



OCTOBER 10, 2011
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from September 6, September 12, & September 26, 2011
(page 4)

Approval/Amendments to Agenda

Presentations: Washington Area Historic Foundation

I. Consent Agenda:

- A. Approve & Authorize – City Manager to execute a change order for the Festival Park Phase 2 contract (\$10,000) to a new contract (\$135,750) **(page 33)**
- B. Declare – Surplus Fire Department EMS Vehicle #432 **and** Authorize the sale of this vehicle through electronic auction using GovDeals **(page 35)**
- C. Accept – Grant funds from the US Department of Justice to purchase bullet proof vests (\$6,500) **(page 36)**
- D. Approve – Purchase Orders >\$20,000 **(page 38)**

II. Comments from the Public:

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

- A. None –

IV. Public Hearing – Other:

- A. None –

V. Scheduled Public Appearances:

- A. Presentation – Mr. Bill Walker – Little Washington Sailing Club **(page 44)**



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VI. Correspondence and Special Reports:

- A. Memo – Load Management Device Report (**page 47**)
- B. Memo – Painting Brown Library (**page 48**)

VII. Reports from Boards, Commissions and Committees:

- A. Human Relations Council (**page 49**)
- B. Washington Tourism Development Authority (**page 50**)
- C. Financial Reports (**emailed as available**)

VIII. Appointments:

- A. Board of Commissioners of North Carolina Eastern Municipal Power Agency – Appoint Josh Kay as Second Alternate Commissioner to the NCEMPA Board of Commissioners (**page 51**)

IX. Old Business:

- A. Authorize – City Manager to award contract for the Replacement of the Brown Street Bridge (\$) (**page 53**)
- B. Award & Execute – Contract for labor and equipment and issue notice to proceed for the installation of direct gas fired heating units at Impression's (**page 54**)
- C. Authorize – Manager to execute the contract with East Carolina University, subject to the attorney's revisions, for the Talent Enhancement Capacity Building Grant opportunity (**page 72**)

X. New Business:

- A. Authorize & Approve – City Manager to contract with The Flat Roof Specialists of Raleigh, NC to replace the roof at the Civic Center **and** Approve corresponding purchase order (\$34,126) (**page 80**)



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- B. Adopt & Approve – Resolution and Authorize the disposition of personal property by private sale **and** Approve to conveyance of said property to Partnership for the Sounds (Sprout Kiosk) **(page 81)**
- C. Adopt – Resolution to accept a grant from the North Carolina Department of Transportation to fund the Airport Layout Plan at Warren Field Airport (\$60,777) **(page 94)**
- D. Adopt – New Water & Sewer Rate Schedules (effective Jan, 1, 2012) **(page 131)**
- E. Authorize & Approve – Purchase of a One Ton Utility Bed Pick-up Truck, not to exceed **and** Approve the corresponding purchase order (\$25,000) **(page 137)**
- F. Declare – Surplus personal property **and** Adopt Resolution Authorizing Purchasing Agent to sell by Private Sale (Impressions Marketing Group) **(page 138)**
- G. Adopt – Budget Ordinance to appropriate funds for expenses related to Hurricane Irene and the reimbursement from FEMA (\$1,783,868) **(page 140)**
- H. Approve & Authorize – Agreement to loan an artifact (cannon, circa 1690) for display at the NC Estuarium **(page 144)**
- XI. Any Other Items From City Manager:
 - A. Discussion – Committee of the Whole meeting scheduled for October 24, 2011
- 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 October 24, 2011 at 5:30 pm, in the Council Chambers at the Municipal Building.

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

September 6, 2011

The Washington City Council met in a special session on Tuesday, September 6, 2011 at 5:30 pm in the City Council Chambers at the Municipal Building. Present were: Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Ed Moultrie, Councilman; Gil Davis, Councilman; William Pitt, Councilman; and Josh Kay, City Manager.

Mayor Jennings arrived at 5:45 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; Mike Voss, of the Washington Daily News and Delma Blinson, of the Beaufort Observer.

Mayor Pro tem Roberson called the meeting to order and Councilman Moultrie delivered the invocation.

UPDATE – HURRICANE IRENE RECOVERY PROCESS

City Manager, Josh Kay presented an overview of the recovery process, noting that City staff was very prepared and performed well but realize we have areas that can be improved upon. Mr. Kay stated we will continually evaluate in the coming week from a staff perspective. An update was provided for Council on the recovery process of Hurricane Irene in the following categories:

➤ **Preparations of the storm**

- Monday, August 22, 2011
 - Initial notification of Hurricane Irene to permanent boaters
- Tuesday, August 23, 2011
 - Initial Emergency Operations Plan Review
 - Initial contact with contractors about recovery operations
- Wednesday, August 24, 2011
 - 72-hours pre-event meeting
 - Restaurants contacted about feeding personnel during and after event
 - Hotels contacted regarding housing of contractors
 - All employees notified to prepare their homes & family for Hurricane
 - Began securing outdoor equipment & materials
 - All equipment filled with fuel
 - Emergency supplies and provisions for departmental operations secured
 - Begin inspecting and cleaning drainage pipes and ditches
 - Inspect portable pumps and generators
- Thursday, August 25, 2011
 - 48-hour pre-event meeting held with City-emergency management team
 - All equipment and vehicles filled with fuel
 - Truck 2 of Fire-Rescue-EMS is determined to be out of service

- All batteries and portable radios charged
- Continue to secure outdoor equipment & materials
- Water storage tanks filled to minimum of 2/3rd capacity
- 3 electric-line crews and 2 tree-trimming crews contracted to be in Washington on Friday, August 26th by 6 pm
- Scheduled personnel to staff call center for Saturday & Sunday
- Beaufort County declares State of Emergency at 2 pm
- City of Washington declares State of Emergency at 5 pm
- Friday, August 26, 2011
 - 24-hour prior to event meeting held with City's Emergency Management Team
 - Final call to permanent boaters
 - Flood-prone lift stations and buildings sealed as allowable
 - 3rd Street closed at 3 pm to pump Jack's Creek for additional storage capacity
 - Acquired 10" pump from NCDOT to increase storage capacity
 - Beaufort County opens shelters at 4 pm
 - City of Washington Police provide security 24/7
 - Additional employees for Fire/EMS, Police, and Electric departments activated and housed at various locations
 - City's Emergency Operations Center (EOC) opens at 10 pm
 - Call center begins receiving calls about power outages at approximately 10 pm due to wind damage

➤ **Impact of the storm**

- Hurricane Irene
 - Landfall at Cape Lookout, NC at approximately 7:30 am, Saturday, August 27
 - Category 1: Sustained winds of 85 mph with gusts over 90 mph
 - Hurricane force winds extend out 90 miles from eye
 - Tropical Storm winds extend out 250 miles from eye
 - 13.11 inches of rainfall in Washington, NC
 - Source: NOAA Hurricane Center

➤ **Initial Assessment**

- Saturday, August 27, 2011
 - 6 am Police communications relocate to EOC (Station 2)
 - All city operations cease at 6:16 am due to high winds
 - All city operations resume operations at 5 pm
 - City-wide curfew extended from 5 pm to noon Sunday, August 28, 2011
 - 98% of all electric customers without power at 5 pm
 - 6 of 7 distribution substations out of service
 - 28 of 29 transmission and distribution electric circuits out of service
 - 13,700 of 14,000 customers without electric service

- Extreme wind damage to electric system transportation network, businesses and homes

➤ **Recovery by department**

- **Police**

- 216 calls (8/27 – 8/28)
- Sole security to Emergency Shelters – PS Jones & Washington High School
- DMV officers assisted with security at gas stations, Social Security Administration buildings, etc
- Stationed at major intersections to inform the public about the extension of the curfew on Saturday, August 27, 2011

- **Fire**

- 47 calls (8/27 – 8/28)
- Sole security to Emergency Shelters – PS Jones & Washington High School
- DMV officers assisted with security at gas stations, Social Security Administration buildings, etc
- Stationed at major intersections to inform the public about the extension of the curfew on Saturday, August 27, 2011

- **Planning & Inspections**

- **Substantially Damaged**

- Commercial – 12 (Estimated amount: \$1.2 mil)
- Residential – 30 (Estimated amount: \$1.8 mil)

- **Minor Damage**

- Commercial – 30 (Estimated amount: \$450K)
- Residential – 65 (Estimated amount: \$970K)

- **Flood Damage**

- Commercial – 5 (Estimated amount: \$10,000)
- Residential – 25 (Estimated amount: \$60,000)

- **Public Works**

- **Roadway clearing**

- Priority 1: Major access routes to hospital, PD, Fire Stations, & Utility infrastructure areas (well, substations, sewer pump stations, etc...)
- Priority 2: Major thoroughfares & Subdivisions

- **Storm debris removal**

- Priority 1: Vegetative debris (trees, limbs, leaves that are being placed on the streets) – it is taking 2-3 days for every route so we are looking at approximately 2-3 weeks before we can get the streets cleaned.
- Constructed temporary access road on airport property (old dog pound site) for debris yard

- Contractor with shredder to utilize site
 - Priority 2: Construction debris
- **Drainage**
 - Opened floodgates at Jack’s Creek once wind shifted and water level in river dropped below creek level
 - Continued pumping Jack’s Creek to lower water level in creek to pre-storm level
- **Electric**
 - **Outage Response**
 - Priority 1: 7 Substations
 - Priority 2: 29 Transmission & Distribution Circuits (unfortunately circuits are not in a straight line and it is possible they will loop around) – we are not being selective but it is how those circuits were built
 - Priority 3: Critical Infrastructure – Hospital, WWTP, RWTP, wells, & sewer lift stations (assets we have that requires electricity so we can be able to operate – by providing basic service to our citizens)
 - Priority 4: High Density feeders (line serving an estimated 100 accounts)
 - Priority 5: Low Density feeders (line only serving 5 houses)
 - Priority 6: Individual services (line taking down by a tree will take time)
 - **Outages - % without power**
 - 98% - 5 pm, Saturday, August 27, 2011
 - 61% - 11 pm, Saturday, August 27, 2011
 - 25% - Noon, Monday, August 29, 2011
 - 14% - 8 am, Tuesday, August 30, 2011
 - 7% - 8 am, Wednesday, August 31, 2011
 - 3% - 2 pm, Thursday, September 1, 2011
 - 0% - 3 am, Friday, September 2, 2011
 - *Note: these %’s do NOT reflect customers that were without power due to property damage or individual service damage
 - **Call Center**
 - Utilized non-electric staff from 6 am, Saturday, August 27, 2011 to Midnight, Friday, September 2, 2011
 - Residential – 25 (Estimated amount: \$60,000)
 - **Labor & Equipment**
 - City of Washington: 36 Employees & 25 Assets
 - Contract Lineman: 62 Individuals & 52 Assets
 - Contract Tree Crews: 11 Individuals & 4 Assets
 - Contract Engineers: 2 Individuals & 2 Vehicles

Mr. Kay offered thanks to the City of Washington team, (all employees that manned the call center, Police & Fire personnel, Recreation, Inspection, contractors, and various Washington businesses). Restaurants' stayed opened beyond hours to feed our crews and contractors. Mr. Kay stated at the call center we were using the majority of non-electric staff from 6 am Saturday August, 27 until midnight Friday, September 2, 2011. If you had to call in to the outage number most likely you were speaking with someone from within the organization. Again, thanks to all employees that volunteered their time to assist in answering calls, this is sometimes a thankless job but they did an outstanding job.

Mr. Kay stated kudos to our employees and other folks that help restore the power back to our customers in a safe and effective manner; there were no major injuries related to our employees. A couple assets were damaged in which Mr. Kay noted they will be coming to Council with a recommendation for repairs and also shared we are still in the recovery mode.

Again, Beaufort County opened up the shelters and the Police Department was the sole security for P.S. Jones and Washington High School 24 hours a day.

Mayor Jennings offered thanks to Mr. Kay for a great overview and to everybody (staff and citizens) as well. His desire was for Council to hear the full body of the efforts provided by staff and the citizens of Washington. We know that no two storms are alike and the one thing learned in this type of event is if you are without power it is very hard to communicate.

QUESTION & ANSWER SESSION

Q - Creek pumped down as far down as it could be pumped

A - Yes

Q - Submersible pump been placed in service

A - No

Observation - Submersible pump at Jack's Creek should have placed in first

A - Mr. Kay noted he would have an answer at the September meeting

Q - How many distribution lines we have

A - 400 miles (roughly 289 sq. miles of territory) Counties: Beaufort, Martin, Pitt, and Washington

Q - Collection of anything FEMA may require before the closing date (move the process along)

A - Mr. Kay noted the window has been opened and from what he understands there will not be such a short turnaround this time (there is a phone number available which is posted on our website and cable 9.) Mayor Jennings requested the City be able to facilitate the process by having the contact information provided in location our citizens will reach out to.

Councilman Moultrie commended staff on the hard work that was displayed during the storm for the community. When touring the area you could see crews hard at work. Mayor Jennings added his sentiments to this statement as well and stated during the storm and aftermath we worked wonderfully as a team (nothing short of heroic in his opinion). Mayor Jennings commended the excellent job the City Manager, Josh Kay performed during his first month as City Manager.

Recommendation for communications & the media outlets utilized by the City

Ms. Lynn Lewis served as the intermediate public information officer for her media contacts (outstanding job)

Channel 9

Facebook

Reverse 911

Cell services

ADJOURN

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adjourned the meeting at 6:15 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 COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

September 12, 2011

The Washington City Council met in a regular session on Monday, September 12, 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; Cynthia Bennett, City Clerk; Franz Holscher, City Attorney and Josh Kay, City Manager.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Mick Reed, Police Chief; Allen Lewis, Public Works Director; Keith Hardt, Electric Director; Gloria Moore, Library Director; John Rodman, Planning & Development Director; Philip Mobley, Parks and Recreation Director; Susan Hodges, Human Resource 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 Davis delivered the invocation.

APPROVAL OF MINUTES

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the minutes of August 8 & August 22, 2011 as submitted.

APPROVAL/AMENDMENTS TO AGENDA

Councilman Mercer suggested the following amendment to the agenda:

1. Move from Consent Item K to New Business X.C: Approve Purchase Orders > \$20,000.

Councilman Pitt suggested the following amendment to the agenda:

1. Move from Consent Item H to Scheduled Public Appearances D: Authorize Mr. Alvin Powell use of Warren Filed Airport on September 28 & 29, 2011 for a Transportation Career Program

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

PRESENTATIONS

Mayor Jennings and City Manager Josh Kay presented the following awards:

Certificate of Achievement for Excellence in Financial Reporting - This is the 14th year the City has received this award. Accepting award for the City was Chief Financial Officer, Matt Rauschenbach.

Electric Department Lineman Career Development Awards were presented by Mike Byrd and Woodie Wilson, Electricities Representatives; Derek Elks, Level II Underground; Jason Foreman, Level III Overhead; Phil Cameron, Level II Underground.

CONSENT AGENDA

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

- A. Allow – Boy Scouts of America request to camp on city-owned property near Warren Field (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.)
- B. Adopt – Project Budget Ordinance for the Talent Enhancement Grant Opportunity \$50,000
(copy attached)
- C. Adopt – Budget Ordinance Amendment to appropriate funds for the Brooks Boatworks tax incentive \$6,709
(copy attached)
- 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)
(copy attached)
- E. Accept & Adopt – 2011 Edward Byrne Memorial Justice Assistance Grant-(\$11,252) **and** Adopt Budget Ordinance Amendment
(copy attached)
- 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)
(copy attached)
- 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)
(copy attached)
- H. **Moved to Scheduled Public Appearances: D -** Authorize – Mr. Alvin Powell use of Warren Field Airport on September 28 & September 29, 2011 for a Transportation Career program
- I. Approve – Amendment to Employment Agreement by and between Joshua L. Kay and the City of Washington
(copy attached)
- J. Adopt – Resolution Opening Brown Street between Park Drive and East Fourth Street
(copy attached)

K. **Moved to New Business X.C** - Approve – Purchase Orders >\$20,000

MR. HARRY WILKINSON – INSTALLATION OF OUTLETS AT OR BEHIND THE BOBBY ANDREWS CENTER (Absent)

MS. LINDA WITCHELL – ALTERNATE POWER SOURCE –
BACKUP GENERATOR

Ms. Linda Witchell, 114 E. 12th Street discussed the need for a generator to operate pumps used to lower Jack’s Creek during flooding associated with hurricanes/storms. She told the council she raised concerns about drainage in the Jack’s Creek basin with the city about 15 years ago. Ms. Witchell stated her home flooded during the hurricane and felt if the pumps had been running with an alternate power source then possibly her house wouldn’t have flooded. She further suggested that perhaps Jack’s Creek could be pumped out before a storm.”

City Manager, Josh Kay explained that water from the creek was pumped out before Irene hit the area. Those four pumps, including another 10-inch pump borrowed from N.C. Department of Transportation, continuously pumped water from Jack’s Creek, except for a power outage that stopped the pumps for a period of time August 27th. Power was restored later that day. Mr. Kay also explained how the City prepared for the storm. We did pump Jack’s Creek well below river levels. ... At one point in time, Jack’s Creek was approximately 2 feet below sea level while on the other side of the pump the river was 2 to 3 feet above sea level. So, what that allowed us to do is provide a tremendous amount of storage capacity for Irene. The severity of Hurricane Irene was tremendous. He also reminded the council that the National Oceanic and Atmospheric Administration reported 13.11 inches of rain fell on Washington during the storm, with some people reporting well over 16 inches. Mr. Kay acknowledged the pumps do not have back-up power supply, something city staff has discussed in past few days. The estimate (for a reserve power supply) that we have is well over \$100,000. It’s closer to \$600,000. Of course, we are approaching FEMA about the possibility of them assisting us in the purchase of that generation unit.

Mayor Pro tem Roberson suggested that Public Works needs to ensure that all catch basins are clean and free of debris.

MS. MONICA FERRARI & MS. NANCY O’NEILL –
ALLOW FEEDING OF BIRDS AND ANIMALS

Ms. Nancy O’Neill and Ms. Monica Ferrari explained they are representing CATS About Town and read the following statement. (begin statement) We are a non-profit administered under the umbrella of Parks & Recreation. I’d like to tell you a little about us before Monica reads our proposal.

CATS About Town is a trap, neuter, return program, commonly referred to throughout the U.S. as TNR. For the last two years, we have trapped numerous cats, including all of Washington’s downtown cats, for the purpose of having them spayed or neutered, tested for feline disease & vaccinated for rabies. Only healthy, "fixed" cats have

been released back to their environment with a cropped left ear for identification. Health records, including rabies tags, are always available for public viewing.

Where possible, we have also rescued downtown kittens & adoptable adult cats for placement in homes. Utilizing this humane & effective method of feline population control, we've reduced the number of cats living in downtown Washington, from 50 to the current 25. They live in small groups or colonies on the North & South side of Main Street and are monitored for newcomers or any other changes that may occur. They are timid by nature and will always run when approached. Relocating the cats has never been an option as removal of the cats only invites other cats into the territory to fill the void. This is referred to as the vacuum effect. Our program has allowed Beaufort County Animal Control to focus their energy & resources towards other more pressing issues rather than trapping & euthanizing these homeless cats. Much time, effort and unwavering veterinary and community support has been invested in our program, however, there is one critical & key missing component-being able to care for the cats, including feeding, openly & freely. Greenville, New Bern, Beaufort and Wilmington all have similar TNR programs, but without the hindrance of a feeding ban. In order for our program to continue to be an effective method for controlling the downtown cat population & caring for their health, we are proposing the following:

Purpose: Modify above ordinance 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 ordinance does not allow feeding of birds and animals. Therefore the Police Department is issuing warnings and fines. Although people feel they are under camera surveillance, they compassionately continue to leave food in obscure areas.

Proposed Solution: Modify the current ordinance to allow designated caretakers/monitors to provide dry cat food and water in obscure spots off Main Street pedestrian traffic. Washington Police Department Chief of Police will act as administrator. In conjunction with CATS About Town-TNR, 3 approved sites north of Main St. and 3 approved sites south of Main St. will be designated. With agreement from both parties, 5 caretakers will be on record to provide feeding and monitoring. Any complaints will be addressed directly to Chief of Police and a solution will be obtained along with CATS About Town organization.

Cost: No cost to taxpayers. The small containers and dry food will be privately funded through our CATS About Town-TNR program.

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.

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 the ordinance, continue to provide little food for our downtown cats. Allow the modification, so that the TNR Program can continue to be an effective method of population stabilization. Those few remaining community cats will stay healthy without reproducing. (end statement)

Councilman Mercer explained that he talked with Ms. Ferrari and Ms. O'Neill and advised them they needed to revise their presentation with more specificity. He suggested this matter be given to staff (including Chief Reed) and allow them to work on this possible ordinance amendment with the Animal Control Board.

Mayor Jennings commended them for their efforts. He also stated there hasn't always been this many cats downtown. He would like to have input from a veterinarian regarding if this program is actually giving the cats a humane life. Councilman Pitt asked if this program was in force in other parts of the city? Ms. O'Neill stated that it is and they also help citizens with special requests if they can't afford to feed or care for their cats. Ms. Ferrari stated the cats tend to hide from the public and only come out when it's feeding time. Mayor Jennings is concerned that all of the cats may turn people off from visiting downtown.

**PUBLIC HEARING: ACCEPT – CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR JEFFERY ROBERSON
D/B/A ROBERSON CAB SERVICE (RCS)**

Mayor Jennings opened the public hearing. City Manager, Josh Kay explained we are required to hold a public hearing 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. 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.

Mr. Jeffery Roberson stated his hours of operation would be 7-midnight, he may alter them depending on need and possibly on the weekend. There being no public comments, the public hearing was closed.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council approved the issuance of a Certificate of Convenience and Necessity to Jeffery Roberson, with one taxicab D/B/A Roberson Cab Service (RCS). (staff will ensure that Mr. Roberson has his application notarized and that the Police Department completes their certification regarding the business license)

**AUTHORIZE – MR. ALVIN POWELL USE OF WARREN FIELD AIRPORT
ON SEPTEMBER 28 & SEPTEMBER 29, 2011 FOR A TRANSPORTATION
CAREER PROGRAM**

Mr. Kay introduced Alvin Powell and explained that he desires to host a Transportation Career program for select grades at Warren Field over a two-day period on September 28-29, 2011. Mr. Powell gave a brief history of his 30 year career in law enforcement with the FBI. He feels this program will be positive motivation for the children.

