

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

Councilman Moultrie was absent and excused from the meeting.

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

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

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

#### **APPROVAL OF MINUTES**

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

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

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

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

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

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

#### **CONSENT AGENDA**

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

- A. **Adopt** – Budget Ordinance Amendment for Rebates \$8,000

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

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

Section 1. That account number 35-90-3991-9910, Fund Balance Appropriated, portion of the Electric Fund revenue budget be increased in the amount of \$8,000.

Section 2. That account number 35-90-8375-5701, Heat Pump Rebates, Load Management portion of the Electric Fund appropriations budget be increased in the amount of \$8,000.

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 14<sup>th</sup> day of March, 2011.

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

**N. Archie Jennings, III**  
Mayor

- B. Accept – and ratify Letter of Credit from Northgate **and** Authorize City Attorney or City Manager to effectuate the City's authority if necessary

## *First South Bank*

### IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: February 28, 2011

NO: 10-7500A

**Beneficiary:**

City of Washington  
P.O. Drawer 1988  
Washington, NC 27889

**Amount:** \$100,000.00

**Expiry Date:** 03/01/2012

Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit No. 10-7500A in favor of the City of Washington at the request of and for Northgate Development, LLC effective February 28, 2011 up to an aggregate amount of US dollars \$100,000.00 (One Hundred Thousand and no/ dollars). Funds under this Letter of Credit are available at our office at 239 West Main Street, Washington, North Carolina 27889 against your draft drawn at sight on us accompanied by the following documents:

*Your notarized statement as follows: "The undersigned authorized official of the City of Washington hereby certifies that the amount drawn represents amounts due and owing to the City of Washington because Northgate Development, LLC has failed to pay the same to the City of Washington on or before 12/31/2011 as required under the Agreement of Crisis Housing Assistance Infrastructure Funds dated 10/29/02 and the CHAF Infrastructure Recapture Policy Relief (revised as of April 24, 2007), as may be amended or revised, for the Northgate Subdivision, Project I-1, Grant # 00-D-133 all as extended and revised by the letter from Britne B. Gleason, Agency Legal Specialist, North Carolina Redevelopment Center, North Carolina Department of Crime Control and Public Safety, State of North Carolina, to Franz F. Holscher, dated December 8, 2010.*

All banking charges are for the account of Northgate Development, LLC.

Our obligation under this Letter of Credit shall not be affected by any circumstance, claim, or defense, real or personal, as to the enforceability of the Agreement referenced herein; it being understood that our obligation shall be that of a primary obligor and not that of a surety guarantor, or accommodation maker.

Draft and the original of the Letter of Credit and documents must be presented on or before **March 01, 2012**.

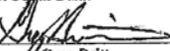
Drafts drawn under this credit must be marked on the face "Drawn under First South Bank Irrevocable Standby Letter of Credit No. 10-7500A."

We hereby agree with the drawers of drafts drawn under and in compliance with the terms of the Letter of Credit that such drafts shall be duly honored on presentation and delivery of documents as specified.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or in which this Letter of Credit is referred to or in any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

This credit is issued subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), ICC Publication No. 500 (UCP). To the extent applicable provisions of the UCP are not in conflict, in which applicable provisions of the UCP shall prevail, this credit shall be governed by and construed in accordance with the laws of the United States of America and the State of North Carolina including the Uniform Commercial Code as in effect in the State of North Carolina.

First South Bank

By:   
Greg Britt  
Senior Vice President

1311 Carolina Avenue • Post Office Box 2047 • Washington, North Carolina 27889 • (252) 946-4178 • Fax (252) 946-3873

- C. Adopt – Budget Ordinance to amend the Storm Water Capital Project Ordinance to redistribute the appropriation to specific accounts

### AN ORDINANCE TO AMEND THE CAPITAL PROJECT ORDINANCE FOR THE RECOVERY ZONE BOND STORM WATER PROJECTS CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2010-2011

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

Section 1. That the following accounts in the Storm Water Capital Project be increased or decreased by the following amounts:

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58-90-5710-0400	Professional Services	\$ 41,827
58-90-5710-0405	Engineering	508,005
58-90-5710-4500	Construction	4,060,902
58-90-5710-7100	Acquisition	155,950
58-90-5710-7400	Capital Outlay	(5,000,000)
58-90-5710-9900	Contingency	<u>233,316</u>
	Total	\$ 0

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 14<sup>th</sup> day of March, 2011.

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

**N. Archie Jennings, III**  
Mayor

D. Approve – Purchase Orders over \$20,000

\*Requisition #8765, CCI Spectrum, Inc., \$67,743, line wet well at 5<sup>th</sup> & Respass pump station. \$100,000 was budgeted for this project in account 32-90-8230-7400.

#### **COMMENTS FROM THE PUBLIC**

No public comments at this time.

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

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

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

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

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

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

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

Phases of the Veteran’s Park have included:

Stage One – Installation of flags (Army, Navy, Marines, Air Force, Coast Guard, National Guard, Merchant Marines, POW/MIA, and American and their

respective plaques, walkway, commemoration plaque, benches, trash cans, and some landscaping

Stage Two – Installation of the nesting eagle sculpture

Stage Three – Installation of Fallen Soldier statue

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

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

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

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

Clearly define the location of the park

Provide a recognition system for past and future donors

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

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

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

Mr. Schryer is requesting \$10,000 funding from the City of Washington, \$10,000 from Beaufort County, and \$5,000 from the Wall that Heals proceeds and \$12,239 from private sector donations. The total cost of the monument is \$37,239. Mr. Schryer suggested the expected dedication date for the sign is Veterans Day 2011 and expressed his appreciation to the Mayor and City Council.

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

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

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

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

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

- Mr. Ware stated the financial involvement side consists of mainly three areas:
- Area Agency on Aging (sharing that 90% of funding is Federal which is primarily through Block grants and is basically on the Area Agency on Aging)
  - Workforce Development (largest program and better known as the Job-Link Center)
  - Planning, Community Development and Economic Development

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

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

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

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

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

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

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

Mr. Steve Rice with Rice and Associates stated they prepared the plan and suggested they concur with the comments by staff and the Planning Board. Also, he noted the site plan had been revised to reflect the increase in the picnic area, the fence

around the storm water pond and in the process of putting in place an agreement to provide the funds for building of the sidewalk.

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

Councilman Mercer has concerns regarding the site plan although the site plan technically meets the criteria established. Councilman Mercer there is only one way in and one way out of the facility and it is in effect an extension of Pierce Street. The sketch does in effect show a future development of Rodman's Road but there is no time line for the development of that road. Councilman Mercer stated we already have a major problem with traffic coming out of 15<sup>th</sup> Street and would like to see some modification of the design that will allow for a 2<sup>nd</sup> entrance or 2<sup>nd</sup> exit. Mayor Jennings inquired of Mr. Rodman and Ms. Moate if this had been taken into consideration as part of the process. Mr. Rodman stated that Rodman's Road is a residential area and they did not want to start connecting these areas until such time as you would have future development. Ms. Moate stated the Planning Board did address the concern with traffic but could not figure out an equitable way to fix it. The Planning Board decided it was up to the Council to determine whether we should require them or maybe set aside some fees for future development. It would be ideal if the entrance could be over on Rodman's Road but felt it would create a problem.

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

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

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

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

\*Parks and Recreation Department Comments: Approval recommend as submitted.

\*Fire-Rescue-EMS Services Department Comments:

- Approval recommended based on the following conditions: Fire Apparatus Access Roads: Before any combustible construction materials are delivered onto site, Fire Apparatus Access Roads with an approved all weather driving surface 26 feet in width with a capacity to support the imposed load of a 75,000pound fire apparatus shall be installed and inspected by the fire marshal's office.
- Fire Hydrant See Appendix C of The NC Fire Code Fire (Contact Fire Marshal for Hydrant Placement) Hydrants okay per plan after clarification conversation with Steven Rice on 02-15-11.
- Fire Flow Requirements See Appendix B table 105.1 of the NC Fire Code Fire. Fire Flow cannot be determined until building plans are submitted
- Complete set of sprinkler plans shall be submitted for approval and permit issued before any system component is installed. Fire hydrant and FDC locations shall be approved by Fire Marshal. Building Plans shall note FDC Location, DBFP location, size of piping and all valves.
- The approval of plans does not constitute an approval of construction methods, devices and/or construction materials. All construction materials and methods, devices, and systems shall be approved contingent of each meeting the intent of the North Carolina Fire Code and all other applicable standards.

\*Police Department Comments: Approval recommend as submitted.

\*Public Works Department Comments: No comments received as of 2/16/11. Building

\*Inspections Department Comments: Approval recommend as submitted.

\*Electric Utilities Department Comments: Follow developer fee schedule

\*NC Department of Transportation Comments: No Comments received as of 2/16/11.

\*Planning Department Comments: Approval recommended based on the following conditions. Offsite sign is not permitted as shown on plan. Any onsite entrance signage needs to be denoted on plan.

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

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

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

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

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

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

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

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

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**Legally Binding Commitment  
City of Washington and  
Metropolitan Housing and Community Development Corporation, Inc.  
FY2005 CDBG Housing Development Program**

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This Legally Binding Commitment for the City of Washington FY05 CDBG Housing Development Program (hereinafter referred to as the "Agreement") is entered into as of the 15 day of March, 2011, by and between the City of Washington (hereinafter referred to as the "City") and Metropolitan Housing and Community Development Corporation, Inc., (hereinafter referred to as "METROPOLITAN").

**RECITALS**

**WHEREAS**, the City received an FY05 Community Development Block Grant-Housing Development (hereinafter referred to as "Grant") in the amount of \$250,000.00 from the North Carolina Department of Commerce, Division of Community Assistance (hereinafter referred to as "DCA"). The purpose of the Grant is to provide funds for land acquisition; the construction of infrastructure that will be maintained by the City; and the development, construction, conveyance, and occupancy of five (5) stick built homes specifically for, to, and by low to moderate income individuals/households (hereinafter referred to as "LMI") within the time period allowed by the Grant and/or DCA, which Grant is incorporated herein by reference as if fully set forth.

**WHEREAS**, METROPOLITAN is a nonprofit organization that promotes asset building strategies for LMI in the City and Beaufort County, and will perform its obligations under this Agreement consistent with the terms, conditions, and considerations contained herein, said Grant, the FY05 Grant Project Application (hereinafter referred to as "Grant Application"), the Grant Agreement, Funding Approval and any and all subsequent amendments thereto, extensions thereto, and/or other relevant conditions imposed by DCA, all of which are incorporated herein by reference as if fully set forth (collectively may be referred to as "Grant Documents").

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

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

**PART A – ACTIVITIES AND PERIOD OF PERFORMANCE**

Section 1 METROPOLITAN will perform the following.

1. Obtain and provide, to DCA's satisfaction, a verifiable financing mechanism for, and complete construction, conveyance and occupancy of, five (5) affordable housing units to LMI consistent with and as described in the Grant Documents no later than April 30, 2012 or such later time as may be provided for in the Grant Documents. Said verifiable financing mechanism shall include a written financing plan, including verifiable letters of support/financing from for-profit and non-profit funding resources, for

review by and approval from the City and DCA. This Agreement shall be contingent upon Metropolitan receiving approval of said verifiable financing mechanism from the City and DCA.

