIBIT A**

Lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 1 containing 9.885 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_. Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

Lying and being in Washington Township, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 2 containing 2.225 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_. Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

**RESOLUTION AUTHORIZING THE DISPOSITION  
OF CERTAIN REAL PROPERTIES BY PRIVATE SALE AND  
APPROVING THE CONVEYANCE OF SAID PROPERTIES PURSUANT TO  
NORTH CAROLINA GENERAL STATUTE § 160A-279 AND § 160A-267**

**WHEREAS**, the City recognizes the need to provide for the health, safety, and welfare of all of its citizens.

**WHEREAS**, the City participates in Community Development Block Grant housing programs in order to provide, among other things, decent, safe, and sanitary housing opportunities for its citizens.

**WHEREAS**, in 2006 the City was awarded a \$250,000 Community Development Block Grant Housing Development Grant (hereinafter referred to as "CDBG" and/or "grant") through the North Carolina Department of Commerce-Division of Community Assistance (hereinafter referred to as "DCA"), denominated FY05 CDBG # 05-C-1490, for the stated purpose of supporting Metropolitan Housing and Community Development Corporation, Inc. (hereinafter referred to as "Metropolitan") in the development of a new subdivision of single family homes for low to moderate income households on Keysville Road, to improve the quality of life for the City's residents.

**WHEREAS**, said grant reserved \$60,000.00 to reimburse the City for the acquisition of property on Keysville Road in partnership with a Community-Based Development Organization (hereinafter referred to as "CBDO"), with said property to serve as the site for the future subdivision contemplated by the grant.

**WHEREAS**, Metropolitan is the designated CBDO for the above referenced CDBG program and grant.

**WHEREAS**, on November 13, 2007, the City, under the terms of said CDBG program and grant, acquired the vacant, unimproved real property as more particularly described hereinbelow for the duly established just compensation of \$64,000.00, said conveyance being recorded in the Beaufort County Public Registry in Deed Book 1616, Page 620.

**WHEREAS**, North Carolina General Statute § 160A-279 authorizes a city to convey real property by private sale to a non-profit corporation if the city is authorized by law to appropriate money to said non-profit corporation and provided that said property to be conveyed was not acquired by the exercise of eminent domain.

**WHEREAS**, North Carolina General Statute § 160A-279 further requires a city to attach to any such conveyance covenants or conditions which assure that the property will be put to a public use by the recipient entity.

**WHEREAS**, North Carolina General Statute § 160A-20.1 authorizes a city to contract with and appropriate money to any private entity to carry out any purpose that a city is authorized to carry

out, and the City is authorized by North Carolina General Statute § 160A-456 to engage in community development programs and activities.

**WHEREAS**, Metropolitan is a non-profit corporation organized and operating under the laws of the State of North Carolina for the purpose of, among other things, promoting homeownership for low to moderate income households in the City and Beaufort County. Under the terms, provisions, conditions, and requirements of said grant and related agreements, Metropolitan will develop the property described herein as a subdivision, construct single family dwellings in the subdivision, and convey said single family dwellings to low to moderate income households.

**WHEREAS**, said property is surplus property of the City and its City Council desires to dispose of the same.

**WHEREAS**, the City Council is convened in a regular meeting.

**NOW, THEREFORE**, the City Council for the City of Washington resolves that:

1. The Mayor of the City is authorized to execute all documents necessary to convey title to the properties described in Exhibit A, which Exhibit A is attached hereto and incorporated herein by reference as if fully set forth, to Metropolitan under said CDBG grant.
2. The above described property is hereby declared to be surplus to the needs of the City.
3. The Mayor of the City is authorized to dispose of the above described property by private sale at a negotiated price.
4. Further consideration for the conveyance contemplated herein are the mutual promises, obligations, and considerations of the various agreements which relate to said CDBG grant, including but not limited to Metropolitan agreeing to put said property to a public use as that public use is defined by the Legally Binding Commitment City of Washington and Metropolitan Housing and Community Development Corporation, Inc. FY2005 CDBG Housing Development Program entered into as of March 15, 2011 by and between the City and Metropolitan.
5. The City Clerk shall publish a public notice summarizing the contents of this Resolution in accordance with North Carolina General Statute § 160A-267.
6. The sale contemplated hereunder may not be consummated earlier than ten (10) days from the date of said publication notice.

Adopted this 11<sup>th</sup> day of April, 2011.

---

N. ARCHIE JENNINGS, III, MAYOR  
CITY OF WASHINGTON



## **EXHIBIT A**

Lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 1 containing 9.885 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_. Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

Lying and being in Washington Township, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 2 containing 2.225 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_. Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

## PUBLIC NOTICE

The public will take notice that the City Council of the City of Washington desires to convey certain surplus real property of the City by private sale to a non-profit corporation to be put to public use by said non-profit, all consistent with N.C.G.S § 160A-279 and § 267, and that the following property has been declared surplus to the needs of the City:

Lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 1 containing 9.885 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_\_. Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

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The Mayor is authorized to dispose of the above described properties by private sale at a negotiated price.

This notice is published in accordance with N.C.G.S. § 160A-267.

The sale may not be consummated earlier than 10 days from the date of this publication.

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Cynthia S. Bennett  
City Clerk

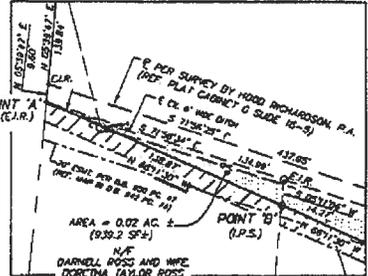
Publish: One (1) time on \_\_\_\_\_

H.C. 260 (MAP 85/201)

N/E  
DANIEL BRASS  
D.B. 1083 PG. 875  
PARCEL NO. 15002346

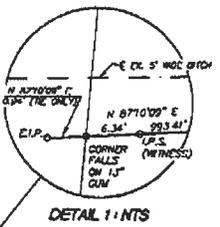
N/E  
KEYSTONE ROAD (N.C.S.R. 1506)  
(PUBLIC R/W WIDTH: 20' PAVED)

N/E  
DARNELL ROSS AND WIFE  
DORETHA TAYLOR ROSS  
D.B. 1083 PG. 831  
PARCEL NO. 15001152



**NOTES**

1. ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS.
2. AREA DETERMINED BY COORDINATES.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT REPORT. RIVERS AND ASSOCIATES DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THIS PROPERTY ARE SHOWN HEREON.
4. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD.
5. PORTIONS OF THIS PROPERTY ARE LOCATED IN A ZONE "AC" (AREA WITHIN THE 100 YEAR FLOODPLAIN) AS IDENTIFIED BY FEMA FLOOD INSURANCE RATE MAP 37205080001 PANEL 3636 J, EFFECTIVE MAY 13, 2003. ELEVATION = 11.2' TO 11.8' (NAVD 83).
6. THE LOCATION OF THE PROPERTY LINES ALONG CENTERLINE OF CANAL OR STREAMS ARE SUBJECT TO CHANGE DUE TO NATURAL RIPARIAN CAUSES. (SURVEY LINES ARE FOR REFERENCE ONLY.) NO POINTS SET IN THE CENTERLINE OF THE CANAL.
7. SUBJECT DEED DOES NOT CLOSE BY 37'.