“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
- 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)

The school district has already committed 250 middle school children. Both colleges will be bringing recruiters to the event to express to the children the educational opportunities at the colleges.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council authorized Mr. Alvin Powell to use Warren Field on September 28, 2011 and September 29, 2011 as the location for a Transportation Career program.

COMMENTS FROM THE PUBLIC

Jerry Evans, Spencer Stanley and Mae I. Taylor had signed up to speak, but left before the public comment period.

Susan Zachary of East Main Street came forward and commended City staff for their efforts both during the hurricane and now during the recovery and clean up period.

Shannon Blackstone stated her husband Whit Blackstone owns Pamlico Properties located at 222 Stewart Parkway and they have an issue with the feral cats downtown. Their business is affected by the cats. They thought the original purpose of the TNR program was to trap the cats, have them spayed or neutered and then released back downtown to help control the rodent population. Ms. Blackstone said she feels that if the cats are being fed, then they won't hunt and the food attracts other rodents. Currently the cats are being fed under the steps of the old Harbor Street Grille, this area is now nothing but a feral cat litter box. With the recent heat, one could imagine the odor this produces. Also produced are flea infestations. When the buildings have to be treated, the businesses in her building have to close early. She feels the cats are a liability for the city. There is the possibility of rabies, because it's difficult to identify the cats because several of them look alike it is hard to make sure the proper cat is getting its rabies booster shot. The cats come out during the day and sun on the deck of the former restaurant. There is currently an ordinance in place and should be left in place. If the ordinance is reversed, then people will feed the seagulls thus turning off the boaters and losing income for Washington. She would like for the TNR program to try to find homes for the cats instead of releasing them back downtown. A cat will stay where it is fed.

Scott Campbell, 213 Market Street works downtown and stated the cats are not shy at all. They are out at all times during the day and on several occasions vehicles have had to stop to allow the cats time to get out of the street. He supports the program and its efforts, but feels the ordinance pertaining to restricting the feeding of the animals/birds downtown should be left in place as is. The area beside Washington Jewelers is also a “cat litter box” and smells terrible.

Recess: 6:30-6:45pm

MEMO – JACK’S CREEK GREENWAY PROJECT UPDATE

(begin memo from Philip Mobley) 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. (end memo)

MEMO – CIVIC CENTER DECKING

(begin memo from John Rodman) 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. (end memo)

HUMAN RELATIONS COUNCIL

- 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 outgoing 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

Councilman Pitt reminded everyone of the Multi-Cultural Festival to be held at the Civic Center on October 23rd.

FINANCIAL REPORTS

Councilman Mercer asked Mr. Rauschenbach to explain “negative revenue”. Mr. Rauschenbach stated these are funds that have been accrued in a prior year, it had been earned, but not received yet, this is similar to the process for sales tax. More specifically Councilman Mercer referred to the NC Hwy 17 reimbursement.

He also questioned expenditures for information services because there were no funds budgeted for installment purchases. Mr. Rauschenbach explained the purchase orders were possibly written prior to last fiscal year end and the work was finally completed, but he will confirm. He also had questions regarding the “miscellaneous account in the general fund” for downtown events. Mr. Rauschenbach will get answers to his questions and contact Councilman Mercer. Councilman Mercer inquired to when the maintenance at the library will take place. Gloria Moore explained she is working on this project with Mike Whaley and he was working on this along with the repairs at the Impressions building.

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)

	TD Goodwin	The Daniele Co.	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

Mr. Kay stated the 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. 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. It is staff's recommendation to award the contract to Turning Point Renovations and Repairs, Inc. for \$9,992.50 and allow the City Manager to execute the contract subject to the attorney's revisions is so needed.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council awarded the contract for Construction Management Services and allowed 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.

(copy attached)

**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**

Mr. Kay explained that this request is to award a contract for the installation of direct gas fired heating units at the Impressions building. 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. This is the second bid opportunity as the first time we only received one bid. Because this is an ARRA grant it was advised that the project be rebid. The bid opening was hosted Wednesday, September 7 at 2pm and again only one bid was received and this is acceptable by the granting agency. Staff was able to negotiate with the bidder for a slight reduction in the cost. Impressions has agreed to pay \$15,478.17.

By motion of Councilman Davis, seconded by Councilman Pitt, Council awarded 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.

(copy attached)

**ADOPT – BUDGET ORDINANCE 2010-2011 PROJECTS NOT COMPLETED
THAT WERE BUDGETED IN 2010-11**

Mr. Kay explained the following projects were budgeted in the prior year but 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.

Mr. Kay

Councilman Mercer inquired what the remainder of the funds be spent on for the Terra Ceia line rebuild. Keith Hardt explained the remaining funds will be for material and contract labor to complete this phase of the project. This project should be completed by

the end of January 2012. Councilman Mercer requested a breakdown of where the monies were spent once the project is complete.

By motion of Councilman Moultrie, seconded by Mayor Pro tem Roberson, Council adopted a Budget Ordinance to appropriate funds for projects that were budgeted in 2010-2011 and not completed.

(copy attached)

ADOPT – BUDGET ORDINANCE AMENDMENT FOR OUTSTANDING PURCHASE ORDERS FROM FY 10/11 (\$912,158)

Mr. Kay explained that 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	2,926
• TOTAL	\$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.

Councilman Mercer requested staff investigate a way to clarify funds to show the funds are actually carried forward from a prior fiscal year. Mr. Kay explained staff is reviewing possible ways to show clarification regarding the funds that are carried forward from prior budget years.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council adopted 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.

(copy attached)

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)

During the regular 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. The deposit will be refunded.

Mayor Pro tem Roberson suggested the Inspections Dept. visit the structure to determine what permits will be needed and work will be required to bring the structure up to code and that the bidders meet with the inspectors to discuss this. Mr. Kay suggested possibly delaying this item for another month to confer with the inspectors. Council, upon consensus agreed to move forward with the project contingent on the consultation with the inspectors provided they feel this is a viable project, then move forward with the bidding process. If the inspectors feel this is a lost cause, there would be no need to move forward with the bidding process.

By motion of Councilman Pitt, seconded by Councilman Davis, Council adopted the Resolution authorizing a public notice to solicit offers to purchase certain surplus real property of the City of Washington and approved said public notice. Provided that the inspections department, upon review, deems the structure is viable and appropriate to proceed with the bidding process.

(copy attached)

AUTHORIZE – CITY MANAGER TO EXECUTE ENGINEERING AGREEMENT WITH SUMMIT CONSULTING FOR THE BROWN STREET BRIDGE REPLACEMENT PROJECT (\$78,731.13)

Mr. Kay explained that the project is nearing the bid process and we have advertised for inspection services as required. A proposal has been approved by NCDOT for \$78,731.13 with Summit Consulting out of Hillsborough. Discussion held regarding pricing and soil samples.

By motion of Councilman Davis, seconded by Councilman Pitt, Council authorized the Manager to execute the 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 not to exceed \$78,731.13.

(copy attached)

APPROVE – PURCHASE OF BACKHOE THROUGH GENERAL SERVICES ADMINISTRATION (GSA) CONTRACT (\$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.

Vendor	Cost Per Unit	Delivery	Less Trade-In
Gregory Poole	\$89,312.14	45 days	N/A
			Grand Total \$89,312.14

Councilman Mercer stated this item was budgeted for \$90,000 and was included in the CIP and is coming in under budget. Mr. Kay also asked Council to approve the purchase order for this item as well.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved 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) and approved the associated purchase order.

APPROVE – PURCHASE ORDERS >\$20,000

- Requisition #9946, Westinghouse Electric Supply \$31,512, White Post Transformer project. Account 35-90-8370-7403.
- Requisition #9979, Asplundh Tree Expert Company, \$49,365, stump grinding & log removal, reimbursable HWY 32 DOT bridge project. Account 35-90-7220-5601.
- Requisition #10102, Floyd Brooks, \$27,174, Hurricane Irene clean up. Account 10-00-4400-5730.

Councilman Mercer stated the purchase orders are supposed to be approved before the work is complete. He referenced the HWY 32 DOT project and stated that project was completed over two years ago. (This is for another section of HWY 32 near Free Union Church Road.) The last requisition is for cleanup after Hurricane Irene.

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council approved the purchase orders as presented.

- Requisition #9946, Westinghouse Electric Supply \$31,512, White Post Transformer project. Account 35-90-8370-7403.
- Requisition #9979, Asplundh Tree Expert Company, \$49,365, stump grinding & log removal, reimbursable HWY 32 DOT bridge project. Account 35-90-7220-5601.
- Requisition #10102, Floyd Brooks, \$27,174, Hurricane Irene clean up. Account 10-00-4400-5730.

ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL

Mayor Jennings explained that Councilman Moultrie will be unable to attend the Sept. 26, 2011 Council meeting and needs to be excused.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council excused Councilman Moultrie from the September 26, 2011 Council meeting.

Mayor Jennings also would like to add the following item to the Sept. 26th meeting: Carver Machine Works, sewer line easements and issues.

Councilman Mercer explained there is a rate workshop/rate committee meeting on October 5th in Wilson. If anyone would like to attend, please advise Councilman Mercer by September 21st.

Mayor Jennings thanked all of our public safety workers and reflected on the 10 year anniversary of September 11, 2001.

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

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council entered into closed session under NCGS § 143-318.11(A)(6) Personnel and NCGS § 143-318.11(A)(3) Attorney Client Privilege at 7:20pm.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council agreed to come out of closed session at 7:45pm.

ADJOURN

By motion of Councilman Pitt, seconded by Councilman Davis, Council adjourned the meeting at 7:50 pm until September 26, 2011 at 5:30 pm in the Council Chambers at the Municipal Building.

(Subject to the Approval of the City Council)

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

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

September 26, 2011

The Washington City Council met in a continued session on Monday, September 26, 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; Gil Davis, Councilman; William Pitt, Councilman; Josh Kay, City Manager; Cynthia S. Bennett, City Clerk and Franz Holscher, City Attorney. Ed Moultrie, Councilman was absent and excused from the meeting.

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, Delma Blinson, of the Beaufort Observer and Morgan Peed from Boy Scout Troop 99

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

APPROVAL/AMENDMENTS TO AGENDA

Mayor Jennings requested adding: Jack's Creek Greenway Bids to the agenda. This item was emailed earlier to Council.

Mayor Pro tem Roberson requested adding a Discussion of City Manager's Goals and Evaluation Process(this item will be discussed at a later meeting).

Councilman Mercer requested moving the Closed Session to the end of the meeting and added closed session under NCGS 143-318.11(a)(6) Personnel.

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

AUTHORIZE – CITY MANAGER TO AWARD CONTRACT TO ALL AROUND PAINTING FOR EXTERIOR PAINTING OF THE IMPRESSIONS BUILDING (\$48,400)

Josh Kay, City Manager explained that on August 17, 2011 we received four bids for painting the exterior of the Impressions building at 234 Springs Road. All Around Painting of Washington, NC was the lowest bid for a single coat of paint at \$32,800. They also provided a bid alternate for a second coat of paint with the total being \$48,400. Impressions Marketing Group (IMG) and staff concur that two coats of paint, at a price that was lower than the original estimate of approximately \$60,000, provides the best value. As a reminder, this work will ultimately be paid for by IMG in the form of the higher lease agreement that was recently entered into.

By motion of Councilman Davis, seconded by Councilman Pitt, Council authorized the Manager to award a contract for painting the exterior of the Impressions building in the amount of \$48,400 to All Around Painting of Washington, NC and approve the corresponding purchase order.

ADOPT - BUDGET ORDINANCE AND APPROVE PURCHASE ORDER FOR MAIN STREET ENERGY FUND

Mr. Kay explained that the Main Street Energy Fund is a program designed to assist downtown business owners in completing energy efficiency renovations to privately-held buildings. At the time the grant application was submitted, seven building owners were participating. Once, the project was funded, half of the building owners dropped out (overdue taxes, changed financial climate, etc). The three participating local businesses are: Moss House Bed and Breakfast, Carolina Wind and Yacht Center and Edward Jones Investments. On August 8, 2011, the Council awarded two construction contracts totaling \$85,280 to complete the construction work at these locations.

In an effort to keep funding inside Washington's central business district, a request was submitted to the State Energy Office to support an expanded program scope and budget revision. The program was modified to include an educational demonstration, Sprout Kiosk, and reduce the construction budget in light of program attrition.

To date, the City has collected \$14,200 for Sprout's installation. Sprout Energy requested a 50% deposit.

Original Project Total	\$143,077.58
Total awarded construction costs	\$85,280.00
Total Sprout (\$25,000 turnkey installation and \$3,400 educational program support)	\$28,400.00
Difference between original and proposed project total	\$29,397.58
Anticipated funds to be returned to state	\$14,698.79

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council adopted the budget ordinance and approved the purchase order for the Main Street Energy Fund for the installation and educational program support for the Sprout Energy Kiosk.

(copy attached)

ADOPT - RESOLUTION AUTHORIZING DESIGNATION OF APPLICANT'S AGENT FOR HURRICANE IRENE

Mr. Kay stated the resolution authorizes the primary and secondary agents to execute and file applications for federal and state assistance and represent the City of Washington in all matters with the State and FEMA pertaining to disaster assistance.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council adopted a resolution designating Robbie Rose as primary agent and Matt Rauschenbach as secondary agent for the Hurricane Irene disaster.

Mr. Kay noted that next month purchase orders will be presented to Council for approval relating to Hurricane Irene.

(copy attached)

APPROVE - CIVIC CENTER DECK ENGINEERING BID (\$2,500)

Mr. Kay noted that at Council's request, City Staff received bids for engineering and design services for the Civic Center decking. The bid tabulation is listed below. The City

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

September 26, 2011

currently has \$15,000 budgeted (General Fund — Civic Center — Maintenance/Repair Building), which could be utilized for this expenditure.

Bidder	Location	Amount
Mosley Construction	Greenville, NC	\$ 2,500
MHA Works	Greenville, NC	\$ 4,200
Infocus Engineering	Greenville, NC	\$ 3,000

Councilman Mercer expressed concern with comments made by staff at last month’s meeting regarding engineering as staff indicated the engineering was “free”. Mr. Kay stated that Mosley Construction will continue to offer the “free” engineering service but it will be included in the construction cost if they are awarded the job. If they are not awarded the job the engineering will be \$2,500.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council approved the low bid of \$2,500 from Mosley Construction Company of Greenville, NC to provide engineering and design services to the City of Washington for the Civic Center decking.

JACK’S CREEK GREENWAY BIDS

Mr. Kay stated that City Staff received bids for the clearing, grading, and paving of the Jack’s Creek Greenway, bids are listed below. The grant is a 75-25% match, meaning that the City must contribute at least 25% of the total project cost either through cash or in-kind services. The total anticipated project cost is approximately \$66,700 – with the City’s match being approximately \$16,700.

Bidder	Project	Amount
<i>BE Singleton</i>	<i>Clearing & Grading</i>	<i>\$ 26,400.00</i>
St. Clair Trucking	Clearing & Grading	\$ 28,177.50
<i>Garris Grading & Paving</i>	<i>Asphalt Paving</i>	<i>\$ 23,812.50</i>
Randolph Paving	Asphalt Paving	\$ 34,500.00

The majority of the remaining projects involved in the completion of this project will be handled primarily by City staff and will be the majority of the City’s match. The project must be completed by November 15th. Council discussed in-kind work as well as the City’s match for this grant.

By motion of Councilman Pitt, seconded by Councilman Davis, Council approved the low bids and Purchase Orders of \$26,400.00 from B.E. Singleton of Washington, NC and \$23,812.50 from Garris Grading & Paving of Greenville, NC to construct the Jack’s Creek Greenway.

DISCUSSION – WATERFRONT DOCK PROJECT UPDATE

Mr. Kay reviewed the memo presented to Council which addressed the two major issues that staff needs direction from Council in regards to the City’s dock facilities:

- Continuation of the 2008 Big-P Dock Grant: City Staff have requested from the 2nd lowest bidder (TJ Marina Construction, LLC) a revised/reduced cost to extend docks A & B as originally planned. The revised proposal does NOT include the extension of utilities at the docks; however, we are awaiting bids from an electrical subcontractor for the expansion of the electric system and Allen Lewis is reviewing what services City personnel can provide for water and sewer services. The City has an open grant of \$200,000. All purchase orders relating to this project have been closed, and there are no additional funds currently budgeted for this project.

With this in mind City Staff requests direction as to whether or not Council desires us to move forward with the project. Below is a brief summary of anticipated expenses, should Council decide to move forward:

Item	Provider	Amount	Type of Amount	
Expansion of Docks A & B	TJ Marina Construction	\$183,048	Firm	
Fire Dry Line	Williams Fire Sprinkler Co.	\$ 15,690	Firm	
Water Line Extensions	City of Washington	\$ 5,000	Estimate	
Sewer Line Extension	City of Washington	\$ 5,000	Estimate	
Electrical Extension	Subcontractor	\$ 100,000	Estimate	Total \$ 308,738

- Damage to all docks due to Hurricane Irene: All City-owned docks have incurred some level of damage due to Hurricane Irene. All electrical pedestals are inoperable at this time and are in need of repair and/or replacement. Additionally, there is some damage to the dinghy dock, bathroom facility, railings, and dock station. Some cost estimates are available for your review and are listed below:

Item	Provider	Amount	Type of Amount
Electric Pedestals Replacement	Subcontractor	\$45,000	Estimate
Repair of Electric Pedestals	Subcontractor	\$20,000	Estimate
Dinghy Dock	Subcontractor	\$40,000	Estimate
Other Repairs Needed	Subcontractor	\$10,000	Estimate

Options

1. Continue with the Big-P Dock Grant and increase the scope of the contractors to include the replacement of all electrical pedestals and repair all other facilities — Total Estimated Cost: \$403,000 (City-incurred costs: \$203,000). *Note: City Staff are in discussions with FEMA concerning the possibility of having some assistance in the replacement of these pedestals, docks, and other facilities due to hurricane damage; however, no information is available to date as to the likelihood of this funding source.
2. Do Not continue Big-P Dock Grant and replace all electrical pedestals, repair dinghy dock, and repair other dock facility — Total Estimated Cost: \$95,000 (City-incurred costs: \$95,000)
3. Do Not continue Big-P Dock Grant and repair all electrical pedestals, repair dinghy dock, and repair other dock facilities — Total Estimated Cost: \$70,000 (City-incurred costs: \$70,000) *Note: The repair estimate for electric pedestal is a rough estimate based on conditions of existing wiring.
4. Continue as is without the expansion of Docks A & B and do not repair or replace electrical pedestals or dinghy dock. *Note: This is not a recommendation of City Staff as this option would decrease the marketability of the City-owned docks and could potentially result in loss of revenue to the City.

Councilman Mercer expressed concern over the cost of the project with a possible forty year payback and is opposed to moving forward with the project. Councilman Davis reviewed the history of the grant. Councilman Pitt inquired if the grant is a renewable grant? Mr. Kay stated the grant is not renewable, it is a very competitive grant and we could always apply for the grant again. Mayor Pro tem Roberson felt we need to repair what we have.

Public Comment:

Fred Crawmer stated he felt it would be better to build 12 lease docks instead of 12 transient docks.

Bill Sykes feels the current design is flawed and is an unfriendly plan to boaters. He further suggested that the Harbor Committee be reactivated and possibly review Fred Watkins' design and Council should reject moving forward with the current project.

By consensus Council agreed to not continue the Big-P Dock Grant and to replace all electrical pedestals, repair dinghy dock, and repair other dock facility. Total Estimated Cost: \$95,000 (City-incurred costs: \$95,000).

**DISCUSSION – PROHIBITION OF WEAPONS IN
PUBLIC RECREATION AREAS**

Mr. Kay explained that the NC General Assembly approved HB 650 which modifies a local government's ability to prescribe areas where citizens can and cannot carry concealed weapons on public property. The primary amendment to the General Statute affecting the City of Washington is centered on the deletion of the word "park" and the replacement of that with "recreational facilities." The intent of this item is to bring the current City Code in line with new State law. Locations have to be specific, not just noted as "park".

(memo from Chief Reed and Philip Mobley)

To comply with the statewide uniformity system for the regulation of legally carrying concealed handguns; it is the recommendation of the Washington Police Department and the City of Washington's Parks and Recreation Department that Section 20-15 of the City Ordinance be amended to include that the following recreation areas/facilities be specifically posted to prohibit the carrying of concealed weapons:

Playgrounds:

- Havens Gardens (parking lot, playground & shelter on west side)
- Bug House Park (playground, shelter, parking lot, and tennis courts)
- 7th Street Park (playground, parking lot, and basketball courts) Bobby Andrews Park
- Gary Tomasulo Playground, "Papa's Playground" Festival Park
- 3rd & Pierce Street Playground (playground)
- 15th Street Basketball Courts (basketball courts & parking lot)
- PCM Skate Park

Athletic Facilities:

- Susiegray McConnell Sports Complex (fields, stands, parking lot, sideline area, concessions, all complex area North of Airport Road)
- Moore Aquatic & Fitness Center (facility & parking lot)
- Bobby Andrews Recreation Center (facility & parking lot)
- Little Tar heel League Fields, W. 3rd Street (fields, concessions, bleachers & sideline area)
- Todd Maxwell Complex
- Dick Jones Field –girls softball(joint use agreement with school)

Council members voiced possible concerns and issues that could arise from this as well as locations that need to be posted. It was also noted that an ordinance amendment will need to be drafted for Council approval and possibly hold a public hearing to allow the public to voice their concerns. In regards to non-concealed firearms GS 160A-189 provides that a city may, by ordinance, regulate the display of firearms on the streets, sidewalks, alleys, or other public property.

Public Comment:

Barry L. Gutfeld stated that criminals don't obey gun laws so the signs will not matter. He also stated he has concern with prohibiting the carrying of concealed weapons if a person has been issued a concealed handgun permit. He requested Council take more time to review this issue.

DISCUSSION – FESTIVAL PARK USE – REGULATIONS & RESTRICTIONS

Mr. Kay reviewed the current Special Events Policy and Permit with Council and noted these documents are currently being used in regards to events at Festival Park. Staff had a meeting with the majority of the large users of Festival Park including Chamber of Commerce, Arts Council, Estuarium, WHDA, Rotary, etc. and their specific needs at the park. Do we continue using the current policy or create a new policy for Festival Park? The estimated time line for Festival Park is that in early to mid October to put in rye grass. Papa's Playground is completed with a ribbon cutting ceremony to be held in the near future. After the rye grass takes hold we would like to hold a dedication ceremony for Festival Park as a whole. In mid- June after Summer Festival we will spray to kill all of the weeds. In July the plastic web and netting will be removed and the area will be fertilized and later in July to install sod. This will give us six weeks for the sod to take hold before the Pickin' on the Pamlico is held. During this six week period we are requesting to not have any events at Festival Park to allow the sod time to take hold and start growing. There will be irrigation at the site and the lines will be marked to insure that tents will not be an issue.