3. Qualify and counsel potential homebuyers to purchase completed units.
4. Market and coordinate the sale of the properties to LMI households. METROPOLITAN shall submit a written sales and marketing plan for review by and approval from the City and DCA. This Agreement shall be contingent upon METROPOLITAN receiving approval of said sales and marketing plan from the City and DCA.
5. Address all questions regarding the Grant and Grant Documents to the City-appointed Grant contact, not DCA.
6. Fulfill all of its and the City's obligations under the Grant and Grant Documents that are either directly or indirectly dependent upon METROPOLITAN for fulfillment. Such obligations include, but are not limited to complying with all applicable certifications and requirements, including but not limited to those certifications and requirements required by the North Carolina Department of Commerce and DCA. As may be more specifically provided for in the Grant Documents, METROPOLITAN shall, among other things, comply with the procurement standards set forth in 4 N.C. Administrative Code 19L. 0908.

Section 2 The City will perform the following through, by, and in reliance upon Holland Consulting Planners, Inc., the consultant with whom the City has contracted to administer the Grant.

1. Provide financial management of Grant funds.
2. Manage the CDBG property acquisition activity and convey the acquired property to METROPOLITAN consistent with the Grant Documents and without additional consideration on a date mutually agreed upon following execution of this Agreement.
3. Manage the CDBG and City-financed infrastructure activities, including construction of all required City-owned water, sewer, streets, and drainage improvements, required to serve the five-unit housing development.
4. Establish benchmarks and monitor the project for progress toward goals.
5. Provide METROPOLITAN with copies of relevant DCA correspondence regarding the project including, but not limited to, policy interpretation or changes, reporting requirements, monitoring visits, etc.
6. Manage all Grant compliance activities, including environmental, labor standards, procurement, fair housing, and EEO requirements.

#### **PART B – TERM OF AGREEMENT**

This Agreement shall commence on the day first above written and continue until April 30, 2012 or until such time as DCA requires in order to close out the Grant and receive any reimbursement that may then be due DCA.

#### **PART C – MISCELLANEOUS/SPECIAL CONDITIONS**

1. The City and DCA, or their respective duly authorized representatives, shall have the right to request status reports from METROPOLITAN regarding requests for reimbursement of METROPOLITAN staff and overhead costs with Grant funds, the disposition of Grant funds, and the progress of programmed activities funded through the Grant.
2. Amendments: The Grant Documents and this Agreement may not be amended or revised without approval from DCA.

3. METROPOLITAN shall keep and maintain all books, records, and other documentation that are its responsibility, under its control, and directly related to its receipt and disbursement of Grant funds and its fulfillment of this Agreement as well as the Grant.
4. Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of the Grant and other Grant Documents between the City and DCA, and agree that any conflict between the provisions, requirements, duties, or obligations of this Agreement and the Grant Documents shall be resolved in favor of the Grant Documents.
5. This Agreement constitutes a legally enforceable contract and shall be governed by and construed in accordance with the laws of the State of North Carolina.
6. Liabilities and Loss: The City assumes no liability with respect to accidents, bodily injury, illness, breach of contract, or any other damages or loss, or with respect to any claims arising out of any activities undertaken by METROPOLITAN under this Agreement, whether with respect to persons or property of METROPOLITAN, or third parties. METROPOLITAN agrees to obtain insurance or otherwise protect itself or others as it may deem desirable. Further, METROPOLITAN agrees to indemnify, defend and save harmless the City and its officers, agents and employees from any and all claims and losses arising from this Agreement, including but not limited to those claims and losses accruing or resulting to any and all subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by METROPOLITAN or its agents in the performance of this Agreement.
7. METROPOLITAN shall at all times comply with all laws, ordinances, and regulations of federal, state, and local governments which may in any manner affect or be related to the performance of this Agreement.
8. METROPOLITAN may not assign any interest in this Agreement, nor transfer any interest in the same, without the written consent of the City.
9. METROPOLITAN represents that it has, or will secure at its own expense, all personnel required to monitor, carry out, and perform the scope of services of this Agreement and the Grant Documents. Such employees shall not be employees of the City. Such personnel shall be fully qualified and shall be authorized under state and local law to perform the required services.
10. In carrying out the terms and conditions of this Agreement, METROPOLITAN is an independent party from the City and is not an agent or employee of the City. Nothing in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between the City and METROPOLITAN.
11. This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same Agreement which shall be sufficiently evidenced by one of such original counterparts.
12. The City shall loan METROPOLITAN \$60,000.00 as required by the Grant Documents. As security for said Loan, METROPOLITAN shall execute and provide the City with a promissory note and deed of trust, in a form satisfactory to the City in the City's sole discretion, secured, singularly or collectively, by all properties acquired in conjunction with this Agreement and the Grant, including Grant funds. Said promissory note and deed of trust shall, among other things, secure METROPOLITAN'S performance of its obligations arising from the Grant and the Grant Documents. METROPOLITAN may make application to the City for a release(s) from said promissory note and deed of trust. Said application for a release must include, among other things, such evidence and documentation as the City may, in its sole discretion, require in order to verify that METROPOLITAN has a LMI qualified purchaser(s) who has(have) secured qualified financing for the housing unit or units to be released. Upon conveyance of a

housing unit by METROPOLITAN and the City's receipt of confirmation from DCA that said conveyance is a qualifying conveyance to a LMI under the Grant Documents, the principal amount of said loan shall be reduced by \$12,000.00 for each such housing unit conveyed.

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

METROPOLITAN hereby expressly acknowledges that, if it fails to acquire, develop, construct, and convey five (5) affordable housing units to LMI as described in this Agreement and the Grant Documents by April 30, 2012 and if the City is required to reimburse DCA any Grant funds expended due to METROPOLITAN's non-performance, including but not limited to deliberate or non-deliberate improper expenditure of Grant assistance, which reimbursement may include any pro rata portion (approximately \$50,000.00 per unit), the City reserves the right to request and seek reimbursement for the same from METROPOLITAN.

**PART E – COMMUNITY DEVELOPMENT BLOCK GRANT PROVISIONS**

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

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

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

**2. NON-DISCRIMINATION**

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

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

**3. EXECUTIVE ORDER 11246 CLAUSE**

- (i) METROPOLITAN and the City will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. METROPOLITAN and the City will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment; upgrading, demotion, or transfer; recruitment and advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. METROPOLITAN and the City agree to post, in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
- (ii) METROPOLITAN and the City will, in all solicitations or advertisements for employees placed by or on behalf of METROPOLITAN or the City, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (iii) METROPOLITAN and the City will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers representative of METROPOLITAN and the City commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (iv) METROPOLITAN and the City will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (v) METROPOLITAN and the City will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (vi) In the event METROPOLITAN or the City fails to comply with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and METROPOLITAN or the City may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- (vii) METROPOLITAN and the City will include the provisions of this and the preceding Paragraphs (i) through (vi) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. METROPOLITAN and the City will take such action with respect to any subcontract or purchase order as the contracting agency may

direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event METROPOLITAN or the City become involved in, or are threatened with litigation by a subcontractor or vendor as a result of such direction by the contracting agency, METROPOLITAN or the City may request the United States to enter into such litigation to protect the interests of the United States.

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

- (i) The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
- (ii) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- (iii) METROPOLITAN and the City will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other Contractor or understanding if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- (iv) METROPOLITAN and the City will include these Section 3 clauses in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. Neither METROPOLITAN nor the City will subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (v) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135 and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be conditions of the federal financial assistance provided for in conjunction with the project and shall be binding upon the applicant or recipients for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors, and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

**5. NON-DISCRIMINATION CLAUSE CONCERNING HANDICAP AND AGE**

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

**6. ACCESS TO RECORDS AND RECORD RETAINAGE CLAUSE**

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

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

**7. LOBBYING CLAUSE**

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

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

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

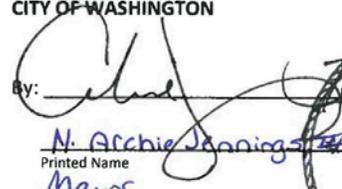
*(Signatures On Following Page)*

**PRE-AUDIT CERTIFICATE**

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

  
Matt Rauschenbach, Chief Financial Officer  
City of Washington

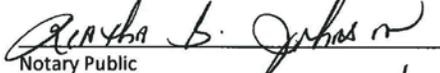
**METROPOLITAN HOUSING AND COMMUNITY DEVELOPMENT CORPORATION, INC.**  
By:  (SEAL)  
Printed Name David L. Moore  
Title CEO  
Date March 15, 2011

**CITY OF WASHINGTON**  
By:  (SEAL)  
Printed Name N. Archie Jennings  
Title Mayor  
Date 3-14-2011  


**NORTH CAROLINA  
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that Rev. David L. Moore personally appeared before me this day, and being duly sworn by me, acknowledged that he/she is CEO of Metropolitan Housing and Community Development Corporation, Inc., and that by authority duly given and as the act of Metropolitan Housing and Community Development Corporation, Inc. the foregoing instrument was signed by him/her.

Witness my hand and notary seal this 15 day of March 2011.

  
Notary Public

My Commission expires: 12/14/2014



**NORTH CAROLINA  
BEAUFORT COUNTY**

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

Witness my hand and notary seal this 14 day of March 2011.

  
Notary Public

My Commission expires: 12/14/2014



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

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

Listed are the finding, facts and conclusions:

1. Currently Manufactured Homes are not allowed within the City's planning jurisdiction unless they are located in an established mobile home park.
2. Individual mobile homes on individual lots were removed as a special use in the zoning ordinance in 2003.

3. The Planning staff felt the addition of Double Wide Manufactured Homes as a special use met requirements and was warranted as one of another affordable housing choice.
4. The requested Double Wide Manufacturing Homes will not be located within the City limits or within a special flood zone area.
5. The request is consistent with Smart Growth which states “to plan and zone for affordable and manufacturing housing development in rural area”.
6. The Planning Board felt the request is unreasonable due to inconsistency with the zoning ordinance and because the placement of Double Wide Manufactured Homes is not compatible to the surrounding areas in which they are located or would be located and the adjacent zoning districts.
7. There was concern by the Planning Board of consideration that mobile homes depreciate in value over time vs. modular homes increase in value.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **An Ordinance to Amend Chapter 40, Zoning, Article IV, Section 40-93, of the Washington City Code**

WHEREAS, NCGS 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS 160A-364; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the City Code to define and regulate a Commercial Marina, and to add prescribed conditions for such uses.

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

Section 1. That **Chapter 40. Article VI, Section 40-93, Table of Uses**, be amended by adding that a **Commercial Marina** will be permitted only by Special Use Permit issued by the City of Washington Board of Adjustment within the O&I (Office & Institutional) Zoning District.

Section 2. That **Chapter 40. Article VI, Section 40-119, Index to Listed Uses**, be amended by adding as follows:

**(tt) Commercial Marina.**

Section 3. That **Chapter 40. Article VI, Section 40-120, Listed Uses, Specific Criteria**, be amended by adding **(tt) Commercial Marina** as follows:

Definition – A business adjacent and contiguous with public trust waters as defined by the Coastal Area Management Act under section 15A NC Admin., Code 7H, in which its primary use is to provide in-water docking and mooring of boats.