**Legend**

PROPERTY LINE	R	PARCEL NUMBER	BARCEL NO.
CENTERLINE	E	MAP BOOK	M.P.
EXISTING IRON PIPE	E.I.P.	PAGE	PG.
IRON PIPE SET	I.P.S.	DEED BOOK	D.B.
NO POINT SET	N.P.S.	N.C. DEPARTMENT OF TRANSPORTATION	N.C.D.O.T.
NON OR FORMERLY	N/F	RIGHT OF WAY	R/W
UTILITY POLE	U.P.	EXISTING RIGHT OF WAY MONUMENT	E.R.W.M.
EXISTING IRON REBAR	E.I.R.	EASEMENT	ESMT.
TELEPHONE PEDestal	T.P.	OVERHEAD ELECTRIC	OHE

N/E  
WILLIAM F. SHEPPARD, INC.  
D.B. 1115 PG. 351  
(7TH PARCEL)  
PARCEL NO. 2003175

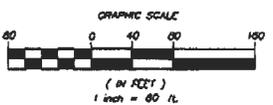
**PARCEL 1**  
AREA = 2.683 ACES  
(EXCLUDES GAP/OVERLAP)

CITY OF WASHINGTON  
D.B. 1616 PG. 620  
PARCEL NO. 02016250  
(AREA INSIDE GAP = 2.085 AC. ±  
AREA INSIDE OVERLAP = 0.14 AC. ±  
AREA OUTSIDE OVERLAP AND GAP = 3.865 AC. ±)

AC KEYS vs. JNO. H. KEYS & OTHERS SPECIAL  
PROCEEDING 2583 MAP DATED: 1927

**PARCEL 2**  
AREA = 2.225 ACES  
(INCLUDED GAP/OVERLAP)

N/E  
SCOTT ROSS ETAL  
D.B. 1044 PG. 886  
REF. MAP D.B. 635 PG. 201  
PARCEL NO. 02016250



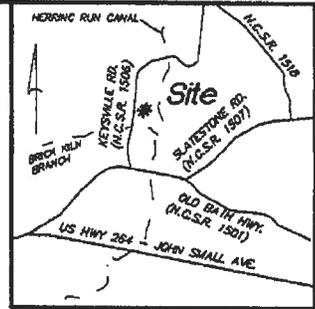
NORTH CAROLINA COUNTY OF BEAUFORT

I, A REVIEW OFFICER OF BEAUFORT COUNTY, N.C. CERTIFY THAT THE MAP OR PLAN TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

BY: \_\_\_\_\_  
REVIEW OFFICER  
DATE: \_\_\_\_\_

NORTH CAROLINA COUNTY OF BEAUFORT  
I, PATRICK W. HARTMAN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY PERFORMED ON AUGUST 27-SEPTEMBER 11, 2008. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROWN LINES PLOTTED FROM INFORMATION FOUND IN THE BOOKS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; I FURTHER CERTIFY PURSUANT TO G.S. 43-200(1)(b) 1. THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 3RD DAY OF MARCH, A.D. 2009.

PROFESSIONAL LAND SURVEYOR REGISTRATION NO. L-4262



**Vicinity Map**  
N.T.S.

**REFERENCE**

PARCEL NO. 02016250  
PLAT CABINET G SLIDE 16-5  
D.B. 1616 PG. 620  
D.B. 328 PG. 131  
SPECIAL PROCEEDING MAP 2583  
N.C.D.O.T. PROJECT 6132263

± = 0.000001 = DECIMALS OF AN INCH NOT A THERMIST REQUEST  
REVISION: ± = 0.000011 = DECIMALS PER INCH A THERMIST REQUEST

**PRELIMINARY FOR REVIEW ONLY**

**Rivers & Associates, Inc.**  
Engineers  
Planners  
Surveyors

107 East Second Street  
Greenville, NC 27602 252.702.4125

8121 Falls of Neuse Road, Suite 300  
Raleigh, NC 27606 (919) 948-3347

**BOUNDARY SURVEY**  
**ALICE G. BAILEY HEIRS TRACT**  
OWNER:  
**CITY OF WASHINGTON**

CITY OF WASHINGTON, WASHINGTON TOWNSHIP, BEAUFORT CO., NC

DATE	SCALE	DRAWING NO.	PROJECT NO.	SHEET
_____	1" = 80'	Z-2496	2008039	1 of 1
SURVEY	INC	DRAFT	PH	
DESIGN	CHECK	PRIN		

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

**STATE OF NORTH CAROLINA  
COUNTY OF BEAUFORT**

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina, Grantor, whose address is: 102 East 2<sup>nd</sup> Street, Washington, North Carolina 27889, to **METROPOLITAN HOUSING AND COMMUNITY DEVELOPMENT CORPORATION, INC.**, Grantee, whose address is: 102 West 4th Street, Washington, North Carolina 27889.

**W I T N E S S E T H**

Grantor, pursuant to North Carolina General Statute § 160A-279 and for and in consideration of the sum of One Dollar (\$1.00)

**THE GRANTORS HEREIN STATE THAT THE PROPERTY DESCRIBED IN THIS DEED IS \_\_\_\_\_  
OR IS NOT \_\_\_\_\_ THEIR PRINCIPAL RESIDENCE. (Please initial correct blank)**

**NO TITLE WORK REQUESTED OR PERFORMED BY  
RODMAN, HOLSCHER, FRANCISCO & PECK, P.A.**

and other valuable considerations to it paid by the Grantee, the receipt whereof and legal sufficiency of which is acknowledged, has given, granted, bargained, sold and does hereby convey unto the Grantee, **METROPOLITAN HOUSING AND COMMUNITY DEVELOPMENT CORPORATION, INC.**, its successors and assigns that certain tract or parcel of land lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING ALL OF Parcel 1 containing 9.885 acres as shown on that certain survey of Rivers & Associates, Inc. entitled "Boundary Survey Alice G. Bailey Heirs Tract Owner: City of Washington" recorded in the Beaufort County Registry in Plat Cabinet \_\_\_\_, Slide \_\_\_\_.