Mayor Jennings stated that park belongs to the public and feels the current policy should be revised as needed to fit the needs at Festival Park. Councilman Mercer agreed that the park needs to be opened and used for public events as soon as possible. We need to be very careful of some events that are occurring regarding bikes and skateboards being ridden on the ramps. The sod would cost approximately \$9,000. Council recommends that staff refine the current policy and fees as we go to see how the facilities are used. By consensus Council agreed to refine the current policy and fee schedule and to allow the facilities to be used as soon as possible.

**REMINDER: TRANSPORTATION CAREER DAY(AL POWELL) AT WARREN
FIELD AIRPORT – SEPTEMBER 28TH & 29TH**

**CLOSED SESSION - UNDER NCGS § 143-318.11(A)(3) ATTORNEY CLIENT
PRIVILEGE AND NCGS §143-318.11(A)(6) PERSONNEL.**

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council agreed to enter into closed session at 6:45pm under NCGS 143-318.11 (a)(3) Attorney Client Privilege and 143-318.11(a)(6) Personnel.

EXTENSION OF MEETING

During closed session by motion of Councilman Davis, seconded by Mayor Pro tem Roberson, Council voted to extend the meeting for one hour (7:30pm).

**ADJOURN – UNTIL MONDAY, OCTOBER 10, 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 until October 10, 2011 at 5:30 pm in the Council Chambers at the Municipal Building.

(subject to the approval of City Council)

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



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: October 10, 2011
Subject: Approve and Authorize the City manager to execute a change order for the Festival park Phase 2 contract in the amount of (\$10,000) to a new contract amount of \$135,750.

Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move City Council approve and authorize the City Manager to execute a change order in the amount of (\$10,000) for the Festival Park Phase 2 contract with Stocks & Taylor Construction Co. for a reduced new contract amount of \$135,750.

BACKGROUND AND FINDINGS:

After a meeting with Mark Smith Architect, Mr. Taylor with Stocks & Taylor and City Staff, it was recommended by Mr. Taylor that the City Staff handle the bidding and the landscaping project. The landscaping allowance within the base bid from Stocks & Taylor was \$ 10,000 of the total contract bid of \$ 145,700, for a new contract price of \$ 135,700.

Table with 2 columns: Description and Amount. Rows include Original Contract Price (\$ 145,750), Charge Order (reduction) (10,000.), and New Contract Price \$ 135,750.

A portion of the \$ 10,000 realized by the above change order will be used to cover the cost of landscaping within the Festival Park Phase 2 put out on bid by the City Staff.

PREVIOUS LEGISLATIVE ACTION

Contract Approved July 19, 2011

FISCAL IMPACT

[x] Currently Budgeted (Account _____) ___ Requires additional appropriation ___ No Fiscal Impact

SUPPORTING DOCUMENTS

Change Order

City Attorney Review: Date By: (if applicable)
Finance Dept Review: Date By: (if applicable)
City Manager Review: Concur [Signature] October 10, 2011 Recommend Denial No Recommendation 10/4/11 Date
Page 33 of 148

CHANGE ORDER

AIA DOCUMENT G701

OWNER
ARCHITECT
CONTRACTOR
FIELD
OTHER

PROJECT: (name, address)	Festival Park Phase 2 Water Street Washington, N C	CHANGE ORDER NUMBER: DATE:	G-1 9-27-2011
TO CONTRACTOR: (name, address)	Stocks and Taylor Construction, Inc P O Box 2147 Washington, NC 27889	ARCHITECT'S PROJECT NO: CONTRACT DATE: CONTRACT FOR:	 6-27-2011 General Construction

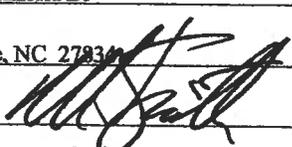
The Contract is changed as follows:

Delete Landscape Allowance	deduct \$ 10,000.00
	TOTAL DEDUCT \$10,000.00

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) (Guaranteed Maximum Price) was	\$ 145,750.00
Net change by previously authorized Change Orders	\$ 0.00
The (Contract Sum) (Guaranteed Maximum Price) prior to this Change Order was	\$ 145,750.00
The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased) (unchanged) by this Change Order in the amount of	\$ 10,000.00
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be	\$ 135,750.00
The Contract Time will be (increased) (decreased) (unchanged) by () days.	
The date of Substantial Completion as of the date of this Change Order therefore is	

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

Mark Smith Architect ARCHITECT	Stocks and Taylor Construction, Inc CONTRACTOR	City of Washington OWNER
2020-A Cambria Dr Address	P O Box 2147 Address	Box 1988 Address
Greenville, NC 27834	Washington, NC 27889	Washington, N C 27889
BY 	BY	BY
DATE 9-27-11	DATE	DATE



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Robbie Rose, Fire Chief *RR*
Date: September 29, 2011
Subject: Declare Surplus of Vehicle
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that the City Council declare surplus Fire Department EMS Vehicle # 432 and authorize the sale of this vehicle through electronic auction using GovDeals.

BACKGROUND AND FINDINGS: EMS Vehicle being replaced by purchase of new ambulance of same type as approved in FY 11/12 budget.

<u>Vehicle Number</u>	<u>Make/Model Description</u>	<u>Serial Number</u>	<u>Odometer Reading</u>
# 432	2003 Ford E450 Wheeled Coach Ambulance	1FDXE45F73HB49043	72,255

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *RR* Concur _____ Recommend Denial _____ No Recommendation 10/4/11 Date



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: G.M. Reed, Chief of Police
Date: September 29, 2011
Subject: Motion to accept grant funds from the US Department of Justice (\$6,500.00)
Applicant Presentation
Staff Presentation:

RECOMMENDATION:

I move that the City Council accept the Bulletproof Vest Partnership Grant from the US Department of Justice in the amount of \$6,500.00 and adopt budget ordinance amendment to appropriate the grant funding.

BACKGROUND AND FINDINGS:

The Bulletproof Vest Partnership (BVP), created by the Bulletproof Vest Partnership Grant Act of 1998 is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement in purchasing bulletproof vests for officers.

These grant funds (\$6,500.00) will be used to help fund the purchase of up to 20 bulletproof vests for City of Washington police officers.

There is no City match required for this grant.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account 10-10-4310.7000) Requires additional appropriation
No Fiscal Impact

SUPPORTING DOCUMENTS

Budget ordinance amendment attached.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: GM Concur October 10, 2011 Recommend Denial _____ No Recommendation
10/4/11 Date Page 36 of 148

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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 decreased in the amount of \$6,500 in the account Fund Balance Appropriated, account number 10-00-3991-9110.

Section 2. That the Estimated Revenues in the General Fund be increased in the amount of \$6,500 in the account Federal Grant - Vests, account number 10-10-3431-2302.

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 10th day of October, 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: October 10, 2011
Subject: Purchase Orders > \$20,000 Approval
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council approve the attached purchase orders.

BACKGROUND AND FINDINGS:

Requisition #10179, Stocks & Taylor, \$21,500, White Post Transformer project. Account 35-90-8370-7403.

Requisition #10170, Power Delivery Associates, \$331,005, Hurricane Irene contract crews, Account 35-90-6610-5730.

Requisition #10226, T&D Solutions, \$280,865, Hurricane Irene contract crews, Account 35-90-6610-5730.

Requisition #10241, City of Monroe, \$32,070, Hurricane Irene restoration assistance, Account 35-90-6610-5730.

Requisition #10263, Westinghouse Electric Supply, \$21,205, distribution reclosers, Account 35-90-8370-7000.

PREVIOUS LEGISLATIVE ACTION

2011-2012 adopted budget and amended budget.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Requisitions

City Attorney Review: _____ Date By: _____ (if applicable)

Finance Dept Review: _____ Date By: October 10, 2011 (if applicable)

City Manager Review: JC Concur Page 18 of 148 Recommend Denial No Recommendation
10/4/11 Date

Requisition Form

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

Requisition #: 10179
PO #: Not Assigned
User Name: Ed Pruden

Date: 09/19/2011
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$21,500.00
Ship To:
CITY OF WASHINGTON WAREHOUSE (ELI
203 GRIMES ROAD
WASHINGTON, NC 27889

STOCKS & TAYLOR CONSTRUCTION C
PO BOX 2147
WASHINGTON, NC 27889

Vendor Instructions: ELECTRIC DEPT, ED PRUDEN 252-975-9365
WHITE POST TRANSFORMER PROJECT

Quantity	Description	Job Number	Unit Price	Extended
1	LABOR, EQUIPMENT, & MATERIAL TO CONSTRUCT TRANSFORMER PAD & OIL CONTAINMENT SYSTEM PER PLAN SPECIFICATIONS AND PROPOSAL DATED 8/22/2011		\$21,500.00	\$21,500.00
Sub Total				\$21,500.00
Total Tax				\$0.00
Total				\$21,500.00

Account Number	Account Description	Amount
35-90-8370-7403	INSTALLMENT PURCHASES FY 11/12	\$21,500.00
Total		\$21,500.00

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 #:10170
PO #: Not Assigned
User Name: Nicole Williams

Date: 09/19/2011
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$331,004.60

POWER DELIVERY ASSOCIATES, INC.
2900 DELK RD., SUITE 700-307
MARIETTA, GA 30067

Ship To:
CITY OF WASHINGTON CITY HALL (ELEC
102 EAST 2ND STREET
WASHINGTON, NC 27889

Vendor Instructions: Electric Department
Nicole Williams
975-9303

Quantity	Description	Job Number	Unit Price	Extended
1	Invoice 3413 for contract crews during Hurricane Irene restoration.		\$331,004.60	\$331,004.60
Sub Total				\$331,004.60
Total Tax				\$0.00
Total				\$331,004.60

Account Number	Account Description	Amount
35-90-6610-5730	HURRICANE IRENE EXPENSES	\$331,004.60
Total		\$331,004.60

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 #:10226
PO #: Not Assigned
User Name: Nicole Williams

Date: 09/26/2011
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$280,865.28
Ship To:
CITY OF WASHINGTON CITY HALL (ELEC
102 EAST 2ND STREET
WASHINGTON, NC 27889

T&D SOLUTIONS, L.L.C
P.O. BOX 11948
ALEXANDRIA, LA 71315

Vendor Instructions: Electric Department
Nicole Williams
975-9303

Quantity	Description	Job Number	Unit Price	Extended
1	Invoice T28565 Hurricane Irene/Contract Crews		\$35,749.20	\$35,749.20
1	Invoice T28563 Hurricane Irene/Contract Crews		\$35,964.65	\$35,964.65
1	Invoice T28532 Hurricane Irene/Contract Crews		\$24,872.40	\$24,872.40
1	Invoice T28528 Hurricane Irene/Contract Crews		\$23,131.25	\$23,131.25
1	Invoice T29182 Hurricane Irene/Contract Crews		\$45,199.87	\$45,199.87
1	Invoice T29183 Hurricane Irene/Contract Crews		\$47,541.20	\$47,541.20
1	Invoice T29185 Hurricane Irene/Contract Crews		\$24,705.39	\$24,705.39
1	Invoice T29186 Hurricane Irene/Contract Crews		\$43,701.32	\$43,701.32
			Sub Total	\$280,865.28
			Total Tax	\$0.00
			Total	\$280,865.28

Account Number	Account Description	Amount
35-90-6610-5730	HURRICANE IRENE EXPENSES	\$280,865.28
		Total
		\$280,865.28

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 #:10241
PO #: Not Assigned
User Name: Nicole Williams

Date: 09/28/2011
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$32,069.85
Ship To:
CITY OF WASHINGTON CITY HALL (ELEC
102 EAST 2ND STREET
WASHINGTON, NC 27889

CITY OF MONROE
P.O. BOX 69
MONROE, NC 28111

Vendor Instructions: Electric Department
Nicole Williams
975-9303

Quantity	Description	Job Number	Unit Price	Extended
1	Invoice 33786 Hurricane Irene - Restoration Assistance		\$32,069.85	\$32,069.85
			Sub Total	\$32,069.85
			Total Tax	\$0.00
			Total	\$32,069.85

Account Number	Account Description	Amount
35-90-6610-5730	HURRICANE IRENE EXPENSES	\$32,069.85
		Total
		\$32,069.85

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 #:10263

PO #: Not Assigned

User Name: Ed Pruden

Date: 09/29/2011

Approved By: Keith Hardt

Approved Code: Awaiting Final Approval

Total Amount: \$21,205.00

Ship To:

CITY OF WASHINGTON WAREHOUSE (ELEC

203 GRIMES ROAD

WASHINGTON, NC 27889

WESTINGHOUSE ELECTRIC SUPPLY

3025 STONYBROOK DRIVE

RALEIGH, NC 27604

Vendor Instructions: ELECTRIC DEPT, ED PRUDEN 252-975-9365
PROPOSAL VALIDITY DATE 11/30/2011

Quantity	Description	Job Number	Unit Price	Extended
1	ABB Product ID: R3722AEN323E2C1N00, Type OVR Three Phase Recloser w/ Pole Mounting Frame, 38 kV, 1200 A Continuous, 170 kV BIL, Other Features & Specifications per Item 10 of Quote Validity Date 30 Nov 2011		\$21,205.00	\$21,205.00
Sub Total				\$21,205.00
Total Tax				\$0.00
Total				\$21,205.00

Account Number	Account Description	Amount
35-90-8370-7000	NONCAPITALIZED PURCHASES	\$21,205.00
Total		\$21,205.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
9/30/2011	DEPT LEVEL APPROVAL	Keith Hardt	Not Assigned

This Requisition is awaiting Final PO Approval

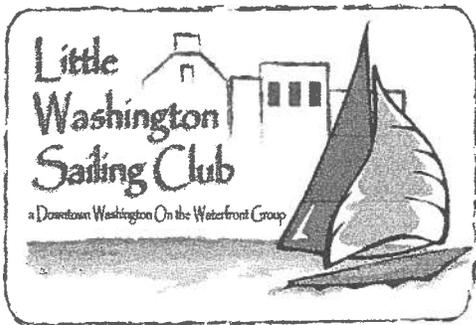
Approval List

Dept Level Approval: _____

Department Head: _____

PO Level Approval: _____

Purchase Order Prep: _____



Little Washington Sailing Club

P.O. Box 1988 Washington, NC 27889

Phone 252-946-3969 Email dwow@washingtononthewater.com

October 5, 2011

Washington City Council
Attn: Mr. Josh Kay, City Manager
P. O. Box 1988
Washington, NC 27889

Dear Mr. Kay:

Please place the Little Washington Sailing Club on the City Council's agenda for October 10, 2011. We wish to review and update the Council on the 2011 season and report on plans for 2012.

Documents attached:

- 1) Update report on 2011 and plans for 2012.
- 2) Financial Report

Sincerely,

Dot Moate, Coordinator
Little Washington Sailing Club



Little Washington Sailing Club

P.O Box 1988, Washington, NC 27889

Ph:252-946-3969 E-mail dwow@washingtongonthewater.com

City Council Meeting Monday October 10, 2011

2011 Highlights and Plans for 2012

2011 Highlights:

- o Received permanent permit from CAMA for placement of Boat Platform at Dock J.
- o Secured new classroom near waterfront.
- o Received donated space for storage of equipment
- o Andrea Radford returned as instructor for the 2nd year.
- o Hired part-time Program Director
- o Session 1, 2 & 3 were 2 weeks each of 1/2 day classes
- o Session 4, 5 were 2 weeks each of full day classes
- o Session 6 was 1 week of full day ADVANCED Classes
- o 79 Students (31 more than 2010)
- o Awarded 7 scholarships
- o Students – 27 Pitt Co; 18 out of Area; 32 Beaufort Co.
- o Promotions: Facebook; website; WDN; UNCTV; WHDA; News & Views Henry Hinton/Chamber; Blue Water Sailing Magazine article by Bill Kund & Brochures.
- o Several Parents volunteered in addition to our volunteer base of approximately 30-35 people from Beaufort & Pitt Co.
- o Feedback has all been positive.
- o Ended season with positive cash flow.
- o Funding: WHDA; Donations from businesses, Water related clubs & interested citizens of our community.

Plans for 2012

- o Repair platform and boats damaged by Hurricane Irene.
- o Purchase 2 boats and other equipment lost in hurricane.
- o Funding Source: New team has been selected to secure major sponsors; donations; grant applications and fundraising.
- o Continued emphasis on recruiting scholarship students.
- o Classes will include all day sessions, as well as 1/2 day classes.
- o Beginner and Advanced classes.
- o Sponsor a US Sailing Instructor Level 1 Course in May 2012
- o New instructor will be needed. Search underway.
- o Continue scholarship & swimming program for needy children
- o Maintain positive cash flow.

Major Action 2012

- o Break away from WHDA; Incorporate and apply for Non Profit Status
- o Request City Council assistance in separation from WHDA.

**LWSC
Budget
2011-2012**

				LWSC 2011/2012 (8/22/2011)		
				Budget	Actual	Variance
INCOME						
4010 - Revenue - Contributions				\$10,500.00	\$200.00	\$10,300.00
4140 - Donated Equipment						\$0.00
5180 - Revenue - Program Service Fees '11				\$2,200.00	\$3,200.00	(\$1,000.00)
5180 - Revenue - Program Service Fees '12				\$7,800.00		\$7,800.00
5410 - Revenue - Sales of Material (Net)				\$0.00	\$565.00	(\$565.00)
TOTAL INCOME				\$20,500.00	\$3,965.00	\$16,535.00
EXPENSE						
7220 - Salaries and Related Expense				\$5,000.00	\$3,900.00	\$1,100.00
7240 - Employer Benefits - Work Comp Ins				\$0.00		\$0.00
7250 - Employer Payroll Taxes				\$382.50	\$298.35	\$84.15
7590 - Professional Fees				\$3,600.00	\$700.00	\$2,900.00
8050 - Advertising and Promotions				\$1,490.00		\$1,490.00
8110 - Office Supplies				\$150.00		\$150.00
8140 - Postage, Shipping & Delivery				\$50.00		\$50.00
8170 - Printing, Copying, Fotos				\$1,000.00		\$1,000.00
8210 - Occupancy (rent, other fees)				\$2,000.00	\$300.00	\$1,700.00
8520 - Insurance - Non-Employee				\$2,300.00		\$2,300.00
8530 - Membership Dues - Organization				\$125.00		\$125.00
8590 - Misc Expense Other				\$0.00		\$0.00
8610 - Program Equipment Expense				\$3,500.00	\$524.40	\$2,975.60
8680 - Goodwill				\$400.00		\$400.00
TOTAL EXPENSE				\$19,997.50	\$5,722.75	\$14,274.75
NET ORDINARY INCOME				\$502.50	(\$1,757.75)	\$2,260.25
OTHER INCOME/EXPENSE						
9010 - Fixed Asset Sold				\$0.00		
9830 - Fixed Asset Purchases				\$0.00		\$0.00
TOTAL NET OI/OE						
Total Net Expenditures						
NET INCOME					(\$1,757.75)	
Funds Carried Over (Prior Year)					\$6,333.66	
Total Net Income & FCO					\$4,575.91	
WHDA LOC						
Cash on Hand					\$4,575.91	

Washington Electric Utilities

A City of Washington Enterprise

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



Office of the Director

MEMORANDUM

To: Josh Kay, City Manager
From: Keith Hardt, P.E., Electric Utilities Director
Ref: Load Management Device Report
Date: 23 September 2011

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

Total Load Management Switch Installations	813
Total Accounts with Load Management	620
Air Conditioner/Heat Pump Control Installations	657
Auxiliary Heat Strip Control Installations	449
Water Heater Control Installations	498
Total Appliance Control Installations for Project	1604



October 10, 2011

102 East Second Street • Telephone (252) 975-9300

TDD 1-800-735-2962 • 24-Hour Emergency (252) 975-9320 • Fax (252) 946-1965



City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Mike Whaley, Purchasing Agent
Date: October 10, 2011
Subject: Painting Brown Library

Three quotes were received to paint the exterior of Brown Library. This work has been awarded to All Around Painting of Washington.

<u>Vendor</u>	<u>Cost</u>	<u>Delivery</u>
All Around Painting	\$ 8,000	20 days
Ross Ind. Services	\$14,300	15 days
McGowan Painting	\$16,370	25 days

The scope of work is as follows:

1. Pressure wash surface to remove contamination and loose peeling paint.
2. Apply an oil base primer and two coats of Sherwin Williams White Acrylic Super paint to overall building.
3. There are 4 areas where the window sill will need to be replaced with new material. Windows exposed to the weather will need to be reviewed for caulking and wood replacement. There are 5 wood panels that will need to be scraped and sanded down to the bare wood, primed, and 2 coats of paint applied.
4. Caulk or seal any holes or cracks in the surface prior to painting.



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 September Monday October 10, 2011 City Council Meeting

MISSION STATEMENT

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

Update – Multicultural Festival:

The planning is going great but still in need of more sponsors/donations.

Discussion – Hosting an Immigration Action Roundtable

The purpose of the roundtable is to discuss what immigration means to our community. The Board will be identifying ideas that the Obama Administration should be considering, and ways to engage our community in this important debate. If someone is available from Federal Government, they will attend the workshop.

Vice-chairwoman Cherry opened the floor for suggested dates. Dates agreed on by Board members were Tuesday, November 15 to be considered as the primary date and Thursday, November 10 as the alternate date.

Update – Domestic Violence

Board member Davis shared a discussion that occurred between him and a former Washington native who now lives out of town. This gentleman and his family lost a sister very tragically to domestic violence and he expressed a desire to make a one-time contribution of approximately \$50,000-\$100,000 in support of a shelter.

Former chair Roberson voiced concerns that area churches are now interested in opening a center and hopefully with collaboration between the groups a resolution can be achieved by working together.

Discuss – All reminders

**Washington Tourism Development Authority
September-October 2011**

- The Highway 17 billboard campaign won the Platinum Award for the Best Marketing Initiative from Destination Marketing Association of North Carolina at the recent Tourism Leadership Conference.



