



SEPTEMBER 12, 2011
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from August 8 & August 22, 2011 **(page 5)**

Approval/Amendments to Agenda

Presentation: Certificate of Achievement for Excellence in Financial Reporting
Electric Department Lineman Career Development

I. Consent Agenda:

- A. Allow – Boy Scouts of America request to camp on city-owned property near Warren Field **(page 29)**
- B. Adopt – Project Budget Ordinance for the Talent Enhancement Grant Opportunity \$50,000 **(page 32)**
- C. Adopt – Budget Ordinance Amendment to appropriate funds for the Brooks Boatworks tax incentive \$6,709 **(page36)**
- D. Adopt – Budget Ordinance Amendment for E911 Surcharge Fund for Washington Police Department to use for public safety needs approved by the E911 Board and remaining funds transferred to the County (\$43,535) **(page 38)**
- E. Accept & Adopt – 2011 Edward Byrne Memorial Justice Assistance Grant-(\$11,252) **and** Adopt Budget Ordinance Amendment **(pg 41)**
- F. Authorize – City Manager to sign the Memorandum of Understanding that sets forth the points of agreement between the Department of Homeland Security and the City of Washington (E-Verify Program) **(page 43)**
- G. Authorize – City Manager to reclassify the Data Systems Specialist, salary grade 19, to Technology Administrator, salary grade 23 effective July 1, 2011 (Classification & Pay Grade Change) **(pg 57)**
- H. Authorize – Mr. Alvin Powell use of Warren Field Airport on September 28 & September 29, 2011 for a Transportation Career program **(page 58)**



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- I. Approve – Amendment to Employment Agreement by and between Joshua L. Kay and the City of Washington (**page 62**)
- J. Adopt – Resolution Opening Brown Street between Park Drive and East Fourth Street (**page 74**)
- K. Approve – Purchase Orders >\$20,000 (**page 77**)
- II. Comments from the Public:
- III. Public Hearing on Zoning: **6:00 PM**
 - A. None
- IV. Public Hearing – Other:
 - A. Accept – Certificate of Convenience and Necessity for Jeffery Roberson D/B/A Roberson Cab Service (RCS) (**page 80**)
- V. Scheduled Public Appearances:
 - A. Mr. Harry Wilkinson – Installation of outlets at or behind the Bobby Andrews Center
 - B. Ms. Linda Witchell – Alternate Power Source – Backup Generator
 - C. Ms. Monica Ferrari & Ms. Nancy O’Neill – Allow Feeding of Birds and Animals (**page 90**)
- VI. Correspondence and Special Reports:
 - A. Memo – Jack’s Creek Greenway Project Update (**page 95**)
 - B. Memo – Civic Center Decking (**page 96**)
- VII. Reports from Boards, Commissions and Committees:
 - A. Human Relations Council (**page 97**)
 - B. Financial Reports (**emailed as available**)



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VIII. Appointments:

A. None

IX. Old Business:

A. Award – Contract for Labor and Equipment and allow the Manager to execute contract, and issue Notice to Proceed to Turning Point Renovations and Repairs, Inc. – Lighting Retrofit Project Impressions Building (\$9,992.50) **(page 99)**

B. Award – Contract for Labor and Equipment for the installation of direct gas fired heating units and allow Manager to execute the contract, and issue the Notice to Proceed Impressions Building **(page 117)**

C. Adopt – Budget Ordinance 2010-2011 Projects not completed that were budgeted in 2010-11 **(page 134)**

D. Adopt – Budget Ordinance Amendment for Outstanding Purchase Orders from FY 10/11 (\$912,158) **(page 137)**

E. Adopt & Approve – Resolution Authorizing a public notice to solicit offers to purchase certain surplus real property of the City of Washington **and** approve said public notice (Disposition of property at 507 West Second Street) **(page 146)**

X. New Business:

A. Authorize – City Manager to Execute Engineering Agreement with Summit Consulting for the Brown Street Bridge Replacement Project (\$78,731.13) **(page 151)**

B. Approve – Purchase of Backhoe through General Services Administration (GSA) Contract (\$89,312.14) **(page 165)**

XI. Any Other Items From City Manager:

A. None –



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- XII. Any Other Business from the Mayor or Other Members of Council
- A. None –
- XIII. Closed Session – Under § NCGS 143-318.11(a)(6) Personnel and NCGS § 143-318.11(a)(3) Attorney Client Privilege
- XIV. Adjourn – Until September 26, 2011 at 5:30 pm, in the Council Chambers at the Municipal Building.

The Washington City Council met in a regular session on Monday, August 8, 2011 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Bobby Roberson, Mayor Pro tem; Josh Kay, City Manager; Cynthia Bennett, City Clerk and Franz Holscher, City Attorney.

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

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

INTRODUCTION AND APPRECIATION

Mayor Jennings introduced the new City Manager, Josh Kay and thanked Chief Financial Officer, Matt Rauschenbach for his month of service as Acting City Manager.

APPROVAL OF MINUTES

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the minutes of July 18, 2011 as submitted.

APPROVAL/AMENDMENTS TO AGENDA

Councilman Mercer suggested the following amendments to the agenda:

1. Move from Consent Item C. to Old Business: Adopt – Main Street II Grant Project Amendment
2. Move from Consent Item E. to New Business as I.: Operational Agreements with the Beaufort County Board of Education to provide School Resource Officers (SRO) for Washington High School and P.S. Jones Middle School for the school year 2011-2012

City Manager, Josh Kay requested the following amendments to the agenda:

1. Remove Item B. from Old Business: Authorize- City Manager to implement the Classification and Pay Grade changes for the positions in the Information Technology and Police departments as recommended by the MAPS Group
2. Correction Item C. under New Business – instead of “Award a Contract for Engineering” it should read “Adopt – Budget Ordinance Amendment for the Brown Street Bridge”
3. Correction Item D. under New Business – the Electric number will change from \$19,308 to \$13,073

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

PRESENTATION: EVELYNE ROBERSON, SIX YEARS AS CHAIR PERSON FOR THE WASHINGTON/BEAUFORT COUNTY HUMAN RELATIONS COUNCIL

Mayor Jennings recognized and commended Ms. Evleyne Roberson for her tireless service and outstanding leadership as chairwoman over the last six years. Mayor Jennings stated “I can say, having been brought in for several (HRC) projects, that this is probably the most active, prolific and progressive era of the Human Relations Council.”

Ms. Roberson said that although she is stepping aside as the HRC chair, she intends to see that HRC’s inaugural Multi-Cultural Festival event scheduled in October is successful. The planning “started on my watch” and I intend to “see it to completion.”

CONSENT AGENDA

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

A. Declare – Surplus/Authorize Electronic Auction of Vehicles through GovDeals

Vehicle Number	Make/Model Description	Serial Number	Odometer Reading
#138	2003 Ford Crown Vic	2FAFP7IW23X1 10786	126,255
#123	1993 Ford Ranger XL	1FTCR1OU8PUB199O1	111,767
#416	1997 Ford F150 Pick Up	1FTDF1768VNC38768	159,734
#160	2005 Ford Crown Vic	2FAHP71WO5X1 00995	89,417
#8006	72” John Deer Mower	CH3010D103069	3342 hrs

B. Authorize – Notice of Residual Petroleum for 131 Bridge Street
(copy attached)

C. Moved to Old Business – Item D - Adopt Main Street II Grant Project Amendment

D. Accept – Governor’s Crime Commission Grant and Adopt a Budget Ordinance Amendment (\$9,409.69)
(copy attached)

E. Moved to New Business – Item I – Accept Operational Agreements with the Beaufort County Board of Education to provide School Resource Officers (SRO) for Washington High School and P.S. Jones Middle School for the school year 2011-2012

F. Approve – Purchase Orders >\$20,000

- Requisition #9853, Williams Fire Sprinkler System, mc, \$26,794, fire sprinkler system

improvements at Impressions included in the building improvement project. Account 56-60-4930-4500.

- Requisition #9910, Utility Service Co., \$40,613, water tank maintenance contract. Account 30-90-8140-4500.

COMMENTS FROM THE PUBLIC:

No public comments at this time.

SCHEDULED PUBLIC APPEARANCES:

No scheduled public appearances.

MEMO – THE GRACE MARTIN HARWELL SENIOR CENTER PARTNERS, INC’S:

(Begin memo): In January 2011, the Grace Martin Harwell Senior Center Partners, Inc. received its 501 C 3 status. As a result, we have been actively searching for new funding avenues and partnerships in the community.

On Friday, July 15, the Grace Martin Harwell Senior Center Partners, Inc’s application was accepted by the Beaufort County United Way and we became a United Way Partner, eligible for funding in 2012.

We are not only pleased with the funding, but look forward to partnering with Beaufort County United Way. (end memo)

MEMO – JACK’S CREEK GREENWAY PROJECT (\$98,966):

(Begin memo): In January 2009 the City of Washington applied to the NCDENR National Recreational Trails Program Grant for funding of the construction of a Greenway along the south side of Jack’s Creek between Bonner Street to Brown Street. We received notification of approval from NCDENR on October 1, 2009 and the City Council authorized a contract with NCDENR on November 9, 2009 for the construction of this Jack’s Creek Greenway to be a partial connection in the Connectivity Plan for Downtown Washington and the City of Washington’s Park System.

The Project Fund is as follows:

\$ 74,206 -- State of North Carolina
18,570 -- City – Cash Match
6,190 -- In-Kind Match
<hr/>
\$ 98,966 -- Total Project

Now let me bring you up to date with this project:

In **August of 2010** the Parks & Recreation Department started to assemble our forces to lay out our initial points to lead up to the construction of the greenway. One of our points was to have a meeting with the local NCDENR Office to talk about this area and the regulatory requirements by the local NCDENR office. We called NCDENR and arranged a meeting on October 21, 2010 @ 2 pm at the NCDENR Office, this meeting with their interagency members of DWQ, DWQ-401, and Land Quality for the purpose of providing us with environmental regulatory guidance and direction for their proposed project. Our City Team was made up of Mr. Joe Taylor, Chairman of the WRAC, Mr. Mike Apple, City

of Washington Public Works Storm Water Technician, Mr. Russell Waters, future greenway site surveyor, Ms. Teresa Hamilton, Rec. Office Mgr. and myself as our spokesman.

At that meeting we learned of the City's Storm Water improvements and a part of that plan, to enlarge Jack's Creek Banks for more water retention. We left that meeting knowing that the proposed Greenway Trail was "off the table" because the 50' Storm Water limited restrictive line and the City of Washington's Storm Water requirements are more restrictive.

In another meeting with NCDENR dated January 25, 2011, they again informed us that the bank stabilization of Jack's Creek was included in the initial engineering for Jack's Creek is off the table. The NCDENR Office told me that in order for us to have this Greenway plan evaluated by the NCDENR Office, we would need to have a letter from the City's engineering firm saying that the bank stabilization project was out of the contract. It was April 2011 before we could get a letter written by the City's engineering firm to allow us to move on this Greenway Project.

In May 2011 we started the process again in talking with contractors, finding availability of materials and equipment, price of asphalt because of the cost of oil and the availability of department staff because of cutting grass/maintaining parks, the fall soccer, fall softball and baseball programs on schedule. Our Department Team again met with NCDENR Office on July 21, 2011, to talk about the Jack's Creek Project. Adam Waters were at this meeting. He advised that Public Works will review the City of Washington's Storm Water Plan to see if this project can qualify for action.

The reason for this memo is to alert Council of the fact that this Greenway Project has to be totally in place by November 15, 2011. I have contacted the Office of the State Trails Program Grants Manager, NC State Parks and Recreation Division of NCDENR. In talking with Mr. Newman-Brooks, they do not extend project in the NC National Recreational Trails Program. Again, we are under a very tight time table for the completion of the Greenway Trail along Jack's Creek by November 15, 2011. (end memo)

Councilman Mercer voiced several comments concerning this project: one being that we are in early August and receive this memo that states if we don't have this accomplish by November 15, we will lose our funding. Councilman Mercer felt there should have been more communication between staff and Council.

Mayor Pro tem Roberson inquired as to what would happen if we don't meet the November 15, 2011 deadline since we are in the middle of a contract. Mr. Kay stated the November deadline will be met.

REPORT – HUMAN RELATIONS COUNCIL

Scheduled Public Appearances: Robbie Rose, Fire Chief

Chief Rose addressed the Board concerning minorities in the Fire Department. Chief Rose distributed a pamphlet highlighting the requirements in becoming a Fire Fighter with the Washington Fire Department.

- Career Readiness Certificate
- Physical Agility Testing
- Oral Interview

- Chief's Interview
- Offers of Employment
- Eligibility List
- Eligibility Requirements
- Desirable Certifications

Chief Rose stated that out of thirty three (33) firefighters there are only two (2) minorities with one of those (female) being the Administrative Assistant. Also, he mentioned that Fire fighting and the EMT business have become more complex as time goes on and noted they received 2200 EMS calls last year alone.

Scheduled Public Appearances: April Corbett, PNS/Dream Camp Coordinator

Ms. Corbett advised the next National Night Out had been scheduled for August 2, 2011. The event will be held at Beebe Memorial Park from 4-8 pm

Update – Multicultural Festival:

- Distributing sponsorship letters
- Clarification concerning City permits

Discussion - Fair Housing Forum Participation

Latino Passport Project Discussion

Discuss – All reminders

REPORT – FINANCIAL REPORTS:

Councilman Mercer expressed concerns that Council has had over the last several months. He also commented that in reviewing the numbers in the monthly updates in the General Fund appears the income has fallen at least a million or more dollars below the projected budgeted number. The revenues and the general fund are in the order of \$1.6 million short of projections. If monies come in at 100%, it still appears we will be \$1.0 million below our revenues projections for the year. Councilman Mercer stated this is the 5th year running this has occurred and we cannot continue to operate our systems if we are going to spend more than we are making. Mayor Jennings stated it is critical we get the math right and requested Mr. Rauschenbach speak to this issue.

Chief Financial Officer, Matt Rauschenbach voiced as Councilman Mercer had mentioned, these are preliminary financials that came out in July and we are \$1.4 million short at that point. Mr. Rauschenbach addressed the time line in receiving funds and stated we are still receiving funds (sales tax revenue, utilities franchise tax, etc.). He is expecting approximately \$800,000 when receiving those funds. Mr. Rauschenbach noted there was some large projects budgeted and quoted examples of those projects. He stated “taking a look at that snapshot revenue did fall short of expenditures of about \$1.4 million” but once the sales tax revenue and the utilities franchise tax comes in the deficit will be knocked down to approximately \$600,000. There will be other adjustments to come in but concurs that the deficit will be somewhere around \$600,000-\$1.0 million.

Mayor Pro tem Roberson voiced we have to take the necessary steps to round up the numbers on our projections. Mayor Pro tem Roberson stated he would prefer to have a conservative number than get into May or June and say we have \$100,000.

APPOINTMENTS:

Mayor Jennings recommended Judith Hickson to be appointed to the Historic Preservation Commission.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council unanimously appointed Judith Hickson to the Historic Preservation Commission to fill the expired term of Chris Collier, term to expire June 30, 2014.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council unanimously appointed Sandra Albritton to the Human Relations Council, to fill the expired term of Rick Gagliano, term to expire June 30, 2014.

ACCEPT & ADOPT – ACCEPT THE RECOMMENDATION OF THE PLANNING BOARD AND ADOPT THE ORDINANCE TO AMEND CHAPTER 20, ARTICLE 1, SECTION 20-17 GRAFFITI

Planning Director, John Rodman stated with the help of the City Attorney, the Planning Board recommends City Council approve the Graffiti Ordinance.

By motion of Councilman Moultrie, seconded by Mayor Pro tem Roberson, Council unanimously accepted the recommendation of the Planning Board **and** adopted the Ordinance to amend Chapter 20, Article 1, of the City Code by adding Sec. 20-17 Graffiti as provided.

(copy attached)

UPDATE – POLICE SAFETY FACILITIES

City Manager, Josh Kay explained the letter received from USDA concerning the application for a loan following discussion with staff. Mr. Kay, unfortunately, recommends we decline and withdraw the loan application for \$1 million.

The difficulty is meeting the August 31st deadline. Mr. Kay feels this is a very worthwhile project and request Council continue to allow staff to look into this project and come back in the future with a recommendation.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously agreed to support the recommendation made by City Manager, Josh Kay and point out in the letter to USDA the City is unable to meet the time constraints.

Councilman Pitt suggested when the City resumes the project; it does not have to start at the beginning and noted the work already completed in connection with the project should be revamped. Mayor Jennings said that was a good point. Mayor Jennings stated “we do have some design work we can always utilize and hopefully we will get a chance to do so.” Mayor Jennings reiterated the important message from Mr. Kay is their desire and the Council’s encouragement to move forward, looking for creative solutions to address this pressing need.

Mayor, City Council, and staff agreed to seek additional funding for the project and look at alternatives that would allow the City to build the new police station. It was clear they were not abandoning the project, emphasizing it would be one of Mr. Kay's top priorities.

Councilman Moultrie stated he felt we wasted dollars on studies if we knew we weren't serious moving forward.

City Attorney, Franz Holscher asked to clarify the motion to include withdrawing land release from FAA for site modifications.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously agreed to authorize the City Attorney to withdraw request from the FAA for the site modifications that had been requested for the Airport.

Mayor Pro tem Roberson voiced it is important to include the City Manager in that review.

Councilman Pitt suggested we still continue to work on the Vision 100 grant funds and Mayor Jennings stated this was a separate issue of funding.

ENDORSE & APPROVE – COMMUNITY BRANDING PROJECT

Tourism Director, Lynn Lewis introduced Mr. Bill Roberts with Eye Integrated Communications and stated about six months ago; discussion arose concerning cities having their own branding community. Ms. Lewis explained the process and noted a committee of community partners (WTDA, WHDA, the City, and WBC Chambers) has been working to determine the best next step in development of a comprehensive community "brand". After consideration of several companies, the committee has selected the services of Eye Integrated Communications (Greenville, NC) to conduct the research needed for brand development and to facilitate the process. Eye Integrated Communications is presently the agency responsible for the WTDA's marketing/advertising campaign.

The committee has identified the appropriate vendor and identified the community stakeholders involved in the one day workshop. Ms. Lewis noted this will be a very public process, where stakeholder input is highly valued (ranging from age 17-75 or older). Once the brand has been determined, the implementation process will begin. There will be several community input sessions regarding branding. All partners (WTDA, WHDA, the City, and WBC Chambers) are being asked to invest \$2,000 in the project.

Mayor Jennings inquired as to the time line. Mr. Roberts voiced it will depend on how fast input is received, maybe a week from workshop they can come back to Council with a recommendation. Input from the community should take approximately another week or two. Mayor Jennings asked by the end of calendar year and Mr. Roberts noted this would not be an issue. Mayor Jennings stated Ms. Lewis had mentioned this is the group that is currently engaged in providing marketing services and would assume we are not going into this project with a blank canvas but to go in with an open mind without any preconceived ideas. Mr. Robert stated the key thing about branding is that Eye Integrated Communication does not create the brand – stakeholders will create they brand, Eye Integrated Communications will facilitate.

Mayor Pro tem Roberson requested Mr. Roberts touch on the narrative branding. Mr. Roberts stated it is basically storytelling. People love to hear stories and can relate to stories.

Councilman Pitt inquired how the public will be involved in getting to know what branding is. Ms. Lewis stated this will be the second phase and will be different for each organization. TDA will be the marketing arm of Washington and will incorporate the brand into new marketing material, ad campaigns, letterhead, business cards, etc. Ms. Lewis cited several examples of avenues beside advertising and marketing.

Councilman Mercer commented we were once “Little Washington” or the “Original Washington” for as long as he can remember and then 4-5 years ago we became “Washington on the Pamlico” and following that we became the “Heart of the InnerBanks.” Councilman Mercer suggested if we are to adopt an establish branding we need to stay with it and not continue changing every few years. Mayor Jennings suggested this is one of the reasons we are trying to get a universal brand established.

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council unanimously endorsed the proposed Community Branding Project in partnership with the Washington Tourism Development Authority, Washington Harbor District Alliance, and the Washington-Beaufort County Chamber of Commerce.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council unanimously appropriated \$2,000 along with the other organizations toward funding of the Community Branding Project.

(copy attached)

APPROVE – ORDINANCE AMENDMENT CHAPTER 18, SECTION 77: STOP INTERSECTIONS AND SECTION 78: YIELD INTERSECTIONS

Public Works Director, Allen Lewis noted this action was in receipt of a request to change the yield condition at the intersection of Summit Avenue and 13th Street to a stop condition. Currently, when approaching the intersection from the east or west on 13th Street, there are yield signs.

The written request came from several residents in the area to change the yield signs to stop signs. The attached ordinance amendment will implement a stop condition for traffic on 13th Street at Summit Avenue. A copy of the letter from Ms. Jane de Vos who lives at 1211 Summit Avenue is attached.

(begin letter) I am writing to ask for you help in addressing a traffic safety issue in my neighborhood. Specifically, I am deeply concerned about a hazardous intersection at the corners of Summit Avenue and W. Thirteenth St.

There are currently yield signs on this corner for cars traveling in either direction on W. Thirteenth St. To lessen the chances of serious collisions(s) at this corner, I respectfully request that the yield signs on W. Thirteenth Street be changed to stop signs.

total \$820,000 or we should have a carry-over from the prior years. Looking at the carry-overs from Brown Street Bridge there was \$424,757 as encumbered money and \$148,000 which had been spent. Mr. Kay provided him with information that stated we had actually spent approximately \$38,000 in the prior year. This brought us up to the \$820,000. The \$600,000 project that was approved last year (a portion of which was reimbursed last year) and the \$220,000 addressed by this Council. The other portion will be brought before Council in the next meeting and will equal the total of the \$820,000 (full reconciliation will be presented at that time).

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council unanimously adopted a budget ordinance amendment to re-allocate funds for the Brown Street Bridge replacement project in the amount of \$220,000 with the understanding that the line item be correct.

(copy attached)

AWARD – MAIN STREET ENERGY FUND CONTRACT FOR LABOR, MATERIAL AND EQUIPMENT AND ALLOW THE MANAGER TO ISSUE THE NOTICE TO PROCEED TO AIR CARE FOR \$72,207 AND CONTOUR ELECTRIC FOR \$13,073 AND THE MAIN STREET PROJECT AMENDMENT

Planning Director, John Rodman stated this is the Main Street Energy Fund project and explained that initially they started out with seven businesses with three businesses remaining. The project was bid and came in at \$85,280. Of the \$85,280 the amount of \$72,207 is to Air Care to cover the HVAC and \$13,073 for Contour Electric for the electrical work.

In addressing the amendment Mr. Rodman stated originally the seven businesses had filled out applications to participate in these funds. With that being the case, we did energy audits, cost estimates for all seven businesses. The original contracted amount estimated was \$71,538 and that was the grant award. According to the State funds the City has to match those grant award. The budget was set up for those grant funds. This will bring the total budget to \$143,076.

Councilman Mercer requested clarification on the following: The original grant that was submitted to the State was for seven facilities. What was the total amount of the grant for the seven facilities? Mr. Rodman stated the total amount of the grant was \$71,538 and the total cost with the City matching those funds for the businesses was \$71,538 total funds \$143,076. Mr. Kay informed Council they will be sending approximately \$15,898 back to the State because they could not find a business.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council unanimously approved awarding the contract to Air Care in the amount of \$72,207 for the Main Street Energy Fund for labor, material and equipment.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council unanimously approved awarding the contract for Contour Electric in the amount of \$13,073 for the Main Street Energy Fund for electrical work.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council unanimously adopted the Main Street Project Amendment.

(copy attached)

ACCEPT – NC DOT BICYCLE/PEDESTRIAL GRANT, AUTHORIZE MAYOR TO SIGN AGREEMENT WITH NC DOT (\$28,000), ADOPT BUDGET ORDINANCE AMENDMENT (\$7,000 – CITY MATCH) AND ADOPT GRANT PROJECT BUDGET ORDINANCE.

By motion of Councilman Davis, seconded by Councilman Pitt, Council unanimously authorized the Mayor to sign an agreement with NCDOT (\$28,000 NCDOT share) **and** Adopt Budget Ordinance Amendment to appropriate the \$7,000 (City share) **and** Adopt the Grant Project Budget Ordinance for the Comprehensive Bicycle Plan Grant. Council adopted all three phrases.

(copies attached)

APPROVE AND SUPPORT – APPLICATION BY WASHINGTON FIRE DEPARTMENT FOR THE 2011 FEMA ASSISTANCE TO FIREFIGHTERS GRANT

Chief Rose explained they received the notification today that the grant will open up on August 15, 2011 and run through September 9, 2011. Chief Rose stated this grant will allow them to replace two vehicles with this single apparatus. The grant request amount would be \$600,000, and if awarded would provide 95% Federal funding - \$570,000, and our match of 5% - \$30,000.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council unanimously approved and supported an application by Washington Fire Department for the 2011 FEMA Assistance to Firefighters Grant.

Mayor Pro tem Roberson and Councilman Mercer commended Chief Rose on providing this information.

ADOPT – DECLARATION OF OFFICIAL INTENT TO REIMBURSE

Chief Financial Official, Matt Rauschenbach explained that this declaration will allow Council to reimburse itself for commitments made prior to the financing being conducted.

Chief Rose addressed the EMS truck, power stretcher and Mr. Hardt addressed the engineering for the White Post transformer project.

Mayor Pro tem Roberson asked when the White Post transformer project would be completed. Mr. Hardt advised it would be completed this fiscal year.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council unanimously adopted a Declaration of Official Intent to Reimburse for Fiscal Year 2011/2012 installment purchase expenditures incurred prior to the issuance of debt.

(copy attached)

APPROVE – PURCHASE OF EMS TRUCK & POWER STRETCHER

Chief Rose explained this action item. Installment purchases are budgeted for financing in April 2012. Delay in purchase of the EMS truck until the spring of 2012 will result in an estimated price increase of \$5,000 and will also delay replacement until July of 2012 creating maintenance cost issues related to replacement justification of the vehicle. The Power Stretcher has been bundle in with the purchase of the EMS truck.

Councilman Mercer commended Chief Rose once again and requested staff to start looking at the list to see if there is something on the list that can be purchased now instead of delaying until May or June. Mayor Pro tem Roberson stated he felt certain the City Manager will take care of this request.

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council unanimously approved the early purchase of an EMS truck and Power Stretcher; **and** approved a purchase order in the amount of \$131,413.75 to Select Custom Apparatus for the EMS truck.

(copy attached)

ACCEPT – OPERATIONAL AGREEMENTS WITH THE BEAUFORT COUNTY BOARD OF EDUCATION TO PROVIDE SCHOOL RESOURCE OFFICERS (SRO) FOR WASHINGTON HIGH SCHOOL AND P.S. JONES MIDDLE SCHOOL FOR THE SCHOOL YEAR 2011-2012

Councilman Mercer stated he requested to have this item moved from the consent agenda to discuss the amount of the contract. The contract is in the amount of \$37,838 and he recognized that this is the amount the State gives the Board of Education for each resource officer; regrettably that \$37,838 is not paying for the individual they are acquiring. The resource officer on the salary list is making \$44,000 a year. This means we will get a \$37,838 grant to pay a \$44,000 year salary; therefore, we are coming out with a deficit of \$6,000 just on the salary alone. Also, the City provides a vehicle for the individual to drive to and from the school, uniforms, weapon, radio and any other equipment. This individual is costing the City approximately \$55,000-\$60,000 a year. Councilman Mercer voiced it is time to put the Board of Education on notice that we will need to negotiate the funding. Mayor Jennings felt this was a good point and one note that had been uncovered in this discussion in the past is that the contract is for a school year allocation and the City has the officer for the whole year.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Councilman unanimously agreed to fund a School Resource Officer (SRO) for Washington High School and P.S. Jones Middle School in the amount \$37,838 for each position and that the notice of acceptance of this funding also include a reference to the fact that in the future years the City will want to negotiate this value (notify a requirement to renegotiate in the future).

(copy attached)

COMMENTS FROM THE CITY MANAGER

Mr. Kay offered his thanks to the Mayor, City Council for the trust they placed in him in taking over this position and he does not take the position lightly. Also, he offered his thanks to the Department Heads because this is a tremendous team and he looks forward to working with each one as well as the citizens who have stepped into his office.

AWARD – AMENDED CONTRACT FOR MR. JOSHUA L. KAY FOR TRANSITION AND RELOCATING EXPENSE IN THE AMOUNT OF \$5,000

Councilman Mercer stated Mr. Kay indicated he was submitting a request for reimbursement for his relocation expenses and the money he spent prior to Mr. Connet's departure before he was actually requested to report to work. He also recognized that Mr. Kay has done a lot work for the City in the two weeks prior to his employment with the City.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council unanimously agreed to award Mr. Kay for transition and relocation expenses in the amount of \$5,000 and to amend his employment contract to reflect the change.

RECOGNITION – PHILIP MOBLEY NOTED THE PASSING OF FORMER CITY EMPLOYEE BILL EBISON

Mr. Mobley noted what a tremendous ambassador the City of Washington had in Mr. Ebison. Councilman Pitt requested to speak into the record as well, not only was he a great City employee but a wonderful friend of the community and was Washington’s best cheerleader. Councilman Davis stated Bill was a man who always looked on the bright side of things and enjoyed working with the City and the youth.

