

**BRUNSWICK COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA**

June 6, 2022

3:00 PM

I. Call to Order

II. Invocation/Pledge of Allegiance

III. Adjustments/Approval of Agenda

IV. Public Comments

V. Approval of Consent Agenda

1. Administration - Brunswick County Schools Contracts with S.T Wooten for WBHS and Jessie Mae Monroe parking lots paving
Request that the Board of Commissioners approve and authorize the Chairman to sign the S.T. Wooten contracts in the amount of \$447,584 for the paving of the West Brunswick High School parking lot and \$566,078 for the paving of the Jessie Mae Monroe Elementary School parking lot.
2. Clerk to the Board - Meeting Minutes - May 16, 2022 Special Meeting - May 16, 2022 Regular Meeting
Request the Board of Commissioners approve the Meeting Minutes from the May 16, 2022 Regular Meeting and the May 16, 2022 Special Budget Meeting.
3. County Attorney - Amendment to ARPA Program Income Policy
Adopt an amendment to the County's Program Income Policy for the use of American Rescue Plan Act funds.
4. County Attorney - Deed of Dedication for Calabash Station Subdivision, Ph 1, Lots 1-11, 70-74, and 138-219
Consider accepting the Deed of Dedication for water and sewer infrastructure for Calabash Station Subdivision, Ph. 1, Lots 1-11, 70-74, and 138-219.
5. County Attorney - Deed of Dedication for Holden Beach Campground Water
Consider accepting the Deed of Dedication for water infrastructure for Holden Beach Campground.
6. County Attorney - Easement Request
To grant a utility easement over Parcel # 2250013204, which is currently being developed as the back-up 911 call center.
7. County Attorney - MOU for Marine Corps Training Exercises
Request that the Board of Commissioners approve the Memorandum of Understanding between U.S. Marine Corps Forces, Special Operations Command (MARSOC), Brunswick County, and the Brunswick County Sheriff's Office.
8. Courthouse Addition and Renovation - Alfred Williams and Company - Goods and Services Agreement - Courthouse Furniture
Request that the Board of Commissioners approve and authorize the Chairman to sign the Alfred Williams and Company - Goods and Services Agreement - Courthouse Furniture contract in the amount of \$936,793.60 for the Courthouse furniture project previously approved November 15, 2021 subject to terms as approved by the County Attorney.
9. Finance - Fiscal Items

Request that the Board of Commissioners approve Budget Amendments, Capital Project Ordinances, and Fiscal Items of a routine nature on the consent agenda.

-Lower Cape Fear Water Additional Expense Budget Amendment

Transfer \$275,000 to the raw water expense line for the purchase of raw water through June 30, 2022.

-Sheriff's Office Insurance Proceeds Budget Amendment

Appropriate \$10,075 insurance proceeds revenue for the repair of wrecked vehicles.

-Mulberry Branch WRF .75MGD Southport Budget Amendment and CPO

Appropriate \$2,000 of Southport revenue for the Mulberry Brant WRF .75 NMGD Southport funded project additional project expenditures.

-Donations to DSS Budget Amendment

Appropriate \$7,600 of Donations for DSS to the expenditure line for use in the DSS program.

-Emergency Telephone Fund Budget Amendment

Appropriate \$5,280 of transfer from general fund for ineligible expenditures and \$5,720 for additional expenditures through June 30, 2022.

-LIEAP Additional Funding Budget Amendment

Appropriate \$476,234 of additional Low Income Energy Assistance program funding and \$688,354 of additional Low Income Energy Assistance program ARPA funding for additional federal funding authorizations.

-Fleet Services Additional Funding Budget Amendment

Appropriate \$235,000 of solid waste revenues for fleet services anticipated expenditures through June 30, 2022.

-Water Construction Additional Funding Budget Amendment

Reduce transfer to water capital projects \$60,000 and increase Water construction fuel and repair and maintenance equipment.

-Excess Collections to Brunswick County Schools Budget Amendment

Appropriate estimated excess collections of Ad Valorem and Legislated Sales Tax in excess of budget for transfer to the schools capital reserve and to authorize the Fiscal Operations Director to adjust the budget for final collections as of June 30, 2022.

-Courthouse Additional Funds Budget Amendment and CPO

Transfer funds from the reserve undesignated to the courthouse project for NC Sound change order 7, pending change order 8 for courtroom 6, pending change order 9 for additional entry security, mounting courtroom seals not included in original bid, hourly rate billed by Sawyer Sherwood and Associates as allowable by the contract due to the construction administration fees being completely expended with continued time extensions.

10. **Operation Services - Amended Resolution to Post-Disaster Debris Policy**

Request that the Board of Commissioners approve an amended Resolution updating the county's post-disaster debris management policy.

11. **Sheriff's Office - Grant Award Acceptance**

Request the Board of Commissioners approve and accept a grant from the North Carolina Sheriffs' Association to assist the Sheriff's Office with the investigation of

reports of internet crimes against children (ICAC). Further request that the Board of Commissioners authorize Sheriff Ingram to sign the ICAC Grant Contract with the North Carolina Sheriffs' Association and the associated Mutual Assistance Agreement and Memorandum of Understanding with the North Carolina State Bureau of Investigation. The total grant award is valued at \$72,678.87 with no county match requirement.

12. Sheriff's Office - Second Amendment to Detention Food Service Agreement

Request the Board of Commissioners approve a second amendment to the Sheriff's Office Detention Center food service agreement with Summit Food Service, LLC. The amendment outlines a sliding pricing scale to better account and invoice according to weekly inmate populations and requires no budget amendment.

13. Utilities - I and E Bay Enclosure Project Budget Amendment (John Nichols, PE - Director of Public Utilities)

Request that the Board of Commissioners approve additional funds in the amount of \$108,340.00 for the Instrumentation and Electrical Bay enclosure project.

14. Utilities - SCADA Tower NWWTP Budget Amendment (John Nichols, PE - Director of Public Utilities)

Request that the Board of Commissioners approve additional funds in the amount of \$90,000 for the SCADA tower project at the NWWTP.

15. Clerk to the Board - Proclamation - Alpha Psi Omega Day

Request adoption of the Proclamation for Alpha Psi Omega.

VI. Presentation

1. Clerk to the Board - Presentation - Brunswick County Arts Council

Request the Board recognize the winners of the Brunswick County School District Student Winners of the Brunswick County Substance Abuse Billboard Art Contest

VII. Public Hearing

1. Administration - Public Hearing to Receive Comments on the FY 2022-2023 Brunswick County Budget, Fees, and Capital Improvement Plan (Steve Stone, County Manager)

Request that the Board of Commissioners hold a public hearing on the Managers FY 2022-2023 Recommended Budget, Proposed Fees and Five Year Capital Improvement Plan

VIII. Administrative Report

1. Administration - ARPA Funding Allocation Request for Direct Administrative Costs

Request that the Board of Commissioners consider appropriating \$150,000 of American Rescue Plan Act funds towards direct costs for the administration of ARPA programs.

2. Administration - ARPA Funding Allocation Request for General Government Services Standard Allowance

Request that the Board of Commissioners consider appropriating \$10 million of American Rescue Plan Act funds towards general government services responding to public safety concerns.

3. Administration – Bond Order for Series 2022A Two-Thirds Bonds and Schedule Public Hearing - (Steve Stone, County Manager)

Request that the Board of Commissioners Resolve to Make Certain Statements of Fact concerning the proposed issuance of Series 2022A Two-Thirds

Bonds; Introduce the Bond Order authorizing the issuance of not to exceed \$5,740,000 General Obligation Public Improvement Bonds, Setting a Public Hearing on the Bond Order June 20, 2022, and Directing Publication of a Notice of Public Hearing.

4. Administration - Modification of Surplus Property Sale Policy

Request that the Board of Commissioners adopt amendments to the Contract and Purchasing Policy relating to disposal of surplus real property and minimum bid requirements.

5. Tax Supervisor Appointment Term

Request that the Board of Commissioners appoint Mr. Jeffery Niebauer to serve as Brunswick County Tax Supervisor through June 30, 2026 per NCGS 105-294.

IX. Board Appointments

1. Clerk to the Board - Board Appointment

Request the Board to consider the appointment of Diana Dornfeld to the District 2 Library Board and Debbie Lambert or Renee Cooper to the Substance Use and Addiction Commission at large appointment

X. Other Business/Informal Discussion

XI. Adjournment



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:
Aaron Smith

Action Item # V. - 1.

Administration - Brunswick County Schools Contracts with S.T. Wooten for WBHS and Jessie Mae Monroe parking lots paving

Issue/Action Requested:

Request that the Board of Commissioners approve and authorize the Chairman to sign the S.T. Wooten contracts in the amount of \$447,584 for the paving of the West Brunswick High School parking lot and \$566,078 for the paving of the Jessie Mae Monroe Elementary School parking lot.

Background/Purpose of Request:

Brunswick County Board of Education approved the contract on May 24, 2022 and staff recommends the contracts with S.T. Wooten contracts in the amount of \$447,584 for the paving of the West Brunswick High School parking lot and \$566,078 for the paving of the Jessie Mae Monroe Elementary School parking lot be executed by the Board of Commissioners. The contract is fully funded by bond proceeds.

Fiscal Impact:

Pre-Audit Certification Required, Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

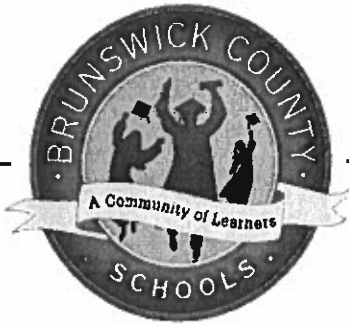
County Manager's Recommendation:

Recommend that the Board of Commissioners approve and authorize the Chairman to sign the S.T. Wooten contracts in the amount of \$447,584 for the paving of the West Brunswick High School parking lot and \$566,078 for the paving of the Jessie Mae Monroe Elementary School parking lot.

ATTACHMENTS:

Description

- ☐ Brunswick County Schools Project Approval Memos
- ☐ Owner-Contractor Agreement - West Brunswick High School
- ☐ Owner-Contractor Agreement - Jessie Mae Monroe Elementary



BRUNSWICK COUNTY SCHOOLS

35 Referendum Drive • Bolivia, North Carolina 28422 • Phone: 910-253-2900 • Fax: 866-291-7891

☐ Board Presentation
☐ Report to the Board
☐ Consent Agenda
☒ Action Agenda
☐ Discussion Agenda
☐ Confidential Agenda
☐ Information Item
☐ Announcement

☒ Approved
☐ Denied
☐ Deferred

Attest: Clerk to the Board

WJB

Date 5/24/22

To: Operations Committee
From: Susan Rutledge
Date: May 24, 2022
Subject: Award of Contract for Jesse Mae Monroe Paving

Background Information

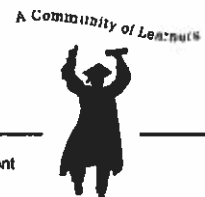
The 2016 Bond included funds for a paving project at Jesse Mae Monroe. Request for bids were advertised and bids for this project were received on May 13, 2022. Bids exceeded formal purchasing threshold and rebidding was required.

Current Status

Two bids were received and opened on May 23rd for the JMM paving project. The lowest bid was from ST Wooten Corporation in the amount of \$566,078. This contract will need to go to the County for approval.

Recommendation

Staff recommends the Board approve forwarding the contract with ST Wooten Corporation to the County for execution at the June County Commissioners meeting. This allows the paving to be done while school is out for the summer.





BRUNSWICK COUNTY SCHOOLS

35 Referendum Drive • Bolivia, North Carolina 28422 • Phone: 910-253-2900 • Fax: 866-291-7891

<input type="checkbox"/> Board Presentation	<input checked="" type="checkbox"/> Approved
<input type="checkbox"/> Report to the Board	<input type="checkbox"/> Denied
<input type="checkbox"/> Consent Agenda	<input type="checkbox"/> Deferred
<input checked="" type="checkbox"/> Action Agenda	
<input type="checkbox"/> Discussion Agenda	Attest: Clerk to the Board
<input type="checkbox"/> Confidential Agenda	<u>LB</u>
<input type="checkbox"/> Information Item	
<input type="checkbox"/> Announcement	Date <u>5/24/22</u>

To: Operations Committee

From: Susan Rutledge

Date: May 24, 2022

Subject: Award of Contract for West Brunswick High School Paving

Background Information

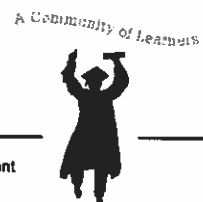
The 2016 Bond included funds for a paving project at West Brunswick High School. Request for bids were advertised and bids for this project were received on May 13, 2022.

Current Status

Two bids were received and opened on May 13th for the WBHS paving project. The lowest bid was from ST Wooten Corporation in the amount of \$447,584. This contract will need to go to the County for approval.

Recommendation

Staff recommends the Board approve forwarding the contract with ST Wooten Corporation to the County for execution at the June County Commissioners meeting. This allows the paving to be done while school is out for the summer.



OWNER-CONTRACTOR AGREEMENT

SCHOOL NAME: **West Brunswick High School**

THIS AGREEMENT, made this 6th day of June, Two Thousand and Twenty-Two by and between County of Brunswick, North Carolina (herein referred to as the "Owner"), whose mailing address is 30 Government Center Dr., NE, Bolivia, NC 28422 and S. T. Wooten Corporation (herein referred to as the "Contractor"), whose mailing address is PO Box 2408, Wilson, NC 27894. Correspondence, submittals, and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the West Brunswick parking lot pavement (hereinafter referred to as the "Project" or the "Work"); and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1

DEFINITIONS

- 1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.
- 1.2 The Contract Documents are as defined in the General Conditions. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.

The Contract Documents consist of the Owner-Contractor Agreement, the General and Supplemental Conditions of the Contract, the Drawings, the Specifications, all Addenda issued prior to bidding, and all Modifications and Change Orders issued after execution of the Contract.

Article 2

STATEMENT OF THE WORK

- 2.1 The Project is the Work identified in the plans and specifications prepared by McGill Associates dated May, 2022 for Brunswick County Board of Education, West Brunswick High School paving project, including the following addenda:

A listing of the plans and specifications included in the Contract Documents is attached as Exhibit A.

2.2 The Parties agree that the Project shall include the following alternates:

None

2.3 The Parties agree to the following modifications to the Project's plans and specifications, including the noted value engineering items: None

2.4 The Parties agree that the following allowances are included in the Contract Sum in Section 5.1 below:

A. Structural Fill Allowance \$5,000

B. Owner Contingency Allowance \$10,000

2.5 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

2.6 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work."

Article 3

DESIGN CONSULTANT

3.1 The Design Consultant (as defined in the General Conditions) shall be **McGill Associates** whose address is **712 Village Road, SW, Suite 103, Shallotte, NC 28470** however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Design Consultant and so advising the Contractor in writing, at which time the person or organization so designated shall be the Design Consultant for purposes of this Contract.

Article 4

TIME OF COMMENCEMENT AND COMPLETION

4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.

- 4.2 Time is of the essence. The Contractor shall achieve Final Completion, as defined in the General Conditions on or before the date established for Final Completion in the Supplemental Conditions.
- 4.3 The Supplemental Conditions contains certain specific dates that shall be adhered to and are the last acceptable dates unless modified in writing by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in the General Conditions under 7.2 DELAYS AND EXTENSIONS OF TIME.
- 4.4 Should the Contractor fail to complete the Work on or before the dates stipulated for Substantial Completion and/or Final Completion, or such later date as may result from an extension of time granted by the Owner, he shall pay the Owner, as liquidated damages the sums set forth in the General and Supplemental Conditions.

Article 5

CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the sum of Four Hundred Forty-Seven Thousand, Five Hundred Eighty-Four and no/100 Dollars (\$447,584.00) herein referred to as the "Contract Sum". This amount includes the base bid and the Alternates in Section 2.2
- 5.2 The Contract Sum includes the value engineering items and other contract modifications noted in Section 2.3 above that total \$0.00.
- 5.3 Unit Prices are established as follows for the Project:

Unit Price No. 1	Structural Fill	\$50.00SY
------------------	-----------------	-----------

Article 6

PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that on or about the First day of the month for every month during the performance of the Work he will deliver to the Owner's Project Manager an Application for Payment in accordance with the provisions of Article 8 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions. Payments due and unpaid under the Contract Documents shall not bear interest.

Article 7

OTHER REQUIREMENTS

- 7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.
- 7.2 The Owner shall furnish to the Contractor one **(1)** set of drawings and one **(1)** set of specifications, at no extra cost, for use in the Construction of the Work. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.
- 7.3 The Contractor shall make a good faith effort to utilize Historically Underutilized Businesses (HUB's) per N.C. Gen. Stat. 143-128.2, and as described in the construction documents.
- 7.4 The General Conditions, Supplemental Conditions and the plans and specifications, including any addenda, are incorporated herein by reference.
- 7.5 This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-58.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

IN WITNESS WHEREOF, County of Brunswick, North Carolina (hereinbefore called the "Owner") has caused these presents to be signed and its seal to be hereunto affixed, by its Chairman of the Board of Commissioners and attested by its Clerk to the Board, and S. T. Wooten Corporation (hereinbefore called "Contractor") has caused these presents to be signed by its President or Vice President and its Corporate seal to be hereunto affixed, as hereinafter attested, all as of the day and year first above written.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

COUNTY OF BRUNSWICK, NORTH CAROLINA

Chairman, Board of Commissioners

ATTEST:

Clerk to the Board of Commissioners

[SEAL]

This contract was approved by the Board of Commissioners on the 6th day of June, 2022.

S. T. Wooten Corporation

By: Hank Butts
President or Vice President

Printed Name: Hank Butts

ATTEST:

Andrew Barry
Corporate Secretary / Asst. Secretary

[SEAL]

This Instrument Has Been Pre-audited In The Manner Required By The School Budget And Fiscal Control Act	This Instrument Has Been Pre-audited In The Manner Required By The Local Government Budget And Fiscal Control Act
<i>Freyja Cahill</i>	
Freyja Cahill, Finance Officer Brunswick County Schools	Aaron C. Smith, Director of Fiscal Operations, County of Brunswick, North Carolina

APPROVED AS TO FORM

Robert V. Shaver, Jr., County Attorney /
Bryan W. Batton, Asst. County Attorney
Brunswick County, NC

EXHIBIT A

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes these documents herein incorporated by reference if not attached hereto:
 - 1. Project information.
 - 2. Work covered by Contract Documents.
 - 3. Phased construction.
 - 4. Work by Owner.
 - 5. Work under separate contracts.
 - 6. Future work.
 - 7. Purchase contracts.
 - 8. Owner-furnished products.
 - 9. Contractor-furnished, Owner-installed products.
 - 10. Access to site.
 - 11. Coordination with occupants.
 - 12. Work restrictions.
 - 13. Geotechnical Engineering Report (ECS)
 - 14. Maps (McGill Associates)

1.3 PROJECT INFORMATION

- A. Project Identification: West Brunswick High School Parking Lots and Access Drives Refurbishment.
- B. Project Location: West Brunswick High School, 550 Whiteville Road, Shallotte, North Carolina 28470
- C. Owner: Brunswick County Board of Education, 35 Referendum Drive, Bolivia, North Carolina 28422.
 - 1. Owner's Representative: Larry Smith, Director of Facilities.

1.4 WORK COVERED BY CONTRACT DOCUMENTS

- A. Work shall include, but it is not necessarily limited to the furnishing of all labor, material, tools, and superintendence and performing all work necessary to complete all of the parking lots and access drives refurbishment and site restoration work to the satisfaction of, and subject to the approval of the Owner, and/or its designated representative. The parking lots and access roads are at West Brunswick High School.
- B. All parking lot and access drive refurbishment and site restoration work not expressly mentioned in the Specifications, and/or shown on the plans but obviously necessary to the proper execution of same shall be performed by the contractor as it is not the intent to delineate or describe every detail of work. No additions to the contract sum will be approved for any materials, equipment and/or labor to perform work hereunder unless it can be shown clearly to be beyond the scope and intent of the Specifications and absolutely essential to the proper prosecution of the work.
- C. The Work of the Project is defined by the Contract Documents and consists of the following:
 - 1. Base Bid West Brunswick High School Parking Lots and Access Drives
 - a. Provide all necessary traffic control measures when construction vehicles are entering/exiting the site.
 - b. Provide erosion control measures as needed to prevent erosion or displacement of soils and discharge of soil-bearing water runoff or airborne dust to adjacent properties.
 - c. Remove and safely store existing concrete wheel stops.
 - d. Remove existing asphalt surface and base material and replace with a new base and asphalt surface.
 - e. Paint parking stall lines, traffic lane lines, island lines and traffic flow arrows. Reinstall concrete wheel stops
 - f. Place seeding, soil supplements and mulch on all final disturbed areas. All other disturbed areas exceeding the limits of work that were not originally grassed areas shall also be restored to existing conditions.
 - g. Remove surplus soil and waste material, including trash and debris and legally dispose of it off Owner's property.
 - h. All construction recommendations and requirements as listed in the Geotechnical Engineering Reports by ECS Southeast, LLP, dated April 18, 2022, and included at the end of this Section, are considered part of the scope of work for the project and must be adhered to for the respective school by the Contractor.

D. Field Quality Control

1. Testing Agency: Contractor is required to engage a qualified independent geotechnical engineering testing agency licensed in the State of North Carolina to perform field quality control testing for the parking lot and access drive refurbishment work
2. Allow testing agency to inspect and test subgrades and bituminous pavement replacement. Proceed with subsequent parking lot and access drive work only after test results for previously completed work comply with requirements. Testing Agency and or the Contractor must provide the Owner with two copies of all testing reports prior to the payments by the Owner for the work.

1.5 **PHASED CONSTRUCTION**

- A. The Work shall be conducted as one project in its entirety at each school. There will not be phased construction.

1.6 **WORK BY OWNER**

- A. General: There will not be any work by Owner under this contract.

1.7 **WORK UNDER SEPARATE CONTRACTS**

- B. General: There will be no work by others under separate contract for this project.

1.8 **ACCESS TO SITES**

- A. General: Contractor shall have full use of Project sites for construction operations during construction period. Contractor's use of Project sites is limited only by Owner's right to perform work or to retain other contractors on portions of Project. Contractor is **NOT** permitted to use or access any portion of the area on school property outside of the limits of work of the parking lot at either of the Project locations without prior permission from the Owner. Any damage to the areas outside the project areas by the Contractor must be restored to existing conditions at the full expense of the Contractor, to the satisfaction of and subject to the approval of the Owner and/or its designated representative.

1.9 **WORK RESTRICTIONS**

- A. Work Restrictions, General: Comply with restrictions on construction operations.

1. Comply with limitations on use of public streets and other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit work on parking lots to normal business working hours, except as otherwise indicated or approved by the Owner.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:
 1. Notify Engineer not less than three (3) business days in advance of proposed utility interruptions.
 2. Obtain Engineer's written permission before proceeding with utility interruptions.
- D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruption with students with the Owner.
 1. Notify Engineer not less than 3 business days in advance of proposed disruptive operations.
 2. Obtain Engineer's written permission before proceeding with disruptive operations.
- E. Employee Identification: Provide identification tags for Contractor personnel working on the Project site. Require personnel to utilize identification tags at all times.
- F. Employee Screening: Comply with Owner's requirements regarding drug and background screening of Contractor personnel working on the Project site.
 1. Maintain list of approved screened personnel with Owner's Representative.

1.10 Geotechnical Engineering Report

- A. All construction recommendations and requirements as listed in the Geotechnical Engineering Reports for each school by ECS Southeast, LLP, are hereby incorporated by reference and are considered part of the scope of work for the Parking Lots and Access Drives Refurbishment projects and must be adhered to by the Contractor.

EXHIBIT B**Sexual Offender Registry Check Certification Form**

Check the appropriate box to indicate the type of check:

- ☒ Initial
☐ Supplemental
☐ Annual

I, Niki Gabus (insert name), HR Coordinator (insert title) of S.T. Wooten (insert company name) hereby certify that I have performed all of the required sexual offender registry checks required under this Agreement for all contractual personnel (employees, agents, ownership personnel, or contractors) who may be used to deliver goods or provide services under this Agreement, including the North Carolina Sex Offender and Public Protection Registration Program, the North Carolina Sexually Violent Predator Registration Program, and the National Sex Offender Registry. I further certify that none of the individuals listed below appears on any of the above-named registries and that I will not assign any individual to deliver goods or perform services under this Agreement if said individual appears on any of the sex offender registries. I agree to maintain all records and documents associated with these registry checks, and that I will provide such records and documents to the school system upon request. I specifically acknowledge that the school system retains the right to audit these records to ensure compliance with this section at any time in the school system's sole discretion. I acknowledge that I am required to perform these checks and provide this certification form before any work is performed under the Agreement (initial check), any time additional contractual personnel may perform work under the Agreement (supplemental check), and at each anniversary date of the Agreement (annual check).

Contractual Personnel Names**Job Title**

1. <u>Dustin Blankenship</u>	<u>Laborer</u>
2. <u>Shawn Cline</u>	<u>Truck Driver</u>
3. <u>Elijah Costin</u>	<u>Laborer</u>
4. <u>Jesse Hall</u>	<u>Foreman</u>
5. <u>Stephen Louca</u>	<u>Operator</u>

(attach additional page(s) if needed)

I attest that the forgoing information is true and accurate to the best of my knowledge.

Niki Gabus (print name)
HR Coordinator (title)

Niki Gabus (signature)
5/17/2022 (date)

6.	<u>Steven McClanahan</u>	<u>Operator</u>
7.	<u>Michael McLaurin</u>	<u>Laborer</u>
8.	<u>George Meeks III</u>	<u>Superintendent</u>
9.	<u>Wade Musselwhite</u>	<u>Operator</u>
10.	<u>Eric Schmouder</u>	<u>Operator</u>
11.	<u>Jennifer Kiglics</u>	<u>Project Manager</u>

SECTION GC
GENERAL CONDITIONS
OF THE
CONTRACT FOR CONSTRUCTION

TABLE OF ARTICLES

1. CONTRACT DOCUMENTS
 2. OWNER
 3. CONTRACTOR
 4. SUBCONTRACTORS
 5. WORK BY OWNER OR BY SEPARATE CONTRACTORS
 6. MISCELLANEOUS PROVISIONS
 7. TIME
 8. PAYMENTS AND COMPLETION
 9. INSURANCE
 10. CHANGES IN THE WORK
 11. UNCOVERING AND CORRECTION
 12. TERMINATION OF THE CONTRACT
- APPENDIX A – Contractor's Sales Tax Report
- APPENDIX B-1 – Change Proposal Form (Time & Materials or Unit Price)
- APPENDIX B-2 – Change Proposal Form (Fixed Price)
- APPENDIX C – Sexual Registry Check Form

ARTICLE 1

CONTRACT DOCUMENTS

1.1 GENERAL

- 1.1.1 The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplementary and other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order issued pursuant to the provisions of Article 10, (3) a written interpretation issued by the Design Consultant, or (4) a written order for a minor change in the Work issued pursuant to this contract.
- 1.1.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.
- 1.1.3 The Contractor will be furnished with three (3) sets of drawings and specifications at no cost. Additional copies may be purchased.

END OF ARTICLE 1

ARTICLE 2

OWNER

2.1 INFORMATION, SERVICES AND RIGHTS OF THE OWNER

- 2.1.1 Owner: County of Brunswick, North Carolina by and through its authorized agent the Brunswick County Board of Education
- 2.1.2 The Owner shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.
- 2.1.3 The Owner shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.
- 2.1.4 The Owner will have authority to require special inspection or testing of the Work whether or not such Work is then fabricated, installed, or completed. However, neither the Owner's authority to act under Subparagraph 6.5.3, nor any decision made by the Owner in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Owner to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 2.1.5 The Owner shall have the authority and discretion to call, schedule, and conduct job meetings to be attended by the Contractor, representatives of his Subcontractors, and the Design Consultant, to discuss such matters as procedures, progress, problems, and scheduling.
- 2.1.6 The Owner and Design Consultant shall not be responsible or liable to Contractor for the acts, errors or omission of the Contractor, any separate Subcontractor, any separate contractor or any contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.
- 2.1.7 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid unreasonable delay in the orderly progress of the Work.

2.1.8 The parties acknowledge that the Owner may perform all or part of its obligations pursuant to this Agreement through the Superintendent or his designee.

2.1.9 The foregoing rights are in addition to other rights of the Owner enumerated herein and those provided by law.

2.2 OWNER'S RIGHT TO STOP OR TO SUSPEND THE WORK

2.2.1 If the Contractor fails to correct defective Work or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the Owner by a written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

2.2.2 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the Owner.

2.2.3 If the performance of all or any part of the Work (including the work of the Contractor and its subcontractors) is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner or the Design Consultant in the administration of this Contract, or by failure of any one of them to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no claim shall be made under this Subparagraph for any suspension, delay, or interruption pursuant to Subparagraph 2.3.1, or for which claim is provided or excluded under any other provision of this Contract. No claim under this Subparagraph shall be allowed on behalf of the Contractor or its subcontractors, unless within 10 days after the act or failure to act involved, and for continuing or ongoing acts or failures to act within 10 days of the first day of the act or failure to act the Contractor submits to the Owner a written statement setting forth, as fully as then practicable, the extent of such claim, and unless the claim is asserted in writing within 20 days after the termination of such suspension, delay, or interruption. For continuing or ongoing acts or failures to act, the Contractor shall update its written statement every 15 days until the suspension, delay or interruption is terminated. The Contractor shall waive any and all claims not filed in strict conformance with this paragraph. The Contractor shall indemnify, defend and hold the Owner harmless from any claim by a Subcontractor that is waived because it is not filed in strict conformance with this paragraph or any other provision of this Agreement regarding claims.

2.2.4 In the event of a suspension of work or delay or interruption of work, the Contractor will and will cause his subcontractors to protect carefully his, and their, materials and work against damage or injury from the weather and maintain completed and uncompleted portions of the work as required by the Contract Documents. If, in the opinion of the Owner, any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors to so protect same, such work and materials shall be removed and replaced at the expense of the Contractor.

2.2.5 No claim by the Contractor shall be allowed if asserted after final payment under this Contract or if it is not asserted in strict conformance with Article 10.

2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

2.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within ten days after the date written notice is mailed by the Owner to commence and continue remedy of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy he may have, make good such deficiencies and may further elect to complete all Work thereafter through such means as the Owner may select, including the use of a new contractor. In such case the Owner shall issue a Change Order deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Design Consultant's additional services made necessary by such default, neglect or failure. Such action by the Owner and the amount charged to the Contractor are both subject

to the prior approval of the Design Consultant. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner. Notwithstanding the Owner's right to carry out a portion of the work, warranty, maintenance and protection of the work remains the Contractor's responsibility. Further, the provisions of this paragraph do not affect the Owner's right to require the correction of defective or non-conforming work in accordance with this contract.

END OF ARTICLE 2

ARTICLE 3

CONTRACTOR

3.1 DEFINITION

- 3.1.1 This entire Contract is not one of agency by the Contractor for Owner but one in which Contractor is engaged independently in the business of providing the services and performing the Work herein described as an independent contractor.

3.2 REVIEW OF CONTRACT DOCUMENTS

- 3.2.1 Before placing his proposal to the Owner, and continuously after execution of the Contract, the Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner any error, inconsistency or omission he may discover, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Design Consultant for any damage resulting solely from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without Contract Documents and, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.
- 3.2.2 All designs, drawings, specifications, design calculations, notes and other works provided for this contract are the sole property of the Owner and may not be used on any other design or construction project. The use of the design, including tracings and specifications, by any person or entity, for the purpose other than the Project, shall be at the full risk of such person or entity

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 3.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract. The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and all statutory or legal requirements. This requirement applies continuously throughout contract performance and is not limited to regular working hours.
- 3.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and Sub- subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.
- 3.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the Owner or the Design Consultant in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under Paragraph 6.5 by persons other than the Contractor.

3.3.4 The Contractor shall verify all grades, lines, levels and dimensions as indicated and shown on the Drawings and Specifications prior to beginning the work and shall immediately report in writing any errors or inconsistencies to the Design Consultant before commencing the work.

3.3.5 Contractor shall protect existing surfaces, finishes and adjacent facilities from damage during construction. Any damage shall be repaired by Contractor at his own expense prior to completion of the Project. Prior to construction start, Contractor and Owner shall perform an inspection to record existing conditions, damaged and undamaged.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary or proper for or incidental to the execution and completion of the Work required by and in accordance with the Contract Documents and any applicable code or statute, whether specifically required by the Contract Documents or whether their provision may reasonably be inferred as necessary to produce the intended results, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Final payment will not be made until the Work is so completed.

3.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. The Owner may, by notice in writing, require the Contractor to remove from the work any employee the Owner deems incompetent, careless or otherwise objectionable. All agents and workers of the Contractor and its Subcontractors shall wear identification badges provided by the Contractor at all times they are on the Owner's property. The identification badges shall at a minimum display the company name, telephone number and employee's picture and name and must be worn in plain view at all times. Additionally, once school staff occupies the building, all contractors and their respective subcontractors shall be required to sign in and out of the visitor's log each day they are performing services. They must also wear a visitor's pass which will indicate to staff that they have met this requirement which applies to anyone performing services anywhere on the school property.

3.4.3 The Contractor shall be responsible for ensuring that the Work is completed in a skillful and workmanlike manner.

3.4.4 All equipment, apparatus and/or devices of any kind to be incorporated into the Work that are shown or indicated on the drawings or called for in the specifications or required for the completion of the work shall be entirely satisfactory to the Owner and the Design Consultant as regards operations, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus and/or device shall relieve the Contractor of his responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by proper and acceptable equipment, etc. or put in good working order satisfactory to the Owner and Design Consultant without additional cost to the Owner.

3.4.5 All materials and Work shall meet North Carolina Building Codes. Should there be any discrepancies between design and code, the more stringent requirement shall apply. All materials shall comply with standards (or approved products) as set by the Specifications. Unless otherwise specified, NO ASBESTOS CONTAINING MATERIALS SHALL BE INSTALLED. BY DEFINITION, INSTALLATION OF ASBESTOS MATERIALS WILL BE CONSIDERED CONTRACTOR'S NEGLIGENCE AND THE CONTRACTOR SHALL PERFORM ALL NECESSARY WORK TO REMOVE THE ASBESTOS AND RESTORE THE SITE TO THE 'PRE-CONTRACT' CONDITION. Contractor shall assume all facilities built prior to 1979 have lead-based paint. Any paint removal shall be in accordance with OSHA standard pertaining to lead (29 CFR 1915.1025).

3.5 WARRANTY

- 3.5.1 The Contractor warrants to the Owner and the Design Consultant that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be of first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guarantees specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or the Design Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 11.
- 3.5.2 The warranties set forth in this Paragraph 3.5 and elsewhere in the Contract Documents shall survive Final Completion of the Work.
- 3.5.3 If, within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract documents, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice with reasonable promptness after discovery of the condition. For items, which remain incomplete or uncorrected on the date of Substantial Completion, the one-year warranty shall begin on the date of Final Completion of the Work. If the Contract Documents include painting work, the one year warranty period in this section shall be extended to two years.
- 3.5.4 If at any time deficiencies in the Work are discovered which are found to have resulted from fraud or misrepresentation, or an intent or attempt to or conspiracy to defraud the Owner by the Contractor, any Subcontractor or Supplier, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty.
- 3.5.5 The Contractor shall bear the cost of making good all work of the Owner, separate contractors or others, destroyed or damaged by such correction or removal required under this Article 3, Article 11 or elsewhere in the Contract Documents.

3.6 TAXES

- 3.6.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective. The Contractor shall indemnify and hold the Owner harmless from any claims arising out of the Contractor's failure to pay all required taxes, including claims by the county for its inability to recover taxes that were not properly paid to the State of North Carolina by the Contractor.
- 3.6.2 The Contractor shall provide a completed Contractor's Sales Tax Report (attached hereto as Appendix A) with each application for payment for all items provided by the Contractor or any Sub-Contractors and incorporated into this project. The Contractor shall account for at least 2% of the total contract amount in sales tax or provide justification satisfactory to the Owner that the actual sales tax paid is less than 2%. In the event the Contractor does not provide adequate justification to support the shortfall, the Contractor shall pay the Owner the difference between the amount accounted for and the 2% minimum. Such compensation shall not be deemed a penalty, but reimbursement of funds the Owner would otherwise be entitled to recover from the State.
- 3.6.3 Sales and Use Tax. Contractor shall be responsible for complying with any applicable sales and use tax obligations imposed by Chapter 105, Article 5 of the North Carolina General Statutes. Where Contractor has been contracted with to oversee "new construction" or "reconstruction" as defined in G.S. 105-164.4H, Contractor shall be responsible for issuing and maintaining an Affidavit of Capital Improvement.

3.7 PERMITS, FEES AND NOTICES

- 3.7.1 The Contractor shall secure and pay for the building permit and for all other permits and governmental fees necessary for the proper execution and completion of the Work. Costs for service and final service connections by public utilities will be reimbursed to the Contractor by the Owner. The Owner shall not be responsible for the cost of any temporary utilities.
- 3.7.2 The Contractor will pay for his license and reinspection fees for the work necessary for the proper execution and completion of the work.
- 3.7.3 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

3.8 PROGRESS SCHEDULE

- 3.8.1 The Contractor shall prepare and submit to the Owner for the Owner's review and approval an estimated progress schedule for the Work. This schedule shall be in accordance with any general requirements included in the Specifications for this project.

3.9 RESPONSIBILITY FOR COMPLETION

- 3.9.1 The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the performance of the Work within the Milestone and Completion dates specified in the Owner-Contractor Agreement.
- 3.9.2 If the actions taken by the Contractor are not satisfactory, the Design Consultant or Owner may direct the Contractor to take any and all actions necessary to ensure completion within the required Milestone and Completion dates, without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.

3.10 DOCUMENTS AND SAMPLES AT THE SITE

- 3.10.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.

3.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 3.11.1 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data, Manuals and Samples required by the Contract Documents.
- 3.11.2 Do not order materials until receipt of written approval. Furnish materials equal in every respect to approved samples.
- 3.11.3 By approving and submitting Shop Drawings, Product Data, Manuals and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Shop Drawings, which may be issued by the Design Consultant.
- 3.11.4 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Design Consultant's review of Shop Drawings, Product Data, Samples or Manuals under unless the Contractor has specifically informed the Design Consultant in writing of such deviation at the time of

submission and the Design Consultant has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, Samples, or Manuals by the Design Consultant's review thereof.

3.11.5 The Contractor shall make corrections required by the Design Consultant and shall resubmit the required number of corrected copies of Shop Drawings or new Product Data or Samples. The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Design Consultant on previous submittals. Resubmittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time, and any costs associated with the processing of these resubmittals shall be paid by the Contractor.

3.11.6 No portion of the Work requiring submission of Shop Drawings, Product Data, Samples or Manuals shall be commenced until the submittal has been approved by the Design Consultant. All such portions of the Work shall be in accordance with approved submittals.

3.12 EQUAL PRODUCTS AND SUBSTITUTIONS

3.12.1 All materials, supplies and articles furnished under this Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. The Contractor, in such cases, may with Design Consultant and Owner approval, use any brand, make, manufacturer, article, device, product, material, fixture, form or type of construction which in the judgment of the Design Consultant is equal to that specified. An item may be considered equal to the item so named or described if, in the opinion of the Owner and Design Consultant (1) it is at least equal in quality, durability, appearance, strength, and design; (2) it will perform at least equally the specific function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the specifications. Approval by the Owner and Design Consultant will be granted based upon considerations of quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the Project.

3.12.2 Contractor must provide evidence that proposed substitution does not require revisions to the Contract Documents, that is consistent with Contract Documents, and will produce the indicated results, and is comparable with other portions of the Work. Contractor must provide a detailed comparison of significant qualities or proposed substitution with those of the Work specified, including but not limited to the following significant qualities: performance, weight, size, durability, visual effect, sustainable design features, warranties, and any specific features and requirements indicated in Contract Documents. An annotated copy of applicable Specification section and point-by-point comparison between specified product and the proposed substitution describing each point of compliance, non-compliance, and variance between the specified and proposed product shall be provided.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, easements, right-of- way agreements and the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the Owner, with any materials, equipment or trailers nor shall he block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or properties, storage areas, areas of other facilities that are adjacent to the worksite. If the Contractor fails or refuses to move said material, equipment or trailers within 24 hours of notification by the Owner, to so do, the Owner shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the Owner deems are in violation of this paragraph.

3.14 CUTTING AND PATCHING OF WORK

3.14.1 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation.

- 3.14.2 Existing structures and facilities including but not limited to building, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to satisfaction of the Design Consultant and the Owner of such structures and facilities and authorities having jurisdiction.
- 3.15 CLEANING UP
- 3.15.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. If the Contractor fails to clean up during or at the completion of the Work, the Owner may do so and the cost thereof shall be charged to the Contractor.
- 3.16 INDEMNIFICATION
- 3.16.1 To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, and hold harmless the Owner and the Design Consultant and their agents, representatives, and employees from and against all claims, actions, judgments, costs, liabilities, penalties, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or caused by any negligent act, error, omission or breach of this Agreement by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The above obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person, described in this Paragraph 3.16. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N.C. Gen. Stat. § 6-21.2. The parties also specifically acknowledge that the Owner is a public body and it is the intent of the parties that the Owner not incur any expenses when the Contractor is solely responsible for the claims. Contractor's indemnity obligations to Owner in the Contract Documents shall survive the expiration or termination of the Contract Documents.
- 3.16.2 In any and all claims against the Owner or the Design Consultant or any of their agents, representatives, or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 3.16 shall not be limited in any way by Contractor's insurance coverage required herein.
- 3.16.3 No provision of this Paragraph 3.16 shall give rise to any duties on the part of the Design Consultant or the Owner, or any of their agents, representatives, or employees.
- 3.18 CONDITIONS AFFECTING THE WORK
- 3.18.1 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions, which can affect the Work or the cost thereof. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of his officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.
- 3.19 MISCELLANEOUS.
- 3.19.1 The Contractor shall provide documentation acceptable to the Owner showing the amount of MBE participation (including a complete list of all subcontractors and their final subcontract amounts) and sales tax paid by the Contractor and its subcontractors for materials purchased for Projects completed under this contract. The Contractor agrees to comply with the all of the Owner's policies at all times that the Contractor, its subcontractors and employees are on the Owner's property. The Contractor acknowledges that the Owner's policies can be accessed and viewed at the Owner's website (www.bcswan.net) . The Contractor shall comply with the Owner's site or school building access procedures when working on any existing school campus.
- 3.20 APPLICABLE LAWS.
- 3.20.1 This Contract and the relationship of the parties shall be governed by the laws of the state of North Carolina.
- 3.20.2 Contractor shall comply with all applicable laws and regulations in providing services under this Contract. Contractor shall not employ any individuals to provide services to the Owner who are not authorized by federal law to work in the United States. The Contractor represents that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North

Carolina General Statutes) requiring use of the E-Verify system. The Contractor further warrants that it will use the E-Verify system to verify employment eligibility of all its employees throughout the term of this Contract, and that it will remain in compliance with all I-9 requirements throughout the term of this Contract. The Contractor shall also ensure that any subcontractors use the E-Verify system at all times while providing subcontracted services in connection with this Contract. Contractor is responsible for providing affordable health care coverage to all of its full-time employees providing services to the school system. The definitions of “affordable coverage” and “full-time employee” are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.

- 3.20.3 The Contractor also acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. The Contractor shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors (“contractual personnel”) who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office, provided that such office is not located at a school site; (2) non-school sites; (3) schools closed for renovation prior to substantial completion; or (4) new school construction sites prior to substantial completion. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry (“the Registries”). For the Contractor’s convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. The Contractor shall provide certification on the Sexual Offender Registry Check Certification Form (attached as Appendix C) that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. With each pay application, the Contractor shall provide an updated list of all Project subcontractors, identifying the date the subcontractor is anticipated to first be on the site, and the status of receipt of the Completed Sexual Offender Registry Check Certification Form from each subcontractor. The Contractor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, the Contractor agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. The Contractor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. The Contractor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. The Contractor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the Owner upon request. The Contractor specifically acknowledges that the Owner retains the right to audit these records to ensure compliance with this section at any time in the Owner’s sole discretion. Failure to comply with the terms of this provision shall be deemed a material breach of the Agreement. In addition, the Owner may conduct additional criminal records checks at the Owner’s expense. If the Owner exercises this right to conduct additional criminal records checks, the Contractor agrees to provide within seven

(7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the Owner for all contractual personnel who may deliver goods or perform services under this Agreement. The Contractor further agrees that it has an ongoing obligation to provide the Owner with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. The Owner reserves the right to prohibit any contractual personnel of the Contractor from delivering goods or providing services under this Agreement if the Owner determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

- 3.20.4 Anti-Nepotism. Contractor warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Agreement are immediate family members of any member of the Board of Education or of any principal or central office staff administrator employed by the Board. For purposes of this provision, “immediate family” means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Contractor become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Agreement, Contractor shall immediately disclose the family relationship in writing to the Superintendent of the Schools. Unless formally waived by the

Board, the existence of a family relationship covered by this Agreement is grounds for immediate termination by Owner without further financial liability to Contractor.

- 3.20.5 Restricted Companies Lists. Contractor represents that as of the date of this Contract, Contractor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Contractor also represents that as of the date of this Contract, Contractor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

3.21 COMPLIANCE WITH BOARD POLICIES AND PROCEDURES

The Contractor acknowledges that Board policies are available for review at the Owner's website and agrees to comply with the policies. The Contractor also agrees to comply with the following provisions:

- 3.21.1 The Contractor, its Subcontractors and employees shall not possess or carry, whether openly or concealed, any gun, rifle, pistol, or explosive on any property owned by the Owner. This includes firearms locked in containers, vehicles or firearm racks within vehicles. The Contractor, its Subcontractors and employees shall not cause, encourage or aid a minor, who is less than 18 years old to possess or carry, whether openly or concealed, any weapons on any property owned by the Owner.
- 3.21.2 The Contractor, its Subcontractors and employees, are prohibited from profane, lewd, obscene or offensive conduct or language, including engaging in sexual harassment.
- 3.21.3 The Contractor and its Subcontractors shall not manufacture, transmit, conspire to transmit, possess, use or be under the influence of any alcoholic or other intoxicating beverage, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or anabolic steroids, or possess, use, transmit or conspire to transmit drug paraphernalia on any property owned by the Owner.
- 3.21.4 The Contractor and its Subcontractors may not at any time use or display tobacco or nicotine-containing products, including but not limited to electronic cigarettes (e-cigarettes), on school premises, both indoor and outdoor. The prohibition of the display of tobacco or nicotine products shall not extend to a display that has a legitimate instructional or pedagogical purpose. For purposes of this Contract, "tobacco product" is defined to include cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snuff, and any other items containing or reasonably resembling tobacco, tobacco products, or any facsimile thereof. "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.
- 3.21.5 The Contractor, its Subcontractors and employees shall not solicit from or sell to students or staff within the Owner's facilities or campuses, and shall not give gifts of any value to school system employees.
- 3.21.6 Operators of all commercial vehicles on any property owned by the Owner shall be subject to post-accident, random, reasonable suspicion and follow-up testing for drugs and alcohol.
- 3.21.7 The Contractor, its Subcontractors and employees are prohibited from using access to the site pursuant to this Agreement as a means to date, court, or enter into a romantic or sexual relationship with any student enrolled in the School System. The Contractor agrees to indemnify the Owner for claims against the Owner resulting from relationships which have occurred or may occur between a student and an employee of the Contractor or Subcontractor.

3.22 MINORITY AND HISTORICALLY UNDERUTILIZED BUSINESS

If the Contract Sum is \$300,000 or greater, the Contractor shall make a good faith effort to utilize minority and Historically Underutilized Businesses (HUBs) as defined and required in N.C. Gen. Stat. 143-128.2 to - 128.4. The Contractor shall identify in the list of its Subcontractors, those Subcontractors that are (HUBs) and indicate the portion of the Work that each Subcontractor will perform. If during the duration of the Project, the Contractor effects a substitution for any Subcontractor, or if additional subcontract opportunities become available, the Contractor shall make a good faith effort to utilize HUBs. The Contractor shall submit with each Application for Payment a list of those HUBs whose work is included in the application and the amount due

each. Failure or refusal of the Contractor to submit the required information on HUBs shall be grounds to withhold payment.

END OF ARTICLE 3

ARTICLE 4

SUBCONTRACTORS

4.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

4.1.1 The Contractor, in compliance with the requirements of the Contract Documents, shall furnish in writing to the Owner the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity.

4.1.2. The Contractor shall identify in the list of names of the Subcontractors proposed, those Subcontractors that are Minority Business Enterprises and the date each is planned to begin work on the project. If during the duration of the project, the Contractor effects a substitution for any Subcontractor, or if additional subcontract opportunities become available, the Contractor shall make a good faith effort to utilize Minority Business Enterprises. At the completion of the project, the Contractor shall provide documentation acceptable to the Owner showing the amount of MBE participation (including a complete list of all subcontractors and their final subcontract amounts).

END OF ARTICLE 4

ARTICLE 5

WORK BY OWNER OR BY SEPARATE CONTRACTORS

5.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

5.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

5.2 MUTUAL RESPONSIBILITY

5.2.1 Should the Contractor cause damage to the work or property of the Owner or of any separate contractor on the Project, or to other work on the Site, or delay or interfere with the Owner's work on ongoing operations or facilities or adjacent facilities or said separate contractor's work, the Contractor shall be liable for the same; and, in the case of another contractor, the Contractor shall attempt to settle said claim with such other contractor prior to such other contractor's institution of litigation or other proceedings against the Contractor.

5.2.2 Should a separate contractor cause damage to the Work or to the property of the Contractor or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said separate contractor any claims it may have as a result of such damage, delay or interference (with an information copy to the Owner) and shall attempt to settle its claim against said separate contractor prior to the institution of litigation or other proceedings against said separate contractor.

5.2.3. In no event shall the Contractor seek to recover from the Owner or the Design Consultant, and the Contractor hereby waives any claims against the Owner and Design Consultant relating to any costs, expenses (including,

but not limited to, attorney's fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any separate contractor.

5.3 COORDINATION OF THE WORK

- 5.3.1 By entering into this contract, Contractor acknowledges that there may be other contractors on the site whose work will be coordinated with that of his own. Contractor expressly warrants and guarantees that he will cooperate with other contractors and will do nothing to delay, hinder or interfere with the work of other separate contractors, the Owner or Design Consultant. Contractor also expressly agrees that, in the event his work is hindered, delayed, interfered with or otherwise affected by a separate contractor, his sole remedy will be a direct action against the separate contractor as described in this Article 5. Contractor will have no remedy, and hereby expressly waives any remedy, against the Owner and/or the Design Consultant on account of delay, hindrance, interference or other event caused by a separate contractor.

END OF ARTICLE 5

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 GOVERNING LAW

- 6.1.1 This contract shall be governed by the law of the State of North Carolina. The Contractor and Owner agree that county where the Project is located shall be the proper venue for any litigation arising out of this Agreement.
- 6.1.2 Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly or fully inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

6.2 CLAIMS AND DAMAGES

- 6.2.1 Should the Contractor or any of its Subcontractors suffer injury or damage to person or property because of any act or omission of the Owner or Design Consultant, or of any of their employees, agents or others for whose acts either is legally liable, the claim on behalf of the Contractor or its subcontractors shall be made in writing to the Owner within 10 days after the first observance of such injury or damage; otherwise, the Contractor shall have waived any and all rights he may have against the Owner or the Design Consultant, or their employees, representatives and agents. The Contractor shall indemnify, defend and hold the Owner harmless from any claim by a Subcontractor that is waived because it is not filed in strict conformance with this paragraph or any other provision of this Agreement regarding claims.

6.4 RIGHTS AND REMEDIES

- 6.4.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 6.4.2 Except as may be specifically agreed in writing, the failure of the Owner or the Design Consultant to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provisions or right(s) or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.

- 6.4.3 The Contractor agrees that he can be adequately compensated by money damages for any breach of this Contract which may be committed by the Owner and hereby agrees that no default, act, or omission of the Owner or the Design Consultant, except for failure to make progress payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which he might otherwise be or become entitled, save only his right to money damages.
- 6.4.4 Contractor and Owner acknowledge that the Contract Documents shall not be construed against Owner due to the fact that they may have been drafted by Owner. For purposes of construing the Contract Documents, both Contractor and Owner shall be considered to have jointly drafted the Contract Documents.
- 6.4.5 In the event that Owner incurs attorney's fees or litigation expenses in connection with enforcing or protecting its rights under the Contract Documents or defending any claim or lawsuit brought against it arising out of the Work or the Contract Documents, Contractor shall reimburse Owner for such reasonable attorney's fees and expenses.
- 6.5 TESTS
- 6.5.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the Owner timely notice of its readiness so the Design Consultant and the Owner may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals, except the Contractor shall be responsible for the cost of any reinspection, including the rescheduling of an inspection requested by the Contractor prior to proper the completion of the work to be inspection.
- 6.5.2 Unless otherwise stipulated in other Contract Documents, the Contractor shall pay for all utilities required for testing of installed equipment of all of his work and work of each Subcontractor. Boiler fuel other than gas shall be provided by Subcontractor furnishing boilers. Labor and supervision required for making such tests shall be provided at no additional cost to the Owner.
- 6.5.3 If the Design Consultant or the Owner determines that any Work requires special inspection, testing, or approval which Subparagraph 6.5.1 does not include, the Owner will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 6.5.1. If such special inspection or testing reveals a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Design Consultant's and Owner's additional construction management expenses made necessary by such failure.
- 6.6 UNENFORCEABILITY OF ANY PROVISION
- 6.6.1 If any provision of this Contract is held as a matter of law to be unenforceable or unconscionable, the remainder of the Contract shall be enforceable without such provision.
- 6.7 ATTORNEYS' FEES AND OTHER EXPENSES
- 6.7.1 The Contractor hereby agrees that he will not submit, assert, litigate or otherwise pursue any frivolous or unsubstantiated claims or claims he has specifically waived under the terms of the Contract Documents. In the event that the Contractor's or its Subcontractor's claims, or any separate item of a claim, is without substantial justification, the Contractor shall reimburse the Owner or Design Consultant for all costs and expenses associated with defending such claim or separate item, including but not limited to, attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, or services and any other consultant costs.