- (1) Site Plan. A site plan shall be prepared by a licensed architect or engineer and contain a metes and bounds description prepared by a licensed registered surveyor in the state.
- (2) Approval. A site plan shall be prepared and approved in accordance with Article XVIII of this chapter, pertaining to site plan review.
- (3) Lot of Record. Commercial Marinas shall be limited to one (1) per lot. The lot of record on which such use is located must be at least 1 acre in size and must be adjacent and contiguous with public trust waters as defined by the Coastal Area Management Act under section 15A NC Admin., Code 7H.
- (4) Stormwater plan. A stormwater management plan is required and must comply with the city's stormwater management provisions and demonstrate specific design components intended to minimize impact on contiguous public trust waters and coastal wetlands, as defined by 15A NC Admin., Code 7H.
- (5) Dimensional Standards:
  1. Lot size: Minimum of 1 acre.
  2. Minimum lot width: one hundred (100) feet.
  3. Minimum front yard setback: fifty (50) feet.
  4. Minimum side yard setback: twenty (20) feet.
  5. Minimum corner yard setback: twenty (20) feet.
  6. Minimum rear yard setback: twenty (20) feet.
  7. Minimum shoreline setback: fifty (50) feet.

8. Maximum height: The maximum height of any accessory structure shall be forty five (45) feet.
- (6) All Marinas shall provide pump out facilities.
- (7) Boat ramps are permitted.
- (8) Off street parking: Off street parking shall be provided at the ratio of one (1) parking place per every six (6) wet boat mooring slips. Off street parking is allowed in the minimum setback requirement but no closer than ten (10) feet to any property line and forty (40) feet to any shoreline.
- (9) Bufferyards, landscaping. Bufferyards/landscaping requirements shall be in compliance with Article VII of this chapter. This use shall be classified as a V – high impact recreational use.
- (10) Lighting. All on-site lighting must be directed away from contiguous lots of record. Illumination of 15A NC Admin., Code 7H, public trust areas shall be limited to dock/pier areas.
- (11) Navigation. The location of any docks and piers must not impede safe navigation of public trust waters.
- (12) Access. All marina facilities must have direct access to public rights-of-way designated to accommodate vehicular traffic.
- (13) Adopted Plans. The Board of Adjustment may provide additional requirements as it deems necessary in order to ensure the proposed project is compatible with the city CAMA Core Land Use Plan, and the city's comprehensive plan or any other adopted plans regulating uses.

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

Section 5. All Ordinances or parts in conflict herein are repealed.

Adopted this 14th day of March, 2011.

ATTEST:

Cynthia S. Bennett, CMC  
City Clerk

N. Archie Jennings, III  
Mayor

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

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

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

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

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

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

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

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

**An Ordinance to Amend Chapter 40, Zoning, Article XVI,  
Section 40-407, of the Washington City Code**

WHEREAS, NCGS 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS 160A-364; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the City Code to define and regulate temporary theatrical event signs, and to add prescribed conditions for such uses.

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

Section 1. That **Chapter 40, Article XVI, Section 40-407, Temporary Signs, Permit Exemptions and Additional Regulations**, be amended by adding theatrical event signs as a temporary sign allowed without a sign permit.

Section 2. That **Chapter 40, Article XVI, Section 40-407, Temporary Signs, Permit Exemptions and Additional Regulations**, (a) be amended by adding as follows:

- (5) Signs advertising upcoming theatrical events or concerts are permitted and may be displayed no more than thirty (30) days before the event and will be removed within 5 days after the event. These signs will not exceed six (6) square feet in size.

Section 3. This Ordinance shall become effective upon its adoption.

Section 4. All Ordinances or parts in conflict herein are repealed.

**ATTEST:**

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

**N. Archie Jennings, III**  
Mayor

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

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

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

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

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

WHEREAS, on the 14<sup>th</sup> day of February, 2011, the City Council (Council) of the City of Washington (City) directed the City Clerk (Clerk) to publish a Resolution Declaring the Intent of the City of Washington to Consider Closing and Abandoning a Portion of Stewart Parkway (Resolution of Intent) in the Washington Daily News once each week for four successive weeks. Said Resolution of Intent advised the public that a public hearing would be conducted at 6:00 p.m. on this the 14<sup>th</sup> day of March, 2011, in the Council Chambers to consider the matter.

WHEREAS, said portion of Stewart Parkway (Abandoned Portion of Stewart Parkway) under consideration to be closed and abandoned is more particularly described as follows. ALL of that area labeled “Abandoned Portion of Stewart Parkway” as shown on that survey for the City of Washington by Russell Waters dated January 25, 2011 and recorded in Plat Cabinet H, Slide 66-9, Beaufort County Registry, to which reference is herein made for a more complete and accurate description.

WHEREAS, on the 14<sup>th</sup> day of February, 2011, the Council also directed the Clerk to provide, by registered or certified mail, a copy of the Resolution of Intent to all persons who own property that abuts said Abandoned Portion of Stewart Parkway, as shown on the county tax records.

WHEREAS, the Clerk has advised the Council that, other than the City, there are no persons who own property that abuts said Abandoned Portion of Stewart Parkway and therefore no mailing was required.

WHEREAS, the Clerk has advised the Council that adequate notices were posted on the Abandoned Portion of Stewart Parkway as required by North Carolina General Statute § 160A-299.

WHEREAS, the Council has provided a full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the potential closure and abandonment of the Abandoned Portion of Stewart Parkway during the public hearing held this the 14<sup>th</sup> day of March, 2011.

WHEREAS, after a full and complete consideration of the matter, it now appears to the satisfaction of the Council that the closure and abandonment of said Abandoned Portion of Stewart Parkway is not detrimental to the property rights of any individual or contrary to the public interest, and that no person who owns property that abuts or is in the vicinity of the Abandoned Portion of Stewart Parkway will be deprived of a reasonable means of ingress and egress to their property as a result of said closure and abandonment.

NOW THEREFORE BE IT RESOLVED, said Abandoned Portion of Stewart Parkway is hereby ordered closed and abandoned, and all right, title and interest that may be vested in the public to said area for street purposes shall be conclusively presumed to be vested

in those persons or entities owning lots or parcels of land adjacent thereto in accordance with the provisions of North Carolina General Statute § 160A-299. The Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Beaufort County a certified copy of this Resolution and Order.

Adopted this the 14<sup>th</sup> day of March, 2011.

**ATTEST:**

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

**N. Archie Jennings, III**  
Mayor

**JOEY TOLER – BEER GARDEN REQUEST**

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

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

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

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

Recess at 7:10 pm.

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

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

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

**MEMO – LOAD MANAGEMENT DEVICE REPORT**

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

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

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

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

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(end memo)

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

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

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

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

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

**HUMAN RELATIONS COUNCIL**

**Scheduled Public Appearances:**

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

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

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

- **Time: 3-6 pm**
  - Parade starts at 3 pm
  - Civic center arrival: 3:35-3:40 pm

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

#### **Suggestions from Human Relations Council**

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

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

#### **Update Homeless Shelter**

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

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

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

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

#### **Update – Lunch Recognition**

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

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

No definite plans at this time

#### **FYI**

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

### **WASHINGTON TOURISM DEVELOPMENT AUTHORITY February – March Tourism Development Authority Report**

- Met with Eye Integrated to develop an aggressive marketing plan for the next 6 weeks regarding the Civic Center. The plan is targeted to businesses in Washington and Pitt County in an effort to attract weekday meetings. A draft format has also been developed for the civic center website.

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

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

#### **FINANCIAL REPORTS**

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

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

City Attorney, Franz Holscher stated when this was presented to Council last month, it was his understanding that it was in the final form based upon conversations with the representatives of Impressions. Impressions had been provided with executed copies from the City and provided to Impressions for execution. Upon Impressions’ receipt and final review of the same, they reopened negotiations. This prompted more conversation between him and their representative and ultimately that conversation boiled down to adding one thing. Mr. Holscher stated this will not affect the City or its legal position and it’s the environmental indemnification section of the lease. The lease originally had mutually reciprocal indemnification paragraphs that stated “if either party exacerbated the current environmental condition they would be responsible for what

flowed out of that” - Impressions representatives have asked that we add to that “it is still mutually reciprocal but if it’s a willful, wanton, and/or negligent exacerbation.

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

**NORTH CAROLINA  
BEAUFORT COUNTY**

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

**WITNESSETH:**

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

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

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

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

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

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

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

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

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

1. COMMENCEMENT DATE. This Lease shall commence on the "Commencement Date" which is the date the Lease was made and entered into, effective as of April 1, 2011.
- 1A. LEASED PREMISES. Subject to the terms and conditions contained herein, Landlord leases to Tenant and Tenant leases from Landlord that certain tract or parcel of land, including the facility as well as other improvements or fixtures located thereon ("Leased Premises") lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

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

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

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

In the event a portion of Tract 3 is conveyed to NC DOT or a portion of Tract 1 becomes a part of the Leased Premises as provided for hereinabove, the parties shall enter and execute an Amendment to this Lease that provides for and incorporates into this Lease a revised description as well as a revised survey in order to accurately describe and depict the boundaries of the Leased Premises after said conveyance or addition.

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

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

Provided that Tenant is not then in default beyond any applicable cure period and subject to the parties entering a written agreement that establishes the

annual rental amount at least forty-five (45) days prior to the expiration of the First Extended Term, Tenant shall have the right to extend the term of this Lease for an additional two (2) year term (the "Second Extended Term"), such Second Extended Term to commence at the expiration of the First Extended Term and to terminate at midnight on the ninth (9<sup>th</sup>) anniversary of the Commencement Date. Tenant may exercise Tenant's right to extend the term of this Lease for such Second Extended Term by giving Landlord written notice of Tenant's intention to extend this Lease for the Second Extended Term on or before the date that is the later of (i) ninety (90) days prior to the expiration of the First Extended Term of this Lease and (ii) the date that it is thirty (30) days following the date that Tenant receives written notice from Landlord that Tenant has failed to exercise its option to extend the term of this Lease for the Second Extended Term (which notice Landlord shall not be entitled to give to Tenant earlier than the date which is one hundred twenty (120) days prior to the expiration of the First Extended Term of this Lease).

3. USE. Landlord agrees that Tenant, during the term of this Lease, shall have control and use of the Leased Premises for the operation of a light manufacturing facility and for all other ancillary uses customarily associated with the operation of a light manufacturing facility, or for any other lawful use, subject to all applicable governmental laws, ordinances, regulations, reservations contained herein, private restrictions of record in the chain of title, and any Brownfields Agreement that may hereafter pertain to the Leased Premises.
4. RENT. Tenant agrees to pay to Landlord during the term of this Lease, rent as set forth below.
  - a. The annual rental amount for the Initial Term shall be THREE HUNDRED NINETY-TWO THOUSAND SEVEN HUNDRED THIRTY-SIX AND 00/100s DOLLARS (\$392,736.00) and shall be due and payable monthly, in advance, in equal monthly installments of THIRTY-TWO THOUSAND SEVEN HUNDRED TWENTY-EIGHT and 00/100s DOLLARS (\$32,728.00) per month beginning on the

Commencement Date, and thereafter on the first day of each subsequent month for sixty (60) months except that any rent which may have accrued prior to April 1, 2011 shall be paid on April 1, 2011.