ITEMS TO BE INCLUDED ON THE COMMITTEE OF THE WHOLE

Mayor Pro tem Roberson requested the following be added to the Committee of the Whole meeting:

1. Civic Center decking issues (address the handicapped ADA requirements to bring up to code compliance)
2. Wilderness Park

ADJOURN

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council adjourned the meeting at 6:50pm until August 22, 2011 at 5:30pm in the Council Chambers at the Municipal Building.

(Subject to the Approval of the City Council)

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

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

August 22, 2011

The Washington City Council met in a continued session on Monday, August 22, 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; Ed Moultrie, Councilman; Gil Davis, Councilman; William Pitt, Councilman; Josh Kay, City Manager; and Cynthia S. Bennett, City Clerk.

Mayor Jennings arrived at 6:00 pm and was made a part of the minutes.

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

Mayor Pro tem Roberson called the meeting to order and requested a moment of silence for Mr. Zeno Edwards (a strong public servant). Councilman Moultrie delivered the invocation.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Pro tem Roberson requested adding closed session under § NCGS 143-318.11(a)(6) Personnel and § NCGS 143-318.11(a)(3) Attorney Client Privilege.

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

DISUCSSION – WILDERNESS PARK

Mayor Pro tem Roberson voiced his concern noting the City started a project with over 200 acres and has notice more people fishing off of Highway 17. He feels this is a safety issue and would like to revisit this project.

Planning Director, John Rodman called Council attention to the hand out. Mr. Rodman stated the City owns 4 tracts on the south side of the River. Two tracts was gifted to the City by Mr. Gene McMullen, one the City purchase several years ago (115 acres) and the City also purchase the property they would use as access to these properties (approximately 300 acres). Preliminary work has been performed on design and park trails. The attached map is property the City owns with approximately 95% of the area wetlands. The wetlands have been delineated and we are constantly investigating possible grants to develop this area. Planning and Recreation has worked closely together on this project along with the Tar River Foundation in the past.

Councilman Pitt inquired if this would be totally undeveloped or would we have water access. Mr. Rodman responded 'yes' – canoe, kayak launch, possible fishing and camping platforms.

Mayor Pro tem Roberson voiced trying to get all the partners collectively together to have a consensus about why to develop the property. The City may be able to co-partner with the Tar River Foundation, Partnership of the Sounds, Boys Scouts of America, etc. to look at use in terms of eco-tourism in addition to public access. Mayor Pro tem Roberson requested Mr. Kay place this on his priority list, coordinate with Mr. Rodman and Mr. Mobley as well as other entities so as to move along on the project.

Councilman Mercer stated prior to Mayor Pro tem Roberson coming on board to Council and while he was on staff, noted there is a complete set of designs for a facility on this property. When the City was looking at funding to achieve this project, the State funding available at that time was approximately \$60,000 grant toward the work. In order to get the \$60,000 the State requested a Conservation Easement in perpetuity on the entire tract. For \$60,000, the State would have total control of nearly 300 acres of waterfront property and the City would only be able to do what the State would allow. The sitting Council at that time stated this was unacceptable and this has been the position of the Council. If the City could find monies that would allow us to proceed with developing this area then Council would consider it. Councilman Mercer cited several other projects that are on the table. He noted we are halfway through the development of the waterfront property adjacent to the Esturaium, the Festival Park area development, docking area and the Downtown Revitalization plan which all incorporate additions to the waterfront and access to the waterfront. Councilman Mercer stated he would like to see one project on the way to completion. Mayor Pro tem Roberson voiced this is a good opportunity for the City to do the planning process with a minimum cost. He would like to form a consensus about what we need to do with the tract. Councilman Davis agreed with Councilman Mercer that there are several other projects the City have on the drawing board that has been set aside temporarily and cited some examples.

Mayor Pro tem Roberson voiced he had not seen the Wildlife Commission plan and was wondering if other members of Council had seen the plan and Councilman Mercer stated 'yes' and the plan should be available.

Mayor Pro tem Roberson and Councilman Mercer discussed the availability of grants and exploring those possibilities. Mayor Pro tem Roberson has reservations with the City applying for grants and then turning them back. This has occurred with CAMA on three different occasions for \$300,000. A lot could have been accomplished with \$300,000 for bathrooms instead of having one bathroom down there. There needs to be more investigation with the requirements of the grants before moving toward the process. Mr. Kay stated this could be looked at with the Capital Improvement plan (item #4 on the agenda) prioritizing all the things going on in the City of Washington – staff need long term direction as to the priorities to each of the different areas.

DISCUSSION – CIVIC CENTER DECKING

Mayor Pro tem Roberson deferred this item to Mr. Kay and Mr. Harrell. Mr. Wayne Harrell addressed a couple of the options as discussed at staff level and what those costs maybe. Mr. Harrell called Council attention to item # 3 – Phasing and noted this is a possibility, the east-side and west-side with the west-side being primarily the biggest cost.

East side would be less because one of the two doors could be eliminated as it is not a requirement. If only the door were done it would be a landing step and a minimum handicap ramp on the other door which would enable us to do away with the long decking on the side of the building (approximately 265 feet). It could be done with wood/concrete/brick to match the building. Mr. Harrell voiced that in house demolition would save \$6500 from the estimated cost. Also, he noted the building is not up to code of ADA requirements.

(Begin memo) **RE: Civic Center Decking**

Background

As you all are aware, City Staff conducted an analysis of the Civic Center decking that highlighted many challenges with the current condition of the Civic Center's decking. Additionally, Council budgeted \$15,000 in the Civic Center department budget for "Maintenance/Repair Building" (10-40-6125-5100).

It was suggested that this topic be placed on the agenda of the Committee of the Whole meeting for August 22, 2011; therefore, staff convened to discuss this topic and we provide the information below as information related to this discussion. Additionally, at my instruction, staff reached out to some engineers/contractors to give us a rough estimate on the cost of the options presented below.

Information

1. Design of the decks:
 - a. East-side: The majority of the east-side deck of the Civic Center (side toward the Presbyterian Church) could be eliminated. There are currently only two doors on this side of the building, one of which would need to be maintained with a ramp as a handicap accessible entrance. The other door could either be removed (replaced as a window) or a small landing could be built for the exit.
 - b. West-side: This is the largest section of decking and is the most used section. Options are listed below for the repair and/or replacement.
 - c. Staff would strongly recommend that prior to construction, the City be given a set of engineer-stamped drawings to minimize any possible future liability of the decking. This could be accomplished by having an engineer design it first or through a design-build process.

2. Construction Options: Are there different methods to accomplish both the accessibility requirements and the aesthetic desire to allow for improved marketing of the Civic Center?
 - a. Remove and replace just the wood decking, railing, and seating – estimated cost is approximately \$55,000
 - i: One issue with this approach is that it does not take into account any possible structural changes/improvements that will need to be undertaken.
 - ii: Another concern of staff is that this is a short term fix and will require future expenditures, including the possibility of replacing the structure supporting the decking, railing, etc...

- b. Remove and replace the entire structure with wood – estimated cost is approximately \$75,000
 - i. Staff's concern is again that this is a 10-20 year solution; however, proper maintenance can stretch that lifespan to its fullest extent
 - c. Remove the wood structure and replace with a 4" concrete slab with a brick veneer façade with iron railings – estimated cost is approximately \$100,000.
 - d. Remove the wood structure and replace with brick pavers with a brick veneer façade with iron railings – estimated cost is approximately \$100,000.
3. Phasing: Can the project be phased in over time allow for budgetary constraints?
- a. One option is to use the funding currently budgeted to remove the east-side decking and construct a handicap-accessible ramp and one small landing at the second exit. Delay the second phase of the construction on the west-side until the next budget. This would allow us to further explore the funding options below.
4. Funding: There are a variety of areas that funding may be possible:
- a. City General Fund – Council can authorize staff to move forward with the project immediately through an appropriation of fund balance, reductions in operating expenditures throughout the General Fund, and/or a combination of the two.
 - b. Grants – Staff is already in the process of researching grants that may assist in the construction of the decks. Some level of match would more than likely be required.
 - c. Fundraising – There is a possibility of performing a campaign, to possibly include the selling of bricks, etc...that may assist in the construction costs; however, it should not be assumed that this will fully fund the project.
5. Cost Saving Ideas: There are several ways in which we could reduce the cost of the estimates, to include:
- a. Performing the demolition internally or have a nonprofit perform that work;
 - b. Combine two of the above construction options to minimize cost – i.e. build wood ramp and steps on east-side while constructing concrete or brick pavers on west-side;
 - c. There may be possible savings by purchasing some of the material in-house for the contractor, thus avoiding any potential mark-ups.
6. Scheduling: Construction of the decks, if approved, will need to be very coordinated in order to minimize the impact of construction on events within the Civic Center.

Detailed breakdown from two different contractors that was submitted and will itemized the cost that breaks it down east-side and west-side is attached:

HORTON
CONTRACTORS, INC

Project: Civic Center Deck Replacement

Mr. Harrell,

Per our conversation, listed below are cost estimates for replacing the wood deck structure around the Civic Center. Please note, there are three different price points:

- Item # 1** - Remove existing decking, seating and hand railing and replacing with new treated wood. The existing structural framing will stay in place, and the new seating and hand railing will be put back to meet building codes. **The total cost comes to \$55,000.00.**

- Item # 2** - Demolish the existing wood structures, and replace it with a new wood structure. This would include new wood structural floor joists, posts, and concrete footing. **The total cost comes to \$75,000.00.**

- Item # 3** - Demolish the existing wood structure and replace with new concrete footing, brick walls, elevated concrete slab, and wrought iron hand railing. **The total cost comes to \$125,000.00.**

Please note, the items listed above are preliminary numbers, and we would need some detailed drawings in order to give a final price. The cost could change due to unforeseen issues, and I would recommend doing some research on what would be required for the electrical lighting. We appreciate the opportunity to bid your project, and hope we can be of further assistance in the future. If you have any questions please feel free to call me.

s/Brad Horton
President

Mosley
Construction Company

Porch Renovations
Reference: LKQ Metal Building

The following is our Preliminary Budget Proposal for the demolition and construction of approximately 375 In. ft. of porches located in Washington, NC, including all supervision, and administrative fees associated with the construction process. This proposal is based on information provided by the town representative Wayne Harrell.

Scope of Work**1. General Conditions and Requirements**

- Design for the site/civil drawings are not included in this proposal.
- Design of building and structure, and PM&E drawings are not included in this proposal
- Dedicated Superintendent.
- Building Permit
- Builder's Risk, General Liability, Automotive, and Workman's Compensation insurance.
- Job related equipment.
- Construction debris clean up and disposal.
- Final clean-up upon completion of work.

2. Sitework

- Includes demolition of existing porches and removal of waste materials

3. Concrete

- 4" thick concrete slab on 6 mil vapor barrier over all areas in scope of work.
- Welded wire mesh reinforcing
- Furnish and install all rebar reinforcing
- Porch slabs to be 8ft. wide
- All concrete slab material will be 3000 PSI compressive strength after 28 days.
- Ribbon footings to be 2' x 1' in dimension.
- Furnish and install (1) concrete ramp on each side of the building to access the building per code.
- All backfill material and labor for the raised slab and access ramp
- No other exterior concrete is included other than that in scope of work

4. Masonry:

- Furnish and install all masonry walls
- Masonry walls to be 8" CMU Block with reinforcing
- Masonry wing walls for ramp to be 8" CMU Block
- Furnish and install a brick veneer at the exterior of CMU walls. To include soldier course at top ledge of walls
- Brick material is based of or \$350.00/1000 (material only)

5. Steel

- Furnish and install approximately 375 In.ft. of 1-1/4" tube steel handrails per code.
- Mosley Construction has provided an alternate to install handrails with iron pickets at 4" on center
- All railing are to be painted to color selected by owner

forward on securing and engineer/architectural firm to do the design - staff could certainly do that.

Councilman Mercer expressed concern with a condition that exists throughout the City. We get a piece of property and then it gets to the point of falling apart before we do any maintenance on it. We need to start on an annual basis doing the maintenance that's required on the buildings.

Councilman Moultrie suggested this project should be a priority, especially with regard to the liability aspect.

Mr. Kay stated staff would return to Council at the September meeting with quotes for engineering.

DISCUSSION – JACK'S CREEK DRAINAGE

Mayor Pro tem Roberson explained that the community has an issue with water drainage and feels the City needs to look at aerating the water. Also, he has questions concerning engineering design with having the pumps at Jack's Creek. Mayor Pro tem Roberson suggested revisiting Jack's Creek to get a handle on what needs to be done. The discharge located by the railroad tracks has decreased in size over a period of 15-16 years. We need to do a preventive measure as to what will happen during flooding when the Pamlico River doesn't fill up but it.

Public Works Director, Allen Lewis requested to take Mayor Pro tem Roberson's concerns and report back to Council. Mr. Lewis agreed with Mayor Pro tem Roberson concerning the opening at the railroad tracks. Mr. Lewis noted he spoke with a representative of DENR this afternoon regarding aerating Jack's Creek. He was told we can't do it with a fountain but there is a possibility that we can do it with injecting air into the Creek.

Mayor Jennings stated we need to have a session solely dedicated to Jack's Creek at the Committee of the Whole and have Mr. Lewis explain all the options and alternatives available.

Councilman Mercer requested three specific numbers from Mr. Lewis at that meeting:

1. The pumping capacity at maximum capacity
2. The carrying capacity of the culverts at Main Street
3. The carrying capacity of the culverts under the railroad trestle

Mr. Lewis provided the answer for question #1 – 23,000 gallons per minute x 4 which would be 92,000 gallons a minute.

Councilman Mercer directed Mr. Lewis to talk to the State about fish eating grasses in Jacks Creek (Tilapia). Mr. Lewis voiced the State would not allow this because the Tilapia could swim back around to the river and they will eat everything in their path

including other fish. Councilman Mercer said there may be another type of fish instead of the Tilapia that could be allowed. Mayor Jennings requested, if it is feasible, to have representatives from the State at the Committee of the Whole meeting.

Councilman Davis said to the best of his knowledge the only time the river overflowed was during Hurricane Floyd but the water does come down Simmons Street very often. Councilman Davis inquired to the situation on 12th Street and Mr. Lewis said there is nothing at this time to address this issue.

Mayor Pro tem Roberson inquired as to how much improvement will go into Jack's Creek. Mr. Lewis stated the following:

- Submersible pump at the Storm-water pump station,
- Tear out Charlotte Street,
- Upstream of John Small Avenue
- Replace the culvert underneath the parking lot (next to the basketball courts), once cleared through the basketball court it will be an opened ditch to the intersection of 7th and Harvey.

DISCUSSION – CAPITAL IMPROVEMENT PROGRAM

Mayor Pro tem Roberson suggested we start the review now and not wait until February or March. Mayor Pro tem Roberson feels it should be a standalone process – look at the expenditures all during the fiscal year.

Councilman Mercer requested prioritizing with staff what we have to have, what we would like to have and the wish list (prioritizing by A, B & C). This will give staff the direction needed to be aware of which way Council will go. Councilman Mercer stated we need to get back to that process because this has not been done the last several years. Mayor Jennings noted this was done two years ago.

Mayor Pro tem Roberson expressed his concern with buying items under the CIP program for \$25,000. When we purchase a piece of equipment and have a savings, the savings need to go back into the general fund to be reallocated based on the Council's and Department Heads need.

Chief Financial Officer, Matt Rauschenbach, stated we can still look at that – the document covers a five year time frame. Mayor Pro tem Roberson requested as a Council to work with Mr. Kay in bringing him up to date and what the expectations of Council are over the next twelve months. Mr. Kay noted as he has spoken with all Council and the vision he has is to do the CIP in the Fall. They can begin the process of prioritizing Council vision for the organization and staff would have the direction needed when it comes times to balance the budget.

DISCUSSION – FORMAL/INFORMAL BID PROCESS

City Manager, Josh Kay explained the handout presented to Council concerning the Dollar Thresholds in North Carolina Public Contracting Statutes.

Mayor Pro tem Roberson suggested Council develop an informal bid process to make sure we are being fair to all in Beaufort County. The question he receives from the general public is they see one contractor/agency doing this work for over fifteen years. Most cities go through the informal bid process. The City has a full time purchasing agent and he feels we need to utilize the purchasing agent service. Mayor Jennings noted he joined Mr. Kay at the supervisors meeting last week and this subject came up. Mr. Kay pointed out that a lot of our departments are doing this as a regular practice. Mayor Jennings noted they addressed making the benefit of that work known to the Council. Mr. Kay directed staff to make the best practice out of obtaining bids even in routine situations.

DISCUSSION – REPAVING/RESURFACING OF WEST 5TH STREET

Public Works Director, Allen Lewis spoke to the discussion that occurred with NCDOT. Mr. Lewis shared he inquired about the possibility of resurfacing West 5th Street with the local district engineer. The representative responded they would favorably consider it if they had the City assurance that they would not be cutting the pavement anymore on 5th Street. Mr. Lewis responded (like some of their drainage infrastructure) that the City has infrastructure that had been in the ground for quite some time. From time to time those pipes leak and with new customer request to tie in, there is no way we can make that guarantee. When you have a 50-60 year old waterline/sewerline unfortunately underneath the road if it starts leaking we have to cut pavement to make repairs. NCDOT have not responded back since this last email.

Mayor Jennings suggested that West 5th Street is borderline unsafe – you can barely keep a car at speed limit on the road and whatever we need to do short of a guarantee – we need to do. Mr. Lewis stated this road was done about ten years ago right before he came to work with the City. There are two problems 1.) Utility cuts, manholes adjustments and 2.) Reflective cracking back up to the asphalt from the original concrete pavement underneath.

Mayor Jennings directed staff along with the collaboration of Council to make this an action item soon. Councilman Pitt added that homes are being damaged by the heavy trucks. Councilman Moultrie stated they see damage on the inside of the Church that's located on the corner 5th Street and Respass because of the pressure of the trucks.

MEMO – BUDGET TRANSFER FROM CIVIC CENTER TO TDA (\$19,028)

City Manager, Josh Kay, advised Council this transfer per City Code is a requirement and presented to Council as an FYI item.

(Begin memo) The Budget Officer transferred \$19,028 from the Civic Center to the TDA department of the General Fund to be consistent with the reallocation of personnel between these departments.

NC GS 159-15 states that this shall be reported to the Council at its next regular meeting and be entered in the minutes. Transfer request is attached. (End memo)

Request for Transfer of Funds

TO: City Manager or Finance Director

FROM: Tammy Swindell

SUBJECT: REQUEST FOR TRANSFER OF FUNDS

I hereby request the transfer of funds as set forth below from one account to another, all within the same appropriation fund account, as permitted and authorized by the General Statutes of North Carolina.

	Department	Account Number	Object Classification	Amount
FROM:	Civic Center	10-40-6125-0200	Salaries	14086.00
		10-40-6125-0205	Salaries-Longevity	150.00
		10-40-6125-0500	Fica Taxes	1078.00
		10-40-6125-0600	Group	2180.00
		10-40-6125-0700	Retirement	982.00
		10-40-6125-0701	401 K	136.00
		10-40-6125-0704	FSA Employer	416.00
TO:	Tourism Development	10-00-4124-0200	Salaries	14086.00
		10-00-4124-0205	Salaries-Longevity	150.00
		10-00-4124-0500	Fica Taxes	1078.00
		10-00-4124-0600	Group Insurance	2180.00
		10-00-4124-0700	Retirement	982.00
		10-00-4124-0701	401 K	136.00
		10-00-4124-0704	FSA Employer	416.00

For the purpose of: Salary for full time employee is split between Civic Center (60%) and TDA (40%).

s/Matt Rauschenbach
Department Head & Chief Financial Officer

s/Josh Kay
City Manager

OTHER CONCERNS FROM COUNCIL

Councilman Mercer voiced having the Manager and staff to look at the possibility of putting four way stops at the corner of Dimmock, Eden and Lawson. The traffic up and down Lawson is very busy. Mayor Jennings requested staff to look into this - traffic count.

**CLOSED SESSION – UNDER § NCGS 143-318.11(a)(6) PERSONNEL AND
UNDER § NCGS 143-318.11(a)(3) ATTORNEY CLIENT**

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council agreed to enter closed session under § NCGS 143-318.11(a)(6) Personnel and under § NCGS 143-318.11(a)(3) Attorney/Client at 6:40 PM.

By motion of Councilman Davis, seconded by Mayor Pro tem Roberson, Council agreed to come out of Closed Session at 8:00 pm.

EXTENSION OF MEETING

During closed session by motion of Councilman Davis, seconded by Mayor Pro tem Roberson, Council unanimously voted to extend the meeting for one hour (7:00 pm).

**ADJOURN – UNTIL MONDAY, SEPTEMBER 12, 2011 AT 5:30 PM IN THE
COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING**

By motion of Councilman Pitt, seconded by Councilman Davis, Council adjourned the meeting at 8:05 pm until September 12, 2011 at 5:30 pm in the Council Chambers at the Municipal.

(Subject to the Approval of the City Council)

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



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager
Date: September 12, 2011
Subject: Boy Scouts of America request to camp on city-owned property near Warren Field

Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council allow the Blackbeard District, East Carolina Council of the Boy Scouts of America to camp on City-owned property at Warren Field during the weekend of October 26, 2011 to October 28, 2011.

BACKGROUND AND FINDINGS:

Mr. Pat Griffin, Camping Chairman, Blackbeard District, has requested permission for the Boy Scouts to camp on city-owned property at Warren Field. Mr. Griffin's request as well as a copy of a certificate of liability insurance is attached.

PREVIOUS LEGISLATIVE ACTION

None

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Official request and Certificate of Liability Insurance

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

RECEIVED AUG 23 2011

Patrick C. Griffin
414 Lodge Road
Washington, NC 27889

August 23, 2011

Mr. Josh Kay
Manager City of Washington
102 East 2nd Street
Washington, NC 27889

Dear Mr. Kay,

During the weekend of October 26th thru 28th of this year, the Blackbeard District, East Carolina Council, Boy Scouts of America will be holding instruction for the Aviation Merit Badge at Warren Field as part of our Fall Camporee. We would like permission from the City of Washington to camp on the city property which is directly across from the terminal. We expect to have approximately 100 to 125 campers at the event. We have inspected the site and it is adequate for our needs. Water is available at the site and we will provide an adequate number of Porta Pottis for the campers. We will make arrangements to have the grass at the site mowed prior to the camporee, and at the end of the camporee will make certain that the site neat and clean. .

I am enclosing a certificate of insurance which will cover the event.

If you need further information my cell phone number is 946-7700.

Yours Truly,



Pat Griffin
Camping Chairman, Blackbeard District

Enclosure (1)



City of Washington
REQUEST FOR COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning and Community Development
Date: August 23, 2011
Subject: Adopt budget ordinance for the Talent Enhancement Grant Opportunity
Applicant Presentation: N/A
Staff Presentation: As requested

RECOMMENDATION:

I move that council adopt the project budget ordinance for Community Development Block Grant, Talent Enhancement Capacity Building Grant, total- \$50,000.

BACKGROUND AND FINDINGS:

The Talent Enhancement Capacity Building Grant is provided to local governments to help build capacity and develop appropriate and competitive CDBG grants, administer CDBG grants, grant writing, economic impact analyses, community survey research and design, and feasibility study preparation. Talent Enhancement Capacity Building Grant funds may only be used to support activities that will result in projects that are eligible for CDBG funding within 15 months.

Deliverables:

1. Supplants staff salary with CDBG funds: Offsets over 50% of CD planner salary and requires no local match
2. Development and Project Management Training: Staff receives training at ECU through the Office of Community and Economic engagement (Classes start in October, end Spring, 2012- this is a requirement of the grant and does require payment to ECU, see budget)
3. Builds relationships for future funding opportunities: Will assist in planning for future projects with CDBG, as you must submit an application for funding within the next 15 months.

With the City's "new" Planning and Community Development Department fully staffed, the City proposes to use funds from the Talent Enhancement Grant program to build an in-house Community Development Program. The Community Development Planner will attend classes at East Carolina University centered on both development theory and hands-on CDBG program management. Over the next 15-months, staff will develop a project activity to benefit low-to-moderate income people and submit a future grant application in one of the pre-approved CDBG categories (NC Catalyst, NC Sustainable Small Business and Entrepreneurial Development, and Infrastructure Hook-up). These activities will help build capacity of both the staff and department, an outcome aligned with the goals of the Talent Enhancement Capacity Building Program.

6. (B.) Breakout of Costs		Name of Applicant: City of Washington	
Talent Enhancement Capacity Building Grant			
1. Talent Enhancement Capacity Building Grant Activities Cost (column 5n)		\$50,000	
2. Other Funds (column 6n)		\$ 0	
3. Total Talent Enhancement Capacity Building Grant (TECBG) Resources (should = column 7n)		\$50,000	
4. Activity	5. TECBG Costs	6. Other Costs	7. Total TECBG Costs
I. Planning (Talent Enhancement Capacity Building Grant Activities)			
1. Personnel			
(a) Supplemental for existing staff	\$ 30,000	-	\$ 30,000
(b) New Position(s)	-	-	-
2. Training			
(a) Existing Staff	\$ 12,000	-	\$ 12,000
(b) New Position(s)	-	-	-
3. Travel			
(a) Supplemental for Existing staff	\$ 3,000	-	\$ 3,000
(b) New Position(s)	-	-	-
4. Planning (with restriction)			
m. Administration (10% maximum)	\$5,000	-	\$5,000
n. TO TAL	\$50,000	-	\$50,000

PREVIOUS LEGISLATIVE ACTION:

7.18.11: Hosted public hearing and approved application submission

FISCAL IMPACT:

Currently Budgeted Requires Additional Appropriation No Fiscal Impact

SUPPORTING DOCUMENTS:

Budget Ordinance

City Attorney Review:

_____ Date By: _____ (if applicable)

Finance Dept Review:

_____ Date By: September 12, 2011 (if applicable)

City Manager Review:

9/7/11 Date Recommend Denial No Recommendation

**A GRANT PROJECT ORDINANCE FOR CDBG COMMUNITY
DEVELOPMENT BLOCK GRANT
CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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 grant project ordinance is hereby adopted:

Section 1. The project authorized is to provide additional staffing for Washington Housing Inc., a non-profit organization that assists low to moderate income persons with housing needs.

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

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

54-60-4930-0400	Administration	\$ 5,000
54-60-4930-0405	Personnel	30,000
54-60-4930-1400	Employee Development	12,000
54-60-4930-1700	Travel	<u>3,000</u>
	Total	\$50,000

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

54-60-3470-0000	CDBG Grant Funds	\$50,000
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Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient detailed accounting records to satisfy the requirements of the grantor agency and grant 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 grantor 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 grant 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 grant project in every budget submission made to the City Council.

Section 9. Copies of this grant 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 12th day of September, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: September 12, 2011
Subject: Budget Ordinance Brooks Boatworks Incentive
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

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

BACKGROUND AND FINDINGS:

The City entered into a five year tax incentive agreement in conjunction with the County for economic development in 2007. Two payments remain for the 2010 and 2011 tax years. The 2010 payment was made in August and it is anticipated that the 2011 payment will also be made this year. One payment was budgeted. This amendment is for the additional amount required to reflect the tax revaluation as well as the final payment.

PREVIOUS LEGISLATIVE ACTION

Adopted budgets and budget amendments.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Budget Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: MR Concur _____ Recommend Denial _____ No Recommendation
9/7/11 Date

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

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

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

10-00-4650-4507 Brooks Boatworks Incentive \$6,709

Section 2. That account number 10-00-9990-9900, Contingency, of the General Fund appropriations budget be decreased in the amount of \$6,709.

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 12^h day of September, 2011.

MAYOR

ATTEST:

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 *MR*
Date: September 1, 2011
Subject: Adopt Budget Ordinance Amendment for E911 Surcharge Fund
Applicant Presentation:
Staff Presentation: Chief G.M. Reed

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance Amendment in the amount of \$43,535 for the Police Department to use for public safety needs approved by the E911 Board and remaining funds transferred to the County.

BACKGROUND AND FINDINGS:

At the end of FY 2009-2010 there was fund balance of \$29,507 in the E911 Surcharge Fund. 50% of that balance (\$14,754) is eligible to be spent on 911 Board approved public safety needs in accordance with Section 9 of the Session Law 2010-158. As of this date there is \$43,407 in the fund balance of the E911 Surcharge Fund, and with additional estimated earnings in interest through December 2011 of \$128.00, the estimated total is \$43,535.

The Washington Police Department has identified the following, 911 Board approved, public safety needs to be paid for with the 50% eligible funds:

- Ballistic/Safety Glass for Communications area
- Replace 2 broken Aluminum/Glass doors in police facility
- Additional security cameras for facility
- Instructor Training for Less Lethal Weapons

The remaining fund balance after these expenditures will be transferred to the County's E911 surcharge fund and is estimated to be \$28,781.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Section 9 of Session Law 2010-158.

City Attorney Review: _____ Date By: September 12, 2011 (if applicable)
Finance Dept Review: _____ Date By: Page 38 of 165 (if applicable)
City Manager Review: *JW* Concur _____ Recommend Denial _____ No Recommendation
 _____ Date

availability of grants from the PSAP Grant and Statewide 911 Projects Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46.

(d) Statewide 911 Projects. – The 911 Board may use funds from the Account for a statewide project if the Board determines the project meets all of the following requirements:

- (1) The project is consistent with the 911 plan.
- (2) The project is cost-effective and efficient when compared to the aggregated costs incurred by primary PSAPs for implementing individual projects.
- (3) The project is an eligible expense under G.S. 62A-46(c).
- (4) The project will have statewide benefit for 911 service."