- 6.7.2 If the Contractor breaches any obligation under the Contract Documents, the Contractor shall reimburse the Owner and Design Consultant for all costs and expenses incurred by the Owner relating to such breach, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.
- 6.7.3 If the Owner or Design Consultant prevails in a claim brought against the Contractor, including but not limited to, claims for fraud or misrepresentation, overpayment, defective work, delay damages, and recovery of termination expenses, the Contractor shall reimburse the Owner and Design Consultant for all costs and expenses incurred by them relating to such claim, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.

END OF ARTICLE 6

ARTICLE 7

TIME

7.1 DEFINITIONS

- 7.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial and Final Completion of the Work, as defined in Subparagraph 7.1.3 and 7.1.4, including any allowances and alternates. The Contractor shall complete his Work within Contract Time, unless the Contract Time is modified.
- 7.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein. The Contractor shall not commence Work or store materials or equipment on site until written Notice to Proceed is issued or until the Contractor otherwise receives the Owner's written consent.

7.2 DELAYS AND EXTENSIONS OF TIME

- 7.2.1 The time during which the Contractor or any of its subcontractors delayed in the performance of the Work by the acts or omissions of the Owner, Design Consultant or their employees or agents, acts of God, unusually severe and abnormal climatic conditions, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes, or other conditions beyond the Contractor's or its subcontractors' control and which the Contractor or its subcontractors could not reasonably have foreseen and provided against, shall be added to the time for completion of the Work (i.e., the Contract Time) stated in the Owner-Contractor Agreement; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in strict compliance with the requirements of this Article and other provisions of the Contract Documents.
- 7.2.1.1 For excessive inclement weather, the Contract Time will not be extended due to reasonably anticipated inclement weather or for delays in the aftermath of inclement weather, reasonably anticipated or excessive. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be available for construction out-of-doors; for the purposes of this Contract, the Contractor agrees that the number of calendar days per month based on a five-year average shall be considered reasonably anticipated inclement weather and planned for in the construction schedule per the Contract. Unless the Contractor can substantiate to the satisfaction of the Owner that there was greater than the reasonably anticipated inclement weather considering the time from the notice-to-proceed until the building is enclosed using data from the national weather service station at ILM Airport or a weather station acceptable to the Owner and that such alleged greater than reasonably anticipated inclement weather actually delayed the Work or

portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time.

Also the Contractor agrees that the calculation of the number of excessive inclement weather days shall be the number of days in excess of the five-year average for each month, in which precipitation exceeded one tenth (.10) inch, or in which the highest temperature was 32 degrees F or less as recorded at the approved weather station. Rain days from hurricanes and tropical storms not causing damage in in the county where the Project is located shall be deemed inclement weather days.

If the total accumulated number of calendar days lost to excessive inclement weather, from the notice-to-proceed until the building is enclosed, exceeds the total accumulated number to be reasonably anticipated for the same period from the table above, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost. No extension of time will be made for days due to excessive inclement weather occurring after the building is enclosed or for contracts that do not include work out of doors that is not on the critical path. For the purpose of this Contract, the term "enclosed" is defined to mean when the building is sufficiently roofed and sealed, either temporarily or permanently, to permit the structure to be heated and the plastering and dry-wall trades to work. The Design Consultant shall determine when the structure is "enclosed". Upon the request of either party, the Design Consultant shall issue a letter certifying to the Owner, with a copy to the Contractor, stating the date the building became enclosed. No change in Contract Sum will be authorized because of adjustment of Contract time due to excessive inclement weather.

- 7.2.2 Should a time extension be granted for Substantial Completion the date for Final Completion shall be appropriately adjusted unless specifically stated otherwise.
- 7.2.3 Neither the Owner nor the Design Consultant shall be obligated or liable to the Contractor or its Subcontractors for, and the Contractor hereby expressly waives any claims against the Owner and the Design Consultant on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, its Subcontractors, or Sub-subcontractors or any other person may incur as a result of any delays, interferences, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by Contractor, and it is understood and agreed that the Contractor's sole and exclusive remedy in any such events shall be an extension of the Contract Time in accordance with the Contract Documents, unless the delays, interferences, changes in sequence or the like arise solely from or out of any act or omission of the Owner or the Design Consultant, or their agents, employees, consultants or independent. The Contractor shall not be entitled to any damages or extensions of time pursuant to this section for concurrent delays for which the Contractor is at least partially responsible.
- 7.2.4 Subject to other provisions of the Contract Documents, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, his Subcontractors or suppliers, unless caused solely by the Owner or Design Consultant
 - 7.2.4.1 The Contractor and its subcontractors shall not be entitled to and hereby expressly waives any extension of time resulting from any condition or cause unless said claim for extensions of time is made in writing to the Owner within ten (10) days of the first instance of delay.

END OF ARTICLE 7

ARTICLE 8

PAYMENTS AND COMPLETION

8.1 SCHEDULE OF VALUES

- 8.1.1 Before the first Application for Payment, the Contractor shall submit to the Owner a schedule of values allocated to the various portions of the Work.

8.2 APPLICATIONS FOR PAYMENT

- 8.2.1 Prior to the date for each progress payment established in the Owner-Contractor Agreement, the Contractor, shall submit to the Owner an itemized Application for Payment including a completed Contractor's Sales Tax Report (attached hereto as Appendix A) for all items provided by the Contractor or any Subcontractors included in the application. The Contractor shall also certify that he has paid all due and payable amounts for which previous certificates for payment were issued and payments received from the Owner and that the work for which payment is requested has been completed.
- 8.2.2 The Owner will retain funds from each progress payment to the maximum extent allowed by N.C. General Statute 143-134.1 until the Work is finally completed and accepted, whether or not the Owner has occupied any or all of the Project before such time. If a reduction in retainage has been made or the Owner stops withholding retainage for any reason, the Owner may increase or commence the retainage as authorized by N.C. Gen. Stat. 143-134.1.
- 8.2.3 Owner will be under no obligation to make payment to the Contractor on account of materials or equipment not incorporated in the Work. Materials once paid for by the Owner become the property of the Owner and may not be removed from the work site without the Owner's written permission.
- 8.2.4 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 8 as "liens".
- 8.2.5 All invoices shall show the following:
- .1 Total amount of contract
 - .2 Amount of change orders
 - .3 Total value of completed work
 - .4 Amount retained by Owner
 - .5 Amount due Contractor

8.3 CERTIFICATES FOR PAYMENT

- 8.3.1 By signing a Certificate for Payment, the Design Consultant shall not thereby be deemed to represent that it has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that it has reviewed the construction means, methods, techniques, sequences, or procedures, or that it has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

8.4 PROGRESS PAYMENTS

- 8.4.1 The Contractor shall promptly pay each Subcontractor (including suppliers, laborers, and material-men) performing labor or furnishing material for the Work, upon receipt of payment from the Owner.
- 8.4.2 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

8.4.3 The Contractor shall not submit more than one pay application during any 30-day period.

8.5 PAYMENTS WITHHELD

8.5.1 The Design Consultant may decline to certify payment and may withhold their Certificate in whole or in part, to the extent the Design Consultant deems necessary to reasonably protect the Owner from loss associated with unsatisfactory job progress, defective construction, disputed work, claims or any other similar issue. The Design Consultant may also decline to certify payment if the Contractor fails to provide Subcontractor information regarding the use of HUBs and/or sexual registry checks. If the Design Consultant is unable to make representations to the Owner and to certify payment in the amount of the Application, it will notify the Contractor as provided herein. The Design Consultant may also decline to certify payment because of subsequently discovered evidence or subsequent observations that may nullify the whole or any part of any Certificate for Payment previously issued to such extent as may be necessary in its opinion to protect the Owner from loss.

8.6 FAILURE OF PAYMENT

8.6.1 Payments due and unpaid under the Contract Documents shall not bear interest.

8.7 SUBSTANTIAL COMPLETION

8.7.1 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Design Consultant and Owner when the Work or a designated portion thereof is sufficiently complete, in accordance with the Contract Documents, so Owner can fully occupy and utilize the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents. Only incidental corrective work and any final cleaning beyond that needed for Owner's full use may remain for Final Completion. The Contractor shall be solely responsible for the cost to repair or replace any work damaged or destroyed prior to the Date of Substantial Completion.

8.7.2 When the Design Consultant and the Owner on the basis of an inspection jointly determine that the Work or designated portion thereof is substantially complete, they will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Contractor shall provide operation & maintenance manuals, and operation training to the Owner as required by the Contract Documents prior to Substantial Completion. The Owner's occupancy of incomplete work shall not alter the Contractor's responsibilities pursuant to this section.

8.7.3 The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor and its Subcontractors except those previously made in writing and identified by the Contractor as unsettled at the time the Contractor submits the Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance. The Contractor shall indemnify and hold the Owner harmless against any claims by its Subcontractors that are waived because they were not made in writing and identified by the Contractor as unsettled when the Contractor submitted the Application for Payment for Substantial Completion.

8.7.4 The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the project by the Owner, and the Contractor is not relieved of any responsibility for the project except as specifically stated in the Certificate of Substantial Completion.

8.7.5 There will be two inspections by the Design Consultant at Substantial Completion:

- .1 To generate a list of items to be completed or corrected before Owner takes possession of the Work.
- .2 To check that the list of items has been completed before issuing Final Payment.

Any additional inspections by the Design Consultant requested by Contractor to complete the Punch List shall result in money being withheld from the Final Payment to cover the cost of these additional inspections.

8.8 FINAL COMPLETION AND FINAL PAYMENT

8.8.1 The date of Final Completion of the work is the date certified by the Design Consultant and the Owner when the Work is totally complete, to include punch list work, in accordance with the Contract Documents and the Owner may fully occupy and utilize the work for the use for which it is intended. The issuance of a temporary or final certificate of occupancy shall not, in itself, constitute Final Completion.

8.8.1.1 When the Design Consultant and the Owner find the Work acceptable under the Contract Documents and the Contract fully performed, they will approve a final Certificate of Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable, except for an amount mutually agreed upon for any work remaining incomplete or uncorrected for which the Owner is entitled a credit under the Contract Documents. If the Design Consultant and the Owner find the Work to be incomplete or unacceptable, the costs of reinspections shall be paid by the Contractor.

8.8.2 Final Payment shall not become due until the Contractor provides to the Design Consultant and Owner: three (3) copies of any of the following required:

- .1 Final Change Order
- .2 Final Application for Payment
- .3 Consent of Surety to Final Payment - AIA G707(if applicable)
- .4 Contractor's Affidavit of Release of Liens - AIA G706A
- .5 Contractor's Affidavit of Payment of Debts and Claims - AIA G706;
- .6 Certificate of Occupancy (if applicable)
- .7 Contractor's Warranty, notarized
- .8 Warranty Summary Sheet with Original Warranties (if not included in O & M Manuals)
- .9 Certification Letter from Contractor that no Asbestos-Containing Materials were used on the project
- .10 Final List of Subcontractors (name, address, phone, email, fax nos.)
- .11 Record Drawings (As-Built) - 1 set
- .12 Operation and Maintenance Manuals - 3 sets
- .13 Other project close-out submittals, as required by the Contract Documents.

8.8.3 Neither the final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the Owner:

- .1 an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied;
- .2 if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner; and
- .3 As-built drawings, and other project closeout submittals, as required by the Owner.

- 8.8.4 The making of final payment shall constitute a waiver of all claims by the Owner against the Contractor except those arising from:
- .1 unsettled liens, and claims against the Owner or the Design Consultant, or their employees, agents, or representatives,
 - .2 faulty, defective or non-conforming Work discovered or appearing after Substantial or Final Completion,
 - .3 failure of the Work to comply with the requirements of the Contract Documents,
 - .4 terms of any warranties contained in or required by the Contract Documents,
 - .5 damages incurred by the Owner resulting from lawsuits brought against the Owner, the Design Consultant, or their agents, employees or representatives because of failures or actions on the part of the Contractor, his Subcontractors, Sub-subcontractors, or any of their employees, agents or representatives, or
 - .6 fraud or bad faith committed by the Contractor or any subcontractor or supplier during performance of work but discovered by Owner after Final Payment.
- 8.8.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment
- 8.9 LIQUIDATED DAMAGES
- 8.9.1 Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion (or such later date as may result from extension of time granted by Owner), he shall pay the Owner, as Substantial Completion liquidated damages the daily amount stated in the Supplementary Conditions for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete work within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.
- 8.9.2 For each consecutive calendar day that the Work remains incomplete after the date established for Final Completion, the Contractor shall pay or Owner will retain the daily amount stated in the Supplementary Conditions as Final Completion Liquidated Damages from the compensation otherwise to be paid to the Contractor. This amount is the minimum measure of damages the Owner will sustain due to the delay in the completion of all remedial work, the delay in the correction of the deficient work, the disruption to the school and the learning environment, the cost of contract management time and resources, administration time, and the inability to use the facilities fully. This amount is in addition to the liquidated damages prescribed above for Substantial Completion.
- 8.9.3 The amount of liquidated damages set forth in the corresponding Supplementary Conditions shall be assessed cumulatively. The items of cost included in the assessment of liquidated damages are as defined above. This provision for liquidated damages does not bar Owner's right to enforce other rights and remedies against Contractor, including but not limited to, specific performance or injunctive relief.
- 8.10 OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK
- 8.10.1 Should the Project, or any portion thereof, be incomplete for Substantial or Final Completion at the scheduled date or dates, the Owner shall have the right to occupy any portion of the Project. In such an event, the Contractor shall not be entitled to any extra compensation on account of said occupancy by the Owner or by the Owner's normal full use of the Project, nor shall the Contractor interfere in any way with said normal full use of the Project. Further, in such an event, the Contractor shall not be entitled to any extra compensation on account of the Owner's occupancy and use of the Project, nor shall the Contractor be relieved of any responsibilities of the Contract including the required times of completion and property insurance coverage,

unless specifically altered by the Owner in writing. Such occupancy by the Owner shall not, in itself, constitute Substantial or Final Completion.

END OF ARTICLE 8

ARTICLE 9

INSURANCE AND BONDS

9.1.1 CONTRACTOR'S INSURANCE AND BONDS

The Contractor shall purchase and maintain in companies properly licensed by the Insurance Department of the State of North Carolina and acceptable to the Owner such insurance as will protect him, the Owner, and the Owner's agents, representatives, and employees from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall include:

9.1.1.1 Worker's Compensation including Occupational Disease and Employer's Liability Insurance

- .1 Statutory - Amount and coverage as required by State of North Carolina Worker's Compensation laws
- .2 Employer's Liability
 \$1,000,000 Each Accident
 \$1,000,000 Policy Limit
 \$1,000,000 Each Employee

9.1.1.2 Commercial General Liability (Occurrence Form) - The Contractor shall provide during the life of this Contract such Commercial General Liability (Occurrence Form) Insurance as shall protect Contractor and any Subcontractor performing work under this Contract from claims for damages for Bodily Injury including accidental death, as well as from claims for Property Damage which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by either of them. This insurance shall be on the Standard Insurance Services Office, Inc. (ISO) Commercial Liability Occurrence Form. The Contractor shall procure insurance coverage for direct operations, sublet work, elevators, **contractual liability** and completed operations with limits not less than those stated below:

A Combined Single Limit for Bodily Injury, Property Damage and Personal Injury of:

\$2,000,000	General Aggregate (except Products - Completed Operations) Limit
\$2,000,000	Products - Completed Operations Aggregate Limit
\$1,000,000	Personal and Advertising Injury Limit
\$1,000,000	Each Occurrence Limit

9.1.1.3 Property Damages, including Broad Form Property Damage and Explosion, Collapse, Underground property damage coverages, and blasting, where necessary.

9.1.1.4 Completed Operations Liability: Continuous coverage in force for one year after completion of Work.

9.1.1.5 Commercial Automobile Insurance, including coverage for owned, non-owned and hired vehicles - with limits not less than a Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.

9.1.1.6 Umbrella Liability Insurance: Policy to 'pay on behalf of the Insured' with Limits of Liability: \$1,000,000.

9.2 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not

be canceled until at least thirty (30) days prior written notice has been given to the Owner. Failure to provide such notice shall not limit the liability of the Insurer, its agents or representatives.

- 9.3 All insurance policies required in this Article, except Worker's Compensation and Commercial Automobile, shall name the Owner as additional named insured for the insurance.
- 9.4 Contractor shall not commence work under this Contract until he has obtained all the insurance and bonds required under Article 9 of this Contract and until such insurance and bonds have been approved by the Owner, nor shall Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Approval of the insurance by Owner shall not relieve or decrease the liability of Contractor hereunder.
- 9.5 The Commercial General Liability and Workers Compensation Policies provided by Contractor shall have endorsements waiving subrogation against Owner.
- 9.6 **PROPERTY INSURANCE.** Contractor shall provide the following property insurance through at least Substantial Completion of the Project:
- 9.6.1 Unless stated otherwise in the Supplemental Conditions, Contractor shall purchase and at all times maintain such insurance as will protect Contractor, Owner, Subcontractors and Sub-subcontractors from loss or damage to Work or property in the course of construction, including all machinery, materials and supplies on the premises or in transit thereto and intended to become a part of the finished work until Final Completion. This insurance shall be in the form of 'Builder's Risk Covered Cause of Loss Form' to include, but not limited to, theft, collapse, earth movement and flood. Any deductible provision in such insurance shall not exceed \$5,000.00. Notwithstanding any such deductible provision, Contractor shall remain solely liable for the full amount of any item covered by such insurance.
- 9.6.2 If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by Owner and Contractor, and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
- 9.7 Owner shall be under no obligation to review any Certificates of Insurance provided by Contractor, or to check or verify Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. Contractor is fully liable for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.
- 9.8 All insurance companies providing the above insurance shall be licensed by the Insurance Department of the State of North Carolina and maintain a rating by AM Best or a similar rating company with a minimum of an "A-" rating.
- 9.9 **PERFORMANCE AND PAYMENT BONDS**
- "If required by law, or in the Supplemental Conditions or the Contract Documents, Contractor must provide performance and payment bonds each in the amount of the Contract Sum. Such bonds shall be on forms acceptable to Owner and issued by surety companies licensed to do business in North Carolina and having a rating of at least AM Best "A" rating. Contractor may, at its option, make deposit in the form of certified check with Owner in lieu of the performance and payment bonds in an amount equal to the Contract Sum for each such bond, for a total of 200% of the Contract Sum."
- 9.10 **Risk of Loss:** Contractor shall bear the risk of loss in the event that any of the Work is stolen, lost, damaged or destroyed prior to the Final Completion of the Work, the issuance of a final Certificate of Occupancy, and acceptance of the Work by the Owner. If any of the Work is stolen, lost, damaged, or destroyed prior to Final Completion, the issuance of a final Certificate of Occupancy, and acceptance of the Work by the Owner, due to any reason except the intentional or reckless acts of Owner or Owner's authorized agents, Contractor shall bear the full cost of repairing or replacing all such Work, including all equipment and

materials. Contractor should purchase his own insurance to cover this risk if required by the Contract Documents or otherwise if the Contractor so chooses.

END OF ARTICLE 9

ARTICLE 10

CHANGES IN THE WORK

10.1 CHANGE ORDERS/CONSTRUCTION CHANGE DIRECTIVE

10.1.1 The Owner may, at any time, by written order designated or indicated to be a Change Order, make any change or modification in the Work or add to the Work within the general scope of the Contract.

10.1.2 A Change Order is a document executed pursuant to this Article when the Owner and Contractor agree to Changes in the Work, the Contract Sum, the Contract Time and any other change in the Contract by written agreement signed by Owner, Contractor and Design Consultant designated or indicated to be a Change Order. If the Contractor, subsequent to the issuance of a Construction Change Directive, agrees to its terms including any applicable adjustment to the Contract Sum and Contract Time, Contractor shall sign it and it shall become a Change Order.

10.1.3 A Construction Change Directive is a written order prepared by the Design Consultant and signed by the Owner and Design Consultant, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both.

10.2 OWNER DIRECTED CHANGES REQUIRING AN INCREASE IN CONTRACT SUM.

10.2.1 If the Change in the Work will result in an increase in the Contract Sum, the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such Change in the Work).

If the Owner elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum Proposal which shall be submitted by the Contractor to the Owner within seven (7) days of the Contractor's receipt of a request therefore (but the Owner's request for a lump sum Proposal shall not be deemed an election by the Owner to have the Change in the Work performed on a lump sum basis). The Contractor's Proposal shall be itemized and segregated by labor and materials for the various components of the Change in the Work (no aggregate labor or material total will be acceptable) and shall be accompanied by signed Proposals of any Subcontractors who will perform any portion of the Change in the Work and of any persons who will furnish materials or equipment for incorporation therein. The Proposal shall also include the Contractor's estimate of the time required to perform said changes. The Contractor shall provide any documentation that may be requested by the Owner or Design Consultant to support the change proposal, including but not limited to payroll records, insurance rates, material quotes, and rental quotes. The Change Proposal Forms attached as Appendix B shall be used to submit change proposals on the Project.

The portion of the Proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of job site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime time, if overtime is anticipated, Social Security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (said overhead and profit to include all supervision except foremen). Payroll costs are limited to 39% of the net pay of the worker.

The portion of the Proposal relating to materials may include the reasonably anticipated direct costs to the

Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales and use taxes and up to fifteen percent (15%) of said direct material costs as overhead and profit for the Contractor or any such Subcontractor (said overhead and profit to include all small tools), and may further include the Contractor's and any of its Subcontractor's reasonably anticipated rental costs in connection with the Change in the Work (either actual or discounted local published rates), plus up to eight percent (8%) thereof as overhead and profit for the Contractor or any such Subcontractors, as applicable. The Contractor shall provide an itemized breakdown of all transportation and shipping costs, including receipts documenting the expenses. Notwithstanding the above, overhead and profit shall not be applied to any sales tax paid for any purpose or to any transportation or shipping costs incurred by the Contractor or any subcontractor. If any of the items included in the lump sum Proposal are covered by unit prices contained in the Contract Documents, the Owner may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum Proposal, in which event an appropriate deduction will be made in the lump sum amount prior to the application of any allowed overhead and profit percentages. No overhead and profit shall be applied to any unit prices.

The lump sum Proposal may include up to eight percent (8%) of the amount which the Contractor will pay to any of its Subcontractors for Changes in the Work as overhead and profit for the Contractor. The Contractor shall not be reimbursed for the costs of the Subcontractors' Payment and Performance Bonds, as such bonding is not required by the Owner.

- 10.2.2 In the event that (1) the parties are unable to agree as to the reasonable cost and time to perform the Change in the Work based upon the Contractor's Proposal and the Owner does not elect to have the Change in the Work performed on a time and material basis, (2) the Contractor fails to submit his Proposal within the designated period, or (3) the Work needs to begin immediately, the Owner may choose to make a determination of the reasonable cost and time to perform the Change in the Work, based upon its own estimates, the Contractor's submission or a combination thereof. A Construction Change Directive shall be issued in this case for the amounts of cost and time determined by the Owner and shall become final and binding upon the Contractor, subject to Contractor's right to dispute such action in accordance with Paragraph 10.9. Owner has the right to direct by Construction Change Directive a Change in the Work, which is the subject of such Change Order. Failure of the parties to reach agreement regarding the cost and time of the performing the Construction Change Directive, shall not relieve the Contractor from performing the Change in the Work promptly and expeditiously.
- 10.2.2.1 The Owner reserves the right to reject the Contractor's Proposal for a Change in the Work and to elect to perform said Work using a Separate Contractor. Under such circumstances, all provisions of Article 6 shall be in force.
- 10.2.3 If the Owner elects to have the Change in the Work performed on a time and material basis or on a time and material basis with a not to exceed amount, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-subcontractors, at actual cost to the entity performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the cost, use or rental of tools or plant), plus fifteen percent (15%) thereof as the total overhead and profit (except that said fifteen percent (15%) shall not be applied against any payroll costs, as set forth in Paragraph 10.2.1.). If the Owner and Contractor agree upon a not to exceed amount, it shall be clearly identified in the Change Order or change proposal form and shall be the maximum amount paid by the Owner for the identified work. The Contractor shall submit to the Owner daily time and material tickets, on a daily basis to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the Owner may require. The Owner may require authentication of all time and material tickets and invoices by persons designated by the Owner for such purpose. The failure of the Contractor to secure any required authentication shall, if the Owner elects to treat it as such, constitute a waiver by the Contractor of any Claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Owner shall not constitute an acknowledgment by the Owner that the items thereon were reasonably required for the Change in the Work.
- 10.2.3.1 The Contractor may only bill for all or a portion of work performed on a time and material basis if the work has been completed, accepted and properly documented to the Owner and Design Consultant's satisfaction.

- 10.2.4 No overhead and profit will be paid by the Owner on account of a Change in the Work except as specifically provided in Section 10.2. Overhead and profit, as allowed under Section 10.2, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of a Change in the Work and which are not otherwise specifically recoverable by them pursuant to Section 10.2.

10.3 CONTRACTOR NOTICE OF CHANGE

- 10.3.1 If the Contractor or any of its Subcontractors asserts that any event or occurrence has caused a change in or addition to the Work which change causes an increase or decrease in the Contractor's or its Subcontractors' cost or the time required for the performance of any part of the Work under the Contract, including Work not affected directly by the change, the Contractor shall, within ten (10) days of such event, give the Owner written notice as herein required. Said notice shall include the instructions or circumstances that are the basis of the claim and the Contractor's best estimate of the cost and time involved.
- 10.3.2 If the Contractor intends to assert a claim under this Article, he must, within ten (10) days after receipt of a written Change Directive under Subparagraph 10.2.1 above or the furnishing of a written notice under Subparagraph 10.3.1, submit to the Owner a written statement setting forth the specific nature and cost of such claim, unless this period is extended by the Owner. The statement of claim hereunder may be included in the notice under Subparagraph 10.3.1 above. The statement of claim shall include all direct, indirect and impact costs associated with the change, as well as the Contractor's estimate of the schedule impact of the change, if any. The Contractor and its subcontractors shall not be entitled to reimbursement for any claims that are not filed in strict conformance with this Article. The Contractor shall indemnify and hold the Owner harmless against any claims by Subcontractors that are waived because they are not filed in strict conformance with this Article.
- 10.3.3 If the parties are unable to agree to the reasonable cost and time to perform the Change, or are unable to agree as to whether a change occurred, the Owner shall make a unilateral determination as described in Article 10.2.2. The Contractor shall proceed pursuant to the provisions of that Article.

10.4 GENERAL PROVISIONS RELATED TO CHANGES

- 10.4.1 The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of Article 10, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed pursuant to this Article 10, unless the delay is caused solely by the Owner or its agent. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of his direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents. The phrase "Owner or its agent" as used in this Agreement, does not include the Prime Contractors or their Subcontractors.
- 10.4.2 No claim by the Contractor hereunder shall be allowed if asserted after final payment under this Contract. No claim relating to or flowing from a particular change shall be allowed after execution of the Change Order relating to that change or commencement of the change by the Contractor.

10.5 CHANGES REQUIRING A DECREASE IN CONTRACT SUM.

- 10.5.1 If the Change in the Work will result in a decrease in the Contract Sum, the Owner may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the Owner within ten (10) days of the Owner's request and, if acceptable to the Owner, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in

actual cost of the Work, as determined by the Owner in its reasonable judgment, plus fifteen percent (15%) thereof as overhead and profit.

10.6 DISPUTES REGARDING CHANGES.

10.6.1 If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the Contract Time as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the Owner in writing. The Owner shall, however, pay to the Contractor up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in an increase in the Contract Sum; and the Owner shall have the right to decrease the Contract Sum up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the Contract Sum.

10.7 MINOR CHANGES IN THE WORK

10.7.1 The Owner shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

10.7.2 The Contractor shall not perform any changes in the Work unless authorized in writing by the Design Consultant or Owner.

10.8 DIFFERING SITE CONDITIONS

10.8.1 Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the drawings or indicated in the specifications or differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract, he shall immediately give notice to the Owner of such conditions before they are disturbed. The Owner and the Design Consultant shall thereupon promptly investigate the conditions and if they find that they materially differ from those shown on the drawings or indicated in the specifications, they shall at once make such changes in the drawings and/or specifications as they may find necessary. Any increase or decrease of cost resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. However, neither the Owner nor the Design Consultant shall be liable or responsible for additional work, costs or changes to the work due to material differences between actual conditions and any geotechnical, soils and other reports, surveys and analyses made available for the Contractor's review.

10.9 CLAIMS AND DISPUTE RESOLUTION

10.9.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question from the Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the Contractor.

10.9.2 Time Limits on Claims. Claims by Contractor must be initiated within 10 days occurrence of the event giving rise to such Claim or within 10 days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later, but in no event subsequent to the Contractor's final payment application. Claims must be initiated by written notice to the Design Consultant (if there is one) and the other party.

10.9.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as otherwise provided in the Contract Documents, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments in accordance with the Contract Documents.

- 10.9.4 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property when the giving of such notice would increase the risk of injury or damage to persons or property.
- 10.9.5 Claims for Additional Time. If the Contractor wishes to make Claim for an extension of the dates set for Substantial or Final Completion, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Contractor bears the burden of proving it is entitled to an extension of time. Unless Contractor meets this burden, Liquidated Damages shall be assessed automatically.
- 10.9.6 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the relevant period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.
- 10.9.7 Resolution of Claims and Disputes. Claims, including those alleging an error or omission by the Design Consultant, shall be referred initially to the Design Consultant for decision, if there is a Design Consultant with Contract Administration duties which include Claims resolution; otherwise, such Claims by Contractor shall initially be referred to the Owner. An initial decision by such Design Consultant (or Owner as applicable) shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Design Consultant (or Owner as applicable) with no decision having been rendered. The Design Consultant (or Owner as applicable) will not decide disputes between the Contractor and persons or entities other than the Owner.
- 10.9.8 The Design Consultant (or Owner as applicable) will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Design Consultant is unable to resolve the Claim if the Design Consultant lacks sufficient information to evaluate the merits of the Claim or if the Design Consultant concludes that, in the Design Consultant's sole discretion, it would be inappropriate for the Design Consultant to resolve the Claim.
- 10.9.9 Upon receipt of the response or supporting data, if any, the Design Consultant (or Owner as applicable) will either reject or approve the Claim in whole or in part.
- 10.9.10 The Design Consultant (or Owner as applicable) will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any change in the Contract Sum or Contract Time, or both. The approval or rejection of a Claim by the Design Consultant (or Owner as applicable) shall be final and binding on the parties but subject to mediation and litigation.
- 10.9.11 When a written decision of the Design Consultant (or Owner as applicable) states that (1) the decision is final but subject to mediation and litigation and (2) a demand for mediation of a Claim (if required by Owner's Dispute Resolution Procedures) or the commencement of a lawsuit (if mediation is not required as a pre-condition to litigation in Owner's Dispute Resolution Procedures) covered by such decision must be made or done within 30 days after the date on which the party making the demand (or filing the lawsuit) receives the final written decision, then failure to demand mediation in writing (if required) or file the lawsuit within said 30 days' period shall result in the Design Consultant's (or Owner's as applicable) decision becoming final and binding upon the Owner and Contractor. If the Design Consultant (or Owner as applicable) renders a decision after litigation proceedings have been initiated, such decision may be entered as evidence, but shall not supersede litigation proceedings unless the decision is acceptable to all parties concerned.
- 10.9.12 In the event of a dispute, the Owner, Contractor, and other parties involved in the Project shall utilize the Dispute Resolution Procedures adopted by Owner pursuant to N.C.G.S. §143-128(g), if applicable. Owner's Dispute Resolution Procedures are as follows:

These Procedures are applicable to the resolution of disputes with amounts in controversy in excess of \$15,000.00 arising between or among any parties involved in Owner's construction and repair Projects, including the Design Consultant and the Contractors, and the first and lower tier subcontractors, on Claims arising out of the contract or construction process. In no event shall the Owner be subject to arbitration proceedings pursuant

to these Procedures. Unless otherwise specified in these Procedures, if there is any conflict between these Procedures and the other provisions of the Contract Documents, the terms of these Procedures control.

Any Claim as defined in the Contract Documents or any dispute between parties to a construction contract involving the Project, other than the Owner's claims, except those Claims which are waived shall be subject to nonbinding mediation as a condition precedent to the institution of legal proceedings by any party, except that any party may institute legal proceedings in order to meet any applicable statute of limitations or similar deadlines prior to engaging in nonbinding mediation.

The parties shall endeavor to resolve their claims by nonbinding mediation, which, unless the parties mutually agree otherwise, shall be in accordance with rules established by Owner if Owner is a party to the mediation. If Owner is not a party to the mediation, the mediation shall be conducted in accordance with rules established by the parties to the mediation. The parties to the mediation shall share the cost of mediation equally. The mediation shall be held in the place where the project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

- 10.9.13 All suits in law or equity between the Owner and the Contractor arising out of the Contract shall be heard in the appropriate court of justice in the county where the Project is located.

END OF ARTICLE 10

ARTICLE 11

CORRECTION OF WORK

11.1 CORRECTION OF WORK

- 11.1.1 The Contractor shall promptly reconstruct, replace or correct all Work rejected by the Design Consultant as defective or as failing to conform to the Contract Documents or as not in accordance with the guarantees and warranties specified in the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Design Consultant's and the Owner's additional construction management services made necessary thereby.
- 11.1.2 The Contractor, unless removal is waived by the Owner, shall remove from the site all portions of the Work which are defective or non-conforming, or if permitted or required, he shall correct such work in place at his own expense promptly after receipt of notice, and such rejected Work shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed.
- 11.1.3 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Owner, the Owner may either (1) by separate contract or otherwise replace or correct such Work and charge the Contractor the cost occasioned the Owner thereby and remove and store the materials or equipment at the expense of the Contractor, or (2) terminate this Contract for default as provided in Paragraph 12.3. If the Contractor does not pay the cost of such replacement or correction and the removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for additional services of the Design Consultant and the Owner made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.
- 11.1.4 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

- 11.1.5 Nothing contained in this Paragraph 11.1 shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents, including Paragraph 3.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

END OF ARTICLE 11

ARTICLE 12

TERMINATION OF THE CONTRACT

12.1 TERMINATION BY THE CONTRACTOR

- 12.1.1 If the Work is stopped for a period of sixty (60) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon seven (7) additional days' written notice to the Owner and the Design Consultant, terminate the Contract and recover from the Owner payment on a quantum merit basis, for all Work executed. The Contractor shall not be entitled to collect and hereby expressly waives, any profit on work not performed or any damages related to that portion of the Contract, which has been terminated.

12.2 TERMINATION FOR CONVENIENCE OF THE OWNER

- 12.2.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 12.4. Contractor shall include termination clauses identical to Article 12 in each of his Subcontracts.

12.3 DEFAULT TERMINATION

- 12.3.1 Subject to the provisions of Paragraph 2.3.1, ten (10) days after written notice is mailed to the Contractor, the Owner may terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the employment of the Contractor and his right to proceed either as to the whole or any portion of the Work required by the Contract Documents and may take possession of the Work and complete the Work by contract or otherwise in any one of the following circumstances:

- .1 if the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time or fails to complete the Work or remedy a default within said period;
- .2 if the Contractor is in material default in carrying out any provisions of the Contract for a cause within his control;
- .3 if the Contractor fails to supply a sufficient number of properly skilled workmen or proper equipment or materials;
- .4 if the Contractor fails to make prompt payment to Subcontractors or for materials or labor, unless he otherwise provides the Owner satisfactory evidence that payment is not legally due;

- .5 if the Contractor disregards laws, permits, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
- .6 if the Contractor substantially violates any provisions of the Contract Documents; or
- .7 if the Contractor refuses or fails to properly schedule, plan, coordinate and execute the Work, as specified herein, so as to perform the Work within the specified Milestone and Completion dates, or to provide scheduling or related information, revisions and updates as required by the Contract Documents.
- .8 If the Contractor becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against it, or has a receiver or trustee appointed for substantially all of its assets, or if Contractor allows any final judgment to stand against it unsatisfied for a period of two (2) weeks.

12.3.2 If, after the Contractor has been terminated for default pursuant to Paragraph 12.3, it is determined that none of the circumstances set forth in Subparagraph 12.3.1 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph 12.2 In such case, the Contractor's sole remedy will be the costs permitted by Article 12.4.

12.3.3 If the Owner so terminates the employment of the Contractor, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation is to be paid to the Contractor hereunder shall exceed the expense of so completing the Work (including compensation for additional managerial, administrative, consultant and inspection services and any damages for delay) such excess shall be paid to the Contractor.

12.3.4 If such expenses shall exceed the unpaid balance, the Contractor shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is partially or fully terminated, the Owner may take possession of and utilize in completing the Work such materials, appliances, supplies, plant and equipment as may be on the site of the terminated portion of the Work and necessary for the completion of the Work. If the Owner does not fully terminate the right of the Contractor to proceed, the Contractor shall continue to perform the part of the work that is not terminated.

12.4 ALLOWABLE TERMINATION COSTS

12.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 12.2, then the Owner shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Subparagraph 12.4.2, plus a markup of ten percent for profit and overhead on the actual fully accounted costs recovered under 12.4.2; provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

12.4.1.1 After receipt of a Notice of Termination, the Contractor shall submit to the Owner his termination claim, in the form and with certification prescribed by the Owner. Such claim shall be submitted promptly but in no event later than three (3) months from the effective date of termination, unless one or more extensions in writing are granted by the Owner upon request of the Contractor made in writing within such three (3) month period or authorized extension thereof. However, if the Owner determines that the facts justify such action, he may receive and evaluate any such termination claim at any time after such three (3) month period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Owner may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination.

12.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 12.2, the Owner shall pay the Contractor the amounts determined by the Owner as follows:

- .1 an amount for supplies, services, or property accepted by the Owner pursuant to Clause 12.5.1.6 or sold or acquired pursuant to Clause 12.5.1.7 and not heretofore paid for, and to the extent provided in the Contract such amount shall be equivalent to the aggregate price for such supplies or services computed

in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and

.2 the total of:

- (1) the cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Clauses 12.4.2.1 or 12.4.2.2.(2);
- (2) the cost of settling and paying claims arising out of the termination of Work under Subcontracts or orders, pursuant to Clause 12.5.1.5, which are properly chargeable to the terminated portion of the Work (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination), which amounts shall be included in the costs payable under (1) above; and
- (3) the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Work and for the termination and settlement of Subcontracts thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocable to the Contract.

.3 Provided, however, that neither the Owner nor the Design Consultant will be liable for payments to Subcontractors pursuant to Article 12.4.2.2 unless each subcontract contains termination provisions identical to those set forth in Article 12. The Owner and the Design Consultant will not be liable to the Contractor for any costs associated with termination if the subcontract of the party involved does not include the proper termination clauses.

12.4.3 In arriving at any amount due the Contractor pursuant to Paragraph 12.4, there shall be deducted the following:

- .1 all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of the Contract;
- .2 any claim which the Owner may have against the Contractor;
- .3 such amount as the Owner determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and
- .4 the agreed price for, or the proceeds of sale of, any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Clause 12.5.1.7, and not otherwise recovered by or credited to the Owner.

12.4.4 The total sum to be paid to the Contractor under Paragraph 12.4 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Subparagraph 12.4.2, the fair value, as determined by the Owner, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to Clause 12.5.1.7.

12.4.5 If the Owner terminates the whole or any part of the Work pursuant to Paragraph 12.3, the Owner may procure, upon such terms and in such manner as the Owner may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

12.5 GENERAL TERMINATION PROVISIONS

12.5.1 After receipt of a notice of termination from the Owner, pursuant to Paragraph 12.2 or 12.3, and except as otherwise directed by the Owner, the Contractor shall:

- .1 stop Work under the Contract on the date and to the extent specified in the notice of termination;
- .2 place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
- .3 terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
- .4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the contracts so terminated, in which case the Owner shall have the right, at his discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- .5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Owner, to the extent he may require, which approval or ratification shall be final for all the purposes of this Article;
- .6 transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent directed by the Owner to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated, the following:
 - (1) the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated by the notice of termination; and
 - (2) the completed or partially completed plans, drawings, information, releases, manuals and other property related to the Work and which, if the Contract had been completed, would have been required to be furnished to the Owner;
- .7 use his best efforts to sell, in the manner, at the times, to the extent and at the price or prices directed or authorized by the Owner, any property of the types referred to in Clause 12.5.1.6; provided, however, that the Contractor:
 - (1) shall not be required to extend credit to any buyer, and
 - (2) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Owner to the Contractor under the Contract or shall otherwise be credited to the Contract Sum covered by the Contract or paid in such other manner as the Owner may direct;
- .8 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
- .9 take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to the Contract, which is in the possession of the Contractor, and in which the Owner has or may acquire an interest.

12.5.2 The Contractor shall, from the effective date of termination until the expiration of three (3) years after final settlement under the Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the Work terminated hereunder, or, to the extent approved by the Owner, photographs, micro-photographs or other authentic reproductions thereof.

12.5.3 If the termination, pursuant to Paragraph 12.2, be partial, the Contractor may file with the Owner a claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the

Contract (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this Subparagraph must be asserted within six (6) months from the effective date of the notice of termination.

- 12.5.4 The Contractor shall refund to the Owner any amounts paid by the Owner to the Contractor in excess of costs reimbursable under Paragraph 12.4.
- 12.5.5 The Contractor shall be entitled to only those damages and that relief from termination by the Owner as specifically provided in Article 12.

END OF ARTICLE 12

END OF GENERAL CONDITIONS

VENDOR TAX WAS PAID TO	MATERIAL PURCHASED	ADDRESS	INVOICE NUMBER	DATE	INVOICE AMOUNT	TAXABLE AMOUNT	N.C. TAX	COUNT Y TAX	NAME OF COUNTY
				TOTAL					

GC-34

CHANGE PROPOSAL FORM
Time and Material / Unit Price Estimate

Project:	Proposal #:
Contract:	Project #:
Contractor:	Contractor #:

Description of change:

Materials & Labor	SUBTOTALS
Estimated cost of labor & materials including shipping, overtime, payroll taxes and insurance, and overhead and profit.	
Maintain accurate records for billing purposes.	
Unit Price Work	
Estimated quantity of units required less allowance units not used, times the established unit cost.	
Maintain accurate records for billing purposes. Third party records may be required.	
Equipment Rental	
Estimated cost of equipment rental including shipping, taxes and overhead and profit.	
Maintain accurate records for billing purposes.	
Subcontractors	
Estimated cost of subcontracts including all subcontractor expenses.	
Maintain accurate records for billing purposes.	

Subtotal of Proposal

* TOTAL NOT TO EXCEED CHANGE PROPOSAL ESTIMATE

Time Extension Requests: day(s) Schedule Activity # Affected:

The Contractor agrees to perform the work outlined in this change proposal for an amount that shall not exceed the amount stated above and in accordance with the Contract documents if the work is authorized by the Owner. If the price to perform the work is expected to exceed the above stated amount, a new change proposal form for the additional work is required.

* Actual amount paid will be based on actual documented expenses.

Contractor's Signature: Date:

Approval Recommended by Design Consultant: Date:

Owner's Representative Approval: Date:

CHANGE PROPOSAL FORM

Project:

Contract:

Contractor:

Proposal #:

Project #:

Contractor #:

Description of change:

Materials (Attach list with Qty, Item, Unit \$, Unit mh, Total mh, OT mh, Total \$)		SUBTOTALS
1 Total Direct Cost of Materials		
2 Overhead & Profit on Item 1.		
(15% maximum, includes small tools & consumables)		
3 Sales Tax		
4 Shipping & Transportation		
Labor		
5 Total Manhours: MH @ /hr.		
6 Overhead & Profit on Item 5.		
(15% maximum on straight labor cost, not premium portion)		
(O & P includes supervisor's time)		
7 Payroll Taxes & Insurance %		
Equipment Rental (Include quotes)		
8 Equipment Rental		
9 Overhead & Profit on Item 8 (6% maximum).		
Subcontractors (Include quotes with material & equipment backup)		
10 Subcontractors		
11 Overhead & Profit on Item 10 (6% maximum).		
Subtotal of Proposal		

TOTAL OF CHANGE PROPOSAL

Time Extension Requests: day(s) Schedule Activity # Affected:

The Contractor agrees to perform the work outlined in this change proposal for the amount specified above and in accordance with the Contract documents if the work is authorized by the Owner.

Contractor's Signature:

Approval Recommended by Design Consultant:

Owner's Representative Approval:

Date:

Date:

Date:

SECTION SC**SUPPLEMENTAL CONDITIONS****GENERAL CONDITIONS**

Document GC, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, constitutes the General Conditions of this Contract, and is hereinafter called "General Conditions." The General Conditions are further revised and supplemented by the provisions of these Supplemental Conditions. The General Conditions and the Supplemental Conditions are applicable to all of the Work under this contract and shall apply to the Contractor and all Subcontractors and Sub-subcontractors.

SUPPLEMENTS:

The following supplements modify, change, delete, or add to the General Conditions. Where any article of the General Conditions is modified or any paragraph deleted, subparagraph or clause thereof is modified, or deleted by these supplements, the unaltered provisions of such article, paragraph, subparagraph or clause shall remain in effect. If there is a discrepancy between the General Conditions and these Supplemental Conditions, the Supplemental Conditions shall control.

ARTICLE 8 – PAYMENTS AND COMPLETION**ADD THE FOLLOWING TO PARAGRAPH 8.9:**

- 8.9.1 Substantial Completion Liquidated Damages shall be the sum of five hundred dollars (\$500) per calendar day, and this amount shall be assessed in accordance with Subparagraph 8.9.1 of the General Conditions.
- 8.9.2 Final Completion Liquidated Damages shall be the sum of five hundred dollars (\$500) per calendar day, and this amount shall be assessed in accordance with Subparagraph 8.9.2 of the General Conditions.

ADD THE FOLLOWING PARAGRAPH 8.11:

- 8.11.1 The schedule below contains certain specific dates in addition to date of Notice to Proceed and Time for Completion. These dates shall be adhered to and are the last acceptable dates unless modified by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in the General Conditions under Paragraph 7.2 DELAYS AND EXTENSIONS OF TIME.

 Notice of Intent to Award – May 13, 2022
 Return of Owner Contractor Agreement by Contractor – May 19, 2022
 Notice to Proceed – June 7, 2022
 Substantial Completion – August 6, 2022
 Completion of all Commissioning – August 26, 2022
- 8.11.2 The Owner reserves the right to withhold the issuance of Notice to Proceed by up to forty-five (45) days. For each day that Notice to Proceed is withheld pursuant to this Subparagraph, the dates established for Substantial Completion and Final Completion shall be adjusted. The contractor shall not be entitled to additional compensation if the owner withholds the issuance of Notice to Proceed pursuant to this Subparagraph.

ARTICLE 10 – CHANGES IN WORK

ADD THE FOLLOWING NEW PARAGRAPH 10.9.14:

- 10.9.14 Additional services and dispute resolution services by the Design Consultant shall be paid by the Contractor at the rate of two hundred fifty dollars (\$250) per hour.

ADD THE FOLLOWING NEW PARAGRAPH 10.9.15:

- 10.9.15 The Owner's Dispute Resolution Policy required by N.C.G.S. § 143-128(f1) is contained in Policy 9020 (www.bcswan.net). The Dispute Resolution Policy is also included in the bid and contract documents

END OF SUPPLEMENTAL CONDITIONS

OWNER-CONTRACTOR AGREEMENT

SCHOOL NAME: **Jessie Mae Monroe
Elementary**

THIS AGREEMENT, made this 6th day of June, Two Thousand and Twenty-Two by and between County of Brunswick, North Carolina (herein referred to as the "Owner"), whose mailing address is 30 Government Center Dr., NE, Bolivia, NC 28422 and S. T. Wooten Corporation (herein referred to as the "Contractor"), whose mailing address is PO Box 2408, Wilson, NC 27894. Correspondence, submittals, and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the Jessie Mae Monroe parking lot pavement (hereinafter referred to as the "Project" or the "Work"); and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1

DEFINITIONS

- 1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.
- 1.2 The Contract Documents are as defined in the General Conditions. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.

The Contract Documents consist of the Owner-Contractor Agreement, the General and Supplemental Conditions of the Contract, the Drawings, the Specifications, all Addenda issued prior to bidding, and all Modifications and Change Orders issued after execution of the Contract.

Article 2

STATEMENT OF THE WORK

- 2.1 The Project is the Work identified in the plans and specifications prepared by McGill Associates dated May, 2022 for Brunswick County Board of Education, Jessie Mae Monroe Elementary

School paving project, including the following addenda:

A listing of the plans and specifications included in the Contract Documents is attached as Exhibit A.

2.2 The Parties agree that the Project shall include the following alternates:

None

2.3 The Parties agree to the following modifications to the Project's plans and specifications, including the noted value engineering items: None

2.4 The Parties agree that the following allowances are included in the Contract Sum in Section 5.1 below:

A. Structural Fill Allowance \$5,000

B. Owner Contingency Allowance \$10,000

2.5 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

2.6 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work."

Article 3

DESIGN CONSULTANT

3.1 The Design Consultant (as defined in the General Conditions) shall be **McGill Associates** whose address is **712 Village Road, SW, Suite 103, Shallotte, NC 28470** however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Design Consultant and so advising the Contractor in writing, at which time the person or organization so designated shall be the Design Consultant for purposes of this Contract.

Article 4

TIME OF COMMENCEMENT AND COMPLETION

4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.

- 4.2 Time is of the essence. The Contractor shall achieve Final Completion, as defined in the General Conditions on or before the date established for Final Completion in the Supplemental Conditions.
- 4.3 The Supplemental Conditions contains certain specific dates that shall be adhered to and are the last acceptable dates unless modified in writing by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in the General Conditions under 7.2 DELAYS AND EXTENSIONS OF TIME.
- 4.4 Should the Contractor fail to complete the Work on or before the dates stipulated for Substantial Completion and/or Final Completion, or such later date as may result from an extension of time granted by the Owner, he shall pay the Owner, as liquidated damages the sums set forth in the General and Supplemental Conditions.

Article 5

CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the sum of Five Hundred Sixty-Six Thousand, Seventy-Eight and no/100 Dollars (\$566,078.00) herein referred to as the "Contract Sum". This amount includes the base bid and the Alternates in Section 2.2
- 5.2 The Contract Sum includes the value engineering items and other contract modifications noted in Section 2.3 above that total \$0.00.
- 5.3 Unit Prices are established as follows for the Project:

Unit Price No. 1	Structural Fill	\$50.00SY
------------------	-----------------	-----------

Article 6

PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that on or about the First day of the month for every month during the performance of the Work he will deliver to the Owner's Project Manager an Application for Payment in accordance with the provisions of Article 8 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions. Payments due and unpaid under the Contract Documents shall not bear interest.

Article 7

OTHER REQUIREMENTS

- 7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.
- 7.2 The Owner shall furnish to the Contractor one **(1)** set of drawings and one **(1)** set of specifications, at no extra cost, for use in the Construction of the Work. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.
- 7.3 The Contractor shall make a good faith effort to utilize Historically Underutilized Businesses (HUB's) per N.C. Gen. Stat. 143-128.2, and as described in the construction documents.
- 7.4 The General Conditions, Supplemental Conditions and the plans and specifications, including any addenda, are incorporated herein by reference.
- 7.5 This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-58.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

IN WITNESS WHEREOF, County of Brunswick, North Carolina (hereinbefore called the "Owner") has caused these presents to be signed and its seal to be hereunto affixed, by its Chairman of the Board of Commissioners and attested by its Clerk to the Board, and S. T. Wooten Corporation (hereinbefore called "Contractor") has caused these presents to be signed by its President or Vice President and its Corporate seal to be hereunto affixed, as hereinafter attested, all as of the day and year first above written.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

COUNTY OF BRUNSWICK, NORTH CAROLINA

Chairman, Board of Commissioners

ATTEST:

Clerk to the Board of Commissioners

[SEAL]

This contract was approved by the Board of Commissioners on the 6th day of June, 2022.