- b. In the event Tenant exercises Tenant's right to extend the term of this Lease for the First Extended Term, the annual rental amount due hereunder for said First Extended Term shall continue to be the same as the Initial Term, THREE HUNDRED NINETY-TWO THOUSAND SEVEN HUNDRED THIRTY-SIX and 00/100s DOLLARS (\$392,736.00) and shall be due and payable monthly, in advance, in equal monthly installments of THIRTY-TWO THOUSAND SEVEN HUNDRED TWENTY-EIGHT and 00/100s DOLLARS (\$32,728.00) per month beginning on April 1, 2016 and thereafter on the first day of each subsequent month of the First Extended Term.

In the event Tenant exercises Tenant's right to extend the term of this Lease for the Second Extended Term and subject to the parties entering a written agreement that establishes the annual rental amount at least forty-five (45) days prior to the expiration of the First Extended Term, the annual rental amount due hereunder for said Second Extended Term shall be the amount reestablished by the parties. Said reestablished amount shall be due and payable monthly, in advance, in equal monthly installments beginning on April 1, 2018 and thereafter on the first day of each subsequent month of the Second Extended Term.

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

make such payments for additional rent when due shall entitle Landlord to pursue the remedies available to Landlord pursuant to the provisions of Section 12 hereof.

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

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

a. Maintenance, Repair and Replacement.

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

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

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

Tenant shall maintain a twelve (12) month rolling tabulation and supporting documentation concerning all repair and maintenance expenditures incurred by Tenant. In the event Tenant deems it necessary to

make any repair or maintenance expenditure that would cause Tenant's total repair and maintenance expenditures for the then current twelve (12) month rolling period to exceed \$75,000.00, Tenant may provide Landlord with written notice of the same, which notice may contain Tenant's request for contribution from the City, in the form of rent abatement, toward the same. In no event shall said requested contribution from the City exceed fifty percent (50%) of the anticipated expenditure. Tenant shall provide Landlord with such information, including said supporting documentation, as Landlord requires in order for Landlord to assess said request. Within thirty (30) days of Landlord's receipt of said written notice and supporting documentation, Landlord shall furnish Tenant with its written response to said request, which response shall include what contribution, if any, Landlord will commit to said expenditure in the form of rent abatement and the manner in which such rent abatement will be implemented.

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

Supplemental Rent shall continue and survive any such termination hereinabove described.

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

- a.1. See Exhibit A entitled "Improvements to the Leased Premises" which is incorporated herein by reference as if fully set forth.
- b. Casualty. If (i) the Leased Premises are totally destroyed by fire or other casualty, or (ii) the Leased Premises are damaged by fire or other casualty to such an extent that such damage cannot be repaired within two hundred forty (240) days following such damage ("Major Damage"), then, subject to the proviso set forth below, rent hereunder shall be equitably abated to the extent of untenability until the Leased Premises are again ready for occupancy. If the Leased Premises are damaged by fire or other casualty but only to an extent that such damage can be repaired within two hundred forty (240) days following such damage ("Minor Damage") then, subject to the proviso set forth below, rent hereunder shall also be equitably

abated to the extent of such untenantability. Unless otherwise agreed by the parties at that time, upon the occurrence of either Major Damage or Minor Damage, and only in the event the damage or destruction is insured by the insurance policies required by Paragraph 7 hereof, and only to the extent of Landlord's recovery under those policies and the availability of such funds to Tenant for such purpose, plus the amount of applicable deductibles, Tenant (subject to Landlord's obligation to make such insurance proceeds available to Tenant for the purpose of such restoration) shall promptly restore the Leased Premises to substantially the same condition as it was immediately prior to the damage or destruction. All applicable insurance proceeds required by Section 7 hereof shall be paid to Landlord and, to the extent actually received by Landlord, promptly made available to Tenant for restoration purposes on a monthly "draw request" basis in amounts equivalent to the percentage of completion of such restoration as may be required to return the Leased Premises to the condition which existed prior to the fire or other casualty. If Tenant reasonably is required to close its operations during the period of repair or restoration, rent shall be abated during the period of such untenantability. If Tenant is able to continue its operations during repairs, Tenant shall be obligated to pay rent. In such event, the rent shall be adjusted and reduced by an amount equal to the proportion that the Leased Premises is untenantable. For all purposes of determining any applicable rent abatement under this Section 5, the Leased Premises shall be deemed untenantable to the same extent that such damage or destruction shall prevent Tenant's ability to conduct operations and produce a completed product in the Leased Premises.

Tenant shall not have the option to terminate this Lease, regardless of the cause or the extent of damage or destruction; provided however, if reconstruction and restoration of the improvements on the Leased Premises are not completed within one (1) year of the date of damage or destruction, then either party may terminate this Lease at any time after

the one (1) year period and, after such termination, neither party shall have any further rights or obligations hereunder, other than those rights or obligations that accrued or arose prior to the date of such fire or other casualty, or for damages incurred during the period after the casualty, and Landlord may retain the Leased Premises and the benefit of all casualty insurance proceeds.

Notwithstanding anything herein to the contrary, if any fire or other casualty occurs either in the last year of the Initial Term or during the First Extended Term, and if Tenant has not theretofore exercised Tenant's right to extend the term of this Lease further, Tenant shall have thirty (30) days or so many days as are left in the then current term, whichever is less, to notify Landlord concerning whether Tenant is exercising Tenant's right to extend the term of this Lease further. If Tenant declines to exercise Tenant's right to extend the term of this Lease further as hereinabove specifically provided or if said fire or other casualty occurs in the Second Extended Term, Tenant shall have no maintenance, repair, or replacement responsibility hereunder, but shall ensure that any insurance proceeds as may be recovered on account of said fire or other casualty are received and retained by Landlord.

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

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

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

- b. Tenant, at the sole cost and expense of Tenant, shall have the right to make renovations, additions and improvements, in addition to those things required of Tenant under Section 5 hereof, of or to the Leased Premises only in accordance with plans and specifications submitted to and approved in writing by Landlord, which approval Landlord agrees not to unreasonably withhold, condition or delay. All such approvals and related work will be subject to subsequent inspection of such renovations, additions and improvements for conformity with their initial approval and, in the event of any inconsistency therewith, Tenant shall remedy the same for consistency. Any and all repairs, replacements, renovations, additions or improvements of or to the Leased Premises that are permitted by this subsection or are otherwise required elsewhere in this Lease and that shall be permanently affixed to or become a part of the Leased Premises shall remain to be surrendered as part of the Leased Premises, without cost to Landlord, at the expiration or earlier termination of this Lease; provided however, that Tenant may at any time remove its trade fixtures and other business related equipment to the extent such fixtures and equipment were paid for by Tenant and all damage caused by such removal shall be repaired by Tenant in a good and workmanlike manner.

7. INSURANCE.

- a. Throughout the term of this Lease, Tenant, at its sole cost and expense, shall keep or cause to be kept insured for the benefit of both Landlord and Tenant, as their interests may appear, all improvements (including all buildings) now or hereafter located on or appurtenant to the Leased Premises against loss or damage by fire and windstorm and such other risks as are now or hereafter may be included in standard extended coverage endorsements providing vandalism, explosion and malicious mischief coverages, in a form and with companies reasonably satisfactory to Landlord. The amount of such insurance coverage shall be sufficient to prevent either Landlord or Tenant from becoming a coinsurer under the provisions of the policy(ies), but in no event shall the amount be less than Five Million Dollars (\$5,000,000) (the "Full Insurable Value"). All policies of insurance required by this Subsection 7(a) shall provide that the proceeds shall be paid to Landlord, and Landlord agrees that, except when specifically provided for herein to the contrary, such proceeds shall be timely made available by Landlord to Tenant to repair, restore and/or reconstruct the improvements upon the Leased Premises or as otherwise provided in this Lease to the extent Landlord actually receives such proceeds.
- b. Tenant shall maintain, at its own expense, all insurance on its personal property, including without limitation its equipment and trade fixtures.
- c. Throughout the term of this Lease, Tenant, at its sole cost and expense, shall keep or cause to be kept in force, for the mutual benefit of Landlord and Tenant, comprehensive broad form commercial general liability insurance against claims and liability for personal injury, death or property damage arising from the use, occupancy, misuse or condition of the Leased Premises, the improvements located thereon and adjoining streets or ways, providing, at the date hereof, protection of at least Three Million and no/100 Dollars (\$3,000,000.00) combined single limit coverage for bodily injury or property damage, all in a form and with companies reasonably satisfactory to Landlord and having a deductible not to exceed

Five Thousand and no/100 Dollars (\$5,000.00), together with appropriate worker's compensation insurance in connection with any work on or about the Leased Premises. Coverage in excess of Three Million and no/100 Dollars (\$3,000,000.00) may be obtained by Landlord or Tenant at such party's expense; provided however, any such excess coverage obtained by either party shall name the other party as an additional insured.

- d. Such policies as are required by this Section 7 or duly executed certificates of insurance, with original policies to follow promptly thereafter, shall be delivered to Landlord within thirty (30) days following the full execution of this Lease, and thereafter at least ten (10) days prior to the expiration of the policy term. All casualty insurance policies carried by either party hereunder shall provide for a waiver of subrogation against the other party by the insurance carrier. In the event Tenant fails to obtain and provide to Landlord all of the policies of insurance as specified above, Landlord may obtain such insurance at Tenant's expense. All costs incurred by Landlord in obtaining such insurance as it is required to obtain by the terms of this Lease and in obtaining such insurance which Tenant is required to obtain by the terms of this Lease but has failed to do so, shall constitute and be collectible by Landlord as additional rent, payable by Tenant to Landlord on demand. All liability insurance policies shall name Tenant as the insured and Landlord and such other persons or entities as may be designated by Landlord and/or Tenant, as additional insureds, as their interests may appear. All casualty and flood insurance policies shall name Landlord and such other persons or entities as may be designated by Landlord as insureds. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in a forfeiture of the insurance, (ii) the policies are primary and noncontributing with any insurance that may be carried by Landlord, and (iii) the policies cannot be cancelled or materially changed except after thirty (30) days' notice by the insurer to Landlord.

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

8. INDEMNIFICATION.

- a. Indemnity by Tenant. Tenant indemnifies Landlord, its directors, officers, and employees and agrees to save them harmless and, at the option of any of them, defend them from and against any and all claims, actions, damages, liabilities and expenses (including attorneys' and other professional fees) judgments, settlement payments, and fines paid, incurred or suffered by any of them in connection with the loss of life, personal injury, or damage to property, suffered by third parties, in or upon the Leased Premises, and arising from or out of the negligence or intentional misconduct of the Tenant, or its directors, officers, employees, contractors or agents in or about the Leased Premises during the Term of this Lease, unless caused by the negligence or intentional misconduct of Landlord, or its directors, officers, employees, contractors or agents.
- b. Indemnity by Landlord. Landlord indemnifies Tenant, its directors, officers and employees and agrees to save them harmless and, at the option of any of them, defend them from and against any and all claims, actions, damages, liabilities and expenses (including attorneys' and other professional fees) judgments, settlement payments, and fines paid, incurred or suffered by any of them in connection with loss of life, personal injury, or damage to property suffered by third parties in or upon the Leased Premises, and arising from or out of the negligence or

intentional misconduct of the Landlord, or its directors, officers, employees, contractors or agents in or about the Leased Premises during the Term of this Lease, unless caused by the negligence or intentional misconduct of Tenant, or its directors, officers, employees, contractors or agents.

- c. Survival of Indemnities. Tenant's obligations pursuant to Subsection 8a and Landlord's obligations pursuant to Subsection 8b shall survive any termination of this Lease with respect to any act, omission or occurrence which took place prior to such termination.