Reference is made to said survey and the same is incorporated herein for a more complete and adequate description.

TO HAVE AND TO HOLD the same, together with all and singular, the rights, ways, privileges and appurtenances thereunto belonging or in anywise appertaining unto the said Grantee, its successors and assigns, subject, however, to the following.

1. 2011 Beaufort County Ad Valorem taxes.
2. Such easements, rights-of-way and restrictions of record in the Beaufort County Registry.
3. Grantee shall subdivide the property described above into lots and, when each lot in the subdivision is conveyed, the Grantee herein shall, as grantor of each such conveyance, convey together with each lot an undivided interest in any common areas shown on the final plat for said subdivision. Said undivided

interest shall be equivalent to the pro-rata percentage of said lot to the total number of lots in said subdivision.

4. Grantee shall create, as well as participate in on a pro-rata basis until all lots are conveyed, a homeowners association consisting of all owners of lots in the subdivision in order to maintain any common areas shown on the final plat for said subdivision.

5. Grantee shall comply with the terms, provisions, conditions and requirements of the Legally Binding Commitment City of Washington and Metropolitan Housing and Community Development Corporation, Inc. FY2005 CDBG Housing Development Program (hereinafter referred to as "LBC") entered into as of March 15, 2011 by and between the City of Washington and Metropolitan Housing and Community Development Corporation, Inc., which LBC is incorporated herein by reference.

6. In accordance with North Carolina General Statute § 160A-279, Grantee shall put the property conveyed hereby to a public use as that public use is defined by said Statute and the LBC.

By acceptance and recordation of this conveyance and deed, Grantee agrees to be bound by and/or perform all of the provisions, conditions, and requirements contained herein.

Grantor covenants with the Grantee that it has done nothing to impair such title as said Grantor received, and it will warrant and defend the title against the lawful claims of all persons

STATE OF NORTH CAROLINA  
COUNTY OF BEAUFORT

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 April, 2011.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires:\_\_\_\_\_.

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

**STATE OF NORTH CAROLINA  
COUNTY OF BEAUFORT**

**NON-WARRANTY DEED**

THIS NON-WARRANTY DEED, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2011, by the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina, Grantor, whose address is: 102 East 2<sup>nd</sup> Street, Washington, North Carolina 27889, to **METROPOLITAN HOUSING AND COMMUNITY DEVELOPMENT CORPORATION, INC.**, Grantee, whose address is: 102 West 4th Street, Washington, North Carolina 27889.

**W I T N E S S E T H**

Grantor, pursuant to North Carolina General Statute § 160A-279 and for and in consideration of the sum of One Dollar (\$1.00)

**THE GRANTORS HEREIN STATE THAT THE PROPERTY DESCRIBED IN THIS DEED IS \_\_\_\_\_  
OR IS NOT \_\_\_\_\_ THEIR PRINCIPAL RESIDENCE. (Please initial correct blank)**

**NO TITLE WORK REQUESTED OR PERFORMED BY  
RODMAN, HOLSCHER, FRANCISCO & PECK, P.A.**

BY: \_\_\_\_\_ (Seal)  
**N. ARCHIE JENNINGS, III, Mayor**

ATTEST:

\_\_\_\_\_  
CYNTHIA S. BENNETT, City Clerk

STATE OF NORTH CAROLINA  
COUNTY OF BEAUFORT

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 April, 2011.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: \_\_\_\_\_.



City of Washington

**REQUEST FOR CITY COUNCIL ACTION**

**To:** Mayor Jennings & Members of the City Council  
**From:** Peter T. Connet, Interim City Manager  
**Date:** April 7, 2011  
**Subject:** Award of Negotiated Low bid for Infrastructure Improvements for Keysville Road Project (CDBG) and Approve related Project Budget Ordinance Amendment

**Applicant Presentation:** N/A  
**Staff Presentation:** Peter T. Connet, Interim City Manager

**RECOMMENDATION:**

I move that Council award the negotiated low bid for the infrastructure improvements to Burney \* Burney Construction, Inc. in the amount of \$189,936.87 contingent upon DCA/CI approval of the program amendment submitted on 3/14/11.

I move that Council adopt the attached Budget and Grant Project Ordinance Amendment to transfer \$70,000 from the Sewer fund to the Keysville Road Subdivision Grant Project to cover related improvements (Total budget \$320,000).

**BACKGROUND AND FINDINGS:**

Bids were received on May 11, 2010 for improvements to Phase 1 & 2 of the Keysville Road Project - DCA has only approved funds for Phase 1 at this time. Rivers & Associates have negotiated with the lower bidder and reduced the project scope to Phase 1 only. The negotiated bid is now \$189,936.87. Remaining funds available from the previous project budget are \$188,000. With the bid award and \$6500 in engineering fees associated with project inspections – Staff recommends adding \$10,000 to City share, for the Sewer Line Improvements to the original \$60,000 City share which was not previously appropriated.

**PREVIOUS LEGISLATIVE ACTION**

**FISCAL IMPACT**

Currently Budgeted (Account \_\_\_\_\_)  Requires additional appropriation  No Fiscal Impact

\$70,000 appropriation from Sewer fund

**SUPPORTING DOCUMENTS**

1. Letter from Rivers & Associates, Inc. recommending bid award to Burney & Burney Construction, Inc. for negotiated amount.
2. Original Bid Tab of May 11, 2010.

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

**AN ORDINANCE TO AMEND THE BUDGET & KEYSVILLE ROAD  
SUBDIVISION GRANT PROJECT 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 account number 32-90-6610-9279, Transfer to Waste Water Capital Fund Project, Miscellaneous Department portion of the Sewer Fund appropriations budget be increased in the amount of \$70,000 to provide for transfer of funds to the Keysville Road Subdivision Grant Project.

Section 2. That account number 32-90-9990-9900 Contingency, Contingency Department portion of the Sewer Fund appropriations budget be decreased in the amount of \$19,678.

Section 3. That the Estimated Revenues in the Sewer Fund be increased in the amount of \$50,332 in account 32-90-9991-9910 Fund Balance Appropriated.

Section 4. That the Estimated Revenues in the Keysville Rd. Subdivision Grant Project be increased in the amount of \$70,000 in account 51-60-3352-0000 Transfer from Sewer Fund.