SECTION 9. Fifty percent (50%) of funds in the Emergency Telephone System Fund on the effective date of this act may be used by the local government entity to provide for public safety needs, including costs that are not eligible expenses under G.S. 62A-46. The expenditures must be made in fiscal years 2010-2011 and 2011-2012. A local governing entity is not relieved of any prior obligation incurred for uses authorized by G.S. 62A-46. All other funds in the Emergency Telephone System Fund must be used for eligible expenses under Article 3 of Chapter 62A of the General Statutes.

SECTION 10. The House Select Committee on the Use of 911 Funds shall study the funding of secondary PSAPs and whether secondary PSAPs should be eligible to receive distributions from the 911 Board.

SECTION 11.(a) G.S. 66-359 is repealed.

SECTION 11.(b) G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Channel Support. – G.S. 105-164.44J sets out the requirements for receipt by a county or city of supplemental PEG channel support funds distributed under this subsection. The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of the share of each qualifying PEG channel certified by the city or county under G.S. 105-164.44J. The share of each certified PEG channel is the sum of four million dollars (\$4,000,000) and the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d) divided by the number of PEG channels certified under G.S. 105-164.44J, one-fourth of twenty five thousand dollars (\$25,000) for each qualifying PEG channel certified by the county or city under G.S. 105-164.44J. A county or city may not receive PEG channel support under this subsection for more than three qualifying PEG channels.

~~The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year, plus the amount of any funds returned to the Secretary in the prior fiscal year under G.S. 105-164.44J(d). If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than this maximum amount, the Secretary must credit the excess amount to the PEG Channel Fund established in G.S. 66-359. For purposes of this subsection, the term "qualifying PEG channel" has the same meaning as in G.S. 105-164.44J."~~

SECTION 11.(c) G.S. 105-164.44J(b) reads as rewritten:

"(b) Certification. – A county or city must certify to the Secretary by July 15 of each year all of the qualifying PEG channels provided for its use during the preceding fiscal year by a cable service provider under either G.S. 66-357 or an existing agreement. A county or city may not certify more than three qualifying PEG channels. The certification must include all of the following:

- (1) An identification of each channel as a public, an education, or a government channel.
- (2) The name and signature of the PEG channel operator for each channel. If a qualifying PEG channel has more than one PEG channel operator, the county or city must include the name of each operator of the PEG channel. A PEG channel operator may be included on the certification of only one county or city for each type of PEG channel that it operates.
- (3) Any other information ~~required by~~ required by the Secretary."

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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

Section 1. That the Estimated Revenues in the E-911 Surcharge Fund be increased in the amount of \$43,535 in the account Fund Balance Appropriated, account number 14-70-3991-9910.

Section 2. That account number 14-70-4310-4501, Contract Services, E-911 Surcharge Fund appropriations budget be increased in the amount of \$43,535.

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 12th day of September, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: G. Mitchell Reed, Chief of Police
Date: September 6, 2011
Subject: Accept the 2011 Edward Byrne Memorial Justice Assistance Grant (\$11,252) and adopt budget ordinance amendment.

Applicant Presentation:
Staff Presentation: N/A

RECOMMENDATION:

I respectfully request that the Washington City Council accept the 2011 Edward Byrne Memorial Justice Assistance Grant, in the amount of \$11,252.00, and adopt a budget ordinance amendment.

BACKGROUND AND FINDINGS:

- \$11,252.00 is available to the City of Washington in non-competitive, direct appropriation funds through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program to the City of Washington.
- These grants are designed to assist local governments in combating violence against women, fighting internet crimes against children, improving the function of the criminal justice system, assisting crime victims, and supporting youth mentoring.
- The City proposes to use the funds to purchase essential evidence room storage, evidence room ventilation, and evidence receiving/tracking software. Participation in the program requires no local match.
- Application of this grant was approved at the July 18, 2011 meeting.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Ordinance Amendment

City Attorney Review: _____ Date September 12, 2011 (if applicable)
Finance Dept Review: _____ Date September 12, 2011 (if applicable)
City Manager Review: JWR Concur _____ Recommend Denial _____ No Recommendation 9/7/11 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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 amount of \$11,252 in the account Byrne Jag Grant, account number 10-10-3433-3400.

Section 2. That account number 10-10-4310-3603, Supplies/Equipment - Byrne Jag Grant, Police Department portion of the General Fund appropriations budget be increased in the amount of \$11,252 to provide funds for purchase of equipment.

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 12th day of September, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager & Susan Hodges, Human Resources Director
Date: September 12, 2011
Subject: E-Verify Program - Memorandum of Understanding
Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council authorize the City Manager to sign the Memorandum of Understanding (MOU) that sets forth the points of agreement between the Department of Homeland Security (DHS) and the City of Washington (City) regarding the City's participation in the Employment Eligibility Verification Program (E-Verify) effective September 12, 2011.

BACKGROUND AND FINDINGS:

Effective October 1, 2011, North Carolina municipalities must register and participate in E-Verify to receive work authorization for all new hires. E-Verify is an Internet based, free program operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA). E-Verify compares information from an employee's employment Eligibility Verification Form I-9 to data from U.S. government records in order to determine an employee's work authorization. In order to participate in E-Verify, the employer must enroll in the program and agree to follow its rules. The first requirement to begin participation in the program is signing of a Memorandum of Understanding (MOU) with the Department of Homeland Security (DHS) and the Social Security Administration (SSA) that establishes a contractual obligation between all parties. A copy of the MOU is attached.

PREVIOUS LEGISLATIVE ACTION

None

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

E-Verify Memorandum of Understanding

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: (JK) Concur _____ Recommend Denial _____
 No Recommendation JK Date September 12, 2011

Company ID Number: _____

THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS) and City of Washington (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), and the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts or to verify the entire workforce if the contractor so chooses.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor with the FAR E-Verify clause") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

1. SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.
2. SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.
3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

Company ID Number: _____

4. SSA agrees to provide a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility within 3 Federal Government work days of the initial inquiry.
5. SSA agrees to provide a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and non-citizens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

B. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for employees through E-Verify, DHS agrees to provide the Employer access to selected data from DHS's database to enable the Employer to conduct, to the extent authorized by this MOU:
 - Automated verification checks on employees by electronic means, and
 - Photo verification checks (when available) on employees.
2. DHS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to make available to the Employer at the E-Verify Web site and on the E-Verify Web browser, instructional materials on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.
4. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.
5. DHS agrees to issue the Employer a user identification number and password that permits the Employer to verify information provided by employees with DHS's database.
6. DHS agrees to safeguard the information provided to DHS by the Employer, and to limit access to such information to individuals responsible for the verification of employees' employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal laws, and to administer Federal contracting requirements.

Company ID Number: _____

7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative nonconfirmation of employees' employment eligibility within 3 Federal Government work days of the initial inquiry.
8. DHS agrees to provide a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

C. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system.
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted regarding E-Verify.
3. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.
4. The Employer agrees that any Employer Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.
 - A. The Employer agrees that all Employer representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify.
 - B. Failure to complete a refresher tutorial will prevent the Employer from continued use of the program.
5. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
 - If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
 - If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The photocopy must be of sufficient quality to allow for verification of the photo and written information. The employer will use the photocopy to verify the photo and to assist DHS with its review of

Company ID Number: _____

photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.

6. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 5 above; (2) a rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in good faith compliance with the terms and conditions of E-Verify; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ an employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith based on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 and E-Verify system compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate E-Verify verification procedures for new employees within 3 Employer business days after each employee has been hired (but after the Form I-9 has been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify User Manual, or in the case of Federal contractors with the FAR E-Verify clause, the E-Verify User Manual for Federal Contractors. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. Employers may initiate verification by notating the Form I-9 in circumstances where the employee has applied for a Social Security Number (SSN) from the SSA and is waiting to receive the SSN, provided that the Employer performs an E-Verify employment verification query using the employee's SSN as soon as the SSN becomes available.

8. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use not authorized by this MOU. Employers must use E-Verify for all new employees, unless an Employer is a Federal contractor that qualifies for the exceptions described in Article II.D.1.c. Except as provided in Article II.D, the Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer understands that if the Employer uses the E-Verify system for any purpose other than as

Company ID Number: _____

authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its access to SSA and DHS information pursuant to this MOU.

9. The Employer agrees to follow appropriate procedures (see Article III. below) regarding tentative nonconfirmations, including notifying employees in private of the finding and providing them written notice of the findings, providing written referral instructions to employees, allowing employees to contest the finding, and not taking adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

10. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo non-match, does not establish, and should not be interpreted as evidence, that the employee is not work authorized. In any of the cases listed above, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, refusing to assign the employee to a Federal contract or other assignment, or otherwise subjecting an employee to any assumption that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 or OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

11. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA, as applicable, by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the unfair immigration-related employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

Company ID Number: _____

12. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

13. The Employer agrees that it will use the information it receives from SSA or DHS pursuant to E-Verify and this MOU only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

14. The Employer acknowledges that the information which it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

15. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

D. RESPONSIBILITIES OF FEDERAL CONTRACTORS WITH THE FAR E-VERIFY CLAUSE

1. The Employer understands that if it is a subject to the employment verification terms in Subpart 22.18 of the FAR, it must verify the employment eligibility of any existing employee assigned to the contract and all new hires, as discussed in the Supplemental Guide for Federal Contractors. Once an employee has been verified through E-Verify by the Employer, the Employer may not reverify the employee through E-Verify.

a. Federal contractors with the FAR E-Verify clause agree to become familiar with and comply with the most recent versions of the E-Verify User Manual for Federal Contractors and the E-Verify Supplemental Guide for Federal Contractors.

b. Federal contractors with the FAR E-Verify clause agree to complete a tutorial for Federal contractors with the FAR E-Verify clause.

c. Federal contractors with the FAR E-Verify clause not enrolled at the time of contract award: An Employer that is not enrolled in E-Verify at the time of a contract award must enroll as a Federal contractor with the FAR E-Verify clause in E-Verify within 30 calendar days of contract award and, within 90 days of enrollment, begin to use E-Verify to initiate verification of employment eligibility of new hires of the Employer who are working in the United States, whether or not assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated

Company ID Number: _____

within 3 business days after the date of hire. Once enrolled in E-Verify as a Federal contractor with the FAR E-Verify clause, the Employer must initiate verification of employees assigned to the contract within 90 calendar days from the time of enrollment in the system and after the date and selecting which employees will be verified in E-Verify or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Employers that are already enrolled in E-Verify at the time of a contract award but are not enrolled in the system as a Federal contractor with the FAR E-Verify clause: Employers enrolled in E-Verify for 90 days or more at the time of a contract award must use E-Verify to initiate verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire. Employers enrolled in E-Verify as other than a Federal contractor with the FAR E-Verify clause, must update E-Verify to indicate that they are a Federal contractor with the FAR E-Verify clause within 30 days after assignment to the contract. If the Employer is enrolled in E-Verify for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within 3 business days after the date of hire. An Employer enrolled as a Federal contractor with the FAR E-Verify clause in E-Verify must initiate verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

e. Institutions of higher education, State, local and tribal governments and sureties: Federal contractors with the FAR E-Verify clause that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), State or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors with the FAR E-Verify clause may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. The provisions of Article II.D, paragraphs 1.a and 1.b of this MOU providing timeframes for initiating employment verification of employees assigned to a contract apply to such institutions of higher education, State, local and tribal governments, and sureties.

f. Verification of all employees: Upon enrollment, Employers who are Federal contractors with the FAR E-Verify clause may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only new employees and those existing employees assigned to a covered Federal contract. After enrollment, Employers must elect to do so only in the manner designated by DHS and initiate E-Verify verification of all existing employees within 180 days after the election.

g. Form I-9 procedures for existing employees of Federal contractors with the FAR E-Verify clause: Federal contractors with the FAR E-Verify clause may choose to complete new Forms I-9 for all existing employees other than those that are completely exempt from this process. Federal contractors with the FAR E-Verify clause may also update previously completed Forms I-9 to initiate E-Verify verification of existing employees who are not completely exempt as long as that Form I-9 is complete (including the SSN), complies with Article II.C.5, the employee's work authorization has

Company ID Number: _____

not expired, and the Employer has reviewed the information reflected in the Form I-9 either in person or in communications with the employee to ensure that the employee's stated basis in section 1 of the Form I-9 for work authorization has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen). If the Employer is unable to determine that the Form I-9 complies with Article II.C.5, if the employee's basis for work authorization as attested in section 1 has expired or changed, or if the Form I-9 contains no SSN or is otherwise incomplete, the Employer shall complete a new I-9 consistent with Article II.C.5, or update the previous I-9 to provide the necessary information. If section 1 of the Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired subsequent to completion of the Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.C.5, subject to any additional or superseding instructions that may be provided on this subject in the Supplemental Guide for Federal Contractors. Nothing in this section shall be construed to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU, or to authorize verification of any existing employee by any Employer that is not a Federal contractor with the FAR E-Verify clause.

2. The Employer understands that if it is a Federal contractor with the FAR E-Verify clause, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by the E-Verify system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation. The Employer must review the tentative nonconfirmation with the employee in private.

2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within 8 Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the

Company ID Number: _____

referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must print the tentative nonconfirmation notice as directed by the E-Verify system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation. The Employer must review the tentative nonconfirmation with the employee in private.

2. If the Employer finds a photo non-match for an employee who provides a document for which the automated system has transmitted a photo, the employer must print the photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding. The Employer must review the tentative nonconfirmation with the employee in private.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within 8 Federal Government work days.

5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:

- Scanning and uploading the document, or
- Sending a photocopy of the document by an express mail account (paid for at employer expense).

7. If the Employer determines that there is a photo non-match when comparing the photocopied List B document described in Article II.C.5 with the image generated in E-Verify, the Employer must forward the employee's documentation to DHS using one of the means described in the preceding paragraph, and allow DHS to resolve the case.

Company ID Number: _____

ARTICLE IV

SERVICE PROVISIONS

SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V

PARTIES

A. This MOU is effective upon the signature of all parties, and shall continue in effect for as long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual, the E-Verify User Manual for Federal Contractors or the E-Verify Supplemental Guide for Federal Contractors. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials. An Employer that is a Federal contractor with the FAR E-Verify clause may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such a circumstance, the Federal contractor with the FAR E-Verify clause must provide written notice to DHS. If an Employer that is a Federal contractor with the FAR E-Verify clause fails to provide such notice, that Employer will remain a participant in the E-Verify program, will remain bound by the terms of this MOU that apply to participants that are not Federal contractors with the FAR E-Verify clause, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

B. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. The Employer understands that if it is a Federal contractor with the FAR E-Verify clause, termination of this MOU by any party for any reason may negatively affect its performance of its contractual responsibilities.

C. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

D. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

E-Verify



Company ID Number: _____

E. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

F. The Employer understands that the fact of its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

H. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer	
Name (Please Type or Print)	Title
Signature	Date
Department of Homeland Security – Verification Division	
Name (Please Type or Print)	Title
Signature	Date



Company ID Number: _____

Information Required for the E-Verify Program

Information relating to your Company:

Company Name:	City of Washington
Company Facility Address:	102 E. 2 nd Street Washington, NC 27889
Company Alternate Address:	P.O. Box 1988 Washington, NC 27889
County or Parish:	Beaufort County
Employer Identification Number:	566001364
North American Industry Classification Systems Code:	
Administrator:	Susan C. Hodges
Number of Employees:	295
Number of Sites Verified for:	1

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

State	Number of sites	Site(s)

Company ID Number: _____

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	Susan Hodges
Telephone Number:	252-975-9322
Fax Number:	252-974-6461
E-mail Address:	shodges@washingtonnc.gov

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	
Telephone Number:	
Fax Number:	
E-mail Address:	



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager & Susan Hodges, Human Resources Director
Date: September 12, 2011
Subject: Classification and Pay Grade Change
Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council authorize the City Manager to reclassify the Data Systems Specialist, salary grade 19, to Technology Administrator, salary grade 23 effective July 1, 2011.

BACKGROUND AND FINDINGS:

The City's Technology Services Director retired in December, 2010 and after much consideration, the decision was made to outsource the day-to-day information technology systems administration – providing the City a net annual benefit of \$34,346. This transition, however, significantly impacted the Data Systems Specialist, the only remaining position in the department. This position has retained considerable responsibility for the information technology function for the City, including internal coordination, administration, special projects, help desk monitoring, coordination with the contractor, etc.

PREVIOUS LEGISLATIVE ACTION

None

FISCAL IMPACT

Currently Budgeted (Account: varied) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: (Signature) Concur _____ Recommend Denial _____
 No Recommendation 9/12/11 Date



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager
Date: September 12, 2011
Subject: Transportation Program at Warren Field
Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council authorize Mr. Alvin Powell to use Warren Field on September 28, 2011 and September 29, 2011 as the location for a Transportation Career program.

BACKGROUND AND FINDINGS:

Mr. Alvin Powell, in conjunction and in partnership with the Beaufort County Board of Education, Elizabeth State University, and Beaufort County Community College, desires to host a Transportation Career program for select grades at Warren Field over a two-day period. An outline of the program and the logistics is attached.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Transportation Career Day outline

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: (Signature) Concur _____ Recommend Denial _____
 No Recommendation 9/12/11 Date

“Transportation Day” Career” Forum (Tentative)

When: September 28 and 29, 2011

Where: Beaufort County Center Building,
155-A Airport Road
Washington, NC Airport

Objective: To have a local Historical Black College and University and a local community college each provide a brief presentation of their academic programs that relate to aviation and the trucking industry. The presentation would be to students that attend Beaufort County schools. The importance of physical fitness and making smart decisions as youth relative to passing background checks will be discussed as well. The students would also get an opportunity to see the Washington, NC airport complex.

Two day event structure: The program will be organized into a 9:00 am to 11:00 am **morning session** and a 12:15 pm to 2:15 pm **afternoon session** for both days. This will allow for handling up to **90 students plus nine school officials** per session and not violate fire codes provisions.

Transportation: The Beaufort County School District will be responsible for selecting the students that attend this function (as reflected by an attendance log) and transportation of the students pursuant to any insurance or applicable school protocols.

1. **Beaufort County Center:** The designated student drop-off and pick-up location that will provide a 99 seat air conditioned classroom facility with rest rooms. The N.C. Cooperative Extension Service is a partner in this program and is coordinating the use of this facility.
2. **Opening Comments: 9:00 am to 9:20 am** and **1:00 pm to 1:20 pm** respectively by Al Powell, Program Coordinator. He will explain how Elizabeth City State University (ECSU) and Beaufort County Community College (BCCC) will be showcasing some of their transportation based academic programs; show a brief DVD that will provide an aviation/trucking industry overview. Discuss topics concerning: (1) how making poor decisions as a youth can impact career choices/security clearances, and (2) physical fitness requirements for jobs.

3. **Classroom Seating:** Students will be divided into two sections: **Group A** and **Group B** not to exceed **45** students per group. For safety, students from the same schools will not be separated, if feasible.
4. **Program Composition:** Each program will consist of **TWO 45 minute orientation sessions** conducted concurrently **in separate locations**. After the opening comments, the two groups will proceed to their respective orientation sessions.
 - a. The ECSU orientation station will be located at the, Washington Airport Terminal Building; Dr. J. Anthony Sharp, Director, ECSU Aviation Science Program, will discuss their program and provide the students with a tour of the ECSU airplane.
 - b. The BCCC orientation station will be located at the, Beaufort County Center Building; representatives from BCCC will explain their commercial truck driving program and provide the students with a tour of several vehicles.
 - c. Orientation Times: **9:25 am to 10:10 am** and **10:15 to 11:00 am** (morning session); **1:25 pm to 2:10 pm** and **2:15 pm to 3:00 pm** (afternoon session).
 - d. Each 45 minute orientation session will consist of 30 minutes for PowerPoint, lecture, etc. and 15 minutes for a "hands-on" static display component.
5. **Rotation:** At the end of each respective 45 minute orientation, Groups A and B will rotate. Group B will walk to the airport terminal to receive the ECSU station to orientation. Group A will walk back to the Beaufort County Center to receive their orientation by the BCCC personnel.
6. **Closing Comments and Departure:** At the completion of the program, **both Group A and B will return to the Beaufort County Center classroom**. Closing comments will be made and a safety head count conducted. Students would board their respective buses and return to school.
7. **Security:** The Washington, NC Fire Department and Police Department will be on premises to address any medical emergencies and/or handle vehicular-pedestrian traffic.
8. **Educational Display Booths:** Both the U.S. Coast Guard Auxiliary and the N.C. Cooperative Extension Service (featuring the 4-H Club) will be on premises to provide educational literature.

Possible Static Displays or Fly-in

- a. A Washington, NC fire truck
- b. Fountain Boats; a large power boat on a trailer (hopefully)
- c. A U.S. Coast Guard Auxiliary demonstration of a robotic device (hopefully)

- d. Selected trucks from the Beaufort County Community College
- e. A Washington, NC police vehicle
- f. Civilian helicopter fly-in (pending)
- g. ECSU airplane
- h. Military aircraft fly-in (pending)



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager & Susan Hodges, Human Resources Director
Date: September 12, 2011
Subject: Amendment to Employment Agreement of Joshua L. Kay

Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council approve the Amendment to Employment Agreement by and between Joshua L. Kay and the City of Washington.

BACKGROUND AND FINDINGS:

City Council at its August 8, 2011 meeting voted to amend the employment agreement with Joshua L. Kay to provide five-thousand dollars (\$5,000.00) for moving and relocation expenses. This amendment provides the desired changes.

PREVIOUS LEGISLATIVE ACTION

August 8, 2011 Authorization to Amend Employment Contract

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Amendment to Employment Agreement with Employment Agreement as Exhibit A

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: JK Concur _____ Recommend Denial _____
 No Recommendation 9/12/11 Date

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT is made and entered into as of the 8th day of August 2011 by and between the **CITY OF WASHINGTON**, a municipal corporation organized and existing under the laws of the State of North Carolina, hereinafter referred to as **“EMPLOYER”** and **JOSHUA L. KAY**, of 110 Palmer Place, Washington, North Carolina, 27889, hereinafter referred to as **“EMPLOYEE”**.

WITNESSETH

WHEREAS, the parties hereto entered into a certain Employment Agreement dated as of the 1st day of August 2011, a copy of the same being attached hereto as Exhibit A and incorporated herein by reference.

WHEREAS, **EMPLOYER** and **EMPLOYEE** now desire to amend said Employment Agreement with regards to certain moving and relocation expenses.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein and the continued employment pursuant to said Employment Agreement, the receipt and legal sufficiency of which consideration is hereby acknowledged, the parties hereto agree as follows.

1) Section 10: Moving and Relocation Expenses shall be voided, changed, amended and replaced in its entirety to read as follows.

“The **EMPLOYER** shall pay or reimburse, as the case may be, **EMPLOYEE** in the amount of FIVE THOUSAND DOLLARS (\$5,000) for all of **EMPLOYEE**’s moving and relocation expenses from Clinton, South Carolina to Washington, North Carolina.”

IN TESTIMONY WHEREOF, EMPLOYER has caused this Amendment to Employment Agreement to be executed by its Mayor and attested by its City Clerk, all by proper municipal authority duly given, and **EMPLOYEE** has executed this Amendment to Employment Agreement, all as of the day, month and year first above written.

PRE-AUDIT CERTIFICATE

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

CITY OF WASHINGTON

BY: _____ (Seal)
MATT RAUSCHENBACH,
CHIEF FINANCIAL OFFICER

(corporate seal)

EMPLOYER

BY: _____ (Seal)
N. ARCHIE JENNINGS, III,
MAYOR

ATTEST:

CYNTHIA S. BENNETT,
CITY CLERK

EMPLOYEE

BY: _____ (Seal)
JOSHUA L. KAY,
CITY MANAGER

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 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 _____, 2011.

NOTARY PUBLIC

My Commission expires: _____.

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, _____, a Notary Public of the County and State aforesaid, certify that **JOSHUA L. KAY**, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged the voluntary execution of the foregoing instrument.

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

NOTARY PUBLIC

My Commission expires: _____.

EXHIBIT A

COPY

STATE OF NORTH CAROLINA)
)
COUNTY OF BEAUFORT) EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 1st day of August, 2011, by and between the CITY OF WASHINGTON, NORTH CAROLINA, a municipal corporation organized and existing under the laws of the State of North Carolina, sometimes hereinafter referred to as EMPLOYER, and JOSHUA L. KAY, sometimes hereinafter referred to as EMPLOYEE, both of whom understand as follows.

WITNESSETH

WHEREAS, EMPLOYER desires to employ the services of said Joshua L. Kay as City Manager pursuant to the terms, conditions, and provisions of this Agreement.

WHEREAS, EMPLOYEE desires to accept employment as City Manager of said City pursuant to the terms, conditions, and provisions of this Agreement.

WHEREAS, it is the desire of the City Council of the City of Washington, hereinafter referred to as Council, to provide certain benefits, establish certain conditions of employment, and set working conditions of said Employee.

WHEREAS, the parties acknowledge that Employee is a member of the International City/County Management Association (ICMA) and that Employee is subject to the ICMA Code of Ethics.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the receipt and legal sufficiency of which consideration is hereby acknowledged, the parties agree as follows.

SECTION 1 — DUTIES

EMPLOYER hereby agrees to employ said Joshua L. Kay as City Manager of said Employer, to perform functions and duties specified by applicable law and authority, including but not limited to North Carolina state law, the City charter and the City code, and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign.

SECTION 2 — TERM

- A. EMPLOYEE agrees to remain in the exclusive employ of EMPLOYER until July 31, 2013 and neither accept other employment nor become employed by any other employer until said termination date, unless this Agreement is earlier terminated as hereinafter provided.
- B. In the event written notice is not given by either party to this Agreement to the other one hundred twenty (120) days prior to the termination date as hereinabove provided, this

1 Employment Agreement – Approved by City Council on May 2, 2011

Agreement shall be extended automatically on the same terms and conditions as herein provided, all for an additional period of two (2) years. This Agreement shall continue thereafter for two (2) year periods unless either party hereto gives to the other one hundred twenty (120) days written notice prior to the then applicable two (2) year anniversary date hereof that the party giving notice does not wish to extend this Agreement.

- C. Notwithstanding anything herein to the contrary, nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Council to terminate the services of **EMPLOYEE** at any time, subject only to the provisions set forth in Section 4, paragraphs A and B, of this Agreement.
- D. Notwithstanding anything herein to the contrary, nothing in this Agreement shall prevent, limit or otherwise interfere with the right of **EMPLOYEE** to resign at any time from his position with **EMPLOYER**, subject only to the provision set forth in Section 5 of this Agreement.

SECTION 3 — SUSPENSION

Council may suspend **EMPLOYEE**, with or without pay in the discretion of Council, during the investigation, hearing, or trial of **EMPLOYEE** on any criminal charge or during the course of any civil action involving the **EMPLOYEE**. The duration of such suspension will be in the discretion of Council. If the suspension is without pay, full recovery of pay and benefits for the period of suspension may be authorized by Council if the suspension is terminated with full reinstatement of **EMPLOYEE**. Notwithstanding anything herein to the contrary, any suspension without pay hereunder shall be in accordance with the Fair Labor Standards Act regulations regarding exempt employee pay.

SECTION 4 — TERMINATION AND SEVERANCE PAY

- A. In the event **EMPLOYEE** is terminated by the Council before the expiration of the initial or any subsequent term of this Agreement and during such time **EMPLOYEE** is willing and able to perform his duties under this Agreement, then and in those events **EMPLOYER** agrees to pay **EMPLOYEE** a lump sum cash payment equal to six (6) months aggregate salary, benefits, and deferred compensation. **EMPLOYEE** shall also be compensated for all earned and unused vacation up to two hundred forty (240) hours and holidays.
- B. **EMPLOYEE** may be terminated for either of the following without notice and, upon such termination, **EMPLOYER** shall not have an obligation to pay any of the sums set forth in this section.
 - 1. Any misconduct of **EMPLOYEE** involving an act of moral turpitude, criminal illegality (excepting minor traffic violations), or habitual violations of the traffic laws, whether or not related to **EMPLOYEE**'s official duties hereunder.

2 Employment Agreement – Approved by City Council on May 2, 2011

2. Any willful, knowing, grossly negligent, or negligent misapplication or misuse, direct or indirect, by **EMPLOYEE** of public or other funds or other property, real, personal, or mixed, owned by or entrusted to the City, any agency or corporation thereof, or the **EMPLOYEE** in his official capacity.
- C. In the event **EMPLOYER** at any time during the term of this Agreement reduces the salary or other financial benefits of **EMPLOYEE** in a greater percentage than applicable to a simultaneous, across-the-board reduction for all employees of **EMPLOYER**, or in the event **EMPLOYER** refuses, following written notice, to comply with any other provision benefitting **EMPLOYEE** herein, or the **EMPLOYEE** resigns following a suggestion, whether formal or informal, by the Council that he resign, then, in that event **EMPLOYEE** may, at his option, be deemed to be "terminated" at the date of such reduction, such refusal to comply, or said suggestion to resign within the meaning and context of the herein severance pay provision.

SECTION 5 — RESIGNATION

In the event **EMPLOYEE** voluntarily resigns his position with **EMPLOYER** before expiration of the aforesaid term of his employment, then **EMPLOYEE** shall give **EMPLOYER** two months notice in advance, unless the parties agree otherwise.

SECTION 6 — DISABILITY

If **EMPLOYEE** is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, **EMPLOYER** shall have the option to terminate this Agreement subject to the severance pay requirements of Section 4, paragraph A.