9. ASSIGNMENT AND SUBLETTING. Tenant shall not assign or in any manner transfer this Lease or any interest therein or sublet the Leased Premises or any part thereof, without the prior consent of Landlord, which consent shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, however, no transfer of interests between or among the shareholders of Tenant shall be deemed a transfer requiring Landlord's consent hereunder. As a condition of Landlord's approval of any assignment of this Lease requiring Landlord's consent, Tenant shall obtain the written agreement of the assignee in form reasonably acceptable to Landlord, providing for the assumption of all of Tenant's obligations and covenants hereunder. Consent by Landlord to one (1) or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignment or subletting. Notwithstanding the assumption of liability by the assignee or subtenant, Tenant shall remain fully responsible and liable for the payment of the rent herein specified and for compliance with all other obligations and covenants of Tenant as set forth in this Lease.

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

10. UTILITIES AND TAXES. Tenant shall be responsible for and shall pay any and all utility charges, including but not limited to electricity, heating/air conditioning,

water and sanitary sewer, which it may require for use in or on the Leased Premises. Tenant shall be responsible for and promptly pay before default any and all real and personal property taxes, if any, that may be levied or assessed against the Leased Premises or any improvements or other property situated on the Leased Premises, it being the mutual intention of the parties that Landlord shall not be required to pay any taxes on either real or personal property by reason of permitting Tenant to use said real property as herein described. Tenant also agrees to indemnify Landlord against any loss or liability resulting from any and all claim or liens in connection with such taxes and assessments. Any unpaid amounts arising from the above shall be deemed and treated as additional rent as more specifically described herein.

11. LANDLORD'S ACCESS TO LEASED PREMISES. Landlord shall have the right, either itself or through its authorized agents, to enter the Leased Premises at all reasonable times to examine same, and to make repairs, alterations or additions to the Leased Premises. Landlord shall give reasonable advance notice of its intention to enter, and shall not interfere with Tenant's business operations. The foregoing shall include the right to construct, maintain, operate, repair, alter, or add to any and all utility, including electric, water, and sewer, infrastructure deemed necessary by Landlord in Landlord's sole discretion and the right of access necessary to accomplish the same.
12. DEFAULT. The happening of any one or more of the following shall be deemed to be an Event of Default under this Lease:
  - a. The failure of Tenant to pay any installment of rent, additional rent, Supplemental Rent, or other charge or money obligation herein required to be paid by Tenant to Landlord when due, which failure is not remedied within five (5) business days after written notice to Tenant thereof; or
  - b. The failure of Tenant to comply with any covenant or provision of this Lease (except payment of any installment of rent, additional rent, Supplemental Rent, or other charge or money obligation described in Subsection 12(a) above) which failure is not remedied within thirty (30)

days after written notice of such failure to comply is given by Landlord, or if it is not feasible to cure such failure within such period, to begin performance of such covenant within such period and to diligently pursue performance to completion in a reasonable period of time thereafter; or

- c. The occurrence of any of the following events: (i) Tenant shall file with any bankruptcy court a voluntary bankruptcy petition; (ii) Tenant shall be the subject of any order for relief issued under the bankruptcy code; (iii) Tenant shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or other relief for debtors; (iv) Tenant shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator, or liquidator for Tenant or all or any substantial part of the assets of Tenant; (v) Tenant shall be the subject of any order, judgment, or decree entered by any court approving a petition filed against Tenant for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency or other relief for debtors which shall not be set aside or otherwise dismissed within sixty (60) days following actual notice to Tenant regarding same; or (vi) Tenant shall make an assignment for the benefit of creditors.

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

- (i) Terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Leased Premises and remove Tenant and

any other person who may be occupying said Leased Premises or any part thereof, and relet the Leased Premises for such rent and on such terms as Landlord may deem advisable; and Tenant shall be liable to Landlord for all loss and damage which Landlord may suffer by reason of such termination, including, but not limited to, rent for the remainder of the term of this Lease plus all of Landlord's costs and expenses identified in Section 12(c)(iv) of this Lease. In this instance, Tenant's liability for rent shall be set off by any rent received by Landlord from any subsequent tenant for any time period during which this Lease would have been in effect but for such termination.

- (ii) Enter upon and take possession of the Leased Premises without terminating this Lease and remove Tenant and any other person who may be occupying said Leased Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor and if Landlord so elects, but without obligation to do so, relet the Leased Premises for such rent and on such terms as Landlord may deem advisable. Tenant shall be liable to Landlord for any deficiency and expenses that may arise by reason of any reletting of the Leased Premises.
- (iii) With or without terminating this Lease, enter upon the Leased Premises and (i) perform, correct or repair any condition or any matter which Tenant has failed to perform, correct or repair hereunder, or (ii) perform any of Tenant's other obligations under this Lease.
- (iv) Enforce Tenant's obligations under the Lease, including bringing suit from time to time for the collection of the rent or other amounts for which Tenant may be in default or for any expenses incurred in connection with the enforcement of any of the foregoing remedies, including, without limitation, brokerage fees,

attorneys' fees, unamortized sums expended by Landlord for the construction of tenant improvements, all costs relating to the recovery of the Leased Premises, and the cost of alteration of or repair to the Leased Premises which is necessary or proper to prepare the same for reletting; or bring suit for the performance of any other covenant or agreement of Tenant and recovery of any other damages, all without entering into possession or terminating this Lease. Tenant further agrees that no suit or recovery of any amount due Landlord hereunder shall be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord.

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

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

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

to Landlord:           City of Washington  
                              Attn: City Manager  
                              P.O. Box 1988

102 East Second Street  
Washington, NC 27889

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

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

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

14. QUIET ENJOYMENT. If Tenant promptly and punctually complies with each of its obligations hereunder, Tenant shall peacefully have and enjoy possession of the Leased Premises during the term of this Lease, subject, however, to any contrary provisions hereof.
15. MISCELLANEOUS.
  - a. Headings of paragraphs are for convenience of reference only and shall not be used to construe the meaning of the contents of such paragraphs.
  - b. The invalidity of any portion of this Lease shall not affect the balance thereof.
  - c. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, the prevailing party in such action shall, in addition to any other recovery, be entitled to recover its costs and expenses from the losing party including its reasonable attorney's fees.
  - d. This Lease shall be binding upon the respective parties hereto, and upon their heirs, successors and, if expressly permitted herein, assigns.

- e. This Lease incorporates all prior negotiations between the parties, and any changes hereto must be in writing and signed by both parties.
- f. Other than as specifically provided herein, Landlord and Tenant each warrant to the other that they have had no dealings with any real estate broker, agent or finder in connection with the negotiation or execution of this Lease. If either party has dealt with a broker or agent, they shall pay that broker or agent and indemnify and hold the other party harmless from all claims by that broker or agent.
- g. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto.
- h. No waiver of any covenant, term or condition of this Lease by either party shall be construed as a waiver of a subsequent breach of the same covenant, term or condition.
- i. The consent or approval of either party to any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary the consent to, or approval of, any subsequent similar act.
- j. Landlord and Tenant shall be excused for the period of any delay in the performance of any of their obligations hereunder when prevented from performance by causes beyond their reasonable control, including, without limitation, injunction, labor disputes, civil commotion, war, weather, fire, flood or other casualty, acts of God or inability to obtain materials or service. Provided however, that the preceding sentence shall not excuse the payment of rent or any other monetary payment.
- k. This Lease was negotiated by the parties and their counsel. Each party had input into the terms and provisions of this Lease. The provisions of this Lease shall not be construed against the party who drafted the Lease as a result of that party's drafting of the Lease.

- l. The parties agree that this Lease shall not be recorded. Upon demand by either Landlord or Tenant, the other party agrees to execute a memorandum of this Lease suitable for recording in the office of the Register of Deeds of Beaufort County. In the event of the recording of any memorandum of lease, upon the termination of the Lease, the parties agree to record a memorandum of termination of lease. Tenant agrees to indemnify Landlord and hold Landlord harmless from all loss, cost, liability, claim, suit, damage or expense (including attorneys' fees) caused to Landlord as a result of Tenant's refusal to execute a memorandum of termination of this Lease in the event this Lease has terminated.
- m. The Exhibits attached hereto are incorporated herein by reference.
- n. Landlord shall notify Tenant concerning any inquiry Landlord receives from a third party concerning Landlord's willingness to sell or otherwise convey the Leased Premises or a portion thereof and keep Tenant timely informed of any subsequent negotiations. In addition to the foregoing, if Landlord receives an offer to purchase the Leased Premises, Landlord will provide Tenant with written notice of such an offer within five (5) days of Landlord's receipt of the same. With the exception of a privately negotiated sale that is in accordance with North Carolina General Statutes and consented to by Tenant, any potential sale of the Leased Premises or a portion thereof during the Initial or any Extended Term hereof shall be accomplished only through the negotiated offer, advertisement and upset bid process authorized by North Carolina General Statute § 160A-269 or a functionally equivalent statutorily authorized process that will ensure Tenant has the opportunity to receive notice of, and to upset, any bid or offer to purchase from any third party.
- o. Reporting requirements. Tenant shall keep or cause to be kept annual financial statements, as are customarily kept by businesses in Tenant's industry, of the business conducted or transacted in relation to the Leased Premises and Tenant's operations thereon. Upon request of the Landlord,

Tenant shall provide such financial statements to Landlord's Chief Financial Officer. Nothing in this Lease, however, shall be construed to permit the Landlord to copy documents of Tenant that contain trade secrets or attorney client privileged information or to disclose Tenant's proprietary information.

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

16. SUBORDINATION, NON-DISTURBANCE, ATTORNMENT AND ESTOPPEL. Subject to the non-disturbance provisions set forth below, Tenant agrees that this Lease is and shall be subordinate and subject to any mortgage, deed of trust, or any other hypothecation for security which has been or which hereafter may be placed upon the Leased Premises by Landlord, and to any and all advances to be made under any such mortgage, deed of trust, or other such encumbrance and all renewals, modifications, extensions, consolidations and replacements thereof. The aforesaid provision shall be self-operative and no further instrument shall be required to evidence same. Notwithstanding the self-operative nature of the foregoing, however, Tenant agrees to execute any reasonable document(s) which may be required or requested by Landlord to evidence such subordination. It is further understood and agreed, however, that neither such subordination, nor any foreclosure of any mortgage or deed of trust, shall affect Tenant's right to continue in possession of the Leased Premises under the terms of this Lease, and Tenant's rights hereunder shall continue and not be disturbed, so long as no Event of Default on the part of Tenant shall have occurred and be continuing. Landlord agrees to execute and deliver affirmation of such non-disturbance, and to take reasonable steps to cause the owner and holder of each such mortgage, deed of trust or other applicable party to execute and

deliver an affirmation of such non-disturbance, reasonably satisfactory to Tenant and Landlord's lender and in recordable form so long as Tenant has fully complied in all material aspects with all terms and requirements of this Lease.