- The Civic Center & WTDA hosted a business after hours following the 2011 Beaufort County Business Expo held at the Washington Civic Center.
- The WTDA Board of Directors voted at its September meeting to pursue a contract with the Chamber of Commerce for provision of visitor services. If approved by the Chamber Board of Directors, this will result in the relocation of the WTDA administrative offices to the Washington Civic Center. Not only is this a positive financial move for the organization, but it will allow more focus to be placed on the marketing and management of the Civic Center and the marketing of Washington. The change is expected to take place in January.
- The Civic Center received considerable roof damage from Hurricane Irene. It wasn't until the strong storms of the last 3 weeks that we realized just how extensive the damage actually was. There has been a considerable amount of water present in the backstage and dressing room areas of the Civic Center. Temporary tarps were placed on the roof until repair work can begin. Lynn Lewis has coordinated with various City departments and contractors to move the repair process forward.
- We have just received confirmation that Cycle North Carolina has selected Washington as the location for its Spring Ride in 2012. This is a great event that brings a lot of people and revenue to our community. The event will be announced during the Fall Ride that is being held the week of October 3. Dates for the event are April 13-15.
- Lynn Lewis has been asked by the new county manager to serve on a planning committee related to the 300th anniversary of Beaufort County.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Keith Hardt, P.E., Electric Director
Date: 23 September 2011
Subject: Appointments to the Board of Commissioners of the North Carolina Eastern Municipal Power Agency

Applicant Presentation: None
Staff Presentation: Keith Hardt, P.E., Electric Director

RECOMMENDATION:

I recommend that City Manager Josh Kay be appointed as Second Alternate Commissioner to the North Carolina Eastern Municipal Power Agency Board of Commissioners.

BACKGROUND AND FINDINGS:

None.

PREVIOUS LEGISLATIVE ACTION

None.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

None.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review:  Concur _____ Recommend Denial _____ No Recommendation 10/11 Date
 October 10, 2011
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1501.63 Washington

OATH

I, Josh Kay, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully and impartially execute and discharge the duties of my office as second alternate commissioner of North Carolina Eastern Municipal Power Agency, so help me God.

Second Alternate Commissioner

Sworn to and subscribed before me,
this _____ day of _____, 2011.

Notary Public

My Commission Expires:

(NOTARY SEAL HERE)



updated page will be
emailed after bid opening

City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Michael Whaley, Purchasing Agent
Date: September 28, 2011
Subject: Authorize Manager to Award Contract to _____ for
the Replacement of the Brown Street Bridge.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the Manager to award a contract for the replacement of the Brown Street bridge in the amount of \$XXX,XXX to _____ of _____, NC and approve the corresponding purchase order.

BACKGROUND AND FINDINGS:

On October 6, 2011 we received X bids for the replacement of the Brown Street bridge. _____ of _____, NC was the lowest bid for this project at \$XXX,XXX. A bid tab is attached.

PREVIOUS LEGISLATIVE ACTION

Most recently September 12, 2011 to award CEI services and to reopen Brown Street between Park Drive and East Fourth Street.

FISCAL IMPACT

X Currently Budgeted (Acct. 10-200-4511-7300) ___ Requires additional appropriation ___ No Fiscal Impact

SUPPORTING DOCUMENTS

Bid tab attached.

City Attorney Review: ___ Date By: ___ (if applicable)
Finance Dept Review: ___ Date By: ___ (if applicable)
City Manager Review: AW Concur ___ October 10, 2011 Recommendation ___ Denial ___ No Recommendation 10/4/11 Date
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City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Public Works
Date: October 10, 2011
Subject: Award Contract, execute contract and 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 and to issue the Notice to Proceed to _____ for \$_____.

BACKGROUND AND FINDINGS:

This request is to award a contract for the labor, material and equipment to install up to five (5) direct gas fired heating units at the Impression's building, located at 234 Spring Road.

On September 12, 2011 Council awarded this contract to Southern Piping Company. Shortly after the September 27, 2011 preconstruction meeting, citing unforeseen design costs, the company withdrew their bid.

NCGS § 143-131 calls for informal bidding for all construction and repair contracts costing at least \$30,000 but less than \$500,000. The informal bidding statute sets out less detailed requirements for negotiating contracts in the event of a forfeited bid. In compliance with limited statutory procedures, staff contacted three (3) companies (Piedmont Natural Gas, D and D Mechanical, LLC, and Brady Services, Inc) to solicit a bid. Once the bids have been received and reviewed, the lowest, responsible bid will be submitted to Council for evaluation and award.

PREVIOUS LEGISLATIVE ACTION

9.12.11: Award construction contract

FISCAL IMPACT

____ Currently Budgeted ____ Requires additional appropriation ____ No Fiscal Impact

SUPPORTING DOCUMENTS

Contract

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

CITY OF WASHINGTON
ENERGY EFFICIENCY IN GOVERNMENT BUILDINGS GRANT
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 _____

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.

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.

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 **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.
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 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.
- 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

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 NIOSH 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.
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
- 7 | **Labor and Equipment for Installation of Direct Gas Fired Heating Units, v1**

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.
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.

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@washingtonnc.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:

By: _____ (SEAL)

Joshua L. Kay, City Manager

Date: _____

Tax ID Number: 56-6001364

End of Fiscal Year: June 30th

Cynthia S. Bennett, City Clerk

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: _____

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Exhibit A
TECHNICAL SCOPE OF WORK

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EXHIBIT B
PRICING SHEET AND TECHNICAL SPECIFICATIONS

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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.

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City of Washington
REQUEST FOR COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning and Community Development
Date: October 10, 2011
Subject: Execute contract for Talent Enhancement Capacity Building Grant
Applicant Presentation: N/A
Staff Presentation: As requested

RECOMMENDATION:

I move that Council allow the manager to execute the contract with East Carolina University, subject to the attorney's revisions, for the Talent Enhancement Capacity Building Grant opportunity.

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
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.

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.

PREVIOUS LEGISLATIVE ACTION:

- 7.18.11: Hosted public hearing and approved application submission
- 8.23.11: Budget ordinance adopted

FISCAL IMPACT:

Currently Budgeted Requires Additional Appropriation No Fiscal Impact

SUPPORTING DOCUMENTS:

DRAFT Contract (East Carolina University will submit an updated document)

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review:  Date 10/11 Concur _____ Recommend Denial _____ No Recommendation

Agreement #:

New Agreement ; Modification

Modification #

SPONSORED PROGRAM AGREEMENT

Between

Recipient Institution	Funding Institution
1. Name: East Carolina University Address: 2200 S. Charles Blvd, Suite 2906 Greenville, NC 27858 State of Incorporation: NC Fiscal Year: July 1 through June 30	2. Name: Address: State of Incorporation: NC Fiscal Year: through
3. Proposal/Project Title:	4. Source of Funding: (Complete if applicable) Agency : Award No.: CFDA: Title:
5. PI/PD: Ph: Fax: Email: Address:	6. PI/PD: Ph: Fax: Email: Address:
7. Description/Purpose of Institution:	
8. Administrator Name: Kevin Mills Ph: 252-328-9540 Fax: 252-328-4363 Email: osp@ecu.edu Address: 2200 S. Charles Blvd, Suite 2906 Greenville, NC 27858	9. Administrator Name: Ph: Fax: Email: Address:
10. Fiscal Officer Name: Kathleen G. Hall Ph: 252-328-9530 Fax: 252-328-0769 Email: grantsc@ecu.edu Address: 2200 S. Charles Blvd. Suite 2906, Room 2900 Greenville, NC 27858	11. Fiscal Officer Name: Ph: Fax: Email: Address:
12. Remit payment to : <input checked="" type="checkbox"/> Same as #10 above <input type="checkbox"/> Other:	13. Send Invoices to: <input checked="" type="checkbox"/> Same as #11 above <input type="checkbox"/> Other:
14. Payment Method: <input type="checkbox"/> Cost Reimbursement: Payment under this Agreement requires periodic invoices to be submitted no more frequently than monthly and a final invoice to be submitted within 45 days of the termination date identified in Section 17.d of this Agreement and sent to the address identified in Section 13 of this Agreement. <input type="checkbox"/> Fixed Price: Payment under this Agreement is defined and described as follows: <input type="checkbox"/> Other: Payment under this Agreement is defined and described as follows:	

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<p>15. Invoicing (Unless otherwise stated, invoices shall serve as financial reports): Recipient Institute agrees to submit invoices to the Funding Institution as follows (check all that apply):</p> <p><input type="checkbox"/> Monthly</p> <p><input type="checkbox"/> Quarterly</p> <p><input type="checkbox"/> Annually</p> <p><input type="checkbox"/> Project Conclusion</p> <p><input type="checkbox"/> Other:</p>	<p>16. Progress Reporting: Recipient Institute agrees to provide progress reports to the individual named in Section 6 of this Agreement as follows (check all that apply):</p> <p><input type="checkbox"/> Monthly</p> <p><input type="checkbox"/> Quarterly</p> <p><input type="checkbox"/> Annually</p> <p><input type="checkbox"/> Project Conclusion</p> <p><input type="checkbox"/> Other:</p>
<p>17. Incorporation: The following documents are incorporated into this Agreement:</p> <p><input type="checkbox"/> Statement of Work (required for all new awards)</p> <p><input type="checkbox"/> Budget (required for all actions involving funds)</p> <p><input type="checkbox"/> Funding Source Award Notice</p> <p><input type="checkbox"/> Funding Source Terms and Conditions; attached as necessary and referenced in Section 4 of this Agreement</p> <p><input type="checkbox"/> Standard Terms & Conditions (required for all new awards)</p>	<p>18. Funding Information:</p> <p>a. Amount Funded This Action: \$</p> <p>b. Amount Prior Funding: \$ (Applies to agreement modifications only)</p> <p>c. Total Sponsored Funds To Date: \$</p> <p>b. Cost Sharing Required: \$</p> <p>c. Budget Period Start Date:</p>
<p>19.</p> <p>a. Is Recipient Institution a non-state (PI) entity?</p> <p><input type="checkbox"/> Yes (continue to 19.b)</p> <p><input type="checkbox"/> No (continue to signature block below)</p> <p>b. Is the source of funds provided from N.C. state funds?</p> <p><input type="checkbox"/> Yes (continue to Section 20)</p> <p><input type="checkbox"/> No (continue to signature block below)</p>	<p>20. Incorporation: The following documents are incorporated into the Agreement (applies only if Section 19 a & b are checked "yes"):</p> <p><input type="checkbox"/> Sample Invoice</p> <p><input type="checkbox"/> Certification & Sworn Statement</p> <p><input type="checkbox"/> Schedule of Grantee Receipts & Expenditures</p> <p><input type="checkbox"/> Supplementary Information</p> <p><input type="checkbox"/> Activities & Accomplishments</p>

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In witness whereof, the parties have caused the Agreement to be executed by their authorized representatives, effective the last date of signing by the authorized institutional officials below.

<p>For: RECIPIENT INSTITUTION</p> <p>Signature: _____</p> <p>Name: Maryellen O'Brien Title: Director, Office of Sponsored Programs</p> <p>Date: _____</p> <p>TIN/EIN: 56-6000403</p>	<p>For: FUNDING INSTITUTION</p> <p>Signature: _____</p> <p>Name: _____ Title: _____</p> <p>Date: _____</p> <p>TIN/EIN: _____</p>
<p>Read and Understood (PI/PD):</p> <p>Signature: _____</p>	<p>Read and Understood (PI/PD):</p> <p>Signature: _____</p>

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Budget

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Standard Terms and Conditions:

1. Statement of Work

Recipient Institution agrees to assure reasonable efforts to perform the work described in the Statement of Work, as appended to this Agreement. Any changes anticipated to the Statement of Work shall require written approval of the authorized institutional officials. Should such changes affect the cost for performing the work, then Recipient Institution shall submit a revised written cost estimate for approval by Funding Institution.

2. Period of Performance

The term of this Agreement is identified in Section 18 of this Agreement and may be extended upon written agreement by the parties.

3. Budget and Payment

- a. Funding Institution agrees to obligate funds in the amount identified in Section 18 of this Agreement for work performed herein by Recipient Institution.
- b. Recipient Institution shall provide invoices to Funding Institution with the same level of detail as indicated in the Budget, as appended to this Agreement.
- c. Invoices submitted and payments rendered shall be directed in accordance with this Sponsored Programs Agreement.
- d. Payments shall be made within thirty (30) days.
- e. Any deviations from the approved budget shall be administered in accordance with the terms identified in the Budget, as appended to this Agreement.

4. Key Personnel

- a. The work to be performed hereunder shall be under the supervision of the individuals identified in Sections 5 and 6 of this Agreement.
- b. Recipient Institution agrees that no changes will be made to Key Personnel without prior written consent of Funding Institution, provided however, that such consent shall not be unreasonably withheld.
- c. Funding Institution may meet with Key Personnel at reasonable and mutually agreeable times and places in order to discuss the progress of this project.

5. Reports

- a. Invoicing: Recipient Institution shall provide financial reports in accordance with Section 15 of this Agreement.
- b. Project: Recipient Institution shall provide progress reports in accordance with Section 16 of this Agreement.

6. Publication

Subject to the Intellectual Property Rights contained herein, Recipient Institution shall be free to publish, present, or use any results arising out of performance of this Agreement for its own instructional, research, or publication objectives. Recipient Institution agrees that any publication, presentation or use of such data shall acknowledge support provided by Funding Institution.

7. Confidentiality

In the event that confidential information is provided for the purposes of conducting the work described herein then the institution receiving such confidential information (hereafter "Recipient") agrees not to disclose or to use for any purposes other than for performance of this Agreement any and all privileged records or other confidential information appropriately marked as "Confidential" that is provided by the providing institution (hereafter "Provider"). The obligation of non-disclosure shall not apply to the following:

- a. Information which, at the time of disclosure is in the public knowledge or becomes part of public knowledge, except by breach of this Agreement, information required to be produced by a court or law, or information which constitutes a "public record" for which Recipient Institution is obligated to disclose pursuant to N.C.G.S. 132-1 *et seq.*;

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- b. Information which was in Recipient's possession at the time of disclosure by Provider, and which was not acquired, directly or indirectly, from Provider;
- c. Information which results from research and development by Recipient, independent of disclosure from Provider;
- d. Information, which Recipient receives from third parties, provided Information was not obtained with the knowledge of Recipient by said third parties, directly or indirectly from Provider on a confidential basis.

8. Intellectual Property Rights

- a. It is expressly agreed that neither Funding Institution nor Recipient Institution transfers by operation of this Agreement any patent right, copyright right, or other proprietary right either party owns prior to the effective date of this Agreement.
- b. Nothing contained herein shall be construed as granting either expressly or by implication, estoppel or otherwise to either party any right or license to reproduce, sell, have sold, or make derivative works, copyrightable materials or any other intellectual property rights of either party.
- c. It is further agreed that any inventions, discoveries or improvements arising out of the study performed shall be promptly disclosed to Funding Institution in writing and Funding Institution shall have the option to negotiate an exclusive or non-exclusive, worldwide license to make, have made, use and sell products incorporating such inventions under reasonable terms. This option may be exercised by Funding Institution by written notice to Recipient Institution at any time during a period of one hundred eighty (180) days after disclosure is made to Funding Institution. In the event that Funding Institution does not exercise its option within the specified period, Recipient Institution shall be free to license to third parties.

9. Termination

This Agreement may be terminated by either party upon thirty (30) days written notice to the parties identified in Sections 8 and 9 of this Agreement. All non-cancelable commitments incurred by Recipient Institution but not yet invoiced to Funding Institution shall be billed by Recipient Institution as soon as practicable and paid in accordance with Section 14 of this Agreement.

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This Agreement may be terminated upon any breach of or default by either party by providing written notice of such breach or default to the authorized representatives identified in Sections 8 and 9 of this Agreement. Such termination shall become effective at the end of ninety (90) days of such notice, unless during said ninety (90) day period an acceptable cure for such breach or default is provided.

Termination of this Agreement by either party shall not affect the rights and obligations of the parties accrued prior to the effective date of the termination. The rights and duties under Section 18 of the Agreement and Sections 7, 8, 9, and 11 of these Standard Terms and Conditions shall survive termination or expiration of this Agreement.

10. Conformance

Recipient Institution shall conduct the work described herein in accordance with all local, state and federal laws and regulations governing the conduct of such activity, including but not limited to activities involving human subjects, animal subjects and hazardous materials.

11. Miscellaneous

- a. The terms of this Agreement may not be assigned to any third party without the prior written consent of the parties.
- b. This Agreement is made under, and shall be interpreted and construed pursuant to, the Laws of the State of North Carolina.
- c. This Agreement constitutes the entire agreement for the purpose stated herein between the parties and all prior negotiations, representations, understandings and agreements are superseded herein. This Agreement may be amended, waived, assigned or delegated in whole or in part only by means of a written document signed by duly authorized representatives of the parties.

- d. The provisions of this Agreement are severable, and in the event that any provisions are determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions herein.
- e. The failure of either party to assert a right herein or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party.
- f. For the purposes of this Agreement the parties shall be deemed to be independent contractors and not agents or employees of the other party.
- g. Notwithstanding Section 6 of these Standard Terms and Conditions, nothing contained herein shall allow either party to use the names or registered trademarks of the other party for any purpose without prior written consent by an authorized official of the applicable institution, provided however that institutional names may be used in statements of fact insofar as such statements are not, nor can be considered, an endorsement of a project, product or service.
- h. Any delays in or failures of performance under this Agreement shall not be considered a breach of this Agreement if and to the extent such delays are caused by occurrences beyond reasonable control of the party, including but not limited to Acts of God; acts, regulations or laws of any government; strikes or other concerted acts of workers; fires; floods; explosions; riots; wars; rebellions; and sabotage. Any time for performance hereunder shall be extended, to the extent permitted by the Source of Funding identified in Section 4 of this Agreement and in accordance with Section 2 of these Standard Terms and Conditions, by the actual time of delay caused by such occurrence.
- i. Any and all equipment and materials purchased by Recipient Institution with funds provided pursuant to this Agreement shall be the property of Recipient Institution, except as otherwise provided in Statement of Work or Budget. Recipient Institution shall be solely responsible for the proper protection, housing, care, and maintenance of all such equipment and materials.
- j. All exhibits to this Agreement are hereby incorporated into and made a part of this Agreement.
- k. Nothing contained herein shall limit the statutory authority of the North Carolina Attorney General to represent, investigate, defend or settle any claims filed against East Carolina University.

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12. North Carolina State Financial Resources

In the event that financial resources provided herein are flowed down from the State of North Carolina, then the following shall apply:

Any contractor receiving at least \$15,000 but less than \$300,000 in State funds from the State of North Carolina within any fiscal year is required to file with each funding State agency a sworn accounting of receipts and expenditures of State funds in the format approved by the State Auditor. This accounting must be attested to by the Recipient Institution's fiscal officer and one other authorizing officer of the Recipient Institution. This accounting must be filed with each funding State agency within six months after the end of the Recipient Institution's fiscal year. If the Recipient Institution receives State funds of \$300,000 or more during its fiscal year, it must file with the State Auditor and each State funding agency its audited financial statements in accordance with the standards and formats prescribed by the State Auditor in Memorandum NGO-2 "Grantee Audit Reports". If the Recipient Institution receives \$300,000 or more in Federal awards during its fiscal year from any source, including federal funds passed through the State or other grantors, it must obtain a single audit or program-specific audit conducted in accordance with the Federal Office of Management and Budget's Circular A-133 "Audits of States, Local Government and Non-Profit Organizations". If the above amounts are not met by one single funding agency, but rather any combination of funding agencies, then the appropriate reports shall be sent to the Office of the State Auditor. Also, a corrective action plan for any audit findings and recommendations must be submitted along with the audit report within the period specified by the applicable OMB Circular or Memorandum.



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager
Date: October 4, 2011
Subject: Civic Center Roofing
Applicant Presentation:
Staff Presentation:

RECOMMENDATION:

I move that the City Council authorize the City Manager to contract with The Flat Roof Specialists of Raleigh, NC to replace the roof at the Civic Center for a base cost of \$34,126.00 and approve the corresponding purchase order.

BACKGROUND AND FINDINGS:

The roof at the Civic Center has suffered damage from Hurricane Irene and continues to leak into the facility. Staff requested and received the bids listed below. Staff believes that the City will receive reimbursement from FEMA for this expense, therefore all initial costs will be charged through the Hurricane Irene account codes.

Bidder	Location	Shingle Warranty (Years)	Labor Warranty (Years)	Plywood Replacement (per square foot)	Price
The Flat Roof Specialists	Raleigh, NC	25	5	\$2.50	\$34,126.00
The Flat Roof Specialists	Raleigh, NC	40	5	\$2.50	\$43,118.00
Baldwin Homes, Inc	Bath, NC	30	2	\$2.00	\$42,895.00
Baldwin Homes, Inc	Bath, NC	Lifetime	2	\$2.00	\$46,895.00
Curtis Construction Co., Inc	Kinston, NC	40	2	\$2.25	\$46,960.00
Curtis Construction Co., Inc	Kinston, NC	25	2	\$2.25	\$34,906.00

PREVIOUS LEGISLATIVE ACTION

None

FISCAL IMPACT

Currently Budgeted 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: JK Concur: _____ October 10, 2011 _____ Recommend Denial
 _____ No Recommendation _____ Date
10/4/11

**RESOLUTION AUTHORIZING THE DISPOSITION
OF CERTAIN PERSONAL PROPERTY BY PRIVATE SALE AND
APPROVING THE CONVEYANCE OF SAID PROPERTY PURSUANT
TO NORTH CAROLINA GENERAL STATUTE § 160A-279 AND § 160A-267**

WHEREAS, pursuant to North Carolina General Statute § 160A-459.1, the General Assembly found it to be “in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State.” The General Assembly further found that “a city has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the city’s territorial jurisdiction. In furtherance of this purpose, a city may establish a program to finance the purchase and installation of distributed generation renewal energy sources or energy efficiency improvements that are permanently affixed to residential, commercial or other real property.”

WHEREAS, the North Carolina Department of Commerce (NC-DOC) is the prime recipient of American Reinvestment and Recovery Act of 2009 (ARRA) funds awarded by the United States Department of Energy (US-DOE) under the Federally regulated State Energy Program through US-DOE Award Agreement DE-EE0000157. The City of Washington (City) is a sub-recipient of said ARRA funds under the NC-DOC Main Street Energy Fund Round 2: Solicitation No. 2010 Main Street 2 (Award) to fund, in part, the City’s Main Street Energy Fund Program (MSEF Program).