S. T. Wooten Corporation

By: Hank Butts
President or Vice President

Printed Name: Hank Butts

ATTEST:

Andrew D Barry
Corporate Secretary / Asst. Secretary

[SEAL]

This Instrument Has Been Pre-audited In The Manner Required By The School Budget And Fiscal Control Act	This Instrument Has Been Pre-audited In The Manner Required By The Local Government Budget And Fiscal Control Act
<i>Freyja Cahill</i>	
Freyja Cahill, Finance Officer Brunswick County Schools	Aaron C. Smith, Director of Fiscal Operations, County of Brunswick, North Carolina

APPROVED AS TO FORM

Robert V. Shaver, Jr., County Attorney /
Bryan W. Batton, Asst. County Attorney
Brunswick County, NC

EXHIBIT A

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. General provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes these documents herein incorporated by reference if not attached hereto:
 - 1. Project information.
 - 2. Work covered by Contract Documents.
 - 3. Phased construction.
 - 4. Work by Owner.
 - 5. Work under separate contracts.
 - 6. Future work.
 - 7. Purchase contracts.
 - 8. Owner-furnished products.
 - 9. Contractor-furnished, Owner-installed products.
 - 10. Access to site.
 - 11. Coordination with occupants.
 - 12. Work restrictions.
 - 13. Geotechnical Engineering Report (ECS)
 - 14. Maps (McGill Associates)

1.3 PROJECT INFORMATION

- A. Project Identification: Jessie Mae Monroe Elementary School Parking Lots and Access Drives Refurbishment.
- B. Project Location: Jessie Mae Monroe Elementary School, Pea Landing Road NW, Ash North Carolina
- C. Owner: Brunswick County Board of Education, 35 Referendum Drive, Bolivia, North Carolina 28422.
 - 1. Owner's Representative: Larry Smith, Director of Facilities.
- D. Engineer: McGill Associates, PA , 712 Village Rd, Suite 103, Shallotte, NC 28470

1.4 **WORK COVERED BY CONTRACT DOCUMENTS**

- A. Work shall include, but it is not necessarily limited to the furnishing of all labor, material, tools, and superintendence and performing all work necessary to complete all of the parking lots and access drives refurbishment and site restoration work to the satisfaction of, and subject to the approval of the Owner, and/or its designated representative. The parking lots and access roads are at Jessie Mae Monroe School.
- B. All parking lot and access drive refurbishment and site restoration work not expressly mentioned in the Specifications, and/or shown on the plans but obviously necessary to the proper execution of same shall be performed by the contractor as it is not the intent to delineate or describe every detail of work. No additions to the contract sum will be approved for any materials, equipment and/or labor to perform work hereunder unless it can be shown clearly to be beyond the scope and intent of the Specifications and absolutely essential to the proper prosecution of the work.
- C. The Work of the Project is defined by the Contract Documents and consists of the following:
 - 1. Base Bid Jessie Mae Monroe Elementary School Parking Lots and Access Drives
 - a. Provide all necessary traffic control measures when construction vehicles are entering/exiting the site.
 - b. Provide erosion control measures as needed to prevent erosion or displacement of soils and discharge of soil-bearing water runoff or airborne dust to adjacent properties.
 - c. Remove and safely store existing concrete wheel stops.
 - d. Remove existing asphalt surface and base material and replace with a new base and asphalt surface.
 - e. Paint parking stall lines, traffic lane lines, island lines and traffic flow arrows. Reinstall concrete wheel stops
 - f. Place seeding, soil supplements and mulch on all final disturbed areas. All other disturbed areas exceeding the limits of work that were not originally grassed areas shall also be restored to existing conditions.
 - g. Remove surplus soil and waste material, including trash and debris and legally dispose of it off Owner's property.
 - h. All construction recommendations and requirements as listed in the Geotechnical Engineering Reports by ECS Southeast, LLP, dated April 18, 2022, and included at the end of this Section, are considered part of the scope of work for the project and must be adhered to for the respective school by the Contractor.

D. Field Quality Control

1. Testing Agency: Contractor is required to engage a qualified independent geotechnical engineering testing agency licensed in the State of North Carolina to perform field quality control testing for the parking lot and access drive refurbishment work
2. Allow testing agency to inspect and test subgrades and bituminous pavement replacement. Proceed with subsequent parking lot and access drive work only after test results for previously completed work comply with requirements. Testing Agency and or the Contractor must provide the Owner with two copies of all testing reports prior to the payments by the Owner for the work.

1.5 **PHASED CONSTRUCTION**

- A. The Work shall be conducted as one project in its entirety at each school. There will not be phased construction.

1.6 **WORK BY OWNER**

- A. General: There will not be any work by Owner under this contract.

1.7 **WORK UNDER SEPARATE CONTRACTS**

- B. General: There will be no work by others under separate contract for this project.

1.8 **ACCESS TO SITES**

- A. General: Contractor shall have full use of Project sites for construction operations during construction period. Contractor's use of Project sites is limited only by Owner's right to perform work or to retain other contractors on portions of Project. Contractor is **NOT** permitted to use or access any portion of the area on school property outside of the limits of work of the parking lot at either of the Project locations without prior permission from the Owner. Any damage to the areas outside the project areas by the Contractor must be restored to existing conditions at the full expense of the Contractor, to the satisfaction of and subject to the approval of the Owner and/or its designated representative.

1.9 **WORK RESTRICTIONS**

- A. Work Restrictions, General: Comply with restrictions on construction operations.

1. Comply with limitations on use of public streets and other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit work on parking lots to normal business working hours, except as otherwise indicated or approved by the Owner.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:
 1. Notify Engineer not less than three (3) business days in advance of proposed utility interruptions.
 2. Obtain Engineer's written permission before proceeding with utility interruptions.
- D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruption with students with the Owner.
 1. Notify Engineer not less than 3 business days in advance of proposed disruptive operations.
 2. Obtain Engineer's written permission before proceeding with disruptive operations.
- E. Employee Identification: Provide identification tags for Contractor personnel working on the Project site. Require personnel to utilize identification tags at all times.
- F. Employee Screening: Comply with Owner's requirements regarding drug and background screening of Contractor personnel working on the Project site.
 1. Maintain list of approved screened personnel with Owner's Representative.

1.10 Geotechnical Engineering Report

- A. All construction recommendations and requirements as listed in the Geotechnical Engineering Reports for each school by ECS Southeast, LLP, are hereby incorporated by reference and are considered part of the scope of work for the Parking Lots and Access Drives Refurbishment projects and must be adhered to by the Contractor.

Sexual Offender Registry Check Certification Form

Check the appropriate box to indicate the type of check:

- ☒ Initial
☐ Supplemental
☐ Annual

I, Niki Gabus (insert name), HR Coordinator (insert title) of S.T. Wooten (insert company name) hereby certify that I have performed all of the required sexual offender registry checks required under this Agreement for all contractual personnel (employees, agents, ownership personnel, or contractors) who may be used to deliver goods or provide services under this Agreement, including the North Carolina Sex Offender and Public Protection Registration Program, the North Carolina Sexually Violent Predator Registration Program, and the National Sex Offender Registry. I further certify that none of the individuals listed below appears on any of the above-named registries and that I will not assign any individual to deliver goods or perform services under this Agreement if said individual appears on any of the sex offender registries. I agree to maintain all records and documents associated with these registry checks, and that I will provide such records and documents to the school system upon request. I specifically acknowledge that the school system retains the right to audit these records to ensure compliance with this section at any time in the school system's sole discretion. I acknowledge that I am required to perform these checks and provide this certification form before any work is performed under the Agreement (initial check), any time additional contractual personnel may perform work under the Agreement (supplemental check), and at each anniversary date of the Agreement (annual check).

Contractual Personnel Names

Job Title

1. <u>Dustin Blankenship</u>	<u>Laborer</u>
2. <u>Shawn Cline</u>	<u>Truck Driver</u>
3. <u>Elijah Costin</u>	<u>Laborer</u>
4. <u>Jesse Hall</u>	<u>Foreman</u>
5. <u>Stephen Louca</u>	<u>Operator</u>

(attach additional page(s) if needed)

I attest that the forgoing information is true and accurate to the best of my knowledge.

Niki Gabus (print name)
HR Coordinator (title)

Niki Gabus (signature)
5/17/2022 (date)

6.	<u>Steven McClanahan</u>	<u>Operator</u>
7.	<u>Michael McLaurin</u>	<u>Laborer</u>
8.	<u>George Meeks III</u>	<u>Superintendent</u>
9.	<u>Wade Musselwhite</u>	<u>Operator</u>
10.	<u>Eric Schmouder</u>	<u>Operator</u>
11.	<u>Jennifer Kiglics</u>	<u>Project Manager</u>

SECTION GC
GENERAL CONDITIONS
OF THE
CONTRACT FOR CONSTRUCTION

TABLE OF ARTICLES

1. CONTRACT DOCUMENTS
 2. OWNER
 3. CONTRACTOR
 4. SUBCONTRACTORS
 5. WORK BY OWNER OR BY SEPARATE CONTRACTORS
 6. MISCELLANEOUS PROVISIONS
 7. TIME
 8. PAYMENTS AND COMPLETION
 9. INSURANCE
 10. CHANGES IN THE WORK
 11. UNCOVERING AND CORRECTION
 12. TERMINATION OF THE CONTRACT
- APPENDIX A – Contractor’s Sales Tax
Report
- APPENDIX B-1 – Change Proposal Form (Time & Materials or Unit Price)
- APPENDIX B-2 – Change Proposal Form (Fixed Price)
- APPENDIX C – Sexual Registry Check Form

ARTICLE 1

CONTRACT DOCUMENTS

1.1 GENERAL

- 1.1.1 The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplementary and other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order issued pursuant to the provisions of Article 10, (3) a written interpretation issued by the Design Consultant, or (4) a written order for a minor change in the Work issued pursuant to this contract.
- 1.1.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.
- 1.1.3 The Contractor will be furnished with three (3) sets of drawings and specifications at no cost. Additional copies may be purchased.

END OF ARTICLE 1

ARTICLE 2

OWNER

2.1 INFORMATION, SERVICES AND RIGHTS OF THE OWNER

- 2.1.1 Owner: County of Brunswick, North Carolina by and through its authorized agent the Brunswick County Board of Education
- 2.1.2 The Owner shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.
- 2.1.3 The Owner shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.
- 2.1.4 The Owner will have authority to require special inspection or testing of the Work whether or not such Work is then fabricated, installed, or completed. However, neither the Owner's authority to act under Subparagraph 6.5.3, nor any decision made by the Owner in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Owner to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 2.1.5 The Owner shall have the authority and discretion to call, schedule, and conduct job meetings to be attended by the Contractor, representatives of his Subcontractors, and the Design Consultant, to discuss such matters as procedures, progress, problems, and scheduling.
- 2.1.6 The Owner and Design Consultant shall not be responsible or liable to Contractor for the acts, errors or omission of the Contractor, any separate Subcontractor, any separate contractor or any contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.
- 2.1.7 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid unreasonable delay in the orderly progress of the Work.

2.1.8 The parties acknowledge that the Owner may perform all or part of its obligations pursuant to this Agreement through the Superintendent or his designee.

2.1.9 The foregoing rights are in addition to other rights of the Owner enumerated herein and those provided by law.

2.2 OWNER'S RIGHT TO STOP OR TO SUSPEND THE WORK

2.2.1 If the Contractor fails to correct defective Work or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the Owner by a written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

2.2.2 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the Owner.

2.2.3 If the performance of all or any part of the Work (including the work of the Contractor and its subcontractors) is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner or the Design Consultant in the administration of this Contract, or by failure of any one of them to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no claim shall be made under this Subparagraph for any suspension, delay, or interruption pursuant to Subparagraph 2.3.1, or for which claim is provided or excluded under any other provision of this Contract. No claim under this Subparagraph shall be allowed on behalf of the Contractor or its subcontractors, unless within 10 days after the act or failure to act involved, and for continuing or ongoing acts or failures to act within 10 days of the first day of the act or failure to act the Contractor submits to the Owner a written statement setting forth, as fully as then practicable, the extent of such claim, and unless the claim is asserted in writing within 20 days after the termination of such suspension, delay, or interruption. For continuing or ongoing acts or failures to act, the Contractor shall update its written statement every 15 days until the suspension, delay or interruption is terminated. The Contractor shall waive any and all claims not filed in strict conformance with this paragraph. The Contractor shall indemnify, defend and hold the Owner harmless from any claim by a Subcontractor that is waived because it is not filed in strict conformance with this paragraph or any other provision of this Agreement regarding claims.

2.2.4 In the event of a suspension of work or delay or interruption of work, the Contractor will and will cause his subcontractors to protect carefully his, and their, materials and work against damage or injury from the weather and maintain completed and uncompleted portions of the work as required by the Contract Documents. If, in the opinion of the Owner, any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors to so protect same, such work and materials shall be removed and replaced at the expense of the Contractor.

2.2.5 No claim by the Contractor shall be allowed if asserted after final payment under this Contract or if it is not asserted in strict conformance with Article 10.

2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

2.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within ten days after the date written notice is mailed by the Owner to commence and continue remedy of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy he may have, make good such deficiencies and may further elect to complete all Work thereafter through such means as the Owner may select, including the use of a new contractor. In such case the Owner shall issue a Change Order deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Design Consultant's additional services made necessary by such default, neglect or failure. Such action by the Owner and the amount charged to the Contractor are both subject

to the prior approval of the Design Consultant. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner. Notwithstanding the Owner's right to carry out a portion of the work, warranty, maintenance and protection of the work remains the Contractor's responsibility. Further, the provisions of this paragraph do not affect the Owner's right to require the correction of defective or non-conforming work in accordance with this contract.

END OF ARTICLE 2

ARTICLE 3

CONTRACTOR

3.1 DEFINITION

- 3.1.1 This entire Contract is not one of agency by the Contractor for Owner but one in which Contractor is engaged independently in the business of providing the services and performing the Work herein described as an independent contractor.

3.2 REVIEW OF CONTRACT DOCUMENTS

- 3.2.1 Before placing his proposal to the Owner, and continuously after execution of the Contract, the Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner any error, inconsistency or omission he may discover, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Design Consultant for any damage resulting solely from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without Contract Documents and, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.
- 3.2.2 All designs, drawings, specifications, design calculations, notes and other works provided for this contract are the sole property of the Owner and may not be used on any other design or construction project. The use of the design, including tracings and specifications, by any person or entity, for the purpose other than the Project, shall be at the full risk of such person or entity

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 3.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract. The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and all statutory or legal requirements. This requirement applies continuously throughout contract performance and is not limited to regular working hours.
- 3.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and Sub- subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.
- 3.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the Owner or the Design Consultant in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under Paragraph 6.5 by persons other than the Contractor.

3.3.4 The Contractor shall verify all grades, lines, levels and dimensions as indicated and shown on the Drawings and Specifications prior to beginning the work and shall immediately report in writing any errors or inconsistencies to the Design Consultant before commencing the work.

3.3.5 Contractor shall protect existing surfaces, finishes and adjacent facilities from damage during construction. Any damage shall be repaired by Contractor at his own expense prior to completion of the Project. Prior to construction start, Contractor and Owner shall perform an inspection to record existing conditions, damaged and undamaged.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary or proper for or incidental to the execution and completion of the Work required by and in accordance with the Contract Documents and any applicable code or statute, whether specifically required by the Contract Documents or whether their provision may reasonably be inferred as necessary to produce the intended results, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Final payment will not be made until the Work is so completed.

3.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. The Owner may, by notice in writing, require the Contractor to remove from the work any employee the Owner deems incompetent, careless or otherwise objectionable. All agents and workers of the Contractor and its Subcontractors shall wear identification badges provided by the Contractor at all times they are on the Owner's property. The identification badges shall at a minimum display the company name, telephone number and employee's picture and name and must be worn in plain view at all times. Additionally, once school staff occupies the building, all contractors and their respective subcontractors shall be required to sign in and out of the visitor's log each day they are performing services. They must also wear a visitor's pass which will indicate to staff that they have met this requirement which applies to anyone performing services anywhere on the school property.

3.4.3 The Contractor shall be responsible for ensuring that the Work is completed in a skillful and workmanlike manner.

3.4.4 All equipment, apparatus and/or devices of any kind to be incorporated into the Work that are shown or indicated on the drawings or called for in the specifications or required for the completion of the work shall be entirely satisfactory to the Owner and the Design Consultant as regards operations, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus and/or device shall relieve the Contractor of his responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by proper and acceptable equipment, etc. or put in good working order satisfactory to the Owner and Design Consultant without additional cost to the Owner.

3.4.5 All materials and Work shall meet North Carolina Building Codes. Should there be any discrepancies between design and code, the more stringent requirement shall apply. All materials shall comply with standards (or approved products) as set by the Specifications. Unless otherwise specified, NO ASBESTOS CONTAINING MATERIALS SHALL BE INSTALLED. BY DEFINITION, INSTALLATION OF ASBESTOS MATERIALS WILL BE CONSIDERED CONTRACTOR'S NEGLIGENCE AND THE CONTRACTOR SHALL PERFORM ALL NECESSARY WORK TO REMOVE THE ASBESTOS AND RESTORE THE SITE TO THE 'PRE-CONTRACT' CONDITION. Contractor shall assume all facilities built prior to 1979 have lead-based paint. Any paint removal shall be in accordance with OSHA standard pertaining to lead (29 CFR 1915.1025).

3.5 WARRANTY

- 3.5.1 The Contractor warrants to the Owner and the Design Consultant that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be of first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guarantees specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or the Design Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 11.
- 3.5.2 The warranties set forth in this Paragraph 3.5 and elsewhere in the Contract Documents shall survive Final Completion of the Work.
- 3.5.3 If, within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract documents, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice with reasonable promptness after discovery of the condition. For items, which remain incomplete or uncorrected on the date of Substantial Completion, the one-year warranty shall begin on the date of Final Completion of the Work. If the Contract Documents include painting work, the one year warranty period in this section shall be extended to two years.
- 3.5.4 If at any time deficiencies in the Work are discovered which are found to have resulted from fraud or misrepresentation, or an intent or attempt to or conspiracy to defraud the Owner by the Contractor, any Subcontractor or Supplier, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty.
- 3.5.5 The Contractor shall bear the cost of making good all work of the Owner, separate contractors or others, destroyed or damaged by such correction or removal required under this Article 3, Article 11 or elsewhere in the Contract Documents.

3.6 TAXES

- 3.6.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective. The Contractor shall indemnify and hold the Owner harmless from any claims arising out of the Contractor's failure to pay all required taxes, including claims by the county for its inability to recover taxes that were not properly paid to the State of North Carolina by the Contractor.
- 3.6.2 The Contractor shall provide a completed Contractor's Sales Tax Report (attached hereto as Appendix A) with each application for payment for all items provided by the Contractor or any Sub-Contractors and incorporated into this project. The Contractor shall account for at least 2% of the total contract amount in sales tax or provide justification satisfactory to the Owner that the actual sales tax paid is less than 2%. In the event the Contractor does not provide adequate justification to support the shortfall, the Contractor shall pay the Owner the difference between the amount accounted for and the 2% minimum. Such compensation shall not be deemed a penalty, but reimbursement of funds the Owner would otherwise be entitled to recover from the State.
- 3.6.3 Sales and Use Tax. Contractor shall be responsible for complying with any applicable sales and use tax obligations imposed by Chapter 105, Article 5 of the North Carolina General Statutes. Where Contractor has been contracted with to oversee "new construction" or "reconstruction" as defined in G.S. 105-164.4H, Contractor shall be responsible for issuing and maintaining an Affidavit of Capital Improvement.

3.7 PERMITS, FEES AND NOTICES

- 3.7.1 The Contractor shall secure and pay for the building permit and for all other permits and governmental fees necessary for the proper execution and completion of the Work. Costs for service and final service connections by public utilities will be reimbursed to the Contractor by the Owner. The Owner shall not be responsible for the cost of any temporary utilities.
- 3.7.2 The Contractor will pay for his license and reinspection fees for the work necessary for the proper execution and completion of the work.
- 3.7.3 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

3.8 PROGRESS SCHEDULE

- 3.8.1 The Contractor shall prepare and submit to the Owner for the Owner's review and approval an estimated progress schedule for the Work. This schedule shall be in accordance with any general requirements included in the Specifications for this project.

3.9 RESPONSIBILITY FOR COMPLETION

- 3.9.1 The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the performance of the Work within the Milestone and Completion dates specified in the Owner-Contractor Agreement.
- 3.9.2 If the actions taken by the Contractor are not satisfactory, the Design Consultant or Owner may direct the Contractor to take any and all actions necessary to ensure completion within the required Milestone and Completion dates, without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.

3.10 DOCUMENTS AND SAMPLES AT THE SITE

- 3.10.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.

3.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 3.11.1 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data, Manuals and Samples required by the Contract Documents.
- 3.11.2 Do not order materials until receipt of written approval. Furnish materials equal in every respect to approved samples.
- 3.11.3 By approving and submitting Shop Drawings, Product Data, Manuals and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Shop Drawings, which may be issued by the Design Consultant.
- 3.11.4 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Design Consultant's review of Shop Drawings, Product Data, Samples or Manuals under unless the Contractor has specifically informed the Design Consultant in writing of such deviation at the time of

submission and the Design Consultant has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, Samples, or Manuals by the Design Consultant's review thereof.

3.11.5 The Contractor shall make corrections required by the Design Consultant and shall resubmit the required number of corrected copies of Shop Drawings or new Product Data or Samples. The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Design Consultant on previous submittals. Resubmittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time, and any costs associated with the processing of these resubmittals shall be paid by the Contractor.

3.11.6 No portion of the Work requiring submission of Shop Drawings, Product Data, Samples or Manuals shall be commenced until the submittal has been approved by the Design Consultant. All such portions of the Work shall be in accordance with approved submittals.

3.12 EQUAL PRODUCTS AND SUBSTITUTIONS

3.12.1 All materials, supplies and articles furnished under this Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. The Contractor, in such cases, may with Design Consultant and Owner approval, use any brand, make, manufacturer, article, device, product, material, fixture, form or type of construction which in the judgment of the Design Consultant is equal to that specified. An item may be considered equal to the item so named or described if, in the opinion of the Owner and Design Consultant (1) it is at least equal in quality, durability, appearance, strength, and design; (2) it will perform at least equally the specific function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the specifications. Approval by the Owner and Design Consultant will be granted based upon considerations of quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the Project.

3.12.2 Contractor must provide evidence that proposed substitution does not require revisions to the Contract Documents, that is consistent with Contract Documents, and will produce the indicated results, and is comparable with other portions of the Work. Contractor must provide a detailed comparison of significant qualities or proposed substitution with those of the Work specified, including but not limited to the following significant qualities: performance, weight, size, durability, visual effect, sustainable design features, warranties, and any specific features and requirements indicated in Contract Documents. An annotated copy of applicable Specification section and point-by-point comparison between specified product and the proposed substitution describing each point of compliance, non-compliance, and variance between the specified and proposed product shall be provided.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, easements, right-of- way agreements and the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the Owner, with any materials, equipment or trailers nor shall he block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or properties, storage areas, areas of other facilities that are adjacent to the worksite. If the Contractor fails or refuses to move said material, equipment or trailers within 24 hours of notification by the Owner, to so do, the Owner shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the Owner deems are in violation of this paragraph.

3.14 CUTTING AND PATCHING OF WORK

3.14.1 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation.

- 3.14.2 Existing structures and facilities including but not limited to building, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to satisfaction of the Design Consultant and the Owner of such structures and facilities and authorities having jurisdiction.
- 3.15 CLEANING UP
- 3.15.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. If the Contractor fails to clean up during or at the completion of the Work, the Owner may do so and the cost thereof shall be charged to the Contractor.
- 3.16 INDEMNIFICATION
- 3.16.1 To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, and hold harmless the Owner and the Design Consultant and their agents, representatives, and employees from and against all claims, actions, judgments, costs, liabilities, penalties, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or caused by any negligent act, error, omission or breach of this Agreement by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The above obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person, described in this Paragraph 3.16. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N.C. Gen. Stat. § 6-21.2. The parties also specifically acknowledge that the Owner is a public body and it is the intent of the parties that the Owner not incur any expenses when the Contractor is solely responsible for the claims. Contractor's indemnity obligations to Owner in the Contract Documents shall survive the expiration or termination of the Contract Documents.
- 3.16.2 In any and all claims against the Owner or the Design Consultant or any of their agents, representatives, or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 3.16 shall not be limited in any way by Contractor's insurance coverage required herein.
- 3.16.3 No provision of this Paragraph 3.16 shall give rise to any duties on the part of the Design Consultant or the Owner, or any of their agents, representatives, or employees.
- 3.18 CONDITIONS AFFECTING THE WORK
- 3.18.1 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions, which can affect the Work or the cost thereof. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of his officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.
- 3.19 MISCELLANEOUS.
- 3.19.1 The Contractor shall provide documentation acceptable to the Owner showing the amount of MBE participation (including a complete list of all subcontractors and their final subcontract amounts) and sales tax paid by the Contractor and its subcontractors for materials purchased for Projects completed under this contract. The Contractor agrees to comply with the all of the Owner's policies at all times that the Contractor, its subcontractors and employees are on the Owner's property. The Contractor acknowledges that the Owner's policies can be accessed and viewed at the Owner's website (www.bcswan.net) . The Contractor shall comply with the Owner's site or school building access procedures when working on any existing school campus.
- 3.20 APPLICABLE LAWS.
- 3.20.1 This Contract and the relationship of the parties shall be governed by the laws of the state of North Carolina.
- 3.20.2 Contractor shall comply with all applicable laws and regulations in providing services under this Contract. Contractor shall not employ any individuals to provide services to the Owner who are not authorized by federal law to work in the United States. The Contractor represents that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North

Carolina General Statutes) requiring use of the E-Verify system. The Contractor further warrants that it will use the E-Verify system to verify employment eligibility of all its employees throughout the term of this Contract, and that it will remain in compliance with all I-9 requirements throughout the term of this Contract. The Contractor shall also ensure that any subcontractors use the E-Verify system at all times while providing subcontracted services in connection with this Contract. Contractor is responsible for providing affordable health care coverage to all of its full-time employees providing services to the school system. The definitions of “affordable coverage” and “full-time employee” are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.

3.20.3 The Contractor also acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. The Contractor shall conduct or arrange to have conducted, at its own expense, sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors (“contractual personnel”) who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office, provided that such office is not located at a school site; (2) non- school sites; (3) schools closed for renovation prior to substantial completion; or (4) new school construction sites prior to substantial completion. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry (“the Registries”). For the Contractor’s convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. The Contractor shall provide certification on the Sexual Offender Registry Check Certification Form (attached as Appendix C) that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. With each pay application, the Contractor shall provide an updated list of all Project subcontractors, identifying the date the subcontractor is anticipated to first be on the site, and the status of receipt of the Completed Sexual Offender Registry Check Certification Form from each subcontractor. The Contractor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, the Contractor agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. The Contractor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. The Contractor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. The Contractor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the Owner upon request. The Contractor specifically acknowledges that the Owner retains the right to audit these records to ensure compliance with this section at any time in the Owner’s sole discretion. Failure to comply with the terms of this provision shall be deemed a material breach of the Agreement. In addition, the Owner may conduct additional criminal records checks at the Owner’s expense. If the Owner exercises this right to conduct additional criminal records checks, the Contractor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the Owner for all contractual personnel who may deliver goods or perform services under this Agreement. The Contractor further agrees that it has an ongoing obligation to provide the Owner with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. The Owner reserves the right to prohibit any contractual personnel of the Contractor from delivering goods or providing services under this Agreement if the Owner determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

3.20.4 Anti-Nepotism. Contractor warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Agreement are immediate family members of any member of the Board of Education or of any principal or central office staff administrator employed by the Board. For purposes of this provision, “immediate family” means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Contractor become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Agreement, Contractor shall immediately disclose the family relationship in writing to the Superintendent of the Schools. Unless formally waived by the

Board, the existence of a family relationship covered by this Agreement is grounds for immediate termination by Owner without further financial liability to Contractor.

3.20.5 Restricted Companies Lists. Contractor represents that as of the date of this Contract, Contractor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Contractor also represents that as of the date of this Contract, Contractor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

3.21 COMPLIANCE WITH BOARD POLICIES AND PROCEDURES

The Contractor acknowledges that Board policies are available for review at the Owner's website and agrees to comply with the policies. The Contractor also agrees to comply with the following provisions:

3.21.1 The Contractor, its Subcontractors and employees shall not possess or carry, whether openly or concealed, any gun, rifle, pistol, or explosive on any property owned by the Owner. This includes firearms locked in containers, vehicles or firearm racks within vehicles. The Contractor, its Subcontractors and employees shall not cause, encourage or aid a minor, who is less than 18 years old to possess or carry, whether openly or concealed, any weapons on any property owned by the Owner.

3.21.2 The Contractor, its Subcontractors and employees, are prohibited from profane, lewd, obscene or offensive conduct or language, including engaging in sexual harassment.

3.21.3 The Contractor and its Subcontractors shall not manufacture, transmit, conspire to transmit, possess, use or be under the influence of any alcoholic or other intoxicating beverage, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or anabolic steroids, or possess, use, transmit or conspire to transmit drug paraphernalia on any property owned by the Owner.

3.21.4 The Contractor and its Subcontractors may not at any time use or display tobacco or nicotine-containing products, including but not limited to electronic cigarettes (e-cigarettes), on school premises, both indoor and outdoor. The prohibition of the display of tobacco or nicotine products shall not extend to a display that has a legitimate instructional or pedagogical purpose. For purposes of this Contract, "tobacco product" is defined to include cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snuff, and any other items containing or reasonably resembling tobacco, tobacco products, or any facsimile thereof. "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.

3.21.5 The Contractor, its Subcontractors and employees shall not solicit from or sell to students or staff within the Owner's facilities or campuses, and shall not give gifts of any value to school system employees.

3.21.6 Operators of all commercial vehicles on any property owned by the Owner shall be subject to post-accident, random, reasonable suspicion and follow-up testing for drugs and alcohol.

3.21.7 The Contractor, its Subcontractors and employees are prohibited from using access to the site pursuant to this Agreement as a means to date, court, or enter into a romantic or sexual relationship with any student enrolled in the School System. The Contractor agrees to indemnify the Owner for claims against the Owner resulting from relationships which have occurred or may occur between a student and an employee of the Contractor or Subcontractor.

3.22 MINORITY AND HISTORICALLY UNDERUTILIZED BUSINESS

If the Contract Sum is \$300,000 or greater, the Contractor shall make a good faith effort to utilize minority and Historically Underutilized Businesses (HUBs) as defined and required in N.C. Gen. Stat. 143-128.2 to - 128.4. The Contractor shall identify in the list of its Subcontractors, those Subcontractors that are (HUBs) and indicate the portion of the Work that each Subcontractor will perform. If during the duration of the Project, the Contractor effects a substitution for any Subcontractor, or if additional subcontract opportunities become available, the Contractor shall make a good faith effort to utilize HUBs. The Contractor shall submit with each Application for Payment a list of those HUBs whose work is included in the application and the amount due

each. Failure or refusal of the Contractor to submit the required information on HUBs shall be grounds to withhold payment.

END OF ARTICLE 3

ARTICLE 4

SUBCONTRACTORS

4.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

4.1.1 The Contractor, in compliance with the requirements of the Contract Documents, shall furnish in writing to the Owner the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity.

4.1.2. The Contractor shall identify in the list of names of the Subcontractors proposed, those Subcontractors that are Minority Business Enterprises and the date each is planned to begin work on the project. If during the duration of the project, the Contractor effects a substitution for any Subcontractor, or if additional subcontract opportunities become available, the Contractor shall make a good faith effort to utilize Minority Business Enterprises. At the completion of the project, the Contractor shall provide documentation acceptable to the Owner showing the amount of MBE participation (including a complete list of all subcontractors and their final subcontract amounts).

END OF ARTICLE 4

ARTICLE 5

WORK BY OWNER OR BY SEPARATE CONTRACTORS

5.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

5.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

5.2 MUTUAL RESPONSIBILITY

5.2.1 Should the Contractor cause damage to the work or property of the Owner or of any separate contractor on the Project, or to other work on the Site, or delay or interfere with the Owner's work on ongoing operations or facilities or adjacent facilities or said separate contractor's work, the Contractor shall be liable for the same; and, in the case of another contractor, the Contractor shall attempt to settle said claim with such other contractor prior to such other contractor's institution of litigation or other proceedings against the Contractor.

5.2.2 Should a separate contractor cause damage to the Work or to the property of the Contractor or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said separate contractor any claims it may have as a result of such damage, delay or interference (with an information copy to the Owner) and shall attempt to settle its claim against said separate contractor prior to the institution of litigation or other proceedings against said separate contractor.

5.2.3. In no event shall the Contractor seek to recover from the Owner or the Design Consultant, and the Contractor hereby waives any claims against the Owner and Design Consultant relating to any costs, expenses (including,

but not limited to, attorney's fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any separate contractor.

5.3 COORDINATION OF THE WORK

- 5.3.1 By entering into this contract, Contractor acknowledges that there may be other contractors on the site whose work will be coordinated with that of his own. Contractor expressly warrants and guarantees that he will cooperate with other contractors and will do nothing to delay, hinder or interfere with the work of other separate contractors, the Owner or Design Consultant. Contractor also expressly agrees that, in the event his work is hindered, delayed, interfered with or otherwise affected by a separate contractor, his sole remedy will be a direct action against the separate contractor as described in this Article 5. Contractor will have no remedy, and hereby expressly waives any remedy, against the Owner and/or the Design Consultant on account of delay, hindrance, interference or other event caused by a separate contractor.

END OF ARTICLE 5

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 GOVERNING LAW

- 6.1.1 This contract shall be governed by the law of the State of North Carolina. The Contractor and Owner agree that county where the Project is located shall be the proper venue for any litigation arising out of this Agreement.
- 6.1.2 Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly or fully inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

6.2 CLAIMS AND DAMAGES

- 6.2.1 Should the Contractor or any of its Subcontractors suffer injury or damage to person or property because of any act or omission of the Owner or Design Consultant, or of any of their employees, agents or others for whose acts either is legally liable, the claim on behalf of the Contractor or its subcontractors shall be made in writing to the Owner within 10 days after the first observance of such injury or damage; otherwise, the Contractor shall have waived any and all rights he may have against the Owner or the Design Consultant, or their employees, representatives and agents. The Contractor shall indemnify, defend and hold the Owner harmless from any claim by a Subcontractor that is waived because it is not filed in strict conformance with this paragraph or any other provision of this Agreement regarding claims.

6.4 RIGHTS AND REMEDIES

- 6.4.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 6.4.2 Except as may be specifically agreed in writing, the failure of the Owner or the Design Consultant to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provisions or right(s) or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.

- 6.4.3 The Contractor agrees that he can be adequately compensated by money damages for any breach of this Contract which may be committed by the Owner and hereby agrees that no default, act, or omission of the Owner or the Design Consultant, except for failure to make progress payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which he might otherwise be or become entitled, save only his right to money damages.
- 6.4.4 Contractor and Owner acknowledge that the Contract Documents shall not be construed against Owner due to the fact that they may have been drafted by Owner. For purposes of construing the Contract Documents, both Contractor and Owner shall be considered to have jointly drafted the Contract Documents.
- 6.4.5 In the event that Owner incurs attorney's fees or litigation expenses in connection with enforcing or protecting its rights under the Contract Documents or defending any claim or lawsuit brought against it arising out of the Work or the Contract Documents, Contractor shall reimburse Owner for such reasonable attorney's fees and expenses.
- 6.5 TESTS
- 6.5.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the Owner timely notice of its readiness so the Design Consultant and the Owner may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals, except the Contractor shall be responsible for the cost of any reinspection, including the rescheduling of an inspection requested by the Contractor prior to proper the completion of the work to be inspection.
- 6.5.2 Unless otherwise stipulated in other Contract Documents, the Contractor shall pay for all utilities required for testing of installed equipment of all of his work and work of each Subcontractor. Boiler fuel other than gas shall be provided by Subcontractor furnishing boilers. Labor and supervision required for making such tests shall be provided at no additional cost to the Owner.
- 6.5.3 If the Design Consultant or the Owner determines that any Work requires special inspection, testing, or approval which Subparagraph 6.5.1 does not include, the Owner will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 6.5.1. If such special inspection or testing reveals a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Design Consultant's and Owner's additional construction management expenses made necessary by such failure.
- 6.6 UNENFORCEABILITY OF ANY PROVISION
- 6.6.1 If any provision of this Contract is held as a matter of law to be unenforceable or unconscionable, the remainder of the Contract shall be enforceable without such provision.
- 6.7 ATTORNEYS' FEES AND OTHER EXPENSES
- 6.7.1 The Contractor hereby agrees that he will not submit, assert, litigate or otherwise pursue any frivolous or unsubstantiated claims or claims he has specifically waived under the terms of the Contract Documents. In the event that the Contractor's or its Subcontractor's claims, or any separate item of a claim, is without substantial justification, the Contractor shall reimburse the Owner or Design Consultant for all costs and expenses associated with defending such claim or separate item, including but not limited to, attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, or services and any other consultant costs.

- 6.7.2 If the Contractor breaches any obligation under the Contract Documents, the Contractor shall reimburse the Owner and Design Consultant for all costs and expenses incurred by the Owner relating to such breach, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.
- 6.7.3 If the Owner or Design Consultant prevails in a claim brought against the Contractor, including but not limited to, claims for fraud or misrepresentation, overpayment, defective work, delay damages, and recovery of termination expenses, the Contractor shall reimburse the Owner and Design Consultant for all costs and expenses incurred by them relating to such claim, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.

END OF ARTICLE 6

ARTICLE 7

TIME

7.1 DEFINITIONS

- 7.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial and Final Completion of the Work, as defined in Subparagraph 7.1.3 and 7.1.4, including any allowances and alternates. The Contractor shall complete his Work within Contract Time, unless the Contract Time is modified.
- 7.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein. The Contractor shall not commence Work or store materials or equipment on site until written Notice to Proceed is issued or until the Contractor otherwise receives the Owner's written consent.

7.2 DELAYS AND EXTENSIONS OF TIME

- 7.2.1 The time during which the Contractor or any of its subcontractors delayed in the performance of the Work by the acts or omissions of the Owner, Design Consultant or their employees or agents, acts of God, unusually severe and abnormal climatic conditions, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes, or other conditions beyond the Contractor's or its subcontractors' control and which the Contractor or its subcontractors could not reasonably have foreseen and provided against, shall be added to the time for completion of the Work (i.e., the Contract Time) stated in the Owner-Contractor Agreement; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in strict compliance with the requirements of this Article and other provisions of the Contract Documents.
- 7.2.1.1 For excessive inclement weather, the Contract Time will not be extended due to reasonably anticipated inclement weather or for delays in the aftermath of inclement weather, reasonably anticipated or excessive. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be available for construction out-of-doors; for the purposes of this Contract, the Contractor agrees that the number of calendar days per month based on a five-year average shall be considered reasonably anticipated inclement weather and planned for in the construction schedule per the Contract. Unless the Contractor can substantiate to the satisfaction of the Owner that there was greater than the reasonably anticipated inclement weather considering the time from the notice-to-proceed until the building is enclosed using data from the national weather service station at ILM Airport or a weather station acceptable to the Owner and that such alleged greater than reasonably anticipated inclement weather actually delayed the Work or

portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time.

Also the Contractor agrees that the calculation of the number of excessive inclement weather days shall be the number of days in excess of the five-year average for each month, in which precipitation exceeded one tenth (.10) inch, or in which the highest temperature was 32 degrees F or less as recorded at the approved weather station. Rain days from hurricanes and tropical storms not causing damage in in the county where the Project is located shall be deemed inclement weather days.

If the total accumulated number of calendar days lost to excessive inclement weather, from the notice-to-proceed until the building is enclosed, exceeds the total accumulated number to be reasonably anticipated for the same period from the table above, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost. No extension of time will be made for days due to excessive inclement weather occurring after the building is enclosed or for contracts that do not include work out of doors that is not on the critical path. For the purpose of this Contract, the term "enclosed" is defined to mean when the building is sufficiently roofed and sealed, either temporarily or permanently, to permit the structure to be heated and the plastering and dry-wall trades to work. The Design Consultant shall determine when the structure is "enclosed". Upon the request of either party, the Design Consultant shall issue a letter certifying to the Owner, with a copy to the Contractor, stating the date the building became enclosed. No change in Contract Sum will be authorized because of adjustment of Contract time due to excessive inclement weather.

- 7.2.2 Should a time extension be granted for Substantial Completion the date for Final Completion shall be appropriately adjusted unless specifically stated otherwise.
- 7.2.3 Neither the Owner nor the Design Consultant shall be obligated or liable to the Contractor or its Subcontractors for, and the Contractor hereby expressly waives any claims against the Owner and the Design Consultant on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, its Subcontractors, or Sub-subcontractors or any other person may incur as a result of any delays, interferences, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by Contractor, and it is understood and agreed that the Contractor's sole and exclusive remedy in any such events shall be an extension of the Contract Time in accordance with the Contract Documents, unless the delays, interferences, changes in sequence or the like arise solely from or out of any act or omission of the Owner or the Design Consultant, or their agents, employees, consultants or independent. The Contractor shall not be entitled to any damages or extensions of time pursuant to this section for concurrent delays for which the Contractor is at least partially responsible.
- 7.2.4 Subject to other provisions of the Contract Documents, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, his Subcontractors or suppliers, unless caused solely by the Owner or Design Consultant
 - 7.2.4.1 The Contractor and its subcontractors shall not be entitled to and hereby expressly waives any extension of time resulting from any condition or cause unless said claim for extensions of time is made in writing to the Owner within ten (10) days of the first instance of delay.

END OF ARTICLE 7

ARTICLE 8

PAYMENTS AND COMPLETION

8.1 SCHEDULE OF VALUES

- 8.1.1 Before the first Application for Payment, the Contractor shall submit to the Owner a schedule of values allocated to the various portions of the Work.

8.2 APPLICATIONS FOR PAYMENT

- 8.2.1 Prior to the date for each progress payment established in the Owner-Contractor Agreement, the Contractor, shall submit to the Owner an itemized Application for Payment including a completed Contractor's Sales Tax Report (attached hereto as Appendix A) for all items provided by the Contractor or any Subcontractors included in the application. The Contractor shall also certify that he has paid all due and payable amounts for which previous certificates for payment were issued and payments received from the Owner and that the work for which payment is requested has been completed.
- 8.2.2 The Owner will retain funds from each progress payment to the maximum extent allowed by N.C. General Statute 143-134.1 until the Work is finally completed and accepted, whether or not the Owner has occupied any or all of the Project before such time. If a reduction in retainage has been made or the Owner stops withholding retainage for any reason, the Owner may increase or commence the retainage as authorized by N.C. Gen. Stat. 143-134.1.
- 8.2.3 Owner will be under no obligation to make payment to the Contractor on account of materials or equipment not incorporated in the Work. Materials once paid for by the Owner become the property of the Owner and may not be removed from the work site without the Owner's written permission.
- 8.2.4 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 8 as "liens".
- 8.2.5 All invoices shall show the following:
- .1 Total amount of contract
 - .2 Amount of change orders
 - .3 Total value of completed work
 - .4 Amount retained by Owner
 - .5 Amount due Contractor

8.3 CERTIFICATES FOR PAYMENT

- 8.3.1 By signing a Certificate for Payment, the Design Consultant shall not thereby be deemed to represent that it has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that it has reviewed the construction means, methods, techniques, sequences, or procedures, or that it has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

8.4 PROGRESS PAYMENTS

- 8.4.1 The Contractor shall promptly pay each Subcontractor (including suppliers, laborers, and material-men) performing labor or furnishing material for the Work, upon receipt of payment from the Owner.
- 8.4.2 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

8.4.3 The Contractor shall not submit more than one pay application during any 30-day period.

8.5 PAYMENTS WITHHELD

8.5.1 The Design Consultant may decline to certify payment and may withhold their Certificate in whole or in part, to the extent the Design Consultant deems necessary to reasonably protect the Owner from loss associated with unsatisfactory job progress, defective construction, disputed work, claims or any other similar issue. The Design Consultant may also decline to certify payment if the Contractor fails to provide Subcontractor information regarding the use of HUBs and/or sexual registry checks. If the Design Consultant is unable to make representations to the Owner and to certify payment in the amount of the Application, it will notify the Contractor as provided herein. The Design Consultant may also decline to certify payment because of subsequently discovered evidence or subsequent observations that may nullify the whole or any part of any Certificate for Payment previously issued to such extent as may be necessary in its opinion to protect the Owner from loss.

8.6 FAILURE OF PAYMENT

8.6.1 Payments due and unpaid under the Contract Documents shall not bear interest.

8.7 SUBSTANTIAL COMPLETION

8.7.1 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Design Consultant and Owner when the Work or a designated portion thereof is sufficiently complete, in accordance with the Contract Documents, so Owner can fully occupy and utilize the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents. Only incidental corrective work and any final cleaning beyond that needed for Owner's full use may remain for Final Completion. The Contractor shall be solely responsible for the cost to repair or replace any work damaged or destroyed prior to the Date of Substantial Completion.

8.7.2 When the Design Consultant and the Owner on the basis of an inspection jointly determine that the Work or designated portion thereof is substantially complete, they will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Contractor shall provide operation & maintenance manuals, and operation training to the Owner as required by the Contract Documents prior to Substantial Completion. The Owner's occupancy of incomplete work shall not alter the Contractor's responsibilities pursuant to this section.

8.7.3 The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor and its Subcontractors except those previously made in writing and identified by the Contractor as unsettled at the time the Contractor submits the Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance. The Contractor shall indemnify and hold the Owner harmless against any claims by its Subcontractors that are waived because they were not made in writing and identified by the Contractor as unsettled when the Contractor submitted the Application for Payment for Substantial Completion.

8.7.4 The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the project by the Owner, and the Contractor is not relieved of any responsibility for the project except as specifically stated in the Certificate of Substantial Completion.

8.7.5 There will be two inspections by the Design Consultant at Substantial Completion:

- .1 To generate a list of items to be completed or corrected before Owner takes possession of the Work.
- .2 To check that the list of items has been completed before issuing Final Payment.

Any additional inspections by the Design Consultant requested by Contractor to complete the Punch List shall result in money being withheld from the Final Payment to cover the cost of these additional inspections.

8.8 FINAL COMPLETION AND FINAL PAYMENT

8.8.1 The date of Final Completion of the work is the date certified by the Design Consultant and the Owner when the Work is totally complete, to include punch list work, in accordance with the Contract Documents and the Owner may fully occupy and utilize the work for the use for which it is intended. The issuance of a temporary or final certificate of occupancy shall not, in itself, constitute Final Completion.

8.8.1.1 When the Design Consultant and the Owner find the Work acceptable under the Contract Documents and the Contract fully performed, they will approve a final Certificate of Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable, except for an amount mutually agreed upon for any work remaining incomplete or uncorrected for which the Owner is entitled a credit under the Contract Documents. If the Design Consultant and the Owner find the Work to be incomplete or unacceptable, the costs of reinspections shall be paid by the Contractor.

8.8.2 Final Payment shall not become due until the Contractor provides to the Design Consultant and Owner: three (3) copies of any of the following required:

- .1 Final Change Order
- .2 Final Application for Payment
- .3 Consent of Surety to Final Payment - AIA G707(if applicable)
- .4 Contractor's Affidavit of Release of Liens - AIA G706A
- .5 Contractor's Affidavit of Payment of Debts and Claims - AIA G706;
- .6 Certificate of Occupancy (if applicable)
- .7 Contractor's Warranty, notarized
- .8 Warranty Summary Sheet with Original Warranties (if not included in O & M Manuals)
- .9 Certification Letter from Contractor that no Asbestos-Containing Materials were used on the project
- .10 Final List of Subcontractors (name, address, phone, email, fax nos.)
- .11 Record Drawings (As-Built) - 1 set
- .12 Operation and Maintenance Manuals - 3 sets
- .13 Other project close-out submittals, as required by the Contract Documents.

8.8.3 Neither the final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the Owner:

- .1 an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied;
- .2 if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner; and
- .3 As-built drawings, and other project closeout submittals, as required by the Owner.

- 8.8.4 The making of final payment shall constitute a waiver of all claims by the Owner against the Contractor except those arising from:
- .1 unsettled liens, and claims against the Owner or the Design Consultant, or their employees, agents, or representatives,
 - .2 faulty, defective or non-conforming Work discovered or appearing after Substantial or Final Completion,
 - .3 failure of the Work to comply with the requirements of the Contract Documents,
 - .4 terms of any warranties contained in or required by the Contract Documents,
 - .5 damages incurred by the Owner resulting from lawsuits brought against the Owner, the Design Consultant, or their agents, employees or representatives because of failures or actions on the part of the Contractor, his Subcontractors, Sub-subcontractors, or any of their employees, agents or representatives, or
 - .6 fraud or bad faith committed by the Contractor or any subcontractor or supplier during performance of work but discovered by Owner after Final Payment.
- 8.8.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment
- 8.9 LIQUIDATED DAMAGES
- 8.9.1 Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion (or such later date as may result from extension of time granted by Owner), he shall pay the Owner, as Substantial Completion liquidated damages the daily amount stated in the Supplementary Conditions for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete work within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.
- 8.9.2 For each consecutive calendar day that the Work remains incomplete after the date established for Final Completion, the Contractor shall pay or Owner will retain the daily amount stated in the Supplementary Conditions as Final Completion Liquidated Damages from the compensation otherwise to be paid to the Contractor. This amount is the minimum measure of damages the Owner will sustain due to the delay in the completion of all remedial work, the delay in the correction of the deficient work, the disruption to the school and the learning environment, the cost of contract management time and resources, administration time, and the inability to use the facilities fully. This amount is in addition to the liquidated damages prescribed above for Substantial Completion.
- 8.9.3 The amount of liquidated damages set forth in the corresponding Supplementary Conditions shall be assessed cumulatively. The items of cost included in the assessment of liquidated damages are as defined above. This provision for liquidated damages does not bar Owner's right to enforce other rights and remedies against Contractor, including but not limited to, specific performance or injunctive relief.
- 8.10 OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK
- 8.10.1 Should the Project, or any portion thereof, be incomplete for Substantial or Final Completion at the scheduled date or dates, the Owner shall have the right to occupy any portion of the Project. In such an event, the Contractor shall not be entitled to any extra compensation on account of said occupancy by the Owner or by the Owner's normal full use of the Project, nor shall the Contractor interfere in any way with said normal full use of the Project. Further, in such an event, the Contractor shall not be entitled to any extra compensation on account of the Owner's occupancy and use of the Project, nor shall the Contractor be relieved of any responsibilities of the Contract including the required times of completion and property insurance coverage,

unless specifically altered by the Owner in writing. Such occupancy by the Owner shall not, in itself, constitute Substantial or Final Completion.

END OF ARTICLE 8

ARTICLE 9

INSURANCE AND BONDS

9.1.1 CONTRACTOR'S INSURANCE AND BONDS

The Contractor shall purchase and maintain in companies properly licensed by the Insurance Department of the State of North Carolina and acceptable to the Owner such insurance as will protect him, the Owner, and the Owner's agents, representatives, and employees from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Such insurance shall include:

9.1.1.1 Worker's Compensation including Occupational Disease and Employer's Liability Insurance

- .1 Statutory - Amount and coverage as required by State of North Carolina Worker's Compensation laws
- .2 Employer's Liability
 - \$1,000,000 Each Accident
 - \$1,000,000 Policy Limit
 - \$1,000,000 Each Employee

9.1.1.2 Commercial General Liability (Occurrence Form) - The Contractor shall provide during the life of this Contract such Commercial General Liability (Occurrence Form) Insurance as shall protect Contractor and any Subcontractor performing work under this Contract from claims for damages for Bodily Injury including accidental death, as well as from claims for Property Damage which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by either of them. This insurance shall be on the Standard Insurance Services Office, Inc. (ISO) Commercial Liability Occurrence Form. The Contractor shall procure insurance coverage for direct operations, sublet work, elevators, **contractual liability** and completed operations with limits not less than those stated below:

A Combined Single Limit for Bodily Injury, Property Damage and Personal Injury of:

- \$2,000,000 General Aggregate (except Products - Completed Operations) Limit
- \$2,000,000 Products - Completed Operations Aggregate Limit
- \$1,000,000 Personal and Advertising Injury Limit
- \$1,000,000 Each Occurrence Limit

9.1.1.3 Property Damages, including Broad Form Property Damage and Explosion, Collapse, Underground property damage coverages, and blasting, where necessary.

9.1.1.4 Completed Operations Liability: Continuous coverage in force for one year after completion of Work.

9.1.1.5 Commercial Automobile Insurance, including coverage for owned, non-owned and hired vehicles - with limits not less than a Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.

9.1.1.6 Umbrella Liability Insurance: Policy to 'pay on behalf of the Insured' with Limits of Liability: \$1,000,000.

9.2 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not

be canceled until at least thirty (30) days prior written notice has been given to the Owner. Failure to provide such notice shall not limit the liability of the Insurer, its agents or representatives.