SECTION 7 — SALARY

EMPLOYER agrees to pay **EMPLOYEE** for his services rendered pursuant hereto an annual base salary of one hundred and eight thousand dollars (\$108,000.00), payable in installments at the same time as the other employees of the **EMPLOYER** are paid. In addition, **EMPLOYER** agrees to increase said base salary and/or benefits of **EMPLOYEE** in such amounts and to such extent as the Council may determine that it is desirable to do so in a similar manner and at the same time as similar consideration is given other employees generally. **EMPLOYEE** shall receive the cost of living adjustment given to other employees of the **EMPLOYER** payable in the same manner as paid to other employees of the City. **EMPLOYEE** may also receive a merit pay increase based on a review of his performance made by the Mayor and Council.

SECTION 8 — HOURS OF WORK

It is recognized by both **EMPLOYER** and **EMPLOYEE** that the duties of City Manager require a great deal of time outside of normal office hours. The parties also recognize that **EMPLOYEE** is required to devote the amount of time and energy necessary to carry out those duties with the highest amount of professionalism possible. That being the case, the parties recognize that

³ Employment Agreement -- Approved by City Council on May 2, 2011

EMPLOYEE may choose to take personal time off during business hours when it is appropriate and when his duties allow. Although this personal time off is not considered vacation, neither is it to be considered as compensatory time for time spent by **EMPLOYEE** in carrying out his duties outside normal office hours, as the parties agree that **EMPLOYEE** must devote the amount of time necessary to fulfill those duties. The Council will consider **EMPLOYEE**'s use of personal time off during the performance evaluation.

SECTION 9 — RESIDENCY REQUIREMENT

EMPLOYEE agrees that it is necessary to reside inside the corporate limits of Washington, and hereby agrees to occupy a place of residence within the City of Washington within twelve (12) months of employment.

SECTION 10 — MOVING AND RELOCATION EXPENSES

EMPLOYEE shall obtain two quotes from companies that customarily provide moving services for the expenses associated with moving and relocating his personal property from Clinton, South Carolina, to Washington, North Carolina. **EMPLOYER** shall pay **EMPLOYEE** the amount of the lesser of the two quotes. **EMPLOYEE** shall be solely responsible for paying said moving and relocation expenses to the company of his choosing; however, if **EMPLOYEE** utilizes the company with the lower quote and if the actual moving and relocation expenses exceed said quote, **EMPLOYEE** may request **EMPLOYER** to reimburse him for the balance.

SECTION 11 — AUTOMOBILE

EMPLOYEE's duties require that he use an automobile at all times during his employment with **EMPLOYER**. **EMPLOYER** agrees to pay **EMPLOYEE** a car allowance of four hundred dollars (\$400.00) per month and **EMPLOYEE** shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the purchase, operation, maintenance, and repair of said automobile. **EMPLOYER** provides said car allowance for **EMPLOYEE** in lieu of providing a City-owned vehicle to conduct City business. The allocated car allowance will cover all mileage expenses for City business within a one hundred fifty (150) mile radius (three hundred [300] mile round trip) of the City. Travel beyond the one hundred fifty (150) mile radius will be reimbursed in accordance with the City's travel policy. This allowance will be reported on the **EMPLOYEE**'s W-2 form.

SECTION 12 — DISABILITY, HEALTH, AND LIFE INSURANCE

EMPLOYER agrees to put into force and to make required premium payments for **EMPLOYEE** for insurance policies for life, major medical, and other group insurance, as the same is provided to other employees of the City, covering **EMPLOYEE** only. If dependent coverage is available through the **EMPLOYER**, it shall be paid for by **EMPLOYEE**, if he elects dependent coverage. **EMPLOYER** agrees to put into force and to make required premium payments for **EMPLOYEE** for an insurance policy for long-term disability coverage with a benefit of five thousand forty and 00/100s dollars (\$5,040.00) per month and a ninety (90) day waiting period until age sixty-six (66).

4 Employment Agreement -- Approved by City Council on May 2, 2011

SECTION 13 — VACATION AND SICK LEAVE

EMPLOYEE shall be allowed to begin and accrue vacation at a rate equivalent to an employee with ten (10) years continuous employment increasing incrementally from that base without any applicable maximum until December 31st of each year. **EMPLOYEE** may carry over up to a maximum of two hundred forty (240) vacation hours to the next calendar year. Any amount of vacation that is accrued by **EMPLOYEE** over said maximum as of December 31st each year shall be converted to **EMPLOYEE**'s sick leave account. **EMPLOYEE** shall also be entitled to begin and accumulate sick leave annually at a rate equivalent to an employee with ten (10) years of continuous employment increasing incrementally from that base during the term of this Agreement. **EMPLOYER** will accept and recognize any sick leave **EMPLOYEE** accrued with **EMPLOYEE**'s immediately previous employer that **EMPLOYEE** has not already been compensated for.

SECTION 14 — RETIREMENT

It is mandatory that all employees of **EMPLOYER** participate in and be a part of the North Carolina Local Governmental Employees' Retirement System, hereinafter referred to as NCLGERS; therefore, **EMPLOYER** and **EMPLOYEE** shall pay into the NCLGERS for the benefit of **EMPLOYEE** their respective, required contributions based on the **EMPLOYEE**'s base salary, as mandated by NCLGERS. **EMPLOYER** will provide **EMPLOYEE** access to and fund a 401k/457 plan at the same level as provided to and funded for other City employees.

SECTION 15 — DUES AND SUBSCRIPTIONS

EMPLOYER shall pay for the professional dues and subscriptions of **EMPLOYEE** that are necessary for his continuation and full participation in ICMA; the International Economic Development Council, hereinafter referred to as IEDC; and the North Carolina City/County Management Association, hereinafter referred to as NCCMA. **EMPLOYEE** participation in any other organizations necessary and desirable for his continued professional participation, growth and advancement and for the good of the **EMPLOYER** shall be subject to review and approval by Council.

SECTION 16 — PROFESSIONAL DEVELOPMENT

- A. As may be approved during the annual budget process, **EMPLOYER** hereby agrees to pay for travel and subsistence expenses of **EMPLOYEE** for professional and official travel, meetings, and occasions adequate to continue the professional development of **EMPLOYEE** and to adequately pursue necessary official functions for **EMPLOYER**, including, but not limited to annual ICMA, IEDC, and NCCMA conferences and such other national, regional, state, and local government groups and committees on which **EMPLOYEE** serves as a member.
- B. As may be approved during the annual budget process, **EMPLOYER** also agrees to pay for travel and subsistence expenses of **EMPLOYEE** for short courses, institutions, and

seminars that are necessary for his professional development and for the good of the **EMPLOYER**.

SECTION 17 — INDEMNIFICATION

In addition to that required under federal, state and local law, **EMPLOYER** shall defend, save harmless, and indemnify **EMPLOYEE** against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of **EMPLOYEE'S** duties as City Manager. **EMPLOYER** will compromise and settle any such claims or suit and pay the amount of any settlement or judgment rendered thereon.

SECTION 18 — NO REDUCTION OF BENEFITS

EMPLOYER shall not at any time during the term of this Agreement reduce the salary, compensation, or other financial benefits of **EMPLOYEE**, except to the degree of such a reduction across-the-board for all employees of the **EMPLOYER**.

SECTION 19 — NOTICES

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

1. **EMPLOYER:** Archie Jennings, Mayor
City of Washington
Post Office Box 1988
Washington, North Carolina 27889

2. **EMPLOYEE:** Joshua L. Kay, City Manager
City of Washington
Post Office Box 1988
Washington, North Carolina 27899

Alternatively, notices required pursuant to this Agreement may be personally served in the manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmittal in the United States Postal Service.

SECTION 20 — GENERAL PROVISIONS

- A. The text herein shall constitute the entire agreement between the parties.

- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of **EMPLOYEE**.

- C. This Agreement shall become effective commencing August 1, 2011.

6 Employment Agreement – Approved by City Council on May 2, 2011

- D. By virtue of his signature below, **EMPLOYEE** consents to **EMPLOYER** releasing copies of this Agreement upon request.
- E. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Washington, North Carolina, has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its City Clerk, and the **EMPLOYEE** has signed and executed this Agreement, both in duplicate as of the day and year first above written.

PRE-AUDIT CERTIFICATE

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



CITY OF WASHINGTON

Matt Rauschenbach
 MATT RAUSCHENBACH,
 CHIEF FINANCIAL OFFICER

EMPLOYER

BY: *Archie Jennings, II* (Seal)
 N. ARCHIE JENNINGS, II,
 MAYOR

ATTEST:

Cynthia S. Bennett
 CYNTHIA S. BENNETT,
 CITY CLERK

EMPLOYEE

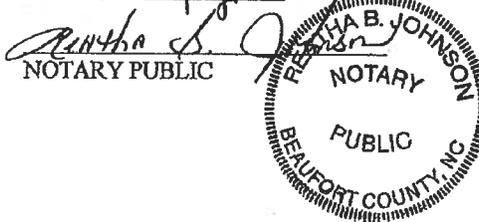
BY: *Joshua L. Kay* (Seal)
 JOSHUA L. KAY,
 CITY MANAGER

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, Retha B. Johnson, 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 9 day of May, 2011.

My Commission expires: 12/12/2014



STATE OF South Carolina
COUNTY OF Laurens

I, Dianne L. Wyatt, a Notary Public of the County and State aforesaid, certify that JOSHUA L. KAY, Employee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 12th day of May, 2011.

Dianne L. Wyatt
Notary Public

My Commission Expires: 12-12-2015



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: 09-06-11
Subject: Adopt a Resolution Opening Brown Street Between Park Drive and East Fourth Street.

Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council adopt the attached resolution clarifying that Brown Street between Park Drive and East Fourth Street remains open and rededicating it if legally necessary.

BACKGROUND AND FINDINGS:

Franz Holscher, City Attorney, has noted in previous Council meetings that, when we were notified the bridge on Brown Street over Jack's Creek needed to be closed due to structural failure, Council actually attempted to follow the statutory procedure for permanent closure when it passed a resolution on February 12, 2007. Because this action was never officially recorded at the register of deeds office as required by statute, he feels that this resolution will clarify the issue of the road remaining officially open, rededicate it if legally necessary, and bring consistency to the City's official records. Once the bridge is replaced, the barricades prohibiting vehicular traffic will be removed.

PREVIOUS LEGISLATIVE ACTION

02-12-07.

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached Resolution.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: September 12, 2011 (if applicable)
 City Manager Review: *ALW* Concur Page 74 of 165 Recommend Denial No Recommendation *9/12/11* Date

A RESOLUTION DECLARING BROWN STREET BETWEEN PARK DRIVE AND EAST FOURTH STREET, INCLUDING BRIDGE CROSSING OVER JACK'S CREEK, OPEN AS A PUBLIC STREET AND REDEDICATING THE SAME AS SUCH

WHEREAS, North Carolina General Statute §160A-299 authorizes and sets forth the legal procedures that are required in order for municipalities to permanently close public streets and alleys.

WHEREAS, during the City Council meeting held on January 8, 2007 the City Council of the City of Washington ("City Council") adopted "A Resolution of Intent Declaring the Intention of the City of Washington to Consider the Closing of Brown Street Between Park Drive and East Fourth Street", set a date for a public hearing as prescribed by statute for February 12, 2007, and directed the City Clerk to notify the general public and adjoining property owners of said Resolution of Intent and public hearing in the manner prescribed by statute.

WHEREAS, during the City Council meeting held on February 12, 2007, the City Clerk advised the City Council that notification of the public and adjacent property owners regarding said Resolution of Intent and public hearing had been properly made and the City Council conducted a public hearing with respect to said attempted street closing.

WHEREAS, following said public hearing, the City Council adopted "A Resolution Ordering the Closing of Brown Street Between Park Drive and East Fourth Street" and ordered and directed the City Clerk to file a certified copy of said Resolution and Order in the Office of the Register of Deeds of Beaufort County as the final legal procedure required by statute in order to effectuate the permanent closure of said portion of Brown Street.

WHEREAS, a certified copy of said Resolution and Order has not been filed in the Office of the Register of Deeds of Beaufort County.

WHEREAS, the procedure required by statute in order to permanently close said portion of Brown Street has not been effectuated completely and said portion of Brown Street remains open as a public street and right-of-way subject to the general authority and control of the City of Washington under North Carolina General Statute §160A-296.

WHEREAS, the City of Washington was the sole owner of property located adjacent to said portion of Brown Street at all times relevant hereto and remains the sole owner of property located adjacent to said portion of Brown Street.

WHEREAS, if said attempted closure of said portion of Brown Street had been legally effectuated, any right, title, and interest in said portion of Brown Street would have vested in the City of Washington by virtue of North Carolina General Statute §160A-299.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Washington that the permanent closure of that portion of Brown Street between Park Drive and East Fourth Street, including bridge crossing over Jack's Creek, has not been legally effectuated and therefore said portion of Brown Street is and remains open as a public street and right-of-way and, to the extent it may be legally necessary, the City Council of the City of Washington rededicates the same as a public street and right-of-way subject to the general authority and control of the City of Washington.

Adopted this the 12th day of September, 2011, by the City Council of the City of Washington,
North Carolina.

_____(Seal)
Mayor

ATTEST:

_____(Seal)
City Clerk

Requisition Form

City Of Washington

P.O BOX 1988

WASHINGTON, NC 27889

Requisition #:9946

PO #: Not Assigned

User Name: Ed Pruden

Date: 08/10/2011

Approved By:

Approved Code: Awaiting Final Approval

Total Amount: \$31,512.00

Ship To:

CITY OF WASHINGTON WAREHOUSE (ELI)

203 GRIMES ROAD

WASHINGTON, NC 27889

WESTINGHOUSE ELECTRIC SUPPLY

3025 STONYBROOK DRIVE

RALEIGH, NC 27604

Vendor Instructions: ELECTRIC DEPT, ED PRUDEN 252-975-9365
WHITE POST TRANSFORMER PROJECT
QUOTE VALIDITY DATE 10/7/2011

Quantity	Description	Job Number	Unit Price	Extended
1	R-MAG BREAKER, MB30140LLML4KBL401. 38 kV RMS, 200kV BIL, 1250 A RMS CONTINUOUS, 25 kA RMS SHORT CIRCUIT INTERRUPTING, BUSHING CTs 1200:5 ON BUSHINGS 1-3-5 & 2-4-6, 48 VDC OPERATING VOLTAGE, 52CS, 43 LOCAL/REMOTE SWITCH, OTHER SPECIFICATIONS PER QUOTE		\$31,512.00	\$31,512.00
Sub Total				\$31,512.00
Total Tax				\$0.00
Total				\$31,512.00

Account Number	Account Description	Amount
35-90-8370-7403	INSTALLMENT PURCHASES FY 11/12	\$31,512.00
Total		\$31,512.00

Approval List

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

Requisition Form

City Of Washington

P.O BOX 1988

WASHINGTON, NC 27889

Requisition #:9979

PO #: Not Assigned

User Name: Nicole Williams

Date: 08/16/2011

Approved By:

Approved Code: Awaiting Final Approval

Total Amount: \$49,364.80

Ship To:

CITY OF WASHINGTON CITY HALL (ELEC

102 EAST 2ND STREET

WASHINGTON, NC 27889

ASPLUNDH TREE EXPERT COMPANY

TREE TRIMMING DIVISION

ATLANTA, GA 30353

Vendor Instructions: Electric Department
Nicole Williams
975-9303

Quantity	Description	Job Number	Unit Price	Extended
1	Invoice 70T36111 Stump grinding and log removal		\$49,364.80	\$49,364.80
Sub Total				\$49,364.80
Total Tax				\$0.00
Total				\$49,364.80

Account Number	Account Description	Amount
35-90-7220-5601	HWY 32 DOT BRIDGE PROJECT	\$49,364.80
Total		\$49,364.80

Approval List

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



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: September 1, 2011
Subject: Public Hearing on Certificate of Convenience and Necessity for Jeffery Roberson D/B/A Roberson Cab Service (RCS)
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that a Certificate of Convenience and Necessity be issued to Jeffery Roberson, with one taxicab D/B/A Roberson Cab Service (RCS).

BACKGROUND AND FINDINGS:

The purpose of this Council Action is to hold a public hearing, as advertised, to consider the application for a Certificate of Convenience and Necessity by Jeffery Roberson D/B/A Roberson Cab Service (RCS) to operate one taxicab in the City Of Washington.

According to his application, Mr. Roberson desires to operate one taxicab from his taxi terminal located at 702 West Martin Luther King, Jr. Drive, Washington, within the City limits of Washington.

The notice calling for the public hearing was published on September 2, 2011, and a copy of the notice was mailed to all holders of Certificates of Convenience and Necessity for the operation of vehicles in compliance with the Washington City Code.

PREVIOUS LEGISLATIVE ACTION

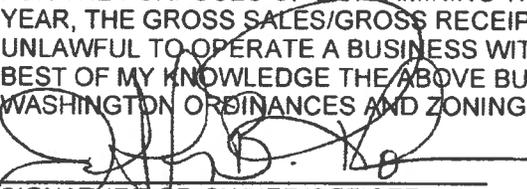
FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Application

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: RTM Date Concur _____ Recommend Denial _____ No recommendation RTM
September 12, 2011
Page 80 of 165

City of Washington, NC Application for Business Privilege License	
FISCAL YEAR: 2011	DATE OPERATIONS WILL BEGIN: 10/01/11
TYPE OF BUSINESS: NEW <input checked="" type="checkbox"/> RENEW _____ ONE TIME _____	
BUSINESS NAME: ROBERSON CAB SERVICE (RCS)	
STREET ADDRESS: 702 W. MLK Jr. DRIVE (PO BOX NUMBERS ARE NOT ACCEPTABLE FOR LOCAL BUSINESS ADDRESSES)	
MAILING ADDRESS: 702 W. MLK Jr. DRIVE	
CITY: WASHINGTON	STATE/ZIP: NC / 27889
BUSINESS PHONE: 252-414-6060	FAX NUMBER: 252-948-0851
OWNER'S NAME: JEFFERY B. ROBERSON	MANAGER'S NAME: JEFFERY B. ROBERSON
NATURE OF BUSINESS (EXPLAIN): TAXICAB SERVICE; TRANSPORT CITIZENS THROUGHOUT THE CITY OF WASHINGTON AND SURROUNDING COMMUNITIES.	
SOCIAL SECURITY NO.: [REDACTED]	FEDERAL ID NO.: N/A
STATE LICENSE NUMBER, IF APPLICABLE: N/A	
IF BUSINESS IS IN CITY LIMITS, TAX PARCEL NUMBER: 01-012253	
GROSS SALES LESS SALES TAX: RETAIL: \$ <input checked="" type="checkbox"/>	
WHOLESALE: \$ <input checked="" type="checkbox"/>	
MANUFACTURING: \$ <input checked="" type="checkbox"/>	
SERVICE ESTABLISHMENT (GROSS INCOME): \$ <input checked="" type="checkbox"/>	
GS 25-3-506: A \$25.00 ADDITIONAL COST FOR RETURNED CHECKS. GS 105-366(D)(1)(A): REQUIRES NOTIFICATION TO THE TAX COLLECTOR FORTY-EIGHT (48) HOURS PRIOR TO GOING OUT OF BUSINESS. ALSO, REQUIRES NOTIFICATION PRIOR TO THE TRANSFER OF OR PENDING SALE TO ANOTHER PARTY.	
AFFIDAVIT FOR THE PURPOSES OF DETERMINING THE PRIVILEGE LICENSE TAX FOR THE ENSUING TAX YEAR, THE GROSS SALES/GROSS RECEIPTS GIVEN ARE ACCURATE. I UNDERSTAND THAT IT IS UNLAWFUL TO OPERATE A BUSINESS WITHOUT A VALID LICENSE. I ALSO DECLARE THAT TO THE BEST OF MY KNOWLEDGE THE ABOVE BUSINESS IS IN COMPLIANCE WITH ALL CITY OF WASHINGTON ORDINANCES AND ZONING REQUIREMENTS.	
 SIGNATURE OR OWNER/OFFICER	OWNER TITLE
SEND TO: CITY OF WASHINGTON, ATTN: PRIVILEGE LICENSE, P.O. BOX 1988, WASHINGTON, NC 27889. PHONE: (252) 975-9324 or 975-9325, FAX: (252) 946-1965.	
FOR OFFICE USE ONLY	
CUSTOMER NO.:	LICENSE NO.:
LICENSE CODE NO.:	INVOICE NO.:
Return to: [Home] [Business Licenses] [Police Contact Information Form] [Police Investigation Form]	



G. Mitchell Reed
Chief of Police

Washington City Police

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



Sandy Blizzard
Deputy Chief of Police

TAXICAB APPLICATION INSTRUCTIONS

Form must be completed in full. If there is missing information, it will be returned to you, delaying the process.

Post Office boxes will not be accepted as an address. Address on driver's license must match the address given on the application.

All applicants are required by law to be fingerprinted. Fingerprint cards will be kept on file with your application. There is a onetime \$5.00 fee for fingerprinting. You will not be required to be fingerprinted when renewing your application.

If you are a new applicant, a photo will also be required once the application is approved by this Department. If you are renewing this application, we will use the photo we have on file until a new one is requested. At this time there is no fee for the photo. There is a yearly \$1.00 lamination fee for the ID card.

There will be a criminal background check and a DMV check on your license. At this time there is no fee for this service. The Chief of Police will review your application and either approve it or deny it based on the background or other disqualifying circumstances.

For a detailed explanation of these circumstances please refer to City Ordinance Sec. 36-19 through 36-87.

You will be notified when your application has been approved by Revenue and Collections, located at the Municipal Building.

If you have any questions, please contact Records Division of Washington Police at 975-9375 or Revenue and Collections at 975-9325

City of Washington, NC

Application for Business Privilege License Washington Police Emergency Contact Information Form

Any information gathered on this form is confidential and will only be used for official purposes by the Washington Police Department.

Instructions: Please fill out this form completely. Please PRINT very clearly and neatly in ink.

DATE: 06-30-2011	BUSINESS NAME: ROBERSON CAB SERVICE
ADDRESS OF BUSINESS: 702 W. MLK JR. DRIVE, WASH. NC. 27889	
MAIN PHONE NUMBER OF THE BUSINESS:	252-414-6060 <small>INCLUDE AREA CODE</small>

EMERGENCY CONTACT INFORMATION**

This is a list of people that the POLICE can call in case of an emergency.

1. NAME: QUENTRA J. ROBERSON	PHONE #: 252-702-0430 <small>INCLUDE AREA CODE</small>
ADDRESS: 702 W. MLK JR. DRIVE, WASH., NC. 27889 <small>STREET ADDRESSES ONLY - NO P.O. BOXES</small>	
2. NAME: WILLIAM V. STOKES	PHONE #: 252-940-9904 <small>INCLUDE AREA CODE</small>
ADDRESS: 940 SPRING FOREST RD., APT. 2-A, GREENVILLE, NC. 27834 <small>STREET ADDRESSES ONLY - NO P.O. BOXES</small>	
2. NAME: CARL GRIFFIN	PHONE #: 252-721-8915 <small>INCLUDE AREA CODE</small>
ADDRESS: 603 NORFOLK DRIVE, WASH., NC. 27889 <small>STREET ADDRESSES ONLY - NO P.O. BOXES</small>	

****Please attempt to identify three (3) people that can be contacted and who have 24-hour access to the business.**

ROUTING INSTRUCTIONS: Please forward this to the Washington Police Department without delay.

Street Address: 201 West Third Street

Mailing Address: P.O. Box 1988, Washington, NC 27889

Return to: [[Home](#)] [[Business Licenses](#)] [[Privilege License Application](#)] [[Police Investigation Form](#)]

<h1>City of Washington, NC</h1> <h2>Application for Business Privilege License Police Investigation Report and Certification</h2>	
Police Investigation Report	
Applicant's Full Name: <u>JEFFERY BERNARD ROBERSON</u>	
Date of Birth: <u>04-01-1968</u>	
NC Driver's License No.: <u>640725</u>	
Social Security No.:	
Race: <u>BLACK</u>	Sex: <u>MALE</u>
***** FOR POLICE DEPARTMENT USE ONLY	
POLICE DEPARTMENT CERTIFICATION	
I, _____ CERTIFY THAT THE APPLICANT ABOVE HAS BEEN INVESTIGATED BY THE WASHINGTON POLICE DEPARTMENT. BASED ON THE FINDINGS IN THIS INVESTIGATION, I RECOMMEND THE FOLLOWING:	
THIS APPLICANT MAY BE ISSUED A BUSINESS LICENSE _____	
THIS APPLICANT SHOULD NOT BE ISSUED A BUSINESS LICENSE _____	
CHIEF OR AUTHORIZED PERSON: _____	
DATE: _____	
Return to: [Home] [Business Licenses] [Privilege License Application] [Police Emergency Contact Form]	

1. Name of Applicant JEFFERY B. ROBERSON
 2. Address 702 W. MLK Jr. Dr. Telephone No. 252-414-6060
WASH. NC. 27889
 3. Financial Data:
 - (a) Attach Balance Sheet reflecting assets and liabilities, including all unpaid judgements.
 - (b) Attach a full explanation of the nature of transaction or acts giving rise to any judgements included in 3(a) above.
 4. Give full and complete explanation of the applicant's experience in the transportation of passengers. Use extra sheet if necessary.
 5. List any facts which you believe will prove that public convenience and necessity require the granting of a certificate for 1 taxicabs.
 6. Number of vehicles presently controlled or operated by applicant 1.
 7. Number of vehicles requested in this application 1. Total 1.
 8. Location of applicant's taxi terminal. 702 W. MLK Jr. Dr. 1
WASH. NC. 27889
 9. Telephone No. of applicant's taxi terminal 252-414-6060
 10. Color scheme and/or insignia used and to be used to designate the vehicle of the applicant: ROBERSON CAB SERVICE
 11. Proof of insurance to comply with GS20-280 to be attached.
 12. Certification: I certify that I have (have not) been convicted of any crime involving moral turpitude or the violation of laws or ordinances involving the sale and/or consumption of drugs and/or alcoholic beverages. (If so attach a detailed statement of the nature and disposition of the charges).
- Signature [Handwritten Signature] (Applicant)

Before me personally appeared _____
who being sworn deposes and says that the above facts are true and correct.

(Date Commission expires) NOTARY PUBLIC SIGNATURE
(Seal)

DATE

Jeffery B. Roberson Balance Sheet as of: August 31, 2011

Assets:

Current Assets	
Cash and Checking	\$500
Savings/CD's	\$150
Other Assets	\$0
Investments	
Stocks/Bonds	\$0
Mutual Funds	\$0
Other Investments	\$0
Retirement Plans	
401k, 403b, 457 Plans	\$0
IRAs	\$0
Housing	
Primary Residence	\$0
Automobiles	
Automobiles	\$1,500
	\$0
Personal Property	
Misc. Assets	\$3,500
Total Assets	<u><u>\$5,650</u></u>

Liabilities:

Current Liabilites	
Personal Loans	\$1,200
Visa/MasterCard	\$900
Long-term Liabilites	
Mortgage Loan	\$0
Auto Loans	\$0
College Loans	\$65,000
Other Debts	\$0
Total Liabilites	<u><u>\$67,100</u></u>
Net Worth	<u><u>(\$61,450)</u></u>

September 01, 2011

Statement of Commercial Driving Experience:

I have no commercial driving experience; however I have not had any moving violations in the past five years. I decided to start this business venture for the purposes of becoming financially secure and to provide a valuable transportation service to our community.

Thank you.

Jeffery Roberson

Roberson's TaxiCab Service

Statement of Judgments

Please be advised as of September 01, 2011, I have no judgments filed against me in any jurisdiction within or outside of the United States of America.

Thank you,

Jeffery B. Roberson

Roberson's TaxiCab Service

PROPOSAL

To: Washington City Council

From: Monica Ferrari and Nancy O'Neill

Date: 22 August 2011

Subject: City of Washington Ordinance Sec. 4-39, Keeping Stray Animals

Sec. 22-97, I, Animal and Bird Feeding

Purpose: Modify above ordinances to the satisfaction of the public, police department and city council.

Problem: Residents and other compassionate persons are leaving food for the city's downtown cats in order to keep them healthy. Current ordinances do not allow feeding of birds and animals. Police department therefore is issuing warnings and fines. Although people feel they are under camera surveillance, they compassionately continue to leave food in obscure areas.

Reasons to modify ordinances: on a separate attached sheet.

Proposed Solution: Modify the current ordinances to allow designated caretakers/monitors to provide dry cat food and water. Specific feeding containment systems in obscure spots off Main Street pedestrian traffic.

Cost: No cost to taxpayers. The small containers and dry food will be privately funded through our TNR Program.

Conclusion: Enforcing a ban on feeding downtown Washington cats is difficult, time consuming and poor use of our police department's limited resources. There will always be compassionate people who will in spite of ordinances, continue to provide little food for our downtown cats. Allow the modification of the ordinances, so that the TNR Program can continue to be an effective method of population stabilization. Those few remaining cats will stay healthy without reproducing.

Monica Ferrari (252) 975-1698 Nancy O'Neill (252) 495-1857

Reasons to modify the city ordinance that prohibits the feeding of homeless cats in downtown Washington:

1. In spite of the current ordinance, there will always be compassionate people who will feed the downtown cats. Enforcing a ban on feeding Washington's cats is difficult and time consuming for our police department. In addition, the public would prefer that our city resources be spent on more critical issues that face the downtown and community.
2. Regularly feeding the cats by designated caretakers will:
 - keep the cats out of undesirable locations such as dumpsters and away from entrances to restaurants where they might congregate and negatively impact local businesses.
 - Help maintain their health and provide the opportunity to identify and care for injured/ill cats.
 - Help identify any newcomers for processing by the Trap, Neuter & Return program (supporting on-going stabilization of the cat population).
3. If the public is aware the cats are being well taken care of, they may refrain from placing unsightly containers of food and water that ultimately become litter.
4. Feeding the cats and monitoring their health is compassionate and humane.