WHEREAS, the City is purchasing or has purchased a certain Sprout Kiosk as part of the City’s MSEF Program through contributions from the public and through ARRA grant funding from said Award.

WHEREAS, said Sprout Kiosk has been or will be erected upon property leased to the Partnership for the Sounds, Inc. (PFS), a private, non-profit 501(c)(3) corporation, by the City as well as Beaufort County as part of the Estuarium Education Center, known as the North Carolina Estuarium (Estuarium) that is operated and maintained on said property by PFS.

WHEREAS, the North Carolina State Energy Office (NC-SEO), which administers the ARRA grant funding awarded to the State and through which the Sprout Kiosk was, in part, purchased, has confirmed that ownership of the Sprout Kiosk can be conveyed by the City to PFS after the related grant has been closed out so long as there is an agreement between the City and PFS that specifies the Sprout Kiosk was paid for, in part, through ARRA funding and that requires records to be maintained of visitors as well as usage of the Sprout Kiosk for at least three (3) years for possible Federal audit.

WHEREAS, North Carolina General Statute § 160A-279 authorizes a city to convey personal property by private sale to a non-profit corporation if the city is authorized by law to appropriate funds to the non-profit corporation. North Carolina General Statute § 160A-279 further requires a city to attach to any such conveyance covenants or conditions which assure that the personal property will be put to a public use by the recipient entity.

WHEREAS, North Carolina General Statute § 160A-20.1 authorizes a city to contract with and appropriate money to any private entity to carry out any purpose that a city is authorized to carry out and the City is authorized by, among other things, said Award and North Carolina General Statute § 160A-459.1 to engage in said MSEF Program.

WHEREAS, the City has negotiated with PFS to convey the Sprout Kiosk described above to PFS in order that PFS may operate and maintain the Sprout Kiosk, which showcases solar panels, a wind turbine and weather station, as part of the Estuarium.

WHEREAS, the operation and maintenance of the Sprout Kiosk by PFS will assist the City by, among other things, promoting and encouraging renewable energy and energy efficiency within the City's territorial jurisdiction in furtherance of its MSEF Program.

WHEREAS, PFS is a non-profit corporation organized and operating under the laws of the State of North Carolina for the purpose of, among other things, promoting ecotourism and environmental education initiatives in the Albemarle-Pamlico region by assisting local communities in developing strategies, demonstration projects, and information to foster ecotourism and environmental education initiatives.

WHEREAS, said personal property is surplus property of the City and its City Council desires to dispose of the same.

WHEREAS, the City Council is convened in a regular meeting.

NOW, THEREFORE, the City Council for the City of Washington resolves as follows.

1. The above described property is hereby declared to be surplus to the needs of the City.
2. The City Manager of the City is authorized to dispose of the above described personal property by private sale and to execute all documents necessary to convey title to and ownership of the Sprout Kiosk to PFS.
3. The consideration for the conveyance contemplated herein will include but not be limited to the agreement by PFS to put said personal property to a public use as that public use is defined by the Lease, Management, and Ownership Agreement entered into by and between the City and PFS, which Agreement is attached hereto as Exhibit 1 and incorporated herein by reference. Further consideration for the conveyance shall be the performance by PFS of its obligations under said Agreement.
4. The City Clerk shall publish a public notice summarizing the contents of this Resolution in accordance with North Carolina General Statute § 160A-267.
5. The sale and conveyance contemplated herein may not be consummated earlier than ten (10) days from the date of said publication notice.

Adopted this 10th day of October, 2011.

N. ARCHIE JENNINGS, III, MAYOR
CITY OF WASHINGTON

ATTEST:

CYNTHIA S. BENNETT, CLERK
CITY OF WASHINGTON

EXHIBIT 1
Lease, Management And Ownership Agreement

LEASE, MANAGEMENT AND OWNERSHIP AGREEMENT

WHEREAS, the City of Washington (City) is purchasing or has purchased a certain Sprout Kiosk as part of the City's Main Street Energy Fund Program through contributions from the public and through American Reinvestment and Recovery Act of 2009 (ARRA) grant funding from the United States Department of Energy under the Federally regulated State Energy Program through the North Carolina Department of Commerce (NC-DOC) and the NC-DOC Main Street Energy Fund administered by the North Carolina State Energy Office (NC-SEO).

WHEREAS, the City and the Partnership for the Sounds, Inc. (PFS), a private, non-profit 501(c)(3) corporation, desire to locate the Sprout Kiosk on property leased by PFS from the City as well as Beaufort County as part of the Estuarium Education Center, known as the North Carolina Estuarium (Estuarium) that is operated and maintained on the property by PFS.

WHEREAS, PFS doing business as the Estuarium and the City feel the renewable energy Sprout Kiosk, which showcases solar panels, a wind turbine, and weather station, will serve as a beneficial exhibit for students, the general public and Estuarium patrons as well as visitors.

WHEREAS, the NC-SEO has confirmed that ownership of the Sprout Kiosk can be conveyed by the City to the Estuarium after the related grant has been closed out so long as there is an agreement between the City and the Estuarium that specifies the Sprout Kiosk was paid for, in part, through AARA funding and that requires records to be maintained of visitors as well as usage of the Sprout Kiosk for at least three (3) years for possible federal audit.

NOW THEREFORE, in consideration of the foregoing and for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Estuarium and the City hereby agree as follows.

1. The City, in cooperation with the Sprout Energy Corporation (SEC), has installed or will install a certain Sprout Kiosk on the grounds of the Estuarium at a location mutually agreed upon by the City and the Estuarium. Said installation has occurred or shall occur on or about October 11, 2011.
2. Once the Sprout Kiosk is installed, the City shall lease and demise unto the Estuarium and the Estuarium shall lease from the City the Sprout Kiosk until March 31, 2012 or until such time as said grant is closed out.
3. Upon installation of the Sprout Kiosk, all responsibility for, and decisions about, the use, care and promotion of the Sprout Kiosk shall be conclusively and exclusively accepted by, reserved unto, and made by the Estuarium.
4. On March 31, 2012 or at such time as said grant is closed out, the City shall convey the Sprout Kiosk to the Estuarium and the Estuarium shall receive and accept full ownership of the Sprout Kiosk. Thereafter, the Estuarium shall assume all rights and responsibilities of ownership for the Sprout Kiosk. Title to the Sprout Kiosk shall pass from the City to

the Estuarium pursuant to the Bill of Sale attached hereto as Exhibit A and incorporated herein by reference as if fully set forth.

5. This lease and conveyance is pursuant to North Carolina General Statute § 160A-279, § 160A-267, § 160A-20.1 and § 160A-459.1.
6. Upon said installation and by operation of the terms of the limited warranty attached hereto as Exhibit B and incorporated herein by reference as if fully set forth, the Estuarium shall acquire and assume all rights and obligations of the City under said limited warranty as said limited warranty provides that the warranty "extends to the original purchaser and to any subsequent purchasers or owners at the same location during the warranty period. For the purpose of this warranty, the terms 'purchaser,' 'subsequent owner,' and 'purchase' include a lessee, assignee of a lease, and a lease transaction." To the extent legally necessary, the City hereby assigns to the Estuarium all its rights, title, and interest to said limited warranty.
7. The Estuarium shall be solely responsible for the operation, care, maintenance and repair of the Sprout Kiosk as prescribed by SEC and will subscribe to the SEC website for a minimum of two (2) years at the designated fee of TWO HUNDRED NINETY-FIVE DOLLARS and no/100s (\$295.00) per year.
8. The Estuarium shall include the Sprout Kiosk under its standard property and liability insurance coverage for loss or damage due to weather, theft, mistreatment, accident, vandalism or other cause.
9. Notwithstanding anything herein to the contrary, the Estuarium reserves the right to remove, or have removed, the Sprout Kiosk in the event of any of the following conditions.
 - a. In the event the Sprout Kiosk is damaged and the Estuarium determines that it is financially or logistically infeasible to restore it to a functional condition.
 - b. In the event a major system component fails after expiration of its warranty and the Estuarium determines it is financially or logistically infeasible to undertake the repairs necessary to restore it to a functional condition.
 - c. If, through no fault of the Estuarium, the Sprout Kiosk malfunctions for a period of at least one (1) month consecutively or two (2) months sporadically without direct effort by SEC to correct the problem causing the malfunction after written notice from the Estuarium to SEC or SEC otherwise fails to perform its obligations under the limited warranty to the satisfaction of the Estuarium.
10. The Estuarium shall comply with, or assist the City as may be necessary in order to comply with, any and all requirements of said grant, including but not limited to those requirements regarding reporting, records retention, access to books and records, audit, and insurance contained in said grant. Estuarium shall fulfill the City's obligations under said grant that are directly or indirectly dependent upon the Estuarium for fulfillment,

including the maintenance of records detailing visitors to as well as usage of the Sprout Kiosk for at least three (3) years for possible Federal audit.

11. As required by NC-SEO, the Sprout Kiosk was paid for, in part, through ARRA funding.
12. This Agreement shall terminate and title to the Sprout Kiosk shall revert to the City if the Estuarium fails to cure any default in its obligations hereunder after sixty (60) days written notice from the City.

IN WITNESS WHEREOF, after due authority given, PFS has caused this Agreement to be signed in its name by its Executive Director, and the CITY has caused this Agreement to be signed in its name by its Manager, and attested by its Clerk, all with an effective date as of October 10, 2011.

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,
Chief Financial Officer

CITY OF WASHINGTON

ATTEST:

CYNTHIA S. BENNETT, City Clerk

By

JOSHUA L. KAY, City Manager

PARTNERSHIP FOR THE SOUNDS, INC.

By

JACKIE P. WOOLARD, Executive Director

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, _____, a Notary Public of the State and County aforesaid, certify that Cynthia S. Bennett personally appeared before me this day and acknowledged that she is City Clerk of the City Of Washington, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Joshua L. Kay, its 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: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that Jackie P. Woolard, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged that she is Executive Director of Partnership for the Sounds, Inc., a North Carolina non-profit corporation, and that by authority duly given executed the foregoing instrument and as the act of the corporation.

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

NOTARY PUBLIC

My Commission expires: _____

**EXHIBIT A
Bill of Sale**

NORTH CAROLINA
BEAUFORT COUNTY

BILL OF SALE

THIS BILL OF SALE is made and entered into as of the 31st day of March, 2012, or as of the date on which that certain Main Street Energy Fund Program grant held by the City dated January 31, 2011 closes out, from the CITY OF WASHINGTON, a North Carolina municipal corporation, (hereinafter referred to as the "City") to the PARTNERSHIP FOR THE SOUNDS, INC., a private, non-profit 501(c)(3) North Carolina corporation, (hereinafter referred to as "PFS").

WITNESSETH

That the City, in return for valuable consideration received by it from PFS, the receipt and legal sufficiency of which consideration is hereby acknowledged by the City, has bargained and sold, and does, by this instrument, bargain, sell and convey to PFS, its successors and assigns, pursuant to paragraph four (4) of that certain Lease, Management, and Ownership Agreement (Agreement) between the parties hereto and entered into as of the 10th day of October, 2011, a certain Sprout Kiosk.

TO HAVE AND TO HOLD the Sprout Kiosk in fee simple subject to the terms and conditions of said Agreement, including but not limited to the provision concerning reversion in paragraph twelve (12) of said Agreement.

The City covenants that it is seized of said Sprout Kiosk in fee, that it has the right to convey the same pursuant to this Bill of Sale, that the property is free and clear of all liens and encumbrances, and that it will warrant and defend the title to the same against the lawful claims of any person.

IN WITNESS WHEREOF, the City has duly executed this Bill of Sale pursuant to proper authority duly given, as of the date and year first above written.

CITY OF WASHINGTON

ATTEST:

CYNTHIA S. BENNETT, City Clerk

By: _____
JOSHUA L. KAY, City Manager

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, _____, a Notary Public of the State and County aforesaid, certify that Cynthia S. Bennett personally appeared before me this day and acknowledged that she is City Clerk of the City Of Washington, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Joshua L. Kay, its 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 B
Limited Warranty



Limited Warranty
Sprout Energy Hardware Products

Sprout Energy's warranty obligations for Sprout Energy hardware products are limited to the terms set forth below:

Sprout Energy Corporation warrants its hardware products against defects in materials and workmanship under normal use for the periods of time indicated below under "Specific Component Product Warranties" from the date of purchase or delivery date ("Warranty Period"). If a hardware defect arises and a valid claim is received within the Warranty Period, at its option and to the extent permitted by law, Sprout Energy Corporation will repair the hardware defect at no charge, using new parts or parts equivalent to new in performance and reliability.

This warranty extends to the original purchaser and to any subsequent purchasers or owners at the same location during the warranty period. For the purpose of this warranty, the terms "purchaser," "subsequent owner," and "purchase" include a lessee, assignee of a lease, and a lease transaction.

Any additional warranties from specific product manufacturers for products included in the Sprout Kiosk or Sprout DataSeed will be included as an Addendum to this document. Sprout Energy Corporation is in no way responsible for the warranties outlined by third party manufacturers.

SPECIFIC COMPONENT PRODUCT WARRANTIES

SPROUT KIOSK:	Kiosk Fiberglass Base Enclosure and Pole - Five (5) Year Warranty on Materials and Workmanship under normal use.
	Solar Panels - Two (2) Year Warranty on Materials and Workmanship; Ten (10) Year warranty for Minimum Power Output; see Third Party manufacturer's warranty.
	Wind Turbine - One (1) Year Warranty to repair or replace with a wind turbine of similar size and quality.
	Weather Station - Two (2) Year Warranty; see Third Party manufacturer's warranty
	Internal Electronic Hardware components - One (1) Year Warranty
SPROUT DATASEED:	External Enclosure - Five (5) year warranty on materials and workmanship under normal use
	Internal Electronic Hardware components - One (1) Year Warranty

Sprout Energy Corporation may request that you replace defective parts with new or refurbished user-installable parts that Sprout Energy Corporation provides in fulfillment of its warranty obligation. A replacement product or part, including a user-installable part that has been installed in accordance with instructions provided by Sprout Energy Corporation, assumes the remaining warranty of the original product or ninety (90) days from the date of replacement or repair, whichever provides longer coverage for you. When a product or part is exchanged, any replacement item becomes your property and the replaced item becomes Sprout Energy Corporation's property. Parts provided by Sprout Energy Corporation in fulfillment of its warranty obligation must be used in products for which warranty service is claimed.

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Effective 7/1/2011 until revised.

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EXCLUSIONS AND LIMITATIONS

This Limited Warranty applies only to the hardware products manufactured by or used by Sprout Energy Corporation as a component in its hardware products. The Limited Warranty does not apply to any software provided by Sprout Energy Corporation. Additional information about the Sprout Energy Corporation Software is covered under the "Sprout Energy Master Subscription Agreement for Software and Data Services".

Manufacturers or suppliers, other than Sprout Energy Corporation, of components used in Sprout Energy products may provide their own warranties to the end user purchaser, but Sprout Energy Corporation, in so far as permitted by law, provides these third-party products "as is".

Sprout Energy Corporation does not warrant that the operation of the product will be uninterrupted or error-free. Sprout Energy Corporation is not responsible for damage arising from failure to follow instructions relating to the product's use.

This warranty does not apply: (a) to consumable parts, such as batteries, unless damage has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents, and punctures; (c) to damage caused by use with non-Sprout Energy Corporation products; (d) to damage caused by accident, abuse, misuse, flood, fire, lightning, wind speeds in excess of 130mph, earthquakes or other acts of nature or external causes; (e) to damage caused by operating the product outside the permitted or intended uses described by Sprout Energy Corporation; (f) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of Sprout Energy Corporation; (g) to a Sprout Energy product or part that has been modified to alter functionality or capability, without the written permission of Sprout Energy Corporation; (h) if the Sprout Energy product is moved from its originally installed location without the written permission of Sprout Energy Corporation; or (i) if any Sprout Energy Corporation serial number has been removed or defaced.

Important: Do not open the individual electronic hardware products inside of the Sprout Kiosk or Sprout DataSeed unit. Opening the electronic product may cause damage that is not covered by this warranty. The individual electronic products should be serviced or repaired per the process detailed below. (See Process for Service and/or Repairs of Sprout Energy Products.)

TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND THE REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED. AS PERMITTED BY APPLICABLE LAW, SPROUT ENERGY CORPORATION SPECIFICALLY DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS. IF SPROUT ENERGY CORPORATION CANNOT LAWFULLY DISCLAIM STATUTORY OR IMPLIED WARRANTIES THEN TO THE EXTENT PERMITTED BY LAW, ALL SUCH WARRANTIES SHALL BE LIMITED IN DURATION TO THE DURATION OF THE EXPRESS WARRANTY AND TO THE REPAIR OR REPLACEMENT SERVICE AS DETERMINED BY SPROUT ENERGY CORPORATION IN ITS SOLE DISCRETION.

No Sprout Energy Corporation agent or employee is authorized to make any modification, extension, or addition to this warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired.

EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, SPROUT ENERGY CORPORATION IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF ACTUAL OR ANTICIPATED PROFITS (INCLUDING LOSS OF PROFITS ON CONTRACTS); LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF BUSINESS; LOSS OF OPPORTUNITY; LOSS OF GOODWILL; LOSS OF REPUTATION; LOSS OF, DAMAGE TO OR

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CORRUPTION OF DATA; OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING, PROGRAMMING OR REPRODUCING ANY PROGRAM OR DATA STORED IN OR USED WITH THE SPROUT ENERGY CORPORATION PRODUCT AND ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF DATA STORED ON THE PRODUCT. THE FOREGOING LIMITATION SHALL NOT APPLY TO DEATH OR PERSONAL INJURY CLAIMS, OR ANY STATUTORY LIABILITY FOR INTENTIONAL AND GROSS NEGLIGENT ACTS AND/OR OMISSIONS. SPROUT ENERGY CORPORATION DISCLAIMS ANY REPRESENTATION THAT IT WILL BE ABLE TO REPAIR ANY PRODUCT UNDER THIS WARRANTY OR MAKE A PRODUCT EXCHANGE WITHOUT RISK TO OR LOSS OF PROGRAMS OR DATA. OBTAINING WARRANTY SERVICE

PROCESS FOR SERVICE AND/OR REPAIRS OF SPROUT ENERGY PRODUCTS

When contacting Sprout Energy Corporation, a representative will help determine whether your product requires service and, if it does, will inform you how Sprout Energy Corporation will provide it. You must assist in diagnosing issues with your product and follow Sprout Energy Corporation's warranty processes. Sprout Energy Corporation may provide warranty service by sending you new or refurbished customer-installable replacement product or parts to enable you to service or exchange your own product (Do-It-Yourself or "DIY Service"). Upon receipt of the replacement product or part, the original product or part becomes the property of Sprout Energy Corporation and you agree to follow instructions, including, if required, arranging the return of original product or part to Sprout Energy Corporation in a timely manner. When providing DIY Service requiring the return of the original product or part, Sprout Energy Corporation may require a credit card authorization as security for the retail price of the replacement product or part and applicable shipping costs. If you follow instructions, Sprout Energy Corporation will cancel the credit card authorization, so you will not be charged for the product or part and shipping costs. If you fail to return the replaced product or part as instructed, Sprout Energy Corporation will charge the credit card for the authorized amount.

Service options are subject to change at any time. Response times and parts availability may vary. Sprout Energy Corporation may require that you furnish proof of purchase details and/or comply with registration requirements before receiving warranty service.

See attached: Addendum to Sprout Energy Limited Warranty for
City of Washington/NC Estuarium

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Addendum to Sprout Energy Limited Warranty for City of Washington/NC Estuarium:

EXTENDED 5/2 WARRANTY

Project: SPROUT KIOSK INSTALLED AT THE NC ESTUARIUM, CITY OF WASHINGTON

For the Sprout Kiosk to be installed at the NC Estuarium, City of Washington, Sprout Energy Corporation will extend the standard Limited Warranty periods as follows:

Solar Panels - 5	Solar Panel warranty will be extended from Two (2) Years to a Five (5) Year Warranty on Materials and Workmanship; Ten (10) Year Warranty for Minimum Power Output.
Wind Turbine - 5	Wind Turbine warranty will be extended from One (1) Year to a Five (5) Year Warranty to repair or replace existing wind turbine with a wind turbine of similar size and quality as required to maintain functionality of the Sprout Kiosk (in Sprout Energy Corporation's absolute judgment).
Kiosk Fiberglass Base Enclosure and Pole - 5	This warranty remains the standard Five (5) Year Warranty on Materials and Workmanship under normal use.
Internal Electronic Hardware Components - 2	Sprout Energy will extend the standard One (1) Year warranty on Internal Electronic Hardware Components to a period of Two (2) years, and will repair or replace individual Internal Electronic Hardware components as required to maintain functionality of the Sprout Kiosk (in Sprout Energy Corporation's absolute judgment).
Weather Station - 2	This warranty remains the standard Third Party manufacturer's warranty of a Two (2) Year period.

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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: September 29, 2011
Subject: Adopt a resolution to accept a grant in the amount of \$60,777 from the North Carolina Department of Transportation to fund the Airport Layout Plan at Warren Field Airport.

Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council adopt the resolution as shown on page four (4) of the attached Block Grant Agreement.

BACKGROUND AND FINDINGS:

The attached agreement is for a Vision 100 grant. The amount of the grant is \$60,777 to be used as described on page one (1) of the agreement: airport layout plan.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Attached Block Grant Agreement.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: October 10, 2011 (if applicable)
City Manager Review: *AK* Concur Page 84 of 148 and Denial No Recommendation 10/4/11 Date

BLOCK GRANT AGREEMENT

VISION 100

STATE AID TO AIRPORTS BLOCK GRANT
BETWEEN
THE N. C. DEPARTMENT OF TRANSPORTATION,
AN AGENCY OF THE STATE OF NORTH CAROLINA
AND
CITY OF WASHINGTON

AIRPORT: **WARREN FIELD**

PROJECT NO: **36237.38.9.1**

THIS AGREEMENT made and entered into this the _____ day of _____, 20____, by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as "Department") and the **CITY OF WASHINGTON**, the owners of **WARREN FIELD** (hereinafter referred to as "Sponsor").