- 9.3 All insurance policies required in this Article, except Worker's Compensation and Commercial Automobile, shall name the Owner as additional named insured for the insurance.
- 9.4 Contractor shall not commence work under this Contract until he has obtained all the insurance and bonds required under Article 9 of this Contract and until such insurance and bonds have been approved by the Owner, nor shall Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Approval of the insurance by Owner shall not relieve or decrease the liability of Contractor hereunder.
- 9.5 The Commercial General Liability and Workers Compensation Policies provided by Contractor shall have endorsements waiving subrogation against Owner.
- 9.6 **PROPERTY INSURANCE.** Contractor shall provide the following property insurance through at least Substantial Completion of the Project:
- 9.6.1 Unless stated otherwise in the Supplemental Conditions, Contractor shall purchase and at all times maintain such insurance as will protect Contractor, Owner, Subcontractors and Sub-subcontractors from loss or damage to Work or property in the course of construction, including all machinery, materials and supplies on the premises or in transit thereto and intended to become a part of the finished work until Final Completion. This insurance shall be in the form of 'Builder's Risk Covered Cause of Loss Form' to include, but not limited to, theft, collapse, earth movement and flood. Any deductible provision in such insurance shall not exceed \$5,000.00. Notwithstanding any such deductible provision, Contractor shall remain solely liable for the full amount of any item covered by such insurance.
- 9.6.2 If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by Owner and Contractor, and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
- 9.7 Owner shall be under no obligation to review any Certificates of Insurance provided by Contractor, or to check or verify Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. Contractor is fully liable for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.
- 9.8 All insurance companies providing the above insurance shall be licensed by the Insurance Department of the State of North Carolina and maintain a rating by AM Best or a similar rating company with a minimum of an "A-" rating.
- 9.9 **PERFORMANCE AND PAYMENT BONDS**
- "If required by law, or in the Supplemental Conditions or the Contract Documents, Contractor must provide performance and payment bonds each in the amount of the Contract Sum. Such bonds shall be on forms acceptable to Owner and issued by surety companies licensed to do business in North Carolina and having a rating of at least AM Best "A" rating. Contractor may, at its option, make deposit in the form of certified check with Owner in lieu of the performance and payment bonds in an amount equal to the Contract Sum for each such bond, for a total of 200% of the Contract Sum."
- 9.10 **Risk of Loss:** Contractor shall bear the risk of loss in the event that any of the Work is stolen, lost, damaged or destroyed prior to the Final Completion of the Work, the issuance of a final Certificate of Occupancy, and acceptance of the Work by the Owner. If any of the Work is stolen, lost, damaged, or destroyed prior to Final Completion, the issuance of a final Certificate of Occupancy, and acceptance of the Work by the Owner, due to any reason except the intentional or reckless acts of Owner or Owner's authorized agents, Contractor shall bear the full cost of repairing or replacing all such Work, including all equipment and

materials. Contractor should purchase his own insurance to cover this risk if required by the Contract Documents or otherwise if the Contractor so chooses.

END OF ARTICLE 9

ARTICLE 10

CHANGES IN THE WORK

10.1 CHANGE ORDERS/CONSTRUCTION CHANGE DIRECTIVE

10.1.1 The Owner may, at any time, by written order designated or indicated to be a Change Order, make any change or modification in the Work or add to the Work within the general scope of the Contract.

10.1.2 A Change Order is a document executed pursuant to this Article when the Owner and Contractor agree to Changes in the Work, the Contract Sum, the Contract Time and any other change in the Contract by written agreement signed by Owner, Contractor and Design Consultant designated or indicated to be a Change Order. If the Contractor, subsequent to the issuance of a Construction Change Directive, agrees to its terms including any applicable adjustment to the Contract Sum and Contract Time, Contractor shall sign it and it shall become a Change Order.

10.1.3 A Construction Change Directive is a written order prepared by the Design Consultant and signed by the Owner and Design Consultant, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both.

10.2 OWNER DIRECTED CHANGES REQUIRING AN INCREASE IN CONTRACT SUM.

10.2.1 If the Change in the Work will result in an increase in the Contract Sum, the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such Change in the Work).

If the Owner elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum Proposal which shall be submitted by the Contractor to the Owner within seven (7) days of the Contractor's receipt of a request therefore (but the Owner's request for a lump sum Proposal shall not be deemed an election by the Owner to have the Change in the Work performed on a lump sum basis). The Contractor's Proposal shall be itemized and segregated by labor and materials for the various components of the Change in the Work (no aggregate labor or material total will be acceptable) and shall be accompanied by signed Proposals of any Subcontractors who will perform any portion of the Change in the Work and of any persons who will furnish materials or equipment for incorporation therein. The Proposal shall also include the Contractor's estimate of the time required to perform said changes. The Contractor shall provide any documentation that may be requested by the Owner or Design Consultant to support the change proposal, including but not limited to payroll records, insurance rates, material quotes, and rental quotes. The Change Proposal Forms attached as Appendix B shall be used to submit change proposals on the Project.

The portion of the Proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of job site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime time, if overtime is anticipated, Social Security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (said overhead and profit to include all supervision except foremen). Payroll costs are limited to 39% of the net pay of the worker.

The portion of the Proposal relating to materials may include the reasonably anticipated direct costs to the

Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales and use taxes and up to fifteen percent (15%) of said direct material costs as overhead and profit for the Contractor or any such Subcontractor (said overhead and profit to include all small tools), and may further include the Contractor's and any of its Subcontractor's reasonably anticipated rental costs in connection with the Change in the Work (either actual or discounted local published rates), plus up to eight percent (8%) thereof as overhead and profit for the Contractor or any such Subcontractors, as applicable. The Contractor shall provide an itemized breakdown of all transportation and shipping costs, including receipts documenting the expenses. Notwithstanding the above, overhead and profit shall not be applied to any sales tax paid for any purpose or to any transportation or shipping costs incurred by the Contractor or any subcontractor. If any of the items included in the lump sum Proposal are covered by unit prices contained in the Contract Documents, the Owner may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum Proposal, in which event an appropriate deduction will be made in the lump sum amount prior to the application of any allowed overhead and profit percentages. No overhead and profit shall be applied to any unit prices.

The lump sum Proposal may include up to eight percent (8%) of the amount which the Contractor will pay to any of its Subcontractors for Changes in the Work as overhead and profit for the Contractor. The Contractor shall not be reimbursed for the costs of the Subcontractors' Payment and Performance Bonds, as such bonding is not required by the Owner.

- 10.2.2 In the event that (1) the parties are unable to agree as to the reasonable cost and time to perform the Change in the Work based upon the Contractor's Proposal and the Owner does not elect to have the Change in the Work performed on a time and material basis, (2) the Contractor fails to submit his Proposal within the designated period, or (3) the Work needs to begin immediately, the Owner may choose to make a determination of the reasonable cost and time to perform the Change in the Work, based upon its own estimates, the Contractor's submission or a combination thereof. A Construction Change Directive shall be issued in this case for the amounts of cost and time determined by the Owner and shall become final and binding upon the Contractor, subject to Contractor's right to dispute such action in accordance with Paragraph 10.9. Owner has the right to direct by Construction Change Directive a Change in the Work, which is the subject of such Change Order. Failure of the parties to reach agreement regarding the cost and time of the performing the Construction Change Directive, shall not relieve the Contractor from performing the Change in the Work promptly and expeditiously.
- 10.2.2.1 The Owner reserves the right to reject the Contractor's Proposal for a Change in the Work and to elect to perform said Work using a Separate Contractor. Under such circumstances, all provisions of Article 6 shall be in force.
- 10.2.3 If the Owner elects to have the Change in the Work performed on a time and material basis or on a time and material basis with a not to exceed amount, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-subcontractors, at actual cost to the entity performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the cost, use or rental of tools or plant), plus fifteen percent (15%) thereof as the total overhead and profit (except that said fifteen percent (15%) shall not be applied against any payroll costs, as set forth in Paragraph 10.2.1.). If the Owner and Contractor agree upon a not to exceed amount, it shall be clearly identified in the Change Order or change proposal form and shall be the maximum amount paid by the Owner for the identified work. The Contractor shall submit to the Owner daily time and material tickets, on a daily basis to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the Owner may require. The Owner may require authentication of all time and material tickets and invoices by persons designated by the Owner for such purpose. The failure of the Contractor to secure any required authentication shall, if the Owner elects to treat it as such, constitute a waiver by the Contractor of any Claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Owner shall not constitute an acknowledgment by the Owner that the items thereon were reasonably required for the Change in the Work.
- 10.2.3.1 The Contractor may only bill for all or a portion of work performed on a time and material basis if the work has been completed, accepted and properly documented to the Owner and Design Consultant's satisfaction.

10.2.4 No overhead and profit will be paid by the Owner on account of a Change in the Work except as specifically provided in Section 10.2. Overhead and profit, as allowed under Section 10.2, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of a Change in the Work and which are not otherwise specifically recoverable by them pursuant to Section 10.2.

10.3 CONTRACTOR NOTICE OF CHANGE

10.3.1 If the Contractor or any of its Subcontractors asserts that any event or occurrence has caused a change in or addition to the Work which change causes an increase or decrease in the Contractor's or its Subcontractors' cost or the time required for the performance of any part of the Work under the Contract, including Work not affected directly by the change, the Contractor shall, within ten (10) days of such event, give the Owner written notice as herein required. Said notice shall include the instructions or circumstances that are the basis of the claim and the Contractor's best estimate of the cost and time involved.

10.3.2 If the Contractor intends to assert a claim under this Article, he must, within ten (10) days after receipt of a written Change Directive under Subparagraph 10.2.1 above or the furnishing of a written notice under Subparagraph 10.3.1, submit to the Owner a written statement setting forth the specific nature and cost of such claim, unless this period is extended by the Owner. The statement of claim hereunder may be included in the notice under Subparagraph 10.3.1 above. The statement of claim shall include all direct, indirect and impact costs associated with the change, as well as the Contractor's estimate of the schedule impact of the change, if any. The Contractor and its subcontractors shall not be entitled to reimbursement for any claims that are not filed in strict conformance with this Article. The Contractor shall indemnify and hold the Owner harmless against any claims by Subcontractors that are waived because they are not filed in strict conformance with this Article.

10.3.3 If the parties are unable to agree to the reasonable cost and time to perform the Change, or are unable to agree as to whether a change occurred, the Owner shall make a unilateral determination as described in Article 10.2.2. The Contractor shall proceed pursuant to the provisions of that Article.

10.4 GENERAL PROVISIONS RELATED TO CHANGES

10.4.1 The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of Article 10, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed pursuant to this Article 10, unless the delay is caused solely by the Owner or its agent. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of his direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents. The phrase "Owner or its agent" as used in this Agreement, does not include the Prime Contractors or their Subcontractors.

10.4.2 No claim by the Contractor hereunder shall be allowed if asserted after final payment under this Contract. No claim relating to or flowing from a particular change shall be allowed after execution of the Change Order relating to that change or commencement of the change by the Contractor.

10.5 CHANGES REQUIRING A DECREASE IN CONTRACT SUM.

10.5.1 If the Change in the Work will result in a decrease in the Contract Sum, the Owner may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the Owner within ten (10) days of the Owner's request and, if acceptable to the Owner, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in

actual cost of the Work, as determined by the Owner in its reasonable judgment, plus fifteen percent (15%) thereof as overhead and profit.

10.6 DISPUTES REGARDING CHANGES.

10.6.1 If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the Contract Time as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the Owner in writing. The Owner shall, however, pay to the Contractor up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in an increase in the Contract Sum; and the Owner shall have the right to decrease the Contract Sum up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the Contract Sum.

10.7 MINOR CHANGES IN THE WORK

10.7.1 The Owner shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

10.7.2 The Contractor shall not perform any changes in the Work unless authorized in writing by the Design Consultant or Owner.

10.8 DIFFERING SITE CONDITIONS

10.8.1 Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the drawings or indicated in the specifications or differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract, he shall immediately give notice to the Owner of such conditions before they are disturbed. The Owner and the Design Consultant shall thereupon promptly investigate the conditions and if they find that they materially differ from those shown on the drawings or indicated in the specifications, they shall at once make such changes in the drawings and/or specifications as they may find necessary. Any increase or decrease of cost resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. However, neither the Owner nor the Design Consultant shall be liable or responsible for additional work, costs or changes to the work due to material differences between actual conditions and any geotechnical, soils and other reports, surveys and analyses made available for the Contractor's review.

10.9 CLAIMS AND DISPUTE RESOLUTION

10.9.1 Definition. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question from the Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the Contractor.

10.9.2 Time Limits on Claims. Claims by Contractor must be initiated within 10 days occurrence of the event giving rise to such Claim or within 10 days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later, but in no event subsequent to the Contractor's final payment application. Claims must be initiated by written notice to the Design Consultant (if there is one) and the other party.

10.9.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as otherwise provided in the Contract Documents, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments in accordance with the Contract Documents.

- 10.9.4 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property when the giving of such notice would increase the risk of injury or damage to persons or property.
- 10.9.5 Claims for Additional Time. If the Contractor wishes to make Claim for an extension of the dates set for Substantial or Final Completion, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Contractor bears the burden of proving it is entitled to an extension of time. Unless Contractor meets this burden, Liquidated Damages shall be assessed automatically.
- 10.9.6 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the relevant period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.
- 10.9.7 Resolution of Claims and Disputes. Claims, including those alleging an error or omission by the Design Consultant, shall be referred initially to the Design Consultant for decision, if there is a Design Consultant with Contract Administration duties which include Claims resolution; otherwise, such Claims by Contractor shall initially be referred to the Owner. An initial decision by such Design Consultant (or Owner as applicable) shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Design Consultant (or Owner as applicable) with no decision having been rendered. The Design Consultant (or Owner as applicable) will not decide disputes between the Contractor and persons or entities other than the Owner.
- 10.9.8 The Design Consultant (or Owner as applicable) will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Design Consultant is unable to resolve the Claim if the Design Consultant lacks sufficient information to evaluate the merits of the Claim or if the Design Consultant concludes that, in the Design Consultant's sole discretion, it would be inappropriate for the Design Consultant to resolve the Claim.
- 10.9.9 Upon receipt of the response or supporting data, if any, the Design Consultant (or Owner as applicable) will either reject or approve the Claim in whole or in part.
- 10.9.10 The Design Consultant (or Owner as applicable) will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties or any change in the Contract Sum or Contract Time, or both. The approval or rejection of a Claim by the Design Consultant (or Owner as applicable) shall be final and binding on the parties but subject to mediation and litigation.
- 10.9.11 When a written decision of the Design Consultant (or Owner as applicable) states that (1) the decision is final but subject to mediation and litigation and (2) a demand for mediation of a Claim (if required by Owner's Dispute Resolution Procedures) or the commencement of a lawsuit (if mediation is not required as a pre-condition to litigation in Owner's Dispute Resolution Procedures) covered by such decision must be made or done within 30 days after the date on which the party making the demand (or filing the lawsuit) receives the final written decision, then failure to demand mediation in writing (if required) or file the lawsuit within said 30 days' period shall result in the Design Consultant's (or Owner's as applicable) decision becoming final and binding upon the Owner and Contractor. If the Design Consultant (or Owner as applicable) renders a decision after litigation proceedings have been initiated, such decision may be entered as evidence, but shall not supersede litigation proceedings unless the decision is acceptable to all parties concerned.
- 10.9.12 In the event of a dispute, the Owner, Contractor, and other parties involved in the Project shall utilize the Dispute Resolution Procedures adopted by Owner pursuant to N.C.G.S. §143-128(g), if applicable. Owner's Dispute Resolution Procedures are as follows:
- These Procedures are applicable to the resolution of disputes with amounts in controversy in excess of \$15,000.00 arising between or among any parties involved in Owner's construction and repair Projects, including the Design Consultant and the Contractors, and the first and lower tier subcontractors, on Claims arising out of the contract or construction process. In no event shall the Owner be subject to arbitration proceedings pursuant

to these Procedures. Unless otherwise specified in these Procedures, if there is any conflict between these Procedures and the other provisions of the Contract Documents, the terms of these Procedures control.

Any Claim as defined in the Contract Documents or any dispute between parties to a construction contract involving the Project, other than the Owner's claims, except those Claims which are waived shall be subject to nonbinding mediation as a condition precedent to the institution of legal proceedings by any party, except that any party may institute legal proceedings in order to meet any applicable statute of limitations or similar deadlines prior to engaging in nonbinding mediation.

The parties shall endeavor to resolve their claims by nonbinding mediation, which, unless the parties mutually agree otherwise, shall be in accordance with rules established by Owner if Owner is a party to the mediation. If Owner is not a party to the mediation, the mediation shall be conducted in accordance with rules established by the parties to the mediation. The parties to the mediation shall share the cost of mediation equally. The mediation shall be held in the place where the project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

- 10.9.13 All suits in law or equity between the Owner and the Contractor arising out of the Contract shall be heard in the appropriate court of justice in the county where the Project is located.

END OF ARTICLE 10

ARTICLE 11

CORRECTION OF WORK

11.1 CORRECTION OF WORK

- 11.1.1 The Contractor shall promptly reconstruct, replace or correct all Work rejected by the Design Consultant as defective or as failing to conform to the Contract Documents or as not in accordance with the guarantees and warranties specified in the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Design Consultant's and the Owner's additional construction management services made necessary thereby.
- 11.1.2 The Contractor, unless removal is waived by the Owner, shall remove from the site all portions of the Work which are defective or non-conforming, or if permitted or required, he shall correct such work in place at his own expense promptly after receipt of notice, and such rejected Work shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed.
- 11.1.3 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Owner, the Owner may either (1) by separate contract or otherwise replace or correct such Work and charge the Contractor the cost occasioned the Owner thereby and remove and store the materials or equipment at the expense of the Contractor, or (2) terminate this Contract for default as provided in Paragraph 12.3. If the Contractor does not pay the cost of such replacement or correction and the removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for additional services of the Design Consultant and the Owner made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.
- 11.1.4 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

- 11.1.5 Nothing contained in this Paragraph 11.1 shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents, including Paragraph 3.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

END OF ARTICLE 11

ARTICLE 12

TERMINATION OF THE CONTRACT

12.1 TERMINATION BY THE CONTRACTOR

- 12.1.1 If the Work is stopped for a period of sixty (60) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon seven (7) additional days' written notice to the Owner and the Design Consultant, terminate the Contract and recover from the Owner payment on a quantum merit basis, for all Work executed. The Contractor shall not be entitled to collect and hereby expressly waives, any profit on work not performed or any damages related to that portion of the Contract, which has been terminated.

12.2 TERMINATION FOR CONVENIENCE OF THE OWNER

- 12.2.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 12.4. Contractor shall include termination clauses identical to Article 12 in each of his Subcontracts.

12.3 DEFAULT TERMINATION

- 12.3.1 Subject to the provisions of Paragraph 2.3.1, ten (10) days after written notice is mailed to the Contractor, the Owner may terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the employment of the Contractor and his right to proceed either as to the whole or any portion of the Work required by the Contract Documents and may take possession of the Work and complete the Work by contract or otherwise in any one of the following circumstances:

- .1 if the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time or fails to complete the Work or remedy a default within said period;
- .2 if the Contractor is in material default in carrying out any provisions of the Contract for a cause within his control;
- .3 if the Contractor fails to supply a sufficient number of properly skilled workmen or proper equipment or materials;
- .4 if the Contractor fails to make prompt payment to Subcontractors or for materials or labor, unless he otherwise provides the Owner satisfactory evidence that payment is not legally due;

- .5 if the Contractor disregards laws, permits, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
- .6 if the Contractor substantially violates any provisions of the Contract Documents; or
- .7 if the Contractor refuses or fails to properly schedule, plan, coordinate and execute the Work, as specified herein, so as to perform the Work within the specified Milestone and Completion dates, or to provide scheduling or related information, revisions and updates as required by the Contract Documents.
- .8 If the Contractor becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against it, or has a receiver or trustee appointed for substantially all of its assets, or if Contractor allows any final judgment to stand against it unsatisfied for a period of two (2) weeks.

12.3.2 If, after the Contractor has been terminated for default pursuant to Paragraph 12.3, it is determined that none of the circumstances set forth in Subparagraph 12.3.1 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph 12.2. In such case, the Contractor's sole remedy will be the costs permitted by Article 12.4.

12.3.3 If the Owner so terminates the employment of the Contractor, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation is to be paid to the Contractor hereunder shall exceed the expense of so completing the Work (including compensation for additional managerial, administrative, consultant and inspection services and any damages for delay) such excess shall be paid to the Contractor.

12.3.4 If such expenses shall exceed the unpaid balance, the Contractor shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is partially or fully terminated, the Owner may take possession of and utilize in completing the Work such materials, appliances, supplies, plant and equipment as may be on the site of the terminated portion of the Work and necessary for the completion of the Work. If the Owner does not fully terminate the right of the Contractor to proceed, the Contractor shall continue to perform the part of the work that is not terminated.

12.4 ALLOWABLE TERMINATION COSTS

12.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 12.2, then the Owner shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Subparagraph 12.4.2, plus a markup of ten percent for profit and overhead on the actual fully accounted costs recovered under 12.4.2; provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

12.4.1.1 After receipt of a Notice of Termination, the Contractor shall submit to the Owner his termination claim, in the form and with certification prescribed by the Owner. Such claim shall be submitted promptly but in no event later than three (3) months from the effective date of termination, unless one or more extensions in writing are granted by the Owner upon request of the Contractor made in writing within such three (3) month period or authorized extension thereof. However, if the Owner determines that the facts justify such action, he may receive and evaluate any such termination claim at any time after such three (3) month period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Owner may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination.

12.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 12.2, the Owner shall pay the Contractor the amounts determined by the Owner as follows:

- .1 an amount for supplies, services, or property accepted by the Owner pursuant to Clause 12.5.1.6 or sold or acquired pursuant to Clause 12.5.1.7 and not heretofore paid for, and to the extent provided in the Contract such amount shall be equivalent to the aggregate price for such supplies or services computed

in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and

.2 the total of:

- (1) the cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Clauses 12.4.2.1 or 12.4.2.2.(2);
- (2) the cost of settling and paying claims arising out of the termination of Work under Subcontracts or orders, pursuant to Clause 12.5.1.5, which are properly chargeable to the terminated portion of the Work (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination), which amounts shall be included in the costs payable under (1) above; and
- (3) the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Work and for the termination and settlement of Subcontracts thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocable to the Contract.

.3 Provided, however, that neither the Owner nor the Design Consultant will be liable for payments to Subcontractors pursuant to Article 12.4.2.2 unless each subcontract contains termination provisions identical to those set forth in Article 12. The Owner and the Design Consultant will not be liable to the Contractor for any costs associated with termination if the subcontract of the party involved does not include the proper termination clauses.

12.4.3 In arriving at any amount due the Contractor pursuant to Paragraph 12.4, there shall be deducted the following:

- .1 all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of the Contract;
- .2 any claim which the Owner may have against the Contractor;
- .3 such amount as the Owner determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and
- .4 the agreed price for, or the proceeds of sale of, any materials, supplies or other things acquired by the Contractor or sold, pursuant to the provisions of Clause 12.5.1.7, and not otherwise recovered by or credited to the Owner.

12.4.4 The total sum to be paid to the Contractor under Paragraph 12.4 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Subparagraph 12.4.2, the fair value, as determined by the Owner, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to Clause 12.5.1.7.

12.4.5 If the Owner terminates the whole or any part of the Work pursuant to Paragraph 12.3, the Owner may procure, upon such terms and in such manner as the Owner may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

12.5 GENERAL TERMINATION PROVISIONS

12.5.1 After receipt of a notice of termination from the Owner, pursuant to Paragraph 12.2 or 12.3, and except as otherwise directed by the Owner, the Contractor shall:

- .1 stop Work under the Contract on the date and to the extent specified in the notice of termination;
- .2 place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
- .3 terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
- .4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the contracts so terminated, in which case the Owner shall have the right, at his discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- .5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Owner, to the extent he may require, which approval or ratification shall be final for all the purposes of this Article;
- .6 transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent directed by the Owner to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated, the following:
 - (1) the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated by the notice of termination; and
 - (2) the completed or partially completed plans, drawings, information, releases, manuals and other property related to the Work and which, if the Contract had been completed, would have been required to be furnished to the Owner;
- .7 use his best efforts to sell, in the manner, at the times, to the extent and at the price or prices directed or authorized by the Owner, any property of the types referred to in Clause 12.5.1.6; provided, however, that the Contractor:
 - (1) shall not be required to extend credit to any buyer, and
 - (2) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Owner to the Contractor under the Contract or shall otherwise be credited to the Contract Sum covered by the Contract or paid in such other manner as the Owner may direct;
- .8 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
- .9 take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to the Contract, which is in the possession of the Contractor, and in which the Owner has or may acquire an interest.

12.5.2 The Contractor shall, from the effective date of termination until the expiration of three (3) years after final settlement under the Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the Work terminated hereunder, or, to the extent approved by the Owner, photographs, micro-photographs or other authentic reproductions thereof.

12.5.3 If the termination, pursuant to Paragraph 12.2, be partial, the Contractor may file with the Owner a claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the

Contract (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this Subparagraph must be asserted within six (6) months from the effective date of the notice of termination.

- 12.5.4 The Contractor shall refund to the Owner any amounts paid by the Owner to the Contractor in excess of costs reimbursable under Paragraph 12.4.
- 12.5.5 The Contractor shall be entitled to only those damages and that relief from termination by the Owner as specifically provided in Article 12.

END OF ARTICLE 12

END OF GENERAL CONDITIONS

VENDOR TAX WAS PAID TO	MATERIAL PURCHASED	ADDRESS	INVOICE NUMBER	DATE	INVOICE AMOUNT	TAXABLE AMOUNT	N.C. TAX	COUNT Y TAX	NAME OF COUNTY
				TOTAL					

GC-34

CHANGE PROPOSAL FORM
Time and Material / Unit Price Estimate

Project:	Proposal #:
Contract:	Project #:
Contractor:	Contractor #:

Description of change:

Materials & Labor	SUBTOTALS
Estimated cost of labor & materials including shipping, overtime, payroll taxes and insurance, and overhead and profit.	
Maintain accurate records for billing purposes.	
Unit Price Work	
Estimated quantity of units required less allowance units not used, times the established unit cost.	
Maintain accurate records for billing purposes. Third party records may be required.	
Equipment Rental	
Estimated cost of equipment rental including shipping, taxes and overhead and profit.	
Maintain accurate records for billing purposes.	
Subcontractors	
Estimated cost of subcontracts including all subcontractor expenses.	
Maintain accurate records for billing purposes.	

Subtotal of Proposal

*** TOTAL NOT TO EXCEED CHANGE PROPOSAL ESTIMATE**

Time Extension Requests: _____ day(s) Schedule Activity # Affected: _____

The Contractor agrees to perform the work outlined in this change proposal for an amount that shall not exceed the amount stated above and in accordance with the Contract documents if the work is authorized by the Owner. If the price to perform the work is expected to exceed the above stated amount, a new change proposal form for the additional work is required.

* Actual amount paid will be based on actual documented expenses.

Contractor's Signature: _____	Date: _____
Approval Recommended by Design Consultant: _____	Date: _____
Owner's Representative Approval: _____	Date: _____

CHANGE PROPOSAL FORM

Project: _____ Contract: _____ Contractor: _____	Proposal #: _____ Project #: _____ Contractor #: _____
---	---

Description of change: _____

Materials (Attach list with Qty, Item, Unit \$, Unit mh, Total mh, OT mh, Total \$)	SUBTOTALS
1 Total Direct Cost of Materials	
2 Overhead & Profit on Item 1. (15% maximum, includes small tools & consumables)	
3 Sales Tax	
4 Shipping & Transportation	
Labor	
5 Total Manhours: MH @ /hr.	
6 Overhead & Profit on Item 5. (15% maximum on straight labor cost, not premium portion) (O & P includes supervisor's time)	
7 Payroll Taxes & Insurance %	
Equipment Rental (Include quotes)	
8 Equipment Rental	
9 Overhead & Profit on Item 8 (6% maximum).	
Subcontractors (Include quotes with material & equipment backup)	
10 Subcontractors	
11 Overhead & Profit on Item 10 (6% maximum).	

Subtotal of Proposal**TOTAL OF CHANGE PROPOSAL** _____

Time Extension Requests: _____ day(s) Schedule Activity # Affected: _____

The Contractor agrees to perform the work outlined in this change proposal for the amount specified above and in accordance with the Contract documents if the work is authorized by the Owner.

Contractor's Signature: _____	Date: _____
-------------------------------	-------------

Approval Recommended by Design Consultant: _____	Date: _____
--	-------------

Owner's Representative Approval: _____	Date: _____
--	-------------

SECTION SC**SUPPLEMENTAL CONDITIONS****GENERAL CONDITIONS**

Document GC, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, constitutes the General Conditions of this Contract, and is hereinafter called "General Conditions." The General Conditions are further revised and supplemented by the provisions of these Supplemental Conditions. The General Conditions and the Supplemental Conditions are applicable to all of the Work under this contract and shall apply to the Contractor and all Subcontractors and Sub-subcontractors.

SUPPLEMENTS:

The following supplements modify, change, delete, or add to the General Conditions. Where any article of the General Conditions is modified or any paragraph deleted, subparagraph or clause thereof is modified, or deleted by these supplements, the unaltered provisions of such article, paragraph, subparagraph or clause shall remain in effect. If there is a discrepancy between the General Conditions and these Supplemental Conditions, the Supplemental Conditions shall control.

ARTICLE 8 – PAYMENTS AND COMPLETION**ADD THE FOLLOWING TO PARAGRAPH 8.9:**

- 8.9.1 Substantial Completion Liquidated Damages shall be the sum of five hundred dollars (\$500) per calendar day, and this amount shall be assessed in accordance with Subparagraph 8.9.1 of the General Conditions.
- 8.9.2 Final Completion Liquidated Damages shall be the sum of five hundred dollars (\$500) per calendar day, and this amount shall be assessed in accordance with Subparagraph 8.9.2 of the General Conditions.

ADD THE FOLLOWING PARAGRAPH 8.11:

- 8.11.1 The schedule below contains certain specific dates in addition to date of Notice to Proceed and Time for Completion. These dates shall be adhered to and are the last acceptable dates unless modified by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in the General Conditions under Paragraph 7.2 DELAYS AND EXTENSIONS OF TIME.

 Notice of Intent to Award – May 23, 2022
 Return of Owner Contractor Agreement by Contractor – June 2, 2022
 Notice to Proceed – June 7, 2022
 Substantial Completion – August 6, 2022
 Completion of all Commissioning – August 26, 2022
- 8.11.2 The Owner reserves the right to withhold the issuance of Notice to Proceed by up to forty-five (45) days. For each day that Notice to Proceed is withheld pursuant to this Subparagraph, the dates established for Substantial Completion and Final Completion shall be adjusted. The contractor shall not be entitled to additional compensation if the owner withholds the issuance of Notice to Proceed pursuant to this Subparagraph.

ARTICLE 10 – CHANGES IN WORK

ADD THE FOLLOWING NEW PARAGRAPH 10.9.14:

- 10.9.14 Additional services and dispute resolution services by the Design Consultant shall be paid by the Contractor at the rate of two hundred fifty dollars (\$250) per hour.

ADD THE FOLLOWING NEW PARAGRAPH 10.9.15:

- 10.9.15 The Owner's Dispute Resolution Policy required by N.C.G.S. § 143-128(f1) is contained in Policy 9020 (www.bcswan.net). The Dispute Resolution Policy is also included in the bid and contract documents

END OF SUPPLEMENTAL CONDITIONS



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:
Daralyn Spivey

Action Item # V. - 2.

Clerk to the Board - Meeting Minutes - May 16, 2022 Special
Meeting - May 16, 2022 Regular Meeting

Issue/Action Requested:

Request the Board of Commissioners approve the Meeting Minutes from the May 16, 2022 Regular Meeting and the May 16, 2022 Special Budget Meeting.

Background/Purpose of Request:

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

ATTACHMENTS:

Description

- ☐ 2022 May 16 Regular Meeting Minutes
- ☐ 2022 May 16 Special Meeting Minutes

**BRUNSWICK COUNTY BOARD OF COMMISSIONERS
OFFICIAL MINUTES
REGULAR MEETING
May 16, 2022
6:00 P.M.**

The Brunswick County Board of Commissioners met in Regular Session on the above date at 6:00 p.m., Commissioners' Chambers, David R. Sandifer Administration Building, County Government Center, Bolivia, North Carolina.

PRESENT: Commissioner Randy Thompson, Chairman
Commissioner Mike Forte, Vice-Chairman
Commissioner J. Martin Cooke
Commissioner Pat Sykes
Commissioner Frank Williams

STAFF: Steve Stone, County Manager
Bob Shaver, County Attorney
David Stanley, Deputy County Manager
Haynes Brigman, Deputy County Manager
Aaron Smith, Finance Director
Daralyn Spivey, Clerk to the Board
Meagan Kascasak, Communications Director
Currie Elkins, MIS
Lt. Beck, Sheriff's Office

Board Action, containing all items in this set of minutes, is filed within the Clerk to the Board's office.

I. CALL TO ORDER

Chairman Thompson called the meeting to order at 6:00 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE

Commissioner Thompson gave the Invocation and led the Pledge of Allegiance.

III. ADJUSTMENTS/APPROVAL OF AGENDA

Chairman Thompson asked for adjustments to the agenda. No adjustments were requested.

Commissioner Williams moved to amend the agenda to move Board Action Item V-11 Sheriff's Office Backup 911 Site Radio Purchase from the Consent Agenda to Administrative Report under VIII-4 for further discussion and clarity. The motion was seconded by Commissioner Sykes and passed unanimously (5 to 0).

IV. PUBLIC COMMENTS

Ms. Sharon Crawford spoke to the need of funding opportunities for Adult Day Care within the County.

Mr. Hubert Reaves spoke to the need of funding opportunities for Adult Day Care within the County.

Mr. William Woodard spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Jackie Winters spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Stacy Woodard spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Shenina Williams spoke to the need of funding opportunities for Adult Day Care within the County.

Mr. William Flythe spoke to the need of further discussion of the ARPA Funding options set forth as priorities of the County.

Mr. Tom Guzulaitis spoke to the need of further discussions regarding the funding of the dam replacements in Boiling Spring Lakes that were damaged in Hurricane Florence in 2018.

Mr. David Mammay spoke to the need of further discussions regarding the funding of the dam replacements in Boiling Spring Lakes that were damaged in Hurricane Florence in 2018.

Mr. William Langley spoke to the need of funding opportunities for Adult Day Care within the County.

Mr. Richard Reagan spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Allie Crawford spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Debra Baas spoke to the need of funding opportunities for Adult Day Care within the County.

Ms. Joyce Reaves spoke to the need of funding opportunities for Adult Day Care within the County.

V. APPROVAL OF CONSENT AGENDA

Vice-Chairman Forte moved to approve the Consent Agenda as amended. The motion was seconded by Commissioner Williams and passed unanimously (5 to 0). See individual items for approval status:

1. **Administration – Brunswick County Schools Contract with Schneider Electric Buildings Americas Inc for Electrical and Building Automation Systems at Leland Middle School, South Brunswick Middle School, Shallotte Middle School - Approved**
The Board approved and authorized the Chairman to sign the Schneider Electric Buildings Americas Inc. contract in the amount of \$1,024,418 for Electrical and Building Automation Systems at Leland Middle School, South Brunswick Middle School, and Shallotte Middle School subject to terms and conditions as approved by the County Attorney.
2. **Clerk to the Board – Board Appointment – Town of Carolina Shores ETJ Appointments to Planning Board/Board Adjustments - Approved**
The Board approved the Town of Carolina Shores' recommended appointment of Ruth Ann Campbell-Grothe and Normand Nelgion to fill the vacant ETJ position on the Town of Carolina Shores' Planning Board/Board of Adjustments for a term expiring in March 2025.
3. **Clerk to the Board – Meeting Minutes – Approved**
The Board approved the draft minutes from the Regular Meeting of May 2, 2022 and the Special Budget Meeting of May 2, 2022.
4. **Clerk to the Board – Proclamation – Fire Chief Bork/Assistant Fire Chief Bruno – Calabash/Carolina Shores – Approved**
The Board of Commissioners approved and honored Fire Chief Bork and Assistant Fire Chief Bruno with the below Proclamations:

Resolution of Appreciation
Randall T. Bork

WHEREAS, Randall T. Bork, Chief, Calabash Fire Department, retiring May 27, 2022 after 13 years of meritorious service to the citizens of Calabash and in turn, Brunswick County and 50 years in service to other communities while working through the ranks of fire departments; and

WHEREAS, Brunswick County is committed to provide responsive and efficient services that support and advance the development of our community’s educational, recreational, and economic prosperity; and

WHEREAS, Chief Bork has consistently supported this commitment by working each day to oversee that minute details are executed timely, efficiently and with professionalism; and

WHEREAS, during his 13-year tenure with the Calabash Fire Department, Chief Bork has served the public with fairness, ingenuity and dedication; and

WHEREAS, Brunswick County wishes to honor Chief Bork for his service to the citizens of this great County, and does express gratitude to Chief Bork for his accomplishments and invaluable contributions towards providing the highest level of service to support an active, dynamic, and thriving community.

NOW, THEREFORE, BE IT PROCLAIMED THAT the Brunswick County Board of Commissioners do hereby extend our sincere and grateful appreciation to Chief Bork for his dedicated service to the citizens of Calabash and in turn to Brunswick County, our congratulations on a well-earned retirement and our best wishes to him for continued success, happiness and good health in the years to come.

Adopted on this 16th day of May, 2022 by the Brunswick County Board of Commissioners.

Randy Thompson, Chairman
Brunswick County Commissioners

Attest:
Daralyn Spivey, NCCCC
Clerk to the Board

Resolution of Appreciation
James N. Bruno

WHEREAS, James N. Bruno, Assistant Chief, Calabash Fire Department, retiring May 27, 2022 after 16 years of meritorious service to the citizens of Calabash and in turn, Brunswick County and 53 years in service to other communities while working through the ranks of fire departments; and

WHEREAS, Brunswick County is committed to provide responsive and efficient services that support and advance the development of our community’s educational, recreational, and economic prosperity; and

WHEREAS, Assistant Chief Bruno has consistently supported this commitment by working each day to oversee that minute details are executed timely, efficiently and with professionalism; and

WHEREAS, during his 16-year tenure with the Calabash Fire Department, Assistant Chief Bruno has served the public with fairness, ingenuity and dedication; and

WHEREAS, Brunswick County wishes to honor Assistant Chief Bruno for his service to the citizens of this great County, and does express gratitude to Assistant Chief Bruno for

his accomplishments and invaluable contributions towards providing the highest level of service to support an active, dynamic, and thriving community.

NOW, THEREFORE, BE IT PROCLAIMED THAT the Brunswick County Board of Commissioners do hereby extend our sincere and grateful appreciation to Assistant Chief Bruno for his dedicated service to the citizens of Calabash and in turn to Brunswick County, our congratulations on a well-earned retirement and our best wishes to him for continued success, happiness and good health in the years to come.

Adopted on this 16th day of May, 2022 by the Brunswick County Board of Commissioners.

Randy Thompson, Chairman
Brunswick County Commissioners

Attest:
Daralyn Spivey, NCCCC
Clerk to the Board

5. Clerk to the Board – Resolution in Support – Radar Site Shallotte NC - Approved

The Board approved the resolution of support of the National Weather Service Radar site. The Resolution reads as follows:

**RESOLUTION OF SUPPORT FOR THE REPLACEMENT OF
THE KTLX DOPPLER RADAR TOWER IN
SHALLOTTE, NORTH CAROLINA**

WHEREAS, the KTLX Doppler Radar in Shallotte continues to pose a problem for southern Brunswick County during weather events; and

WHEREAS, in August 2020, Hurricane Isaias hit our area and the radar did not pick up a tornado that spun off an early storm ban causing damage in southern Brunswick County; and

WHEREAS, on February 15, 2021 a tornado caused extensive damage, injury, and death in southern Brunswick County; and

WHEREAS, since these events, there have been numerous times where the radar covering our area was blank on all local news channels, along with cellular and internet site applications; and

WHEREAS, over the last two and a half decades, the trees on the properties near the radar location have grown, causing blockage of the radar's lowest elevation scans and understanding that cutting trees down or raising the radar is not feasible. Hence, moving the radar is the most applicable option.

NOW, THEREFORE, BE IT RESOLVED that the Brunswick County Board of Commissioners in conjunction with the county's emergency services agencies, supports the quickest mitigation of the identified problem. Solutions could include, but are not limited to, moving the tower to a different location, replacing with a technologically more capable tower, or a combination thereof. Solving the issue will allow meteorologists to initiate weather alerts as early as possible, preventing future injury and death to our residents and visitors.

Adopted this 16th day of May, 2022

Randy Thompson, Chair
Board of Commissioners

ATTEST:
Daralyn Spivey, NCCCC
Clerk to the Board

6. County Attorney – Ratify Assignment of Contract – Approved

The Board ratified the Assignment and Assumption Agreements between Quality Drive Partners Holdings, LLC and NCWIL01 Good 100 Quality Drive, LLC as they relate to

the Grant Agreement and Amended and Restated LBC whereby Brunswick County provided economic development incentives to Pacon Manufacturing Corporation.

7. EMS –Motorola Mobile Radio Purchases– Approved

The Board approved the purchase under North Carolina State Contract 19144-725G of nine (9) Motorola mobile radios from Motorola Solutions to be installed in new ambulances and emergency vehicles at a cost of \$49,038.25.

8. Finance Fiscal Items – Approved

The Board approved the following Budget Amendments, Capital Project Ordinances, and Fiscal Items of a routine nature on the consent agenda:

-Wastewater Construction Additional Tap Supplies Budget Amendment

Appropriated \$100,000 taps and connections revenue for capital outlay on supplies for additional sewer tap supplies needed through June 30, 2022.

-NW Water Treatment Plant Expansion Additional Funding

Appropriated \$100,000 of transfer from water fund to the NW Plant Expansion project for reimbursement expenditures not debt proceeds eligible.

-Financial Reports for April 2022 (unaudited)

Accepted the Summary Information for General and Enterprise Funds, Cash and Investments, and key indicators of Revenues and Expenditures. All reports provided at: <https://brunswickcountync.gov/finance/reports>

- FY23 JCPC Certification & Annual County Plan

Approved the FY2022-23 JCPC Certification, Annual Plan, Program Agreement Applications, and the FY22-23 Funding Allocation for the Juvenile Crime Prevention Council funded by, and to include needed resources from, the Department of Public Safety, Juvenile Justice, and Delinquency Prevention:

Brunswick County Juvenile Crime Prevention Council (JCPC) needs County Commissioner approval for programs funded annually. Programs recommended for funding for FY22-23 are: Brunswick County Restitution Program \$63,125, Providence Home \$20,441, Guiding Good Choices (GGC) & Systematic Training for effective Parenting (STEP) by Coastal Horizons \$47,289, A.R.T. by Coastal Horizons \$44,990, JCPC Administration \$9,100, and an unallocated amount \$57,541 designated for Teen Court (RFP currently being advertised). Total FY23 Brunswick County JCPC annual funding plan is \$242,486.

- State Capital and Infrastructure Fund (SCIF) Directed Grant

Approved NC Office of State Budget and Management contract for State Capital and Infrastructure Fund (SCIF) Directed Grant appropriated by the NC General Assembly in the 2021 Appropriations Act (SL-2021-180) and authorize County Manager to sign scope of work and grant agreement. Brunswick County was designated SCIF dollars in the amount of \$300,000 that will cover a portion of the Landfill Transfer Station project. Receipt of this award will provide availability of general fund dollars to Waccamaw Fire Department for a substation that will aid in lowering insurance rates and provide faster response times to citizens.

-NC Dept. of Agriculture Division of Soil and Water Watershed Projects 1 and 3

Approved the NC Department of Agriculture and Consumer Services Division of Soil and Water Conservation Watershed Restoration Projects revised agreements reducing state funds restricted for Watershed Project 1 in the amount of \$79,810 and Watershed 3 in the amount of \$4,994. Reduction in funding is due to actual expenditures incurred for grant projects awarded.

- Internet Crimes Against Children (ICAC) Grant Acknowledgement

Approved a delegation of Brunswick County Sheriff to authorize acknowledgement form for Internet Crimes Against Children (ICAC) grant due to agency by May 23, 2022. Grant application was approved at the 4/4/22 board meeting which requested funds to help cover new forensic cellular extraction equipment and related training for our Intelligence Unit and Investigations Division. The requested equipment will also allow the Brunswick County Sheriff's Office to provide support and assistance to local and surrounding agencies in cases involving crimes against children. Official grant acceptance will be placed on future agenda item for approval.

-Occupancy Tax Revenues Budget Amendment

Approved the appropriation Occupancy Tax revenue of \$500,000 and corresponding expenditures for projected occupancy tax thru June 30, 2022 and authorize the Fiscal Operations Director to adjust the budget for final collections as of June 30, 2022.

-General Fund Revenues Budget Amendment

Appropriated \$730,181 of Register of Deeds revenues and anticipated expenditures of \$414,000, \$700,000 of Solid Waste revenues and anticipated expenditures of \$700,000,

Sheriff's Office Trust Fund revenues and expenditures of \$90,000, Building Inspections revenues of \$367,020 and increased anticipated expenditures of \$97,977 inspections, \$14,000 parks, \$13,596 law enforcement separation, \$13,000 planning, \$23,528 governing body, \$15,476 engineering, \$1,624 soil and water, and the remaining amount in Non-Departmental miscellaneous expense for projection of actual needs. Amounts in Non-Departmental are authorized to be transferred within the general fund by the Fiscal Operations Director as needed to prevent a statutory exception of expenditures in excess of amounts budgeted at year end.

9. Health and Human Services – Health Services – Notice of Award and CHA Services Agreement with KSA - Approved

The Board approved the agreement for Community Health Assessment services with Kulik Strategic Advisors Inc.

10. Health and Human Services – Public Housing: Execution of Annual Civil Rights Certification - Approved

The Board reviewed and executed the Annual Civil Rights Certification.

11. Sheriff's Office – Backup 911 Site Radio Purchase- Moved to Administrative Report (Board Action Item VIII-4).

12. Sheriff's Office – Grant Application Approval – Approved

The Board of Commissioners approved application for a grant provided by the North Carolina 911 Board. If awarded, the funds would be used to replace the existing primary 911 Center site's radio consolettes, which are used in the event of an outage of the primary radio system, VIPER. The total value of the project is \$238,721.50 with no county match requested at this time.

13. Tax Admin – May 2022 Releases – Approved

The Board approved the May 2022 releases.

14. Utilities – Grinder Installation Crew Budget Request – Approved

The Board approved staffing and equipment requested for an additional grinder tank installation crew. Expenditures dependent upon compliance with applicable procurement and contracting requirements.

15. Utilities – On Call Engineering Services Contract Renewal Amendment – Approved

The Board approved the On-Call Engineering Services Contract renewals and amendments in amounts not to exceed \$150,000.00 and with the initiation of any task order to be approved by the Board of Commissioner and/or County Manager as previously authorized. If a budget appropriation is required, it will be placed on the consent agenda for the task order amount.

16. Utilities – On Call Engineering Services Task Order No. 2CDM Smith – Approved

The Board authorized the Chairman and Clerk to the Board to execute the Task Order No. 2 with CDM Smith in an amount not to exceed \$39,800 for engineering services associated with the On-Call Engineering Contract.

17. Utilities – On-Call Engineering Task Order No. 2 McKim & Creed - Approved

The Board authorized the Chairman and Clerk to the Board to execute the Task Order No. 2 with McKim & Creed, P.A. in an amount not to exceed \$75,000 for engineering services associated with the On-Call Engineering Contract.

VI. PRESENTATIONS

1. Clerk to the Board – National Safe Boating Week

The Board heard a request to adopt and present to the US Coast Guard Auxiliary a Proclamation honoring National Safe Boating Week 2022. Commissioner Cooke made the motion to adopt the Resolution. The motion was seconded by Commissioner Williams and passed unanimously (5-0). The Proclamation reads as follows:

**PROCLAMATION RECOGNIZING NATIONAL SAFE BOATING
WEEK, MAY 21-27, 2022 IN BRUNSWICK COUNTY,
NORTH CAROLINA**

WHEREAS, for over 100 million Americans, boating continues to be a

popular recreational activity. From coast to coast, and everywhere in between, people are taking to the water and enjoying time together boating, sailing, paddling and fishing. During National Safe Boating Week, the U.S. Coast Guard and its federal, state, and local safe boating partners encourage all boaters to explore and enjoy America’s beautiful waters responsibly; and,

WHEREAS, safe boating begins with preparation. The Coast Guard estimates that human error accounts for most boating accidents and that life jackets could prevent nearly 86 percent of boating fatalities. Through basic boating safety procedures – carrying lifesaving emergency distress and communications equipment, wearing life jackets, attending safe boating courses, participating in free boat safety checks, and staying sober when navigating – we can help ensure boaters on America’s coastal, inland, and offshore waters stay safe throughout the season; and,

WHEREAS, National Safe Boating Week is observed to bring attention to important life-saving tips for recreational boaters so that they can have a safer, more fun experience out on the water throughout the year; and,

WHEREAS, on average, 650 people die each year in boating-related accidents in the U.S.; 75 percent of these are fatalities caused by drowning; and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets.

NOW, THEREFORE BE IT RESOLVED THAT, the Brunswick County Board of Commissioners do hereby support the goals of the Safe Boating Campaign and proclaim May 21-27, 2022 as National Safe Boating Week.

This the 16th day of May, 2022

Randy Thompson, Chair
Board of Commissioners

ATTEST:
Daralyn Spivey, NCCCC
Clerk to the Board

- VII. PUBLIC HEARING:**
- 1. Health and Human Services – Public Housing – Public Hearing to Review Program Goals and Objectives**
- Mr. Stanley advised the Department of Public Housing had received no written comments and are required to hold this public hearing. All legal requirements have been met.
- Chairman Thompson opened the public hearing at 6:56 p.m. and hearing no comments, closed the public hearing.

- VIII. ADMINISTRATIVE REPORT**
- 1. Administration – Bond Order for Series 2022A Two-Thirds Bonds and Schedule Public Hearing**
- After discussion by the Board of the terms of the loan and the cost benefits of using fund balance, Chairman Thompson made the motion to table the item. The motion was seconded by Commissioner Williams and passed unanimously (5 to 0).

2. Administration – Recommended Budget Ordinance, Capital Improvement Plan, Schedule of Fees for FY 2023

The Board of Commissioners received the Recommended Budget Ordinance, Capital Improvement Plan, Schedule of Fees for FY 2023.

Following the presentation, Vice-Chairman Forte made the motion to hold a Special Meeting on June 6th 2022 at 1:00 p.m. to review the budget for FY 23 and to set the public hearing for June 6, 2022 at 3:00 p.m. to receive public comments on the proposed budget. The motion was seconded by Commissioner Sykes and passed unanimously (5 to 0).

3. Operation Services – Army Donation for Display

Ms. Stephanie Lewis, Operations Services Director, reported on behalf of the Military Memorial Task Force the status of the tracked vehicle donation from the Army for memorial display at the Government Center and the costs associated. Ms. Lewis advised the Board the only cost changes would be if the piece of equipment were different, there could be significantly less costs involved. Commissioner Sykes made the motion for staff to continue to research other available options and return to the Board with an update to include other options for a Veterans Memorial. The motion was seconded by Commissioner Cooke and passed unanimously (5 to 0).

4. Sheriff's Office –Backup 911 Site Radio Purchase

Ms. Kim Lewis, Director of the Brunswick County 911 Center, reported the backup center for the 911 dispatching is located at the Duke-Progress building in Leland and will be the primary backup. The request is the approval of an agreement with Motorola Solutions Inc. for the purchase of radios needed for the 911 Center's Backup Site. Both county and state funds will be utilized to facilitate this purchase, with the state covering approximately 71% of the initial expense of just under \$667,788. Commissioner William made the motion to approve the funds. The motion was seconded by Commissioner Sykes and passed unanimously (5 to 0).

IX. BOARD APPOINTMENTS

1. Governing Body - Annual Board Appointments

Following discussion, Vice-Chairman Forte moved to approve the board appointments as presented except for District 5 BSRI Board appointment and the At Large appointment of Helen Whittaker for the Library Board pulled from the listing placed on the agenda. The motion was seconded by Commissioner Williams and passed unanimously (5 to 0).

X. OTHER BUSINESS/INFORMAL DISCUSSION

Boiling Spring Lakes Dam Funding:

Commissioner Sykes: Using the proposed funds for the merit increases for this year, request staff to look at options available for assistance to Boiling Spring Lakes in the repairs of the dams that were damaged in 2018 during Hurricane Florence. Staff will return to the Board with recommendations.

Meeting Schedule July and August: August meetings will stand as scheduled and July's meeting date will be further discussed at the June meeting.

XI. ADJOURNMENT

Commissioner Williams moved to adjourn the meeting at 8:00 p.m. The motion was seconded by Commissioner Sykes and passed unanimously (5 to 0).

Randy Thompson, Chairman
Brunswick County Board of Commissioners

Attest:

Daralyn Spivey, NCCCC
Clerk to the Board

**BRUNSWICK COUNTY BOARD OF COMMISSIONERS
OFFICIAL MINUTES
BUDGET WORKSHOP
MAY 16, 2022
4:00 P.M.**

The Brunswick County Board of Commissioners held a Workshop on the above date at 4:00 p.m., Commissioners' Chambers, David R. Sandifer Administration Building, County Government Center, Bolivia, North Carolina.