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

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

17. CONDEMNATION. If the whole or any part of the Leased Premises shall be appropriated and taken by virtue of any condemnation proceeding for any public or quasi-public use or purpose so as to render the remaining portion untenable for the uses and purposes contemplated by the parties, this Lease immediately shall terminate on the date possession thereof shall be so appropriated and taken. In the event of any lesser condemnation, the Lease shall continue but the rent shall abate proportionately to the untenability of the Leased Premises. For the purposes of this Section 17, untenability shall be determined in the same manner as untenability is determined under the provisions of Section 5 hereinabove. In any such case, each party shall be entitled to claim and receive an award of damages suffered by it by reason of such taking or conveyance, but Tenant shall not be entitled to any award attributable to the unexpired portion of

the term or to any renewal option or purchase option. Tenant shall be allowed to share in the award only if a portion of the award is expressly attributed to the value of its leasehold improvements or moving expenses, and only to the extent that its award shall not affect the amount of any award to Landlord. Landlord shall promptly, following any partial condemnation that does not result in a termination of the Lease, restore the Leased Premises as nearly as possible to the condition as existed immediately prior to such taking and rent shall equitably abate during such restoration, only to the extent that such restoration may be completed with the proceeds of the condemnation.

18. SPECIAL MATTERS.

- a. During the final one hundred eighty (180) days of the Initial or any Extended Term of this Lease, Landlord or its agents shall have the right to enter the Leased Premises at all reasonable times, for the purpose of showing the Leased Premises to any prospective tenant or purchaser; provided however, Landlord shall not interfere with Tenant's business operations. At any time during the final one hundred eighty (180) days of the Initial or any Extended Term of this Lease, Landlord shall also have the right to erect on the Leased Premises a sign, consistent with any applicable zoning regulations, indicating that the Leased Premises is for sale or for rent, effective at the date of termination of the then current term.
- b. This Lease shall be subject to that Grant of Easement between HBBI and the Landlord recorded in Deed Book 1661, Page 952, Beaufort County Registry.

19. APPLICABLE LAW. This Lease shall be construed and interpreted under the laws of the State of North Carolina.

20. OTHER PROVISIONS.

- a. Tenant shall have no power to create a lien of any kind or character upon the title of Landlord in the Leased Premises and no person shall be entitled

to any lien directly or indirectly derived through or under Tenant, or its agents or servants, on or account of any act or omission of Tenant, which lien shall be superior to the interest of Landlord in the Leased Premises. All persons contracting with Tenant, or furnishing materials or labor to Tenant, its contractors or subcontractors, or to their agents or servants, shall be bound by this provision. Should any lien be filed against either Landlord's or Tenant's interest in the Leased Premises because of work contracted for by Tenant, Tenant shall cause the same to be cancelled and discharged of record by bond or otherwise within twenty (20) days after Tenant receives actual notice of such filing. If Tenant shall fail to cause such lien to be cancelled or discharged within the period aforesaid, Landlord may, in addition to any other right or remedy, pay the amount of such lien or discharge the same by deposit or bond or pay any judgment recovered on such claim, and any such amount paid or expense incurred by Landlord shall be deemed additional rent for the Leased Premises and shall be due and payable by Tenant to Landlord upon demand.

- b. Tenant will comply with all applicable laws, ordinances, orders, rules, restrictions, covenants, regulations, and other federal, state, and local governmental requirements relating to the use, condition, or occupancy of the Leased Premises, and all applicable rules, orders, regulations, and reasonable requirements of the Board of Fire Underwriters or Insurance Service Office, or other similar body, having jurisdiction over the Leased Premises, and the requirements of any insurance company providing insurance coverage for the Leased Premises. The cost of such compliance will be borne by Tenant.
- c. Tenant shall not permit, allow or cause any act or deed to be performed or any practice to be adopted or followed in and about the Leased Premises which shall cause or be likely to cause injury or damage to any person or said Leased Premises, the buildings, sidewalks, walkways and parking lots which are on or adjoin the Leased Premises.

- d. Tenant agrees to surrender the Leased Premises to Landlord at the expiration or earlier termination of this Lease in good order and condition, ordinary wear and tear and damage by fire or other casualty, if any, excepted. For the purposes of this section, "good order and condition" as used in this section shall mean the condition of the Leased Premises as more specifically described in the second paragraph of Section 6.a. hereinabove, and, more particularly, as depicted on the disk referenced therein and as depicted on said disk after the disk is updated by the parties hereto following completion of the improvements more specifically provided for therein. In the event Tenant remains in possession of the Premises after the expiration of the term of this Lease and without the execution of a new lease or a renewal of this Lease, Tenant shall be deemed to occupy the Leased Premises as a month-to-month tenant at a rental equal to the rental due for the last month of the then existing term and Tenant shall be responsible for any damages that Landlord may sustain as a result of Tenant's failure to make proper delivery of the Leased Premises to Landlord upon the termination of this Lease. In no event shall there be any renewal of this Lease by operation of law.
- e. Tenant shall not commit waste on the Leased Premises.
- f. In the event Landlord ceases to be the owner of the fee interest in the Leased Premises, and any new owner of the fee interest in the Leased Premises expressly assumes the obligations of Landlord hereunder, and a copy of such assumption instrument is provided to Tenant, Landlord's obligations hereunder first arising from and after the date of assumption of such obligations shall terminate and such new owner of the fee interest in the Leased Premises shall be responsible for the performance of Landlord's obligations hereunder from and after such date.

21. ENVIRONMENTAL MATTERS.

- a. Definitions.

1. For the purposes of this Section 21, the term “Hazardous Substance” shall mean, without limitation, any flammable explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulations, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, including, without limitation, those defined as such in: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. sections 9601 et seq.); (ii) the Hazardous Materials Transportation Act, as amended (49 U.S.C. sections 1801 et seq.); (iii) the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 6901 et seq.); or (iv) any other applicable Environmental Law and in regulations adopted pursuant thereto.
  2. For the purposes of this Section 21, the term “Environmental Laws” shall mean all federal, state and local environmental, land use, zoning, health, chemical use, safety, and sanitation laws, statutes, ordinances, and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production, release, or disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, permits, decisions, orders, and directives of federal, state and local governmental agencies and authorities with respect thereto.
- b. Current Condition. Tenant and Landlord acknowledge that each of them is aware of the presence of certain Hazardous Substances existing as of the effective date of this Lease, in the soil and ground water on, under, around or within the Leased Premises as the same is defined, described and established by the administrative record, reports and other documentation currently on file with the North Carolina Department of Environment and Natural Resources (“NCDENR Record”), which shall expressly exclude

for the purposes of this Lease, however, the presence of any Hazardous Substances that are not included in said Record (the "Current Environmental Condition").

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

Condition of the Leased Premises during the Initial Term and any Extended Term attributable to the acts or omissions of Tenant, its employees, agents, representatives and contractors; (ii) a violation of any Environmental Laws at the Leased Premises during the Initial Term and any Extended Term by Tenant, its employees, agents, representatives and contractors; or (iii) the production, treatment, processing, handling, storage, disposal, spillage, or release of Hazardous Substances on or about the Leased Premises during the Initial Term and any Extended Term by Tenant, its employees, agents, representatives and contractors.

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

*(THE REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK)*

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

**PRE-AUDIT CERTIFICATE**

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

THE CITY OF WASHINGTON



MATT RAUSCHENBACH,  
Chief Financial Officer/  
Assistant City Manager



(corporate seal)

LANDLORD

CITY OF WASHINGTON  
a North Carolina municipal corporation

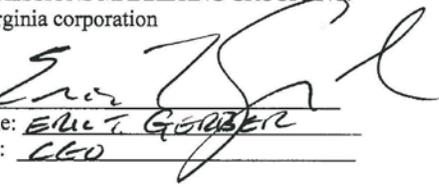
BY:  (Seal)  
N. Archie Jennings, III, Mayor

ATTEST:

  
Cynthia S. Bennett, City Clerk

TENANT

IMPRESSIONS MARKETING GROUP, INC.  
a Virginia corporation

By:   
Name: ERIC T. GAISER  
Title: CEO

(corporate seal)

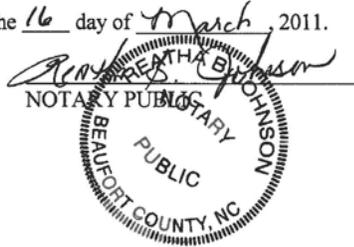
COUNTY OF BEAUFORT  
STATE OF NORTH CAROLINA

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

WITNESS my hand and official seal, this the 16 day of March, 2011.

My Commission expires: 12/4/2011.

STATE OF VIRGINIA  
COUNTY OF FAIRFAX

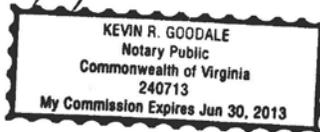


I, KEVIN R. GOODALE, a Notary Public of the County and State aforesaid, certify that ERIC T. GERBER, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged that he/she is CEO of the **IMPRESSIONS MARKETING GROUP, INC.**, a Virginia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

Witness my hand and official seal, this the 17 day of MARCH, 2011.

My Commission expires: 6/30/13

Kevin R. Goodale  
NOTARY PUBLIC



**Exhibit A**  
**Improvements to the Leased Premises**

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

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

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

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

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

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

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

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

In addition to the foregoing, Landlord is the recipient of a lighting retrofit grant entitled "Energy Efficiency in Government Buildings". The amount of said grant that is dedicated to the Leased Premises is \$230,000.00. Subject to grant compliance as well as any restrictions associated therewith and assuming sufficient grant funding is and remains available, Landlord shall utilize said amount of grant funding toward the following.

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

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

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

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

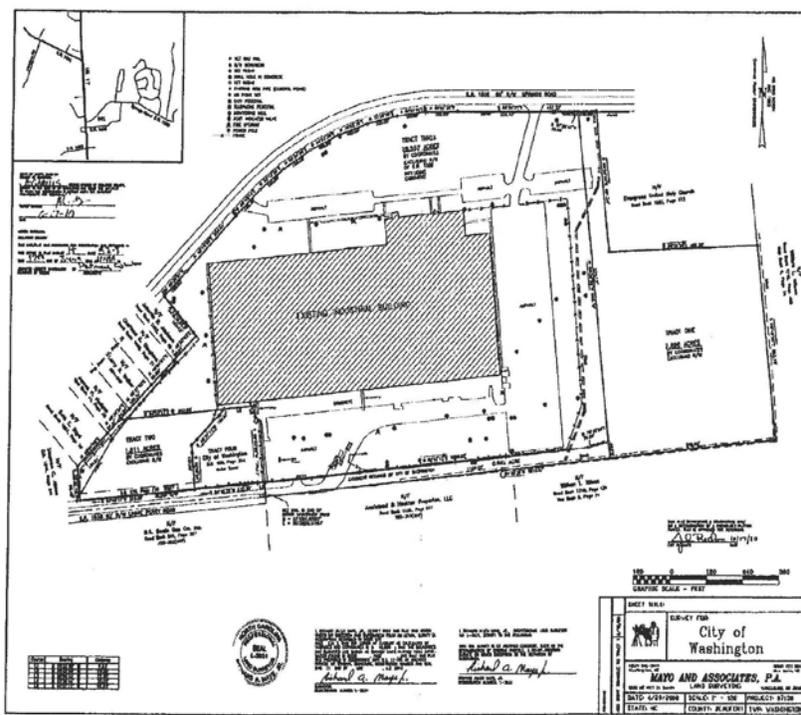


Exhibit B

PC-H 3-52-9

**DISCUSSION – MARKETING PRESENTATION**

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

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

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

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

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

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

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

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

**NORTH CAROLINA  
BEAUFORT COUNTY**

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

THIS INTERLOCAL AGREEMENT is entered into as of the 25<sup>th</sup> day of MARCH, 2011, by and between **THE CITY OF WASHINGTON**, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina (hereinafter called "CITY") and **THE CITY OF WASHINGTON TOURISM DEVELOPMENT AUTHORITY**, a Public Authority under the Local Government Budget and Fiscal Control Act, organized and existing pursuant to North Carolina House Bill 592, Chapter 158, as ratified in the 1991 Session of the North Carolina General Assembly, and as later amended, and the CITY Charter and Code, as amended, (hereinafter called "AUTHORITY").