WITNESSETH

WHEREAS, Chapter 63 of the North Carolina General Statutes authorizes the Department to administer a program of State Aid to Airports, subject to the limitations stated in that Chapter; and

WHEREAS, the Department has received the approval of the Federal Aviation Administration to administer certain Airport Improvement Program Funds in North Carolina under the provisions of the *Vision 100 - Century of Flight Authorization Act of 2003, Public Law 108-176*; and

WHEREAS, the Department has approved a grant of funds to the Sponsor for State Block Grant Program (VISION 100) funds.

NOW THEREFORE, the Department and the Sponsor do hereby mutually agree as follows:

1) That the approved scope of this project shall consist of:

**AIRPORT LAYOUT PLAN
(planning, design services, preliminary engineering/subconsultants)**

2) That the Grant of funds shall include maximum funding obligations for federal funds which shall be:

State Block Grant Program – VISION 100: \$60,777 (not to exceed 90% of the final total costs)

3) That the funding obligations referenced in (2) above shall be the maximum obligations based on the final cost of eligible work items in the approved project, as certified by the Sponsor

4) That the Sponsor shall promptly undertake the Project and complete all work on the Project no later than **JULY 1, 2013**, unless a written extension of time is granted by the Department.

DOA FORM (12/10)

- 5) That all work performed on the Project shall conform to the approved scope of work referenced in this Agreement. Any amendments or modifications to the approved scope of work, approved grant amounts, or this Agreement shall not be authorized by the Department unless they are contained in a written modification to this Agreement and fully executed by both the Sponsor and the Department.
- 6) Debarment and Suspension: The Grantee agrees to comply, and assures the compliance by each of its third party contractors and subrecipients at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 C.F.R. Part 29.
- 7) The Sponsor certifies that it has adhered to all applicable laws, regulations, and procedures in the application for and Sponsor's approval of this Grant.
- 8) For a material breach of this Agreement or the Sponsor's Assurances, the Sponsor shall be liable to the Department for the return of all grant monies received.
- 9) The Sponsor agrees to adhere to the standards and procedures contained in the State Aid to Airports Program Guidance Handbook (third edition, dated January 1997), unless the Department issues a written waiver to the contrary.
- 10) The Sponsor agrees to adhere to and be bound by the Grant Assurances of the Federal Aviation Administration, said Grant Assurances contained in Appendix I of this Grant Agreement. Further, the Sponsor agrees that it shall be responsible to the Federal Aviation Administration, or its designated agent, for enforcement of such Grant Assurances including any penalties, sanctions, or other actions which may be legally enforceable for lack of compliance with said Grant Assurances.
- 11) The Sponsor agrees to comply with the "Sponsor Assurances" contained as part of this Agreement.
- 12) N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this grant agreement, you attest, for your entire organization and its employees or agents that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

IN WITNESS WHEREOF, THE PARTIES HERETO EXECUTED THIS GRANT AGREEMENT THE DAY AND YEAR FIRST WRITTEN ABOVE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION :

NCDOT SEAL

BY: _____

Deputy Secretary for Transit

ATTEST: _____

SPONSOR:

SIGNED: _____

TITLE: _____

SPONSOR SEAL

ATTEST: _____

STATE OF NORTH CAROLINA, COUNTY OF _____

I _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ personally came before me this day and acknowledged that he is _____ of the _____
(Title) (Sponsor)

(hereinafter referred to as "Sponsor" and by authority duly given and as an act of said Sponsor, the foregoing instrument was signed by him, attested by _____ of the Sponsor, and the
(Name and Title)

Seal of the Sponsor affixed hereto.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 20 _____.

Notary Public (Signature)

My Commission expires: _____

SEAL

DOA FORM (12/10)

RESOLUTION

A motion was made by _____ and seconded by _____
(Name and Title)

_____ for the adoption of the following resolution, and upon
(Name and Title)

being put to a vote was duly accepted:

WHEREAS, a Grant in the amount of \$60,777 has been approved by the Department based on total estimated cost of \$67,530; and

WHEREAS, an amount equal to or greater than ten percent (10%) of the total estimated project cost has been appropriated by the Sponsor for this Project.

NOW THEREFORE, BE AND IT IS RESOLVED THAT THE _____
(Title)

of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

I, _____ of the _____
(Name and Title)

_____ do hereby certify that
(Sponsor)

the above is a true and correct copy of an excerpt from the minutes of the

_____ of a meeting
(Sponsor)

duly and regularly held on the _____ day of _____, 20_____.

This, the _____ day of _____, 20_____.

SPONSOR SEAL

Signed: _____

Title: _____

Of The: _____

DOA FORM (12/10)

SECTION A: SPONSOR'S ASSURANCES: GENERAL CONDITIONS

A-1. The Sponsor certifies that it holds fee simple title to the property on which this project is to be constructed. In the event any work is proposed on property which has an easement or lease in the Sponsor's name, the Sponsor agrees that it will comply with the Department's conditions and receive written approval prior to any construction on such lease or easements. This condition does not apply to planning projects.

A-2. The Sponsor agrees to operate the Airport for the use and benefit of the general public and shall not deny reasonable access to public facilities by the general public.

A-3. The Sponsor agrees to operate, maintain, and control the Airport in a safe and serviceable condition for a minimum of twenty (20) years following the date of this Agreement and shall immediately undertake, or cause to be undertaken, such action to correct safety deficiencies as may be brought to its attention by the Department.

A-4. The Sponsor agrees that any land purchased, facilities constructed, or equipment acquired under this Agreement shall not be sold, swapped, leased or otherwise transferred from the control of the Sponsor without written concurrence of the Department.

A-5. The Sponsor agrees that the state share of any land purchased, facilities constructed, or equipment acquired under this Agreement shall be credited to the Department in a manner acceptable to the Department in the event such land, facilities or equipment are subsequently disposed of through sale or lease.

A-6. Insofar as it is within its power and reasonable, the Sponsor shall, either by the acquisition and retention of property interest, in fee or easement, or by appropriate local zoning action, prevent the construction of any object which may constitute an obstruction to air navigation under the appropriate category of Federal Air Regulation Part 77, 14 CFR 77.

A-7. Insofar as it is within its power and reasonable, the Sponsor shall, restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and taking off of aircraft and the noise produced by such operations by adoption of zoning laws, by acquisition and the retention of property interest, in fee or easement.

A-8. Terminal building spaces constructed under this Grant Agreement shall be for the use of the general public. The Sponsor agrees that it will not use any space so constructed for private use, or charge fees for the use of such space, without the written approval of the Department.

SECTION B: SPONSOR'S ASSURANCES: PROJECT ADMINISTRATION

B-1. The Airport shall comply with all requirements of the State Aid to Airports Program Guidance Handbook (third edition, January 1997).

B-2. It is the policy of this State, to encourage and promote participation by disadvantaged minority owned and women owned businesses (MBE and WBE) in contracts let by the Department pursuant to GS 136-28.4 for the planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure construction, and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority owned and women owned businesses in these contracts. This is designed to ensure minority MBEs and WBEs have maximum opportunity to participate in performance of NCDOT contracts let using state funding. The sponsor assures and certifies with respect to this grant that they will pursue these requirements as stipulated by the Department in the advertising, award and administration of all contracts, and require the same for all contractors, sub recipient or subcontractors.

MBE\WBE program is governed by G.S. 136-28.4 and administered in accordance with Title 19A Chapter 02 SubChapter D Section .1101 - .1112 of North Carolina Administrative Code (19A NCAC 02D.1101).

B-3. The Sponsor shall submit draft plans and specifications, or approved alternate, for the project for review by the Department prior to advertising for bids on the Project. Should bids not be required on the project, the Sponsor shall submit a detailed scope of work and estimated costs prior to requesting "Project Concurrence and Notice to Proceed" form (AV-CONCUR/AV-503) for undertaking the project. All plans (and alternate) shall be supported by engineer's report. A list of deliverable(s) from the Sponsor to the Department is as follows:

Planning Projects

1. Interim Planning Submittals – All Airport Layout Plan Sheets, Reports, Projections, Construction Cost Estimate, drawings, sketches and all other pertinent information – electronic copy: PDF format. Paper copy, if requested: bond copy – true half-size.
2. Final Submittal - All Airport Layout Plan Sheets, Reports, Projections, Construction Cost Estimate, drawings, sketches and all other pertinent information – electronic copies: PDF format and AutoCAD or MicroStation format - Paper copy: bond– true half-size for plan sheets / sketches
 - a. All reports, projections – PDF Format. Any element of the documents shall be delivered in its original electronic format (i.e. MSWord, Excel, AutoCAD...) if requested by the Department
 - b. Sketches and drawings – electronic copies: PDF format and AutoCAD or MicroStation format - Paper copy: bond – true half-size for plan sheets / sketches.

Construction Projects

1. Interim Design Submittals (i.e. 30%, 60%, 90%....) – Plan Sheets, Technical Specifications, Itemized Construction Cost Estimate and Engineers Report – electronic copy: PDF format. Paper copy, if requested: bond true half-size for plan sheets.
2. 100% Design and Issue for Bid Submittals – Plan Sheets, Technical Specifications, Itemized Construction Cost Estimate, Engineer’s Report, and Bid Tab – Any element of the documents shall be delivered in electronic format (i.e. MS Excel and PDF format) and AutoCAD or MicroStation format and Paper copy: bond– true half-size for plan sheets.
3. As-built / Record Drawings
 - a. Contract Documents (Plan and Detail Sheets, Technical Specifications) – electronic copies: PDF format and AutoCAD or MicroStation format and Paper copy: bond– true half-size for plan sheets.
 - b. Technical Specifications – electronic copies: MS Word File and PDF format
 - c. Final Engineers Report – electronic copies: PDF format unless otherwise requested.

B-4. Bids will be taken in accordance with N. C. General Statute 143-129. Following bid opening or final contract negotiations, the Sponsor shall submit the "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) request along with the bid tabulations to the Department for review. The Department will take action on the request including the approval or disapproval of the Sponsor's Employment of specific contractors within ten (10) days of receipt. Approval will be communicated via a Contract Goal Requirements Letter sent directly to the Sponsor.

B-5. All contractor(s) who bid or submit proposals for contracts in connection with this project must submit a statement of non-collusion to the Sponsor.

B-6. The Sponsor shall not commence construction or award construction contracts on the project until a written "Project Concurrence and Notice to Proceed" (AV-CONCUR/AV-503) is co-signed by the Sponsor's Representative and the Department or alternate written approval is provided by the Department.

B-7. The Sponsor shall submit quarterly status reports (AV-STATUS/AV-502) to the Department, unless otherwise instructed, and will immediately notify the Department of any significant problems which are encountered in the completion of the project.

B-8. The Sponsor shall notify the Department of any significant meetings or inspections involving the Sponsor, his contractor(s), consultant(s), and/or federal funding agencies concerning Project.

B-9. The Sponsor shall notify the Department within thirty (30) days of completion of all work performed under this agreement for the purpose of final acceptance inspection and completion of audit requirements by the Department.

B-10. The Sponsor has full responsibility for assuring the completed Project meets the requirements of the Department and appropriate federal funding agencies. The Sponsor further certifies that all local, state, and federal requirements for the conduct of this Project shall be met.

B-11. It is the policy of the Department not to award contracts to contractors who have been removed from the Department's list of pre-qualified bidders without subsequent reinstatement. Therefore, no State funds will be provided for any work performed by the contractor(s), or sub-contractor(s) which had been removed from the Department's list of pre-qualified bidders without subsequent reinstatement as of the date of the signing of the construction contract. It shall be the responsibility of Sponsor to insure that only properly qualified contractors are given construction contracts for work.

SECTION C: SPONSOR'S ASSURANCES: PROJECT ACCOUNTING AND PAYMENT

C-1. The Sponsor shall record all funds received under this Agreement and shall keep the same in an identifiable Project account. The Sponsor, and his contractor(s) and/or consultant(s), shall maintain adequate records and documentation to support all Project costs incurred under this Grant. All records and documentation in support of the Project costs must be identifiable as relating to the Project and must be acceptable costs only. Acceptable costs are defined as those costs which are acceptable under "Federal Acquisition Regulations 1-31.6, 48 CFR (OMC Circular A-87)". Acceptable items of work are those referenced in the State Aid to Airports Program Guidance Handbook and North Carolina General Statutes. The Sponsor's accounting procedures which were established for work as set out in this Agreement must be reviewed and accepted by the Department prior to the final execution of this Agreement and payment of State funds, except for Sponsor reporting under OMB Circular A-133.

C-2. The Sponsor and his contractor(s) and/or consultant(s) shall permit free access to its accounts and records by official representatives of the State of North Carolina. Furthermore, the Sponsor and contractor(s) and/or consultant(s) shall maintain all pertinent records and documentation for a period of not less than five (5) years from the date of final payment.

C-3. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (www.whitehouse.gov/wh/eop/omb), the Airport shall arrange for an independent financial and compliance audit of its fiscal operations. The Airport shall furnish the Department with a copy of the independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Airports fiscal year ends.

The Airport shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Airport shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this agreement, for inspection and audit by the Department's Fiscal Section

C-4. Payment of the funds obligated under this Grant Agreement shall be made in accordance with the following schedule, unless otherwise authorized by the Department:

A. Payments from NCDOT to the Sponsor are made on a reimbursement basis. The Sponsor must pay all contractors/vendors prior to or within 3 business days of receipt of the Department's reimbursement.

B. Payments will be made on the basis of progress payments which may be requested by the Sponsor as costs are incurred, but not more frequently than monthly. Progress payments will be made provided the following requirements have been met.:

(1) The Grant Agreement has been executed and a Project Concurrence (AV-CONCUR/AV-503) issued.

(2) The Project has received an appropriate environmental finding.

(3) The Sponsor has submitted a Proposed Project Budget (AV-BUDGET/AV-504) accurately reflecting costs to date. The initial and revised AV-BUDGET/AV-504 shall be approved by the Department. With each AV-BUDGET/AV-504, the Sponsor shall provide the following documentation:

a) Scope of Services for the project, Consultant Fee - Man-hours Breakdown by task with hourly rates, Breakdown of Sub-consultant and / or Vendor Cost, Schedule of Deliverables, Estimated Construction Cost, Plan Sheet List

b) Actual Bidding Cost (once a project is bid) – Bid Tabulation / Bid Schedule, Recommendation for Award.

(4) Additional information shall be provided as requested.

(5) The Sponsor has submitted an executed Interim Payment Request (AV-PAY/AV-505) accurately reflecting costs incurred to date.

(6) The Sponsor has complied with all applicable conditions of the State Aid to Airports Program Guidance Handbook

C. The submission of progress payments is expected to parallel the value of work actually completed and costs incurred. At such point the Sponsor has requested payments equaling 100% of the State Grant, it is expected that the approved Project will be 100% complete.

D. Upon receipt of 100% of the State Grant, the Sponsor will promptly complete Project acceptance and submit the Project Completion and Final Payment Request (AV-FINAL/AV-506).

C-5. If after the acceptance of the Project by the Department, the final State share of approved eligible items is less than the amount of State funds actually disbursed for the Project, the Sponsor shall reimburse the Department in an amount equal to the difference between the amount of State funds actually disbursed and the final State share of the final, audited, approved eligible Project costs within thirty (30) days of notification by the Department of the amount due.

C-6. If after the acceptance of the Project by the Department, the final State share of approved eligible Project costs shall be more than the amount of State funds obligated for the Project, the Sponsor may make application to the Department for a corresponding increase which will be considered for funding in accordance with their relative priority versus other applications for available State funds.

C-7. Under certain conditions, projects originally involving only state and local funds may subsequently be eligible for reimbursement from federal funding agencies. In such cases, the Sponsor shall notify the Department of its intent to apply for federal reimbursement and shall keep the Department informed of the status of such application. In the event federal funds are obtained for all or a portion of the Project, the Sponsor shall refund to the Department an amount equal to the difference between State funds originally disbursed for the work item(s) subsequently receiving federal funds and the final State share of the costs of the affected item(s) of work. Reimbursement will be made within ninety (90) days of the date of the final execution of the FAA Grant Agreement affecting the work elements in the approved Project.

C-8. For the purpose of calculating the State share of the Project, federal funds are defined as funds provided by an agency of the federal government for the specific purpose of undertaking the Project, including Block Grant funds administered by the Department.

SECTION D: SPONSOR'S ASSURANCES: REAL PROPERTY ACQUISITION

D-1. The acquisition of land, buildings, and other real property involving the use of State Airport Aid funds shall be in compliance with the provisions of this Section.

D-2. The Sponsor shall depict each parcel to be acquired on an airport property map containing the identity of the parcel and its metes and bounds.

D-3. The acquisition cost of each parcel, building, or other real property acquired with State financial assistance shall be based on the fair market value of the property as determined by an appraisal process acceptable to the Department.

D-4. For each parcel or building with an estimated cost of \$100,000 or less, fair market value shall be established by a single original appraisal and a review appraisal. For complex acquisitions, fair market value shall be established by two original appraisals and one review appraisal.

D-5. All original and review appraisals shall be conducted by qualified appraisers who have no financial or other interest in the property to be acquired.

D-6. The fair market value of a parcel will be established by the review appraiser based upon the information contained in the original appraisal or appraisals.

D-7. No negotiation for property acquisition shall be commenced between the Sponsor and the property owner until the fair market value of the property has been established. Initial negotiations shall be based upon the fair market value.

D-8. Negotiated values above the fair market value shall not be eligible for State funds unless, prior to the final agreement for acquisition, the Sponsor has received the concurrence of the Department for paying such negotiated values in lieu of the appraised fair market value.

D-9. Sponsors who adhere to the federal "Uniform Guidelines for the Acquisition of Property" shall be deemed to have conformed to the Department's guidelines, except that Paragraph 8 above shall also be applicable under such acquisitions.

D-10. In the event the Project is a low value, non-complex acquisition, the Department, at its option, may accept the original appraisal without the review appraisal. In such cases, all other provisions of this Section shall apply.

D-11. Failure to follow the requirements of this Section shall disqualify the property from State participation for any parcel which has not been acquired in accordance with such standards.

SECTION E: Sponsor's Acknowledgement of Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32

E-1 Sponsor acknowledges and agrees that it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Revised 12/1/10



Terms and Conditions of Accepting Airport Improvement Program Grants

This document was compiled from multiple government source documents.

This document contains the terms and conditions of accepting Airport Improvement Program (AIP) grants from the Federal Aviation Administration (FAA) for the purpose of carrying out the provisions of Title 49, United States Code. These terms and conditions become applicable when the Sponsor accepts a Grant Offer from the FAA that references this document. The FAA may unilaterally amend the terms and conditions by notification in writing, and such amendment will only apply to grants accepted after notification.

I. DEFINITIONS

- A. **Sponsor**—An agency that is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required in this document and in the accepted Grant Agreement.
- B. **Project**—Work as identified in this grant Agreement.
- C. **Primary Airport**—A commercial service airport the Secretary of Transportation determines to have more than 10,000 passengers boarding each year.
- D. **“this grant”** – In this document the term “this grant” refers to the applicable grant agreement or grant agreements that incorporate(s) these Terms and Conditions as part of the grant agreement.

II. CERTIFICATIONS

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the Sponsor that it will comply with statutory and administrative requirements in carrying out a project under the AIP. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. In accepting this grant, the Sponsor certifies that each of the following items was or will be complied with in the performance of grant agreements. If a certification cannot be met for a specific project, the Sponsor must fully explain in an attachment to the project application.

- A. **Sponsor Certification for Selection of Consultants.** General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), and Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.
 - 1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.
 - 2. Consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.
 - 3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the Sponsor's independent cost estimate.

4. If engineering or other services are to be performed by Sponsor force account personnel, prior approval was (will be) obtained from the FAA.
 5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.
 6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.
 7. Mandatory contact provisions for grant-assisted contracts have been (will be) included in consultant services contracts.
 8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.
 9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement; and future work will not be initiated beyond five years.
- B. Sponsor Certification for Project Plans and Specifications.** AIP standards are generally described in Advisory Circulars 150/5100-6, Labor Requirements for the Airport Improvement Program; 150/5100-15, Civil Rights Requirements for the Airport Improvement Program; and 150/5100-16, Airport Grant Assurance One—General Federal Requirements. A list of current advisory circulars with specific standards for design or construction of airports, as well as procurement/installation of equipment and facilities, is referenced in standard airport sponsor Grant Assurance 34 in this document.
1. The plans and specifications were (will be) prepared in accordance with applicable Federal standards and requirements; so no deviation or modification to standards set forth in the advisory circulars, or State standard, is necessary other than those previously approved by the FAA.
 2. Specifications for the procurement of equipment are not (will not be) proprietary or written so as to restrict competition. At least two manufacturers can meet the specifications.
 3. The development included (to be included) in the plans is depicted on the airport layout plan approved by the FAA.
 4. Development that is ineligible for AIP funding has been (will be) omitted from the plans and specifications or otherwise identified to assure that no reimbursement will be made for the cost of the ineligible item(s).
 5. The process control and acceptance tests required for the project by standards contained in Advisory Circular 150/5370-10 are (will be) included in the project specifications.
 6. If a value engineering clause is incorporated into the contract, concurrence was (will be) obtained from the FAA.
 7. The plans and specifications incorporate (will incorporate) applicable requirements and recommendations set forth in the Federally approved environmental finding.
 8. For construction activities within or near aircraft operational areas, the requirements contained in Advisory Circular 150/5370-2 have been (will be) discussed with the FAA, as well as incorporated into the specifications; and a safety/phasing plan has FAA's concurrence, if required.
 9. The project was (will be) physically completed without Federal participation in costs due to errors and omissions in the plans and specifications that were foreseeable at the time of project design.
- C. Sponsor Certification for Equipment/Construction Contracts.** General standards for equipment and construction contracts within Federal grant programs are described in Title 49,

CFR, Part 18.36. AIP standards are generally described in FAA Advisory Circular (AC) 150/5100-6, Labor Requirements for the Airport Improvement Program; 150/5100-15, Civil Rights Requirements for the Airport Improvement Program; and 150/5100-16, Airport Grant Assurance One-General Federal Requirements. Sponsors may use State and local procedures provided procurements conform to these Federal standards.