Section 5. That the following accounts and amounts in the Keysville Road Subdivision Grant Project appropriation budget be increased:

Account	Description	Amount
51-60-4930-0400	Grant Administration	\$37,000
51-60-4930-4502	Sewer Improvements	30,000
51-60-9990-9900	Contingency	3,000

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 11<sup>th</sup> day of April, 2011.

---

**MAYOR**

**ATTEST:**

---

**CITY CLERK**

RECEIVED MAR 15 2011

March 14, 2010 <sup>2011 pTC</sup>

Mr. Peter T. Connet  
City of Washington  
102 E. Second Street  
PO Box 1988  
Washington, NC 27889

Subject: City of Washington  
Keys Landing Subdivision – Phase 1  
Street and Utility Improvements

Dear Mr. Connet:

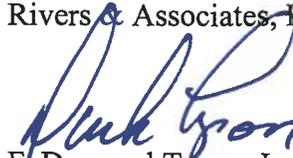
Proposals were received by the City of Washington for the subject project on May 11, 2010. The lowest responsive responsible bidder was Burney and Burney Construction, Inc. with a total bid of \$266,962.57 (Attachment A). Unfortunately, the project did not proceed due to lack of available funds.

As requested by the City, I have met with the low bidder on several occasions to identify measures to reduce the construction cost for Phase 1. By reducing the scope of several items and delaying the paving and sidewalks until Phase 2, we have reached a negotiated bid of \$189,936.87 (Attachment B).

Please note that the Contractor has requested to adjust his price for the fire hydrant assemblies to correct an error in his original bid. This adjustment does not change the order of the proposals received (Burney & Burney would still be the lowest bidder).

We recommend that the work be awarded to the low bidder as shown above. Please do not hesitate to call if you have any questions or need additional information.

With best regards,  
Rivers & Associates, Inc.

  
F. Durward Tyson, Jr., P.E.  
Project Manager

Attachments

Cc: John Rodman, Washington Planning & Development  
Reed Whitesell, Holland Consulting Planners, Inc.

April 11, 2011

ORIGINAL BID

4. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s):

STREET IMPROVEMENTS - KEYS LANDING PHASE I

Item No.	Est. Qty.	Description	Unit Price	Total
1	1	LS Mobilization and Bonding	\$ 625.00	\$ 625.00
2	4.0	AC Clearing & Grubbing	\$ 2,875.00	\$ 11,500.00
3	2,725	CY Unclassified Excavation - On Site Disposal	\$ 2.50	\$ 6,812.50
4	100	CY Undercut Excavation - Off Site Disposal	\$ 10.00	\$ 1,000.00
5	1,565	CY Off Site Select Borrow Excavation	\$ 15.00	\$ 23,475.00
6	100	LF 18" RCP	\$ 37.50	\$ 3,750.00
7	4	EA 18" FES	\$ 531.25	\$ 2,125.00*
8	1	LS Muck Out & Fill Existing Ditch	\$ 1,250.00	\$ 1,250.00
9	1	LS Dry Detention Pond	\$ 2,250.00	\$ 2,250.00
10	1,904	SY 6" C.A.B.C.	\$ 9.88	\$ 18,811.52
11	400	SY 8" C.A.B.C. (Gravel Turn Around)	\$ 13.81	\$ 5,524.00
12	402	SY 4" C.A.B.C. Under Curb	\$ 8.13	\$ 3,268.26
13	1,205	LF 30" Standard Curb & Gutter	\$ 15.63	\$ 18,834.15
14	541	LF 5' Concrete Sidewalk	\$ 18.44	\$ 9,976.04
15	1	EA H/C Ramp w/ Detectable Warning Device	\$ 562.50	\$ 562.50
16	1,904	SY 2" B.C.S.C. (S-9.5B)	\$ 17.50	\$ 33,320.00
17	1	EA Construction Entrance	\$ 2,500.00	\$ 2,500.00
18	1	EA Gravel Arc Filter	\$ 250.00	\$ 250.00
19	525	LF Silt Fence	\$ 2.38	\$ 1,249.50
20	71	TN Class B Rip Rap w/ Fabric	\$ 37.50	\$ 2,662.50
21	50	TN Incidental Stone	\$ 37.50	\$ 1,875.00
22	3.6	AC Seeding & Mulching	\$ 1,500.00	\$ 5,400.00
23	1,250	SY Turf Reinforcement Matting	\$ 3.44	\$ 4,300.00
24	1	LS Soil Testing Allowance	\$ 2,000.00	\$ 2,000.00
25	1	LS Construction Staking Allowance	\$ 10,200.00	\$ 10,200.00
SUBTOTAL - STREET IMPROVEMENTS				\$ 173,520.97*
Monthly Average Terminal F.O.B. Selling Price (Based upon April, 2010)				\$ 509.29 / TN

\*Indicates Corrected Figure

## NEGOTIATED BID

4. BIDDER will complete the Work in accordance with the Contract Documents for the following price(s):

STREET IMPROVEMENTS - KEYS LANDING PHASE I

Item No.	Est. Qty.	Description	Unit Price	Total
1	1	LS Mobilization and Bonding	\$ 625.00	\$ 625.00
2	2.0	AC Clearing & Grubbing	\$ 2,875.00	\$ 5,750.00
3	0	CY Unclassified Excavation - On Site Disposal	\$ 2.50	\$ 0.00
4	0	CY Undercut Excavation - Off Site Disposal	\$ 10.00	\$ 0.00
5	0	CY Off Site Select Borrow Excavation	\$ 15.00	\$ 0.00
6	100	LF 18" RCP	\$ 37.50	\$ 3,750.00
7	4	EA 18" FES	\$ 531.25	\$ 2,125.00
8	1	LS Muck Out & Fill Existing Ditch	\$ 1,250.00	\$ 1,250.00
9	1	LS Dry Detention Pond	\$ 2,250.00	\$ 2,250.00
10	1,904	SY 6" C.A.B.C.	\$ 11.95	\$ 22,752.80
11	400	SY 6" C.A.B.C. (Gravel Turn Around)	\$ 11.95	\$ 4,780.00
12	402	SY 4" C.A.B.C. Under Curb	\$ 8.69	\$ 3,493.38
13	1,205	LF 30" Standard Curb & Gutter	\$ 15.63	\$ 18,834.15
14	0	LF 5' Concrete Sidewalk	\$ 18.44	\$ 0.00
15	0	EA H/C Ramp w/ Detectable Warning Device	\$ 562.50	\$ 0.00
16	0	SY 2" B.C.S.C. (S-9.5B)	\$ 17.50	\$ 0.00
17	1	EA Construction Entrance	\$ 2,500.00	\$ 2,500.00
18	1	EA Gravel Arc Filter	\$ 250.00	\$ 250.00
19	525	LF Silt Fence	\$ 2.38	\$ 1,249.50
20	71	TN Class B Rip Rap w/ Fabric	\$ 37.50	\$ 2,662.50
21	0	TN Incidental Stone	\$ 37.50	\$ 0.00
22	1.8	AC Seeding & Mulching	\$ 1,500.00	\$ 2,700.00
23	1,250	SY Turf Reinforcement Matting	\$ 3.44	\$ 4,300.00
24	1	LS Soil Testing Allowance	\$ 1,000.00	\$ 1,000.00
25	1	LS Construction Staking Allowance	\$ 8,000.00	\$ 8,000.00
SUBTOTAL - STREET IMPROVEMENTS				\$ 88,272.33