2005)

Sec. 4-38. - Negligent care of animals.

- (a) It shall be unlawful for any owner or keeper to fail to provide his animal with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.
- (b) When sunlight is likely to cause overheating or discomfort of any animal, shade shall be provided by natural or artificial means to allow protection from direct rays of the sun, but still allow air to pass to keep the animal cool.
- (c) Dogs and cats kept outdoors for more than one hour at a time shall be provided with moistureproof and windproof shelter. Whenever the outdoor temperature is below forty (40) degrees Fahrenheit, clean, dry bedding material shall be provided in such shelters for insulation and to retain the body heat of the animal.
- (d) The size of a pen holding an animal shall be large enough for the shelter and for the animal to move about in a normal manner.
- (e) The size of any chain used to restrain an animal shall be no larger than needed to restrain said animal, without putting undue stress on said animal to freely move about.
- (f) The length of any chain used to restrain an animal shall be, at a minimum, the length of the animal from tip of nose to tip of tail plus two (2) feet.
- (g) The area shall be kept clear of debris and feces to help maintain the health of the animal.
- (h) It shall be a violation for any owner of a dog or cat to allow such animal to be off the owner's premises, unless such animal is wearing a collar with the owner's name and address stamped on it or otherwise firmly attached to it.

(Ord. No. 05-3, § 1(3-29), 2-14-2005)

Sec. 4-39. - Keeping stray animals.

Stray animals can be a source of rabies or other diseases since their history is not known. For the protection of the citizens, ~~it shall be unlawful for any person in the city knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any dog or cat which does not belong to him, unless he has, within seventy-two (72) hours from the time such dog or cat came into his possession, done one of the following:~~

- (a) Notified the animal's owner, animal control, or person duly authorized by animal control. Upon receiving such notice, animal control shall take such dog or cat to the county animal shelter. If the animal is unclaimed by its owner after being held for five (5) days, ownership of the animal is surrendered to county animal shelter to be disposed of according to current county ordinance.
- (b) Become the owner or keeper of the dog or cat by taking it to a veterinarian for rabies inoculation and check for disease and notify animal control.

(Ord. No. 05-3, § 1(3-30), 2-14-2005)

Sec. 4-40. - Public nuisance.

- (a) It shall be a violation for any owner of a dog or cat to allow such dog or cat to create a public nuisance, to run at large or for said owner or keeper to not keep his dog under restraint at all times when off the owner's property.
- (b) It shall be a violation for any owner of a dog or cat to fail to remove feces deposited by such animal on any public street, highway, sidewalk or other public property or any private property without the permission of the owner of the property.
- (c) It shall be a violation for any owner of a dog or cat to allow such dog, by prolonged or habitual barking, howling or whining, or for any owner of a cat to allow such cat, by prolonged yowling, to cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by such residents.

(Code 1993, § 3-31; Ord. No. 93-5, § 1, 4-12-1993; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-31), 2-14-2005)

Sec. 4-41. - Animals in motor vehicles.

- (a) *Persons having charge or custody of animals.* No person having charge or custody of an animal, as owner or otherwise, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, cold, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death.
- (b) *Persons having dominion over motor vehicles.* No person having dominion or control over a motor vehicle, as owner or otherwise, shall place or confine an animal or allow an animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, cold, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death.
- (c) *Transport of livestock excepted.* This section does not prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.
- (d) *Police or animal control officers finding violations of section provisions.* A police officer or animal control officer who finds an animal in a motor vehicle in violation of this section, where the animal is showing signs of heat-related or extreme cold-related stress, may break and enter the motor vehicle if necessary to remove the animal. The officer removing the animal shall take the animal to a local animal hospital or veterinary clinic. In the event the person having custody cannot be otherwise contacted, the officer shall leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address and phone number of the veterinarian where the animal may be claimed by the owner thereof. The

September 12, 2011
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Sec. 22-97. - Unlawful acts.

- (a) *Dumping, etc., into river.* It shall be unlawful for any person navigating any boat in the Pamlico River to pump, unload or dump any bilge oil or other inflammable gases, oils or human waste in such river within the corporate limits or opposite the city.
- (b) *Swimming.* It shall be unlawful to use any part of Havens Gardens or any part of the Stewart Parkway area for swimming purposes.
- (c) *Throwing garbage, etc., into docks.* It shall be unlawful to throw garbage, rubbish or other refuse matter into any waterway within the city.
- (d) *Fishing.* It shall be unlawful to fish on the Boardwalk.
- (e) *Skateboards, roller skates, roller blades, or similar devices and bicycles.* It shall be unlawful to ride in, upon or by means of skateboards, roller skates, roller blades, or similar devices in the Business District which includes Stewart Parkway, the adjacent parking lots, the Promenade and the Boardwalk. Wheelchairs and strollers are permitted in said above areas. With the exception of law enforcement officers performing their official duties, it shall be unlawful to ride bicycles on the Promenade and Boardwalk.
- (f) *No walking or sitting on railing.* It shall be unlawful to walk or sit on the railing of the Boardwalk.
- (g) *Pets on Boardwalk and Promenade.* It shall be unlawful to have a pet, on a leash or not on a leash, on the Boardwalk, excluding service animals. Pets are allowed on the Promenade on a leash. Failure to remove feces is a violation of section 4-40
- (h) *Authorized personnel only.* It shall be unlawful for unauthorized persons to go into the wetlands project. This is a restricted area.
- (i) *Animal and bird feeding restrictions. Restrictions upon feeding of animals and birds in specified areas.*
- (1) No person shall do any of the following in the area bounded by Bridge Street on the west, Market Street on the east, Stewart Parkway and Main Street on the north and the federal channel of the Pamlico River on the south, except within any privately owned residential property:
 - a. Feed any bird or animal; or
 - b. Disperse any food material or other matter edible by any bird or animal so as to make such material or matter available to other birds or animals for ingestion; or
 - (2) No person shall leave any food or other matter edible by any bird or animal to remain on the ground after dispersing or dropping the same in or on the designated area.
- (j) *Violation, penalty.* Any person violating any of the provisions of this section shall pay a civil penalty in the amount set forth on the violation notice issued by the city. Said penalty shall be an amount as established from time to time. Each person shall receive a violation notice for each separate violation of any provision of this section. The civil penalty shall be paid in fourteen (14) calendar days from the issuance of the violation notice. If the citation is not paid within fourteen (14) calendar days, then in that event, said civil penalty may be collected by the city through magistrate's court and the costs of magistrate's court will be assessed to the person responsible for the civil penalty.

(Code 1972, § 26-4; Code 1993, § 11-86; Ord. No. 01-11, 9-10-2001; Ord. No. 02-8, 6-24-2002; Ord. No. 02-14, 8-12-2002; Ord. No. 02-15, 9-9-2002; Ord. No. 06-10, § 1, 4-10-2006; Ord. No. 10-5, § 1, 6-14-2010)

The Vacuum Effect

The fact is, trap-and-remove doesn't work. "Trap-and-remove" is a euphemism for capturing and killing feral cats, which is Animal Control's traditional approach to feral cats. Trap-and-remove attempts may temporarily reduce the number of feral cats in a given area, but two things happen: one, unsterilized survivors continue to breed prolifically and, two, other cats move into the now-available territory. This is known as the vacuum effect.

New cats will move in. Feral cats establish territories based on the availability of food sources and shelter. When the cats are removed from this environment, other cats move in to take advantage of whatever sources of food and shelter are available and continue to breed. ***The vacuum effect has been documented worldwide.***

If you stop feeding feral cats, they won't simply go away. A feeding ban will not make the cats go away and is, in any case, arbitrarily enforced. Why? Cats bond to their territory and are opportunistic scavengers that can, if necessary, survive on garbage. ***Under a feeding ban, the cats suffer as they search for new sources of food.***

There is a solution. Trap, neuter, and return (TNR) lowers cat populations. Here's how it works. Colony cats are humanely trapped, sterilized, and vaccinated. Strays and young kittens are removed from the colony and adopted into homes. Adult feral cats are ear-tipped for identification and returned to their outdoor homes where their numbers gradually go down through attrition. It's simple.

TNR breaks the cycle of reproduction and lowers cat populations. TNR is cost effective. TNR, which enlists community volunteers in a comprehensive program, costs one-third to one-half as much as trap-and-remove efforts. Why? Trap-and-remove endeavors require continuous trapping and killing, is not supported by the community, and is an unending budget expense. You can make a difference and save lives.

Together, we can help people understand how effective the humane solution, TNR, can be. To learn more or to find tools to help you educate people in your area, go to alleycat.org.

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alleycat@alleycat.org
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City of Washington

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

MEMORANDUM

DATE: September 12, 2011
TO: Mayor and City Council
PARK: Philip Mobley, Director Parks and Recreation
SUBJ: Jack's Creek Greenway Project Update

The Greenway Project was to start on the 29th of August, but needless to say, we are, at best trying to start this project during the latter part of this week, depending on weather conditions, the availability of manpower and equipment.

The first section of work starts between Bonner St. and Fifth St. on the South side of Jack's Creek. We will be marking the route and setting up soil retention material between the proposed walk and the creek. The asphalt walking surface will be a minimum of 55 feet from the creek up to a maximum of approximately 60 feet.

The second section will be between Harvey St. and Brown St. on the South side of Jack's Creek. The concrete basketball court on the North side of the old Health Department will have to come out. The City will need to evaluate if and when the old Health Dept. Northeast corner can come down or not.

The two paving bids came in well below initial estimates with low bid being \$ 23,812.50 from Garris Grading & Paving of Farmville, NC and from Randolph Paving & Sealing of Greenville, NC it was \$ 34,500. The paving will be a fine grade and with 2" of asphalt over a prepared stone base approx. 1,905 sq. yds. If this price should fluctuate at any time, up or down, the contractor reserves the right to adjust our price accordingly.

This project has to be completed by November 15, 2011 and all invoices have to be to the State of NC by November 1, 2011.





City of Washington

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

MEMORANDUM

DATE: September 6, 2011
TO: Mayor Jennings & Members of City Council
FROM: John Rodman, Planning & Development
RE: Civic Center Decking

The Civic Center was originally constructed as a train depot and supporting warehouse between 1907 and 1910. Portions of the existing deck were constructed in the late 1970s. During the last thirty years the deck has not been adequately maintained and is currently in a state of disrepair.

Mr. Wayne Harrell, Chief Building Official for the City of Washington, conducted a courtesy inspection of the Civic Center deck. The objective of the inspection was to provide written information describing the issues discovered from observations made and conducted by the inspector and that, in the inspector's opinion, are likely to be of concern to the City. The inspection was a process of Mr. Harrell collecting information through visual observation during a walk-through inspection of the subject property and then generating a meaningful report about the condition of the deck based on observations made that.

After the decking report was presented to City Council, the Council instructed the Planning & Development Department to obtain engineering estimates on developing plans to construct a new deck on both the east side and the west side of the Civic Center building. The estimates would include two proposals for constructing a new deck. One estimate would include engineering plans for the replacement of the deck with wooden or composite materials. The second estimate would include engineering plans for the replacement of the deck with brick and concrete materials. The estimates for engineering will be received by the end of the week and forwarded to Council as quickly as possible.

If you have any questions or I may assist you in any way please don't hesitate to let me know.



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 August Monday September 12, 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

Appointment of Chair and vice chair to the Washington/Beaufort County Human Relations Council

By motion of Board member Murrell, seconded by Board member Howard, the Board unanimously appointed William O'Pharrow as chairman of the Washington/Beaufort County Human Relations Council.

By motion of Board member Howard, seconded by Board member Castro, the Board unanimously appointed Ann Barbee Cherry as vice chair of the Washington/Beaufort County Human Relations Council.

Recognition – Former Chair Evelyne Roberson

Board members recognized out-going chair person, Evelyne Roberson. Honors were given at this time for her six years of tireless service as chair person to the Board and pictures were taken of the plaque presented by the Human Relations Council.

Scheduled Public Appearances: Mr. Alvin (Al) Powell – President/CEO ADP Consulting and Educations Services

In 2010, Mr. Powell developed/copyrighted an afterschool transportation syllabus to motivate youth to stay in school. Mr. Powell has developed and presented training seminars for the law enforcement and academic community.

PRESENTATION:

- Review Course Objectives and the two (2) poverty:
 1. Generational
 2. Situational

- Three Definitions of Poverty:
 1. Uneducated
 2. Unskilled
 3. Working poverty (you have the education but will be classified as poverty based on your income situation)

- Knowing the “Rules”:
 1. Improve communication
 2. Pulse of community
 3. Improve strategic planning
 4. Develop trust

- Types of Peer Pressure:
 1. Negative Influences:
 - A. Drug dealers
 - B. Gang members
 - C. Criminal organizations

 2. Positive Influences:
 - A. Professional teachers, ministers & counselors
 - B. Community leaders – coaches, tutors, government officials
 - C. Other family members, associates, mentors and friends

Update – Multicultural Festival:

- Three bids were received for printing (award going to Lone Bull Consultant Groups)
- Printing of flyers, posters and banners (total cost of printing \$510)
- Arts Council contributed \$250 toward printing cost
- Human Relations Council appropriated \$255 of their \$500 budget toward printing cost

Discussion – Hosting an Immigration Action Roundtable

Discussion – Latino

Discuss – All reminders



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Director of Public Works
Date: September 12, 2011
Subject: Award Contract for Labor and Equipment, issue notice to proceed
Applicant Presentation: None
Staff Presentation: As requested

RECOMMENDATION:

I move that Council award the contract for Construction Management Services and allow the Manager to execute the contract, subject to the attorney's revisions, and issue the Notice to Proceed to Turning Point Renovations and Repairs, Inc. for \$ 9,992.50.

BACKGROUND AND FINDINGS:

This request is to award a contract for the professional construction management services to oversee the installation of energy efficient improvements (Lighting Retrofit Project and Direct Gas Fired Heaters Project) at the Impressions Building

	TD Goodwin	The Daniele Company	Turning Point
Bid A (Lighting Retrofit oversight)	11,500.00	56,263.00	7,997.50
Alternate Bid (Gas heaters installation oversight)	6,400.00	159,302.00	1,995.00
Total	17,900.00	215,565.00	9,992.500

The bid opening was hosted Thursday, August 25, 2011. The bid summaries are included for Council's consideration. The contract is funded by American Recovery and Reinvestment grant funds.

PREVIOUS LEGISLATIVE ACTION

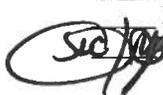
Adopt budget ordinance: 12.13.10

FISCAL IMPACT

_____ Currently Budgeted _____ Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Bid summaries, DRAFT contract.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: _____ (if applicable)
 City Manager Review:  Concur _____ Recommend _____ Denial _____ No Recommendation 9/12/11 Date
 September 12, 2011
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**BID OPENING:
Construction Management Services 8.25.11**

A. Bid Form	ID Goodwin ✓	The Daniels Company ✓	Turning Point Electric ✓
B. Proposal/Fee for Service	\$ 1,500 ⁰⁰	\$ 56,263 ⁰⁰	\$ 7997.00
C. Hold Harmless Agreement: City of Washington	✓	✓	✓
D. Hold Harmless Agreement: Impressions Marketing Group, inc.	✓	✓	✓
E. State Energy Program – Recover Funds – DOE Award Agreement (DE-EE000157) Terms and Conditions Acknowledgement Form	✓	✓	✓
F. NC Electrical Contractor's License or NC General Contractor's License working in conjunction with a NC Licensed Electrical Contractor	✓	✓	✓
G. Company safety record.	✓	✓	✓
H. Additional Information as needed	✓	✓	✓



LICENSE #: 70280 UNLIMITED
 P.O. BOX 3462, GREENVILLE, NC 27836
 2109 WILSON FARM RD., GREENVILLE, NC 27858
 PHONE: 252-321-7732 FAX: 866-372-0714
 EMAIL: tdgoodwinllc@gmail.com

Reference: City of Washington Lighting Retrofit Project (Fee for Services)

BID "A" (BASED ON A 4 WEEK COMPLETION SCHEDULE)

TASK	HOURS TO COMPLETE	HOURLY RATE	SUBTOTAL
LIGHTING RETROFI PROJECT MANAGEMENT			
PROJECT/SAFETY COORDINATOR	40	\$ 125.00	\$ 5,000.00
SITE CONSTRUCTION MANAGER	50	\$ 100.00	\$ 5,000.00
TECHNICAL SUPPORT/CONTRACT & DOC ADMINISTRATION	20	\$ 75.00	\$ 1,500.00
			TOTAL BID: \$ 11,500.00

ALTERNATE BID (BASED ON A 2 WEEK COMPLETION SCHEDULE)

TASK	HOURS TO COMPLETE	HOURLY RATE	SUBTOTAL
LIGHTING RETROFI PROJECT MANAGEMENT			
PROJECT/SAFETY COORDINATOR	20	\$ 125.00	\$ 2,500.00
SITE CONSTRUCTION MANAGER	30	\$ 100.00	\$ 3,000.00
TECHNICAL SUPPORT/CONTRACT & DOC ADMINISTRATION	12	\$ 75.00	\$ 900.00
			TOTAL BID: \$ 6,400.00

Fee for Services. Indicate hourly rates of the staff, the hours required completing the tasks, and a total cost.

BID A

Task	Hours to complete	Hourly rate	Total
Lighting retrofit project management	700	\$62.98	\$44,086
Documents Control	225	\$54.12	\$12,177
Total Bid			\$56,263

Alternate Bid

Task	Hours to complete	Hourly rate	Total
Lighting retrofit project management	100	\$62.98	\$ 6,298
Design and Build Direct Gas Fired Heating Units Project	960	\$165.94	\$159,302
Total Bid			\$165,600

2 The Daniele Company

B. Proposal/Fee for Service

Proposals must provide the following information:

1. **Team Composition.** Provide summary of key individuals. Identify staff to be assigned and identify immediate availability. Provide evidence of successful completion of comparable projects.
 - Matthew T. Sopher - President and Founder of Turning Point Renovations and Remodeling, Inc. – General Manager and holder of NC Contractors License # 63997
 - Sharron W. Sopher – Secretary Treasurer and Co-Owner of Turning Point Renovations and Remodeling, Inc. – Office Manager in charge of all office functions including but not limited to: insurance, scheduling, billing and all record keeping
 - Charles D. Sopher – Vice- President and Co-Owner of Turning Point Renovations and Remodeling, Inc. – Acts as backup for Matthew Sopher; provides legal, contracting functions and environmental services for Turning Point Renovations and Remodeling, Inc.
2. **Scope of Services.** Provide a summary Scope of Services for the team and indicate which individuals will be responsible for providing services.

Turning Point Renovations and Remodeling, Inc. will act as General Contractor and provide Construction Management Services for the Lighting Retrofit Project at the City of Washington facility leased to Impressions Inc.

Fee for Services. Indicate hourly rates of the staff, the hours required completing the tasks and a total cost. The Following Bids are based on a fee of \$35.00 per hour, Not to Exceed \$7997.50 for Bid A and a total of \$9992.50 for the Alternate Bid as listed below

BIDA

Task	Hours to complete	Hourly rate	Total
Lighting retrofit project management			
Project Management: M. T. Sopher	228.5	\$35.00	\$7997.50
		Total Bid	\$7997.50

Alternate Bid

Task	Hours to complete	Hourly rate	Total
Lighting retrofit project management	228.5	\$35.00	\$7997.50
Design and Build Direct Gas Fired Heating Units Project	57	\$35.00	\$1995.00
		Total Bid	\$9992.50

3 TURNING POINT RENOVATIONS

**CITY OF WASHINGTON
ENERGY EFFICIENCY IN GOVERNMENT BUILDINGS GRANT
CONTRACT FOR CONSTRUCTION MANAGEMENT SERVICES**

THIS CONTRACT FOR CONSTRUCTION MANAGEMENT SERVICES ("Contract") is made and entered into as of the ___ day of _____ 2011, by and between the City of Washington, a body politic and corporate of the State of North Carolina (the "City"), whose address is 102 E. 2nd St., P.O. Box 1988, Washington, North Carolina 27889 and Turning Point Renovations & Remodeling, Inc. (the "Contractor"), a North Carolina corporation, whose address is 1105 Harrington Street, P.O. Box 1479, Washington, North Carolina 27889. The City and the Contractor are sometimes referred to in this Contract individually as a "Party" and collectively as "the Parties".

WITNESSETH

WHEREAS, the North Carolina Department of Commerce ("DOC") is the prime recipient of American Reinvestment and Recovery Act of 2009 ("ARRA") funds awarded by the U.S. Department of Energy ("DOE") under the Federally regulated State Energy Program ("SEP") through Recovery Funds DOE Award Agreement DE-EE0000157 (CFDA #81.128) (the "DOE Award Agreement").

WHEREAS, the City is a sub-recipient of said ARRA funds ("Award") under the SEP Energy Efficiency in Government Buildings Grant, Government Round 2 ("Grant") to fund its Energy Efficiency in Government Buildings Program ("Program"), which Program includes its Lighting Retrofit and Installation of Direct Gas-Fired Heating Units projects (referred to collectively as "Project").

WHEREAS, said Award is governed by a Grant Agreement between the City and DOC dated Energy Efficiency in Government Buildings grant _____ ("Grant Agreement"), which Grant Agreement incorporates provisions of the Grant including all appendices and amendments thereto; the City's related application/proposal as approved by DOC; the above referenced DOE Award Agreement, as the same may be amended from time to time; SEP Special Terms and Conditions, which Contractor acknowledged in its response to the Request for Proposals for this Project and Contract on August 25, 2011; 10 CFR Part 420, which may be reviewed at the website <http://ecfr.gpoaccess.gov>; DOE Financial Assistance Regulations as contained in 10 CFR Part 600, which may be reviewed at the website <http://ecfr.gpoaccess.gov>; North Carolina General Statute §143-6-21-23¹ and North Carolina Administrative Code section 09 NCAC 03M.0703. All of the above are incorporated herein by reference and may be referred to collectively as the "Grant Agreement Documents". Said Grant Agreement Documents that are not attached hereto or available for review at the above stated websites may be reviewed in the City Planning Department, 102 E. 2nd Street, Washington, North Carolina; on the DOC, N.C. Energy Division's website at <http://www.nccommerce.com/energy>; and possibly on the City's website at www.washington-nc.gov.

¹ This citation was provided to the City by the State and is inaccurate. The City has brought this inaccuracy to the State's attention and requested the correct citation and/or clarification. The City shall forward the correct citation and/or clarification to Contractor upon the City's receipt of the same and the Parties hereto expressly agree that said corrected citation and/or clarification shall serve as an amendment to this Contract notwithstanding any provision herein to the contrary.

WHEREAS, the purpose of the City's Program is to assist the City in making certain energy efficiency improvements to its buildings by utilizing Award funds to share in the cost of making said improvements.

WHEREAS, the City has selected one City building to participate in said Program at this time, which building is leased by the City to Impressions Marketing Group, Inc. ("Impressions").

WHEREAS, the City has awarded a bid for **CONSTRUCTION MANAGEMENT SERVICES** under the Program to Contractor at and for a sum equal to the aggregate cost of the services to be performed as the same are more specifically provided for in Contractor's bid, which bid is incorporated herein by reference.

WHEREAS, Contractor has represented to the City that Contractor possesses the requisite skill, experience, and financial resources to provide the services contracted for herein.

NOW, THEREFORE, in consideration of the mutual promises as well as covenants herein, the consideration to be paid, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the City and Contractor mutually agree as follows.

A. SCOPE OF WORK, SCHEDULE, PAYMENT, AND TERMINATION

1. **Scope of Work.** Contractor shall provide to the City the construction management services (hereinafter referred to as "Services") for the above referenced Project as said Services are more specifically described in the "Project Scope" and "Proposal/Fee for Service" attached hereto as Exhibits A and B respectively, which exhibits are incorporated herein by reference as if fully set forth. Contractor shall furnish said Services, fulfill all the requirements of, and supervise all of the work to complete the Project in the manner and form provided by the following enumerated plans, specifications and documents, all of which are incorporated herein by reference as if fully set forth: the Request for Proposals as well as Contractor's response thereto (bid), including but not limited to Introduction, Project Scope, Terms and Conditions, Bid Form, Proposal/Fee for Services, Hold Harmless Agreements, SEP Terms and Conditions Acknowledgement, and other bid documents. Contractor shall perform all work required hereunder in accordance with, and shall otherwise comply with, all applicable Federal, State, and local, laws, rules, and regulations, including all applicable provisions of ARRA, SEP, Program, and Grant Agreement Documents, all of which are incorporated herein by reference as if fully set forth. All of the above named documents are binding on the Contractor with respect to the Contractor's completion of the Project. Said documents, including but not limited to this Contract, constitute the entire agreement between the Parties and supersede all prior oral or written statements, agreements, or understandings. Contractor should consult with the City on any questions concerning compliance with these requirements. Contractor shall fulfill all of its own, including any contractor's, subcontractor's and the City's obligations, under said documents that are either directly or indirectly dependent upon the Contractor for fulfillment.
2. **Contractor Defined - Qualifications.** Contractor shall be duly licensed by the State of North Carolina to provide the Services contracted for.
3. **Compensation and Expenses as well as Payment.** As compensation for the Services to be provided under this Contract, the City shall pay the Contractor the total sum of \$9,992.00 payable as set forth in Exhibit B. Unless otherwise stated in Exhibit B, the foregoing amount is

all inclusive and includes all expenses of every kind and nature, including but not limited to travel, lodging, copying, overhead, outside consultants and other similar and dissimilar expenses and charges.

- a. Provided that invoices are submitted to and received by the City no later than the twenty-fifth (25th) day of the preceding month, the City will make partial payments to the Contractor on or before the tenth (10th) day of each calendar month of this Contract.
4. **Term.** This Contract shall be effective as of the day first above written and shall continue until December 1, 2011 _____ or until such time as DOC requires in order to close out the Grant Agreement. Notwithstanding the foregoing, any provision or obligation in this Contract that, by its nature, is required to survive the termination hereof in order to be fulfilled, including but not limited to recordkeeping, auditing, and access to the Contractor's records, shall survive the termination of this Contract.
5. **Work Schedule.** Contractor shall commence work to be performed under this Contract on a date to be specified in a written order of City and shall fully complete all work within the time specified in said written order.
6. **Funds Availability.** Any and all payments contemplated to be made or made hereunder are contingent upon funds being provided to City solely for these purposes by, and not thereafter being recalled from City by, DOC or ARRA. Payment of any invoice amount is dependent as well as contingent upon and subject to the appropriation, allocation, and continuing availability of funds for these purposes to DOC and City.
7. **Recovery of Award Funds.** Contractor expressly acknowledges and accepts City's and DOC's absolute right in their respective, sole discretion to withhold, discontinue, or recover in part or in full from Contractor any monies awarded and/or distributed pursuant to this Contract if it is determined that the Contractor has engaged in unlawful conduct or conduct which violates the spirit and intent or the terms of the Program, including but not limited to the Grant Agreement Documents, or if the Contractor fails to comply with the terms of this Contract. If an audit determines that Contractor expended or otherwise benefitted from any amount of this Contract improperly or that the Contractor has failed to comply with certifications, representations, warranties and covenants made for the Contractor or that the Contractor has failed to keep records and provide access to such records as required hereunder, Contractor shall, at a minimum, be required to reimburse DOC, and DOC may pursue such other action as it deems appropriate. Contractor further expressly acknowledges that the Federal government may also recover Award funds disbursed hereunder for failure to comply with applicable laws, regulations, or the DOE Award Agreement, and may pursue such other action as it deems appropriate.
8. **Termination.** The City reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the City to serve the public interest. This termination for convenience will not be made when termination is authorized under any other provision of this Contract. In the event of termination for convenience, the City shall pay the Contractor those costs directly attributable to Services received by the City in compliance with this Contract prior to termination. Provided, however, that no costs will be paid to the Contractor which are recoverable in the Contractor's normal course of doing business. The City is not liable for loss of any profits anticipated to be made hereunder, or any special, consequential, or other damages. If the Services provided by the Contractor under this

Contract are unsatisfactory or unacceptable, as determined by the City, this Contract may be terminated for cause. Grounds for termination for cause shall include, but not be limited to the following.

- a. Failure to respond to all reasonable requests by the City to provide Services covered by this Contract.
- b. Failure to maintain any equipment required to provide the Services in accordance with the requirements of this Contract and with all laws.
- c. Lack of proper insurance as required under this Contract.
- d. Charging rates in excess of those listed in this Contract and in Exhibit B.
- e. Inefficient, or unsafe practices in providing the Services.
- f. Other actions which may impact unfavorably on the faithful performance of this Contract.

B. INSURANCE AND SAFETY

Current, valid insurance policies meeting the requirements herein identified shall be maintained during the duration of this Project. Contractor may not begin work until these insurance provisions have been obtained and certificates of insurance verifying coverage have been provided to as well as accepted by the City, in its sole discretion.