1. A code or standard of conduct is (will be) in effect governing the performance of the Sponsor's officers, employees, or agents in soliciting and awarding procurement contracts.
2. Qualified personnel are (will be) engaged to perform contract administration, engineering supervision, construction inspection, and testing.
3. Unless the FAA approved (has approved) otherwise, the procurement was (will be) publicly advertised using the competitive sealed bid method of procurement.
4. The bid solicitation clearly and accurately describes (will describe):
 - a. The current Federal wage rate determination for all construction projects; and
 - b. All other requirements of the equipment and/or services to be provided.
5. Concurrence was (will be) obtained from FAA prior to contract award under any of the following circumstances:
 - a. Only one qualified person/firm submits a responsive bid;
 - b. The contract is to be awarded to other than the lowest responsible bidder;
 - c. Life cycle costing is a factor in selecting the lowest responsive bidder; or
 - a. Proposed contract prices are more than 10 percent over the Sponsor's cost estimate.
6. All contracts exceeding \$100,000 require (will require) the following provisions:
 - a. A bid guarantee of 5 percent, a performance bond of 100 percent, and a payment bond of 100 percent;
 - b. Conditions specifying administrative, contractual, and legal remedies, including contract termination, for those instances in which contractors violate or breach contract terms; and
 - c. Compliance with applicable standards and requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), and Executive Order 11738.
7. All construction contracts contain (will contain) provisions for:
 - a. Compliance with the Copeland "Anti-Kick Back" Act; and
 - b. Preference given in the employment of labor (except in executive, administrative, and supervisory positions) to honorably discharged Vietnam-era veterans and disabled veterans.
8. All construction contracts exceeding \$2,000 contain (will contain) the following provisions:
 - a. Compliance with the Davis-Bacon Act based on the current Federal wage rate determination; and
 - b. Compliance with the Contract Work Hours and Safety Standards Act (40 USC 327-330), Sections 103 and 107.
9. All construction contracts exceeding \$10,000 contain (will contain) appropriate clauses from 41 CFR Part 60 for compliance with Executive Orders 11246 and 11375 on Equal Employment Opportunity.
10. All contracts and subcontracts contain (will contain) clauses required from Title VI of the Civil Rights Act and 49 CFR 23 and 49 CFR 26 for Disadvantaged Business Enterprises.
11. Appropriate checks have been (will be) made to assure that contracts or subcontracts are not awarded to those individuals or firms suspended, debarred, or voluntarily excluded from doing business with any U.S. Department of Transportation (DOT) element and appearing on the DOT Unified List.

- D. Sponsor Certification for Real Property Acquisition.** General requirements on real property acquisition and relocation assistance are in Title 49, CFR, Part 24 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).
1. The Sponsor's attorney or other official has (will have) good and sufficient title and title evidence on property in the project.
 2. If defects and/or encumbrances exist in the title that adversely impact the Sponsor's intended use of property in the project, they have been (will be) extinguished, modified, or subordinated.
 3. If property for airport development is (will be) leased, the following conditions have been (will be) met:
 - a. The term is for 20 years or the useful life of the project;
 - b. The lessor is a public agency; and
 - c. The lease contains no provisions that prevent full compliance with this grant agreement.
 4. Property in the project is (will be) in conformance with the current Exhibit "A" property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.
 5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.
 6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces, property interest was (will be) obtained for the following:
 - a. The right of flight;
 - b. The right of ingress and egress to remove obstructions; and
 - c. The right to restrict the establishment of future obstructions.
 7. Appraisals prepared by qualified real estate appraisers hired by the Sponsor include (will include) the following:
 - a. Valuation data to estimate the current market value for the property interest acquired on each parcel; and
 - b. Verification that an opportunity has been provided the property owner or representative to accompany appraisers during inspections.
 8. Each appraisal has been (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals and review appraisal are (will be) available to FAA for review.
 9. A written offer to acquire each parcel was (will be) presented to the property owner for not less than the approved amount of just compensation.
 10. Effort was (will be) made to acquire each property through the following negotiation procedures:
 - a. No coercive action was (will be) taken to induce agreement; and
 - b. Supporting documents for settlements are (will be) included in the project files.
 11. If a negotiated settlement is not reached, the following procedures were (will be) used:
 - a. Condemnation was (will be) initiated and a court deposit not less than the just compensation was (will be) made prior to possession of the property; and
 - b. Supporting documents for awards were (will be) included in the project files.

12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was (will be) established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.
 13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.
- E. Sponsor Certification for Construction Project Final Acceptance.** General requirements for final acceptance and closeout of Federally funded construction projects are in Title 49, CFR, Part 18.50. The Sponsor shall determine that project costs are accurate and proper in accordance with specific requirements of this grant Agreement and contract documents.
1. The personnel engaged in project administration, engineering supervision, construction inspection, and testing were (will be) determined to be qualified as well as competent to perform the work.
 2. Daily construction records were (will be) kept by the resident engineer/construction inspector as follows:
 - a. Work in progress
 - b. Quality and quantity of materials delivered
 - c. Test locations and results
 - d. Instructions provided the contractor
 - e. Weather conditions
 - f. Equipment use
 - g. Labor requirements
 - h. Safety problems
 - i. Changes required.
 3. Weekly payroll records and statements of compliance were (will be) submitted by the prime contractor and reviewed by the Sponsor for Federal labor and civil rights requirements (Advisory Circulars 150/5100-6 and 150/5100-15).
 4. Complaints regarding the mandated Federal provisions set forth in the contract documents have been (will be) submitted to the FAA.
 5. All tests specified in the plans and specifications were (will be) performed and the test results documented as well as made available to the FAA.
 6. For any test results outside of allowable tolerances, appropriate corrective actions were (will be) taken.
 7. Payments to the contractor were (will be) made in compliance with contract provisions as follows:
 - a. Payments are verified by the Sponsor's internal audit of contract records kept by the resident engineer; and
 - b. If appropriate, pay reduction factors required by the specifications are applied in computing final payments; and a summary of pay reductions are made available to the FAA.
 8. The project was (will be) accomplished without significant deviations, changes, or modifications from the approved plans and specifications, except where approval is obtained from the FAA.
 9. A final project inspection was (will be) conducted with representatives of the Sponsor and the contractor, and project files contain (will contain) documentation of the final inspection.

10. Work in this grant agreement was (will be) physically completed, and corrective actions required as a result of the final inspection are completed to the satisfaction of the Sponsor.
 11. If applicable, the as-built plans, an equipment inventory, and a revised airport layout plan have been (will be) submitted to the FAA.
 12. Applicable close out financial reports have been (will be) submitted to the FAA.
- F. Sponsor Certification for Seismic Design and Construction.** 49 CFR Part 41 sets forth the requirements in the design and construction of the building(s) to be financed with the assistance of the FAA. Compliance will be met by adhering to at least one of the following accepted standards:
1. Model codes found to provide a level of seismic safety substantially equivalent to that provided by use of the 1988 National Earthquake Hazards Reduction Program (NEHRP) including:
 - a. The 1991 International Conference of Building Officials (IBCO) Uniform Building Code, published by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601;
 - b. The 1992 Supplement to the Building Officials and Code Administration International (BOCA) National Building Code, published by the Building Officials and Code Administrators, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795; and
 - c. The 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code, published by the Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213-1206.
 2. Revisions to the model codes listed above that are substantially equivalent or exceed the then current or immediately preceding edition of the NEHRP recommended provisions, as it is updated, may be approved by the DOT Operating Administration to meet the requirements of 49 CFR Part 41.
 3. State, county, local, or other jurisdictional building ordinances adopting and enforcing the model codes, listed above, in their entirety, without significant revisions or changes in the direction of less seismic safety, meet the requirement of 49 CFR Part 41.
- G. Drug-Free Workplace.** General requirements on the drug-free workplace within Federal grant programs are described in Title 49, CFR, Part 29 and the Drug-Free Workplace Act of 1988. Sponsors are required to certify they will provide, or will continue to provide, a drug-free workplace in accordance with the regulation.
1. A statement has been (will be) published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.
 2. An ongoing drug-free awareness program has been (will be) established to inform employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The Sponsor's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 3. Each employee to be engaged in the performance of the work has been (will be) given a copy of the statement required within item 1 above.

4. Employees have been (will be) notified in the statement required by item 1 above that, as a condition of employment under this grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:
 - a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.

III. GENERAL CONDITIONS

- A. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration under Title 49 U.S.C.
- B. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs, and settlement will be made for any upward or downward adjustments to the Federal share of costs.
- C. The Sponsor shall carry out and complete the Project(s) without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe.
- D. The FAA reserves the right to unilaterally terminate this grant if the Sponsor does not make at least one draw down of funds under their Letter of Credit or submit at least one written Request for Reimbursement, as applicable, in each twelve month period after grant acceptance.
- E. The Sponsor agrees to monitor progress on the work to be accomplished by this grant. For engineering services, the Sponsor agrees to make payment only for work that has been satisfactorily completed and that ten percent (10%) of the total value of the engineering services contract will not be paid to the Engineer until acceptable final project documentation is provided.
- F. The Sponsor agrees to submit final grant closeout documents to the FAA within 60 days after physical completion of the project(s), but no greater than four (4) years from the date of the grant, unless otherwise agreed to by the FAA.
- G. The FAA reserves the right to amend or withdraw this grant offer at any time prior to its acceptance by the Sponsor.
- H. This grant offer will expire, and the United States shall not be obligated to pay any part of the costs of the project unless this grant offer has been accepted by the Sponsor on or before 30 days after this grant offer but no later than September 30 of the federal fiscal year this grant offer was made, or such subsequent date as may be prescribed in writing by the FAA.
- I. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any manner in

any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

- J. The United States shall not be responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this grant agreement.
- K. If, during the life of the project, the FAA determines that this grant amount exceeds the expected needs of the Sponsor by \$5,000 or five percent (5%), whichever is greater, this grant amount can be unilaterally reduced by letter from FAA advising of the budget change. Conversely, with the exception of planning projects, if there is an overrun in the eligible project costs, FAA may increase this grant to cover the amount of the overrun not to exceed the statutory fifteen (15%) percent limitation for primary airports or either by not more than fifteen percent (15%) of the original grant amount or by an amount not to exceed twenty-five percent (25%) of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding for non-primary airports. FAA will advise the Sponsor by letter of the increase. Planning projects will not be increased above the planning portion of the maximum obligation of the United States shown in this grant agreement. Upon issuance of either of the aforementioned letters, the maximum obligation of the United States is adjusted to the amount specified. In addition, the Sponsor's officially designated representative, is authorized to request FAA concurrence in revising the project description and grant amount within statutory limitations. A letter from the FAA concurring in the said requested revision to the project work description and grant amount shall constitute an amendment to this Grant Agreement.
- L. If requested by the Sponsor and authorized by the FAA, the letter of credit method of payment may be used. It is understood and agreed that the Sponsor agrees to request cash withdrawals on the letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.
- M. Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The Sponsor will include in every contract a provision implementing this condition.
- N. If this grant agreement includes pavement work that equals or exceeds \$250,000, the Sponsor will perform the following:
 - 1. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:
 - a. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
 - b. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.

- c. Procedures for determining that testing laboratories meet the requirements of the American Society of Testing Materials standards on laboratory evaluation, referenced in the contract specifications (D3666, C1077).
 - d. Qualifications of engineering supervision and construction inspection personnel.
 - e. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - f. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, that the proper corrective actions, where necessary, are undertaken.
2. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
 3. Failure to provide a complete report as described in paragraph 2, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under this grant agreement.
 4. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that Sponsor tests results are inaccurate.
- O. For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number 11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. As a minimum, the program must conform with the following provisions:

Pavement Maintenance Management Program

An effective pavement maintenance management program is one that details the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed. An airport sponsor may use any form of inspection program it deems appropriate. The program must, as a minimum, include the following:

1. **Pavement Inventory.** The following must be depicted in an appropriate form and level of detail:
 - a. Location of all runways, taxiways, and aprons;
 - b. Dimensions;
 - c. Type of pavement, and;
 - d. Year of construction or most recent major rehabilitation.

For compliance with the Airport Improvement Program (AIP) assurances, pavements that have been constructed, reconstructed, or repaired with federal financial assistance shall be so depicted.

2. **Inspection Schedule.**
 - a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available; i.e., Pavement Condition Index (PCI) survey as set forth in Advisory Circular 150/5380-6, "Guidelines and Procedures for

Maintenance of Airport Pavements,” the frequency of inspections may be extended to three years.

- b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition.
3. **Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The types of distress, their locations, and remedial action, scheduled or performed, must be documented. The minimum information to be recorded is listed below:**
 - a. Inspection date;
 - b. Location;
 - c. Distress types; and
 - d. Maintenance scheduled or performed.For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
 4. **Information Retrieval. An airport Sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.**
 5. **Reference. Refer to Advisory Circular 150/5380-6, “Guidelines and Procedures for Maintenance of Airport Pavements,” for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.**
- P. **Takeover of Instrument Landing System and Associated Equipment in Project.** If this grant includes an instrument landing system and associated equipment and the FAA has agreed to takeover the system and equipment, the Sponsor must check the facility prior to its commissioning to assure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach, or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR part 77 determines that to be acceptable, and mark and light the runway, as appropriate.
 - Q. **Airport-Owned Visual or Electronic NAVAIDS In Project.** If this grant includes a visual or electronic navigational aid, the Sponsor must provide for the continuous operation and maintenance of any navigational aid funded under the AIP during the useful life of the equipment and check the facility prior to its commissioning to assure it meets the operational standards. The Sponsor must also remove, relocate, or lower each obstruction on the approach or provide for the adequate lighting or marking of the obstruction if any aeronautical study conducted under FAR Part 77 determines that to be acceptable, and mark and light the runway, as appropriate. The FAA will not take over the ownership, operation, or maintenance of any sponsor-acquired equipment other than an AIP-funded instrument landing system and associated equipment where FAA agrees to take over the system and equipment.
 - R. **Non-AIP Work in Application.** It is understood and agreed by and between the parties hereto that notwithstanding the fact that a Project Application may include therein the construction of work not included in this grant agreement project description, said work shall not be a part of this project and, if or to the extent accomplished by the Sponsor, such accomplishment shall be without any participation in the costs thereof by the United States under this project. It is further understood and agreed that, in the event the work which is excluded from the project is accomplished by the Sponsor, the Sponsor shall maintain as a portion of the cost records covering this project, separable cost records pertaining to the above-identified work excluded from Federal participation under this project, which records shall be made available for inspection and audit by the FAA to the end that the cost of the excluded work may be definitely determined.

It is further understood and agreed that the Sponsor will submit a Program Statement/cost estimate depicting the excluded costs or a cost estimate depicting only those costs eligible for Federal participation in this project.

- S. Utility Relocation in Project.** It is understood and agreed by and between the parties hereto that the United States shall not participate in the cost of any utility relocation unless and until the Sponsor has submitted evidence satisfactory to the FAA that the Sponsor is legally responsible for payment of such costs. FAA participation will be limited to those utilities located on private right-of-way or utilities that exclusively serve the Airport.
- T. Revenue from Real Property – Land in Project.** The Sponsor agrees that all net revenues produced from real property purchased in part with Federal funds in this grant shall be used on the airport for airport planning, development or operating expenses, except that all income from real property purchased for noise compatibility purposes or for future aeronautical use be used only to fund projects which would be eligible for grants under the Act. Income from noise or future use property may not be used for the Sponsor's matching share of any airport grant. Airport fiscal and accounting records shall clearly identify actual sources and uses of these funds.
- U. Future Development Land.** If this grant includes acquisition of land for future development, the Sponsor agrees to implement within five years of such grant the airport development that requires this land acquisition, unless the FAA agrees to a different duration. Furthermore, the Sponsor agrees not to dispose of the land by sale or lease without prior consent and approval of the FAA. In the event the land is not used within ten years for the purpose for which it was acquired, the Sponsor will refund the Federal share of acquisition cost or the current fair market value of the land, whichever is greater, unless the FAA agrees to a different duration.
- V. Runway Protection Zones.** The Sponsor agrees to take the following actions to maintain and/or acquire a property interest, satisfactory to the FAA, in the Runway Protection Zones:
- 1. Existing Fee Title Interest in the Runway Protection Zone:** The Sponsor agrees to prevent the erection or creation of any structure or place of public assembly in the Runway Protection Zone, except for NAVAIDS that are fixed by their functional purposes or any other structure approved by the FAA. Any existing structures or uses within the Runway Protection Zone will be cleared or discontinued unless approved by the FAA.
 - 2. Existing Easement Interest in the Runway Protection Zone:** The Sponsor agrees to take any and all steps necessary to ensure that the owner of the land within the designated Runway Protection Zone will not build any structure in the Runway Protection Zone that is a hazard to air navigation or which might create glare or misleading lights or lead to the construction of residences, fuel handling and storage facilities, smoke generating activities, or places of public assembly, such as churches, schools, office buildings, shopping centers, and stadiums.
 - 3. Future Interest in the Runway Protection Zone:** The Sponsor agrees that it will acquire fee title or less-than-fee interest in the Runway Protection Zones that presently are not under its control under an agreed schedule with the FAA. Said interest shall provide the protection noted in above Subparagraphs 1 and 2.
- W. Noise Projects on Privately Owned Property.** No payment shall be made under the terms of this grant agreement for work accomplished on privately owned land until the Sponsor submits the agreement with the owner of the property required by Assurance 5d of the *ASSURANCES Airport Sponsors*, and such agreement is determined to be satisfactory. As a minimum, the agreement with the private owner must contain the following provisions:
- 1. The property owner shall subject the construction work on the project to such inspection and approval during the construction or installation of the noise compatibility measures and after completion of the measures as they may reasonably be requested by the Secretary or the Sponsor.**
 - 2. The property owner shall assume the responsibility for maintenance and operation of the items installed, purchased, or constructed under this grant agreement. Neither the**

- FAA nor the Sponsor bears any responsibility for the maintenance and operation of these items.
3. If Federal funds for the noise compatibility measures are transferred by the Sponsor to the owner of the private property, or the owner's agent, the property owner shall agree to maintain and make available to the Secretary or the Sponsor, upon reasonable request, records disclosing the amount of funds received and the disposition of those funds.
 4. The property owner's right to sue the owner of the noise-impacting Airport for adverse noise impacts will be abrogated if the property owner deliberately or willfully acts to reduce or destroy the effectiveness of the noise compatibility measures during the useful life of such measures. This obligation shall remain in effect throughout the useful life of the noise compatibility measures, but not to exceed 20 years from the date of the Sponsor's acceptance of federal aid for the project.
- X. **Update Approved Exhibit "A" For Land in Project.** It is understood and agreed by and between the parties hereto that notwithstanding the fact that this grant offer is made and accepted upon the basis of the current Exhibit "A" Property Map, the Sponsor hereby covenants and agrees that upon completion of an AIP funded land acquisition project, it will update said Exhibit "A" Property Map to standards satisfactory to the FAA and submit said documentation in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Exhibit "A" Property Map is an eligible administrative cost for participation within the scope of this project.
- Y. **Friction Measuring Devices.** If this grant includes acquisition of friction measuring devices, the Sponsor assures that it will properly calibrate, operate, and maintain the friction measuring equipment in accordance with the manufacturer's guidelines and instructions and Advisory Circular 150/5320-12. The friction measuring equipment and tow vehicle (if applicable) shall not be used for any other purpose other than for conducting friction measuring tests on airport pavement surfaces and directly related activities, such as training and calibration.
- Z. **Low Emission Systems.** If this grant includes low emission systems work, the Sponsor agrees to the following conditions under the Voluntary Airport Low Emission (VALE) program:
1. Vehicles and equipment purchased with assistance from this grant shall be maintained and used for their useful life at the airport for which they were purchased. Moreover, any vehicles or equipment replaced under this program shall not be transferred to another airport or location within the same or any other nonattainment or maintenance area. No airport-owned vehicles or equipment may be transferred to, taken to, or used at another airport without the consent of the FAA in consultation with the United States Environmental Protection Agency and State air quality agency.
 2. All vehicles and equipment purchased with assistance from this grant shall be clearly labeled using the VALE program emblem designed by the FAA.
 3. The Sponsor shall maintain annual reporting records of all vehicles and equipment purchased with assistance from this grant. These public records shall contain detailed information involving individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

The Sponsor certifies that it shall replace any disabled or seriously damaged vehicle or equipment purchased with assistance from this grant, at any time during its useful life, with an equivalent vehicle or unit that produces an equal or lower level of emissions. The Sponsor assumes all financial responsibility for replacement costs. The Sponsor also certifies that it shall fulfill this replacement obligation, beyond the useful life of the affected vehicle or equipment, for the possible longer life of Airport Emission Reduction Credits that were granted to the Sponsor for this vehicle or equipment.

IV. ASSURANCES

The following FAA document titled *ASSURANCES Airport Sponsors*, dated March 2011, is incorporated as part of these Terms and Conditions:

Assurances**Airport Sponsors**

March 2011

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "Sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the Sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The Sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹

- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1,2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Anti kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity¹
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 – Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹

- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1 2}
- m. 49 CFR Part 26 - Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 - Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations
 - ¹ These laws do not apply to airport planning sponsors.
 - ² These laws do not apply to private sponsors.
 - ³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
 - b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.
3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the Sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the Sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without

- approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the Sponsor shall insert in the contract or document transferring or disposing of the Sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the Sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
 - d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
 - e. If the Sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
 - f. If an arrangement is made for management and operation of the airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
 - g. It will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport.
6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
 7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
 8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
 9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
 10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where

such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.
13. **Accounting System, Audit, and Record Keeping Requirements.**
 - a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
 - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.
14. **Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.
16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the Sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.
19. **Operation and Maintenance.**
- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the Sponsor will have in effect arrangements for-
 - 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or

facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.
20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.
22. **Economic Nondiscrimination.**
- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
 - b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the Sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
 - c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

- g. In the event the Sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the Sponsor under these provisions.
 - h. The Sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The Sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:
- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
 - b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.
24. **Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.
25. **Airport Revenues.**
- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- b. As part of the annual audit required under the Single Audit Act of 1984, the Sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.
- 26. Reports and Inspections.** It will:
- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
 - b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
 - c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
 - d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - I. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - II. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.
- 27. Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the Sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –
- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
 - b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.
- 28. Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the Sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The Sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
 - b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.
30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the Sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the Sponsor retains ownership or possession of the property.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the Sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. Hangar Construction. If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



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: September 20, 2011
Subject: Adopt New Water and Sewer Rate Schedules.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council adopt the attached water and sewer rate schedules with an effective date of January 1, 2012.

BACKGROUND AND FINDINGS:

In completing the form for our water use permit with the Division of Water Resources, we needed to document our water conservation plans which included a conservation-based rate structure. Conservation rate structures do not include a decreasing-block rate which we currently have in place. Under our current rate structure the unit price actually decreases as the volume increases. The flat rate structure proposed will meet the requirements of 15A NCAC 02E. 0502 regarding conservation measures. To keep both water and sewer rate structures similar, we also are proposing to remove the decreasing-block rate currently in place in our sewer rate structure as well.