PRESENT: Commissioner Randy Thompson, Chairman
Commissioner Mike Forte, Vice-Chairman
Commissioner J. Martin Cooke
Commissioner Pat Sykes
Commissioner Frank Williams

STAFF: Steve Stone County Manager
Bob Shaver, County Attorney
David Stanley, Deputy County Manager
Haynes Brigman, Deputy County Manager
Aaron Smith, Finance Director
Daralyn Spivey, Clerk to the Board
Meagan Kasczak, Communications Director
Currie Elkins, MIS

Board Action, containing all items in this set of minutes, is filed within the Clerk to the Board's office.

I. CALL TO ORDER

Chairman Thompson called the meeting to order at 4:00 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE

Vice-Chairman Forte gave the Invocation and led the Pledge of Allegiance.

III. ORDER OF BUSINESS

Deputy County Manager, Haynes Brigman, provided opening remarks and reviewed the ARPA Funding Guidelines set forth by the federal government of a total of \$27.7M. Stakeholders within the County were polled, participated in the creation of a plan including projects/funding amounts from across the County, and meets the required federally mandated guidelines. Each of the items that are proposed will come back before the Board for approval during the approval process for that particular project.

- ARPA eligible projects total \$17.7M and include:
- Water/Sewer Projects
 - Health and Human Services Building Construction
 - Parks and Recreation
 - Employee Pay
 - Ambulances
 - Air Purification System of County Campus Buildings
 - Cyber Security
 - Library Service Enhancements
 - Personal Protective Equipment
 - Administrative and Reporting Expenses
 - Future Projects Yet to be Determined

- Revenue replacement projects total \$10M and include:
- Radio Upgrades
 - Non-Profit Community Assistance
 - Small Business Assistance Programs
 - Mobile Command Vehicle (Sheriff)
 - County Volunteer Fire Department Grants
 - Portable Shelter (2)
 - Housing Improvement & Weatherization
 - Armored Rapid Response Vehicle (Sheriff)
 - Upgrades Commissioners Chamber Technology

Community Improvement Program Funding
Brunswick Community College Parking Lot Improvement (Vaccine Site)
Future Projects Yet to be Determined

Mr. Brigman reminded the Board there would be opportunities to re-visit each individual item as they were brought before the Board for approval at the appropriate time and as the process moves forward, there may be changes required by the federal government.

Commissioner Cooke made the motion to approve the listing as presented. The motion was seconded by Commissioner Williams. The motion passed (3 to 2) with recorded votes as follows:

Chairman Thompson: Aye
Commissioner Cooke: Aye
Commissioner Williams: Aye
Vice-Chairman Forte: Nay
Commissioner Sykes: Nay

III. ADJOURNMENT

Commissioner Sykes moved to adjourn at 4:46 p.m. The motion was seconded by Commissioner Williams and passed unanimously (5 to 0).

Randy Thompson, Chairman
Brunswick County Board of Commissioners

Attest:

Daralyn Spivey, NCCCC
Clerk to the Board



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 3.

From:

Bob Shaver, County Attorney

County Attorney - Amendment to ARPA Program Income Policy

Issue/Action Requested:

Adopt an amendment to the County's Program Income Policy for the use of American Rescue Plan Act funds.

Background/Purpose of Request:

US Treasury has issued updated guidance to clarify that all program income generated from ARP/CSLFRF expenditures shall be subject to the addition method under 2 C.F.R. Section 200.307(e), instead of one of the other two methods previously thought to also be acceptable (deduction method or cost sharing/matching method). The addition method allows Brunswick County to add program income to the total award amount and expend it on eligible projects during the period of performance. The prior policy version called for Brunswick County to apply the deduction method.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Request adoption of an amendment to the County's Program Income Policy for the use of American Rescue Plan Act funds.

ATTACHMENTS:

Description

- Program Income Policy, as amended



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Program Income Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS Brunswick County shall comply with the terms of ARP/CSLFRF, and the US Treasury's federal regulations governing the spending of ARP/CSLFRF funds, including the [Final Rule](#), and US Treasury's regulations governing expenditures of ARP/CSLFRF funds, including the [Award Terms and Conditions](#), [Compliance and Reporting Guidance](#) (together the "Federal regulations"), and any additional guidance US Treasury has issued or may issue governing the spending of ARP/CSLFRF funds; and

WHEREAS Brunswick County shall comply with the [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200](#) (the "Uniform Guidance"); and

WHEREAS Brunswick County shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, [2 C.F.R. § 200.307](#), and as stipulated in [Compliance and Reporting Guidance for the State and Local Recovery Funds](#), which provides: "Recipients of CSLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records."¹

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following policies and procedures for the use of program income earned from the expenditure of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award.

I. Purpose and Scope

Brunswick County enacts the following procedures for its use of program income earned from the expenditure of ARP/CSLFRF funds to ensure compliance with the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, the ARP/CSLFRF award, and all applicable Federal regulations governing the use of program income. Brunswick County hereafter agrees to administer program income according to the requirements set forth in this policy and as required by the Federal regulations and State law.

¹ Compliance and Reporting Guidance, p. 9.

The responsibility for following this policy lies with the County's ARPA Committee, including the ARPA Funding Manager, the County Attorney, and the Director of Fiscal Operations, who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to the ARPA Committee.

II. Definitions²

- a. *ARP/CSLFRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the [Assistance Listing](#) and as administered by the US Treasury pursuant to the American Rescue Plan Act of 2021 ("ARPA"), Pub. L. No. 117-2 (Mar. 11, 2021).
- b. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively "CSLFRF") awarded to Brunswick County pursuant ARPA.
- c. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
- d. *Federal awarding agency* means the Federal agency that provides a Federal award directly to a non-Federal entity.
- e. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions, direct appropriations, food commodities, or other financial assistance, including loans.
- f. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
- g. *Non-Federal entity* means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
- h. *Period of performance* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. ***The period of performance for the ARP/CSLFRF award ends December 31, 2026.***
- i. *Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ 200.307\(f\)](#).

III. Program Income Overview

For purposes of this policy, program income is the gross income earned by Brunswick County that is directly generated by a supported activity or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. (2 C.F.R. § 200.1)

² Excluding the first two, the definitions in this section are found in 2 C.F.R. § 200.1.

Program income includes, but is not limited to, the following sources of income:

- The collection of fees for services performed.
- Payments for the use or rental of real or personal property.
- The sale of commodities or items fabricated under the Federal award.
- The payment of principal and interest on loans made under the Federal award.

Program income does not include fees or revenue from the following:

- The use of rebates, credits, discounts, and interest earned on any of them.
- Governmental revenues, such as taxes, special assessments, levies, or fines.
- Proceeds from the sale of real property, equipment, or supplies.³

IV. Use of Program Income

Pursuant to [2 C.F.R. § 200.307\(e\)](#), there are three methods for how program income may be used: the deduction method, the addition method, and the cost sharing/matching method. US Treasury has indicated that program income earned pursuant to expenditures of ARP/CSLFRF funds shall be accounted for pursuant to the addition method. Brunswick County agrees to add program income to the total award amount and expend it on eligible projects during the period of performance.

V. Repayment of Principal and Interest on Loans Made with ARP/CSLFRF Funds

US Treasury has imposed different requirements on loans of ARP/CSLFRF funds under the revenue loss category and loans of ARP/CSLFRF under other expenditure categories. Brunswick County agrees to appropriately account for the repayment of loaned ARP/CSLFRF funds according to the ARP/CSLFRF award terms, as follows:

(1) Loans made under the revenue loss eligibility category. Loans of ARP/CSLFRF funds under the revenue loss eligibility category may be considered to be expended at the point of disbursement to the borrower, and repayments on such loans are not subject to program income requirements.⁴ Accordingly, Brunswick County shall not separately account for the repayment of principal and interest on loans of ARP/CSLFRF under the revenue loss eligibility category.

(2) Non-revenue loss loans (i.e., loans made under the public health emergency/negative economic impacts category and/or the necessary water, sewer, and broadband infrastructure category)

- a. **Loans that mature or are forgiven on or before December 31, 2026:** Brunswick County shall add the repayment of principal and interest (program income) to the ARP/CSLFRF award pursuant to 2 C.F.R. 200.317(e)(2). When the loan is made, Brunswick County shall report the principal of the loan as an expense. Brunswick

³ 2 C.F.R. § 200.1 and 2 C.F.R. § 200.307 each define and limit the sources of program income.

⁴ [Final Rule FAQ 4.9](#).

County shall expend the repayment of principal only on eligible uses and is subject to restrictions on the timing of the use of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award.

- b. **Loans with maturities longer than December 31, 2026:** Brunswick County is not required to separately account for the repayment of principal and interest on loans of ARP/CSLFRF with maturities after the ARP/CSLFRF award's period of performance. Brunswick County shall expend ARP/CSLFRF funds for only the projected cost of the loan. Brunswick County shall project the cost of the loan by estimating the subsidy cost according to one of the calculation methods outlined in US Treasury's [Final Rule FAQs, question 4.9](#) (updated 4/27/22).

(3) Contributions to revolving loan funds: Brunswick County may contribute funds to a revolving loan fund if the loaned ARP/CSLFRF funds are restricted to financing eligible uses. The amount of ARP/CSLFRF funds contributed to a revolving loan fund must be limited to the projected cost of loans made over the life of the revolving loan fund, following the approach described above for loans with maturities longer than December 31, 2026.

- a. Any contribution of ARP/CSLFRF revenue loss funds to a revolving loan fund shall follow the approach of loans funded under the revenue loss eligible use category outlined in Section V, paragraph 1.⁵

VI. Allocation of Program Income

Brunswick County shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award.⁶ To adhere to these requirements, Brunswick County shall comply with the cost principles included in 2 C.F.R. § 200, as outlined in Brunswick County's Allowable Costs and Costs Principles Policy. ***Please refer to said policy for additional information.*** Brunswick County shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if ARP/CSLFRF funds cover half of a project's cost, with general revenue covering the other half, the unit shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to § 200.307).

VII. Additional Program Income Requirements

- (a) **Identifying, Documenting, Reporting, and Tracking.** To ensure compliance with the requirements of program income as outlined by the Federal regulations, the terms and conditions of the ASP/CSLFRF award, and the requirements set forth herein, each department shall identify potential sources of program income and properly report the program income for the period in which it was earned and dispersed.

⁵ *Id.*

⁶ 2 C.F.R. § § 200.404, 408.

Program income shall be accounted for separately. Brunswick County shall not comingle program income earned from programs supported by ARP/CSLFRF funds with the general award of ARP/CSLFRF funds Brunswick County received from US Treasury. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

- (b) **Program Income Earned After the Period of Performance.** Brunswick County shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, Brunswick County shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
- (c) **Subawards.** Brunswick County agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to the Brunswick County on a quarterly basis or at such other frequency as mutually agreed to between County and subrecipient.
- (d) **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.
- (e) **Subject to Audit.** Brunswick County recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

VIII. Implementation of Policy

The ARPA Committee will adopt procedures to identify potential program income during the project eligibility and allowable cost review, document actual program income, and follow the requirements in this policy related to the treatment of program income.



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 4.

From:

Asst. Attorney--Bryan Batton

County Attorney - Deed of Dedication for Calabash Station
Subdivision, Ph 1, Lots 1-11, 70-74, and 138-219

Issue/Action Requested:

Consider accepting the Deed of Dedication for water and sewer infrastructure for Calabash Station
Subdivision, Ph. 1, Lots 1-11, 70-74, and 138-219.

Background/Purpose of Request:

Calabash Station, LLC has submitted a Deed of Dedication for water and sewer infrastructure in Calabash
Station Subdivision, Ph. 1, Lots 1-11, 70-74, and 138-219. The lines have been tested and approved and are
ready to be incorporated into our utility system.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

\$ 387,261.00 for water

\$ 1,587,782.00 for sewer

Approved By County Attorney:

Yes

County Attorney's Recommendation:

Accept the Deed of Dedication for water and sewer infrastructure from Calabash Station, LLC.

County Manager's Recommendation:

Recommend accepting the Deed of Dedication for water and sewer infrastructure for Calabash Station
Subdivision, Ph. 1, Lots 1-11, 70-74, and 138-219.

ATTACHMENTS:

Description

- ☐ Calabash Station Subdivision, Ph. 1, Lots 1-11, 70-74, and 138-219 DOD

Prepared by: Burns, Day & Presnell, PA, PO Box 10867, Raleigh, NC 27605 (Greg Hinshaw)
Return to Grantee

STATE OF NORTH CAROLINA

DEED OF DEDICATION

COUNTY OF BRUNSWICK

THIS DEED OF DEDICATION, made and entered into this the 20 day of APRIL, 2022, by and between CALABASH STATION, LLC, a North Carolina limited liability company, with an office and place of business in Cumberland County, North Carolina, party of the first part, hereinafter referred to as "Developer", and BRUNSWICK COUNTY, a governmental entity created and existing under the laws of the State of North Carolina, party of the second part, hereinafter referred to as Grantee, whose address is PO Box 249, Bolivia, North Carolina 28422;

WITNESSETH:

That WHEREAS Developer is the owner and developer of a tract or located in Shallotte, Brunswick County, North Carolina, known as Calabash Station Subdivision;

AND WHEREAS Developer has caused to be installed water distribution lines and/or sewer lines under and along the road rights-of-way hereinafter described and referenced;

AND WHEREAS Developer wishes to obtain water and/or sewer from Grantee for the property and to make water and/or sewer from Grantee's system available to individual owners.

AND WHEREAS Grantee has adopted through appropriate resolution stated policy regarding water distribution and/or sewer systems under the terms of which, among other things, in order to obtain water and/or sewer for said subdivision Developer must convey title to the water and/or sewer distribution system to Grantee through an instrument of dedication acceptable to Grantee;

NOW, THEREFORE, Developer, in consideration of Grantee accepting said water and/or sewer lines and making water and/or sewer available to said subdivision, has conveyed by these presents does hereby convey to Grantee, its lawful successors and assigns, the following described property as shown on the Exhibit Map prepared by McKim & Creed attached hereto and marked "Exhibit A":

Item One:

Being all of the water and/or sewer distribution system and equipment located at Calabash Station Subdivision, Phase 1, as shown on Plat Book 136, Page 94-99, Brunswick County Registry

Item Two:

Non-exclusive easements over, along and upon the entire area of all streets, roads, parking areas and cul-de-sacs depicted on the plats and serving the areas referenced in Item One above, for purposes of entry into the Development for maintenance, repair and upkeep of the water distribution and sewer collection systems and for connecting the same to the Development lots developed or to be developed lying adjacent to said streets, roads, parking areas and cul-de-sacs. Reserving unto Developer, its successors and assigns, equal rights of easement and access over, in, along and upon said streets, roads, parking areas and cul-de-sacs for purposes of installing and maintaining such other utilities as may be required for the development of the Development, including but not limited to, electric, gas, telephone, cable, and sewer.

TO HAVE AND TO HOLD said water and/or sewer lines and equipment above described together with the privileges and appurtenances thereto belonging to Grantee forever.

Non-exclusive easements over, along and upon the entire area of the streets and cul-de-sacs depicted on the maps and serving the areas referenced above for purposes of entry into the subdivision for maintenance, repair and upkeep of the water and/or sewer distribution systems and for connecting the same to the individual lots developed or to be developed lying adjacent to said streets and cul-de-sacs reserving unto Developers, its successor and assigns, equal rights of easement and easement over, in, along and upon said streets and cul-de-sacs for purposes of installing and maintaining such utilities as may be required for the development of said subdivision, including, but not limited to, electric, gas, telephone, cable and sewer.

And Developer does hereby covenant that it is seized of said water and/or sewer lines and equipment described above in fee simple and has the right to convey the same in fee simple, that the same are free and clear of encumbrances, and that it will warrant and defend the title to the same against all persons whomsoever.

Developer warrants to Grantee that the system herein conveyed is of good quality and free from faults and defects and conforms to as-built drawings. Developer warrants said system for a period of one (1) year from the date of recording this Deed of Dedication in the office of the Brunswick County Register of Deeds.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed, the day and year first above written.

CALABASH STATION, LLC

By: [Signature]
Name: D. RALPH HUFF III
Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, a Notary Public of the County and State aforesaid, do hereby certify that D. Ralph Huff III personally came before me this day, and (I have personal knowledge of the identity of the principal) OR (I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a) OR (a credible witness has sworn to the identity of the principal(s)); and he/she acknowledged that he/she is Manager of Calabash Station, LLC, a North Carolina limited liability company and that he/she, as Manager, being authorized to do so, executed the foregoing on behalf of the limited liability company.

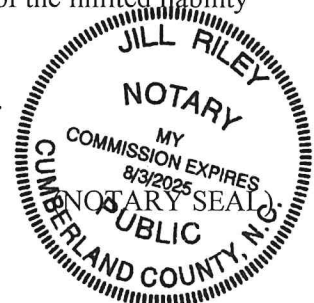
Witness my hand and official seal this 20 day of April, 2022.

[Signature]
Signature of Notary Public

Jill Riley
Printed or Typed Name of Notary Public

8-3-2025

My Commission Expires:



ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for the Calabash Station, LLC was accepted by the Brunswick County Board of Commissioners on the ____ day of _____, 2022.

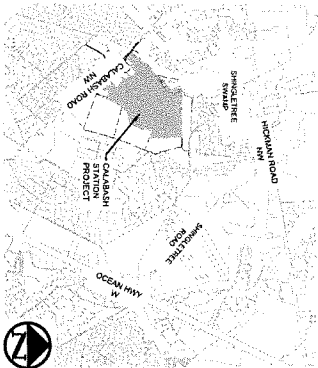
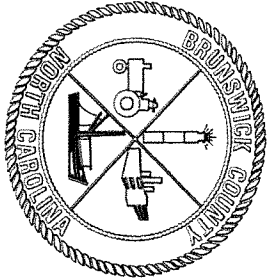
Brunswick County Board of Commissioners

Randy Thompson, Chairman

Daralyn Spivey Clerk to the Board

- EXHIBIT A -

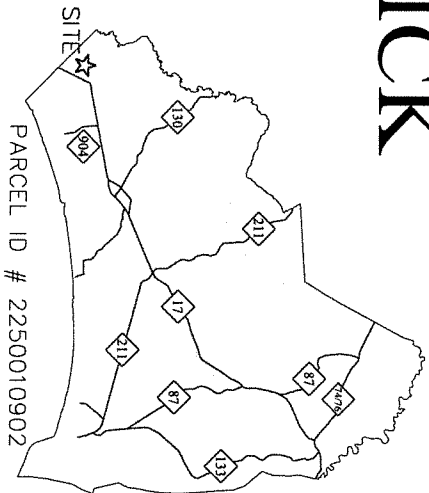
COUNTY OF BRUNSWICK



VICINITY MAP
(1"=2000')

CALABASH STATION SEWER & WATER RECORD DRAWINGS PHASE 1

INCLUDE LOTS #1-11,
#70-74 AND #138-219



PARCEL ID # 2250010902



OWNER: BRYANT SPENCER
RHH LAND INVESTORS, LLC
201 CALABASH ROAD, SUITE 400
FAYETTEVILLE, NC 28404
PHONE: (910) 486-4864
EMAIL: BRYANTSPENCER@RHHHOMES.COM



ENGINEER: MCKIM & CREED, INC.
241 N. FRONT ST. WILMINGTON, NC 28401
PHONE: (910) 441-1048
FAX: (910) 441-1049
EMAIL: MCKIM@MCKIMCREED.COM

LANDSCAPE ARCHITECT: MCKIM & CREED, INC.
241 N. FRONT ST. WILMINGTON, NC 28401
PHONE: (910) 441-1048
FAX: (910) 441-1049
EMAIL: MCKIM@MCKIMCREED.COM

SURVEYOR: MCKIM & CREED, INC.
241 N. FRONT ST. WILMINGTON, NC 28401
PHONE: (910) 441-1048
FAX: (910) 441-1049
EMAIL: MCKIM@MCKIMCREED.COM

TYPE OF WORK:
SITE DEVELOPMENT WORK FOR
RESIDENTIAL DEVELOPMENT. THE SITE IS
LOCATED ON AN APPROXIMATELY 9.17
ACRE PARCEL, AS SHOWN ON THE SURVEY.
THE SITE WILL BE IMPROVED WITH
WATER, SEWER AND STORMWATER
UTILITIES AND GRADED TO APPROXIMATE
FINISHED GRADE ELEVATIONS AS SHOWN
IN THESE DRAWINGS.

NOTE:
THE HORIZONTAL DATUM FOR THIS
PROJECT IS NC GRID NAD 83 AND
VERTICAL DATUM FOR THIS PROJECT IS
NAVD83.

Sheet	Sheet Title
0001	COVER
0002	GENERAL NOTES
0003	PROPOSED LOTS 1-11, 70-74 AND 138-219
0004	PROPOSED LOTS 1-11, 70-74 AND 138-219
0005	PROPOSED LOTS 1-11, 70-74 AND 138-219
0006	PROPOSED LOTS 1-11, 70-74 AND 138-219
0007	PROPOSED LOTS 1-11, 70-74 AND 138-219
0008	PROPOSED LOTS 1-11, 70-74 AND 138-219
0009	PROPOSED LOTS 1-11, 70-74 AND 138-219
0010	PROPOSED LOTS 1-11, 70-74 AND 138-219
0011	PROPOSED LOTS 1-11, 70-74 AND 138-219
0012	PROPOSED LOTS 1-11, 70-74 AND 138-219
0013	PROPOSED LOTS 1-11, 70-74 AND 138-219
0014	PROPOSED LOTS 1-11, 70-74 AND 138-219
0015	PROPOSED LOTS 1-11, 70-74 AND 138-219
0016	PROPOSED LOTS 1-11, 70-74 AND 138-219
0017	PROPOSED LOTS 1-11, 70-74 AND 138-219
0018	PROPOSED LOTS 1-11, 70-74 AND 138-219
0019	PROPOSED LOTS 1-11, 70-74 AND 138-219
0020	PROPOSED LOTS 1-11, 70-74 AND 138-219



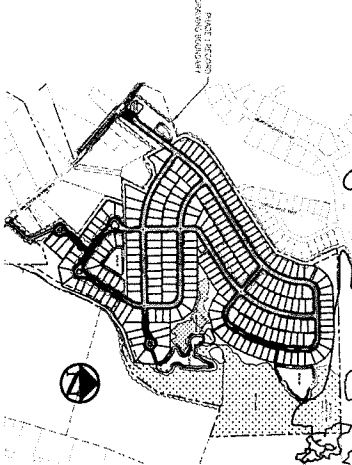
Know what's below.
Call before you dig.

REVISION DESCRIPTION

NUMBER	DATE	BY	DESCRIPTION
(1)	1/20/2021	WJP, PE	PS WELL AND NEAREST SSWM MUST BE LOCATED AND IDENTIFIED. NCDOT PERMIT HAS NOT BEEN RECEIVED. NO WORK ALLOWED WITHIN NCDOT ROW UNTIL NCDOT 3-PARTY ENFORCEMENT PERMIT IS PROVIDED TO BRUNSWICK COUNTY AND A SEPARATE PRECON WITH NCDOT STAFF HAS BEEN FIELD-RECD.
(2)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(3)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(4)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(5)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(6)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(7)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.
(8)	1/20/2021	WJP, PE	WATER, SEWER AND STORMWATER UTILITIES AND GRADED TO APPROXIMATE FINISHED GRADE ELEVATIONS AS SHOWN IN THESE DRAWINGS.

"ENGINEER'S CERTIFICATION OF COMPLIANCE WITH BRUNSWICK COUNTY SPECIFICATIONS AND DETAILS." I hereby certify that the plans, details, and associated project specifications comply with the latest version, as of this date, of Brunswick County's Standard Specifications and Standard Details per standard engineering practice. Furthermore, I confirm my understanding that reviews and approvals by Brunswick County personnel do not imply that Brunswick County personnel have reviewed and are in agreement with every portion of the plans and specifications that I have submitted. I understand that Brunswick County reviews and approvals are meant to ensure that the overall plans are in general compliance with County objectives. I understand that it is my full responsibility to ensure that plans and specifications are in full compliance with applicable County, State, Federal, and other municipal requirements. Additionally, I understand that the County will not assume operation, maintenance, or ownership of constructed facilities that do not meet County requirements and the County may refuse to issue permits at facilities that the County deems are non-compliant with County Specifications. I also confirm my understanding that County Inspections are for the sole use of the County and I certify that I will not use, or direct others to use, County Inspections for State compliance purposes or any other purpose."

SITE LAYOUT
(1" = 500')



DATE: 3/22/2022
SUBMITTAL: RECORD DRAWINGS

PROJECT NAME: CALABASH STATION
LOCATION: CALABASH, NC
OWNER: RHH LAND INVESTORS, LLC
DESIGNER: MCKIM & CREED, INC.

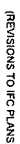
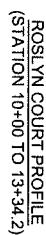
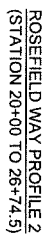
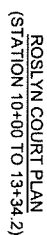
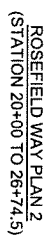


RECD: 01-20-2021
B.C. ENG. DEPT.
REVISIONS RECD:
01-28-2021
(SHEETS CLASH TO
CUT/TO)

PROJECT NO. #07870-0001
SHEET NO. G-001



09/06/2017 13:58:00



DATE	03/22/2012	SCALE	NONE/CONC./INC.
DOC PROJ #	01810001		1"=5'
DRAWN	TRCS		VERTICAL
DESIGNED	DEADWOOD		1"=5'
CHECKED	PHOTOC		
PROJECT	PHOTO		
PROJECT	PHOTO		

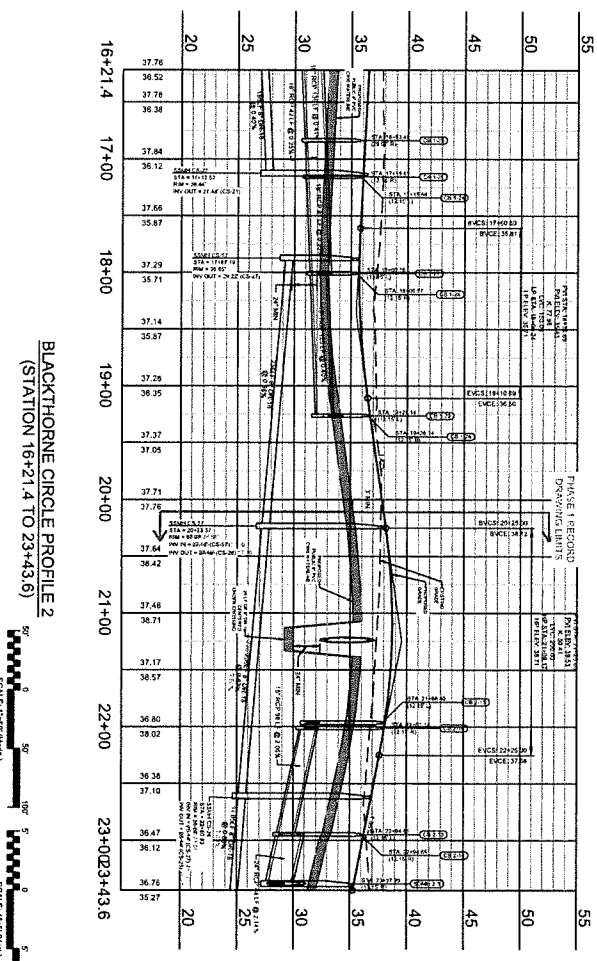
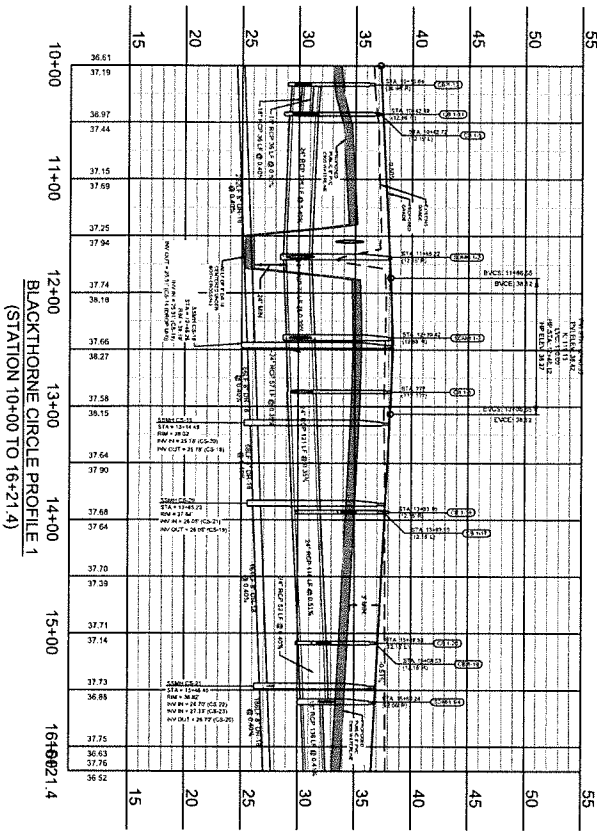
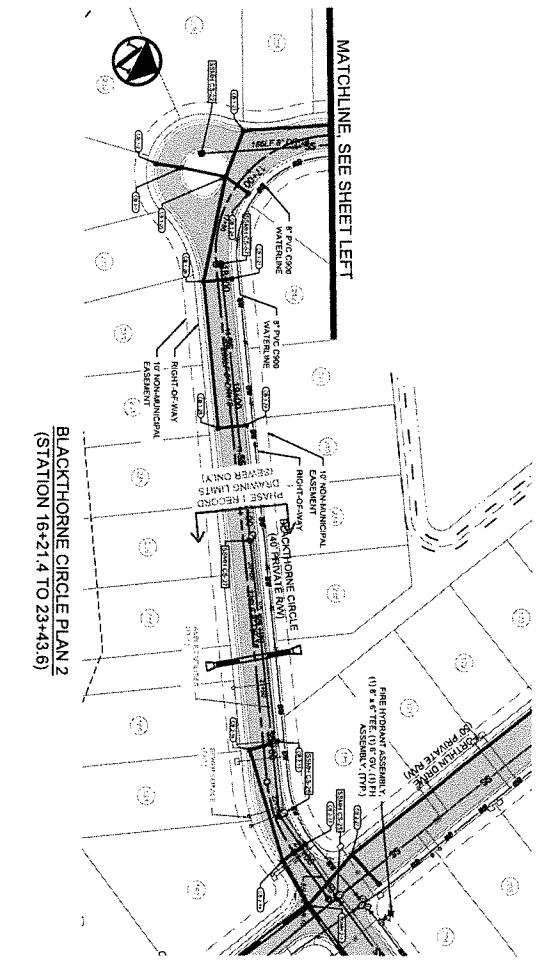
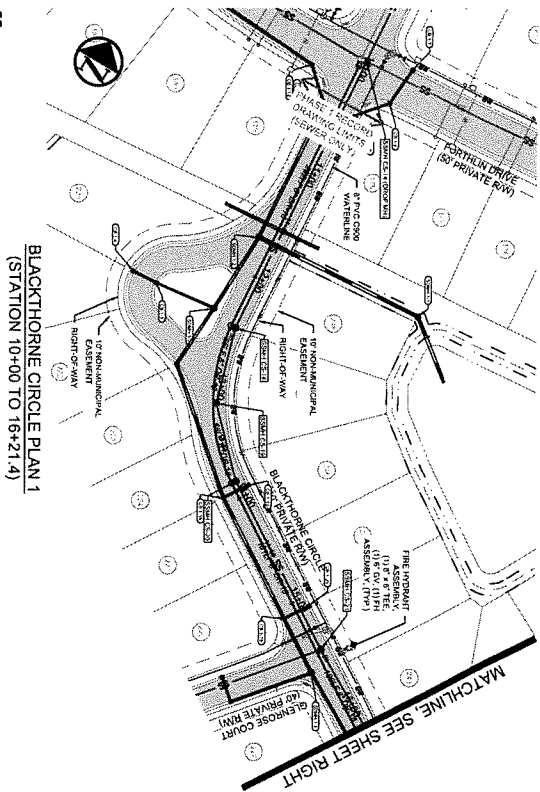
STANDARD

RECORD DRAWING

CUT704

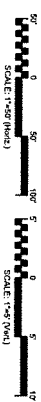
2

REVISION



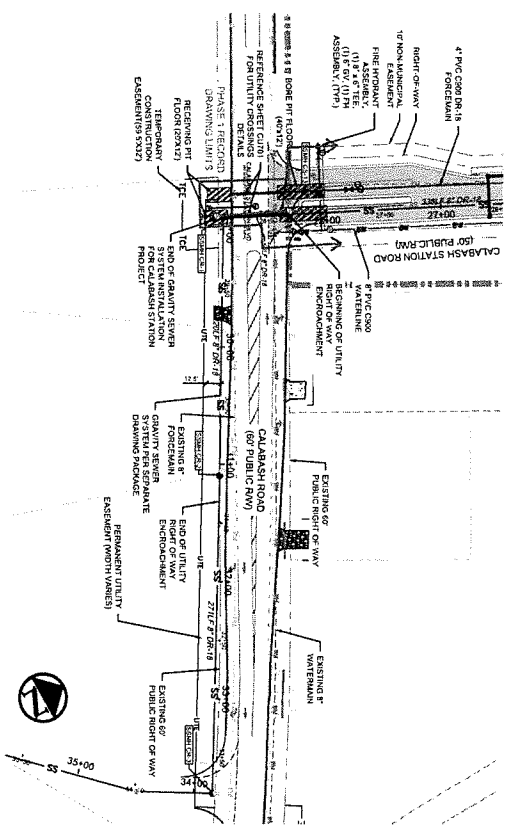
1 BLACKTHORNE CIRCLE UTILITY PLAN AND PROFILE 1 AND 2

BLACKTHORNE CIRCLE UTILITY PLAN AND PROFILE 1 AND 2

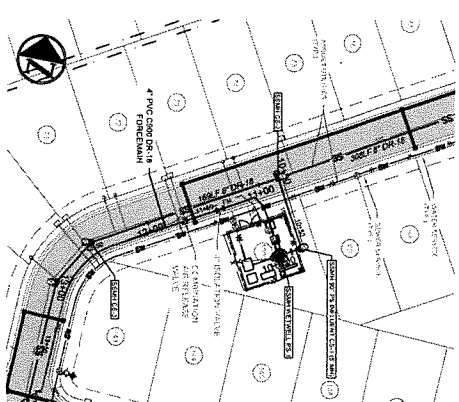


(REVISIONS TO PLO PLANS)

2001 North State Street Raleigh, NC 27601 Phone: (919) 321-1000 Fax: (919) 321-4292 www.mckimandcreed.com		CALABASH STATION RALPHAN COUNTY, NORTH CAROLINA BLACKTHORNE CIRCLE UTILITY PLAN AND PROFILE 1 AND 2		RECORD DRAWING DATE: 03/22/2022 DRAWN BY: J. H. HARRIS CHECKED BY: J. H. HARRIS IN CHARGE: J. H. HARRIS SCALE: 1"=40' (PLAN) SCALE: 1"=20' (PROFILE)	

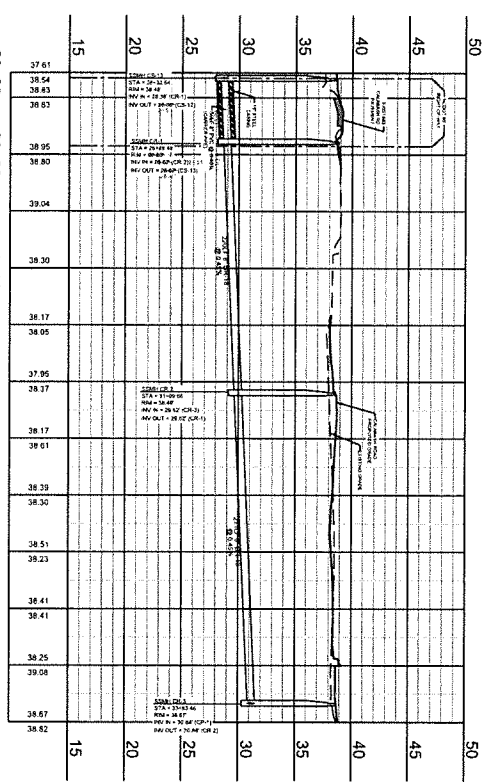


CALABASH ROAD SANITARY SEWER PLAN
(STATION 28+28 TO 34+00)

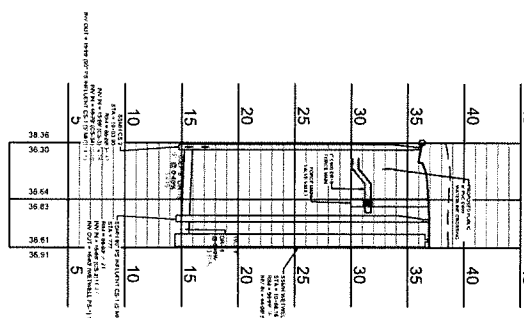


PUMP STATION PLAN
(STATION 10+00 TO 10+93)

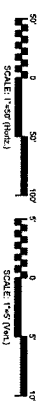
UTILITY NOTE:
1. ALL NEW SANITARY SEWER SHALL BE 4\"/>



CALABASH ROAD SANITARY SEWER PROFILE
(STATION 28+28 TO 34+00)

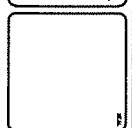


PUMP STATION PROFILE
(STATION 10+00 TO 10+93)



1 CALABASH ROAD UTILITY PLAN AND PROFILE

1. PROJECT LOCATION	2. PROJECT DESCRIPTION
3. PROJECT LOCATION	4. PROJECT DESCRIPTION
5. PROJECT LOCATION	6. PROJECT DESCRIPTION
7. PROJECT LOCATION	8. PROJECT DESCRIPTION
9. PROJECT LOCATION	10. PROJECT DESCRIPTION
11. PROJECT LOCATION	12. PROJECT DESCRIPTION
13. PROJECT LOCATION	14. PROJECT DESCRIPTION
15. PROJECT LOCATION	16. PROJECT DESCRIPTION
17. PROJECT LOCATION	18. PROJECT DESCRIPTION
19. PROJECT LOCATION	20. PROJECT DESCRIPTION
21. PROJECT LOCATION	22. PROJECT DESCRIPTION
23. PROJECT LOCATION	24. PROJECT DESCRIPTION
25. PROJECT LOCATION	26. PROJECT DESCRIPTION
27. PROJECT LOCATION	28. PROJECT DESCRIPTION
29. PROJECT LOCATION	30. PROJECT DESCRIPTION
31. PROJECT LOCATION	32. PROJECT DESCRIPTION
33. PROJECT LOCATION	34. PROJECT DESCRIPTION
35. PROJECT LOCATION	36. PROJECT DESCRIPTION
37. PROJECT LOCATION	38. PROJECT DESCRIPTION
39. PROJECT LOCATION	40. PROJECT DESCRIPTION
41. PROJECT LOCATION	42. PROJECT DESCRIPTION
43. PROJECT LOCATION	44. PROJECT DESCRIPTION
45. PROJECT LOCATION	46. PROJECT DESCRIPTION
47. PROJECT LOCATION	48. PROJECT DESCRIPTION
49. PROJECT LOCATION	50. PROJECT DESCRIPTION
51. PROJECT LOCATION	52. PROJECT DESCRIPTION
53. PROJECT LOCATION	54. PROJECT DESCRIPTION
55. PROJECT LOCATION	56. PROJECT DESCRIPTION
57. PROJECT LOCATION	58. PROJECT DESCRIPTION
59. PROJECT LOCATION	60. PROJECT DESCRIPTION
61. PROJECT LOCATION	62. PROJECT DESCRIPTION
63. PROJECT LOCATION	64. PROJECT DESCRIPTION
65. PROJECT LOCATION	66. PROJECT DESCRIPTION
67. PROJECT LOCATION	68. PROJECT DESCRIPTION
69. PROJECT LOCATION	70. PROJECT DESCRIPTION
71. PROJECT LOCATION	72. PROJECT DESCRIPTION
73. PROJECT LOCATION	74. PROJECT DESCRIPTION
75. PROJECT LOCATION	76. PROJECT DESCRIPTION
77. PROJECT LOCATION	78. PROJECT DESCRIPTION
79. PROJECT LOCATION	80. PROJECT DESCRIPTION
81. PROJECT LOCATION	82. PROJECT DESCRIPTION
83. PROJECT LOCATION	84. PROJECT DESCRIPTION
85. PROJECT LOCATION	86. PROJECT DESCRIPTION
87. PROJECT LOCATION	88. PROJECT DESCRIPTION
89. PROJECT LOCATION	90. PROJECT DESCRIPTION
91. PROJECT LOCATION	92. PROJECT DESCRIPTION
93. PROJECT LOCATION	94. PROJECT DESCRIPTION
95. PROJECT LOCATION	96. PROJECT DESCRIPTION
97. PROJECT LOCATION	98. PROJECT DESCRIPTION
99. PROJECT LOCATION	100. PROJECT DESCRIPTION



McKIM & CREED
240 North Tryon Street
Charlotte, NC 28202
Phone: (813) 251-1234
Fax: (813) 251-4567
www.mckimandcreed.com

H&H HOMES
PHILIP LAND

CALABASH STATION
BRUNSWICK COUNTY, NORTH CAROLINA
CALABASH ROAD UTILITY PLAN AND PROFILE

RECORD DRAWING
DATE: 03/22/2022
SCALE: AS SHOWN
CUT: 10' VERTICAL
2' HORIZONTAL
2' VERTICAL
2' HORIZONTAL

Prepared by Burns, Day & Presnell (Greg Hinshaw)
Return to Bryant Spencer, 2919 Breezewood Ave., Ste 100, Fayetteville, NC 28303

STATE OF NORTH CAROLINA

AFFIDAVIT

COUNTY OF BRUNSWICK

Calabash Station, LLC, a North Carolina limited liability company, with an office and place of business in Cumberland County, North Carolina, hereinafter referred to as Affiant, being first duly sworn, hereby deposes and says under oath as follows:

1. That it is the owner of certain property located in Shallotte, Brunswick County, North Carolina, known as Calabash Station Subdivision, containing Lots numbered 1 through 11; Lots 70 through 74; and Lots 138 through 219, as more particularly described in a Deed of Dedication in favor of Brunswick County of even date herewith.

2. That it has caused to be installed water distribution lines and/or sewer lines under and along the road right-of-ways property hereinafter described and referenced:

Being all of the water and/or sewer distribution system and equipment located at Calabash Station Subdivision, Phase 1, as shown on Plat Book 136, Page 94-99, Brunswick County Registry

3. All the work which has been performed in the construction and installation of said water distribution lines and/or sewer lines described in paragraph 2, above, has been fully paid for and there are now no liens of any kind including any lien for labor or material against the subdivision property which would in any way jeopardizes title of Affiant to the property in said subdivision nor are there any legal actions pending against Affiant or any contractor arising out of any work performed in said subdivision or the water lines and/or sewer lines installed therein which would in any way jeopardize title to the subdivision or the water distribution lines and/or sewer lines located therein.

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer(s), this 20 day of APRIL, 2022.

CALABASH STATION, LLC

By: _____

Name: D. RALPH HUFF III

Its Manager

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

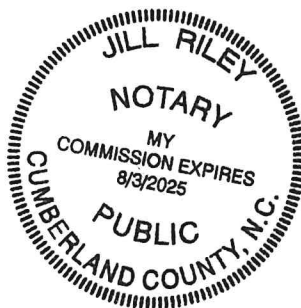
igned and sworn to (or affirmed) before me this day by D. Ralph Huff III.
(Name of Principal)

Date: April 20, 2022

(NOTARY SEAL)

My Commission Expires:

8-3-2025



Signature of Notary Public

Printed or Typed Name of Notary Public



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 5.

From: County Attorney - Deed of Dedication for Holden Beach
Asst. County Attorney--Bryan Batton Campground Water

Issue/Action Requested:

Consider accepting the Deed of Dedication for water infrastructure for Holden Beach Campground.

Background/Purpose of Request:

Divergent Enterprises, LLC has submitted a Deed of Dedication for water infrastructure for Holden Beach Campground. The lines have been tested and approved and are ready to be incorporated into our utility system.

Fiscal Impact:

Reviewed By Director of Fiscal Operations
\$ 118,215.21 for water

Approved By County Attorney:

Yes

County Attorney's Recommendation:

Accept the Deed of Dedication for water infrastructure from Divergent Enterprises, LLC.

County Manager's Recommendation:

Recommend accepting the Deed of Dedication for water infrastructure for Holden Beach Campground.

ATTACHMENTS:

Description

- Holden Beach Campground water DOD

Prepared by: Brian Kowalski

DEED OF DEDICATION

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

THIS DEED OF DEDICATION, made and entered into this the _____ day of

February, 2022, by and between Divergent Enterprises LLC DBA Holden Beach RV

Campground Jeremy Timco - Owner - Jeremy@Timcos.com - 910-408-9829 a North Carolina

LLC, with an office and place of business in Brunswick County, North Carolina, party of the

first part, hereinafter referred to as "Developer", and BRUNSWICK COUNTY, a governmental

entity created and existing under the laws of the State of North Carolina, party of the second part,

hereinafter referred to as Grantee, whose mailing address is

PO Box 249, Bolivia, NC 28422.

WITNESSETH:

That whereas Developer is the owner and developer of a tract or parcel located in
Township, Brunswick County, North Carolina, known as Holden Beach Campground DBA

And whereas Developer has caused to install water distribution lines in the campground for
Sites.

And whereas Grantee has adopted through appropriate resolution stated policy regarding

Water distribution system under the terms of which, among other things, in order to obtain water

For said subdivision Developer must convey title to the water distribution system to Grantee through an

instrument of dedication acceptable to Grantee.

NOW, THEREFORE, Developer, in consideration of Grantee accepting said water lines and maker water available to said subdivision, has conveyed by these presents does hereby convey to Grantee, its lawful successors and assigns, the following described property:
Addendum 1) See Attached right of way as-built plan

Legal Description as on tax deed TCT ONE, TWO, THREE AND FOUR

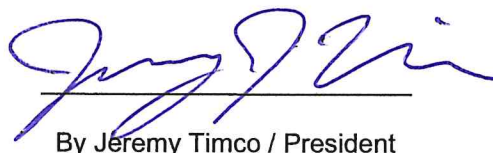
TR-1-5A 9.85AC SILVER PALMS PL 36/98 NC 130

Deed Ref # 04217-0319 07/15/2019

TO HAVE AND TO HOLD said water line and equipment above described together with the privileges and appurtenances thereto belonging to Grantee forever.

Non-exclusive easements over, entire area of the right of way depicted on the as built for main water line and fire hydrants and water, as built map and serving the areas reference above for purpose of entry into the subdivision for maintenance, repair and upkeep of water distribution system and for connecting the same to the individual lots developed or to be developed lying adjacent to said street reserving unto Developers, its successor and assign upon, equal rights of easement and easement over, in along and said right away for purpose of installing and maintaining such utilities as may be required for the development of said subdivision, including, but not limited to, electric, gas, telephone, and cable.

And Developer does hereby covenant that it is seized of said water lines and equipment described Above in fee simple and has the right to convey the same in fee simple, that the same are free and clear of encumbrances, and that it will warrant and defend the title to the same against all persons whomsoever. Developer warrants to Grantee that the system herein conveyed is of good quality and free from faults and defects, and conforms to the as-built drawings. Developer warrants said system for a period of one (1) year from the date of recording this Deed of Dedication in the office of the Brunswick County Register of Deeds. IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed, the day and year first above written,



By Jeremy Timco / President

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, a Notary Public of the County and State aforesaid, do hereby certify that
Jeremy Timco personally, came before me this day, and (I have personal
Knowledge of the identity of the principal) OR (I have seen satisfactory evidence of the
principal's identity, by a current state or federal identification with the principal's
photograph in the form of a NCLDL) OR (a credible witness has sworn to
the identity of the principal (s); and he/she acknowledged that he/she is (President of
Divergent Enterprises LLC DBA Holden Beach RV Campground Jeremy Timco - Owner
- Jeremy@Timcos.com - 910-408-9829 a North Carolina. And that he as President, being
Authorized to do so, executed the foregoing on behalf of the LLC.

Witness my hand and official seal, this 15th day of ~~February~~ ^{March} 2022

Danielle Champion

Signature of Notary Public

Danielle Champion

(NOTARY SEAL)



Printed or Typed Name of Notary Public

My Commission Expires. April 15, 2023

ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for Divergent Enterprises LLC DBA Holden Beach
RV Campground Jeremy Timco – President was accepted by Brunswick County Board of Commissioners
on the _____ day of 2022

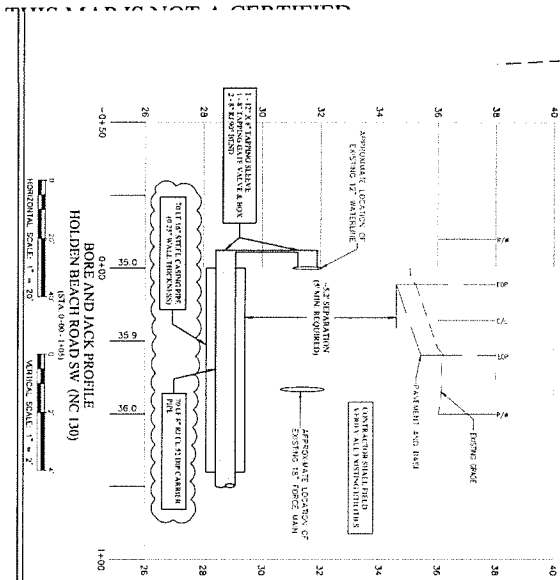
Brunswick County Board of Commissioners

Randy Thompson, Chairman

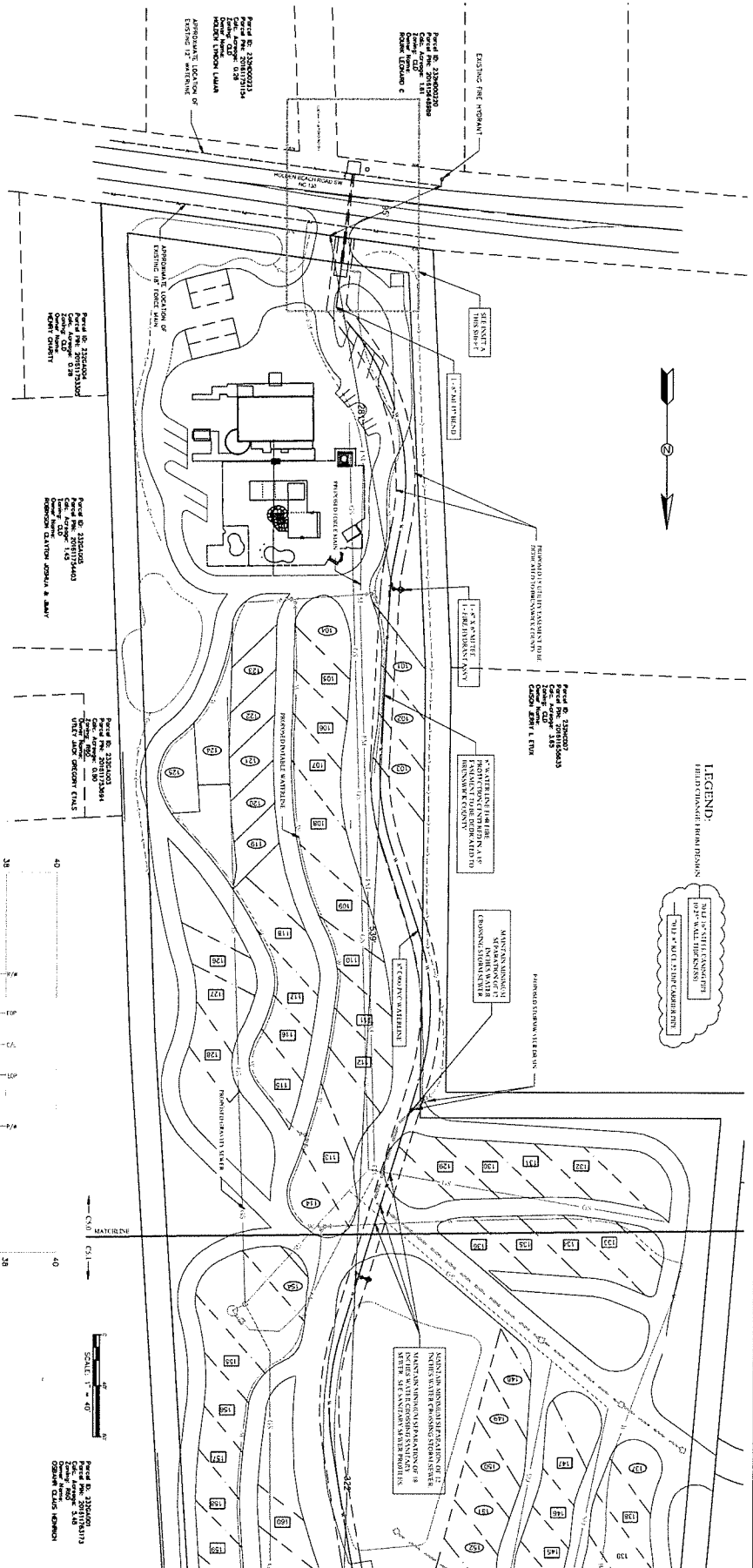
Daralyn Spivey

Clerk to the Board

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



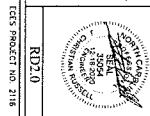
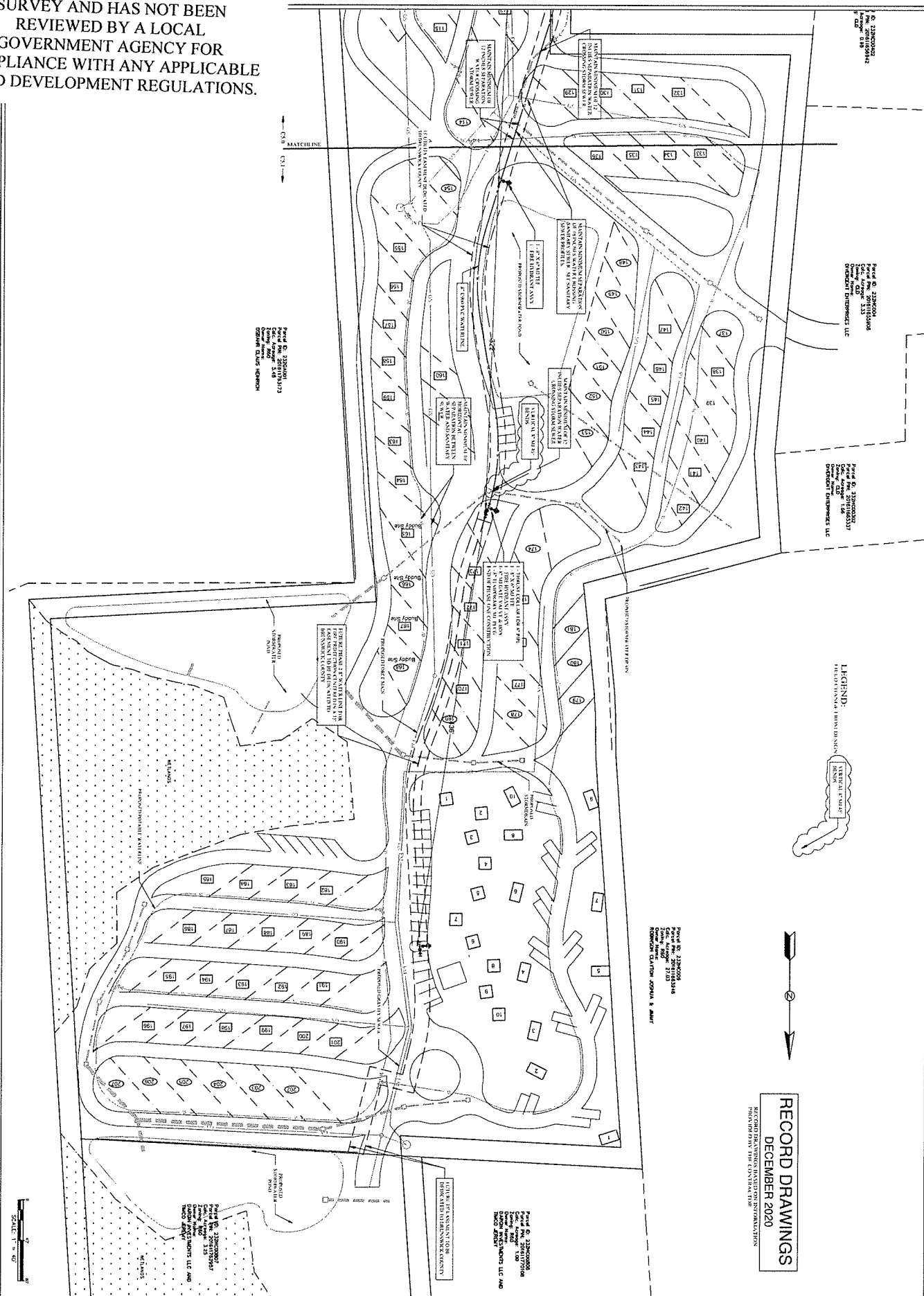
RECORD DRAWINGS
DECEMBER 2020
REMOVED DRAWINGS INDICATED BY INFORMATION PROVIDED BY THE CONTRACTOR



LEGEND:
FIELD CHANGE FROM PRELIM
SOLID LINE EXISTING
10' WIDE TURNPIKE
SOLID LINE EXISTING
10' WIDE TURNPIKE

THIS MAP IS NOT A CERTIFIED
SURVEY AND HAS NOT BEEN
REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS.