*Revised figures are in italic*

**NEGOTIATED BID**

**WATER IMPROVEMENTS - KEYS LANDING PHASE I**

Item No.	Est. Qty.	Description	Unit Price	Total
1	1 EA	12" x 6" TT&V	\$ 3,575.00	\$ 3,575.00
2	50 LF	12" Steel Encasement Pipe (J&B)	\$ 100.00	\$ 5,000.00
3	597 LF	6" PVC Water Main	\$ 13.75	\$ 8,208.75
4	80 LF	6" DIP Water Main	\$ 30.00	\$ 2,400.00
5	2 EA	Fire Hydrant Assembly	\$ 4,153.00	\$ 8,306.00
6	1 EA	6" Gate Valve & Box	\$ 812.50	\$ 812.50
7	4 EA	1" Water Service w/ Meter Box	\$ 812.50	\$ 3,250.00
8	5 EA	6" 11.25° Bend	\$ 181.25	\$ 906.25
9	2 EA	6" 90° Bend	\$ 181.25	\$ 362.50
10	1 EA	6" Plug	\$ 93.75	\$ 93.75

**SUBTOTAL - WATER IMPROVEMENTS** **\$ 32,914.75**

**SANITARY SEWER IMPROVEMENTS - KEYS LANDING PHASE I**

Item No.	Est. Qty.	Description	Unit Price	Total
1	1,066 LF	8" PVC Sanitary Sewer (0-6)	\$ 22.94	\$ 24,454.04
2	193 LF	8" DIP Sanitary Sewer (0-6)	\$ 42.50	\$ 8,202.50
3	167 LF	8" DIP Sanitary Sewer (Aerial)	\$ 16.25	\$ 2,713.75
4	6 EA	4' Manhole (0-6)	\$ 1,875.00	\$ 11,250.00
5	4 EA	4" Service on Main	\$ 400.00	\$ 1,600.00
6	1 EA	Tie Into Existing Manhole	\$ 1,875.00	\$ 1,875.00
7	150 LF	Driven Timber Pile Bent	\$ 91.03	\$ 13,654.50
8	20 LF	Driven Timber Pile Bent Quantity Adjustment	\$ 62.50	\$ 1,250.00
9	100 TN	Stabilization Stone	\$ 37.50	\$ 3,750.00

**SUBTOTAL - SANITARY SEWER IMPROVEMENTS** **\$ 68,749.79**

**TOTAL - STREET AND UTILITY IMPROVEMENTS** **\$ 189,936.87**

*Revised figures are in italic*

# RIVERS AND ASSOCIATES, INC. BID TABULATION SHEET

OWNER: City of Washington  
 PROJECT: Keys Landing Subdivision-Phase 1  
 LOCATION: Municipal Building, Mayor's Conference Room  
 BIDS OPENED: Tuesday, May 11, 2010 @ 2:00 PM

CONTRACTOR ADDRESS		Hine Stewark, Inc. P.O. Box 1275 Goldsboro, NC 27533 52225 / 5%	Barnhill Contracting Company P.O. Box 399 Kinston, NC 28502 3194 / 5%	T.A. Loving Company P.O. Box 919 Goldsboro, NC 27533 325 / 5%			
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
<b>WATER IMPROVEMENTS-KEYS LANDING PHASE 1</b>							
1.	1 EA 12" X 6" TT&V	\$3,632.00	\$3,632.00	\$3,430.00	\$3,430.00	\$3,000.00	\$3,000.00
2.	50 LF 12" Steel Encasement Pipe (J&B)	\$111.60	\$5,580.00	\$131.20	\$6,560.00	\$170.00	\$8,500.00
3.	597 LF 6" PVC Water Main	\$19.29	\$11,518.13	\$11.30	\$6,746.10	\$15.00	\$8,955.00
4.	80 LF 6" DIP Water Main	\$29.46	\$2,356.80	\$22.50	\$1,800.00	\$25.00	\$2,000.00
5.	2 EA Fire Hydrant Assembly	\$4,097.00	\$8,194.00	\$3,230.00	\$6,460.00	\$3,000.00	\$6,000.00
6.	1 EA 6" Gate Valve & Box	\$1,112.00	\$1,112.00	\$875.00	\$875.00	\$800.00	\$800.00
7.	4 EA 1" Water Service w/Meter Bx	\$896.00	\$3,584.00	\$640.00	\$2,560.00	\$650.00	\$2,600.00
8.	5 EA 6" 11.25" Bend	\$267.00	\$1,335.00	\$185.00	\$925.00	\$150.00	\$750.00
9.	2 EA 6" 90° Bend	\$314.00	\$628.00	\$265.00	\$530.00	\$200.00	\$400.00
10.	1 EA 6" Plug	\$178.00	\$178.00	\$130.00	\$130.00	\$100.00	\$100.00
<b>SUBTOTAL - WATER IMPROVEMENTS</b>			\$38,115.93		\$30,016.10 *		\$33,105.00
<b>SANITARY SEWER IMPROVEMENTS-KEYS LANDING PHASE 1</b>							
1.	1,068 LF 8" PVC Sanitary Sewer (0-6)	\$31.27	\$33,333.82	\$36.00	\$38,376.00	\$35.00	\$37,310.00
2.	193 LF 8" DIP Sanitary Sewer (0-6)	\$47.81	\$9,188.73	\$51.50	\$11,869.50	\$55.00	\$10,615.00
3.	167 LF 8" DIP Sanitary Sewer (Aerial)	\$73.80	\$12,324.60	\$118.00	\$19,706.00	\$85.00	\$14,195.00
4.	6 EA 4" Manhole (0-6)	\$1,732.00	\$10,392.00	\$1,535.00	\$9,210.00	\$2,500.00	\$15,000.00
5.	4 EA 4" Service on Main	\$1,516.00	\$6,064.00	\$590.00	\$2,360.00	\$800.00	\$3,200.00
6.	1 EA Tie Into Existing Manhole	\$1,200.00	\$1,200.00	\$4,720.00	\$4,720.00	\$1,500.00	\$1,500.00
7.	150 LF Driven Timber Pile Bent	\$75.47	\$11,320.50	\$160.00	\$24,000.00	\$200.00	\$30,000.00
8.	20 LF Driven Timber Pile Bent Quantity Adjustment	\$51.00	\$1,020.00	\$77.00	\$1,540.00	\$200.00	\$4,000.00
9.	\$44.00	\$4,400.00	\$28.70	\$2,870.00	\$30.00	\$3,000.00	
<b>SUBTOTAL - SANITARY SEWER IMPROVEMENTS</b>			\$89,243.65		\$114,651.50		\$118,820.00
<b>TOTAL - STREET AND UTILITY IMPROVEMENTS</b>			\$332,772.16		\$343,907.25 *		\$347,897.50
Total Value of Minority Business Contracting (MB-1)			\$254,036.96		\$3,640.00		\$37,000.00
Listing of Good Faith Efforts (MB-2)			58 Points		55 Points		70 Points
Intent to Perform Contract with own Workforce (MB-3)			N/A		N/A		N/A