**WHEREAS**, pursuant to N.C.G.S. § 160A-461, the CITY may enter into interlocal agreements in order to execute any undertaking and establish matters of mutual consent.

**WHEREAS**, the AUTHORITY was created in 1991 pursuant to North Carolina House Bill 592, as amended, which also authorized the CITY to levy a THREE PERCENT (3%) room occupancy tax.

**WHEREAS**, the CITY was given the authority to collect an additional THREE PERCENT (3%) room occupancy tax and tourism development tax in 2001 pursuant to North Carolina House Bill 834, as ratified in the 2001 Session of the North Carolina General Assembly, for the purposes of marketing and promoting tourism.

**WHEREAS**, in 2001 the AUTHORITY hired a full time Executive Director and, in an effort to offer a competitive benefits and compensation package, the CITY and AUTHORITY informally agreed that said AUTHORITY Executive Director would be an employee of the CITY.

**WHEREAS**, the CITY and the AUTHORITY have determined that financial and certain procedural matters are mutually desirable and will provide greater efficiency and accountability.

**WHEREAS**, the CITY and the AUTHORITY desire to formally establish the relationship of the parties through this Interlocal Agreement.

**NOW THEREFORE**, in consideration of the promises and agreements herein made and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is agreed by the CITY and the AUTHORITY as follows.

**SECTION 1.A.** The AUTHORITY's Executive Director and certain other AUTHORITY staff are and shall be employees of the CITY and will adhere to the CITY's personnel policies as well as all other administrative and financial directives and policies adopted by the Washington City Council. The benefits provided to said employees will be consistent with the benefits

provided to other CITY employees. The salaries and benefits of said employees shall be paid by the CITY and reimbursed to the CITY by the AUTHORITY out of the revenues collected by the CITY, and transferred to the AUTHORITY, from the room occupancy tax.

**SECTION 1.B.** The AUTHORITY's Executive Director and other AUTHORITY staff will be hired, disciplined and, if necessary, terminated consistent with the rules, regulations, and policies of the CITY by the City Manager, or his designee, in and after consultation with the Chairman of the AUTHORITY's Board of Directors (hereinafter called "Board"). The AUTHORITY's Board will supervise and oversee the AUTHORITY's staff to ensure that the AUTHORITY's policies and directives are carried out. Additional oversight and supervision will be provided by the CITY on matters relating to CITY policy and the carrying out of CITY financial and personnel functions. The CITY's Personnel Policy as well as other adopted policies will provide guidance and will apply to the AUTHORITY's Executive Director and other staff.

**SECTION 2.** The CITY will provide certain financial and payroll services for the AUTHORITY. A monthly financial ledger will be provided to the AUTHORITY detailing expenses made in the AUTHORITY budget. Additional reports may be made available upon request. The AUTHORITY is responsible for an annual audit report and may contract with a person, firm or agency, chosen in its sole discretion, to assist in the preparation of the annual audit and general bookkeeping.

**SECTION 3.** The AUTHORITY's Board shall conduct an annual performance review of the AUTHORITY's Executive Director and the Chairman of the Board shall submit said review to the City Manager. The Chairman and the City Manager shall collaborate, as necessary, to finalize the annual performance review of the AUTHORITY's Executive Director. Said review shall include the goals and objectives for the AUTHORITY's Executive Director as established by the AUTHORITY's Board and the City Manager. Furthermore, the AUTHORITY's Executive Director shall be responsible for performance evaluations for all other staff of the AUTHORITY. In the event the AUTHORITY's Executive Director or other staff exceed expectations, the AUTHORITY may, in its sole discretion, recommend to the City Manager a performance bonus consistent with the Personnel Policy of the CITY.

**SECTION 4.** The AUTHORITY shall maintain property, liability and public officials insurance and the limits on said insurance shall conform to CITY policy.

**SECTION 5.** The annual budget for the AUTHORITY will be established annually by the AUTHORITY's Board prior to May 15<sup>th</sup> and submitted to the CITY. The salary and benefits of the AUTHORITY's Executive Director and staff will be paid by the CITY and reimbursed to the CITY by the AUTHORITY out of room tax revenues and budgeted annually. The CITY will provide administrative oversight of the budget and will record budget amendment requests as established and submitted by the AUTHORITY so long as such requests are compliant with all pertinent laws, rules, and regulations. The AUTHORITY agrees that any budget amendment requests will be within existing resources and made for legal purposes. All budget amendments will first be reviewed and approved by the AUTHORITY's Board.

**SECTION 6.** Both the **AUTHORITY** and the **CITY** agree that, when beneficial to both parties, the **AUTHORITY** may be consulted and included in the purchase of materials, supplies and contracts by the **CITY** (for example: cellular phone contracts and telephone systems). The **CITY** and its Departments agree to continue in their spirit of cooperation with the **AUTHORITY** when the **CITY** Departments' expertise is needed by the **AUTHORITY** and is reasonably available (for example: the Public Works Department assist the **AUTHORITY** with certain repairs or the Electric Department assist the **AUTHORITY** with the design and implementation of the phone systems).

**SECTION 7.** The **AUTHORITY** agrees that it will report to the **CITY** twice yearly regarding its plan of work and information pertinent to the relationship of the parties. However, the **AUTHORITY** may contract, in its sole discretion, with any person, firm or agency to assist it in carrying out the purpose of developing tourism in the **CITY**.

**SECTION 8.** This Interlocal Agreement may be terminated upon either party providing written notice to the other ONE HUNDRED TWENTY (120) days prior (March 3<sup>rd</sup>) to the end of the then current fiscal year (June 30<sup>th</sup>). This Interlocal Agreement shall remain in force and effect unless and until it is terminated as herein provided.

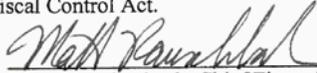
**SECTION 9.** This Interlocal Agreement may be amended only by written agreement of both parties.

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IN WITNESS WHEREOF, the **AUTHORITY** has caused this Interlocal Agreement to be signed by its Chairman and the **CITY** has caused this Interlocal Agreement to be signed by its Mayor, all by authority duly given as of the day and year first written above.

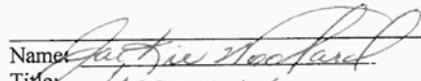
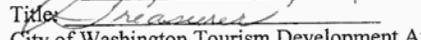
**PRE-AUDIT CERTIFICATE**  
**CITY OF WASHINGTON**

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Matt Rauschenbach, Chief Financial Officer  
City of Washington

**PRE-AUDIT CERTIFICATE**  
**CITY OF WASHINGTON TOURISM DEVELOPMENT AUTHORITY**

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

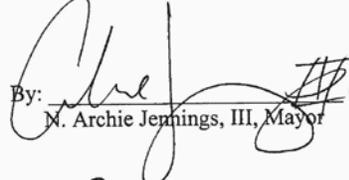
Name:   
Title:   
City of Washington Tourism Development Authority



By:  (SEAL)  
Cynthia S. Bennett, City Clerk

3-16-2011  
Date

**CITY OF WASHINGTON**

By:  (SEAL)  
N. Archie Jennings, III, Mayor

3-16-2011  
Date

**CITY OF WASHINGTON TOURISM  
DEVELOPMENT AUTHORITY**

By:  (SEAL)  
Nan McLendon, Chairman

3/25/11  
Date

**NORTH CAROLINA  
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certifies that NAN McLENDON personally appeared before me this day, and being duly sworn by me, acknowledged that she is Chairman of the CITY OF WASHINGTON TOURISM DEVELOPMENT AUTHORITY, and that by authority duly given and as the act of the Board the foregoing instrument was signed by her.

Witness my hand and notary seal this 25 day of March 2011.

Alice W. Gillis  
Notary Public

My Commission expires: 8/23/2014



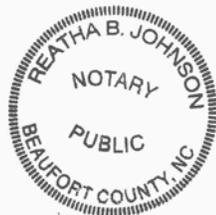
**NORTH CAROLINA  
BEAUFORT COUNTY**

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

Witness my hand and notary seal this 16 day of March 2011.

Reatha B. Johnson  
Notary Public

My Commission expires: 12/14/2014



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

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

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

**NORTH CAROLINA  
BEAUFORT COUNTY**

**THIS CONTRACT** is made and entered into effective as of the 1st day of July, 2011, by and between the **CITY OF WASHINGTON**, a municipal corporation organized under the laws of the State of North Carolina ("**CITY**"), and **BEAUFORT COUNTY**, a political subdivision of the State of North Carolina established and operating pursuant to the laws of the State of North Carolina ("**COUNTY**").

**WITNESSETH**

**WHEREAS**, North Carolina General Statute § 160A-11, 160A-461, and 153A-250 authorize municipalities and counties to contract for emergency medical services, including ambulance services, ("**EMS**").

**WHEREAS**, the **COUNTY** has negotiated with the **CITY** to obtain EMS for the fire districts named below under the terms and conditions contained herein.

**NOW THEREFORE**, pursuant to said relevant statutory authority, and for and in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows.

A. **SERVICES.** The **CITY** agrees to provide EMS to the extent of the certifications of the responding crew(s) to those parts of Beaufort County currently designated as the Old Ford Fire District and the Clark's Neck Fire District. Upon receipt of a request for EMS in the aforementioned areas, the **CITY** shall dispatch an EMS vehicle with a crew of two (2) Emergency Medical Technicians, if available. The dispatched crew(s) shall render said EMS to the limit of their certifications and, in the event further medical treatment is required, transport those patients requiring further medical treatment via the EMS vehicle to the nearest hospital. Said EMS crew(s) shall not be responsible for fire control, rescue, or other activities not directly involving patient care.

B. **EMS FEES.** There shall be an EMS fee for each person who is provided emergency medical services and/or transported by the EMS vehicle. Said fees shall be subject to change and approval by the Washington City Council. Said fees shall be billed and collected by the **CITY** through its standard medical billing procedure. All funds collected by the **CITY** for services rendered shall be retained by the **CITY**.

C. **TERM.** The term of this Contract shall be for two (2) years, beginning on the 1st day of July, 2011 and ending on the 30th day of June, 2013 unless sooner terminated as provided for herein.

D. **COST OF EMS AND COUNTY PAYMENT.** The **CITY** and the **COUNTY** shall share the cost of maintaining EMS through the **CITY**'s General Fund – Department 5310. The **COUNTY**'s share of said cost shall be \$129,482.88 for year one of this Contract (July 1, 2011 through June 30, 2012) and \$132,072.54 for year two of this Contract (July 1, 2012 through June

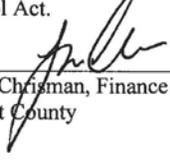
30, 2013). Said amounts shall be due and payable from the COUNTY to the CITY, in advance and in equal quarterly installments, on July 1<sup>st</sup>, October 1<sup>st</sup>, January 1<sup>st</sup>, and April 1<sup>st</sup> of the respective, aforementioned years.