1. **Workers' Compensation Insurance.** Insurance covering all employees meeting statutory limits in compliance with the applicable state and Federal laws. The coverage must include employer's liability with a minimum limit of \$100,000 bodily injury by accident, \$100,000 bodily injury by disease, \$500,000 bodily injury by disease policy limit.
2. **Commercial General Liability.** Coverage shall have minimum limits of \$1,000,000 general aggregate, products/completed operations aggregate, personal and advertising injury and each occurrence.
3. **Business Auto Liability.** Coverage shall have minimum limits of \$300,000 per occurrence, combined single limit for bodily injury liability and property damage liability. This shall include owned vehicles, hired and non-owned vehicles and employee non-ownership.
5. **Special Requirements.**
 - a. The City and Impressions are to be included as additional insureds on the commercial general liability and business auto liability policies. If the Contractor carries umbrella/excess coverage then the City and Impressions shall also be named as additional insureds on this policy.
 - b. Contractor shall deliver to the City certificates of insurance for the insurance coverages Contractor is required to maintain in compliance with this document prior to the start of work.
 - c. Coverage shall remain in effect at least until final payment and at all times thereafter when a contractor may be correcting, removing or replacing defective work.
 - d. Renewal certificates shall be sent to the City thirty (30) days prior to an expiration date. Policies shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to the City and Contractor.

e. Contractor shall report any obvious or suspected code issues to the City's Risk Manager or his designee.

6. **Contractor Safety Requirements.** Contractor is required to comply with all current NIOSH Safety and Health Standards that are applicable to the work being performed by the Contractor for the City. Contractor shall be responsible for explaining compliance requirements to the Contractor's employees, communicating with the City's Risk Manager for safety when necessary, and communicating to City regarding all safety issues.

a. The City shall have the right, but not the obligation, to stop work on the Project if a condition is observed that is considered to be immediately dangerous to life and health. The job shall be closed until the situation is corrected. The City shall not be liable for any expense or damages incurred by the Contractor due to job closure that is the result of a condition that is immediately dangerous to life and health.

b. Prior to the start of any work performed by Contractor, the City's Risk Manager may conduct a pre-job safety review with Contractor. The meeting will provide an opportunity for the City's representative to discuss with Contractor applicable safety rules, including work zone protection and an Emergency Action Plan if Contractor may be affected by the plan, and provide for an open line of communication between both parties.

7. **Site Safety Audit.** The City's Risk Manager or his/her designee shall have the right, but not the obligation, to periodically audit the Project to ensure compliance with the provisions of this contract.

8. **Accident Reporting Requirement.** Any accidents that occur in relation to the Project shall be reported to the City's Risk Manager.

C. GENERAL PROVISIONS

1. **Interpretation of Specifications.** The specifications have been divided into sections for ready reference. It is the intention, however, that all applicable portions of the various sections shall apply to all sections unless specifically specified otherwise.

2. **Attorney's Fees.** Should Contractor or City institute any legal proceedings against the other concerning a dispute arising from this Contract, the prevailing party in such action shall, in addition to any other recovery, be entitled to recover its costs and expenses from the losing party, including its reasonable attorney's fees.

3. **Third Party Beneficiary.** The State of North Carolina ("State") is a third party beneficiary of this Contract and may, at its option, enforce the terms of this Contract, or appear as a party in any litigation concerning it. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any third party (other than the State, as specifically provided herein). It is the express intention of the State and City that any person or entity, other than the State or City, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

4. **Compliance with the Davis Bacon Act and Contract Work Hours and Safety Standards Act.** Contractor acknowledges that certain work necessary to perform the Project is subject to the Davis Bacon Act and Contract Work Hours and Safety Standards Act and that such work

must be implemented pursuant to the applicable provisions of the Grant Agreement Documents. Among other things, Contractor shall permit the State to interview any officer or employee of the Contractor regarding compliance with the above Acts. In the event Contractor determines that the class of mechanic or laborer necessary for the completion of the Project is not included in the Prevailing Wage Determination, then, in that event, Contractor shall notify City and/or State as may be applicable.

5. **Reporting Requirements.** Upon the request of the City, Contractor shall provide information to assist the City in satisfying any applicable reporting requirements associated with the Award. Contractor shall comply with and satisfy any reporting requirements as may be revised including, but not limited to, the “State Grant Compliance Reporting Requirements” (Exhibit C). Contractor also shall submit any backup materials and supporting documentation as may be deemed necessary by City and/or the State. For all work that is subject to the Davis Bacon Act and Contract Work Hours and Safety Standards Act, Contractor shall submit Form WH-347 and original certified payrolls, as may be required, to the City no later than the fifth (5th) calendar day following each weekly payroll date so that City can timely submit said information to the State.
6. **Additional Notice of Particular Grant Agreement Requirements.** Contractor shall comply with the requirements of the Grant Agreement Documents, including but not limited to those requirements regarding reporting, records retention, access to books and records, audit, and insurance contained in the Grant Agreement Documents.
7. **Statement of No Overdue Tax Debts.** Prior to City disbursing Award funds to Contractor in furtherance of the Project, Contractor has caused a written State Grant Certification – No Overdue Tax Debts, prepared on Contractor’s letterhead, to be placed on file in the City’s Office of Planning and pursuant to North Carolina General Statute §143C-6-23(c) stating that the Contractor does not have any overdue tax debts, as defined by North Carolina General Statute §105-243.1, at the Federal, State, or local level.
8. **Debarment and Suspension.** Prior to City disbursing Award funds to Contractor in furtherance of the Project, Contractor has caused a Debarment Certification to be placed on file in the City’s Office of Planning. The City is restricted from granting Federal funds to, or for the benefit of, an entity who is debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Contractor is ineligible to receive, or benefit from, funds disbursed under this Contract if debarred pursuant to state law.
9. **No Assignment or Amendment.** Contractor shall not assign any of its rights or obligations under this Contract. This Contract may not be amended or revised without written approval of both Parties and appropriate concurrence from any third party that may be required.
10. **Choice of Law, Jurisdiction, Venue.** The validity of this Contract and all of its terms and provisions, as well as the rights and duties of the Parties, are governed by the laws of the State of North Carolina. The Parties agree and submit, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agree, solely for such purpose, if the State or Federal government is a party to a legal proceeding involving City, or this Contract, that the exclusive venue for any such legal proceeding shall be Wake County, North Carolina. The place of the Contract and all transactions and agreements

relating to it, and their situs and forum, for such sole purpose shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined herein by reference, as if set out in full, and are deemed to be material to this Contract. The above Wake County venue requirements shall apply only if the State or Federal government is a party to a legal proceeding arising hereunder.

11. **Limitation on State's and City's Liability.** Neither the State; any State entity, department, board, or subdivision; or City shall be liable in any manner whatsoever to any person with respect to commitments under this Contract. Contractor's rights, if any, with respect to the Contract arise solely out of this Contract, and it has no independent right or claim to receive, or benefit from, Contract funds apart from any right or claim which may arise under this Contract. Contractor acknowledges that, in addition to the limitation on funds available as set forth hereinabove, funds available for the Contract are subject to and dependent on funding of the Award, which is dependent on City's compliance with the Grant Agreement.
12. **Indemnification.** The Contractor agrees to indemnify and hold harmless the City, the State, and all their respective officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contract in connection with the performance of the Contract.
 - a. City assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities related to this Contract, whether with respect to persons or property of Contractor or third parties. Contractor agrees to obtain insurance or otherwise protect itself or others as it may deem desirable. Further, Contractor agrees to indemnify, defend, and save harmless the City and its officers, agents and employees from any and all claims and losses arising from this Contract, including but not limited to those claims and losses accruing or resulting to any and all subcontractors, materialmen, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of the work contemplated by this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by Contractor or by any and all contractors or subcontractors in the performance of the work contemplated by this Project.
13. **Notice.** Unless otherwise specifically provided for herein, all notices permitted or required to be given by one Party to the other and all questions about this Contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the City:
Bianca Gentile, Planner
City of Washington
P.O. Box 1988
102 East 2nd Street
Washington, NC 27889

For the Contractor:
Matthew Sopher, President
Turning Point Renovations & Remodeling, Inc.
P.O. Box 1479
Washington, NC 27889
Telephone: 252-946-4638

Telephone: 252-402-6888

Fax: 252.940-4637 _____

Fax: 252-946-1965

Email: _____

Email: bgentile@washingtongov.com

msopher@suddenlinkmail.com _____

14. **Relationship of Parties.** In carrying out the terms and conditions of this Contract, Contractor is an independent party from the City and is not an agent or employee of the City. Nothing in this Contract shall create or be construed as creating a partnership, joint venture, or employee relationship between the City and Contractor.
15. **Confidentiality.** All proprietary data and information, if any, furnished to the Contractor by the City shall be regarded as confidential, shall remain the sole property of the City, and shall be held in confidence and safekeeping by Contractor for the sole use of the Parties and Contractor under the terms of this Contract. Contractor agrees that its officers, employees and agents will not disclose to any person, firm, or entity other than the City or City's designated legal counsel, accountants, practice management consultants any confidential information about the City. Contractor agrees to carry out its obligations to the City in compliance with all privacy and security regulations required by law.
16. **No Waiver.** No waiver by either Party of any default by the other Party in the performance of any particular provision of this Contract shall invalidate any other paragraph of this Contract or operate as a waiver of any future default, whether like or different in character.
17. **Severability.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
18. **Other.** If applicable, Contractor shall, upon completion of all work awarded under this Contract, furnish to City invoices or copies of invoices for all materials and equipment purchased for said work and such invoices shall state the amount of North Carolina Sales Tax paid for said materials and equipment, and Contractor shall also furnish City an affidavit certifying the total costs of materials and equipment purchased for all work performed under the Contract and the total amount of North Carolina Sales Tax paid for said materials and equipment.
19. **Execution.** This Contract may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same contract that shall be sufficiently evidenced by one such original counterpart.

IN WITNESS WHEREOF, duly authorized representatives of City and Contractor have executed this Contract effective as of the date first above written. The Parties agree that this document is executed under seal for the purposes of any applicable statute of limitations.

PRE-AUDIT CERTIFICATE

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

CITY OF WASHINGTON

(SEAL)

Matt Rauschenbach,
Chief Financial Officer

**CITY:
CITY OF WASHINGTON**

ATTEST:

Cynthia S. Bennett, City Clerk

By _____ (SEAL)

:

Joshua L. Kay, City Manager

Date: _____

Tax ID Number: 56-6001364

End of Fiscal Year: June 30th

**CONTRACTOR:
TURNING POINT RENOVATIONS &
REMODELING, INC.**

By _____ (

:

Matthew Sopher, President

Date: _____

Tax ID Number: _____

End of Fiscal Year: _____

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, Grantee, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by JOSHUA L. KAY, its City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and official seal, this the _____ day of _____, 2011.

Notary Public

My Commission Expires: _____

Notary Public

My Commission Expires: _____

Exhibit A
PROJECT SCOPE

Project Management – the contractor will perform the following tasks related to the Lighting Retrofit project and the Design and Build Direct Fired Gas Heating Units project:

1. **Constructability Review.** Review material cut sheets and coordinate as well as reconcile comments with the project team.
2. **Scheduling Services.** Manage contractor project schedules with Impressions' business operations, meeting deadlines required by ARRA funding.
3. **On-Site Construction Management.** Provide comprehensive construction management services. Firms should assume full project responsibility including management and coordination of all construction activities on the site.

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**EXHIBIT B
PROPOSAL/FEE FOR SERVICES**

Task	Hours to complete	Hourly rate	Total
Lighting retrofit project management	228.50	\$ 35.00	\$ 7,997.50
Design and Build Direct Gas Fired Heating Units Project	57.00	\$ 35.00	\$ 1,995.00
Total Bid			\$ 9,992.50

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EXHIBIT C
STATE GRANT COMPLIANCE REPORTING REQUIREMENTS

In addition to all other reporting requirements of the Contract, Contractor shall comply with the all rules and reporting requirements established by applicable North Carolina General Statutes and Title 9, Subchapter 3 of the North Carolina Administrative Code. For convenience, the requirements of 9 N.C.A.C. Subchapter 3M.0205 are set forth in this Exhibit. Note that the thresholds addressed below are thresholds for all State funds received by the City, as Grantee, in the aggregate and the definition of State funds includes Federal funds.

Reporting Thresholds.

There are three reporting thresholds established for Grantees and Contractors receiving State funds. The reporting thresholds are:

(1) Less than \$25,000 – A Grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and

(B) An accounting of the State funds received, used, or expended.

All reporting requirements shall be filed with the funding agency within six (6) months after the end of the Grantee's fiscal year in which the State funds were received.

(2) \$25,000 up to \$500,000 - A Grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;

(B) An accounting of the State funds received, used, or expended; and

(C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with the funding agency within six (6) months after the end of the Grantee's fiscal year in which the State funds were received.

(3) Greater than \$500,000 – A Grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;

(B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and

(C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine (9) months after the end of the Grantee's fiscal year in which the State funds were received.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Director of Public Works
Date: September 12, 2011
Subject: Award Contract for Labor and Equipment, issue notice to proceed
Applicant Presentation: None
Staff Presentation: As requested

RECOMMENDATION:

I move that Council award the contract for labor and equipment for the installation of direct gas fired heating units and allow the Manager to execute the contract, subject to the attorney's revisions, and issue the Notice to Proceed to Southern Piping Company for \$105,600.

BACKGROUND AND FINDINGS:

This request is to award a contract for the installation of direct gas fired heating units at the Impressions building.

The bid opening was hosted Wednesday, September 7 at 2pm.

The contract is funded by American Recovery and Reinvestment grant funds and 15,478.17 will be supplemented by funding from the Impression Lease Agreement.

PREVIOUS LEGISLATIVE ACTION

Adopt budget ordinance: 12.13.10

FISCAL IMPACT

____ Currently Budgeted ____ Requires additional appropriation X No Fiscal Impact

SUPPORTING DOCUMENTS

Bid tabulation, pricing sheet, DRAFT contract.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: _____ (if applicable)
 City Manager Review:  Concur September 12, 2011 Recommend Denial ____ No Recommendation 9/3/11 Date

Gas Fired Heaters: BID Tabulation

Southern Piping, Wilson, NC

Retrofit Description	Quantity	Price	Extended Price
Impressions			
Install S-Series Cambridge or equivalent direct gas fired makeup air unit heaters	5	15,800.00	79000.00
Gas piping	1	72,000.00	72000.00
Electrical Permit			
HVAC Permit			
Total Impressions Project			151000.00

Signature	Date

Gas Fired Heaters: Alternate Bid*

Retrofit Description	Quantity	Price	Extended Price
Impressions			
Install S-Series Cambridge direct gas fired makeup air unit heaters	3	16,667.00	50,001.00
Gas piping	1	58,999	58,999.00
Electrical Permit			
HVAC Permit			
Total Impressions Project			109,000.00

Signature	Date

From: [Joel Jones](#)
To: [Bianca Gentile](#)
Subject: Impressions - Revisions
Date: Thursday, September 08, 2011 9:37:43 AM

Bianca,

I have spoken with the manufacturer's rep this morning and got a little help from him and made an adjustment in my estimate and can only come up with a small improvement on the price. The new price for the three make-up air units is \$105,600.00. He also told me that the best the factory could do on deliveries is 8 weeks.

Reagrds,

Joel Jones
Southern Piping Company

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**CONTRACT FOR LABOR AND EQUIPMENT FOR INSTALLATION OF DIRECT GAS
FIRED HEATING UNITS**

THIS CONTRACT FOR LABOR AND EQUIPMENT FOR INSTALLATION OF DIRECT GAS FIRED HEATING UNITS ("Contract") is made and entered into as of the ___ day of _____ 2011, by and between the City of Washington, a body politic and corporate of the State of North Carolina (the "City"), whose address is 102 E. 2nd St., P.O. Box 1988, Washington, North Carolina 27889 and _____ (the "Contractor"), a North Carolina _____, whose address is _____. The City and the Contractor are sometimes referred to in this Contract individually as a "Party" and collectively as "the Parties".

WITNESSETH

WHEREAS, the North Carolina Department of Commerce ("DOC") is the prime recipient of American Reinvestment and Recovery Act of 2009 ("ARRA") funds awarded by the U.S. Department of Energy ("DOE") under the Federally regulated State Energy Program ("SEP") through Recovery Funds DOE Award Agreement DE-EE0000157 (CFDA #81.128) (the "DOE Award Agreement").

WHEREAS, the City is a sub-recipient of said ARRA funds ("Award") under the SEP Energy Efficiency in Government Buildings Grant, Government Round 2 ("Grant") to fund its Energy Efficiency in Government Buildings Program ("Program"), which Program includes its Installation of Direct Gas-Fired Heating Units project ("Project").

WHEREAS, said Award is governed by a Grant Agreement between the City and DOC dated August 25, 2011 _____ ("Grant Agreement"), which Grant Agreement incorporates provisions of the Grant including all appendices and amendments thereto; the City's related application/proposal as approved by DOC; the above referenced DOE Award Agreement, as the same may be amended from time to time; SEP Special Terms and Conditions, which Contractor acknowledged in its response to the Request for Proposals for this Project and Contract; 10 CFR Part 420, which may be reviewed at the website <http://ecfr.gpoaccess.gov>; DOE Financial Assistance Regulations as contained in 10 CFR Part 600, which may be reviewed at the website <http://ecfr.gpoaccess.gov>; North Carolina General Statute §143-6-21-23¹ and North Carolina Administrative Code section 09 NCAC 03M.0703. All of the above are incorporated herein by reference and may be referred to collectively as the "Grant Agreement Documents". Said Grant Agreement Documents that are not attached hereto or available for review at the above stated websites may be reviewed in the City Planning Department, 102 E. 2nd Street, Washington, North Carolina; on the DOC, N.C. Energy Division's website at <http://www.nccommerce.com/energy>, and possibly on the City's website at www.washington-nc.gov.

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WHEREAS, the purpose of the City's Program is to assist the City in making certain energy efficiency improvements to its buildings by utilizing Award funds to share in the cost of making said improvements.

WHEREAS, the City has selected one City building to participate in said Program at this time, which building is leased by the City to Impressions Marketing Group, Inc. ("Impressions").

¹ This citation was provided to the City by the State and is inaccurate. The City has brought this inaccuracy to the State's attention and requested the correct citation and/or clarification. The City shall forward the correct citation and/or clarification to Contractor upon the City's receipt of the same and the Parties hereto expressly agree that said corrected citation and/or clarification shall serve as an amendment to this Contract notwithstanding any provision herein to the contrary.

WHEREAS, the City has awarded a bid for **LABOR AND EQUIPMENT FOR INSTALLATION OF DIRECT GAS FIRED HEATING UNITS** under the Program to Contractor at and for a sum equal to the aggregate cost of the work to be done, including but not limited to design, labor, equipment, apparatus, supplies, and installation furnished at the prices and rates respectively named therefor in Contractor's bid, which bid is incorporated herein by reference.

WHEREAS, Contractor has represented to the City that Contractor possesses the requisite skill, experience, and financial resources to provide the services contracted for herein.

NOW, THEREFORE, in consideration of the mutual promises as well as covenants herein, the consideration to be paid, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the City and Contractor mutually agree as follows.

A. SCOPE OF WORK, SCHEDULE, PAYMENT, AND TERMINATION

1. **Scope of Work.** Contractor shall complete the Project as more specifically provided for in the "Technical Scope of Work" and "Pricing Sheet and Technical Specifications" attached hereto as Exhibits A and B respectively, which exhibits are incorporated herein by reference as if fully set forth. Contractor shall furnish and deliver all of the materials, fulfill all the requirements of, and perform all of the work to complete the Project in the manner and form provided by the following enumerated plans, specifications and documents, all of which are incorporated herein by reference as if fully set forth: the Invitation for Bids as well as Contractor's response thereto (bid), including but not limited to Introduction, Scope of Work, Technical Scope of Work, Terms and Conditions, Bid Form, Pricing Sheet and Technical Specifications, SEP Special Terms and Conditions Acknowledgment Form, Performance Bond and Payment Bond Acknowledgment Form, Hold Harmless Agreements, Project Schedule, and other bid documents. Contractor shall perform all work required hereunder in accordance with, and shall otherwise comply with, all applicable Federal, State, and local, laws, rules, and regulations, including all applicable provisions of ARRA, SEP, Program, and Grant Agreement Documents, all of which are incorporated herein by reference as if fully set forth. All of the above named documents are binding on the Contractor with respect to the Contractor's completion of the Project. Said documents, including but not limited to this Contract, constitute the entire agreement between the Parties and supersede all prior oral or written statements, agreements, or understandings. Contractor should consult with the City on any questions concerning compliance with these requirements. Contractor shall fulfill all of its own, including any contractor's, subcontractor's and the City's obligations, under said documents that are either directly or indirectly dependent upon the Contractor for fulfillment.
2. **Contractor Defined - Qualifications.** Contractor shall be duly licensed by the State of North Carolina to provide the Services contracted for.

licensed by the State of DRAFT

3. **Compensation.** The amount available for work performed under this Contract shall not exceed \$ _____, which amount shall be provided in accordance with the terms of this Contract.
4. **Term.** This Contract shall be effective as of the day first above written and shall continue until March 31, 2011 or until such time as DOC requires in order to close out the Grant Agreement. Notwithstanding the foregoing, any provision or obligation in this Contract that, by its nature, is required to survive the termination hereof in order to be fulfilled, including but not limited to recordkeeping, auditing, and access to the Contractor's records, shall survive the termination of this Contract.
5. **Work Schedule.** Contractor shall commence work to be performed under this Contract on a date to be specified in a written order of the City and shall fully complete all work within the

time specified in said written order. Contractor, as one of the considerations for the award of this Contract, has furnished to City a construction schedule setting forth planned progress of the work broken down by the various divisions or parts of the work and by calendar days. Notwithstanding anything herein to the contrary and without limiting other recourse and remedies, in the event that the progress of the work is not maintained on schedule by the Contractor or in the event the work is not completed within the time specified, City may, upon fifteen (15) days notice sent by Registered Mail to Contractor and his surety, declare this contract in default, and, thereupon, such surety shall promptly take over the said work and complete the performance of this Contract in the manner and within the time above specified, and all funds due or to become due to Contractor shall be paid to the surety. In the event the surety shall fail to take over the work to be done under this Contract within fifteen (15) days after being so notified or fail to notify the City in writing, sent by Registered Mail, that it is taking the same over and stating that it will diligently pursue and complete the same, City shall have the right to let the work remaining to be done to some other contractor, either by public letting or negotiation, and thereupon Contractor, and the surety on the Contractor's bond, shall forthwith pay City all such default on the part of Contractor.

6. **Sufficiency of Surety(ies).** It is further mutually agreed between the Parties hereto that, if at any time after the execution of this Contract, the City shall deem the surety or sureties upon any bond obtained by the Contractor hereunder to be unsatisfactory, or if, for any reason such bond ceases to be adequate to cover the performance of the work, Contractor shall, at its expense, within five (5) days after the receipt of notice from City so to do, furnish any additional bond or bonds on such form and amount, and with such surety or securities as shall be satisfactory to the City.

7. **Liquidated Damages.**

a. The City and Contractor recognize that time is of the essence as to this Contract and the City will suffer financial loss if the work is not completed within the time(s) specified in the bid, established work schedule, and/or the above referenced written order of City, as may be applicable, plus any extensions thereof allowed in accordance herewith. The parties also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the City if the work is not completed on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City \$500 for each day that expires after the time specified for such work to be complete.

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b. The Contractor shall also be liable for any and all additional costs and damages incurred by the City for said delay.

8. **Payment.** The City hereby agrees to pay to Contractor for the faithful performance of this Contract, subject to the installed quantities and unit prices attached hereto or as provided in the specifications or proposal referenced herein, in lawful money of the United States, up to the total amount of \$ _____.

Provided that invoices are submitted to the City in the manner described in section C.20. hereinbelow and received by the City no later than the twenty-fifth (25th) day of the preceding month, the City will make partial payments to the Contractor on or before the tenth (10th) day of each calendar month of this Contract. Said partial payments shall be made on the basis of duly certified and approved estimates of work performed during the relevant time by Contractor, less five percent (5%) of the amount of such estimates, which five percent (5%) is to be retained by City until final payments are made as hereinbelow provided. Approval for estimates of work referenced above shall be in the City's sole discretion after consultation with Impressions.

9. **Final Payments.** Upon submission by Contractor of evidence satisfactory to City, in its sole discretion, that all payrolls, material bills and other costs, including amounts owed to any subcontractors, incurred by Contractor in connection with the completion of construction of the Project have been paid in full, final payment on account of the Project shall be made within thirty (30) days after the completion by Contractor of all work on the Project and the acceptance of such work as well as of said submission of evidence by City, in its sole discretion after consultation with Impressions, and the State Energy Office, if applicable.
10. **Funds Availability.** Any and all payments contemplated to be made or made hereunder are contingent upon funds being provided to City solely for these purposes by, and not thereafter being recalled from City by, DOC or ARRA. Payment of any invoice amount is dependent as well as contingent upon and subject to the appropriation, allocation, and continuing availability of funds for these purposes to DOC and City.
11. **Recovery of Award Funds.** Contractor expressly acknowledges and accepts City's and DOC's absolute right in their respective, sole discretion to withhold, discontinue, or recover in part or in full from Contractor any monies awarded and/or distributed pursuant to this Contract if it is determined that the Contractor has engaged in unlawful conduct or conduct which violates the spirit and intent or the terms of the Program, including but not limited to the Grant Agreement Documents, or if the Contractor fails to comply with the terms of this Contract. If an audit determines that Contractor expended or otherwise benefitted from any amount of this Contract improperly or that the Contractor has failed to comply with certifications, representations, warranties and covenants made for the Contractor or that the Contractor has failed to keep records and provide access to such records as required hereunder, Contractor shall, at a minimum, be required to reimburse DOC, and DOC may pursue such other action as it deems appropriate. Contractor further expressly acknowledges that the Federal government may also recover Award funds disbursed hereunder for failure to comply with applicable laws, regulations, or the DOE Award Agreement, and may pursue such other action as it deems appropriate.

B. INSURANCE AND SAFETY

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Current, valid insurance policies meeting the requirements herein identified shall be maintained during the duration of this Project. Contractor and subcontractors may not begin work until these insurance provisions have been obtained and certificates of insurance verifying coverage have been provided to as well as accepted by the City, in its sole discretion.

1. **Workers' Compensation Insurance.** Insurance covering all employees meeting statutory limits in compliance with the applicable state and Federal laws. The coverage must include employer's liability with a minimum limit of \$100,000 bodily injury by accident, \$100,000 bodily injury by disease, \$500,000 bodily injury by disease policy limit.
2. **Commercial General Liability.** Coverage shall have minimum limits of \$1,000,000 general aggregate, products/completed operations aggregate, personal and advertising injury and each occurrence.
3. **Business Auto Liability.** Coverage shall have minimum limits of \$300,000 per occurrence, combined single limit for bodily injury liability and property damage liability. This shall include owned vehicles, hired and non-owned vehicles and employee non-ownership.
4. **Builder's Risk.** Contractor shall have all risk coverage with limits of insurance equal to 100% of the completed value of the materials being installed for the City.

5. **Special Requirements.**

- a. The City and Impressions are to be included as additional insureds on the commercial general liability and business auto liability policies. If the Contractor carries umbrella/excess coverage, the City and Impressions shall also be named as additional insureds on said policy.
- b. Contractor shall deliver to the City certificates of insurance for the insurance coverages Contractor is required to maintain in compliance with this Contract prior to the start of work.
- c. Coverage shall remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work.
- d. Completed operations insurance shall remain in effect for at least two (2) years after final payment, and Contractor shall furnish the City evidence to show the continuation of such insurance.
- e. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. Policies shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to the City and Contractor.
- f. Contractor shall report any obvious or suspected code issues to the project manager or his designee.
- g. It shall be the responsibility of the Contractor to see that all subcontractors comply with these requirements.

6. **Contractor Safety Requirements.**

- a. Contractor is required to comply with all current ~~NCOSHA~~ ^{OSHA} Safety and Health Standards that are applicable to the work being performed by the Contractor for the City. Contractor shall name a safety representative for this project. This individual will be responsible for explaining compliance requirements to the Contractor's employees, communicating with the City's Risk Manager when necessary, and communicating to City regarding all safety issues.
- b. The City shall have the right, but not the obligation, to stop work if a condition is observed that is considered to be immediately dangerous to life and health. The job shall be closed until the situation is corrected. The City's representative shall attempt to first contact the Contractor's safety representative. However, the City does not have to allow this situation to persist to satisfy any requirement to contact this person. The City shall not be liable for any expense or damages incurred by the Contractor due to job closure that is the result of a condition that is immediately dangerous to life and health.
- c. Prior to the start of any work by Contractor, the City's Risk Manager or designated representative will conduct a pre-job safety review with the Contractor's designated representative. The meeting will provide an opportunity for the City's representative to discuss with the Contractor's representative applicable safety rules, including work zone protection and an Emergency Action Plan if Contractor's employees may be affected by the plan, and provide for an open line of communication between both parties.

7. **Site Safety Audit.** The City's Risk Manager or his/her designee shall have the right, but not the obligation, to periodically audit Contractor's job site to ensure compliance with the provisions of this Contract.

8. **Accident Reporting Requirement.** Accidents that occur on the job site of a Contractor working for the City shall be reported to the City's Risk Manager.