MAY-13-2010 THU 11:26 AM RIVERS ASSOCIATES INC FAX NO. 2527523974 P. 04/04

**RIVERS AND ASSOCIATES, INC.**  
**BID TABULATION SHEET**

OWNER: City of Washington  
 PROJECT: Keys Landing Subdivision-Phase 1  
 LOCATION: Municipal Building, Mayor's Conference Room  
 BIDS OPENED: Tuesday, May 11, 2010 @ 2:00 PM

CONTRACTOR ADDRESS		Hina Sitework, Inc. P.O. Box 1275 Goldston, NC 27533 \$2225 / 5%	Bamhill Contracting Company P.O. Box 388 Kinston, NC 28502 \$194 / 5%	T.A. Loving Company P.O. Box #19 Goldston, NC 27533 \$25 / 5%				
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	
<b>STREET IMPROVEMENTS-KEYS LANDING PHASE 1</b>								
1.	1 LS	Mobilization and Bonding	\$7,600.00	\$7,600.00	\$2,400.00	\$2,400.00	\$5,700.00	\$5,700.00
2.	4.0 AC	Clearing & Grubbing	\$7,400.00	\$29,600.00	\$6,400.00	\$25,600.00	\$5,000.00	\$20,000.00
3.	2,725 CY	Unclassified Excavation - On Site Disposal	\$5.00	\$13,625.00	\$6.00	\$16,350.00	\$7.00	\$19,075.00
4.	100 CY	Undercut Excavation - Off Site Disposal	\$15.00	\$1,500.00	\$13.65	\$1,365.00	\$5.50	\$550.00
5.	1,565 CY	Off Site Select Borrow Excavation	\$15.00	\$23,475.00	\$12.00	\$18,780.00	\$10.50	\$16,432.50
6.	100 LF	18" RCP	\$34.70	\$3,470.00	\$40.00	\$4,000.00	\$30.00	\$3,000.00
7.	4 EA	18" FE5	\$918.00	\$3,672.00	\$600.00	\$2,400.00	\$550.00	\$2,200.00
8.	1 LS	Muck Out & Fill Existing Ditch	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00
9.	1 LS	Dry Detention Pond	\$13,536.00	\$13,536.00	\$6,575.00	\$6,575.00	\$5,800.00	\$5,800.00
10.	1,904 SY	6" C.A.B.C.	\$8.35	\$15,898.40	\$10.60	\$20,182.40	\$10.00	\$19,040.00
11.	400 SY	8" C.A.B.C. (Gravel Turn Around)	\$11.13	\$4,452.00	\$13.00	\$5,200.00	\$12.00	\$4,800.00
12.	402 SY	4" C.A.B.C. Under Curb	\$6.30	\$2,532.60	\$7.80	\$3,135.60	\$7.00	\$2,814.00
13.	1,205 LF	30" Standard Curb & Gutter	\$15.89	\$19,147.45	\$13.40	\$16,147.00	\$18.00	\$21,690.00
14.	541 LF	5' Concrete Sidewalk	\$16.95	\$9,169.95	\$22.00	\$11,902.00	\$10.00	\$5,410.00
15.	1 EA	H/C Ramp w/Detectable Warning Device	\$800.00	\$800.00	\$985.00	\$985.00	\$1,000.00	\$1,000.00
16.	1,904 SY	2" B.C.S.C. (S-9.5B)	\$14.17	\$26,879.68	\$13.00	\$24,752.00	\$14.00	\$26,656.00
17.	1 EA	Construction Entrance	\$1,000.00	\$1,000.00	\$1,565.00	\$1,565.00	\$3,000.00	\$3,000.00
18.	1 EA	Gravel Arc Filter	\$500.00	\$500.00	\$2,180.00	\$2,180.00	\$400.00	\$400.00
19.	525 LF	Silt Fence	\$2.50	\$1,312.50	\$3.25	\$1,706.25	\$4.00	\$2,100.00
20.	71 TN	Class B Rip Rap w/Fabric	\$57.00	\$4,047.00	\$69.40	\$4,927.40	\$75.00	\$5,325.00
21.	50 TN	Incidental Stone	\$34.00	\$1,700.00	\$36.00	\$1,800.00	\$40.00	\$2,000.00
22.	3.6 AC	Seeding & Mulching	\$1,200.00	\$4,320.00	\$1,585.00	\$5,706.00	\$2,300.00	\$8,280.00
23.	1,250 SY	Turf Reinforcement Matting	\$1.50	\$1,875.00	\$6.90	\$7,375.00	\$6.00	\$7,500.00
23.	1 LS	Soil Testing Allowance	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
24.	1 LS	Construction Staking Allowance	\$10,200.00	\$10,200.00	\$10,200.00	\$10,200.00	\$10,200.00	\$10,200.00
<b>SUBTOTAL - STREET IMPROVEMENTS</b>			<b>\$205,412.58</b>		<b>\$198,239.55</b>		<b>\$195,972.50</b>	