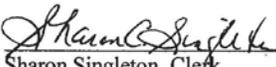
F. **EFFECT.** Upon acceptance and execution of this Contract by both parties, all previous EMS contracts between the CITY and the COUNTY for said areas shall be null and void.

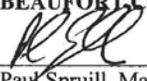
**IN WITNESS WHEREOF**, after due authority given, the COUNTY has caused this Contract to be signed in its name by its Manager, and attested by its Clerk, and the CITY has caused this Contract to be signed in its name by its Manager, and attested by its Clerk.

**PRE-AUDIT CERTIFICATE**

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

  
\_\_\_\_\_  
Jim W. Chrisman, Finance Officer  
Beaufort County

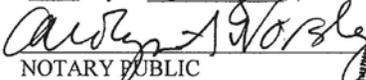
ATTEST:  
  
\_\_\_\_\_  
Sharon Singleton, Clerk

**BEAUFORT COUNTY**  
  
\_\_\_\_\_  
Paul Spruill, Manager

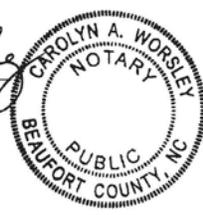
COUNTY OF BEAUFORT  
STATE OF NORTH CAROLINA

I, Carolyn A. Worsley Notary Public of the State and County aforesaid, certify that Sharon Singleton personally appeared before me this day and acknowledged that she is Clerk of Beaufort County, a political subdivision of the State of North Carolina, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Paul Spruill, its Manager, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this the 17<sup>th</sup> day of May, 2011.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: 10/14/2012



PRE-AUDIT CERTIFICATE

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



ATTEST  
*Cynthia S. Bennett*

Cynthia S. Bennett, City Clerk

*Matt Rauschenbach*

Matt Rauschenbach, Chief Financial Officer  
City of Washington

CITY OF WASHINGTON

*Peter T. Connet*

Peter T. Connet, Interim City Manager

COUNTY OF BEAUFORT  
STATE OF NORTH CAROLINA

I, *Reatha B. Johnson*, a Notary Public of the State and County aforesaid, certify that Cynthia S. Bennett personally appeared before me this day and acknowledged that she is City Clerk of the City Of Washington, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Peter T. Connet, its Interim City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the 21 day of March, 2011.

*Reatha B. Johnson*  
NOTARY PUBLIC

My Commission expires: 12/14/2011.



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

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

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

**NORTH CAROLINA  
BEAUFORT COUNTY**

**THIS CONTRACT** is made and entered into effective as of the 1<sup>st</sup> day of July, 2011, by and between the **TOWN OF WASHINGTON PARK**, a municipal corporation organized under the laws of the State of North Carolina (hereinafter referred to as "**TOWN**"), and the **CITY OF WASHINGTON**, a municipal corporation organized under the laws of the State of North Carolina (hereinafter referred to as "**CITY**").

**WITNESSETH:**

**WHEREAS**, North Carolina General Statute § 160A-11, 160A-461, 160A-274, 160A-277 and 153A-250 authorize municipalities to contract for fire protection, rescue and emergency medical services, including ambulance services (hereinafter collectively referred to as "emergency services").

**WHEREAS**, the **TOWN** has negotiated with the **CITY** to obtain emergency services for the **TOWN** under the terms and conditions contained herein.

**NOW THEREFORE**, pursuant to said relevant statutory authority, and for and in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows.

A. **SERVICES.** The **CITY** agrees to provide emergency services to the extent of the certifications of the responding crew(s) within the corporate limits of the **TOWN**. Upon receipt of a request for emergency services in the aforementioned area, the **CITY** shall dispatch the appropriate primary resources, if available. The dispatched primary resources shall render said emergency services to the limit of their certifications and, in the event further medical treatment is required, transport those patients requiring further medical treatment via an EMS or other vehicle to the nearest hospital. If the appropriate primary resources are unavailable, the **CITY** shall follow the mutual aid protocol then in effect.

B. **EMS FEES.** There shall be an EMS fee for each person who is provided emergency medical services and/or transported by an EMS vehicle. Said fees shall be subject to change and approval by the Washington City Council. Said fees shall be billed and collected by the **CITY** through its standard medical billing procedure. All funds collected by the **CITY** for services rendered shall be retained by the **CITY**.

C. **TERM.** The term of this Contract shall be for three (3) years, beginning on the 1st day of July, 2011 and ending on the 30th day of June, 2014 unless sooner terminated as provided for herein.

D. **PAYMENT FOR EMERGENCY SERVICES.** The **TOWN** shall pay to the **CITY** \$33,155.00 for the first year of this Contract (July 1, 2011 through June 30, 2012). This amount was derived by adding the product of the total tax base value for the **TOWN** (as defined herein)

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multiplied by the current fire tax rate that is utilized for the Bunyan Volunteer Fire District with the product of the total tax base value for the TOWN multiplied by the emergency medical services tax rate for the Broad Creek Tax District. The total tax base value for the TOWN is the amount provided to the CITY by the Beaufort County Tax Office; is all inclusive of the value of all real, personal, vehicle/auto, and public services companies, the latter value being an amount provided to the Beaufort County Tax Office by the North Carolina Department of Revenue; and is \$51,804,923.00 as of March 1, 2011. Similarly, the fire tax rate and emergency medical services tax rate referred to above are the rates (amounts) provided to the CITY by the Beaufort County Tax Office and are \$.029/\$100 and \$.035/\$100, respectively, as of March 1, 2011. The above formula, along with said amounts and rates as then provided by the Beaufort County Tax Office each year, shall be utilized by the CITY to calculate the amount the TOWN shall pay to the CITY for the second year of this Contract (July 1, 2012 through June 30, 2013), and the third year of this Contract (July 1, 2013 through June 30, 2014). This calculation shall be made by the CITY and the CITY shall notify the TOWN of the amount due hereunder for the second and third years of this Contract by June 30<sup>th</sup> of each year. Said payments shall be made no later than October 31<sup>st</sup> of each fiscal year in which this Contract remains in effect. In the event it becomes impractical to use said formula, for instance if either tax rate should no longer exist, the parties hereto shall meet and negotiate in good faith to reach an agreement as to the amount that shall be due from the TOWN to the CITY hereunder.

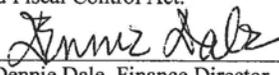
E. **CANCELLATION.** Either party may cancel this Contract with a ninety (90) day written, cancellation notice signed by the Mayor of the CITY or TOWN desiring cancellation and delivered to the Mayor of the other. In the event either party cancels this Contract effective on a date other than a Contract anniversary date (July 1), the payment for emergency services required hereunder for that particular year 1) if not already paid, shall be pro-rated and paid by the TOWN to the CITY on the date the cancellation is effective, or 2) if already paid, shall be pro-rated and the CITY shall reimburse the TOWN accordingly on the date cancellation is effective.

F. **EFFECT.** Upon acceptance and execution of this Contract by both parties, all previous emergency services contracts between the CITY and the TOWN for said areas shall be null and void.

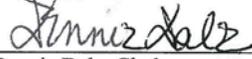
**IN WITNESS WHEREOF**, after due authority given, the TOWN has caused this Contract to be signed in its name by its Mayor, and attested by its Clerk, and the CITY has caused this Contract to be signed in its name by its Mayor, and attested by its Clerk.

**PRE-AUDIT CERTIFICATE**

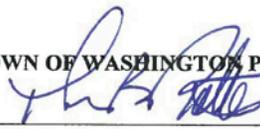
This contract has been pre-audited per North Carolina General Statute 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Dennie Dale, Finance Director  
Town of Washington Park

ATTEST:

  
Dennie Dale, Clerk

TOWN OF WASHINGTON PARK

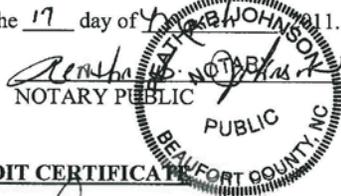
  
Thomas Richter, Mayor

COUNTY OF BEAUFORT  
STATE OF NORTH CAROLINA

I, Reatha B. Johnson, a Notary Public of the State and County aforesaid, certify that DENNIE DALE personally appeared before me this day and acknowledged that she is the Clerk of the **TOWN OF WASHINGTON PARK**, 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 THOMAS RICHTER, its Mayor, sealed with its corporate seal and attested by herself as its Clerk.

WITNESS my hand and official seal, this the 17 day of March, 2011.

My Commission expires: 12/16/2014

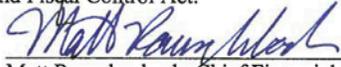


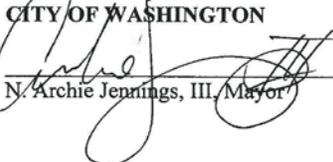
**PRE-AUDIT CERTIFICATE**

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



ATTEST:  
  
Cynthia S. Bennett, City Clerk

  
Matt Rauschenbach, Chief Financial Officer  
City of Washington

CITY OF WASHINGTON  
  
N. Archie Jennings, III, Mayor

COUNTY OF BEAUFORT  
STATE OF NORTH CAROLINA

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

WITNESS my hand and official seal, this the 17 day of March, 2011.

My Commission expires: 12/16/2014



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

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

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

INSTALLMENT PURCHASES		Detail \$	Budget \$	Summary \$
10-00-4132-7402	Information Technology		34,050	
		Storage Area Net	11,500	
		Ethernet Switches	12,500	
		Virtual Server Host	10,050	
10-00-4400-7401	Miscellaneous	Telephone system	100,000	
10-10-4310-7402	Police	Two Police vehicles	66,000	
10-20-4510-7401	Street Maintenance	Ditch bank mower	25,000	
	<b>Total General Fund</b>			225,050
35-90-7220-7401	Electric Director	Vehicle 614	22,000	
35-90-7250-7401	Electric Meter Services		104,000	
		Vehicle 658	24,000	
		3 phase meters	40,000	
35-90-8370-7401	Substation Maintenance		305,000	<b>Lien Allowable</b>
		Main sub B2 breaker replacement	45,000	No
		Generator relocation	120,000	Yes
		Distribution reclosers	22,000	Yes
		SCADA radios	15,000	Yes
		Load management switches	12,500	Yes
		Capacitors	8,500	Yes
		Wharton sub transformer	35,000	No
		Main sub T2 protection relay upgrades	12,000	No
		Travel Store Generator relocation (Cratch's)	15,000	Yes
		Substation recloser replacement 5 th St circuit	20,000	No
35-90-8390-7401	Power Line Construction		460,000	
		Vehicle 604, bucket truck	200,000	Yes
		6.5 miles of line rebuild Pinetown to Terra Ceia	260,000	No
	<b>Total Electric Fund</b>			891,000
38-90-4710-7401	Solid Waste Collection	Vehicle 488 rearload garbage truck	140,000	
	<b>Total Solid Waste Fund</b>			140,000
<b>Grand Total</b>			1,256,050	1,256,050

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

Installment Purchases 2011 - Electric Lien

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

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

**AWARD – CONTRACT FOR GENERATOR RELOCATION**

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

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

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

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

**ANNOUNCEMENT**

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

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

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

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