Per Sections 38-42 and 39-42 of the City Code, water and sewer rates shall be reviewed and adjusted by City Council as needed.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

___ Currently Budgeted ___ Requires additional appropriation X No Fiscal Impact

SUPPORTING DOCUMENTS

See proposed rate structure attached.

City Attorney Review: ___ Date By: ___ (if applicable)
Finance Dept Review: ___ Date By: ___ (if applicable)
City Manager Review: *AL* Concur October 10, 2011 Denial ___ No Recommendation 10/10/11 Date
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City of Washington
PUBLIC WORKS DEPARTMENT

WATER SERVICE - INSIDE CITY

EFFECTIVE 11-1-11
WATER + > 50,000 cf
SEWER + > 50,000 cf

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.03412

CUSTOMER CHARGES FOR METER SIZE

WA	W 10	RESIDENTIAL - ALL	\$6.18
WA	W 11	COMMERCIAL - 3/4" METER	\$6.18
WA	W 1C	CHURCH - 3/4-1" METER	\$6.18
WA	W 12	COMMERCIAL - 1" METER	\$14.71
WA	W 13	COMMERCIAL - 1.5" METER	\$29.41
WA	W 14	COMMERCIAL - 2" METER	\$47.06
WA	W 15	COMMERCIAL - 3" METER	\$94.12
WA	W 16	COMMERCIAL - 4" METER	\$147.07
WA	W 17	COMMERCIAL - 6" METER	\$294.13
WA	W 18	COMMERCIAL - 8" METER	\$470.60

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT. \$14.71

SEWER SERVICE - INSIDE CITY

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.04342

PRICE PER CUBIC FOOT 0.04756 *Industrial Pretreatment

CUSTOMER CHARGES FOR METER SIZE

SW	S10	RESIDENTIAL-ALL	\$7.76
SW	S11	COMMERCIAL - 3/4" METER	\$7.76
SW	S1C	CHURCHES-ALL SIZES	\$7.76
SW	S12	COMMERCIAL - 1" METER	\$19.38
SW	S13	COMMERCIAL - 1.5" METER	\$38.78
SW	S14	COMMERCIAL - 2" METER	\$61.98 *
SW	S15	COMMERCIAL - 3" METER	\$123.99 *
SW	S16	COMMERCIAL - 4" METER	\$193.77 *
SW	S17	COMMERCIAL - 6" METER	\$387.47 *
SW	S18	COMMERCIAL - 8" METER	\$619.95 *

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT. \$18.60

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414



City of Washington
PUBLIC WORKS DEPARTMENT

EFFECTIVE 11-1-11
WATER 0
SEWER + > 50,000 cf

WATER SERVICE OUTSIDE CITY

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.04266

CUSTOMER CHARGES FOR METER SIZE

WA	W20	RESIDENTIAL - ALL	\$20.30
WA	W21	COMMERCIAL - 3/4" METER	\$20.30
WA	W 2C	CHURCH - 3/4-1" METER	\$20.30
WA	W22	COMMERCIAL - 1" METER	\$73.55
WA	W23	COMMERCIAL - 1.5" METER	\$147.07
WA	W24	COMMERCIAL - 2" METER	\$235.32
WA	W25	COMMERCIAL - 3" METER	\$470.60
WA	W26	COMMERCIAL - 4" METER	\$735.32
WA	W27	COMMERCIAL - 6" METER	\$1,470.67
WA	W28	COMMERCIAL - 8" METER	\$2,353.08

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT. \$30.97

SEWER SERVICE - OUTSIDE CITY

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.04342

PRICE PER CUBIC FOOT 0.04756 *Industrial Pretreatment

CUSTOMER CHARGES FOR METER SIZE

SW	S20	RESIDENTIAL - ALL	38.74
SW	S21	COMMERCIAL - 3/4" METER	38.74
SW	S2C	CHURCHES - ALL SIZES	38.74
SW	S22	COMMERCIAL - 1" METER	96.90
SW	S23	COMMERCIAL - 1.5" METER	193.77
SW	S24	COMMERCIAL - 2" METER	309.94 *
SW	S25	COMMERCIAL - 3" METER	619.95 *
SW	S26	COMMERCIAL - 4" METER	968.69 *
SW	S27	COMMERCIAL - 6" METER	1641.79 *
SW	S28	COMMERCIAL - 8" METER	3099.75 *

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414



City of Washington
PUBLIC WORKS DEPARTMENT

EFFECTIVE 11-1-11
WATER + > 50,000 cf
SEWER + > 50,000 cf

WATER SERVICE - INSIDE CITY COUNTY MAIN

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.03412

CUSTOMER CHARGES FOR METER SIZE

WA	W40	RESIDENTIAL - ALL	\$6.18
WA	W41	COMMERCIAL - 3/4" METER	\$6.18
WA	W42	COMMERCIAL - 1" METER	\$14.71
WA	W43	COMMERCIAL - 1.5" METER	\$29.41
WA	W44	COMMERCIAL - 2" METER	\$47.06
WA	W45	COMMERCIAL - 3" METER	\$94.12

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT. \$14.71

SEWER SERVICE - INSIDE CITY (WATER RELATED COUNTY MAIN)

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT 0.04342

PRICE PER CUBIC FOOT 0.04756 *Industrial Pretreatment

CUSTOMER CHARGES FOR METER SIZE

SW	S40	RESIDENTIAL - ALL	\$8.34
SW	S41	COMMERCIAL - 3/4" METER	\$8.34
SW	S42	COMMERCIAL - 1" METER	\$19.38
SW	S43	COMMERCIAL - 1.5" METER	\$38.78
SW	S44	COMMERCIAL - 2" METER	\$61.98 *
SW	S45	COMMERCIAL - 3" METER	\$123.99 *

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT. \$18.60

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414



City of Washington
PUBLIC WORKS DEPARTMENT

WATER SERVICE - OUTSIDE CITY COUNTY MAIN

EFFECTIVE 11-1-11

COMMODITY (USAGE) CHARGES

WATER 0

SEWER + > 50,000 cf

PRICE PER CUBIC FOOT

0.04266

CUSTOMER CHARGES FOR METER SIZE

WA	W50	RESIDENTIAL - ALL	20.30
WA	W51	COMMERCIAL - 3/4" METER	20.30
WA	W52	COMMERCIAL - 1" METER	73.55
WA	W53	COMMERCIAL - 1.5" METER	147.07
WA	W54	COMMERCIAL - 2" METER	235.32
WA	W55	COMMERCIAL - 3" METER	470.60

MINIMUM CHARGE FOR 3/4" METER-UP TO 250 CU.FT.

30.97

SEWER SERVICE - OUTSIDE COUNTY MAIN

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT

0.04342

PRICE PER CUBIC FOOT

0.04756 *Industrial Pretreatment

CUSTOMER CHARGES FOR METER SIZE

SW	S50	RESIDENTIAL - ALL	\$38.74
SW	S51	COMMERCIAL - 3/4" METER	\$38.74
SW	S52	COMMERCIAL - 1" METER	\$96.90
SW	S53	COMMERCIAL - 1.5" METER	\$193.77
SW	S54	COMMERCIAL - 2" METER	\$309.94 *
SW	S55	COMMERCIAL - 3" METER	\$619.95 *

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414



City of Washington
PUBLIC WORKS DEPARTMENT

SEWER SERVICE - INSIDE METERED NON-WATER RELATED

EFFECTIVE 11-1-11
SEWER + > 50,000 cf
SEWER + > 374,000 gal
SEWER Flat 0

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT

0.04756 *Industrial Pretreatment

SM SI2 COMMERCIAL - 2" SEWER

\$61.98 *

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414

SEWER SERVICE - OUTSIDE METERED NON-WATER RELATED

COMMODITY (USAGE) CHARGES

PRICE PER CUBIC FOOT

0.04756 *Industrial Pretreatment

SM SO2 COMMERCIAL - 2" SEWER

\$309.94 *

SM SO3 COMMERCIAL - 3" SEWER

\$619.95 *

SM SO6 COMMERCIAL - 6" SEWER

\$1,286.84 *

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00414

SEWER SERVICE - OUTSIDE METERED IN GALLONS NON-WATER RELATED

COMMODITY (USAGE) CHARGES

PRICE PER GALLON

0.00635 *Industrial Pretreatment

SM S3G COMMERCIAL - 3" SEWER

\$619.95 *

*NON-DOMESTIC CUSTOMERS WITH 2" OR GREATER METER SIZE-INDUSTRIAL PRETREATMENT
ADMINISTRATIVE FEE ADDED TO COMMODITY CHARGE 0.00055

SEWER SERVICE - FLAT SEWER RATE

SE S99 FLAT SEWER RATE-INCREASE EACH 7.5%

S99 READY MIX CONCRETE-#4413500.0098

FY 08-09

\$18.80

S99 MARY WILLIAMS-#4614100.0098

\$18.60

S99 CLAUD TAYLOR-#4413500.0098

\$39.30

S99 FRANKLIN BAKING-#8486600.0098

\$62.62

S99 DEBRA AINSWORTH-#8614000.0098

\$52.91



**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: 10-04-11
Subject: Authorize the Purchase of a 1 Ton Pick-up.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move Council authorize the purchase of a one ton utility bed pick-up truck, not to exceed \$25,000, and the corresponding purchase order.

BACKGROUND AND FINDINGS:

The Public Works department is in need of replacing a 2004 model 1 ton pick-up truck (equipment number 415) in which the engine has seized-up. The current truck has a diesel engine and the estimates to rebuild the existing engine are just under \$13,000, while a "crate" motor to replace the existing engine is over \$14,000. The state contract prices for a gasoline engine, 1 ton truck just expired but we have been told by the vendor that had the contract that just expired that we should be able to purchase a new one for less than \$25,000. We feel that it would be much more prudent to spend \$25,000 for a new truck than \$13-14,000 rebuilding/replacing the engine in a 7 year old truck. Funds will be moved from the contract services portion of the wastewater maintenance portion of the sewer fund to capital outlay in order to cover the cost of this purchase. We plan to sell the existing vehicle through GovDeals and place the revenue from that sale back into the contract services line item in this division of the sewer fund.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *AL* Concur _____ Recommend Denial _____ No Recommendation _____
Date *10/4/11* October 10, 2011
Page 137 of 148



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: October 10, 2011
Subject: Declare Surplus Personal Property and Adopt Resolution Authorizing Purchasing Agent to Sell by Private Sale

Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council declare specified personal property at 234 Springs Road surplus and adopt a resolution authorizing the Purchasing Agent to sell by private sale.

BACKGROUND AND FINDINGS:

A chiller and two boilers at the City owned building leased by Impressions Marketing Group have become surplus. The chiller and one of the boilers are out of service. The other boiler will be taken out of service with the installation of direct fired gas heaters later this year. General Statute 160A-267 permits the sale of personal property valued at less than \$30,000 by private sale at a negotiated price with Council approval. This Council Action declares this property as surplus and adopts a Resolution authorizing the Purchasing Agent to sell.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted () Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Resolution Authorizing Purchasing Agent to Sell Personal Property by Private Sale

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review:  Concur _____ Recommend Denial _____ No Recommendation
 _____ Date 10/10/11

**Resolution Authorizing the Purchasing Agent to Sell Surplus Personal Property by
Private Sale**

WHEREAS, the City of Washington owns certain items of personal property that have become surplus for its current needs: and

WHEREAS, North Carolina General Statute G.S. 160A-266; 267 permits the City to sell such property by private sale, upon authorization by the City Council at a regular meeting and notice to the public: and

WHEREAS, the City Council is convened in a regular meeting;

THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHINGTON RESOLVES THAT:

1. The City Council authorizes the Purchasing Agent to sell by private sale the following items of surplus personal property located at 234 Springs Road, Washington, NC:
 - (1) One Carrier Cent. Chiller model no. 19EX4141-736DM621, Serial no. 0595J49216.
 - (2) Two 200 HP Kewanee boilers.

2. The City Clerk shall publish a notice summarizing this resolution, and no sale may be executed pursuant to this resolution until, at least 10 days after the day the notice is published.

Adopted this 10th day of October, 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: October 10, 2011
Subject: Budget Ordinance Hurricane Irene
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a Budget Ordinance to appropriate funds for expenses related to Hurricane Irene and the reimbursement from FEMA.

BACKGROUND AND FINDINGS:

The City has estimated it's cost associated with Hurricane Irene to be \$1,783,868. Staff is working with FEMA on the reimbursement of eligible expenses. Adjustments will be made as expenditures and the reimbursement claims are finalized. The estimated cost by fund is:

General Fund	\$ 338,368
Water Fund	45,000
Sewer Fund	45,000
Electric Fund	1,050,000
Solid Waste Fund	300,500
Airport Fund	<u>5,000</u>
Total	\$1,783,868

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Budget Ordinance
Cost Estimate

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: Concur October 10, 2011 Denial _____ No Recommendation
10/4/11 Date. Page 140 of 148

**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 \$338,368 in the account FEMA Funds - Irene, account number 10-00-3350-0013.

Section 2. That account number 10-00-4400-5730, Hurricane Irene Expenses, Miscellaneous Non-Departmental portion of the General Fund appropriations budget be increased in the amount of \$338,368 to cover hurricane expenses.

Section 3. That the Estimated Revenues in the Water Fund be increased in the amount of \$45,000 in the account FEMA Funds - Irene, account number 30-90-3350-0013.

Section 4. That account number 30-90-6610-5730, Hurricane Irene Expenses, Miscellaneous Non-Departmental portion of the Water Fund appropriations budget be increased in the amount of \$45,000 to cover hurricane expenses.

Section 5. That the Estimated Revenues in the Sewer Fund be increased in the amount of \$45,000 in the account FEMA Funds - Irene, account number 32-90-3350-0013.

Section 6. That account number 32-90-6610-5730, Hurricane Irene Expenses, Miscellaneous Non-Departmental portion of the Sewer Fund appropriations budget be increased in the amount of \$45,000 to cover hurricane expenses.

Section 7. That the Estimated Revenues in the Electric Fund be increased in the amount of \$1,050,000 in the account FEMA Funds - Irene, account number 35-90-3350-0013.

Section 8. That account number 35-90-6610-5730, Hurricane Irene Expenses, Miscellaneous Non-Departmental portion of the Electric Fund appropriations budget be increased in the amount of \$1,050,000 to cover hurricane expenses.

Section 9. That the Estimated Revenues in the Solid Waste Fund be increased in the amount of \$300,500 in the account FEMA Funds - Irene, account number 38-90-3350-0013.

Section 10. That account number 38-90-4710-5730, Hurricane Irene Expenses, line item portion of the Solid Waste Fund appropriations budget be increased in the amount of \$300,500 to cover hurricane expenses.

Section 11. That the Estimated Revenues in the Airport Fund be increased in the amount of \$5,000 in the account FEMA Funds - Irene, account number 37-90-3350-0013.

Section 12. That account number 37-90-4530-5730, Hurricane Irene Expenses, line item portion of the Airport Fund appropriations budget be increased in the amount of \$5,000 to cover hurricane expenses.

Section 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 14. This ordinance shall become effective upon its adoption.

Adopted this the 10th day of October, 2011.

MAYOR

ATTEST:

CITY CLERK

		A	B	C	D	E	F	G	Total
Civic Center	Roof					46,895			46,895
	HVAC					2,800			2,800
	Signage								-
Public Works	Debris removal	300,000							300,000
	Utilities						90,000		90,000
	Roadway/drainage			20,000					20,000
	Vehicle #480(net of insurance)					500			500
	Airport					5,000			5,000
City Hall	Generator					12,400			12,400
	Wireless canopy, network switches					2,564			2,564
Library	Roof leak and debris					3,000			3,000
Electric	Contract labor						600,000		600,000
	Force account labor & equipment						200,000		200,000
	Expenses						200,000		200,000
	Comm Center						50,000		50,000
Parks & Rec							198,576	198,576	
Police Dept	EPM- labor		30,587						30,587
	EPM- equipment		795						795
	EPM- preparation		218						218
	Building/equipment damages					6,007			6,007
Fire Department	EPM- labor		8,715						8,715
	EPM- equipment		771						771
	EPM- preparation/supplies		2,172						2,172
	Building/equipment damages					906			906
Planning & Development		1,962						1,962	
Total		300,000	45,220	20,000	-	80,072	1,140,000	198,576	1,783,868

Fund Summary:

General Fund	10-00-4400-5730	338,368
Water Fund	30-90-6610-5730	45,000
Sewer Fund	32-90-6610-5730	45,000
Electric Fund	35-90-6610-5730	1,050,000
Solid Waste Fund	38-90-4710-5730	300,500
Airport Fund	37-90-4530-5730	5,000
Total		1,783,868



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Joshua Kay, City Manager
Date: October 4, 2011
Subject: Approve Agreement to Loan Artifact for Display
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council approve the agreement to loan an artifact (cannon, circa 1690) for display at the North Carolina Estuarium and authorize the manager to execute the agreement.

BACKGROUND AND FINDINGS:

A cannon, circa 1690 was discovered underneath the ground on property owned by the City of Washington just north of Stewart Parkway and just east of Respass Street. The cannon was discovered during excavations that were performed in conjunction with a City stormwater sewer project. East Carolina University's Underwater Archaeology Department determined the cannon was historical in value and should be restored. Once restoration of the cannon was complete, the Partnership for the Sounds, Inc. agreed to display the cannon at the Estuarium Education Center, known as the North Carolina Estuarium. The City desires Partnership for the Sounds to continue to display the cannon at the Estuarium and requests approval of the attached agreement to loan the cannon(artifact) to the Estuarium for display purposes.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Agreement to loan artifact for display

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: _____ (if applicable)
 City Manager Review:  Concur _____ Recommend Denial _____ No Recommendation 10/4/11 Date

AGREEMENT TO LOAN ARTIFACT FOR DISPLAY

WHEREAS, a cannon, circa 1690, (Artifact) was discovered underneath the ground on property owned by the City of Washington (City) just north of Stewart Parkway and just east of Respass Street during excavations that were performed in conjunction with a City stormwater sewer project.

WHEREAS, it was determined by the Underwater Archaeology Department at East Carolina University that said Artifact was of considerable historical value and should be restored as well as displayed.

WHEREAS, the City caused the Artifact to be delivered to East Carolina University (ECU) in an effort to collect information concerning its origin.

WHEREAS, the City paid ECU to restore the Artifact and it was transported back to the City.

WHEREAS, the City owns the Artifact pursuant to Common Law. The North Carolina Office of State Archaeology (NC-OSA) has confirmed the City's ownership of the Artifact and that neither the State nor the federal government can lay claim to the Artifact due to the location of its finding and the operation of Common Law. NC-OSA further confirmed that it was unnecessary for the City to make a formal claim to assert its ownership of the Artifact.

WHEREAS, the Partnership for the Sounds, Inc. (PFS) has graciously agreed to display, and has displayed for some time, the Artifact at its Estuarium Education Center known as the North Carolina Estuarium (Estuarium).

WHEREAS, PFS has found said Artifact to be an asset to its Estuarium due to the Artifact's historical value and desires to continue to display the Artifact at the Estuarium.

WHEREAS, the City desires PFS to continue to display the Artifact at the Estuarium.

NOW THEREFORE, in consideration of the foregoing and for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, PFS and the City hereby agree as follows.

1. The parties hereto expressly recognize and acknowledge that the Artifact is owned by the City, nothing herein shall be interpreted in any way as affecting or impairing said ownership interest, the Artifact shall not be considered a fixture, and the City shall retain ownership of the Artifact at all times and until as well as after the termination of this Agreement.

2. The City shall loan and make available the Artifact to PFS and PFS shall have the privilege of displaying the Artifact in the Estuarium at locations to be designated by the Estuarium in order to display the Artifact to its visitors and patrons.
3. PFS shall solely be responsible for setting up and maintaining the display of the Artifact at its sole cost and expense.
4. Upon reasonable notice and not less than forty-five (45) days if the Artifact is on display or fifteen (15) days if the Artifact is not on display, the City, from time to time, may temporarily and/or permanently remove the Artifact at its sole cost as well as expense in a manner prescribed by PFS.
5. Upon reasonable notice and not less than forty-five (45) days if the Artifact is on display or fifteen (15) days if the Artifact is not on display, PFS, from time to time, may temporarily and/or permanently require the City to remove the Artifact at the sole cost and expense of PFS and in a manner prescribed by PFS.
6. Upon the permanent removal of the Artifact at the instance of either party as hereinbefore provided, this Agreement shall terminate.
7. PFS shall treat the Artifact with the utmost consideration and will provide care and protection to the best of its ability. However, it is understood by the City that PFS does not have the capability or facilities to provide special storage, treatment, or security measures beyond the standard operating procedures of the Estuarium.
8. Should the Artifact be damaged due to the negligence of PFS, PFS will be solely responsible for any care, repair, or restoration that is necessary to return the Artifact to its condition prior to such damage, which care, repair, or restoration shall be accomplished at the City's direction.
9. The City shall be responsible for any care, repair, or restoration of the Artifact that is necessary for any reason, including normal wear and tear, other than that which is necessary due to the negligence of PFS.
10. PFS shall include the Artifact under its standard property and liability insurance for loss or damage to the Artifact due to fire, theft, mistreatment, or other cause and shall compensate the City for any such damage or loss to the extent of such coverage. The City's recovery in this instance shall be limited to any proceeds that are actually received by PFS from said insurance coverage and that are attributable to the Artifact.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, after due authority given, PFS has caused this Agreement to be signed in its name by its Executive Director, and the City has caused this Agreement to be signed in its name by its Manager and attested by its Clerk.

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,
Chief Financial Officer

CITY OF WASHINGTON

ATTEST:

CYNTHIA S. BENNETT, City Clerk

By: _____
JOSHUA L. KAY, City Manager

PARTNERSHIP FOR THE SOUNDS, INC.

By: _____
JACKIE P. WOOLARD, Executive Director

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, _____, a Notary Public of the State and County aforesaid, certify that Cynthia S. Bennett personally appeared before me this day and acknowledged that she is City Clerk of the City Of Washington, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Joshua L. Kay, its 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: _____.

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that Jackie P. Woolard, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged that she is Executive Director of Partnership for the Sounds, Inc., a North Carolina non-profit corporation, and that by authority duly given executed the foregoing instrument and as the act of the corporation.

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

NOTARY PUBLIC

My Commission expires: _____.