Quantity Average Terminal P.O.B. Selling Price: \$279/231TN  
 (Paved up to April, 2010)  
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MAY-13-2010 THU 11:25 AM RIVERS ASSOCIATES INC FAX NO. 2527523974 P. 03/04

# RIVERS AND ASSOCIATES, INC. BID TABULATION SHEET

OWNER: City of Washington  
 PROJECT: Keys Landing Subdivision-Phase 1  
 LOCATION: Municipal Building, Mayor's Conference Room  
 BIDS OPENED: Tuesday, May 11, 2010 @ 2:00 PM

CONTRACTOR ADDRESS		Burney & Burney Construction P.O. Box 340 Greenville, NC 27835 LIC# BID BOND 30238 / 5%		Lanier Construction Co., Inc. 1505 Browntown Road Snow Hill, NC 28580 18152 / 5%		B.E. Singleton & Sons, Inc. 920 West Third Street Washington, NC 27889 8226 / Not Submitted		Roberson Contracting, Inc. 1294 Greenville Avenue Williamston, NC 27892 50737 / 5%	
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
<b>WATER IMPROVEMENTS-KEYS LANDING PHASE 1</b>									
1.	1 EA 12" X 6" TT&V.	\$3,575.00	\$3,575.00	\$3,200.00	\$3,200.00	\$3,300.00	\$3,300.00	\$2,800.00	\$2,800.00
2.	50 LF 12" Steel Encasement Pipe (J&B)	\$100.00	\$5,000.00	\$95.00	\$4,750.00	\$125.00	\$6,250.00	\$99.00	\$4,950.00
3.	597 LF 6" PVC Water Main	\$13.75	\$8,208.75	\$12.75	\$7,611.75	\$10.50	\$6,268.50	\$17.28	\$10,318.16
4.	80 LF 6" DIP Water Main	\$30.00	\$2,400.00	\$28.00	\$2,240.00	\$26.25	\$2,100.00	\$32.00	\$2,560.00
5.	2 EA Fire Hydrant Assembly	\$41.53	\$83.06	\$3,825.00	\$7,650.00	\$4,725.00	\$9,450.00	\$2,935.26	\$5,870.52
6.	1 EA 6" Gate Valve & Box	\$812.50	\$812.50	\$715.00	\$715.00	\$630.00	\$630.00	\$865.88	\$865.88
7.	4 EA 1" Water Service w/Meter Box	\$812.50	\$3,250.00	\$2,700.00	\$10,800.00	\$682.00	\$2,728.00	\$697.26	\$2,789.04
8.	5 EA 6" 11.25" Bend	\$181.25	\$906.25	\$800.00	\$4,000.00	\$210.00	\$1,050.00	\$88.28	\$441.40
9.	2 EA 6" 90" Bend	\$181.25	\$362.50	\$320.00	\$640.00	\$210.00	\$420.00	\$101.02	\$202.04
10.	1 EA 6" Plug	\$93.75	\$93.75	\$83.00	\$83.00	\$105.00	\$105.00	\$50.78	\$50.78
<b>SUBTOTAL - WATER IMPROVEMENTS</b>			<b>\$24,691.81</b>	<b>\$41,689.75</b>	<b>\$32,301.50</b>	<b>\$30,845.82</b>			
<b>SANITARY SEWER IMPROVEMENTS-KEYS LANDING PHASE 1</b>									
1.	1,066 LF 8" PVC Sanitary Sewer (D-6)	\$22.94	\$24,454.04	\$25.00	\$26,650.00	\$28.00	\$30,914.00	\$32.00	\$34,112.00
2.	193 LF 8" DIP Sanitary Sewer (D-6)	\$42.50	\$8,202.50	\$42.00	\$8,106.00	\$40.00	\$7,720.00	\$49.00	\$9,457.00
3.	167 LF 8" DIP Sanitary Sewer (Aerial)	\$16.25	\$2,713.75	\$30.00	\$5,010.00	\$26.00	\$4,342.00	\$49.00	\$8,183.00
4.	6 EA 4' Manhole (D-6)	\$1,875.00	\$11,250.00	\$1,800.00	\$10,800.00	\$2,310.00	\$13,860.00	\$1,950.00	\$11,700.00
5.	4 EA 4" Service on Main	\$400.00	\$1,600.00	\$400.00	\$1,600.00	\$800.00	\$3,200.00	\$675.00	\$2,700.00
6.	1 EA Tie Into Existing Manhole	\$1,875.00	\$1,875.00	\$1,725.00	\$1,725.00	\$2,700.00	\$2,700.00	\$1,800.00	\$1,800.00
7.	150 LF Driven Timber Pile Bent	\$91.03	\$13,654.50	\$85.00	\$12,750.00	\$142.00	\$21,300.00	\$160.00	\$24,000.00
8.	20 LF Driven Timber Pile Bent Quantity Adjustment	\$62.50	\$1,250.00	\$60.00	\$1,200.00	\$120.00	\$2,400.00	\$160.00	\$3,200.00
9.	100 TN Stabilization Stone	\$37.50	\$3,750.00	\$30.00	\$3,000.00	\$36.00	\$3,600.00	\$38.00	\$3,800.00
<b>SUBTOTAL - SANITARY SEWER IMPROVEMENTS</b>			<b>\$68,749.79</b>	<b>\$70,841.00</b>	<b>\$90,036.00</b>	<b>\$98,952.00</b>			
<b>TOTAL - STREET AND UTILITY IMPROVEMENTS</b>			<b>\$266,962.57</b>	<b>\$276,824.35</b>	<b>\$298,279.80</b>	<b>\$322,297.30</b>			
Total Value of Minority Business Contracting (MB-1)		\$ Not Provided		\$135,000.00		\$29,827.98		\$32,229.73	
Listing of Good Faith Efforts (MB-2)		55 Points		55 Points		70 Points		80 Points	
Intent to Perform Contract with own Workforce (MB-3)		N/A		N/A		N/A		N/A	

**RIVERS AND ASSOCIATES, INC.**  
**BID TABULATION SHEET**

CERTIFICATION

I CERTIFY THAT THIS IS A TRUE RECORD OF BIDS RECEIVED.