C. GENERAL PROVISIONS

1. **Cleaning.** The Contractor will keep the site within and around the operations clean and neat and free of trash and debris accumulation at all times. Contractor will keep the same free from inflammable or dangerously stored materials at all times. If such is not done as directed, it may be done by the City and/or Impressions and the costs associated therewith charged to, and satisfied by, the Contractor. Upon completion, all parts of the work shall be left clean and neat to present a finished appearance.
2. **City's Right to do Work.** If during the progress of the work or during the period of guarantee, Contractor fails to prosecute the work properly or to perform any provision of the Contract, the City, after three (3) days written notice to the Contractor from the City, shall have the right, but not the obligation, to perform or have performed that portion of the work and may deduct the cost thereof from any amounts due or to become due to the Contractor, such action and cost of same having been first approved by the City. Should the cost of such action of the City exceed the amount due or to become due the Contractor, then the Contractor or his surety, or both, shall be liable for, and shall pay, the City the amount of said excess.
3. **Interpretation of Specifications.** The specifications have been divided into sections for ready reference. It is the intention, however, that all applicable portions of the various sections shall apply to all sections unless specifically specified otherwise. DRAFT
4. **Use of Premises.** The Contractor shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinance, permits or directions of the City and Impressions and shall not exceed those established limits in his operations.
5. **Permits and Inspection Fees.** The Contractor shall obtain all necessary permits and shall pay all applicable fees.
6. **Adding to or Deleting From Contract.** The City reserves the right to decrease the estimated quantities by up to fifty percent (50%) or add, upon City Council approval, additional projects with estimated quantities of up to fifty percent (50%) of estimated quantities contained in the bid, at the unit price submitted by the Contractor in Contractor's bid. At the time of adding an additional project, the Contractor and the City's Project Manager shall agree on a number of days to extend the construction time for the project being added. The additional construction time must be given in writing to the Contractor, and acknowledged by the Contractor's signature. In addition, the City reserves the right to contract with the Contractor for other construction requirements for a period of up to one (1) year after the award of the bid. The Contractor will guarantee their unit prices for this one (1) year period.
7. **Uncorrected Faulty Work and Correction of Work after Final Payment.** In the event the correction of faulty or damaged work not be completed to the satisfaction of the City, the City shall be reimbursed by the Contractor that value as determined by the units proposed.

Neither the final certificate, final payment, acceptance of the premises by the City, nor any provisions of the Contract, nor any other act or instrument of the City shall relieve the Contractor from responsibility for negligence, or faulty material or workmanship, or failure to comply with the terms, conditions and provisions of any and all contracts related to the Program. Contractor shall correct or make good any defects due thereto and repair any damage resulting therefrom which may appear during the period of the guarantee following final acceptance of the work by the City.

8. **Attorney's Fees.** Should Contractor or City institute any legal proceedings against the other concerning a dispute arising from this Contract, the prevailing party in such action shall, in addition to any other recovery, be entitled to recover its costs and expenses from the other party, including its reasonable attorney's fees.
9. **Guarantee.** The Contractor shall guarantee workmanship against defects due to the installation of faulty material or faulty workmanship or negligence for a period of twelve (12) months following the acceptance of work. Contractor shall be deemed to be due and obligated under this Agreement until such new or additional security for the faithful performance of such work shall be furnished in a manner and form satisfactory to City.
10. **Third Party Beneficiary.** The State of North Carolina ("State") is a third party beneficiary of this Contract and may, at its option, enforce the terms of this Contract, or appear as a party in any litigation concerning it. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any third party (other than the State, as specifically provided herein). It is the express intention of the State and City that any person or entity, other than the State or City, receiving services or benefits ~~under this contract shall be~~ deemed an incidental beneficiary only.

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11. **Compliance with the Davis Bacon Act and Contract Work Hours and Safety Standards Act.** Contractor acknowledges that certain work necessary to perform the Project is subject to the Davis Bacon Act and Contract Work Hours and Safety Standards Act and that such work must be implemented pursuant to the applicable provisions of the Grant Agreement Documents. Among other things, Contractor shall permit the State to interview any officer or employee of the Contractor or subcontractors performing labor through said Project regarding compliance with the above Acts. In the event Contractor determines that the class of mechanic or laborer necessary for the completion of the Project is not included in the Prevailing Wage Determination, then, in that event, Contractor shall notify City and/or State as may be applicable.
12. **Reporting Requirements.** Upon the request of the City, Contractor shall provide information to assist the City in satisfying any applicable reporting requirements associated with the Award. Subgrantee shall comply with and satisfy any reporting requirements as may be revised including, but not limited to, the "State Grant Compliance Reporting Requirements" (Exhibit C). Contractor also shall submit any backup materials and supporting documentation as may be deemed necessary by City and/or the State. For all work that is subject to the Davis Bacon Act and Contract Work Hours and Safety Standards Act, Contractor shall submit Form WH-347 and original certified payrolls, as may be required, to the City no later than the fifth (5th) calendar day following each weekly payroll date so that City can timely submit said information to the State.
13. **Additional Notice of Particular Grant Agreement Requirements.** Contractor shall comply with the requirements of the Grant Agreement Documents, including but not limited to those requirements regarding reporting, records retention, access to books and records, audit, and insurance contained in the Grant Agreement Documents.
14. **Statement of No Overdue Tax Debts.** Prior to City disbursing Award funds to Contractor in furtherance of the Project, Contractor has caused a written State Grant Certification – No Overdue Tax Debts, prepared on Contractor's letterhead, to be placed on file in the City's Office of Planning and pursuant to North Carolina General Statute §143C-6-23(c) stating that the Contractor does not have any overdue tax debts, as defined by North Carolina General Statute §105-243.1, at the Federal, State, or local level.

15. **Debarment and Suspension.** Prior to City disbursing Award funds to Contractor in furtherance of the Project, Contractor has caused a Debarment Certification to be placed on file in the City's Office of Planning. The City is restricted from granting Federal funds to, or for the benefit of, an entity that is debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. In addition, Contractor and subcontractors performing work contemplated hereunder are ineligible to receive, or benefit from, funds disbursed under this Contract if such entity(ies) are debarred pursuant to state law.
16. **No Assignment or Amendment.** Contractor shall not assign any of its rights or obligations under this Contract. This Contract may not be amended or revised without written approval of both Parties and appropriate concurrence from any third party that may be required.
17. **Choice of Law, Jurisdiction, Venue.** The validity of this Contract and all of its terms and provisions, as well as the rights and duties of the Parties, are governed by the laws of the State of North Carolina. The Parties agree and submit, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agree, solely for such purpose, if the State or Federal government is a party to a legal proceeding involving City or this Contract, that the exclusive venue for any such legal proceeding shall be Wake County, North Carolina. The place of the Contract and all transactions and agreements relating to it, and their situs and forum, for such sole purpose shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined herein by reference, as if set out in full, and are deemed to be material to this Contract. The above Wake County venue requirements shall apply only if the State or Federal government is a party to a legal proceeding arising hereunder.
18. **Limitation on State's and City's Liability.** Neither the State; any State entity, department, board, or subdivision; or City shall be liable in any manner whatsoever to any person with respect to commitments under this Contract. Contractor's rights, if any, with respect to the Contract arise solely out of this Contract, and it has no independent right or claim to receive, or benefit from, Contract funds apart from any right or claim which may arise under this Contract. Contractor acknowledges that, in addition to the limitation on funds available as set forth hereinabove, funds available for the Contract are subject to and dependent on funding of the Award, which is dependent on City's compliance with the Grant Agreement.
19. **Indemnification.** The Contractor agrees to indemnify and hold harmless the City, the State, and all their respective officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contract in connection with the performance of the Contract.
 - a. City assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities related to this Contract, whether with respect to persons or property of Contractor or third parties. Contractor agrees to obtain insurance or otherwise protect itself or others as it may deem desirable. Further, Contractor agrees to indemnify, defend, and save harmless the City and its officers, agents and employees from any and all claims and losses arising from this Contract, including but not limited to those claims and losses accruing or resulting to any and all subcontractors, materialmen, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of the work contemplated by this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by Contractor or by any and all contractor(s) or subcontractors in the performance of the work contemplated by this Contract.

20. **Notice.** Unless otherwise specifically provided for herein, all notices permitted or required to be given by one Party to the other and all questions about this Contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

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For the City:

Bianca Gentile, Planner
 City of Washington
 P.O. Box 1988
 102 East 2nd Street
 Washington, NC 27889
 Telephone: 252-402-6888
 Fax: 252-946-1965
 Email: bgentile@washingtontnc.gov

For the Contractor:

Name: _____
 Title: _____
 Company: _____
 Address: _____

 Telephone: _____
 Fax: _____
 Email: _____

21. **Relationship of Parties.** In carrying out the terms and conditions of this Contract, Contractor is an independent party from the City and is not an agent or employee of the City. Nothing in this Contract shall create or be construed as creating a partnership, joint venture, or employee relationship between the City and Contractor.
22. **No Waiver.** No waiver by either Party of any default by the other Party in the performance of any particular provision of this Contract shall invalidate any other paragraph of this Contract or operate as a waiver of any future default, whether like or different in character.
23. **Severability.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
24. **Other.** Contractor shall, upon completion of all work awarded under this Contract, furnish to City invoices or copies of invoices for all materials and equipment purchased for said work and such invoices shall state the amount of North Carolina Sales Tax paid for said materials and equipment, and Contractor shall also furnish City an affidavit certifying the total costs of materials and equipment purchased for all work performed under the Contract and the total amount of North Carolina Sales Tax paid for said materials and equipment.
25. **Execution.** This Contract may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same contract that shall be sufficiently evidenced by one such original counterpart.

IN WITNESS WHEREOF, duly authorized representatives of City and Contractor have executed this Contract effective as of the date first above written. The Parties agree that this document is executed under seal for the purposes of any applicable statute of limitations.

PRE-AUDIT CERTIFICATE

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

CITY OF WASHINGTON

_____ (SEAL)
Matt Rauschenbach,
Chief Financial Officer

**CITY:
CITY OF WASHINGTON**

ATTEST:

_____ (SEAL)
Cynthia S. Bennett, City Clerk

By _____ (SEAL)
:
Joshua L. Kay, City Manager
Date: _____
Tax ID Number: 56-6001364
End of Fiscal Year: June 30th

CONTRACTOR:

By _____ (SEAL)
:
_____, Title:

Date: _____
Tax ID Number: _____
End of Fiscal Year: _____

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, Grantee, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by JOSHUA L. KAY, its City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and official seal, this the _____ day of _____, 2011.

Notary Public

My Commission Expires: _____

Exhibit A
TECHNICAL SCOPE OF WORK

**EXHIBIT B
PRICING SHEET AND TECHNICAL SPECIFICATION**

**Gas Fired Heaters:
Southern Piping, Wilson, NC**

Retrofit Description	Quantity	Price	Extended Price
Impressions			
Install S-Series Cambridge or equivalent direct gas fired makeup air unit heaters	5	15,800.00	79000.00
Gas piping	1	72,000.00	72000.00
Electrical Permit			
HVAC Permit			
Total Impressions Project			151000.00
Signature			
			Date

Gas Fired Heaters: Alternate Bid*

Retrofit Description	Quantity	Price	Extended Price
Impressions			
Install S-Series Cambridge direct gas fired makeup air unit heaters	3	16,667.00	50,001.00
Gas piping	1	58,999	58,999.00
Electrical Permit			
HVAC Permit			
Total Impressions Project			109,000.00
Signature			
			Date

EXHIBIT C
STATE GRANT COMPLIANCE REPORTING REQUIREMENTS

In addition to all other reporting requirements of the Contract, Contractor shall comply with the all rules and reporting requirements established by applicable North Carolina General Statutes and Title 9, Subchapter 3 of the North Carolina Administrative Code. For convenience, the requirements of 9 N.C.A.C. Subchapter 3M.0205 are set forth in this Exhibit. Note that the thresholds addressed below are thresholds for all State funds received by the City, as Grantee, in the aggregate and the definition of State funds includes Federal funds.

Reporting Thresholds.

There are three reporting thresholds established for Grantees and Contractors receiving State funds. The reporting thresholds are:

(1) Less than \$25,000 – A Grantee that receives, uses, or expends State funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted; and

(B) An accounting of the State funds received, used, or expended.

All reporting requirements shall be filed with the funding agency within six (6) months after the end of the Grantee's fiscal year in which the State funds were received.

(2) \$25,000 up to \$500,000 - A Grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;

(B) An accounting of the State funds received, used, or expended; and

(C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with the funding agency within six (6) months after the end of the Grantee's fiscal year in which the State funds were received.

(3) Greater than \$500,000 – A Grantee that receives, uses, or expends State funds and in the amount greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by 9 N.C.A.C. Subchapter 3M including:

(A) A certification completed by the Grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;

(B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and

(C) A description of activities and accomplishments undertaken by the grantee with the State funds.

All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine (9) months after the end of the Grantee's fiscal year in which the State funds were received.



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: September 12, 2011
Subject: Budget Ordinance 2010-2011 Projects Not Completed
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance to appropriate funds for projects that were budgeted in 2010-2011 and not completed.

BACKGROUND AND FINDINGS:

The following projects budgeted in the prior year were not completed nor provided for in the current year budget:

- Brown Street Bridge, \$356,873 balance of project in addition to \$220,000 appropriated in August.
- Recreation trail grant, \$92,776 for the Jack's Creek greenway project.
- Terra Ceia line rebuild, \$162,852 installment purchase.
- Vision 100 Grants, \$176,536 airport improvement grants.

PREVIOUS LEGISLATIVE ACTION

Prior years budgets

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Budget Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *JW* Concur _____ Date: *9/2/11* Recommend Denial No Recommendation

September 12, 2011
Page 134 of 165

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

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

Section 1. That the following accounts of General Fund revenue budget be increased or decreased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Account	Description	Amount
10-20-3316-3400	DOT Reimbursement- Brown St	\$391,072
10-00-3991-9910	Fund Balance App- Powell Bill	(34,199)
10-40-3613-3603	Recreation Trail Grant	74,206

Section 2. That the following accounts of General Fund appropriations budget be increased or decreased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Department	Account	Description	Amount
Powell Bill	10-20-4511-7300	Brown St. Improvements	\$356,873
Parks & Grounds	10-40-6130-7305	Property Improvements	92,776
Contingency	10-00-9990-9900	Contingency	(18,570)

Section 3. That the following accounts of Electric Fund revenue budget be increased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Account	Description	Amount
35-90-3991-9910	Fund Balance Appropriated	\$117,661

Section 4. That the following accounts of Electric Fund appropriations budget be increased or decreased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Department	Account	Description	Amount
Power Line Construction	35-90-8390-7402	Installment Note Purch.	\$162,852
Contingency	35-90-9990-9900	Contingency	(45,191)

Section 5. That the following accounts of Warren Field Airport Fund revenue budget be increased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Account	Description	Amount
37-90-3490-0005	Vision 100 Grant	\$ 15,259
37-90-3490-0006	Vision 100 Grant	19,052
37-90-3490-0007	Vision 100 Grant	124,572
37-90-3991-9910	Fund Balance Appropriated	17,653

Section 6. That the following accounts of Warren Field Airport Fund appropriations budget be increased by the respective amounts indicated for projects budgeted but not completed in 2010-2011:

Department	Account	Description	Amount
Warren Field Airport	37-90-4530-4511	Grant Funds	\$ 16,954
Warren Field Airport	37-90-4530-4512	Grant Funds	21,169
Warren Field Airport	37-90-4530-4513	Grant Funds	138,413

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 12th day of September, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, Chief Financial Officer
Date: September 12, 2011
Subject: Adopt a budget ordinance amendment for outstanding purchase orders from FY 10/11 (\$912,158).

RECOMMENDATION:

I move that City Council adopt a budget ordinance amendment in the amount of \$912,158 for purchase orders outstanding from fiscal year 2010-2011 that are being brought forward into fiscal year 2011-2012 for payment.

BACKGROUND AND FINDINGS:

At the close of fiscal year 2010-2011 the City had the following amount of outstanding purchase orders, by fund, issued for contracts and merchandise:

General Fund	\$236,101
Water Fund	29,778
Sewer Fund	150,761
Storm Water Fund	37,379
Electric Fund	331,217
Airport Fund	8,134
Solid Waste Fund	114,536
Cemetery Fund	1,326
Façade Fund	<u>2,926</u>
	\$912,158

Funding for these outstanding purchase orders is restricted in fund balance at June 30, 2011. Therefore, the funding needs to be appropriated in the current fiscal year for spending.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

_____ Currently Budgeted ___X___ Requires additional appropriation _____ No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: _____
Recommendation 9/1/11 Date September 12, 2011  Concur _____ Recommend Denial _____ No
Page 137 of 165

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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

General Fund

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

10-00-3991-9910	Fund Balance Appropriated	\$229,412
10-10-3491-3305	State Energy Grant	<u>6,689</u>
		\$236,101

Section 2. That the following account in the City Council Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #45497 outstanding from FY 10/11.

10-00-4110-0400	Professional Services	\$4,500
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Section 3. That the following accounts in the Human Resources Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #47039, #47287, #47288, and #47289 outstanding from FY 10/11.

10-00-4125-0400	Professional Services	\$2,750
10-00-4125-4500	Wellness Program	<u>550</u>
		\$3,300

Section 4. That the following accounts in the Finance Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #45499 and #45852 outstanding from FY 10/11.

10-00-4130-0400	Professional Services	\$686
10-00-4130-4500	Program Enhancements	<u>11,232</u>
		\$11,918

Section 5. That the following account in the Purchasing/Warehouse Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47307 outstanding from FY 10/11.

10-00-4131-1500	Maint/Repair Building	\$150
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Section 6. That the following accounts in the Information Technology Department portion of the General Funds appropriations budget be increased in the

amounts shown to provide funds for purchase orders #46771, #47039, and #47341, outstanding from FY 10/11.

10-00-4132-7402	Installment Purchases	\$19,917
10-00-4132-4501	Program Enhancements	<u>2,750</u>
		\$22,667

Section 7. That the following accounts in the Municipal Building Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46667, #47356, #47357 and #47359 outstanding from FY 10/11.

10-00-4260-1502	Maint/Repair HVAC	\$1,028
10-00-4260-1500	Maint/Repair Buildings	5,200
10-00-4260-3300	Custodial Supplies	<u>50</u>
		\$6,278

Section 8. That the following account in the Miscellaneous, Non-Departmental portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47052, #47206, and #47350 outstanding from FY 10/11.

10-00-4400-7401	Installment Purchases	\$100,120
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Section 9. That the following accounts in the Police Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46639 and #46718 outstanding from FY 10/11.

10-10-4310-3600	Uniforms	\$1,233
10-10-4310-7402	Installment Purchases	<u>2,250</u>
		\$3,483

Section 10. That the following account in the Code Enforcement/Inspections Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47323 outstanding from FY 10/11.

10-10-4350-4500	Contract Services – Housing Demolition	\$2,500
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Section 11. That the following accounts in the Planning/Zoning Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #47340, #47342, and #47347 outstanding from FY 10/11.

10-10-4910-4510	Contract Services – Old City Hall	\$10,000
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10-10-4910-4507	City Comprehensive Plan	20,000
10-10-4910-0400	Professional Services	4,000
10-10-4910-0202	Salaries – Energy Grant	3,740
10-10-4910-1404	Employee Development	940
10-10-4910-1201	Promotions & Education	<u>2,009</u>
		\$40,689

Section 12. That the following accounts in the Street Maintenance Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #45044, #46837, and #47391 outstanding from FY 10/11.

10-20-4511-4500	Street Paving	\$7,298
10-10-4341-7300	Property Improvements	<u>7,547</u>
		\$14,845

Section 13. That the following account in the Events and Facilities Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47285 outstanding from FY 10/11.

10-40-6121-3403	Special Events	\$480
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Section 14. That the following account in the Athletics and Programs Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47165 and #47333 outstanding from FY 10/11.

10-40-6122-4504	Beaufort County Reimbursable	\$882
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Section 15. That the following account in the Senior Programs Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47130 outstanding from FY 10/11.

10-40-6123-4504	Mid-East Grant	\$75
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Section 16. That the following account in the Waterfront Docks Department portion of the General Fund appropriations budget be increased in the amount shown to provide funds for purchase orders #47328 outstanding from FY 10/11.

10-40-6124-1501	Maint/Repair Grounds	\$1,344
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Section 17. That the following accounts in the Aquatic Center Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #47327, #47366, and #47387 outstanding from FY 10/11.

10-40-6126-1500	Maint/Repair Building	\$2,275
10-40-6126-1502	Maint/Repair HVAC	<u>1,420</u>
		\$3,695

Section 18. That the following accounts in the Parks and Ground Maintenance Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46602, #47327, #47377, and #47392 outstanding from FY 10/11.

10-40-6130-1500	Maint/Repair Buildings	\$85
10-40-6130-7300	Other Improvements	<u>19,090</u>
		\$19,175

Water Fund

Section 19. That the Estimated Revenues in the Water Fund be increased in the amount of \$29,778 in the account Fund Balance Appropriated, account number 30-90-3991-9910.

Section 20. That the following account in the Water Meter Services Department portion of the Water Fund appropriations budget be increased in the amount shown to provide funds for purchase order #47179 outstanding from FY 10/11.

30-90-7250-5600	Materials	\$3,381
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Section 21. That the following accounts in the Water Treatment Plant Department portion of the Water Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #45472, #45964, #46041, #46783, #46493, #46619, #47081, #47241, #47368, and #47370 outstanding from FY 10/11.

30-90-8100-1500	Maint/Repair Buildings	\$3,000
30-90-8100-1600	Maint/Repair Plant Equip	1,417
30-90-8100-3302	Chemicals	2,630
30-90-8100-3303	Laboratory Supplies	615
30-90-8100-4501	Contract Lab Services	444
30-90-8100-0401	Professional Services	2,981
30-90-8100-7400	Capital Outlay	<u>15,310</u>
		\$26,397

Sewer Fund

Section 22. That the Estimated Revenues in the Sewer Fund be increased in the amount of \$150,761 in the account Fund Balance Appropriated, account number 32-90-3991-9910.

Section 23. That the following account in the Wastewater Maintenance Department portion of the Sewer Fund appropriations budget be increased in the amount shown to provide funds for purchase orders, #46700 and #47129 outstanding from FY 10/11.

32-90-8200-4500	Contract Services	\$22,059
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Section 24. That the following accounts in the Wastewater Treatment Plant Department portion of the Sewer Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #45456, #45457, #46041, #46095, #46503, #47098, #47237, and #47367 outstanding from FY 10/11.

32-90-8220-1600	Maint/ Repair Plant	\$10,208
32-90-8220-7400	Capital Outlay	<u>91,785</u>
		\$101,993

Section 25. That the following accounts in the Lift Stations Department portion of the Sewer Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #45288, #46867, #47217, and #47224 outstanding from FY 10/11.

32-90-8230-0400	Professional Services	\$52
32-90-8230-1600	Maint/Repair Pump Stations	18
32-90-8230-7400	Capital Outlay	<u>26,639</u>
		\$26,709

Storm Water Fund

Section 26. That the Estimated Revenues in the Storm Water Fund be increased in the amount of \$37,379 in the account Fund Balance Appropriated, account number 34-90-3991-9910.

Section 27. That the following accounts in the Storm Water Fund appropriations budget be increased in the amounts shown to provide funds for purchase order #43481, #45576, and #46238 outstanding from FY 10/11.

34-90-5710-1601	Maintenance/Repair Jacks Creek	\$37,279
34-90-5712-4501	Contract Lab Services	<u>100</u>
		\$37,379

Electric Fund

Section 28. That the Estimated Revenues in the Electric Fund be increased in the amounts and accounts shown:

35-90-3991-9910	Fund Balance Appropriated	\$331,217
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Section 29. That the following accounts in the Electric Director portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46228 and #46401 outstanding from FY 10/11.

35-90-7220-1700	Maint/Repair Vehicles	\$6
35-90-7220-7402	Installment Purchases	<u>27,909</u>
		\$27,915

Section 30. That the following account in the Utility Communications Department portion of the Electric Fund appropriations budget be increased in the amount shown to provide funds for purchase order #47325 outstanding from FY 10/11.

35-90-7230-3300	Departmental Supplies	\$180
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Section 31. That the following accounts in the Meter Services Department portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase order #46676, #46871, #47320, #47321, #47322, and #47325 outstanding from FY 10/11.

35-90-7250-3600	Uniforms	\$350
35-90-7250-7402	Installment Purchases	<u>59,933</u>
		\$60,283

Section 32. That the following accounts in the Substation Maintenance portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #47163, #47182, #47214, #47247, #47265, #47269, and #47325 outstanding from FY 10/11.

35-90-8370-1600	Maint/Repair Equipment	\$5,645
35-90-8370-1602	Maint/Repair Radio	245
35-90-8370-1603	Maint/Repair Substation	7,530
35-90-8370-3600	Uniforms	283
35-90-8370-4500	Contracts	2,150
35-90-8370-7402	Installment Purchases	<u>15,000</u>
		\$30,853

Section 33. That the following account in the Load Management Department portion of the Electric Fund appropriations budget be increased in the amount shown to provide funds for purchase order #46287 and #47016 outstanding from FY 10/11.

35-90-8375-4500	Contract Services	\$26,660
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Section 34. That the following accounts in the Power Line Maintenance portion of the Electric Fund appropriations budget be increased in the amounts shown to provide

funds for purchase order #46348, #47020, #47267, and #47325 outstanding from FY 10/11.

35-90-8380-1500	Maint/Repair Buildings	\$2,373
35-90-8380-5601	Material – Street Lights	1,541
35-90-8380-3600	Uniforms	<u>1,500</u>
		\$5,414

Section 35. That the following accounts in the Power Line Construction Department portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46626, #46840, #46932, #47393, and #45413 outstanding from FY 10/11.

35-90-8390-5601	Material Underground	\$114
35-90-8390-7400	Capital Outlay	4,807
35-90-8390-7402	Installment Purchases	<u>174,991</u>
		\$179,912

Airport Fund

Section 36. That the Estimated Revenues in the Airport Fund be increased in the amounts and accounts shown:

37-90-3991-9910	Fund Balance Appropriated	\$2,245
37-90-3490-0006	Grant Funds – 36237.38.8.1	3,633
37-90-3490-0005	Grant Funds – 36237.38.7.1	<u>2,255</u>
		\$8,134

Section 37. That the following accounts in the Airport Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40611, #45940, #46664, #47029, and #47389 outstanding from FY 10/11.

37-90-4530-4511	Vision 100 Grant 36237.38.7.1	\$2,505
37-90-4530-4512	Vision 100 Grant 36237.38.8.1	4,037
37-90-4530-1500	Maint/Repair Building	720
37-90-4530-1502	Maint/Repair Runway	<u>872</u>
		\$8,134

Solid Waste Fund

Section 38. That the Estimated Revenues in the Solid Waste Fund be increased in the following amounts and accounts shown:

38-90-3991-9900	Fund Balance Appropriated	\$114,536
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Section 39. That the following accounts in the Solid Waste Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #47234 and # 47235 outstanding from FY 10/11.

38-90-4710-1700	Maint/Repair Vehicles	\$6
38-90-4710-7401	Installment Purchases	<u>114,530</u>
		\$114,536

Cemetery Fund

Section 40. That the Estimated Revenues in the Cemetery Fund be increased in the amount of \$1,326 in the account Fund Balance Appropriated, account number 39-90-3991-9900.

Section 41. That the following accounts in the Cemetery Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #46465 and #46592 outstanding from FY 10/11.

39-90-4740-1600	Maint/Repair Mowers	\$326
38-90-4710-7400	Capital Outlay	<u>1,000</u>
		\$1,326

UDAG Fund

Section 41. That the Estimated Revenues in the Façade Grants Fund be increased in the amount of \$2,926 in the account Fund Balance Appropriated, account number 67-60-3991-9910.

Section 42. That account number 67-60-8280-9700, Façade Grants portion of the UDAG Fund appropriations budget be increased in the amount of \$2,926 to provide funds for purchase order #43722 and #43745 outstanding from FY 10/11.

Section 43. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 44. This ordinance shall become effective upon its adoption.

Adopted this the 12th day of September, 2011.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Josh Kay, City Manager
Date: September 1, 2011
Subject: Disposition of property at 507 West Second
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council adopt the Resolution authorizing a public notice to solicit offers to purchase certain surplus real property of the City of Washington and approve said public notice.

BACKGROUND AND FINDINGS:

During the regularly scheduled meeting of the City Council held on September 13, 2010, a resolution was adopted to begin the upset bid process to dispose of the property located at 507 West Second Street. The original offer of \$1,000 was received as well as advertised and subsequent upset bids were received as well as advertised. The final upset bid was \$3,500.00. City Council accepted the bid and adopted a resolution authorizing the Mayor to sign all the necessary legal documents to convey the surplus property to the bidder.

After attempting to contact the bidder several times concerning the conveyance of the property, the City Clerk received written communication that the bidder had to reorganize due to the economy and was no longer in a position to purchase the property. It is the recommendation of staff to re-start the process of disposing of the property by soliciting offers to purchase the property through a public notice and advertising the highest such offer received for upset bids pursuant to N.C. Gen. Stat. § 160A-269.

PREVIOUS LEGISLATIVE ACTION

Bid awarded in the amount of \$3500 on January 10, 2011.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Resolution to advertise property
Public Notice

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date ~~By~~ September 12, 2011 (if applicable)
City Manager Review: JIC Concur _____ Page 446 of 165 Recommend Denial _____ No Recommendation _____

**RESOLUTION AUTHORIZING A PUBLIC NOTICE TO SOLICIT
OFFERS TO PURCHASE CERTAIN SURPLUS REAL PROPERTY
OF THE CITY OF WASHINGTON**

WHEREAS, the City Council of the City of Washington ("City") has determined that the real estate herein described and currently owned by the City is not required for governmental purposes and is therefore surplus.