East Coast Engineering & Surveying, P.C.



RD20
12/15/2020
2019110001
Holden Beach RV Campground
Brunswick County, NC

PHASE I FIRE LINE RECORD DRAWINGS
FOR
HOLDEN BEACH RV
CAMPGROUND
BRUNSWICK COUNTY, NORTH CAROLINA

East Coast Engineering & Surveying, P.C.
ENGINEERS • PLANNERS • SURVEYORS
4915 Main Street
P.O. Box 2469
Shallot, n. North Carolina 28459
Phone: 910.754.8029
Fax: 910.754.8049
Firm License Number C-3014

Revision

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

AFFIDAVIT

Divergent Enterprises LLC, a North Carolina LLC, with an office and place of business in Brunswick County, North Carolina, hereinafter referred to as Affiant, being first duly sworn, hereby deposes and says under oath as follows:

1. That it is the owner of certain property located in Supply, Brunswick County, North Carolina, known as Silver Palms Subdivision, as more particularly described "n a Deed of Dedication in favor of Brunswick County of even date herewith.
2. That it has caused to be installed water distribution lines [and/or sewer lines] under and along the road right-of-ways property hereinafter described and referenced:

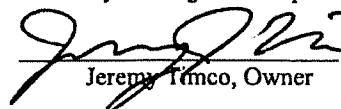
TCT ONE, TWO, THREE AND FOUR. TR-1-5A 9.85AC Silver Palms PL 36/98 NC 130

3. All the work which has been performed in the construction and installation of said water distribution lines [and/or sewer lines] described in paragraph 2, above, has been fully paid for and there are now no liens of any kind including any lien for labor or material against the subdivision property which would in any way jeopardizes title of Affiant to the property in said subdivision nor are there any legal actions pending against Affiant or any contractor arising out of any work performed in said subdivision or the water lines [and/or sewer lines] installed therein which would in any way jeopardize title to the subdivision or the water distribution lines [and/or sewer lines] located therein.

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed by its authorized officer(s), thisday of, 20

(NAME OF DEVELOPER)

By: Divergent Enterprises LLC by Jeremy Timco

 5/13/2022
Jeremy Timco, Owner

IN WITNESS WHEREOF, the Affiant has caused this instrument to be duly executed
by its authorized officer(s), this 13 day of May, 2022

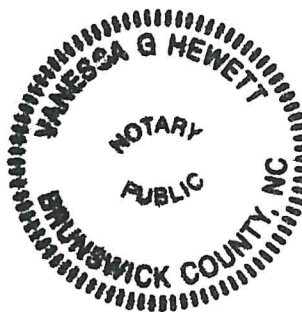
Witness my hand and official seal, this 13 day of May, 2022.

Vanessa G. Hewett
Signature of Notary Public

(NOTARY SEAL)

Vanessa G. Hewett
Printed or Typed Name of Notary Public

My Commission Expires: 11-14-2023



ACCEPTANCE OF DEED

This Deed of Dedication and accompanying Affidavit for Divergent Enterprises LLC DBA
Holden Beach RV Campground Jeremy Timco – President was accepted by Brunswick County
Board of Commissioners on the _____ day of 2022

Brunswick County Board of Commissioners

_____/____/____

_____/____/____



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 6.

County Attorney - Easement Request

From:

Asst. County Attorney-- Bryan Batton

Issue/Action Requested:

To grant a utility easement over Parcel # 2250013204, which is currently being developed as the back-up 911 call center.

Background/Purpose of Request:

A developer has requested a thirty-foot utility easement over Parcel # 2250013204. The utility easement will be used for the installation of utility service to 66 lots. Once the system is installed and approved, the infrastructure will be turned over to Brunswick County. Parcel # 2250013204 is currently being developed as the County's back-up 911 call center. The Sheriff's Office has confirmed that the location of the easement will not interfere with their operation. A survey and proposed easement is attached.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Attorney's Recommendation:

To grant a utility easement over Parcel # 2250013204, which is currently being developed as the back-up 911 call center.

County Manager's Recommendation:

Recommend that the Board grant a utility easement over Parcel # 2250013204, which is currently being developed as the back-up 911 call center.

ATTACHMENTS:

Description

- ☐ Easement
- ☐ Easement Map

Prepared by: W. Joseph Cunningham, Esq
1000 2nd Ave S., Ste 325
North Myrtle Beach, SC 29582

UTILITY EASEMENT

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

THIS UTILITY EASEMENT, made and entered into this the _____ day of _____, 2022, by and between **Brunswick County** a North Carolina body politic and political subdivision of the State of North Carolina, (hereinafter referred to as “GRANTOR”); and **Brunswick County** a North Carolina body politic and political subdivision of the State of North Carolina, whose address is P.O. Box 249, Bolivia, North Carolina 28422 (hereinafter referred to as “COUNTY”) and **RSPH-Hickman, LLC**, a North Carolina limited liability company whose address is _____, (hereinafter referred to as “RSPH” and together with County, collectively referred to as “GRANTEE”);

WHEREAS, GRANTOR owns certain real property more particularly shown and depicted as 2.37 Acres, more or less on that certain map recorded in Map Cabinet R at Page 0069, records of Brunswick County, North Carolina (the “SERVIENT PARCEL”); and

WHEREAS, RSPH owns certain real property located near to the SERVIENT PARCEL, which is more particularly shown and depicted as “Tract 1 16.79 Acres” on that certain map prepared by Norris & Ward Land Surveyors, P.A., recorded on December 01, 2021 in Map Cabinet 133 at Page 0019, records of Brunswick County, North Carolina (the “DOMINANT PARCEL”); and

WHEREAS, GRANTOR desires to grant to GRANTEE, for the benefit of the DOMINANT PARCEL, certain easements, as more particularly described hereinafter.

WITNESSETH

For and in consideration for the sum of one dollar (\$1.00) and other good and valuable consideration paid by the GRANTEE to the GRANTOR, the receipt of which is hereby acknowledged by each of the undersigned, the GRANTOR has bargained, sold and conveyed and by these presents does hereby grant, bargain, sell and convey unto GRANTEE, its successors and assigns, perpetual and permanent rights, privileges and easements to go through, under and upon the land and premise hereinafter described and referred to as permanent easements for the purpose of constructing, installing, maintaining, repairing, replacing, removing, extending, improving, building and/or operating a public utility system including but not limited to mains, pipes, valves and other appurtenant facilities (hereinafter, the "EASEMENT").

Said EASEMENT shall be located as follows (hereinafter the "EASEMENT AREA"):

All of that parcel, being approximately 31.90 feet in width, more particularly shown and depicted as "Easement #3" upon the property with Tax Parcel Identification Number 2250013204, as specifically shown on that certain map or plat entitled "Sewer Easement for Brunswick County" prepared by Norris & Ward Land Surveyors, P.A., and recorded in Map Cabinet____, Pages ____ to ____ Brunswick County Registry.

TO HAVE AND TO HOLD said EASEMENT to GRANTEE, its successors and assigns, it being agreed that the easements hereby granted is appurtenant to, and runs with the DOMINANT PARCEL.

The facilities to be placed under and upon and across the EASEMENT AREA shall remain the property of the COUNTY. The COUNTY shall have the right to inspect, remove, repair, replace, maintain and improve the facility together with the rights of ingress and egress to the facilities, and to make such changes and additions to the facilities upon the EASEMENT AREA as the COUNTY from time to time may deem advisable.

Except as otherwise stated herein, the COUNTY shall at all times have the right to keep the EASEMENT AREA clear of all buildings or structures and such vegetation as will, in its judgment, interfere with the purpose of the EASEMENT. Except as otherwise stated herein, the GRANTOR expressly promises and agrees not to construct or allow to be constructed any building, structure or other improvement in the EASEMENT AREA except that the GRANTOR shall retain the right to install driveways into the property across the EASEMENT AREA with the approval of the COUNTY, which approval shall not be unreasonably withheld. The GRANTOR further promises not to plant or allow to be planted any trees, shrubs, bushes, undergrowth or other vegetation which would encroach upon or interfere with GRANTEE's rights hereunder, other than shallow rooted plants as may be approved by COUNTY, which approval shall not be unreasonably withheld. It is expressly understood and agreed hereunder that the GRANTOR and its successors and assigns shall retain the right to cultivate the ground lying within the EASEMENT AREA and use said EASEMENT AREA for any other lawful purpose, however, such cultivation or use shall

not be inconsistent with the rights herein granted to the GRANTEE, and GRANTEE, unless otherwise stated herein, shall not be liable to GRANTOR for any damages or loss due to the exercise of its rights hereunder within this easement.

By acceptance of this UTILITY EASEMENT, the COUNTY agrees that it will restore the surface of the land to its approximate level prior to the construction by filling or grading in the course of construction or maintenance of the aforesaid facilities so long as the same are not inconsistent with or do not interfere with the rights herein granted to the GRANTEE. It is specifically agreed that any trees removed for the construction or maintenance work will not be replaced.

The construction or maintenance area may be seeded by the COUNTY, but the COUNTY will not be responsible for landscaping or otherwise improving the area. It is understood and agreed that the execution of this UTILITY EASEMENT by the GRANTOR and its acceptance by the GRANTEE shall not obligate the GRANTEE to construct or maintain any mains, pipes, valves or other utility system facilities or permit any connection to its utility system, or maintain any roadway which may be within this easement; but GRANTOR shall retain the right to maintain driveways into the property across the EASEMENT AREA as hereinabove provided.

The use of the masculine gender includes the feminine and neuter; and the singular number used herein shall particularly include the plural.

Signatures appear on the following pages

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

Brunswick County, North Carolina

_____(SEAL)

By:_____

Its:_____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public in and for the state and county aforesaid, hereby certify that _____ personally came before me this day and acknowledged that he/she is the _____ (Title) of Brunswick County, North Carolina and that he/she, as _____, being authorized to do so, executed the foregoing instrument on behalf of the body politic and political subdivision.

Witness my hand and official stamp or seal this the ____ day of _____, 2022.

Notary Public

Print Name:_____

[SEAL]

My commission expires:_____

IN WITNESS WHEREOF, the COUNTY has hereunto set its hand and seal the day and year first above written.

Brunswick County, North Carolina

_____(SEAL)

By:_____

Its:_____

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public in and for the state and county aforesaid, hereby certify that _____ personally came before me this day and acknowledged that he/she is the _____ (Title) of Brunswick County, North Carolina and that he/she, as _____, being authorized to do so, executed the foregoing instrument on behalf of the body politic and political subdivision.

Witness my hand and official stamp or seal this the ____ day of _____, 2022.

Notary Public

Print Name:_____

[SEAL]

My commission expires:_____

IN WITNESS WHEREOF, RSPH has hereunto set its hand and seal the day and year first above written.

RSPH-Hickman, LLC

_____(SEAL)

By:_____

Its:_____

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public in and for the state and county aforesaid, hereby certify that _____ personally came before me this day and acknowledged that he is the MANAGER of RSPH-Hickman, LLC and that he, as MANAGER, being authorized to do so, executed the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal this the ____ day of _____, 2022.

Notary Public

Print Name:_____

[SEAL]

My commission expires:_____

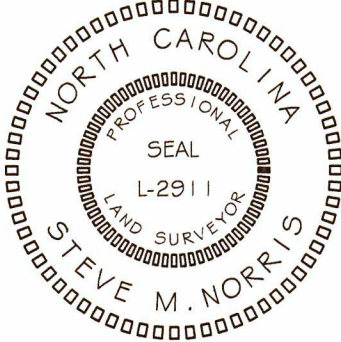
I, Steve M. Norris, a Professional Land Surveyor, certify that this map was drawn from an actual survey made by me, that the ratio of precision of the actual field closure, as calculated by latitudes and departures is 1 : 10,000 +, that it conforms to GS 47-30 as amended and that it is true and correct to the best of my knowledge and belief.

I further certify that this survey is of another category, such as the recombination of existing parcels, a court ordered survey, or other exception to the definition of subdivision.

Witness my hand and seal this 14th day of March, 2022.

Steve M. Norris, P.L.S.

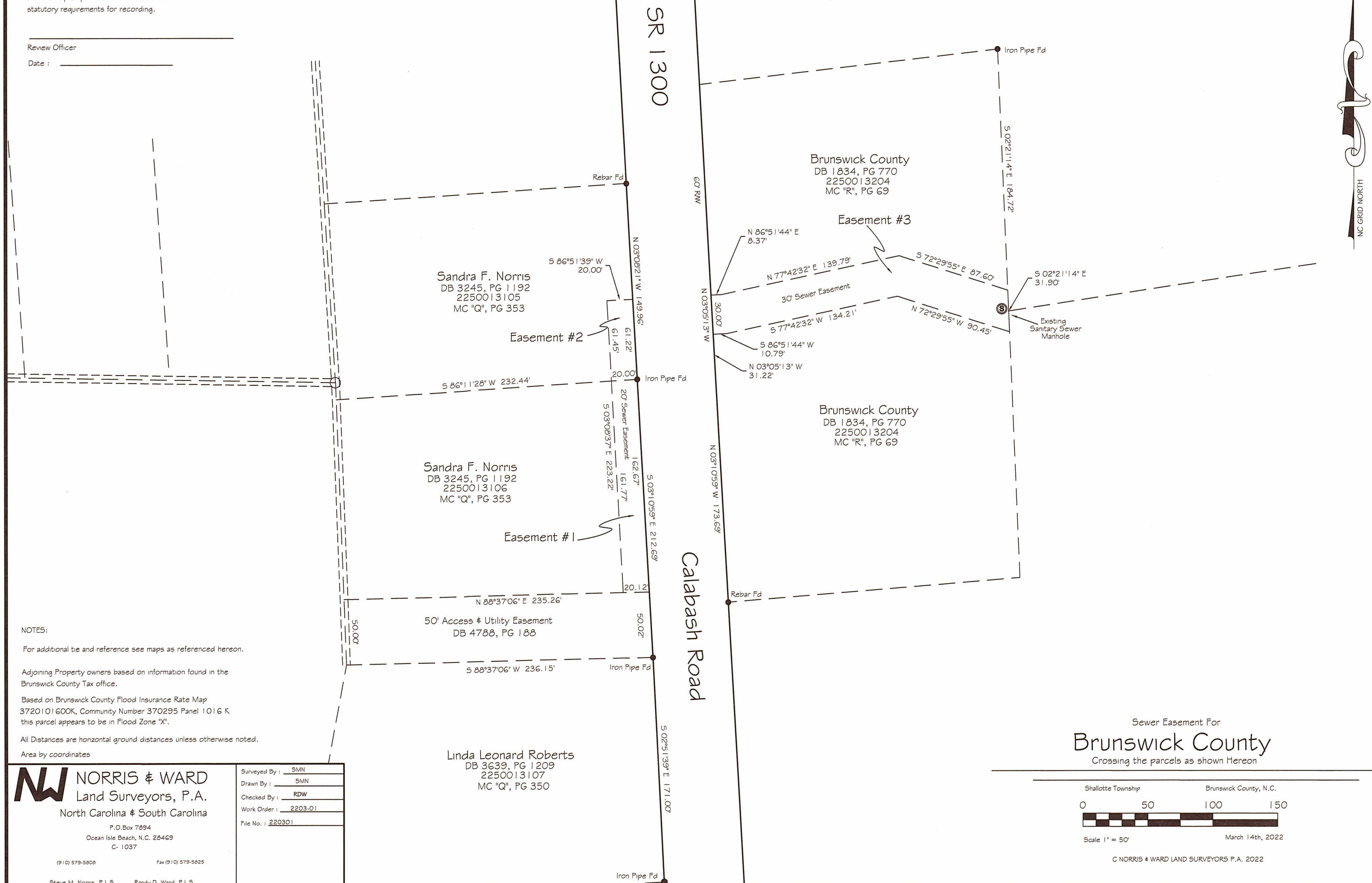
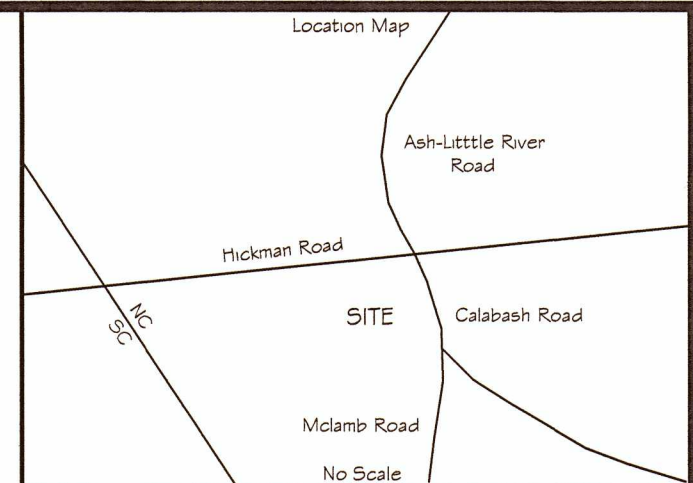
L-2911



I, _____, Review Officer of Brunswick County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date : _____



NOTES:

For additional tie and reference see maps as referenced hereon.

Adjoining Property owners based on information found in the Brunswick County Tax office.

Based on Brunswick County Flood Insurance Rate Map 3720101600K, Community Number 370295 Panel 1016 K this parcel appears to be in Flood Zone 'X'.

All Distances are horizontal ground distances unless otherwise noted.

Area by coordinates

NW NORRIS & WARD
Land Surveyors, P.A.
North Carolina & South Carolina

P.O. Box 7894
Ocean Isle Beach, N.C. 28469
C- 1037

(910) 579-5808

Fax (910) 579-5825

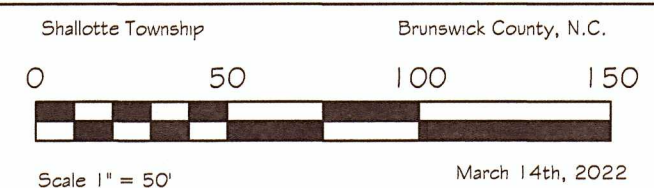
Steve M. Norris, P.L.S.

Randy D. Ward, P.L.S.

Surveyed By : SMN
Drawn By : SMN
Checked By : RDW
Work Order : 2203-01
File No. : 220301

Linda Leonard Roberts
DB 3639, PG 1209
2250013107
MC 'Q', PG 350

Sewer Easement For
Brunswick County
Crossing the parcels as shown Hereon



© NORRIS & WARD LAND SURVEYORS P.A. 2022



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 7.

From: County Attorney - MOU for Marine Corps Training Exercises
Bob Shaver, County Attorney

Issue/Action Requested:

Request that the Board of Commissioners approve the Memorandum of Understanding between U.S. Marine Corps Forces, Special Operations Command (MARSOC), Brunswick County, and the Brunswick County Sheriff's Office.

Background/Purpose of Request:

The Marine Corps Special Operations Command (MARSOC) wishes to conduct training exercises in Brunswick County in coordination with the Sheriff under guidelines set forth in the MOU. Training exercises will not involve direct contact with the local population. MARSOC will provide advance notice to local officials and law enforcement of the details of any exercise in the county.

The MARSOC training exercises are meant to be low-impact and low-visibility and should not attract the attention of locals in the immediate area.

The term of the MOU is five years.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

ATTACHMENTS:

Description

▣ MARSOC MOU 2022



UNITED STATES MARINE CORPS
MARINE FORCES SPECIAL OPERATIONS COMMAND
PSC BOX 20116
CAMP LEJEUNE, NC 28542-0116

3307
G-7
01 JAN 22

MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
MARINE FORCES SPECIAL OPERATIONS COMMAND (MARFORSOC)
AND
THE BRUNSWICK COUNTY SHERIFF, NORTH CAROLINA

1. Purpose. The purpose of this memorandum is to memorialize the approval by the leadership of the county of Brunswick, North Carolina and the Brunswick County Sheriffs for MARFORSOC to conduct training in Brunswick County, North Carolina. MARFORSOC requests that Brunswick County, North Carolina grant MARFORSOC the authority to periodically conduct required training within Brunswick County, North Carolina. All such training will be coordinated under the guidelines set forth in this agreement. All personnel involved in these exercises will be consenting military personnel, government civilian workers, or contractors; no private citizens will be part of or involved in the training exercises in any manner.

2. Approval. Brunswick County, North Carolina hereby agrees to permit members of MARFORSOC (to include all military, civilian, and contractor support personnel) to conduct military training, to include [surveillance, advanced communications, raid, reconnaissance, Convoy, Foot Movement of troops and Equipment, Drop Zone, Landing or Pick up Zone, other helicopter operations, and other required training necessary to develop special operations skills within the boundaries of Brunswick County, North Carolina. Training and informal meetings will be restricted specifically to commercial/restaurant and public gathering areas of the above stated county and will not involve direct contact with the local populace. Any training to be conducted on private property in the above mentioned county will be coordinated with and approved by the property owners involved. This approval is subject to the following:

a. This MOU becomes effective upon execution by Brunswick County, North Carolina and the Brunswick County Sheriff and MARFORSOC and will run for five (5) years from the date of execution of the last signing party unless sooner terminated under the provisions of paragraph 9(b). This MOU recognizes that MARFORSOC intends to conduct training in the Brunswick County, North Carolina on multiple occasions over that time

MEMORANDUM OF UNDERSTANDING BETWEEN MARFORSOC AND BRUNSWICK
COUNTY, NORTH CAROLINA AND THE BRUNSWICK SHERIFF

period. Prior to conducting any training, MARFORSOC will provide advance written notice to civilian leadership and law enforcement officials. The notice will include current contact information, training personnel points of contact, type of training to be conducted, areas to be utilized during training and dates of intended usage. The information will be provided in order to give Brunswick County, North Carolina the maximum possible visibility over training and to provide notice to law enforcement of our presence in the area. Every effort will be made by MARFORSOC to provide written notice at least thirty (30) days in advance of any training in order to allow sufficient time for both parties to mutually resolve any outstanding issues and address any concerns. During the conduct of any training, MARFORSOC will conduct daily liaison with the designated law enforcement personnel.

b. MARFORSOC shall not knowingly use any commercial/public gathering areas in any unlawful way.

c. 31 U.S.C. Sect. 1341, "The Anti-Deficiency Act", prohibits open-ended indemnification and "hold harmless agreements" by the U.S. Government. However, sovereign immunity is waived if any damages do occur, in order to hold the federal government liable. The U.S. Government is responsible, under the terms of the Federal Tort Claims Act (FTCA), 28 U.S.C. 1346(b), 2671-2680, or the Military Claims Act (MCA) 10 U.S.C. 2733, as applicable, for any injury to persons or damage to property proximately caused by acts or omissions of Government employees acting within the scope of their employment. The FTCA, and supporting case law, provides several means of recovery for negligent acts of Government personnel. The injured party may submit a claim directly against the U.S. Government; a defendant may implead the U.S. Government as a third-party; or a defendant may later pursue the U.S. Government in a separate indemnity action or claim submission, for any amounts paid to the injured party due to negligence of the U.S. Government. A perfected claim requires a completed U.S. Government Standard Form 95 and proof substantiating the claimed amount. Other documentation may be required on a case by case basis. Claims packages may be submitted to the below offices by email, fax, or standard mail. For required documents, see <http://www.jag.navy.mil/organization/code 15 packets forms.htm>. Claims packages may be submitted to the Camp Lejeune Office by standard mail.

MEMORANDUM OF UNDERSTANDING BETWEEN MARFORSOC AND BRUNSWICK
COUNTY, NORTH CAROLINA AND THE BRUNSWICK SHERIFF

Commanding General
LSSS-E (Claims)
PSC Box 20005
MCIEAST-MCB
Camp Lejeune, NC 28542-0005

3. For all training exercises, MARFORSOC, via the officer in charge (OIC) of the exercise, will ensure that local law enforcement is informed of all areas, times, and dates that will be utilized for training. All activities conducted at these venues will be appropriate for the intended training objective. Additionally, MARFORSOC staff will embed a liaison element within the Brunswick County Sheriff that will notify the requisite elements of the Brunswick County Sheriff's office of any activity within each district. MARFORSOC instructors will either be on site or in the vicinity of training in order to critique training as well as function as an on-site liaison to ensure training is conducted in accordance with this agreement. In the event a situation presents itself involving local law enforcement, an Exercise Participant Card will be provided that includes contact information of the MARFORSOC leadership responsible for the training and the MARFORSOC Public Affairs Office. The Brunswick County Sheriff's office will intervene and act as they deem necessary to handle and resolve any situation related to public safety, or a violation of federal, state, or local laws.
4. Unless otherwise agreed upon in writing, MARFORSOC training activities in Brunswick County, North Carolina will be low-impact and low-visibility. MARFORSOC activities are not likely to attract undue attention nor should the conduct of activities alert any civilians/members of the establishment who are in the immediate area. In the event that a civilian/non-law enforcement official or member of local law enforcement approach and begin to question any personnel conducting training about their activities, the personnel conducting training will provide an Exercise Participant Card and Military Identification Card. The personnel conducting training will contact their OIC in any situation where civilians or law enforcement personnel intervene in the training. In this instance, all personnel conducting training will comply with instructions from local law enforcement officials and will immediately inform their OIC.
5. Prior to the start of the exercise, MARFORSOC members will receive classes and be thoroughly briefed on the safety plan and rules of training. No personal vehicles are authorized for use by the Marines conducting this training. Tactical vehicles, Rental and/or government plated vehicles consisting of sedans,

MEMORANDUM OF UNDERSTANDING BETWEEN MARFORSOC AND BRUNSWICK
COUNTY, NORTH CAROLINA AND THE BRUNSWICK SHERIFF

mini-vans, and sport utility vehicles will be utilized during this training.

6. MARFORSOC personnel conducting training will not possess concealed firearms at any time during training. MARFORSOC personnel will not possess any carry of firearms, simulated firearms, or pyrotechnic devices during the course of active training in Brunswick County, North Carolina without advance notice to Brunswick County, North Carolina.

a. "Active training" does not include transportation of weapons between training locations.

b. MARFORSOC may be permitted to carry firearms, simulated firearms, or pyrotechnic devices on a case-by-case basis. In such instances, MARFORSOC will provide a description of the desired activity to the Brunswick County Sheriff in the required notification letter four weeks prior to commencement of the exercise. MARFORSOC will coordinate with Brunswick County Sheriff, detailing the starting and ending point of each movement, time of movement, activities to be exercised, make/model/license plate of vehicles, and number of personnel executing activity. Brunswick County, North Carolina or the Brunswick County Sheriff maintains the right to refuse to permit the desired activity. Any refusal will be provided by Brunswick County, or the Brunswick County Sheriff in writing in response to the notification within two weeks of receipt of the notification of training.

7. All MARFORSOC personnel will be in civilian attire or military uniforms; however, they will be able to produce an Exercise Participant Card and a government identification card at all times. All MARFORSOC personnel conducting training and exercise staff will obey all traffic laws and posted speed limits. At no time will MARFORSOC personnel engage in any activity that will put themselves or others in danger, and they will obey all orders from civilian law enforcement agencies. The training exercise will culminate when all exercise participants have departed the Brunswick County, North Carolina area. The MARFORSOC OIC will notify the Brunswick County Sheriff upon completion of the exercise. The MARFORSOC OIC will provide the Brunswick County Officials and Brunswick County Sheriff a signed copy of this document and a copy of the notification for each training event for the record.

8. Non-Disclosure. Brunswick County, North Carolina agrees not to disclose any MARFORSOC tactics, techniques, procedures, and methods of training, or exercise concepts or scenarios that

MEMORANDUM OF UNDERSTANDING BETWEEN MARFORSOC AND BRUNSWICK
COUNTY, NORTH CAROLINA AND THE BRUNSWICK SHERIFF

Brunswick County, North Carolina may learn during discussions with MARFORSOC about exercises or by observation during the conduct of an exercise. Additionally, Brunswick County, North Carolina agrees not to disclose the identity of MARFORSOC personnel conducting training or, if not active duty Marines, their affiliation with MARFORSOC (e.g., contracted civilian role players or members of other armed services). Furthermore, Brunswick County, North Carolina agrees not to disclose the locations or dates of the MARFORSOC exercises beyond those with a need to know within the Brunswick County, North Carolina affiliation.

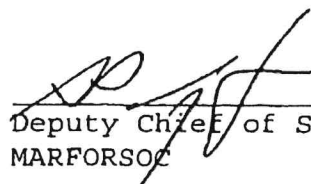
9. Notification of Training. In addition to this MOU, MARFORSOC will establish a similar MOU directly with any city, town, or political subdivision that will be affected by MARFORSOC training activities.

10. Modification or Termination.

a. Modifications to this MOU must be in writing and signed by authorized representatives of Brunswick County, North Carolina, Brunswick County Sheriff and MARFORSOC. The representative for MARFORSOC can be contacted at MARFORSOC, ATTN: Office of the Staff Judge Advocate, PSC Box 20116, Camp Lejeune, North Carolina 28542-0116 or via phone at 910-440-0928. The representative for the Brunswick County, North Carolina office can be contacted at 30 Government Center Dr. 3rd Floor, Bolivia NC 28422 or via phone at 910-253-2016. The Brunswick County Sheriff can be contacted at 70 Stamp Act Drive, Bolivia, NC 28422 or via phone at 910-253-2777

b. This MOU shall remain in effect for five (5) years from the date of execution of the last signing party. Both Brunswick County, North Carolina Brunswick County Sheriff, and MARFORSOC retain the right to terminate this MOU at any time, with ninety (90) days written notice to the other party, for any reason.

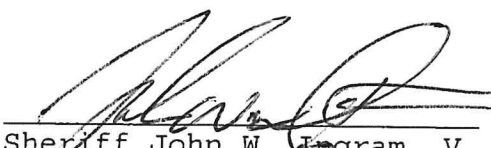
MEMORANDUM OF UNDERSTANDING BETWEEN MARFORSOC AND BRUNSWICK
COUNTY, NORTH CAROLINA AND THE BRUNSWICK SHERIFF


Deputy Chief of Staff
MARFORSOC

Date: MAY 12 2022

Brunswick County, NC
Representative

Date: _____


Sheriff John W. Ingram, V
Sheriff of Brunswick County
Date: 05/16/2022



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:
Aaron Smith

Action Item # V. - 8.

Courthouse Addition and Renovation - Alfred Williams and Company - Goods and Services Agreement - Courthouse Furniture

Issue/Action Requested:

Request that the Board of Commissioners approve and authorize the Chairman to sign the Alfred Williams and Company - Goods and Services Agreement - Courthouse Furniture contract in the amount of \$936,793.60 for the Courthouse furniture project previously approved November 15, 2021 subject to terms as approved by the County Attorney.

Background/Purpose of Request:

Board of Commissioners approved funding at the November 15, 2021 regular board meeting for the Courthouse Furniture Project. Funding was placed in the current Courthouse Addition and Renovation project and no additional funds are requested for this contract.

Fiscal Impact:

Pre-Audit Certification Required, Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners approve and authorize the Chairman to sign the Alfred Williams and Company - Goods and Services Agreement - Courthouse Furniture contract in the amount of \$936,793.60 for the Courthouse furniture project previously approved November 15, 2021 subject to terms as approved by the County Attorney.

ATTACHMENTS:

Description

- ▣ Goods and Services Agreement

NORTH CAROLINA

GOODS AND SERVICES AGREEMENT

BRUNSWICK COUNTY

THIS GOODS AND SERVICES AGREEMENT (hereinafter referred to as the “Agreement”) is made and entered into by and between Brunswick County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as “County”), party of the first part and Alfred Williams & Company, (hereinafter referred to as “Provider”), party of the second part.

WITNESSETH:

1. GOODS AND SERVICES; FEES

The goods to be purchased and the services to be performed under this Agreement (hereinafter referred to collectively as the “Project” or the “Brunswick County Courthouse Expansion Project”) include the purchase of furniture and moving services associated with same, as more particularly set forth in Provider’s two (2) Quotes entitled “Project: Brunswick County Crthouse w/ FinalQuote” dated December 28, 2021, in the amount of \$858,793.60, as issued to Big Skye Design on behalf of County, and “Project: Courthouse Move” dated June 1, 2022, in the amount of \$78,000.00, as issued to Big Skye Design on behalf of County (hereinafter referred to collectively as the “Quotes”). The Quotes are incorporated by reference as if fully set forth herein. The purchase of the furniture is also under North Carolina State Contract 420A and is subject to the terms and conditions of same.

Any exhibits or attachments referenced herein are hereby incorporated by reference and made a part of this Agreement. Any conflict between the language in an exhibit or attachment, including, without limitation, the Quotes, and the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

2. TERM OF AGREEMENT AND TERMINATION

The term of this Agreement begins on 06/06/2022 (the “Effective Date”) and continues in effect until 09/05/2022, unless sooner terminated as provided herein. The County may terminate this Agreement at any time without cause by giving fifteen (15) days’ written notice to Provider. As soon as practicable after receipt of a written notice of termination without cause, Provider shall submit a statement to County showing in detail the work performed under this Agreement through the effective date of termination. County may terminate this Agreement for cause by giving written notice of a breach of the Agreement. Provider shall have fifteen (15) days to cure the breach following receipt of the notification. Failure to cure the breach within the fifteen (15) days shall result in the immediate termination of the Agreement. Notwithstanding the foregoing, County may terminate this Agreement immediately and without notice to Provider if Provider becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against Provider, or has a receiver or trustee appointed for substantially all of its property, or if Provider allows any final judgment to stand against it unsatisfied for a period of forty-eight (48) hours.

3. NONAPPROPRIATION

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Provider of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

4. COMPENSATION

The County agrees to pay the amounts as set forth in the aforementioned Quotes for the satisfactory completion of the Project. County shall pay all undisputed and properly completed invoices within sixty (60) days of receipt. Notwithstanding the foregoing, County will not pay late fees on any charges under this Agreement. If County disputes any portion of the charges on any invoice received from Provider, the County shall inform Provider in writing of the disputed charges. Once the dispute has been resolved, Provider shall re-invoice County for the previously disputed charges, and, per any resolution between County and Provider, the County shall pay those charges in full at that time.

No invoice shall be paid under this Agreement until said invoice is approved by Big Skye Design and the Brunswick County Engineering Department in the capacity as Project Manager for the Brunswick County Courthouse Expansion Project.

5. INDEPENDENT CONTRACTOR

Both County and Provider agree that Provider shall act as an independent contractor and shall not represent itself as an agent or employee of the County for any purpose in the performance of its duties under this Agreement. Provider represents that it has or will secure, at its own expense, all personnel required in performing the work under this Agreement. Accordingly, Provider shall be responsible for payment of all federal, state and local taxes arising out of its activities in accordance with this Agreement, including, without limitation, federal and state income tax, social security tax, unemployment insurance taxes and any other taxes or business license fees as required. Provider shall not be entitled to participate in any plans, arrangements or distributions by the County pertaining to or in connection with any pension, stock, bonus, profit sharing or other benefit extended to County employees.

In the event the Internal Revenue Service should determine that Provider is, according to Internal Revenue Service guidelines, an employee subject to withholding and social security contributions, then Provider hereby acknowledges that all payments hereunder are gross payments, and the Provider is responsible for all income taxes and social security payments thereon.

6. PROVIDER REPRESENTATIONS

- a. Provider is a duly organized entity or corporation qualified to do business and in good standing under the laws of the State of North Carolina;
- b. Provider has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- c. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for Provider to enter into and perform its obligations under this Agreement;
- d. In connection with Provider's obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses;
- e. Provider shall not violate any agreement with any third party by entering into or performing the work under this Agreement;
- f. Provider will provide all goods and perform all work in conformity with the specifications and requirements of this Agreement;
- g. The goods and services provided by Provider under this Agreement will not violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third-party rights (including, without limitation, non-compete agreements);
- h. Provider shall exercise reasonable care and diligence when performing the work hereunder and will ensure that it adheres to the highest generally accepted standards in the industry when performing said work;
- i. Provider acknowledges that if any specific licenses, certifications or related credentials are required in its performance of the work, it will ensure that such credentials remain current and active and not in a state of suspension or revocation; and
- j. Provider shall ensure that whenever its employees or agents are on County property, they will strictly abide by all instructions and directions issued by the County with respect to rules, regulations, policies and security procedures applicable to work on the County's premises. Such rules, regulations, policies and security procedures shall include, but not be limited to: (i) not possessing any controlled substances; (ii) smoking only in designated smoking areas, if any; and (iii) not possessing weapons, except for weapons possessed by law enforcement officials.

7. WARRANTIES

Without limiting Provider's obligation to provide warranty or maintenance services, and in addition to any other warranties available, Provider hereby assigns to County all of Provider's warranties covering any third-party goods purchased under this Agreement. Provider will provide copies of all said warranties to County upon delivery of the goods.

8. DAMAGE TO EQUIPMENT, FACILITIES, PROPERTY OR DATA

Provider shall be solely responsible for any damage to or loss of the County's equipment, facilities, property and/or data arising out of the negligent or willful act or omission of Provider or its subcontractors. In the event that Provider causes damage to the County's equipment or facilities, Provider shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to such damage.

9. NON-ENDORSEMENT AND PUBLICITY

County is not endorsing Provider or the goods or services covered under this Agreement, and Provider is not permitted to reference this Agreement or County in any manner without the prior written consent of County. Notwithstanding the foregoing, the parties agree that Provider may list the County as a reference in response to requests for proposals and may identify County as a customer in presentations to potential customers.

10. NON-EXCLUSIVITY

Provider acknowledges that County is not obligated to contract solely with Provider for the goods or services covered under this Agreement.

11. DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL

Provider hereby certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. § 147-86.81.

12. DEBARMENT

Provider hereby certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Agreement by any governmental department or agency. Provider must notify County within thirty (30) days if debarred by any governmental entity during this Agreement.

13. INDEMNIFICATION

Provider shall defend, indemnify and hold harmless County, its officers, officials, agents and employees from and against all actions, liability, claims, suits, damages, costs or expenses of any kind which may be brought or made against County or which County must pay and incur arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings

or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Provider, its employees or agents. Provider further agrees to investigate, handle, respond to, defend and dispose of same at its sole cost and expense. Provider shall be fully responsible to County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it. This Section shall survive any expiration or termination of this Agreement.

14. INSURANCE

Provider shall procure and maintain in full force and effect at all times and at its sole cost and expense Commercial General Liability, Commercial Automobile Liability, Professional Liability and Workers' Compensation insurance, if applicable, and any additional insurance as may be required by County with limits acceptable to County. All insurance policies (with the exception of Workers' Compensation, if applicable, and Professional Liability) shall be endorsed, specifically or generally, to include County as an additional insured and as a certificate holder. Provider shall furnish a Certificate of Insurance from a licensed insurance agent in North Carolina with a rating of A-VII or better by A.M. Best verifying the existence of any insurance coverage required by County. The Certificate will provide for thirty (30) days' advance notice in the event of termination or cancellation of coverage. Provider shall have no right of recovery or subrogation against County (including its officers, agents and employees), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the aforementioned insurance.

15. WORKERS' COMPENSATION

To the extent required by law, Provider shall comply with the North Carolina Workers' Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event Provider is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, Provider shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents while fulfilling Provider's obligations under this Agreement.

Provider agrees to furnish County proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

16. REMEDIES

- a. **RIGHT TO COVER.** If Provider fails to meet any completion date or resolution time set forth, due to no fault of County, the County may take any of the following actions with or without terminating this Agreement, and in addition to, and without limiting, any other remedies it may have:
 - i. Employ such means as it may deem advisable and appropriate to perform itself or obtain the goods and/or services from a third party until the matter is resolved and Provider is again able to resume performance under this Agreement; and

- ii. Deduct any and all expenses incurred by County in obtaining the goods and/or performing the services from any money then due or to become due Provider and, should the County's cost of obtaining the goods and/or performing the services exceed the amount due Provider, collect the amount due from Provider.
- b. **RIGHT TO WITHHOLD PAYMENT.** County reserves the right to withhold any portion, or all, of a scheduled payment if Provider fails to perform under this Agreement until such breach has been fully cured.
- c. **SETOFF.** Each party shall be entitled to set off and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Agreement.
- d. **OTHER REMEDIES.** Upon breach of this Agreement, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently in addition to any other available remedy.
- e. **NO SUSPENSION.** In the event that County disputes in good faith an allegation of breach by Provider, notwithstanding anything to the contrary in this Agreement, Provider agrees that it will not terminate this Agreement or suspend or limit any services or warranties, unless: (i) the parties agree in writing; or (ii) an order of a court of competent jurisdiction determines otherwise; provided, however, this dispute period shall be limited to ninety (90) days.

17. TAXES

Provider shall be responsible for paying all taxes, fees, assessments and premiums of any kind payable on its employees and operations. Provider shall substantiate, on demand by the County, that all taxes and other charges are being properly paid.

18. HEALTH AND SAFETY

Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with completing the Project. Provider shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees in connection with completing the Project and other persons who may be affected thereby.

19. NON-DISCRIMINATION IN EMPLOYMENT

Provider shall not discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state or local law or other unlawful form of discrimination. Provider shall take affirmative action to ensure that applicants are employed and

that employees are treated fairly during employment. In the event Provider is determined by the final order of an appropriate agency or court of competent jurisdiction to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Agreement may be cancelled, terminated or suspended in whole or in part by County, and Provider may be declared ineligible for further County agreements.

20. COMPLIANCE WITH E-VERIFY PROGRAM

Pursuant to N.C.G.S. § 143-133.3, Provider understands that it is a requirement of this Agreement that Provider and its subcontractors must comply with the provisions of Article 2 of Chapter 64 of the North Carolina General Statutes. In doing so, Provider agrees that, unless it is exempt by law, it shall verify the work authorization of its employees utilizing the federal E-Verify program and standards as promulgated and operated by the United States Department of Homeland Security, and Provider shall require its subcontractors to do the same. Upon request, Provider agrees to provide County with an affidavit of compliance or exemption.

21. CONFIDENTIAL INFORMATION

For purposes of this Agreement, the party disclosing Confidential Information is the “Discloser,” and the party receiving Confidential Information is the “Recipient.” “Confidential Information” shall mean any nonpublic information concerning the parties’ respective businesses including, but not limited to, all tangible, intangible, visual, electronic, present or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs and know-how; (d) business information, including operations, planning, marketing interests and products; and (e) the terms of any agreement between the parties and the discussions, negotiations and proposals related thereto. Confidential Information disclosed to the other party must be clearly identified. Written Confidential Information must be clearly marked in a conspicuous place with an appropriate legend identifying the information as “Confidential.” Confidential Information that is not written must be identified as confidential at the time of disclosure and confirmed in writing delivered to Recipient within fifteen (15) days of disclosure.

The restrictions regarding the use and disclosure of Confidential Information do not apply to information that is:

- a. in the public domain through no fault of the Recipient;
- b. within the legitimate possession of the Recipient, with no confidentiality obligations to a third party;
- c. lawfully received from a third party having rights in the information without restriction, and without notice of any restriction against its further disclosure;
- d. independently developed by the Recipient without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information;
- e. disclosed with the prior written consent of the Discloser; or

- f. required to be disclosed by law, regulation or court or governmental order, specifically including requests pursuant to the Public Records Laws of North Carolina contained in Chapter 132 of the North Carolina General Statutes. In the event Recipient receives such a request, it shall notify Discloser and Discloser shall have the opportunity to defend against production of such records at Discloser's sole expense.

22. OWNERSHIP OF WORK PRODUCT

Should Provider's performance under this Agreement generate documents or other work product that are specific to the Project hereunder, such documents or work product shall become the property of County and may be used by County on other projects without additional compensation to Provider.

23. NO ASSIGNMENT WITHOUT CONSENT

Neither party shall assign this Agreement (or assign any right or delegate any obligation contained herein whether such assignment is of service, of payment or otherwise) without the prior written consent of the other party hereto. Any such assignment without the prior written consent of the other party hereto shall be void. An assignee shall acquire no rights, and County shall not recognize any assignment in violation of this provision.

24. GOVERNING LAW AND VENUE

This Agreement shall be governed by applicable federal law and by the laws of the State of North Carolina without regard for its choice of law provisions. All actions relating in any way to this Agreement shall be brought in the General Court of Justice of the State of North Carolina in Brunswick County or in the Federal District Court for the Eastern District of North Carolina, Wilmington division.

25. DISPUTE RESOLUTION

Should a dispute arise as to the terms of this Agreement, both parties agree that neither may initiate binding arbitration. The parties may agree to non-binding mediation of any dispute prior to the bringing of any suit or action.

26. GOVERNMENTAL IMMUNITY

County, to the extent applicable, does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

27. NON-WAIVER

Failure by County at any time to require the performance by Provider of any of the provisions of this Agreement shall in no way affect County's right hereunder to enforce the same, nor shall any waiver by County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

28. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral.

29. HEADINGS

The headings in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

30. SEVERABILITY

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated. If a provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

31. AMENDMENTS

No amendments or changes to this Agreement, or additional Proposals or Statements of Work, shall be valid unless in writing and signed by authorized agents of both Provider and County.

32. NOTICES

- a. **DELIVERY OF NOTICES.** Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by facsimile to the intended recipient at the address set forth below.
- b. **EFFECTIVE DATE OF NOTICES.** Any notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by facsimile or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier.

- c. **NOTICE ADDRESS.** Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment or waiver of any provision of this Agreement shall be sent to:

- i. For the County: Brunswick County Manager
P.O. Box 249
Bolivia, NC 28422
- ii. For the Provider: Alfred Williams & Company
410 S. Salisbury Street, Suite 200
Raleigh, NC 27601

33. SIGNATURES

This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-58.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

ATTEST:

BRUNSWICK COUNTY

Clerk to the Board

By: _____
Chairman, Board of Commissioners

[SEAL]

ALFRED WILLIAMS & COMPANY

By: _____

Printed Name: Lisa B. Fox

Title: Account Manager

Date: _____

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

Aaron C. Smith, Director of Fiscal Operations
Brunswick County, North Carolina

APPROVED AS TO FORM

Robert V. Shaver, Jr., County Attorney /
Bryan W. Batton, Assistant County Attorney



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 9.

Finance - Fiscal Items

From:

Aaron Smith

Issue/Action Requested:

Request that the Board of Commissioners approve Budget Amendments, Capital Project Ordinances, and Fiscal Items of a routine nature on the consent agenda.

-Lower Cape Fear Water Additional Expense Budget Amendment

Transfer \$275,000 to the raw water expense line for the purchase of raw water through June 30, 2022.

-Sheriff's Office Insurance Proceeds Budget Amendment

Appropriate \$10,075 insurance proceeds revenue for the repair of wrecked vehicles.

-Mulberry Branch WRF .75MGD Southport Budget Amendment and CPO

Appropriate \$2,000 of Southport revenue for the Mulberry Branch WRF .75 MGD Southport funded project additional project expenditures.

-Donations to DSS Budget Amendment

Appropriate \$7,600 of Donations for DSS to the expenditure line for use in the DSS program.

-Emergency Telephone Fund Budget Amendment

Appropriate \$5,280 of transfer from general fund for ineligible expenditures and \$5,720 for additional expenditures through June 30, 2022.

-LIEAP Additional Funding Budget Amendment

Appropriate \$476,234 of additional Low Income Energy Assistance program funding and \$688,354 of additional Low Income Energy Assistance program ARPA funding for additional federal funding authorizations.

-Fleet Services Additional Funding Budget Amendment

Appropriate \$235,000 of solid waste revenues for fleet services anticipated expenditures through June 30, 2022.

-Water Construction Additional Funding Budget Amendment

Reduce transfer to water capital projects \$60,000 and increase Water construction fuel and repair and maintenance equipment.

-Excess Collections to Brunswick County Schools Budget Amendment

Appropriate estimated excess collections of Ad Valorem and Legislated Sales Tax in excess of budget for transfer to the schools capital reserve and to authorize the Fiscal Operations Director to adjust the budget for final collections as of June 30, 2022.

-Courthouse Additional Funds Budget Amendment and CPO

Transfer funds from the reserve undesignated to the courthouse project for NC Sound change order 7, pending change order 8 for courtroom 6, pending change order 9 for additional entry security, mounting courtroom seals not included in original bid, hourly rate billed by Sawyer Sherwood and Associates as allowable by the contract due to the construction administration fees being completely expended with continued time extensions.

Background/Purpose of Request:**Fiscal Impact:**

Budget Amendment Required, Capital Project/Grant Ordinance Required, Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners approve Budget Amendments, Capital Project Ordinances, and Fiscal Items of a routine nature on the consent agenda.