*[Handwritten Signature]* 5/13/10



OWNER: City of Washington  
 PROJECT: Keys Landing Subdivision Phase 1  
 LOCATION: Municipal Building, Mayor's Conference Room  
 BIDS OPENED: Tuesday, May 11, 2010 @ 2:00 PM

CONTRACTOR ADDRESS		Burney & Burney Construction, Inc. P.O. Box 340 Greenville, NC 27835 30238 / 5%	Lanier Construction Co., Inc. 1505 Briarwood Road Snow Hill, NC 28580 18152 / 5%	B.E. Singleton & Sons, Inc. 920 West Third Street Washington, NC 27889 8226 / Not Submitted	Roberson Contracting, Inc. 1294 Greenville Avenue Williamston, NC 27892 50737 / 5%
ITEM NO.	QTY. UNIT DESCRIPTION	UNIT PRICE COST	UNIT PRICE COST	UNIT PRICE COST	UNIT PRICE COST
<b>STREET IMPROVEMENTS-KEYS LANDING PHASE 1</b>					
1.	1 LS Mobilization and Bonding	\$625.00 \$625.00	\$8,063.00 \$8,063.00	\$3,280.00 \$3,280.00	\$9,100.00 \$9,100.00
2.	4.0 AC Clearing & Grubbing	\$2,875.00 \$11,500.00	\$2,550.00 \$10,200.00	\$6,000.00 \$24,000.00	\$6,000.00 \$24,000.00
3.	2,725 CY Unclassified Excavation - On Site Disposal	\$2.50 \$6,812.50	\$2.25 \$6,131.25	\$6.00 \$16,350.00	\$5.00 \$13,625.00
4.	100 CY Undercut Excavation - Off Site Disposal	\$10.00 \$1,000.00	\$8.80 \$880.00	\$6.00 \$600.00	\$10.00 \$1,000.00
5.	1,565 CY Off Site Select Borrow Excavation	\$15.00 \$23,475.00	\$13.25 \$20,736.25	\$9.00 \$14,085.00	\$14.65 \$22,927.25
6.	100 LF 18" RCP	\$37.50 \$3,750.00	\$33.00 \$3,300.00	\$20.00 \$2,000.00	\$27.00 \$2,700.00
7.	4 EA 18" FES	\$531.25 \$2,125.00	\$467.50 \$1,870.00	\$500.00 \$2,000.00	\$650.00 \$2,600.00
8.	1 LS Muck Out & Fill Existing Ditch	\$1,250.00 \$1,250.00	\$1,100.00 \$1,100.00	\$800.00 \$800.00	\$6,800.00 \$6,800.00
9.	1 LS Dry Detention Pond	\$2,250.00 \$2,250.00	\$5,500.00 \$5,500.00	\$5,000.00 \$5,000.00	\$5,350.00 \$5,350.00
10.	1,904 SY 6" C.A.B.C.	\$9.88 \$18,811.52	\$8.70 \$16,564.80	\$7.60 \$14,470.40	\$7.47 \$14,222.88
11.	400 SY 8" C.A.B.C. (Gravel Turn Around)	\$13.81 \$5,524.00	\$12.15 \$4,860.00	\$10.15 \$4,060.00	\$9.93 \$3,972.00
12.	402 SY 4" C.A.B.C. Under Curb	\$8.13 \$3,268.26	\$7.15 \$2,874.30	\$5.10 \$2,050.20	\$5.47 \$2,198.94
13.	1,205 LF 30" Standard Curb & Gutter	\$15.63 \$18,834.15	\$13.75 \$16,568.75	\$14.00 \$16,870.00	\$15.18 \$18,291.90
14.	541 LF 5' Concrete Sidewalk	\$18.44 \$9,976.04	\$15.00 \$8,115.00	\$23.10 \$12,497.10	\$15.15 \$8,196.15
15.	1 EA H/C Ramp w/Detectable Warning Device	\$562.50 \$562.50	\$495.00 \$495.00	\$1,050.00 \$1,050.00	\$525.00 \$525.00
16.	1,904 SY 2" B.C.S.C. (S-9.5B)	\$17.50 \$33,320.00	\$14.75 \$28,084.00	\$13.65 \$25,989.60	\$12.09 \$23,019.36
17.	1 EA Construction Entrance	\$2,500.00 \$2,500.00	\$2,200.00 \$2,200.00	\$1,800.00 \$1,800.00	\$2,000.00 \$2,000.00
18.	1 EA Gravel Arc Filter	\$250.00 \$250.00	\$250.00 \$250.00	\$1,000.00 \$1,000.00	\$300.00 \$300.00
19.	525 LF Sit Fence	\$2.38 \$1,249.50	\$2.25 \$1,181.25	\$5.00 \$2,625.00	\$2.00 \$1,050.00
20.	71 TN Class B Rip Rap w/Fabric	\$37.50 \$2,662.50	\$33.00 \$2,343.00	\$35.00 \$2,485.00	\$56.00 \$3,976.00
21.	50 TN Incidental Stone	\$37.50 \$1,875.00	\$33.00 \$1,650.00	\$35.00 \$1,750.00	\$21.50 \$1,075.00
22.	3.6 AC Seeding & Mulching	\$1,500.00 \$5,400.00	\$1,320.00 \$4,752.00	\$1,800.00 \$6,480.00	\$1,700.00 \$6,120.00
23.	1,250 SY Turf Reinforcement Matting	\$3.44 \$4,300.00	\$3.50 \$4,375.00	\$2.00 \$2,500.00	\$5.80 \$7,250.00
23.	1 LS Soil Testing Allowance	\$2,000.00 \$2,000.00	\$2,000.00 \$2,000.00	\$2,000.00 \$2,000.00	\$2,000.00 \$2,000.00
24.	1 LS Construction Staking Allowance	\$10,200.00 \$10,200.00	\$10,200.00 \$10,200.00	\$10,200.00 \$10,200.00	\$10,200.00 \$10,200.00
<b>SUBTOTAL - STREET IMPROVEMENTS</b>		<b>\$173,520.97</b>	<b>\$164,293.60</b>	<b>\$175,942.30</b>	<b>\$192,499.48</b>

Monthly Average Terminal F.O.B. Selling Prices (\$50.29/TN)  
 (Revised upon April, 2010)  
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MAY-13-2010 THU 11:25 AM RIVERS ASSOCIATES INC FAX NO. 2527523974 P. 01/04

## KEYSVILLE ROAD PROJECT BUDGET

### REVENUES

CDBG	\$ 250,000.00	
CITY	\$ 70,000.00	ADD 10,000 FROM SEWER TO ORIGINAL 60,000
TOTAL	<u>\$ 320,000.00</u>	

### EXPENSES

LAND PURCHASE	\$ 64,000.00
INFRASTRUCTURE IMP.	\$ 190,000.00
ADMIN, LEGAL, ENG,	\$ 57,000.00
CONTINGENCY	\$ 9,000.00
	<u>\$ 320,000.00</u>