WHEREAS, the City desires to sell said property by soliciting offers to purchase the same through a public notice and advertising the highest such offer received for upset bids pursuant to N.C. Gen. Stat. § 160A-269.

NOW, THEREFORE, BE IT RESOLVED by the City Council that:

1. The following described real property, having an address of 507 West Second Street, is hereby declared to be surplus to the needs of the City.

That certain tract or parcel of land lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

IT BEING that Lot One (1) containing 0.09 acres as shown on survey map entitled "Survey for Timothy M. Evans" prepared by Waters Surveying dated December 3, 2009 and being that same property deeded to the City of Washington by deed dated January 27, 2010 recorded in Book 1710, Page 461, Beaufort County Registry, to which survey map and deed reference is herein made for a more complete and adequate description.

2. The City Council is accepting offers to purchase the property described above.
3. Persons desiring to make an offer to purchase the above property must submit a written offer to the City Clerk within thirty (30) days of the date the notice provided for herein is published. Any person making an offer shall deposit with the City Clerk a sum equal to five percent (5%) of the offer within thirty (30) days of said publication of said notice. The City Clerk shall retain the highest offer and deposit received and return all other offers and deposits. The City Clerk shall then publish a notice that within ten (10) days of the notice any person may raise the offer through an upset bid(s) of not less than ten percent (10%) more than the first one thousand (\$1,000.00) of the offer and five percent (5%) more than the remainder of the offer. When a qualifying upset bid is made, the bidder shall deposit with the City Clerk five percent (5%) of the amount of the increased bid and the Clerk shall re-advertise the offer in the amount of the increased bid. This procedure shall be repeated until no further qualifying upset bid(s) are received; at which time, the City Council may accept the offer and sell the property to the highest bidder. The City may at any time reject any and all offers and bids.

4. The City Council proposes to accept said offer or subsequent qualifying upset bid, subject to the provisions and conditions stated herein. Any subsequent conveyance of the property described above shall be subject to the following.
 - a. Any restrictive or protective covenant, and a reversionary clause, that, in the sole discretion of the City, are required in order to preserve and restore said property consistent with the City's Historic District Guidelines for existing structures, as may be amended; the Secretary of the Interior's Standards for the Treatment of Historic Properties, as may be amended; and any other law, code, or guideline applicable to the property.
 - b. A Purchase, Preservation, and/or Maintenance Agreement, in the sole discretion of the City, by and between the purchaser and the Cityⁱ. Said Agreement will be enforceable by said reversionary clause and shall include, among other things, requirements that the exterior restoration of the structure located on the property be completed within one hundred twenty (120) days and the entire renovation of said structure be completed within two (2) years.
 - c. The purchaser shall be responsible for payment of any and all taxes due or coming due against the property.
 - d. Any conveyance shall be by special warranty deed.ⁱⁱ

6. Notwithstanding anything herein to the contrary, the City, without recourse from any individual making the offer or any subsequent qualifying upset bid, reserves the right to cancel this upset bid process and enter an Option to Purchase Real Property for Historic Preservation with the Historic Preservation Foundation of North Carolina, Inc. or convey the property outright to the Historic Preservation Foundation of North Carolina, Inc.

Adopted this 12th day of September, 2011.

N. Archie Jennings, III
Mayor

ATTEST:

Cynthia S. Bennett, CMC
City Clerk

PUBLIC NOTICE

Pursuant to a resolution adopted by the City Council of the City of Washington ("the City") on September 12, 2011, the City desires to sell the following described real property, having an address of 507 West Second Street, by soliciting offers to purchase the same through this public notice and advertising the highest such offer received for upset bids pursuant to N.C. Gen. Stat. § 160A-269.

That certain tract or parcel of land lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

IT BEING that Lot One (1) containing 0.09 acres as shown on survey map entitled "Survey for Timothy M. Evans" prepared by Waters Surveying dated December 3, 2009 and being that same property deeded to the City of Washington by deed dated January 27, 2010 recorded in Book 1710, Page 461, Beaufort County Registry, to which survey map and deed reference is herein made for a more complete and adequate description.

The City Council is accepting offers to purchase the property described above.

Persons desiring to make an offer to purchase the above property must submit a written offer to the City Clerk at 102 East 2nd Street, Washington, N.C., by 5:00 p.m. on October __, 2011. Any person making an offer shall deposit with the City Clerk a sum equal to five percent (5%) of the offer by 5:00 p.m. on October __, 2011. The City Clerk shall retain the highest offer and deposit received and return all other offers and deposits. The City Clerk shall then publish a notice that within ten (10) days of the notice any person may raise the offer through an upset bid(s) of not less than ten percent (10%) more than the first one thousand (\$1,000.00) of the offer and five percent (5%) more than the remainder of the offer. When a qualifying upset bid is made, the bidder shall deposit with the City Clerk five percent (5%) of the amount of the increased bid and the Clerk shall re-advertise the offer at the amount of the increased bid. This procedure shall be repeated until no further qualifying upset bid(s) are received; at which time, the City Council may accept the offer and sell the property to the highest bidder. The City may at any time reject any and all offers and bids.

Inquiries regarding the sale may be directed to the City Manager, Joshua Kay, at 102 East 2nd Street, Washington, North Carolina.

The City Council proposes to accept said offer or subsequent qualifying upset bid, subject to the provisions and conditions stated herein. Any subsequent conveyance of the property described above shall be subject to the following.

- a. Any restrictive or protective covenant, and a reversionary clause, that, in the sole discretion of the City, are required in order to preserve and restore said property consistent with the City's Historic District Guidelines for existing structures, as may be amended; the Secretary of the Interior's Standards for the Treatment of Historic Properties, as may be amended; and any other law, code, or guideline applicable to the property.

- b. A Purchase, Preservation, and/or Maintenance Agreement, in the sole discretion of the City, by and between the purchaser and the City. Said Agreement will be enforceable by said reversionary clause and shall include, among other things, requirements that the exterior restoration of the structure located on the property be completed within one hundred twenty (120) days and the entire renovation of said structure be completed within two (2) years.
- c. The purchaser shall be responsible for payment of any and all taxes due or coming due against the property.
- d. Any conveyance shall be by special warranty deed.

Copies of the draft Purchase, Preservation, and/or Maintenance Agreement as well as draft special warranty deed can be obtained from the City Clerk, Cynthia Bennett, at 102 East 2nd Street, Washington, North Carolina.

Notwithstanding anything herein to the contrary, the City, without recourse from any individual making the offer or any subsequent qualifying upset bid, reserves the right to cancel this upset bid process and enter an Option to Purchase Real Property for Historic Preservation with the Historic Preservation Foundation of North Carolina, Inc. or convey the property outright to the Historic Preservation Foundation of North Carolina, Inc.

This notice is published in accordance with N.C. Gen. Stat. § 160A-269.

Cynthia S. Bennett
City Clerk for the City of Washington

Published on October ____, 2011



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: 09-06-11
Subject: Authorize the Manager to Execute Engineering Agreement with Summit Consulting for the Brown Street Bridge Replacement Project.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the Manager to execute the attached Engineering Agreement with summit Consulting required for professional engineering services necessary for construction engineering and inspection for the Brown Street Bridge replacement project in the amount of \$78,731.13.

BACKGROUND AND FINDINGS:

As noted in previous Council meetings, this project is nearing the bid process. We have advertised for inspection services as required and have a proposal that has been approved by NCDOT for \$78,731.13 with Summit Consulting out of Hillsborough.

PREVIOUS LEGISLATIVE ACTION

Last action item was budget ordinance amendment on 08-08-11

FISCAL IMPACT

Currently Budgeted (Acct. 10-20-4511-7300) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached Engineering Agreement.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: _____ (if applicable)
 City Manager Review: *AL* Concur _____ Recommend Denial _____ No Recommendation 9/2/11 Date
 September 12, 2011
 Page 151 of 165

PROJECT: B-5174
CITY OF WASHINGTON
BRIDGE 80 ON BROWN STREET OVER JACK'S CREEK

COUNTY: BEAUFORT

ENGINEERING AGREEMENT

This AGREEMENT, made and entered into this _____ day of _____, 2011, by and between the City of Washington (hereinafter called the "CITY") and, SUMMIT CONSULTING-Engineering, Architecture & Surveying (hereinafter called the "ENGINEER") with office at, 1000 Corporate Drive, Suite 101, Hillsborough, NC 27278.

GENERAL RECITALS

WITNESSETH:

WHEREAS, the CITY intends to execute a contract for the construction of Bridge 80 on Brown Street over Jack's Creek; and.

WHEREAS, the CITY is obliged to carry out the proper construction of said Projects under standards for construction of roads and structures of the North Carolina Department of Transportation (hereinafter called the "NCDOT"); and

WHEREAS, the CITY desires the assistance of a private engineering firm (hereinafter called the "ENGINEER") in the performance of certain engineering services (hereinafter called "SERVICES") in conjunction with the CONTRACTOR'S performance; and

WHEREAS, the ENGINEER has exhibited evidence of experience, ability, competence, and reputation to perform such engineering SERVICES;

NOW THEREFORE, the CITY and the ENGINEER, for consideration hereinafter stipulated, mutually agree as follows:

The ENGINEER agrees to perform the required professional engineering SERVICES necessary for Construction Engineering and Inspection on Bridge 80 on Brown Street over Jack's Creek.

ARTICLE I – SCOPE OF SERVICES

I.A Description of Work Required

This statement of work describes and defines the SERVICES required for construction inspection, materials sampling and testing, and contract administration for the project entitled Bridge 80 on Brown Street over Jack's Creek.

- I.A.1 The ENGINEER shall be responsible for all construction inspection, field materials sampling and testing, and assisting the CITY with contract administration for the construction Project as outlined in the Scope of Services, Article I.
- I.A.2 The ENGINEER shall be responsible for all construction administrative functions as defined in this Scope of Services and referenced manuals and procedures.
- I.A.3 The ENGINEER shall utilize effective control procedures such that the construction of this project is performed in reasonably close conformity with the plans, specifications, and contract provisions.
- I.A.4 The ENGINEER shall be responsible for providing technical personnel in appropriate numbers at the proper times such that the responsibilities assigned under this AGREEMENT are effectively carried out.
- I.A.5 All SERVICES shall be performed in accordance with the established standard procedures and practices of the NCDOT. Prior to furnishing any SERVICES, the ENGINEER shall be familiar with those departmental standard procedures and practices as set forth in the Construction Manual and associated manuals and with informal procedures and practices for construction contract administration used by the NCDOT.
- I.A.6 The ENGINEER shall not employ any person to provide the SERVICES that was involved with the project while employed with NCDOT as a construction engineer or construction technician.
- I.A.7 The ENGINEER shall maintain close coordination with the CITY and the CONTRACTOR in order to minimize rescheduling of the ENGINEER'S activities due to construction delays or changes in scheduling of the CONTRACTOR'S activities.

I.B Work Standards

- I.B.1 It shall be the responsibility of the ENGINEER to provide SERVICES as necessary such that the project is constructed in reasonably close conformity with the plans, specifications, and contract provisions.
- I.B.2 The ENGINEER shall advise the CITY of any observed omissions, substitutions, defects, and deficiencies noted in the work of the CONTRACTOR and any corrective action taken. The SERVICES provided by the ENGINEER shall not relieve the

CONTRACTOR of responsibility for the satisfactory performance of the construction contract.

- I.B.3 The ENGINEER shall work under the general guidance and direction of the Executive Director/Manager of the CITY. The ENGINEER shall make normal and routine project decisions consistent with the NCDOT's policies, procedures, and general guidance provided by the City or NCDOT Resident Engineer and Assistant Resident Engineers.
- I.B.4 The ENGINEER shall make and record such measurements as are necessary to calculate and document quantities for pay items, except for measurement of earthwork quantities that requires the services of a survey crew, and perform incidental engineering surveys as may be necessary to carry out the SERVICES covered by this AGREEMENT.
- I.B.5 The ENGINEER shall provide SERVICES to monitor the CONTRACTOR'S on-site construction operation and to inspect all materials entering into the work as required so that the quality of workmanship and materials is such that the project will be completed in reasonably close conformity with the plans, specifications, and other contract provisions. The ENGINEER shall keep detailed, accurate records of the CONTRACTOR'S daily operations and significant events that affect the work.
- I.B.6 The standard procedures and practices of the NCDOT for inspection of construction projects are set out in the Construction Manual. The ENGINEER shall perform inspection SERVICES in accordance with these standard procedures and practices and other accepted practices as may be appropriate.
- I.B.7 The ENGINEER shall perform or provide for through the services of an independent testing firm field sampling and testing of component materials and completed work items such that the materials and workmanship incorporated into the project are in reasonably close conformity with the plans, specifications, and contract provisions.
- I.B.8 The ENGINEER shall perform all necessary surveillance and inspection of the hot-mix asphalt roadway operations.
- I.B.9 The ENGINEER shall attend the Preconstruction Conference, if applicable.
- I.B.10 The ENGINEER shall maintain on a daily basis a complete and accurate record of all activities and events relating to the project and a record of all work completed by the CONTRACTOR, including quantities of pay items in conformity with NCDOT's policies and procedures. The ENGINEER shall immediately report apparent significant changes in quantity, time, or cost to the CITY as they are observed.
- I.B.11 The ENGINEER shall prepare inspector's daily reports of the CONTRACTOR's operations in accordance with the Construction Manual.

- I.B.12 The ENGINEER shall maintain records of all sampling and testing accomplished and analyze such records required such that acceptability of materials and completed work items can be determined.
- I.B.13 The ENGINEER shall, at a minimum, each month prepare a comprehensive tabulation of the quantity of each pay item satisfactorily completed to date. Quantities shall be based on daily records or calculations. Calculations shall be retained. The tabulation will be submitted to the CITY with the progress payment estimate.
- I.B.14 The ENGINEER shall provide to the CONTRACTOR interpretations of the plans, specifications, and contract provisions. The ENGINEER shall consult with the NCDOT and the CITY when an interpretation involves complex issues or may have an impact on the cost of performing the work or is known to be an area of dispute with the CONTRACTOR.
- I.B.15 The ENGINEER shall analyze changes to the plans, specifications, or contract provisions and extra work which appear to be necessary to carry out the intent of the construction contract. When it is determined that a change or extra work is necessary and such work is not within the scope and intent of the original contract, the ENGINEER shall initiate any change necessary to cause the CONTRACTOR to perform the extra work.
- I.B.16 When it is determined that a modification to the original contract for the project is required due to a necessary change in the character of the work, the ENGINEER shall negotiate prices with the CONTRACTOR and prepare and submit for approval to the CITY an appropriate Change Order or Supplemental Agreement, as applicable.
- I.B.17 In the event that the CONTRACTOR gives notice in writing that he deems certain work to be performed is beyond the scope of the construction contract and he intends to claim additional compensation, the ENGINEER shall maintain accurate records of the costs involved in such work. These records shall include manpower and equipment times and materials installed (temporary or permanent) in the portion of the work in dispute.
- I.B.18 In the event that the CONTRACTOR gives notice of intent to file claim for additional compensation, the ENGINEER shall maintain complete and accurate records of work involved in the claims.
- I.B.19 The ENGINEER shall monitor each construction operation to the extent necessary to determine whether construction activities violate the requirements of any permits. The ENGINEER shall notify the CONTRACTOR of any violations or potential violations and require his immediate resolution of the problem. Permit violations must be reported to the CITY immediately.
- I.B.19 The ENGINEER shall interface with the CONTRACTOR and utility companies to coordinate the timely removal, adjustment, or protection of in-situ utilities which may conflict with the construction plans.

ARTICLE II – DATA AND SERVICES TO BE PROVIDED BY THE CITY

II.A. The CITY shall provide the ENGINEER available data and information, as applicable to the detailed SCOPE OF WORK developed for the project, which may include but is not limited to, the following:

- Approved Construction Plans
- Approved Contract Documents – proposals, specifications.
- Environmental Permits (Erosion Control, CAMA, 401 Water Quality Certification, Section 404)
- All data in the hands of the CITY (or its engineering design consultant) that can be released that would assist the ENGINEER in the accomplishment of the work.
- All CITY policies and procedures applicable to the prosecution of the project.

It is the responsibility of the ENGINEER to obtain the latest NCDOT approved Standard Specifications for Roads and Structures, Standard Drawings, Construction Manual, and Materials and Tests Manual.

ARTICLE III – TIME OF BEGINNING AND CONTRACT DURATION

III.A SERVICES to be performed by the ENGINEER under this AGREEMENT shall begin after official notice from the CITY to proceed. The CITY will not be responsible for payment for work performed in advance of such notice. Actual construction inspection SERVICES in the field shall correspond with the dates for the construction contract.

III.B The contract duration proposed under this AGREEMENT is a construction period of approximately 4.5 months. Detailed man-hours and cost estimate are attached as Appendix A and substantiates the engineering fees and costs.

III.C The ENGINEER will be required to satisfactorily verify all pay records in accordance with the CITY's policies and procedures and submit same together with a set of plans with field revisions noted in red thereon to the CITY and NCDOT's Resident Engineer within forty-five (45) days after completion of the construction project.

ARTICLE IV – COMPENSATION AND PAYMENT

IV.A Engineering Fees and Costs

As complete compensation for SERVICES performed in accordance with the provisions of this AGREEMENT, the ENGINEER will be paid for actual costs plus a fee equal to 10% percent of the direct salaries, payroll burden, and overhead costs for the time period specified above. Actual costs to the ENGINEER include direct labor costs applicable to this project, all direct non-salary costs applicable to this project, and all overhead, all as

found defined below and as allowed in the Federal Acquisition Regulations, Subpart 1-31.2. The Actual cost may be subject to audit by the NCDOT and FHWA.

IV.A.1 Maximum Amount Payable

The maximum amount payable, including an estimated actual cost and estimated fee shall not exceed \$78,731.13 for the time period specified above. Detailed man-hours and cost estimate are attached as Appendix A and substantiates the foregoing fees. During the progress of the SERVICES, if it appears that the maximum in the amount of \$78,731.13 will be exceeded, the ENGINEER shall notify the CITY in writing. The ENGINEER shall not proceed beyond the total estimated cost without prior written approval by the CITY.

IV.A.2 Direct Salaries

Direct salaries are defined as cost of salaries of inspectors and other personnel performing work or a service for the time directly chargeable to this project. Salaries to be charged during the contract period are shown in Appendix A.

IV.A.3 Payroll Burden and Overhead Costs

Overhead costs are expressed as a percentage of direct salaries, excluding the premium portion of overtime and shift premium labor. The ENGINEER will be reimbursed at an overhead rate of 130.5% for Project Technicians and Project Management. If the NCDOT Office of Inspector General arrives at a new audited overhead rate or is presented one from another Federal or State agency, the overhead will be adjusted at the date the Office of Inspector General indicates acceptance of the new rate.

IV.A.4 Nonsalary Direct Costs

Payment for vehicle usage will be made at the rate of \$1200.00 per month for two-wheel drive vehicles. Calculation of vehicle base rate and mileage additive is shown in Appendix A.

IV.B Progress Report

The ENGINEER shall, at the end of each calendar month during which SERVICES are in progress under this AGREEMENT, prepare and present to the CITY a Progress Report stating the percent completion of the SERVICES.

IV.C Payment and Retainage

IV.C.1 The ENGINEER'S Progress Report and invoice with required supporting documentation shall be submitted monthly by the ENGINEER and approved by the CITY. The CITY agrees to make monthly payments based on direct nonsalary costs incurred plus total

direct labor costs incurred times the applicable multiplier for the ENGINEER and the applicable multipliers for Subconsultants as appropriate.

IV.C.2 The ENGINEER shall approve pay request for work performed by material testing consultant within seven days after the ENGINEER receives a request for payment. Upon approval, the material testing pay request shall be submitted to the CITY for payment.

IV.C.3 When payments are made to DBE and/or MBE firms, the ENGINEER shall provide the CITY with an accounting of said payments. This accounting shall be furnished to the CITY for any given month by the end of the following month. Failure to submit this information accordingly may result in (1) withholding of money due in the next monthly invoice, or (2) removal of an approved ENGINEER from the prequalified register of firms. The accounting shall list for each:

NCDOT Project Number(s)
Payee ENGINEER Name
Receiving Subconsultant Name
DBE/MBE Certification Basis
Amount of Payment
Date of Payment

A responsible fiscal officer of the payee ENGINEER who can attest to the date and amounts of the payments shall certify that the accounting is correct.

IV.D Maintenance of Information and Reports

IV.D.1 FHWA Information

IV.D.1.a All work shall be administered and performed in accordance with Federal-Aid Policy Guide, 23 CFR 172A and the North Carolina Administrative Code.

IV.D.1.b Subcontracts exceeding \$2,500 which involve the employment of mechanics or laborers shall require the subcontractor to comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

IV.D.1.c Subcontracts exceeding \$10,000 shall require the subcontractor to comply with all Federal regulations required in the prime contract.

IV.D.2 Availability of Information

The ENGINEER agrees to maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred on this project and to make such materials available at its offices at all reasonable times during the contract period and for three (3) years from the date of final payment for inspection by the CITY, NCDOT or Federal Highway Administration. Copies thereof shall be furnished to the CITY,

NCDOT or Federal Highway Administration if requested. The ENGINEER shall use cost principles as described in Federal Acquisition Regulation (48 CFR 1-31), Subpart 1-31.2. The ENGINEER further agrees to require all subcontractors to whom a portion of this contract may be sublet to maintain all books, documents, papers, accounting records, and other information pertaining to costs incurred on this project and to make such materials available at its offices at all reasonable times during the contract period and for three (3) years from the date of final payment, and to require said subcontractors to furnish copies of such documents to the CITY, NCDOT and/or Federal Highway Administration upon request. The ENGINEER shall affirmatively enforce this provision of this contract with the subcontractor upon request of the CITY, NCDOT or Federal Highway Administration.

ARTICLE V – MISCELLANEOUS PROVISIONS

V.A Conferences, Visits to Site, Inspection of Work

A responsible member of the firm will represent the ENGINEER for any meetings, hearings, consultations, and field conferences deemed necessary by the CITY, NCDOT or the ENGINEER. All conferences held will be in the vicinity of the project.

V.B Relationship with Others

The ENGINEER shall cooperate fully with the CITY's and NCDOT's engineers on adjacent projects, and with local, state and federal government officials and others as may be directed by the CITY. This shall include attendance at meetings, discussions, and hearings as may be requested by the CITY.

V.C Staffing by the ENGINEER

The control and supervision of all phases of the SERVICES performed under this AGREEMENT by the ENGINEER shall be under the direction of a Professional Engineer or a person with an acceptable combination of education and experience. A staff of competent, qualified technicians adequate in number and experience to perform the described SERVICES shall be assigned at all times. The CITY reserves the right at any time to increase or decrease the number of technicians assigned to the work.

The technicians, salary rate of each technician, and classifications shall be approved by the CITY prior to their usage in the performance of the SERVICES. Changes in the technicians, salary rates, and/or classifications shall be approved by the CITY prior to the change.

V.D Instructions or Directions

If, during the duration of this AGREEMENT, the ENGINEER receives instructions or directions which are considered beyond the scope of SERVICES outlined in this

AGREEMENT, or referenced attachments, the ENGINEER shall immediately notify the CITY in writing with a description and justification for the claim of extra SERVICES. The ENGINEER shall notify the CITY of extra SERVICES in writing prior to performing the extra SERVICES.

V.E. Ethics Policy

The ENGINEER agrees to comply with the NCDOT's ethics policy.

V.F. Miscellaneous Provisions

None.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated:

EXECUTED by the CITY this _____ day of 2011.

THE CITY OF WASHINGTON

By: _____
Joshua Kay – City Manager

Attest: _____

(Print Name and Title)

EXECUTED by the ENGINEER this _____ day of 2011.

SUMMIT CONSULTING-Engineering, Architecture & Surveying, PLLC

By: _____
James W. Parker, Jr., President

Attest: _____

Sherry Jones, Vice President

Affix Corporate Seal – no seal -

Construction Engineering and Inspection (CEI)

B-5174 Bridge 80 on Brown Street Over Jack's Creek

WBS -42395.11

Contract # 7500011606

ENGINEERING AND INSPECTION TECHNICAINS

	<u>Direct Labor</u>
Summit Technicians	\$ 19,800.00
Summit Overhead Audited 130.5%	<u>\$ 25,839.00</u>
Subtotal	\$ 45,639.00
Operating Margin (10%)	<u>\$ 4,563.90</u>
Subtotal	\$ 50,202.90
Summit Technicians - Premium	\$ 900.00
TOTAL COST CEI TECHNICAINS	\$ 51,102.90

PROJECT MANAGEMENT / CONTRACT ADMINISTRATION

	<u>Direct Labor</u>
Summit Project Management	\$ 6,832.80
Summit Overhead Audited 130.5%	<u>\$ 8,916.80</u>
Subtotal	\$ 15,749.60
Operating Margin (10%)	<u>\$ 1,574.96</u>
TOTAL COST PROJECT MANAGEMENT	\$ 17,324.56

PROJECT DIRECT EXPENSES

TOTAL DIRECT EXPENSES	\$ 10,303.67
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AGREEMENT COSTS AND FEES SUMMARY

CEI Technicians	\$ 51,102.90
Project Management	\$ 17,324.56
Project Direct Expenses	<u>\$ 10,303.67</u>
TOTAL COSTS AND FEES:	\$ 78,731.13



ENGINEERING AND INSPECTION TECHNICAINS
B-5174 Bridge 80 on Brown Street Over Jack's Creek
DIRECT LABOR COST SUMMARY

Personnel Classification	Regular Hours ¹	Overtime Hours ²	Total Hours	Regular Rate ³	Regular Labor	Premium Hours	Premium Rate	Premium Labor	Total Labor ⁴
Trans. Technicain III	720	72	792	\$ 25.00	\$ 19,800.00	72	\$ 12.50	\$ 900.00	\$ 20,700.00
					\$ -	0	\$ -	\$ -	\$ -
					\$ -	0	\$ -	\$ -	\$ -
	0	0	0		\$ -	0	\$ -	\$ -	\$ -
TOTALS	720	72	792	\$ 25.00	\$ 19,800.00	72	\$ 12.50	\$ 900.00	\$ 20,700.00

GRAND TOTAL

Personnel Classification	Regular Hours ¹	Overtime Hours ²	Total Hours	Regular Rate ³	Regular Labor	Premium Hours	Premium Rate	Premium Labor	Total Labor ⁴
TOTALS	720	72	792	\$ 25.00	\$19,800.00	72.00	\$ 12.50	\$900.00	\$20,700.00



PROJECT MANAGEMENT / CONTRACT ADMINISTRATION
B-5174 Bridge 80 on Brown Street Over Jack's Creek
DIRECT LABOR COST SUMMARY

Personnel Classification	Regular Hours ¹	Overtime Hours ²	Total Hours	Regular Rate ³	Regular Labor	Premium Hours	Premium Rate	Premium Labor	Total Labor ⁴
Project Manager	40	0	40	\$ 43.02	\$ 1,720.80	0	\$ 21.51	\$ -	\$ 1,720.80
Project Engineer	144	0	144	\$ 35.50	\$ 5,112.00	0	\$ 17.75	\$ -	\$ 5,112.00
		0	0	\$ -	\$ -	0	\$ -	\$ -	\$ -
	0	0	0		\$ -	0	\$ -	\$ -	\$ -
TOTALS	184	0	184	\$ 78.52	\$ 6,832.80	0	\$ 39.26	\$ -	\$ 6,832.80

GRAND TOTAL

Personnel Classification	Regular Hours ¹	Overtime Hours ²	Total Hours	Regular Rate ³	Regular Labor	Premium Hours	Premium Rate	Premium Labor	Total Labor ⁴
TOTALS	184	0	184	\$ 78.52	\$ 6,832.80	-	\$ 39.26	\$ 0.00	\$ 6,832.80



PROJECT DIRECT EXPENSES
B-5174 Bridge 80 on Brown Street Over Jack's Creek
DIRECT COST SUMMARY

Item No.	Description	Months	Quantity	Unit	Unit Price	Unit Tax	Total Unit Cost	Salvage Value	Total Cost
1	Project Vehicles	4.5	1	vehicle-month	\$ 1,078.57	\$ 83.59	\$ 1,162.16		\$ 5,229.72
2	Communications (Cell Phones)	4.5	1	phone-months	\$ 40.00	\$ 3.10	\$ 43.10		\$ 193.95
3	Mileage		1800	miles	\$ 0.51				\$ 918.00
	Miscellaneous Direct Costs								
4	Per Diem (breakfast, lunch, dinner)	2	20	days/month	\$ 35.15		\$ 703.00		\$ 1,406.00
5	Lodging	2	20	days/month	\$ 63.90		\$ 1,278.00		\$ 2,556.00

TOTAL DIRECT COSTS:

\$ 10,303.67



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Michael Whaley, Purchasing Agent
Date: August 25, 2011
Subject: Purchase of Backhoe through General Services Administration (GSA) Contract
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council approve the purchase of a backhoe from Gregory Poole through a GSA contract GS-30F-0018U as authorized through NC G.S. 143-129(e)(9a).

BACKGROUND AND FINDINGS:

<u>Vendor</u>	<u>Cost Per Unit</u>	<u>Delivery</u>	<u>Less Trade-In</u>
Gregory Poole	\$89,312.14	45 days	N/A
Grand Total		\$89,312.14	

The 2007 North Carolina General Assembly approved G.S. 143-129(e)(9a) as an exception which allows purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal agency, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal contract.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Acct. 30-90-8180-7400) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: JCC Concur September 12, 2011 Denial _____ No Recommendation 7/3/11 Date