ATTACHMENTS:

Description

- ❑ 20220606 Budget Amendment Raw Water Purchase.pdf
- ❑ 20220606 Budget Amendment Sheriff Insurance Proceeds.pdf
- ❑ 20220606 Budget Amendment Mulberry Additional Expense.pdf
- ❑ 20220606 CPO Mulberry Branch WRF 0.75MGD Southport.pdf
- ❑ 20220606 Budget Amendment Donation for DSS.pdf
- ❑ 20220606 Budget Amendment ETS Fund Additional Funding GF Side.pdf
- ❑ 20220606 Budget Amendment ETS Fund Additional Funding.pdf
- ❑ 20220606 Budget Amendment LIEAP Additional Funding.pdf
- ❑ 20220606 Budget Amendment Fleet Services Additional funds.pdf
- ❑ 20220606 Budget Amendment Water Construction Additional funds.pdf
- ❑ 20220606 Budget Amendment Excess Collections Schools GF.pdf
- ❑ 20220606 Budget Amendment Excess Collections Schools.pdf
- ❑ 20220606 CPO Schools Capital Projects.pdf
- ❑ 20220606 Budget Amendment Courthouse Additional Funding.pdf
- ❑ 20220606 CPO Courthouse Project.pdf

Request Info	
Type	Budget Amendment
Description	Raw Water Purchase Expense
Justification	Board Meeting 06/06/2022-Transfer \$275,000 to the raw water expense line for the purchase of raw water through June 30, 2022.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
619800	498041	Interfund Trans Water Fund	Transfer to Water Capital Proj	-275000	Decrease	Credit
617120	465400	NW Water Treatment Plant	LCFWSA	275000	Increase	Debit

Total	
Grand Total:	0

Request Info	
Type	Budget Amendment
Description	Insurance Proceeds
Justification	Board Meeting 06/06/2022- Appropriate \$10,075 insurance proceeds revenue for the repair of wrecked vehicles.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
104310	383913	Sheriff's Office	Insurance Refund	10075	Increase	Credit
104310	435300	Sheriff's Office	Repair and Maint - Vehicles	10075	Increase	Debit

Total	
Grand Total:	20150

Request Info	
Type	Budget Amendment
Description	Additional Expense
Justification	Board Meeting 06/06/2022-Appropriate \$2,000 of Southport revenue for the Mulberry Brant WRF .75 NMGD Southport funded project additional project expenditures.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
448268	464011	Mulberry Br WRF-.75 MGD-Sthprt	Land	690	Increase	Debit
448268	464001	Mulberry Br WRF-.75 MGD-Sthprt	Arch/Engnrg/Legal	1310	Increase	Debit
448268	383286	Mulberry Br WRF-.75 MGD-Sthprt	WBR WWTP-Southport Contributio	2000	Increase	Credit

Total	
Grand Total:	4000

COUNTY OF BRUNSWICK, NORTH CAROLINA
CAPITAL PROJECT ORDINANCE
Mulberry Branch WRF .75MGD Southport
(448268)

Be it ordained by the Board of County Commissioners of Brunswick County that pursuant to Section 13.2 of the General Statutes of North Carolina, the following ordinance is hereby adopted:

Section 1. The following amounts are hereby appropriated in the Brunswick County Wastewater Capital Projects Fund:

Wastewater Capital Projects Fund:

Revenues:

Miscellaneous Revenue-City of Southport	<u>2,632,000</u>
Total Wastewater Capital Project Revenues	\$ 2,632,000

Expenditures:

Arch/Eng/Legal	2,631,310
Construction	0
Land	<u>690</u>
Total Wastewater Capital Project Expenditures	\$ 2,632,000

Section 2. This Capital Project Ordinance shall be entered into the minutes of the June 06, 2022 meeting of the Brunswick County Board of Commissioners.

Request Info	
Type	Budget Amendment
Description	Donations for DSS
Justification	Board Meeting 06/06/2022-Appropriate \$7,600 of Donations for DSS to the expenditure line for use in the DSS program.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
145310	383315	DSS-Administration	Donations for DSS	7600	Increase	Credit
145310	465107	DSS-Administration	Donations Exp DSS	7600	Increase	Debit

Total	
Grand Total:	15200

Request Info	
Type	Budget Amendment
Description	ETS Fund Additional Funding GF Side
Justification	Board Meeting 06/03/2022-Appropriate \$5,280 of fund balance to transfer to the emergency telephone fund for ineligible expenditures.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
100000	399100	General Revenues	Fund Balance Appropriated	5280	Increase	Credit
109800	498022	Interfund Trans General Fund	Trans To Emergency Tele Servic	5280	Increase	Debit

Total	
Grand Total:	10560

Request Info	
Type	Budget Amendment
Description	ETS Fund Additional Funding
Justification	Board Meeting 06/03/2022-Appropriate \$5,280 of transfer from general fund for ineligible expenditures and \$5,720 for additional expenditures through June 30,2022.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
224376	398110	Emergency Telephone System	Trans Frm General Fund	5280	Increase	Credit
224376	399100	Emergency Telephone System	Fund Balance Appropriated	-5280	Decrease	Debit
224376	399100	Emergency Telephone System	Fund Balance Appropriated	11000	Increase	Credit
224376	449500	Emergency Telephone System	911 Hardware/Support Function	5000	Increase	Debit
224376	449502	Emergency Telephone System	911 Addressing/GIS Function	6000	Increase	Debit

Total	
Grand Total:	22000

Request Info	
Type	Budget Amendment
Description	LIEAP Additional Funding
Justification	Board Meeting 06/06/2022-Appropriate \$476,234 of additional Low Income Energy Assistance program funding and \$688,354 of additional Low Income Energy Assistance program ARPA funding for additional federal funding authorizations.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
145310	331033	DSS-Administration	LIEAP-Low/Income Energy Asst	476234	Increase	Credit
145310	331033	DSS-Administration	LIEAP-Low/Income Energy Asst	688354	Increase	Credit
145310	449906	DSS-Administration	DSS LIEAP	1164588	Increase	Debit

Total	
Grand Total:	2329176

Request Info	
Type	Budget Amendment
Description	Fleet Services Additional Funds
Justification	Board Meeting 6/6/2022-Appropriate \$235,000 of solid waste revenues for fleet services anticipated expenditures through June 30, 2022.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
104720	334600	Solid Waste	Solid Waste Fee	235000	Increase	Credit
104250	426002	Fleet Services	Departmental Supplies	40000	Increase	Debit
104250	426010	Fleet Services	Computer Software	15000	Increase	Debit
104250	435300	Fleet Services	Repair and Maint - Vehicles	110000	Increase	Debit
104250	439900	Fleet Services	Contract Services	50000	Increase	Debit
104250	435200	Fleet Services	Repair and Maint - Equipment	20000	Increase	Debit

Total	
Grand Total:	470000

Request Info	
Type	Budget Amendment
Description	Water Construction Additional Funds
Justification	Board meeting 06/06/2022 - Reduce transfer to water capital projects \$60,000 and increase Water construction fuel and repair and maintenance equipment.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
617180	425100	Water - Construction Division	Motor Fuels	35000	Increase	Debit
617180	435200	Water - Construction Division	Repair and Maint - Equipment	25000	Increase	Debit
619800	498041	Interfund Trans Water Fund	Transfer to Water Capital Proj	-60000	Decrease	Credit

Total	
Grand Total:	0

Request Info	
Type	Budget Amendment
Description	Excess Collections Schools GF
Justification	Board Meeting 06/06/2022-Appropriate estimated excess collections of Ad Valorem and Legislated Sales Tax in excess of budget for transfer to the schools capital reserve and to authorize the Fiscal Operations Director to adjust the budget for final collections as of June 30, 2022.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
100000	323202	General Revenues	Local Op Sales Tax 1/2% 40 Sch	471106	Increase	Credit
100000	323302	General Revenues	Local Op Sales Tax 1/2% 42 Sch	1557339	Increase	Credit
109800	498042	Interfund Trans General Fund	Trans To School Cap Project	2028445	Increase	Debit
109100	332850	Debt Service	NC Education Lottery	60863	Increase	Credit
109100	498042	Debt Service	Trans To School Cap Project	60863	Increase	Debit
109100	475100	Debt Service	Service Charges	-115722	Decrease	Credit
109800	498042	Interfund Trans General Fund	Trans To School Cap Project	115722	Increase	Debit
100000	311421	General Revenues	Ad Valorem Taxes-2021	2037491	Increase	Credit
109800	498042	Interfund Trans General Fund	Trans To School Cap Project	2037491	Increase	Debit

Total	
Grand Total:	8253598

Request Info	
Type	Budget Amendment
Description	Excess Collections Schools
Justification	Board Meeting 06/06/2022-Appropriate estimated excess collections of Ad Valorem and Legislated Sales Tax in excess of budget for transfer to the schools capital reserve and to authorize the Fiscal Operations Director to adjust the budget for final collections as of June 30, 2022.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
428006	398110	School Capital Projects	Trans Frm General Fund	4242521	Increase	Credit
428006	499104	School Capital Projects	Sales Tax Contingency	2205030	Increase	Debit
428006	499103	School Capital Projects	Ad Valorem Contingency	2037491	Increase	Debit

Total	
Grand Total:	8485042

COUNTY OF BRUNSWICK, NORTH CAROLINA
CAPITAL PROJECT ORDINANCE
Brunswick County Schools Capital Project
(428006)

Be it ordained by the Board of County Commissioners of Brunswick County that pursuant to Section 13.2 of the General Statutes of North Carolina, the following ordinance is hereby adopted:

Section 1. The following amounts are hereby appropriated in the Brunswick County Schools Capital Projects Fund:

Brunswick County Schools Capital Project

Revenues:

NC Education Lottery	7,082,039
Investment Earnings	-
Transfer from General Fund	63,808,699
Transfer from Special SCRS PRC495	3,628,226
Transfer SCRS PRC077	13,832,255
Fund Balance Appropriated	6,552,413
Total School Capital Project Fund Revenues	\$ 94,903,632

Expenditures:

PRC 495 Excess Ad Valorem	22,889,419
PRC 077 Local Option Sales Tax	44,099,994
GF Hold Harmless Medicaid Swap	372,871
Proc NC Education Lottery Expense	7,082,039
Astroturf Replacement Reserve	165,000
PY Excess Ad Val Unavailable	803,000
Transfer to General Fund	314,013
Ad Valorem Contingency	9,973,391
Sales Tax Contingency	9,036,366
Total School Capital Project Fund Expenditures	\$ 94,736,093

Section 2. It is estimated that the following revenues will be available in the Brunswick County General Fund:

Current Funds Appropriated	\$ 63,808,699
----------------------------	---------------

Section 3. The following amounts are hereby appropriated in the Brunswick County General Fund:

Contribution to Capital Project Fund	\$ 63,808,699
--------------------------------------	---------------

Section 4. This Capital Project Ordinance shall be entered into the minutes of the June 6, 2022 meeting of the Brunswick County Board of Commissioners.

Request Info	
Type	Budget Amendment
Description	Courthouse Additional Funds
Justification	Board Meeting 06/06/2022-Transfer funds from the reserve undesignated to the courthouse project for NC Sound change order 7, pending change order 8 for courtroom 6, pending change order 9 for additional entry security, mounting courtroom seals not included in original bid, hourly rate billed by Sawyer Sherwood and Associates as allowable by the contract due to the construction administration fees being completely expended with continued time extensions.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
438207	398110	Court House Renovation	Trans Frm General Fund	73400	Increase	Credit
438207	464001	Court House Renovation	Arch/Engnrg/Legal	8400	Increase	Debit
438207	464002	Court House Renovation	Construction	65000	Increase	Debit
439801	464299	Interfund Trans Co Cap Reserve	Undesignated Funds	-73400	Decrease	Credit
439801	398110	Interfund Trans Co Cap Reserve	Trans Frm General Fund	-73400	Decrease	Debit

Total	
Grand Total:	0

COUNTY OF BRUNSWICK, NORTH CAROLINA
CAPITAL PROJECT ORDINANCE
Couthouse Renovation and Addition Project
(438207)

Be it ordained by the Board of County Commissioners of Brunswick County that pursuant to Section 13.2 of the General Statutes of North Carolina, the following ordinance is hereby adopted:

Section 1. The following amounts are hereby appropriated in the Brunswick County Capital Projects Fund:

County Capital Projects Fund:

Revenues:

Transfer from General Fund	<u>15,372,366</u>
Total County Capital Project Revenues	\$ 15,372,366

Expenditures:

Arch/Eng/Legal	1,160,507
Furniture	930,762
Construction	<u>13,281,097</u>
Total County Capital Project Expenditures	\$ 15,372,366

Section 2. It is estimated that the following revenues will be available in the Brunswick County General Fund:

Current Funds Appropriated	\$ 15,372,366
----------------------------	---------------

Section 3. The following amounts are hereby appropriated in the Brunswick County General Fund:

Contribution to Capital Project Fund	\$ 15,372,366
--------------------------------------	---------------

Section 4. This Capital Project Ordinance shall be entered into the minutes of the June 6, 2022 meeting of the Brunswick County Board of Commissioners.



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 10.

From: Stephanie Lewis, Director of Operation Services
Operation Services - Amended Resolution to Post-Disaster Debris Policy

Issue/Action Requested:

Request that the Board of Commissioners approve an amended Resolution updating the county's post-disaster debris management policy.

Background/Purpose of Request:

A Resolution to Establish a Post-Disaster Debris Management Policy was approved on May 1, 2017 and amended on May 3, 2021. The policy has been amended to update the federal declaration criteria based on NCEM county threshold numbers. The threshold increased from \$3.68 to \$4.10 per capita and therefore increased the activation trigger from 26,000 cubic yards (cy) to 30,000cy. This is the only change to the current policy.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners approve an amended Resolution updating the county's post-disaster debris management policy.

ATTACHMENTS:

Description

- 2022 Updated Post Disaster Debris Policy

County of Brunswick
Office of the County Commissioners



**RESOLUTION TO AMEND THE
POST-DISASTER DEBRIS POLICY**

WHEREAS, the County of Brunswick, through its Commissioners, wishes to eliminate any immediate threats to lives, public health, and safety.

WHEREAS, the County of Brunswick, through its Commissioners, may use a significant portion of the available capacity of the landfill to dispose of incident-related debris.

WHEREAS, although the Federal Emergency Management Agency (FEMA) cannot provide public assistance funding for the value of the loss of landfill capacity due to incident-related debris.

WHEREAS, tipping fees will continue to be paid by the residents of Brunswick County to cover the county's waste disposal, recycling and/or reduction cost.

WHEREAS, when the disaster debris management and monitoring contracts and debris management sites are activated, FEMA provides public assistance funding for collection, disposal and/or processing of debris.

NOW THEREFORE, the Brunswick County Commissioners are hereby resolved to establish the following policies and procedures for post-disaster planning:

- Immediately following a significant disaster or debris event, debris management contractors will be directed to complete debris assessments of unincorporated areas.
- Activation of the County's disaster debris contracts should be dependent upon the initial debris assessments. The threshold for reimbursement by the state for an undeclared event is damages in excess of 1% of the County's overall annual budget. Federal declaration criteria based on NCEM county threshold is currently \$4.10 per capita, which would equal an activation trigger of 30,000 cy's of debris based on current contract pricing and current population estimate.
- When disaster debris management and monitoring contracts are activated, temporary debris management sites will be required and tipping fees will remain in place for the Brunswick County Landfill.
- Landfill airspace utilized for debris disposal will not be eligible for funding.
- Municipalities that activate disaster debris management contracts or that perform disaster debris collections may be required to use a temporary debris site instead of the landfill due to traffic and volume constraints.

- Debris disposal, recycling and/or reduction completed at the Brunswick County Landfill will be considered normal operations and tipping fees will not be waived.
- Storm debris collections performed by the County's disaster debris contractors should include private and orphaned roads and gated communities in the unincorporated areas. Collections in gated communities will only be conducted upon request and if the debris is determined to be a public safety issue.
- When disaster debris management and monitoring contracts are activated for all unincorporated areas countywide, then the county will also initiate the Memorandum of Agreement with NCDOT for debris collection on state roads in order to minimize confusion and maximize efficiency for residents.

Randell Thompson, Chairman
Brunswick County Board of Commissioners

Attest:

Daralyn Spivey, NCCCC
Clerk to the Board



Brunswick County Board of Commissioners

ACTION AGENDA ITEM

June 6, 2022

Action Item # V. - 11.

Sheriff's Office - Grant Award Acceptance

From:

Elizabeth Bynum

Issue/Action Requested:

Request the Board of Commissioners approve and accept a grant from the North Carolina Sheriffs' Association to assist the Sheriff's Office with the investigation of reports of internet crimes against children (ICAC). Further request that the Board of Commissioners authorize Sheriff Ingram to sign the ICAC Grant Contract with the North Carolina Sheriffs' Association and the associated Mutual Assistance Agreement and Memorandum of Understanding with the North Carolina State Bureau of Investigation. The total grant award is valued at \$72,678.87 with no county match requirement.

Background/Purpose of Request:

Sheriff Ingram intends on using these grant funds to pay for equipment, licenses/subscriptions, and training to better develop the forensic intelligence capabilities of the Sheriff's Office. As technology grows and changes, investigators and intelligence analysts will use these items and training to better serve the citizens of Brunswick County and the region with their expertise and resources to help solve ICAC-related incidents. Expenditures must be submitted by December 1, 2022 in order to be reimbursed with grant funds; the grant also requires a report to NCSA by August 15, 2023 detailing grant expenditures, ICAC-related investigations, and other metrics.

Fiscal Impact:

Budget Amendment Required, Reviewed By Director of Fiscal Operations

Budget amendment appropriates \$72,679 of State Revenues for the expenses associated with the Internet Crimes Against Children (ICAC). Funds will support forensic cellular extraction equipment and related training for the Intelligence Unit and Investigations Division.

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners approve and accept a grant from the North Carolina Sheriffs' Association to assist the Sheriff's Office with the investigation of reports of internet crimes against children (ICAC). Further request that the Board of Commissioners authorize Sheriff Ingram to sign the ICAC Grant Contract with the North Carolina Sheriffs' Association and the associated Mutual Assistance Agreement and Memorandum of Understanding with the North Carolina State Bureau of Investigation. The total grant award is valued at \$72,678.87 with no county match requirement.

ATTACHMENTS:

Description

- ☐ Grant Award Package
- ☐ MOU
- ☐ Budget Amendment



Internet Crimes Against Children Grant Contract

This Internet Crimes Against Children Grant Contract ("Contract") is entered into between _____ ("Grantee") and the North Carolina Sheriffs' Association ("NCSA"). The Contract will be effective the date it is signed by the sheriff or law enforcement agency head.

NCSA is authorized pursuant to Session Law 2021-180 to administer grant funds appropriated for the purpose of assisting sheriffs' offices and local law enforcement agencies to investigate reports of internet crimes against children.

The Grantee applied for and has been selected to receive grant funds for the above stated purpose, subject to the terms and conditions set forth below.

1. Grant Award: NCSA hereby allocates _____ to Grantee.
2. Use of Grant Funds: The grant funds shall be used by Grantee for the purposes set out in your grant application, a copy of which is attached hereto, as modified (if modified) by NCSA. Items stricken in **RED** have been denied. By accepting these grant funds, you are agreeing not to use these grant funds to purchase any of the items on your attached application which are stricken in **RED**.
3. Payment of Grant Funds: This is a reimbursement grant. Therefore, the Grantee is entitled to the grant funds once Grantee has shown satisfactory proof of payment for and receipt of the equipment or training. To receive reimbursement:
 - a. The Grantee must submit a request for reimbursement from NCSA to receive grant funds. **NCSA will only accept one request for reimbursement from the Grantee. Multiple requests for reimbursement will not be considered.** Grantee's request for reimbursement shall only be submitted to NCSA once:
 - the purchase of **all** equipment or training as allowed in your application (i.e., items which have not been stricken in **RED**) has been made,
 - the equipment or training has been received,
 - agency funds have been expended by Grantee, **and**

- Grantee has satisfactory documentation to support the purchases.
- b. The request for reimbursement must be supported by documentation satisfactory to NCSA, which shows the amount of the grant funds expended by Grantee.
 - Satisfactory documentation for equipment requires at a minimum proof of purchase and proof of payment.
 - Satisfactory documentation for training requires at a minimum proof of purchase, attendance, and payment, and receipts for travel related expenses.

NCSA will reimburse usual, customary and reasonable travel costs related to transportation, hotel and meal expenses when satisfactory documentation is provided related to travel costs.

Satisfactory documentation must be submitted to NCSA no later than December 1, 2022, for any expenditures to be reimbursed under this Contract.

Once NCSA reviews the documentation provided and is satisfied the grant funds were used in accordance with the approved purposes set out by Grantee in the "Information Sheet" and Grantee's Application, **NCSA shall pay Grantee in one lump-sum payment** the amount of the grant funds for which Grantee provided a request for reimbursement and satisfactory documentation.

- c. The Grantee must provide NCSA with a W-9, Taxpayer Identification Form, a valid bank routing and bank account number, and any other documentation required to complete an ACH transfer of funds from NCSA to the Grantee.
- d. Once the request for reimbursement is received, NCSA will prepare a completed form for the North Carolina Department of Public Safety (DPS) detailing the purchased equipment and the training purchased and received by Grantee. The sheriff or agency head of the Grantee must sign this form and return it to NCSA before any grant funds will be disbursed.

NCSA shall have 45 days to pay Grantee from receipt of satisfactory documentation of expenditure of the grant funds (as detailed above) and a completed DPS form.

4. Memorandum of Agreement: Grantee must provide a completed copy, signed by the Director of the North Carolina State Bureau of Investigation (SBI) to NCSA of Grantee's "Mutual Assistance Agreement and Memorandum of Understanding of the North Carolina Internet Crimes Against Children (ICAC) Task Force" with the SBI prior to receiving the grant funds.
5. Tracking and Reporting Requirements:
Grantee is required to track data on ICAC investigations and the use of the grant funds and must submit a report to NCSA by August 15, 2023, containing the following information for fiscal year 2022-2023:

- a. Grant funds received and used.
 - b. For what purpose the grant funds were used.
 - c. A certification that the grant funds received were used for the purposes for which they were awarded.
 - d. For ICAC cases investigated:
 - i. Number of documented complaints
 - ii. Case information including:
 - 1. number of investigations;
 - 2. arrests;
 - 3. cybertips received;
 - 4. case dispositions; and
 - 5. case referrals.
 - iii. Measurements
 - 1. how many cases were submitted (whether or not accepted) for federal prosecution and how many cases were charged for state prosecution;
 - 2. how many search warrants, subpoenas and court orders were issued;
 - 3. how many hard drives, cell phones, DVDs/CDs, thumb drives, and SD cards were examined; and
 - 4. how many gigabytes were examined.
6. Additional Documentation or Review of Documentation: Grantee shall promptly provide such additional information, reports, and documents as NCSA may request and shall allow NCSA reasonable access to records, files and personnel that are associated with this grant during business hours for purposes of making such financial reviews or verifications as may be deemed necessary by NCSA.
7. Rights Reserved: NCSA reserves the right to discontinue, modify, or withhold any payments to be made under this grant contract or to require a total or partial refund of any grant funds, if in NCSA's sole discretion such action is necessary because:
- i. Grantee has not fully complied with the terms and conditions of this grant contract;
 - ii. Grantee is not using the grant funds in accordance with the purpose of the grant as stated above in this Contract; or
 - iii. To comply with any law applicable to the Grantee, NCSA, or this grant.

By signing below and submitting this Grant Contract, I confirm that:

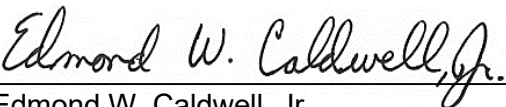
1. I have read, understand and agree to be bound by the terms, conditions, and requirements in this contract as well as the following documents that were previously provided to me:
 - i. Internet Crimes Against Children Grant – Information Sheet; and
 - ii. Internet Crimes Against Children – Guidelines and Instructions.
2. All information provided in the Grant Application is truthful and accurate and it is the intent of the Grantee to utilize the funds in accordance with the purpose of this grant.

Sheriff or Law Enforcement Agency Head

Date

Print Name

Title



Edmond W. Caldwell, Jr.
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

May 9, 2022

Date



North Carolina Sheriffs' Association ICAC Grant Request for Reimbursement

The equipment or training listed below were approved in my agency Internet Crimes Against Children Grant to Sheriffs' Offices and Local Law Enforcement Agencies Application. The approved equipment or training has been purchased and received by my agency. Documentation of purchase and receipt of each item listed below is attached to this form.

Equipment and Training	Documented Expenditure Amount	Date of Expenditure

By my signature below, I certify the information I provided on and in connection with this form is true and correct to the best of my knowledge.

Agency Name

Sheriff or Law Enforcement Agency Head

Date

Print Name

Title

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
				-					

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
-----------	----------------------------	--------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



ACH DIRECT DEPOSIT AUTHORIZATION AGREEMENT

I hereby authorize North Carolina Sheriffs' Association to initiate credit entries or such adjusting entries, either debit or credit which are necessary for corrections, to the Checking_____ Savings_____ account indicated below, and the financial institution named below to credit (or debit) the same to such account.

FINANCIAL INSTITUTION NAME CITY STATE

TRANSIT/ROUTING NUMBER ACCOUNT NUMBER

This authority is to remain in full force and effect until the North Carolina Sheriffs' Association has received written notification from me of its termination in such time and in such manner as to afford the North Carolina Sheriffs' Association a reasonable opportunity to act on it.

NAME

TAX ID NUMBER

AUTHORIZED SIGNATURE DATE



ROY COOPER
GOVERNOR

NORTH CAROLINA
STATE BUREAU OF INVESTIGATION

3320 Garner Road
P.O. BOX 29500
Raleigh, NC 27626-0500
(919) 662-4500
FAX: (919) 662-4523



ROBERT SCHURMEIER
DIRECTOR

To Potential New ICAC Affiliates:

We are excited about your interest in the Internet Crimes Against Children (ICAC) Task Force and your commitment to protect children in your jurisdiction. We appreciate the local law enforcement grant funding that was provided through the legislature and are extremely grateful to the NC Sheriffs' Association for administering this grant process. Pursuant to the requirements set by statute, a memorandum of agreement must be established between the NC State Bureau of Investigation and grant award recipient agencies. **It is extremely urgent that you contact us as quickly as possible to start this process, since funding will not be provided until the MOU is fully signed by all parties and in effect.** Please use the below contact information to discuss the process and begin to establish this relationship. We look forward to working ICAC investigations with your agency, as we work together to further protect children in your area and aggressively pursue those who want to do them harm.

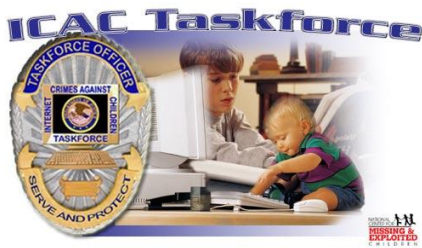
Please Contact:

Kevin Roughton
P.O. Box 29500
Raleigh, NC 27626
(919) 441-7837
KRoughton@ncsbi.gov

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Roughton", written over a horizontal line.

Kevin Roughton
Special Agent in Charge, NC SBI
Task Force Commander, NC ICAC



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



Assisting Agency: Brunswick County Sheriff's Office

This Mutual Assistance Agreement and Memorandum of Understanding (hereinafter referred to as "Agreement") is being executed by the North Carolina State Bureau of Investigation and the Brunswick County Sheriff's Office. The parties jointly agree to abide by the terms of this Agreement throughout the duration of the North Carolina ICAC Task Force (hereinafter referred to as "Task Force").

AUTHORITY

The North Carolina State Bureau of Investigation is a "state law-enforcement agency" as defined in N.C.G.S. § 160A-288.2 (b) (3) and employs sworn law enforcement officers possessing statewide jurisdiction to investigate criminal violations. N.C.G.S. §§ 90-95.2, 160A-288, 160A-288.2, as amended, permit and govern temporary assistance provided by local law enforcement agencies to law enforcement agencies of the State of North Carolina.

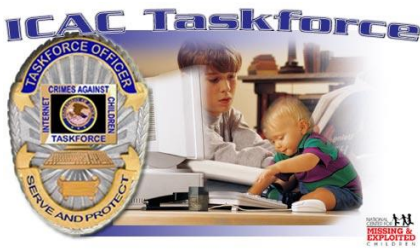
PURPOSE

The purpose of this Agreement is to foster interagency cooperation formulating guidelines under which the Task Force will operate.

DEFINITIONS

Under this Agreement, meanings and references of the following terms are defined as follows:

1. "Assisting Agency" means the undersigned "local law-enforcement agency" as defined in G.S. §§ 160A-288 and 160A-288.2.
2. "Assisting Agency Liaison" means the head of the undersigned local law enforcement agency or that person's designated officer as described in G.S. § 160A-288.2(b)(1).
3. "Assisting Officer" means a law enforcement officer employed or sworn by the undersigned Assisting Agency.
4. "Bureau" means the North Carolina State Bureau of Investigation.
5. "Bureau Liaison" means the Special Agent in Charge of the Computer Crimes Unit/ICAC Commander as the designated officer of the Bureau Director as described in G.S. § 160A-288.2(b)(1).



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



6. "Agent" means a law enforcement officer employed or sworn by the Bureau.

MISSION

The mission of this Task Force is to work jointly with other state, local and federal agencies to enforce federal and state laws. The main focus of the Task Force is to reduce Internet Crimes Against Children (ICAC) by investigating suspects who actively seek children for sexual partners or suspects trafficking in child pornography.

CONDITIONS OF AGREEMENT

I. Supervision

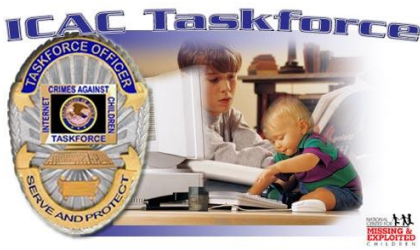
- A. Each agency will be responsible for the supervision of their personnel assigned to the Task Force. It will be the responsibility of each Task Force member assigned to the Task Force to keep their supervisors apprised of the activities of the Task Force.
- B. When working within geographical areas of original jurisdiction operational supervision will be handled collectively by the local agency supervisor and Bureau liaison. All Task Force members working outside of their geographical area of original jurisdiction will fall under the operational supervision of the Bureau liaison or his/her designee.

II. Goals and Objectives

All participants acknowledge that the Task Force is a joint operation in which all agencies act as partners. The Computer Crimes Unit of the North Carolina State Bureau of Investigation is responsible for the policy and direction of the Task Force. The Task Force supervisor will periodically contact supervisors from other participating agencies to keep them informed of unusual circumstances, problems and successes of the Task Force.

Activities of the ICAC Task Force are further governed by the operational and investigative standards of the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

III. Case Predication and Prioritization



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



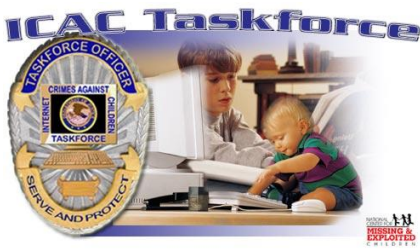
- A. Task Force cases may be initiated by referrals from the CyberTipline, Internet Service Providers, or other law enforcement agencies, and by information gathered through subject interviews, documented public sources, direct observations of suspicious behavior, public complaints, or by any other source acceptable under agency policies.

- B. Task Force officers and agents are of a necessity responsible for determining investigative priorities and selecting cases for investigation based on their agency guidelines. However, assuming the information is deemed credible, that determination should begin with an assessment of victim risk and then consider other factors such as jurisdiction and known offender behavioral characteristics. The following prioritization scale will be used as a guideline:
 - 1) A child is at immediate risk of victimization
 - 2) A child is vulnerable to victimization by a known offender
 - 3) Known suspect is aggressively soliciting a child(ren)
 - 4) Traders of images that appear to be home photography with domiciled children
 - 5) Aggressive, high-volume child pornography traders who either are commercial distributors, repeat offenders, or specialize in sadistic images.
 - 6) Traders and solicitors involved in high-volume trafficking or belonging to an organized child pornography ring that operates as a criminal conspiracy
 - 7) Traders in previously known images
 - 8) Traders in digitally altered images

IV. Undercover Investigations

- A. Task Force undercover investigations shall be conducted in a manner consistent with the principles of Federal and State constitutional, and Statutory law. Task Force investigators shall avoid unlawful inducement of any individual not otherwise predisposed to commit the offenses being investigated, and will not engage in conduct that is shocking or offensive to notions of fundamental fairness as described in applicable case law. See, for example, Jacobson v. U.S., 503 U.S. 540 (1992); U.S. v. Archer, 486 F.2d (2nd Cir.1973).

- B. Only sworn on-duty ICAC Task Force personnel authorized by their agency to conduct on-line undercover investigations shall conduct ICAC investigations in an undercover capacity. Private citizens shall not be asked to seek out investigative targets nor shall they be authorized to act as police agents in an online undercover



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**

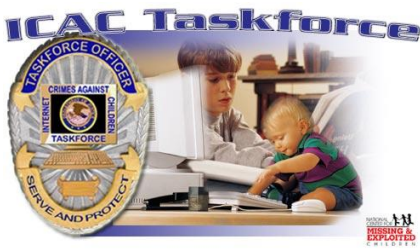


capacity.

- C. ICAC Task Force personnel shall not, under any circumstances, upload, transmit, or forward pornographic or sexually explicit images to contacts in or during an undercover effort.
- D. Other than images or videos of individuals, age 18 or over, who have provided their informed written consent, and at the time consent was given were employed by a criminal justice agency, no actual human images or videos shall be utilized in an investigation. Employee is defined as a salaried or compensated individual.
- E. Other than authorized above, images considered for uploading shall be approved by an ICAC Task Force supervisor and reviewed by a local/state/federal prosecutor. Images uploaded for investigative purposes shall be encrypted.
- F. During online dialogue, undercover officers should allow the investigative target to set the tone, pace, and subject matter of the online conversation. Image uploading shall be initiated and executed by the target.
- G. Undercover activity on-line shall be recorded and documented. Any departures from this policy due to unusual circumstances shall be documented in the relevant case file and reviewed by an ICAC Supervisor.

V. Information Sharing

- A. To foster coordination, collaboration, and communication, the Office of Juvenile Justice and Delinquency Prevention requires that each ICAC Task Force contribute basic case information to a common database. The Task Force shall contribute basic and case update information on all cases (local, interstate, reactive and proactive) to the ICAC Information Sharing and De-confliction System.
- B. Basic case information shall include, but is not limited to:
 - a) Submitting Task Force
 - b) Person submitting information
 - c) Telephone number for verification purposes
 - d) Date of submission
 - e) Brief synopsis of investigation
 - f) Offender screen name(s)
 - g) Identifiers (URL, FTP, newsgroup, IP Address)
 - h) True name of suspect (if known)



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



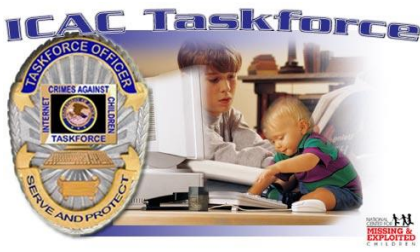
- i) Other suspect information (if known)
- j) Undercover officer screen name(s)

Case update information shall include, but is not limited to:

- a) Submitting Task Force
- b) Person submitting information
- c) Telephone number for verification purposes
- d) Date of submission
- e) Date investigation initiated
- f) Identity of subject(s) including address, date of birth, social security number, address (when available)
- g) Criminal proceedings (e.g., arrest, search warrant, indictment, conviction, etc.)
- h) Sentencing information (when available)

VI. Records, Reports and Evidence

- A. Each respective agency will maintain all their own investigative reports. Investigative reports will be prepared on each respective agencies approved forms. If the SBI is assisting an agency with an investigation, the agency shall provide a copy of the investigative reports to the SBI Agent assigned to the case. The SBI Agent shall include the respective agency reports in the SBI case file. All ICAC representatives are required to submit statistical data on a monthly basis to the ICAC Coordinator for the State as noted in Section V above. In this case that is the Special Agent in Charge of the NC SBI Computer Crimes Unit. Those statistical reports will be submitted through the ICAC Data System and in accordance with ICAC reporting requirements.
- B. Evidence will be properly documented according to agency policy and applicable law. Evidence seized will be held by the agency making the seizure, properly stored and handled by established rules of law regarding chain of custody and property release.
- C. All undercover online activity shall be recorded and documented. Any deviations from this policy due to unusual circumstances, shall be documented in the relevant case file and reviewed by an appropriate supervisor of the officer or agent.
- D. The storage, security, and destruction of investigative information shall be consistent with agency policy. At a minimum, information should be maintained in locked cabinets and under the control of ICAC Task Force personnel. Access to these files should be restricted to authorized personnel with a legitimate need to know.



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



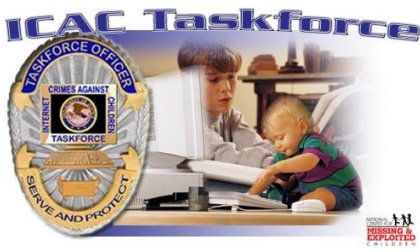
- E. Task Force agents and officers will ensure that forensic examinations of computers and related evidence are conducted by qualified personnel in accordance with well established computer forensics. Qualified/certified computer forensics personnel in the Task Force, the North Carolina State Crime Laboratory, or in the individual agencies may be used so long as they follow the same accepted practices and procedures followed by the North Carolina State Crime Laboratory.

VII. Prosecution

The criteria for determining whether to prosecute a particular violation in State or federal court will focus on achieving the greatest overall benefit to the public. The final decisions on location of prosecution, should a conflict arise, will be with the agency having original jurisdiction. Any question arising pertaining to jurisdiction will be resolved through discussions among the investigative and prosecutorial agencies having jurisdiction in the matter. When joint jurisdiction exists, this Agreement does not preclude additional prosecution(s) in other jurisdictions.

VIII. Personnel

- A. Each member agency will have at least one person assigned to the Task Force on a part-time basis. Specific numbers of personnel assigned to the Task Force will be determined by the Bureau and agency management.
- B. Unless otherwise agreed upon, the duties assigned to Task Force members by their agencies will not change based solely upon participation in the Task Force.
- C. Any member assigned to the Task Force must be highly self-motivated, possess high moral character, and be self-disciplined. Prospective Task Force members shall be selected based on a work history that indicates prior investigative experience, court testimony, skill and ability to handle sensitive information prudently, and a genuine interest in the protection of children. Task Force members must be computer literate and knowledgeable regarding child exploitation issues, and are familiar with State and federal statutory and case law pertaining to ICAC investigations.
- D. For personnel and administrative purposes, Assisting Officers shall remain an employee of the Assisting Agency and shall be entitled all benefits to which Assisting Officers would be entitled when acting or functioning within the normal course and scope of the Assisting Officers' duties within the Assisting Agency.



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



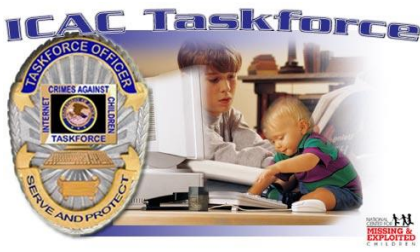
- E. Each Assisting Officer and Agent assigned to the Task Force agrees to abide by the policies, procedures, and code of conduct of their agency. Any breach of the policies, procedures, and code of conduct shall be reported to the Task Force member's immediate supervisor, who will handle the breach in accordance with the policy of their agency. Activities of Task Force members shall also be governed by the operational and investigative standards of the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- F. Any disciplinary actions concerning or arising out of the conduct or work assignment of any Assisting Officers will remain the responsibility of the Assisting Agency. At any time, the Agent or Bureau Liaison to which the Assisting Officer is assigned may relieve such officer of duties under the Agreement, and the Agent or Bureau Liaison shall immediately forward a written statement setting forth the reasons for such action to the Agency Liaison.

IX. Equipment

- A. Assisting Officers shall report to work with the equipment and supplies issued to them by the Assisting Agency.
- B. When required, the Bureau may provide Assisting Officers with funds, equipment, supplies and personnel reasonably necessary to perform the duties assigned to the Assisting Officers. Specifically, Assisting Officers may utilize Bureau owned vehicles with the prior authorization of the Bureau Liaison or his/her designee.
- C. When required, the Assisting Agency may provide the Bureau with funds, equipment, supplies and personnel reasonably necessary to perform the duties assigned to the Task Force.

X. Funding

This Agreement is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather a basic statement of the understanding of the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this Agreement. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies.



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**

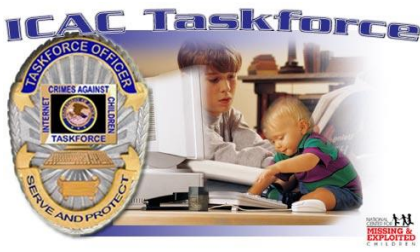


XI. Jurisdiction

- A. In regards to the Bureau making requests for additional mutual assistance from the Assisting Agency, those requests shall be made through verbal and/or written communication. Provided further, that where a request is made on an emergency basis, the execution of this contract shall be deemed the written request and the Bureau shall furnish the Assisting Agency with the specific request in writing as soon as practical. Said mutual assistance requests shall be made by the Bureau Liaison or, in absence of the Bureau Liaison, by such other person as has been designated to make or grant such requests. In regards to written requests, those requests can be in the form of an email from the Bureau Liaison to the immediate supervisor of the Task Force member(s).
- B. The Assisting Officers who are working under the authority of this Agreement and pursuant to a verbal and/or written request for additional mutual assistance will have jurisdiction throughout the State when working on cases being pursued by the Task Force when under the direction of an SBI Agent. Nothing in this Agreement shall be interpreted to change or limit the jurisdiction of federal or prosecutorial agencies.
- C. In regards to the Assisting Agency making requests for additional mutual assistance from the Bureau; those request will be made through verbal and/or written communication as well. These requests will be handled in the same manner as other Bureau requests. In the event that the ICAC investigation leads to areas outside of the original jurisdiction of the Assisting Agency, paragraph A of Section XI will then apply as previously stated.
- D. When required, the Assisting Agency may provide the Bureau with additional personnel reasonably necessary to perform the duties assigned to the Task Force. Those personnel need not be members of the Assisting Agency that are assigned to the Task Force on a daily or full-time basis. An example would be additional personnel that would allow the Task Force to more safely carry out the apprehension of a suspect; as well as the safety of law enforcement personnel.

XII. Media

- A. A genuine effort shall be made by each member agency to keep information released to the media to a minimum so as not to compromise operational effectiveness if an inquiry is received.



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



- B. The head of each Agency, or their designee, will be responsible for handling press conferences. Each member agency shall be notified of any press conferences in sufficient amount of time to have someone present for the conference.
- C. Each Agency head shall be notified before any news releases are made to the media.
- D. At no time shall any Task Force member assigned to the Task Force make any comments to the press without receiving permission from the head of their agency, and/or their designee, and the Bureau Liaison.

XIII. Liability

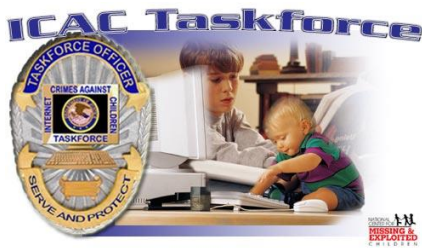
Each signatory agency agrees to be responsible for the negligent and wrongful acts or omissions of their respective employees. The provisions of this paragraph regarding liability shall not act to waive, diminish, or otherwise inhibit or restrict such privileges and immunities that may exist as a result of the sovereign status of any participating agency of their public officials.

XIV. Workers' Compensation

Any liability for Worker's Compensation shall remain with each member agency for their own employees as determined by law.

XV. Effective date of Agreement and Termination

- A. This Agreement shall become effective upon the signature of the heads of the member agencies. This Agreement will remain in effect for the Grant period so long as all parties are agreeable. Renewal of the agreement will be subject to the availability and necessity of continued operation of the Task Force and renewal of the grants by OJJDP. Task Force member agencies may withdraw their participation in this MOU at any time by providing two weeks written notice of their intent to withdraw. Upon withdrawing from the Task Force, equipment assigned to participants will be returned to the NC SBI ICAC Special Agent in Charge.
- B. Modifications to the Agreement must be in writing and signed by the head of each member agency. This Agreement shall not supersede, limit or restrict any other mutual aid or mutual assistance agreement currently in force and effect involving participating agencies. Additionally, this Agreement shall not limit, prohibit or in any way restrict



**MUTUAL ASSISTANCE AGREEMENT
AND
MEMORANDUM OF UNDERSTANDING
OF THE
NORTH CAROLINA INTERNET CRIMES
AGAINST CHILDREN (ICAC) TASK FORCE**



the ability of the participating agencies from entering into other mutual agreements with other agencies.

XVI. Additional Participating Agencies

From time to time and consistent with the authorization provided by N.C.G.S. §§160A-288, 160A-288.2, an agency may apply to become a participating agency in this Agreement. A participating agency must comply with the limitations and purposes set forth in the above referenced statutes and any ordinances or policies in effect in the agency's local governing body.

John W. Ingram, V
Sheriff
Brunswick County Sheriff's Office

Date: _____

Kevin G. Roughton
Special Agent in Charge
NC State Bureau of Investigation
NC ICAC Commander

Date: _____

Robert L. Schurmeier
Director
NC State Bureau of Investigation

Date: _____

Request Info	
Type	Budget Amendment
Description	ICAC Grant
Justification	Board Meeting 06/06/2022 - Appropriate state revenues restricted for the Internet Crimes Against Children (ICAC) grant awarded through the NC State Bureau of Investigation and administered by the NC Sheriff's Association. Funds will support forensic cellular extraction equipment and related training for the Intelligence Unit and Investigations Division.
Originator	CHRISTINA KENNEDY

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
104310	332000	Sheriff's Office	State Revenues - Restricted	72679	Increase	Credit
104310	465500	Sheriff's Office	Grant Subsidy	72679	Increase	Debit

Total	
Grand Total:	145358



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:
Elizabeth Bynum

Action Item # V. - 12.

Sheriff's Office - Second Amendment to Detention Food Service Agreement

Issue/Action Requested:

Request the Board of Commissioners approve a second amendment to the Sheriff's Office Detention Center food service agreement with Summit Food Service, LLC. The amendment outlines a sliding pricing scale to better account and invoice according to weekly inmate populations and requires no budget amendment.

Background/Purpose of Request:

Summit Food Service, LLC has requested this new pricing scale due to increased costs of doing business and current inmate population averages. These averages, well below the contracted number of 350 inmates, are projected to continue at the present number or slowly increase. The FY23 budget request included a three-percent increase from FY22 to account for food costs or other increased costs due to inflation. This figure, paired with inmate population averages and the proposed rates, creates projections that keep us within our requested budget for this expense line. The amendment only affects inmate meal pricing.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Attorney's Recommendation:

Approved.

County Manager's Recommendation:

Recommend that the Board of Commissioners approve a second amendment to the Sheriff's Office Detention Center food service agreement with Summit Food Service, LLC. The amendment outlines a sliding pricing scale to better account and invoice according to weekly inmate populations and requires no budget amendment.

ATTACHMENTS:

Description

- ☐ Summit Food Services Agreement - October 2019
- ☐ First Amendment
- ☐ Second Amendment

NORTH CAROLINA

GOODS AND SERVICES AGREEMENT

BRUNSWICK COUNTY

THIS GOODS AND SERVICES AGREEMENT (hereinafter referred to as the “Agreement”) is made and entered into by and between Brunswick County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as “County”), party of the first part and Summit Food Service, LLC (hereinafter referred to as “Contractor”), party of the second part.

WITNESSETH:

1. GOODS AND SERVICES; FEES

The goods to be purchased and the services to be performed under this Agreement (hereinafter referred to collectively as the “Project”) and the agreed upon fees for the Project are set forth on Exhibit “A” attached hereto.

Any exhibits or attachments referenced herein are hereby incorporated by reference and made a part of this Agreement. Any conflict between the language in an exhibit or attachment and the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

2. TERM OF AGREEMENT AND TERMINATION

The term of this Agreement begins on 10/1/2019 (the “Effective Date”) and continues in effect until 9/30/2024, unless sooner terminated as provided herein. Either the County or the Contractor may terminate this Agreement at any time without cause by giving ninety (90) days’ written notice to the other party. As soon as practicable after receipt of a written notice of termination without cause, Contractor shall submit a statement to County showing in detail the work performed under this Agreement through the effective date of termination. County may terminate this Agreement for cause by giving written notice of a breach of the Agreement. Contractor shall have fifteen (15) days to cure the breach following receipt of the notification. Failure to cure the breach within the fifteen (15) days shall result in the immediate termination of the Agreement. Notwithstanding the foregoing, County may terminate this Agreement immediately and without notice to Contractor if Contractor becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against Contractor, or has a receiver or trustee appointed for substantially all of its property, or if Contractor allows any final judgment to stand against it unsatisfied for a period of forty-eight (48) hours.

3. NONAPPROPRIATION

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were

appropriated. In such event, the County will promptly notify the Contractor of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

4. COMPENSATION

The County agrees to pay costs as specified in Exhibit "A" or as set out above for the satisfactory completion of the Project. Unless otherwise specified, Contractor shall submit monthly invoices to County and include detail of all product delivered or work performed under the terms of this Agreement. County shall pay all undisputed and properly completed invoices within thirty (30) days of receipt. Notwithstanding the foregoing, County will not pay late fees on any charges under this Agreement. If County disputes any portion of the charges on any invoice received from Contractor, the County shall inform Contractor in writing of the disputed charges. Once the dispute has been resolved, Contractor shall re-invoice County for the previously disputed charges, and, per any resolution between County and Contractor, the County shall pay those charges in full at that time. No advance payment shall be made for the work to be performed by Contractor under this Agreement.

5. INDEPENDENT CONTRACTOR

Both County and Contractor agree that Contractor shall act as an independent contractor and shall not represent itself as an agent or employee of the County for any purpose in the performance of its duties under this Agreement. Contractor represents that it has or will secure, at its own expense, all personnel required in performing the work under this Agreement. Accordingly, Contractor shall be responsible for payment of all federal, state and local taxes arising out of its activities in accordance with this Agreement, including, without limitation, federal and state income tax, social security tax, unemployment insurance taxes and any other taxes or business license fees as required. Contractor shall not be entitled to participate in any plans, arrangements or distributions by the County pertaining to or in connection with any pension, stock, bonus, profit sharing or other benefit extended to County employees.

In the event the Internal Revenue Service should determine that Contractor is, according to Internal Revenue Service guidelines, an employee subject to withholding and social security contributions, then Contractor hereby acknowledges that all payments hereunder are gross payments, and the Contractor is responsible for all income taxes and social security payments thereon.

6. CONTRACTOR REPRESENTATIONS

- a. Contractor is a duly organized entity or corporation qualified to do business and in good standing under the laws of the State of North Carolina;
- b. Contractor has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

- c. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for Contractor to enter into and perform its obligations under this Agreement;
- d. In connection with Contractor's obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses;
- e. Contractor shall not violate any agreement with any third party by entering into or performing the work under this Agreement;
- f. Contractor will provide all goods and perform all work in conformity with the specifications and requirements of this Agreement;
- g. The goods and services provided by Contractor under this Agreement will not violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third-party rights (including, without limitation, non-compete agreements);
- h. Contractor shall exercise reasonable care and diligence when performing the work hereunder and will ensure that it adheres to the highest generally accepted standards in the industry when performing said work;
- i. Contractor acknowledges that if any specific licenses, certifications or related credentials are required in its performance of the work, it will ensure that such credentials remain current and active and not in a state of suspension or revocation; and
- j. Contractor shall ensure that whenever its employees or agents are on County property, they will strictly abide by all instructions and directions issued by the County with respect to rules, regulations, policies and security procedures applicable to work on the County's premises. Such rules, regulations, policies and security procedures shall include, but not be limited to: (i) not possessing any controlled substances; (ii) smoking only in designated smoking areas, if any; and (iii) not possessing weapons, except for weapons possessed by law enforcement officials.

7. WARRANTIES

Without limiting Contractor's obligation to provide warranty or maintenance services, and in addition to any other warranties available, Contractor hereby assigns to County all of Contractor's warranties covering any third-party goods purchased under this Agreement. Contractor will provide copies of all said warranties to County upon delivery of the goods.

8. DAMAGE TO EQUIPMENT, FACILITIES, PROPERTY OR DATA

Contractor shall be solely responsible for any damage to or loss of the County's equipment, facilities, property and/or data arising out of the negligent or willful act or omission of Contractor

or its subcontractors. In the event that Contractor causes damage to the County's equipment or facilities, Contractor shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to such damage.

9. NON-ENDORSEMENT AND PUBLICITY

County is not endorsing Contractor or the goods or services covered under this Agreement, and Contractor is not permitted to reference this Agreement or County in any manner without the prior written consent of County. Notwithstanding the foregoing, the parties agree that Contractor may list the County as a reference in response to requests for proposals and may identify County as a customer in presentations to potential customers.

10. NON-EXCLUSIVITY

Contractor acknowledges that County is not obligated to contract solely with Contractor for the goods or services covered under this Agreement.

11. DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL

Contractor hereby certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. § 147-86.81.

12. DEBARMENT

Contractor hereby certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Agreement by any governmental department or agency. Contractor must notify County within thirty (30) days if debarred by any governmental entity during this Agreement.

13. INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless County, its officers, officials, agents and employees from and against all actions, liability, claims, suits, damages, costs or expenses of any kind which may be brought or made against County or which County must pay and incur arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Contractor, its employees or agents. Contractor further agrees to investigate, handle, respond to, defend and dispose of same at its sole cost and expense. Contractor shall be fully responsible to County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it. Contractor shall not be responsible for the negligent acts or omissions of the County. This Section shall survive any expiration or termination of this Agreement.

14. INSURANCE

Contractor shall procure and maintain in full force and effect at all times and at its sole cost and expense Commercial General Liability, Commercial Automobile Liability, Professional Liability and Workers' Compensation insurance, if applicable, and any additional insurance as may be required by County with limits acceptable to County. All insurance policies (with the exception of Workers' Compensation, if applicable, and Professional Liability) shall be endorsed, specifically or generally, to include County as an additional insured and as a certificate holder. Contractor shall furnish a Certificate of Insurance from a licensed insurance agent in North Carolina with a rating of A-VII or better by A.M. Best verifying the existence of any insurance coverage required by County. The Certificate will provide for thirty (30) days' advance notice in the event of termination or cancellation of coverage. Contractor shall have no right of recovery or subrogation against County (including its officers, agents and employees), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the aforementioned insurance.

15. WORKERS' COMPENSATION

To the extent required by law, Contractor shall comply with the North Carolina Workers' Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event Contractor is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, Contractor shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents while fulfilling Contractor's obligations under this Agreement.

Contractor agrees to furnish County proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

16. REMEDIES

- a. **RIGHT TO COVER.** If Contractor fails to meet any completion date or resolution time set forth, due to no fault of County, the County may take any of the following actions with or without terminating this Agreement, and in addition to, and without limiting, any other remedies it may have:
 - i. Employ such means as it may deem advisable and appropriate to perform itself or obtain the goods and/or services from a third party until the matter is resolved and Contractor is again able to resume performance under this Agreement; and
 - ii. Deduct any and all expenses incurred by County in obtaining the goods and/or performing the services from any money then due or to become due Contractor and, should the County's cost of obtaining the goods and/or performing the services exceed the amount due Contractor, collect the amount due from Contractor.

- b. **RIGHT TO WITHHOLD PAYMENT.** County reserves the right to withhold any portion, or all, of a scheduled payment if Contractor fails to perform under this Agreement until such breach has been fully cured.
- c. **SETOFF.** Each party shall be entitled to set off and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Agreement.
- d. **OTHER REMEDIES.** Upon breach of this Agreement, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently in addition to any other available remedy.
- e. **NO SUSPENSION.** In the event that County disputes in good faith an allegation of breach by Contractor, notwithstanding anything to the contrary in this Agreement, Contractor agrees that it will not terminate this Agreement or suspend or limit any services or warranties, unless: (i) the parties agree in writing; or (ii) an order of a court of competent jurisdiction determines otherwise; provided, however, this dispute period shall be limited to ninety (90) days.

17. TAXES

Contractor shall be responsible for paying all taxes, fees, assessments and premiums of any kind payable on its employees and operations. Contractor shall substantiate, on demand by the County, that all taxes and other charges are being properly paid.

18. HEALTH AND SAFETY

Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with completing the Project. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees in connection with completing the Project and other persons who may be affected thereby.

19. NON-DISCRIMINATION IN EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state or local law or other unlawful form of discrimination. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment. In the event Contractor is determined by the final order of an appropriate agency or court of competent jurisdiction to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Agreement may

be cancelled, terminated or suspended in whole or in part by County, and Contractor may be declared ineligible for further County agreements.

20. COMPLIANCE WITH E-VERIFY PROGRAM

Pursuant to N.C.G.S. § 143-133.3, Contractor understands that it is a requirement of this Agreement that Contractor and its subcontractors must comply with the provisions of Article 2 of Chapter 64 of the North Carolina General Statutes. In doing so, Contractor agrees that, unless it is exempt by law, it shall verify the work authorization of its employees utilizing the federal E-Verify program and standards as promulgated and operated by the United States Department of Homeland Security, and Contractor shall require its subcontractors to do the same. Upon request, Contractor agrees to provide County with an affidavit of compliance or exemption.

21. CONFIDENTIAL INFORMATION

For purposes of this Agreement, the party disclosing Confidential Information is the “Discloser,” and the party receiving Confidential Information is the “Recipient.” “Confidential Information” shall mean any nonpublic information concerning the parties’ respective businesses including, but not limited to, all tangible, intangible, visual, electronic, present or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs and know-how; (d) business information, including operations, planning, marketing interests and products; and (e) the terms of any agreement between the parties and the discussions, negotiations and proposals related thereto. Confidential Information disclosed to the other party must be clearly identified. Written Confidential Information must be clearly marked in a conspicuous place with an appropriate legend identifying the information as “Confidential.” Confidential Information that is not written must be identified as confidential at the time of disclosure and confirmed in writing delivered to Recipient within fifteen (15) days of disclosure.

The restrictions regarding the use and disclosure of Confidential Information do not apply to information that is:

- a. in the public domain through no fault of the Recipient;
- b. within the legitimate possession of the Recipient, with no confidentiality obligations to a third party;
- c. lawfully received from a third party having rights in the information without restriction, and without notice of any restriction against its further disclosure;
- d. independently developed by the Recipient without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information;
- e. disclosed with the prior written consent of the Discloser; or
- f. required to be disclosed by law, regulation or court or governmental order, specifically including requests pursuant to the Public Records Laws of North Carolina contained in

Chapter 132 of the North Carolina General Statutes. In the event Recipient receives such a request, it shall notify Discloser and Discloser shall have the opportunity to defend against production of such records at Discloser's sole expense.

22. OWNERSHIP OF WORK PRODUCT

Should Contractor's performance under this Agreement generate documents or other work product that are specific to the Project hereunder, such documents or work product shall become the property of County and may be used by County on other projects without additional compensation to Contractor.

23. NO ASSIGNMENT WITHOUT CONSENT

Neither party shall assign this Agreement (or assign any right or delegate any obligation contained herein whether such assignment is of service, of payment or otherwise) without the prior written consent of the other party hereto. Any such assignment without the prior written consent of the other party hereto shall be void. An assignee shall acquire no rights, and County shall not recognize any assignment in violation of this provision.

24. GOVERNING LAW AND VENUE

This Agreement shall be governed by applicable federal law and by the laws of the State of North Carolina without regard for its choice of law provisions. All actions relating in any way to this Agreement shall be brought in the General Court of Justice of the State of North Carolina in Brunswick County or in the Federal District Court for the Eastern District of North Carolina, Wilmington division.

25. DISPUTE RESOLUTION

Should a dispute arise as to the terms of this Agreement, both parties agree that neither may initiate binding arbitration. The parties may agree to non-binding mediation of any dispute prior to the bringing of any suit or action.

26. GOVERNMENTAL IMMUNITY

County, to the extent applicable, does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

27. NON-WAIVER

Failure by County at any time to require the performance by Contractor of any of the provisions of this Agreement shall in no way affect County's right hereunder to enforce the same, nor shall any waiver by County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

28. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral.

29. HEADINGS

The headings in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

30. SEVERABILITY

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated. If a provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

31. AMENDMENTS

No amendments or changes to this Agreement, or additional Proposals or Statements of Work, shall be valid unless in writing and signed by authorized agents of both Contractor and County.

32. NOTICES

- a. **DELIVERY OF NOTICES.** Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by facsimile to the intended recipient at the address set forth below.
- b. **EFFECTIVE DATE OF NOTICES.** Any notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by facsimile or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier.
- c. **NOTICE ADDRESS.** Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment or waiver of any provision of this Agreement shall be sent to:

- i. For the County: Brunswick County Manager
P.O. Box 249
Bolivia, NC 28422
Fax: 910-253-2022

- ii. For the Contractor: Summit Food Service, LLC
Attn: Marlin C. Sejnoha, Jr.
300 South Tryon Street, Suite 400
Charlotte, NC 28202

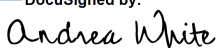
[SIGNATURES APPEAR ON FOLLOWING PAGE]

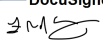
33. SIGNATURES

This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-358.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

ATTEST:

BRUNSWICK COUNTY

DocuSigned by:

 F0D8C8FF5F85F47F
 Clerk to the Board

DocuSigned by:

 D84765B0180047B
 By: Frank Williams
 Chairman

[SEAL]

SUMMIT FOOD SERVICE, LLC

DocuSigned by:


 DBE52592D58F428...
 By:

Printed Name: Marlin C. Sejnoha, Jr.

Title: President and CEO

Date: 9/21/2019

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

DocuSigned by:

 02290718CB1D4B2...
 Julie A. Miller, Finance Director
 Brunswick County, North Carolina

APPROVED AS TO FORM


DocuSigned by:

 D195D1306EE7473...
 Robert V. Shaver, Jr., County Attorney /
 Bryan W. Batton, Assistant County Attorney

EXHIBIT “A” GOODS AND SERVICES/FEES AND COSTS

Cafeteria / Retail Food Service

The County hereby leases the cafeteria facilities in Building D at nominal cost to the Contractor. The County will provide utilities and structural maintenance. The facility includes a well-equipped kitchen, and ample frozen, refrigerated, and dry storage space, as well as a loading dock. The Contractor is required to provide a retail breakfast and lunch in the cafeteria five (5) days per week except for twelve (12) County holidays. The Contractor has the option of providing dinner, as well as weekend meals. The Contractor has the flexibility to determine all menus and pricing for the retail service. The Contractor is responsible for maintaining the sanitary conditions in the kitchen and cafeteria seating area. The Contractor is required to maintain the cafeteria/kitchen facility at the “Grade A” level throughout the term of the Agreement.

Detention Center Meals

The Contractor is responsible for preparing all inmate meals in compliance with the nutritional and sanitary standards established by the North Carolina Department of Health and Human Services. The regulations are currently found in NCAC 10A 14J Sections .0900 - .0905, but the Contractor needs to prepare meals that exceed the minimum daily caloric intake of 2,100 calories by an average of at least 100 calories per day. The Contractor is responsible for providing three (3) meals per day each day of the year. Meals are provided at 7:00 a.m. (breakfast - hot), 11:00 a.m. (lunch - hot) and 4:00 p.m. (dinner - cold). The County’s current inmate population averages between 325 and 350 inmates. The capacity of the detention facility is approximately 440 inmates.

Catering for Government Center Meetings and Events

The Contractor may be required to provide catering for meetings and events at the Government Center on a case by case basis, including providing staff meals at the Emergency Operations Center and/or other locations on the Bolivia campus during times of emergency operations. Such meals will be at rates to be negotiated between the County and the Contractor. All County Departments holding meetings and events at the Government Center will retain the right to use external food service vendors if desired.

Detention Meal Cost

The cost of detention meals charged to the County by the Contractor shall be in accord with the following Food services Cost Proposal Form executed by the Contractor on 7-22--2019.

BRUNSWICK COUNTY, NORTH CAROLINA**FOOD SERVICES PROPOSAL COST FORM**Name of Company/ Firm Summit Food Service, LLCAddress 500 East 52nd Street North, Sioux Falls State South Dakota Zip Code 57103Phone 605.335.0825 Fax 605.977.1836

Company Website Address:

www.summitfoodservice.comCEO / Authorized Representative Marlin C. Sejnoha, Jr. - President & CEO

DETENTION CENTER	Hot Meal	Cold Meal
Inmate Breakfast Cost per Meal	\$ <u>2.04</u>	
Inmate Lunch Cost per Meal	\$ <u>2.04</u>	
Inmate Dinner Cost per Meal		\$ <u>2.04</u>

Proposed method for determining price adjustments for meals and lease for subsequent years.

 No adjustment will be requested for subsequent years. X Adjustment may be requested each subsequent year. Explain proposed method for determining price adjustments in detail. (Use separate sheet)

I hereby certify that I am the duly authorized agent of the above-named firm and have the authority to make the commitments included in this proposal.

Name: Marlin C. Sejnoha, Jr.Title: President & CEOSignature:  Date: 07.22.2019

PRICING PLANS

Summit agrees that all pricing will be inclusive of all management, labor, food cost, sanitation, paper costs, uniforms, insurance fees, licensing, long distance expenses, office supplies and postage deemed necessary to complete foodservice operations per the contract. All such records will be retained by Summit for a period of two (2) years. Summit also agrees to allow the County to audit our records without prior notice.

Summit agrees to remit to the State Tax Commission, any required State Sales Tax.

ANNUAL PRICE INCREASE

Any price adjustments will require mutual agreement and will not exceed 3% of the Food Away from Home Consumer Price Index (CPI) for the preceding year.

CAFETERIA RETAIL INVESTMENT

Summit's financial commitment to this partnership is clearly stated with a maximum investment of up to \$50,000, during the 5-year term of the contract for enhancements to drive revenue for the cafeteria retail & catering food program for Brunswick County.

FIRST AMENDMENT TO GOODS AND SERVICES AGREEMENT

This First Amendment to Goods and Services Agreement (the "Amendment") is made and entered into by and between Brunswick County("County"), and Summit Food Service, LLC ("Contractor") (collectively "the Parties").

WHEREAS, the Parties have entered into a certain Goods and Services Agreement (the "Agreement"), effective October 1, 2019

WHEREAS, as permitted in Exhibit "A" of the Agreement, the Parties have agreed to adjust pricing for Detention Center Meals, as set forth in the Agreement; and

WHEREAS, the Parties now desire to amend said Agreement upon the terms and conditions stated herein.

NOW, THEREFORE, the Parties, intending to be legally bound hereby, mutually agree as follows:

1. **Pricing for Detention Center Meals.** Effective July 1, 2021, Contractor shall charge and County shall pay:

Population	Current Price	CPI%	New Price
Inmate Hot Breakfast	\$2.04	3%	\$2.10
Inmate Hot Lunch	\$2.04	3%	\$2.10
Inmate Cold Dinner	\$2.04	3%	\$2.10

This Amendment is effective as of July 1, 2021. All other terms and conditions of the original Agreement (as may be modified from time to time) shall remain in full force and effect unless otherwise amended as provided in the Agreement.

Brunswick County

Signature: Randell K. Woodruff
 Name: Randell K. Woodruff
 Title: County Manager
 Date: 5/25/2021

Summit Food Service, LLC

Signature: Marlin C. Sejnoha, Jr.
 Name: Marlin C. Sejnoha, Jr.
 Title: President & CEO
 Date: 5/18/2021

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

Julie A. Miller
 Julie A. Miller, Director of Fiscal Operations
 Brunswick County, NC

APPROVED AS TO FORM

Bryan W. Batton
 Robert V. Shaver, Jr., County Attorney /
 Bryan W. Batton, Asst. County Attorney
 Brunswick County, NC

SECOND AMENDMENT TO GOODS AND SERVICES AGREEMENT

This Second Amendment to Goods and Services Agreement is made and entered into by and between Brunswick County ("County"), and Summit Food Service, LLC ("Contractor") (collectively "the Parties").

WHEREAS, the Parties have entered into a certain Goods and Services Agreement (the "Agreement"), effective October 1, 2019, and as amended effective July 1, 2021; and

WHEREAS, as permitted in Exhibit "A" of the Agreement, the Parties have agreed to adjust pricing for Detention Center Meals (as more particularly described in the Agreement); and

WHEREAS, the Parties now desire to amend said Agreement upon the terms and conditions stated herein.

NOW, THEREFORE, the parties, intending to be legally bound hereby, mutually agree as follows:

1. **Pricing Structure.** Brunswick County and Summit Food Service, LLC have mutually agreed to move from fixed rate prices to scale prices for Detention Center Meals. Exhibit "A" of the Agreement is hereby amended to incorporate the new scale pricing. The below pricing table reflects the new prices for Detention Center Meals which will begin on July 1, 2022.
2. **Pricing for Detention Center Meals.** Effective July 1, 2022, Contractor shall charge and County shall pay:

Population	New Price
Less than 199	TBN
200 - 209	\$3.122
210 - 219	\$3.014
220 - 229	\$2.916
230 - 239	\$2.827
240 - 249	\$2.745
250 - 259	\$2.670
260 - 269	\$2.600
270 - 279	\$2.538
280 - 289	\$2.481
290 - 299	\$2.428
300 - 309	\$2.379
310 - 319	\$2.333
320 - 329	\$2.290
330 - 339	\$2.250
340 - 349	\$2.212
350 +	TBN

3. **Payment Method.** Payment method shall be electronic via AFT/ACH transfer or another acceptable electronic method agreed upon between the Parties.

This Second Amendment is effective as of July 1, 2022. All other terms and conditions of the original Agreement, as amended, shall remain in full force and effect.

This Second Amendment, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Second Amendment may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-358.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Second Amendment by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

CLIENT: Brunswick County

COMPANY: Summit Food Service, LLC

Signature:

Name:

Randy Thompson

Title:

Chairman, Board of Commissioners

Date:

Signature:

Marlin C. Sejnoha, Jr.

Name:

Marlin C. Sejnoha, Jr.

Title:

President & CEO

Date:

5/24/2022

ATTEST:

Clerk to the Board

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

Aaron C. Smith, Director of Fiscal Operations
Brunswick County, NC

APPROVED AS TO FORM

Robert V. Shaver, Jr., County Attorney /
Bryan W. Batton, Asst. County Attorney
Brunswick County, NC



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:

John Nichols

Action Item # V. - 13.

Utilities - I and E Bay Enclosure Project Budget Amendment
(John Nichols, PE - Director of Public Utilities)

Issue/Action Requested:

Request that the Board of Commissioners approve additional funds in the amount of \$108,340.00 for the Instrumentation and Electrical Bay enclosure project.

Background/Purpose of Request:

Funds of \$150,000 were approved within the I and E FY 22 budget to enclose three bays of an eight-bay metal canopy. Staff will utilize the enclosed bays for additional indoor space to repair, maintain, and store generators and critical electrical equipment.

The project has been bid and the lowest bid was \$258,340. There were insufficient bids to award after the first bid opening, so the project had to be re-bid. Staff recommends an additional appropriation of \$150,000 for the work.

Fiscal Impact:

Budget Amendment Required, Reviewed By Director of Fiscal Operations

Budget Amendment appropriates \$150,000 of fund balance for the estimated additional costs associated with the Instrumentation and Electrical Bay enclosure project.

Approved By County Attorney:

Yes

Advisory Board Recommendation:

Not applicable.

County Manager's Recommendation:

Recommend that the Board of Commissioners approve additional funds in the amount of \$108,340.00 for the Instrumentation and Electrical Bay enclosure project.

ATTACHMENTS:

Description

- ☐ Utilities – I and E Bay Enclosure Project Bid Tab – Attach 1
- ☐ Utilities – I and E Bay Enclosure Project Winning Bid – Attach 2
- ☐ Budget Amendment

I & E BAY ENCLOSURES
BID TABULATION
5/5/22

CONTRACTOR	TOTAL BID AMOUNT
ENTERPRISES G, INC.	\$258,340.00
PINAM CONSTRUCTION, INC.	\$267,094.77

Identifies low bidder

**BID ACCEPTANCE FORM FOR
INSTRUMENTATION AND ELECTRICAL BAY ENCLOSURES
BRUNSWICK COUNTY PUBLIC UTILITIES**

CONTRACTOR'S FULL LEGAL NAME: Enterprises G, Inc.

GENERAL CONTRACTOR'S LICENSE NUMBER: 86907

We are in receipt of the following Addenda: _____

The undersigned, as bidder, proposes and agrees if this bid is accepted to contract with Brunswick County for the furnishing of all materials, equipment, and labor necessary to complete the construction of the work described in these documents in full and complete accordance with plans, specifications, scope of work and contract documents, and to the full and entire satisfaction of Brunswick County:

BID - SINGLE PRIME CONTRACT

Enclose Three (3) Bays Six (6) Motorized Roll Up Doors and Two (2) Entry/Exit Doors as per the Enclosed Scope of Work

Plus \$5,000 Additional Engineering/Architect Services Allowance to be included in Bid

TOTAL GENERAL CONSTRUCTION CONTRACT BID

two hundred fifty-eight thousand three hundred forty (\$ 258,340) Dollars.

Provide scope associated with the project including the following:

The Contract shall be issued as a lump sum contract for the work described in the Notice to Bidders. Any work items beyond the stated Scope of Work will require a Change Order as provided for in the General Conditions. No changes will be allowed without prior written approval.

Respectively submitted this 26th day of April 2022.

Federal ID#: 81-4116672

By: Isabel Gutierrez

Witness: Edgar Guzman

Title: President
(Owner, partner, corp. Pres. Or Vice President)

Vicepresident
(Proprietorship or Partnership)

Address: 6605 Mountain view Rd, Blowing Rock, NC 28605

Attest: (corporation)

Email Address: enterprises.g.inc@gmail.com

(Corporate Seal)



By: Laura Navarro License #: 86907

Title: Secretary
(Corporation, Secretary/Asst Secretary)

ACCEPTED BY BRUNSWICK COUNTY

Total amount of accepted by the Owner: _____

BY: _____

TITLE: _____

DATE: _____, 2022

Request Info	
Type	Budget Amendment
Description	IE Bay Enclosure project
Justification	Board Meeting 06/06/2022-Reduce the transfer to the water capital projects for the instrumentation and electrical bay enclosure project.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
619800	498041	Interfund Trans Water Fund	Transfer to Water Capital Proj	-150000	Decrease	Credit
617170	459000	Instrumentation/Electrical Div	Cap Outlay-Improvements	150000	Increase	Debit

Total	
Grand Total:	0



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

From:

John Nichols

Action Item # V. - 14.

Utilities - SCADA Tower NWWTP Budget Amendment (John Nichols, PE - Director of Public Utilities)

Issue/Action Requested:

Request that the Board of Commissioners approve additional funds in the amount of \$90,000 for the SCADA tower project at the NWWTP.

Background/Purpose of Request:

Funds of \$130,000 were approved within the NWWTP FY 22 budget to replace a communications tower at the NWWTP site. The project will replace an existing aged monopole that has reached its useful life with a new 190' antenna tower. The tower will allow existing antennas to be relocated to a modern tower and provide safe access for staff to work on equipment. Due to the nature of the existing tower, BC staff is reliant on tower contractors combined with crane rentals and their schedules to access equipment. This may cause long down-times to this critical communication equipment. The operators at the NWWTP are responsible for operation of the water pump stations and elevated tanks throughout the water distribution system.

The project has been bid and the lowest bid was approximately \$220,000. Staff recommends an additional appropriation of \$90,000 for the work.

Fiscal Impact:

Budget Amendment Required, Reviewed By Director of Fiscal Operations

Budget Amendment appropriates \$90,000 of fund balance for the estimated additional costs associated with the SCADA Tower project at the NWWTP.

Approved By County Attorney:

Yes

Advisory Board Recommendation:

Not applicable.

County Manager's Recommendation:

Recommend that the Board of Commissioners approve additional funds in the amount of \$90,000 for the SCADA tower project at the NWWTP.

ATTACHMENTS:

Description

- ☐ Utilities – Tower Project Quote – Attach 2
- ☐ Budget Amendment



PRS Tower Management Services LLC

4495 Motorsports Dr SW
Suite 110
Concord, NC 28027
Tel: 704-784-4449

Estimate

Date	Estimate #
5/6/2022	4726-1

Name / Address
Brunswick Utilities

Project				
Quote - New Leland Tower				
Item	Description	Qty	Rate	Total
	<p>Site Name: New Leland, NC tower</p> <p>Site Address:</p> <p>SOW: Provide and install new 190' Self Support Tower to include its new foundation, Up to 20' of ice bridge to the shelter entry port.</p> <p>Items to be handled by PRS</p> <p>Regulatory:</p> <p>FAA Filing (final determination). This will confirm that lighting system is not required</p> <p>Submittal of NEPA, SHIPO, FAA and FCC Documentation. (Should tribal fees be required, they would be invoiced separately at cost)</p> <p>Items to be handled by Brunswick County: Permitting, Utility Locates and Geo Technical exploration (required for tower manufacturer to complete the design of the foundation)</p> <p>ASSUMPTIONS:</p> <p>No Compound Gravel or fencing included in the quote</p>			
Thank you for giving PRS the opportunity to provide you this quote !!!		Subtotal		
		Sales Tax (7.0%)		
		Total		

We can only guarantee prices for 60 days at this time.



PRS Tower Management Services LLC

4495 Motorsports Dr SW
Suite 110
Concord, NC 28027
Tel: 704-784-4449

Estimate

Date	Estimate #
5/6/2022	4726-1

Name / Address
Brunswick Utilities

Project				
Quote - New Leland Tower				
Item	Description	Qty	Rate	Total
ENGINEERING	Regulatory Services Includes & Pre construction FAA Filing (Initial determination) Submittal of NEPA, SHIPO, FAA and FCC Documentation PE Sealed Construction Drawings Site Survey with 1A/2C Letter	1	16,340.00	16,340.00
CIVIL	Excavation (spoils to be left on site), new foundation includes 32 yards of concrete (Once geotech report is completed, this might change the foundation needs) Provide and install New Rohn 190' Self Support Tower - Risk Category II ANSI/TIA-222-H, Wind speed: 143 MPH per ASCE 7-16 (Drawing Q22-10526-2 by Rohn) New tower grounding halo system Crane services. Provide and install new 20' ice bridge 12" wide with 2 levels of trapeze kits. Removal of 3 microwave dishes from existing monopole. Installation of 3 microwave dishes (along with their path alignment) (Assuming no relocation of dishes are needed on the alternate sites) Installation of 3 antennas and their mounts, 4 CAT5 cables and 4 X 7/8" coax cables. PRS to provide new CAT5 cables and the new 7/8" coax cables and their associated materials.	1	203,136.00	203,136.00
Thank you for giving PRS the opportunity to provide you this quote !!!		Subtotal		
We can only guarantee prices for 60 days at this time.		Sales Tax (7.0%)		
		Total		



PRS Tower Management Services LLC

4495 Motorsports Dr SW

Suite 110

Concord, NC 28027

Tel: 704-784-4449

Estimate

Date	Estimate #
5/6/2022	4726-1

Name / Address
Brunswick Utilities

Project				
Quote - New Leland Tower				
Item	Description	Qty	Rate	Total
	<p>Payment Milestone Structure:</p> <p>Milestone # 1: Once project is awarded 50% to be invoices to purchase the required materials to include the tower steel</p> <p>Milestone # 2: 25% once tower is Constructed</p> <p>Milestone # 3: 25% Completion.</p> <p>Options to remove from quote:</p> <p>Ice bridge (Materials and labor) \$6860.00</p> <p>Decom of dishes from other tower with assistance of crane \$10,700</p> <p>Labor and materials (cables, connectors, supporting hardware, grounding, antenna/dish mounts) for the installation of antennas and dishes on the new tower. \$34,400.00</p>			
Thank you for giving PRS the opportunity to provide you this quote !!!		Subtotal		
		Sales Tax (7.0%)		
		Total		

We can only guarantee prices for 60 days at this time.

Request Info	
Type	Budget Amendment
Description	SCADA Tower project at NWWTP
Justification	Board Meeting 06/06/2022-Reduce the transfer to the water capital projects to fund the overage on the SCADA Tower project at the NWWTP.
Originator	Tiffany Rogers

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
619800	498041	Interfund Trans Water Fund	Transfer to Water Capital Proj	-90000	Decrease	Credit
617120	459000	NW Water Treatment Plant	Cap Outlay-Improvements	90000	Increase	Debit

Total	
Grand Total:	0



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # V. - 15.

From:

Daralyn Spivey

Clerk to the Board - Proclamation - Alpha Psi Omega Day

Issue/Action Requested:

Request adoption of the Proclamation for Alpha Psi Omega.

Background/Purpose of Request:

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend adoption of the Proclamation for Alpha Psi Omega.

ATTACHMENTS:

Description

- ▣ Alpha Psi Omega Proclamation

County of Brunswick
Office of the County Commissioners



**PROCLAMATION RECOGNIZING JUNE 2, 2022 AS ALPHA PSI OMEGA DAY IN
BRUNSWICK COUNTY NORTH CAROLINA**

WHEREAS, Alpha Kappa Alpha Sorority, Incorporated © was established as the first sorority for African American women on January 15, 1908, on the campus of Howard University; and,

WHEREAS, the purpose of Alpha Kappa Alpha Sorority ©, Incorporated is to cultivate and encourage high scholastic and ethical standards, to promote unity and friendship among college women, to study and help alleviate problems concerning girls and women in order to improve their social stature, to maintain a progressive interest in college life, and to be of "Service to All Mankind"; and

WHEREAS, on June 2, 1932, Alpha Psi Omega Chapter became the sixth chapter chartered in the state of North Carolina by five visionary educators: Alice Wood Lofton, Fannie Penelope White, Betty Estelle Graves, Doris Tyne Jones Smith, and Catherine Howze Robinson Copeland; and,

WHEREAS, Alpha Psi Omega established the first African American Greek-lettered organization in Southeastern North Carolina on June 2, 1932; and,

WHEREAS, Alpha Psi Omega Chapter has provided service to Brunswick County, N.C., and surrounding communities through various youth enrichment, civic, health and educational programs and services; and hosting fundraisers including Ebony Fashion Fair, Green Tie and other events to provide scholarships to Debutantes presented in the community; and,

WHEREAS, Alpha Psi Omega Chapter has assisted organizations including the Brunswick County NAACP, American Heart Association, and the 1898 Memorial Foundation to enrich the lives of citizens; and,

WHEREAS, Alpha Psi Omega Chapter continues to support Brunswick County by promoting voter registration, voter mobilization and overall civic engagement by women and marginalized people.

NOW, THEREFORE, BE IT RESOLVED THAT, the Brunswick County Board of Commissioners do hereby proclaim June 2, 2022, as Alpha Psi Omega Day in celebration Alpha Kappa Alpha Sorority's 90 years of service and positive impact on Brunswick County and the surrounding communities.

This the 6th day of June, 2022

Randy Thompson, Chair
Board of Commissioners

ATTEST:

Daralyn Spivey, NCCCC
Clerk to the Board



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # VI. - 1.

From:
Daralyn Spivey

Clerk to the Board - Presentation - Brunswick County Arts Council

Issue/Action Requested:

Request the Board recognize the winners of the Brunswick County School District Student Winners of the Brunswick County Substance Abuse Billboard Art Contest

Background/Purpose of Request:

The winners of the contest will received awards from the Brunswick Arts Council and have their drawings featured on billboards in Brunswick County on Highway 17 over the summer.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board recognize the winners of the Brunswick County School District Student Winners of the Brunswick County Substance Abuse Billboard Art Contest

ATTACHMENTS:

Description

- ▣ Brunswick Arts Council Presentation



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # VII. - 1.

From:
Daralyn Spivey

Administration - Public Hearing to Receive Comments on the FY 2022-2023 Brunswick County Budget, Fees, and Capital Improvement Plan (Steve Stone, County Manager)

Issue/Action Requested:

Request that the Board of Commissioners hold a public hearing on the Managers FY 2022-2023 Recommended Budget, Proposed Fees and Five Year Capital Improvement Plan

Background/Purpose of Request:

The County Manager will present the recommended budget, schedule of fees, and five year capital improvement plan. The documents were posted on line, the public hearing was advertised and all department and agency stakeholders were notified.

Fiscal Impact:

Reviewed By Director of Fiscal Operations
Reviewed by County Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend the Board of Commissioners hold a public hearing on the Managers FY 2022-2023 Recommended Budget, Proposed Fees and Five Year Capital Improvement Plan



Brunswick County Board of Commissioners

ACTION AGENDA ITEM

June 6, 2022

Action Item # VIII. - 1.

From: Administration - ARPA Funding Allocation Request for Direct
Haynes Brigman (ARPA Funding Manager) Administrative Costs

Issue/Action Requested:

Request that the Board of Commissioners consider appropriating \$150,000 of American Rescue Plan Act funds towards direct costs for the administration of ARPA programs.

Background/Purpose of Request:

On March 11, 2021, the American Rescue Plan Act ("ARPA") was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") program. The final rule allows recipients to use funds for direct administrative costs for administering the SLFRF program and projects funded by the SLFRF program. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. In general, certain employees' wages, salaries, and covered benefits are an eligible use of SLFRF award funds.

The County has incurred and will continue to incur significant personnel and operating costs associated with administration of the ARPA funds. Training, coordination, evaluation, monitoring, and approval functions have been and will be required to maximize the use and benefit of the funds to the County. County departments performing administrative functions includes Finance, Legal, and Management. Staff is requesting approval to use \$150,000 of ARPA funds for costs associated with the administration of the SLFRF program and the individual projects to be funded by it. If approved, this project will provide funding for the ARPA committee's past and future costs and will allow the addition of one full time position to assist the ARPA Committee in administering all board approved projects.

Fiscal Impact:

Budget Amendment Required, Capital Project/Grant Ordinance Required, Reviewed By Director of Fiscal Operations

Budget amendments and the associated grant project ordinance appropriates \$150,000 in ARPA funds.

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners consider appropriating \$150,000 of American Rescue Plan Act funds towards direct costs for the administration of ARPA programs.

ATTACHMENTS:

Description

- ☐ Eligibility Determination and Documentation Template
- ☐ Budget Amendment
- ☐ Grant Project Ordinance

American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recover Fund Project Request and Eligibility Determination

This document is to be completed by the person or persons requesting American Rescue Plan Act of 2021 Coronavirus State and Local Government Fiscal Recovery Fund monies. The request will proceed through the [LOCAL GOVERNMENT NAME HERE]'s review process. The requestor will receive notice if the project is approved, with instructions on how to proceed.

BASIC INFORMATION AND DESCRIPTION

Program/Project Name:	Grant Management Administrative Costs
Program/Project Description:	The County has incurred and will continue to incur significant personnel and operating costs associated with administration of the ARPA funds. Training, coordination, evaluation, monitoring, and approval functions have been and will continue to be required to maximize the use of the funds and the benefit to the County. County departments performing administrative functions includes Finance, Legal, and Management.
Responsible Department:	Finance
Program/Project Manager Name:	Aaron Smith
Total Amount Requested:	\$150,000
Internal Account Code(s): (assigned by Finance)	From: 104120, 104130, 104150-412990, 418900, 449000 To: 230010-412990, 418900, 449000
Treasury Expenditure Category Level:	7 Administrative and Other
Treasury Expenditure Category:	7.1 Administrative Expenses
Location:	
Will project contain Program Income? (i.e., increased rates, expansion projects, sale of equipment, etc.)	No
Will there be additional county funding and post commitment? If yes, explain.	No

ELIGIBILITY REVIEW

Please select appropriate ARPA/CSLFRF Category below and complete the required information. Note that each requested project may only be associated with one of the following categories: 1. Public Health; 2. Negative Economic Impact; 3. Premium Pay; 4. Water, Sewer, Stormwater Infrastructure; 5. Broadband; or 6. Revenue Replacement (Government Services). Please complete all information in the applicable category and attach any required additional justifications and documentation.

1. <u>Public Health</u>	
A. Enumerated Uses/ Safe Harbors (Must select one) <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> COVID-19 mitigation & prevention* <input type="checkbox"/> Medical expenses* </div> <div> <input type="checkbox"/> Behavioral health care* <input type="checkbox"/> Preventing & responding to violence* </div> </div> <div style="text-align: right; margin-top: 10px;"> <input type="checkbox"/> Not on Enumerated List (Must complete Box B.) </div>	
<i>*See detailed list of enumerated projects in each of these categories on pages 14-16 of the Overview of the Final Rule.</i>	
B. Written Justification (Please provide detailed responses to both these questions if checked "Not on Enumerated List" in Box A) <p>(1) What is the specific negative public health impact or harm experienced by an individual or a class?</p> <p>(2) How does proposed project address the negative public health impact or harm?</p>	

Program/Project #: 5

Program/Project Short Name: ARPA Grant Administration Direct Costs

C. Is the project reasonably designed to benefit the individual or class that experienced a public health impact or harm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
D. Is the project related and reasonably proportional to the extent and type of public health impact or harm experienced?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E. Does proposed project involve a capital expenditure between \$1 million and \$10 million?	<input type="checkbox"/> Yes – Proceed to Box F.	<input type="checkbox"/> No – Proceed to Box G.
F. Is proposed project on enumerated list in Box A? *Written justification must include the following elements: <ul style="list-style-type: none"> Describe the harm or need to be addressed; Explain why a capital expenditure is appropriate; and Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior. 	<input type="checkbox"/> Yes – Record written justification* in file, but not required in Project & Expenditure Reports	<input type="checkbox"/> No – Record written justification* in file and include in Project & Expenditure Reports
G. Does the proposed project involve a capital expenditure of \$10 million or more?	<input type="checkbox"/> Yes – Record written justification* for file and include in Project & Expenditure Reports	<input type="checkbox"/> No – No further action required.

2. Negative Economic Impact

A. Enumerated Beneficiaries (Must select one)

*See detailed list of enumerated beneficiaries and income on pages 17 & 19 of the [Overview of the Final Rule](#).

Beneficiaries Who Experience Negative Economic Impact from the Pandemic

- ☐ Low-moderate income households or communities
- ☐ Household that experienced unemployment
- ☐ Households that experienced increased food or housing insecurity
- ☐ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund Program, or Medicaid
- ☐ When providing affordable housing programs: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ☐ When providing services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period
- ☐ Small business that experienced decreased revenue or gross receipts, increased costs, financial insecurity, or other financial challenges due to the pandemic
- ☐ Nonprofit the experienced decreased revenue, increased costs, financial insecurity, or other financial challenges due to the pandemic
- ☐ Travel, tourism, hospitality industries
- ☐ Other industry that experienced at least 8% employment loss from pre-pandemic levels or is experiencing comparable or worse economic impacts as national tourism, travel, and hospitality sector
- ☐ Local government

Beneficiaries Who Experienced Disproportionately Negative Economic Impact from the Pandemic

- ☐ Low-income households and communities
- ☐ Households residing in a Qualified Census Tract (QCT)
- ☐ Households that qualify for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.
- ☐ Small businesses operating in a Qualified Census Tract (QCT)
- ☐ Nonprofits operating in a Qualified Census Tract (QCT)

☐ Not on enumerated list (Must complete Box B.)

B. Written Justification (Provide detailed response to this question if proposed beneficiary not on enumerated list in Box A)

Define the group/class/geographical area that experienced a negative economic impact from the COVID-19 pandemic. Be specific in defining group/class/area and in defining the negative economic impact to the group/class/area. **Provide QCT map.**

C. Enumerated / Safe Harbor Projects (Must Select One)**Projects for Negatively Economically Impacted**Households & Communities

- ☐ Food assistance & food banks
- ☐ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ☐ Health insurance coverage expansion
- ☐ Benefits for surviving family members of individuals who have died from COVID-19
- ☐ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly- employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ☐ Financial services for the unbanked and underbanked
- ☐ Burials, home repair & home weatherization
- ☐ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ☐ Cash assistance
- ☐ Paid sick, medical, and family leave programs
- ☐ Assistance in accessing and applying for public benefits or services
- ☐ Childcare and early learning services, home visiting programs, services for child welfare- involved families and foster youth & childcare facilities
- ☐ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ☐ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing

Small Businesses

- ☐ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ☐ Technical assistance, counseling, or other services to support business planning

Nonprofits

- ☐ Loans or grants to mitigate financial hardship
- ☐ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Projects for Disproportionately Negatively Economically ImpactedHouseholds & Communities

- ☐ Pay for community health workers to help households access health & social services
- ☐ Remediation of lead paint or other lead hazards
- ☐ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ☐ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ☐ Investments in neighborhoods to promote improved health outcomes
- ☐ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing
- ☐ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ☐ Schools and other educational equipment & facilities

Small Businesses

- ☐ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ☐ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ☐ Support for microbusinesses, including financial, childcare, and transportation costs

Continued next page

Continued from prior page

Travel, Tourism, Hospitality Industry

- ☐ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ☐ Technical assistance, counseling, or other services to support business planning
- ☐ COVID-19 mitigation and infection prevention measures (see section Public Health)

Local Government

- ☐ Public safety, public health, and human services salaries/benefits, to extent responding to the COVID-19 public health emergency
- ☐ Restoring pre-pandemic employment levels
- ☐ Effective service delivery

☐ Not on enumerated list (Must proceed to Box D.)

D. Written Justification (Provide detailed response to this question if proposed project not on enumerated list in Box C.)

- (1) What is the specific negative economic impact or harm caused or exacerbated by the pandemic?
- (2) How does the proposed project address the impact or harm?

E. Is the project reasonably designed to benefit the individual or class that experienced a public health impact or harm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
F. Is the project related and reasonably proportional to the extent and type of public health impact or harm experienced?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
G. Does proposed project involve a capital expenditure between \$1 million and \$10 million?	<input type="checkbox"/> Yes – Proceed to H.	<input type="checkbox"/> No – Go to Box I.
H. Is proposed project on enumerated list in Box C? <i>*Written justification must include the following elements:</i> <ul style="list-style-type: none"> Describe the harm or need to be addressed; Explain why a capital expenditure is appropriate; and Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior. 	<input type="checkbox"/> Yes – Record written justification* for file, but not required in Project & Expenditure Reports	<input type="checkbox"/> No – Record written justification* for file and include in Project & Expenditure Reports
I. Does the proposed project involve a capital expenditure of \$10 million or more?	<input type="checkbox"/> Yes – Record written justification* for file and include in Project & Expenditure Reports	<input type="checkbox"/> No – No further action needed

3. Premium Pay

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(c). (More details on this expenditure category are available [here](#).)

4. [Water, Sewer, Stormwater Infrastructure](#)

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(1).

Choose eligible EPA Program from drop-down box below:

Choose an item.

5. [Broadband Infrastructure](#)

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(2).

6. [Revenue Loss](#)

This portion of ARPA/CSLFRF funds may be used for the provision of government services. Please provide description of project and attach any necessary documentation. Note that water, sewer, stormwater, and broadband projects may be funded in this category, without having to meet all of the criteria specified in the other categories.

Program/Project #: 5

Program/Project Short Name: ARPA Grant Administration Direct Costs

Program Administration Information

Proposed Project Budget, delineated by Cost Item for Allowable Cost Review

U.G. Provisions	Cost Items	Estimated Amount	Necessary/ Reasonable	% Allocable	Required Documentation (as applicable to each project)
200.430	Compensation	\$105,000	Yes	100%	Effort Certification forms for reporting, payroll records, pay schedule, timesheets (non-exempt)
200.431	Fringe Benefits	40,000	Yes	100%	Written benefits policy
200.475	Travel		Choose an item.		
200.439	Equipment & Other Capital		Choose an item.		Additional justification for capital projects over \$1M, COI documentation, procurement documentation, property management
200.453	Materials & Supplies	5,000	Yes	100%	Procurement documentation
200.318 & 200.92	Contractual Services & Subawards		Choose an item.		Sub/Contractor Classification Checklist, Agreements, COI, risk assessment, monitoring plan, procurement documentation
200.459	Consultants / Professional Services		Choose an item.		Agreements, COI documentation, procurement documentation
200.465	Occupancy (Rent & Utilities)		Choose an item.		Agreements, COI documentation, procurement documentation, program income
200.471	Telecommunications		Choose an item.		
200.473	Training & Education		Choose an item.		
200.413 (c)	Direct Administrative Costs		Choose an item.		
	Add'l Cost Item		Choose an item.		
	Total Direct Costs		Choose an item.		
Total Project Budget		\$150,000			

Administrative Classification

Administration Type	<input checked="" type="checkbox"/> In-House	<input type="checkbox"/> Contractor/Vendor	<input type="checkbox"/> Sub-Recipient/Subaward
If Contractor/Vendor or Sub-recipient, has this been verified using the Classification Checklist?		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Program Sub-Recipient and/or Contractor List:

Name	Tax ID #	Completion of Classification Checklist?	Contractor or Sub-Recipient	DUNS #/UEI	Date checked SAM.gov
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		

Key Project Dates

Due Date	Task Type	Task Description	Status
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.

Program/Project #: 5

Program/Project Short Name: ARPA Grant Administration Direct Costs

Certification

I certify that I have reviewed the ARPA Policy (link), [Final Rule](#), [Final Rule Overview](#) and [ARPA Compliance and Reporting Guidance and Requirements](#) and understand the responsibilities as project manager in providing detailed documentation, maintaining proper monitoring and compliance and submitting complete quarterly reporting packages in a timely manner to ensure deadlines are met. **CERTIFY** ☒

Reports on all projects (including subawards) are due to US Treasury within 30 calendar days after the end of each calendar quarter. Departments will be required to submit detailed reporting requirements to Finance for review to meet quarterly deadline. ARPA funds may be used to cover eligible costs incurred during the period of March 3, 2021 - December 31, 2024. Obligations incurred by December 31, 2024 must be expended by December 31, 2026.

ALL projects will have to be defended to the US Treasury in reporting.

ARPA Committee to Complete

PROHIBITIONS VERIFICATION:

By checking these boxes, the ARPA Committee attests that the statements are true.

- ☒ Project does not contravene the statutory purpose of ARPA, including program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19
- ☒ No Conflict of Interest

- ☒ Complies with all state and federal laws and local ordinance
- ☒ No pension fund deposit
- ☒ No borrowings or debt service
- ☒ No financial reserves

Uniform Guidance Compliance Requirements:

By checking these boxes, the ARPA Committee attests that the statements are true.

- ☒ Financial Management Compliance (adopted grant project ordinance; accounting system that tracks obligations and expenditures by project and provides comparison to budgeted amounts; appropriate journal entries completed and documented)
- ☒ Internal Controls (adopt and routinely monitor internal controls related to all financial processes for receiving, managing, obligating, and expending the federal award funds)
- ☒ Civil Rights Compliance (policy adopted and implemented)
- ☒ Eligible Project Documentation (policy adopted and this worksheet completed and approved according to the policy)
- ☒ Allowable Cost / Cost Principles Compliance (policy adopted and this worksheet completed and approved according to the policy)
- ☒ UG Procurement Compliance (only if applicable; policy adopted and implemented)
- ☐ UG Property Management Compliance (only if applicable; policy adopted and implemented)
- ☐ Program Income Compliance (only if applicable; policy adopted and implemented)
- ☐ Subaward Compliance (only if applicable; policy adopted and implemented)

Legal to Complete

STATE LAW AUTHORITY:

160A-17.1 Expenditure of federal grant monies.
153A-92 Employee compensation and benefits

ARPA ELIGIBILITY (Final Rule):

31 CFR 35 at 364-365 Funds may be used for direct and indirect costs of administration and compliance with ARPA programs.

Program/Project #: 5

Program/Project Short Name: ARPA Grant Administration Direct Costs

Signature Approvals

Aaron C. Smith

Requester/Department Head

5/27/2022

Date

Haynes M. Brigman

Designated ARPA Funding Manager

5/31/2022

Date

Robert V. Shaver, Jr.

Legal

5/31/2022

Date

Aaron C. Smith

Director of Finance

5/31/2022

Date

Steven T. Stone

County Manager

5/31/2022

Date

Provide signed copy of ARPA Project Eligibility Determination and Documentation Template to ARPA Committee at ARPA.Committee@brunswickcountync.gov for review and approval.

Once approved, all projects require an agenda item for BOCC approval. ARPA Committee MUST approve project template prior to agenda item being completed.

Request Info	
Type	Budget Amendment
Description	ARPA Grant Mgmt Admin Costs
Justification	Board Meeting 06/06/2022 - Appropriate \$150,000 of budgeted American Rescue Plan Act (ARPA) funds for eligible grant management and operational costs associated with the significant administration of the ARPA funds.
Originator	CHRISTINA KENNEDY

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
230010	412990	American Rescue Plan	Salary and Wages - Reimburse	105000	Increase	Debit
230010	418900	American Rescue Plan	Fringe Benefits Reimbursements	40000	Increase	Debit
230010	449000	American Rescue Plan	Direct Cost Admin Reimburse	5000	Increase	Debit
230010	464052	American Rescue Plan	American Rescue Plan	-150000	Decrease	Credit

Total	
Grand Total:	0



ARPA Grant Project Ordinance (Grant Management Direct Administrative Costs)

BE IT ORDAINED by the Board of Commissioners of Brunswick County, North Carolina that, pursuant to N.C.G.S. § 159-13.2, the following grant project ordinance is hereby adopted:

Section 1: This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). Brunswick County has received the first tranche in the amount of \$13,870,555.50 of CSLFRF funds. The total allocation is \$27,741,111.00, with the remainder to be distributed to Brunswick County within twelve (12) months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Section 2: Brunswick County has elected to utilize a portion of its ARP/CSLFRF funds for grant management direct administrative costs, as more fully set forth below.

Section 3: The following amounts are appropriated for the project and authorized for expenditure:

American Rescue Plan

Revenues:

American Rescue Plan Revenue		27,741,111
Total Grant Fund Revenues	\$	27,741,111

Expenditures:

American Rescue Plan Expenditure	\$	15,079,068
Salary and Wages - Reimburse		2,014,016
Fringe Benefits Reimbursement		500,527
Direct Cost Administrative Reimbursement		5,000
Transfer to General Fund		
Revenue Replacement General Government Services		
Law Enforcement Salary and Benefits 7/1/21-3/31/22		10,000,000
Transfer to Sewer Fund		142,500
Total Grant Fund Expenditures	\$	27,741,111

Section 4: The following revenues are anticipated to be available to complete the project:
ARP/CSLFRF Funds: \$150,000

Section 5: The Director of Fiscal Operations is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 C.F.R. 200.430 and 2 C.F.R. 200.431 and Brunswick County's Allowable Costs and Costs Principles Policy.

Section 6: The Director of Fiscal Operations is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

Section 7: Copies of this grant project ordinance shall be furnished to the Clerk to the Board of Commissioners and entered into the minutes of the meeting at which it was adopted.

Section 8: This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by Brunswick County, whichever occurs sooner.

Adopted this the 6th day of June, 2022.

Randy Thompson, Chairman
Brunswick County Board of Commissioners

ATTEST:

Daralyn Spivey, NCCCC
Clerk to the Board



Brunswick County Board of Commissioners

ACTION AGENDA ITEM

June 6, 2022

Action Item # VIII. - 2.

From: Administration - ARPA Funding Allocation Request for General Haynes Brigman (ARPA Funding Manager) Government Services Standard Allowance

Issue/Action Requested:

Request that the Board of Commissioners consider appropriating \$10 million of American Rescue Plan Act funds towards general government services responding to public safety concerns.

Background/Purpose of Request:

Revenue loss funds can be used for any general service traditionally provided by a government. Treasury has clarified that under the final rule, payroll for employees used to provide any traditional government services are eligible uses of funds. Staff is requesting approval to use the provision of public safety to streamline reporting and compliance requirements. In the proposal, \$10 million of County funded personnel expenditures in the Sheriff's Office will be claimed as the "standard allowance" for payroll posted 7/14/2021 - 3/31/2022.

The "standard allowance" will allow the County to redirect General Fund dollars previously spent on the above referenced services to new project priorities. If ARPA funding is approved for these expenditures, a Grant Ordinance will be created transferring the appropriation from General Fund revenue to ARPA funds. Once reporting is complete and the audit results are finalized, a \$10 million commitment of funds will be presented to the commissioners for formal approval. Individual "Revenue Replacement" projects identified on the May 16th preliminary list will then be brought to the commissioners for consideration.

Fiscal Impact:

Budget Amendment Required, Capital Project/Grant Ordinance Required, Reviewed By Director of Fiscal Operations

Budget amendments and the associated grant project ordinance appropriates \$10 million in ARPA funds.

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners consider appropriating \$10 million of American Rescue Plan Act funds towards general government services responding to public safety concerns.

ATTACHMENTS:

Description

- ☐ Eligibility Determination
- ☐ Grant Project Ordinance - Standard Allowance
- ☐ Budget Amendment Revenue Replacement
- ☐ Budget Amendment General Government Services

Program/Project #: 4

Program/Project Short Name: Revenue Replacement Standard Allowance-General Government Services

American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recover Fund Project Request and Eligibility Determination

This document is to be completed by the person or persons requesting American Rescue Plan Act of 2021 Coronavirus State and Local Government Fiscal Recovery Fund monies. The request will proceed through the [LOCAL GOVERNMENT NAME HERE]'s review process. The requestor will receive notice if the project is approved, with instructions on how to proceed.

BASIC INFORMATION AND DESCRIPTION

Program/Project Name:	Revenue Loss-Government Services
Program/Project Description:	To use \$10,000,000 standard allowance of SLFRF funds on governments services responding to public safety concerns
Responsible Department:	Finance
Program/Project Manager Name:	Aaron Smith
Total Amount Requested:	\$10,000,000
Internal Account Code(s): (assigned by Finance)	From: 104310-412990, 418900 To: 230010-412990, 418900
Treasury Expenditure Category Level:	6 Revenue Replacement
Treasury Expenditure Category:	6.1 Provision of Government Services
Location:	
Will project contain Program Income? (i.e., increased rates, expansion projects, sale of equipment, etc.)	No
Will there be additional county funding and post commitment? If yes, explain.	No

ELIGIBILITY REVIEW

Please select appropriate ARP/CSLFRF Category below and complete the required information. Note that each requested project may only be associated with one of the following categories: 1. Public Health; 2. Negative Economic Impact; 3. Premium Pay; 4. Water, Sewer, Stormwater Infrastructure; 5. Broadband; or 6. Revenue Replacement (Government Services). Please complete all information in the applicable category and attach any required additional justifications and documentation.

1. <u>Public Health</u>		
A. Enumerated Uses/ Safe Harbors (Must select one) <input type="checkbox"/> COVID-19 mitigation & prevention* <input type="checkbox"/> Behavioral health care* <input type="checkbox"/> Medical expenses* <input type="checkbox"/> Preventing & responding to violence* <input type="checkbox"/> Not on Enumerated List (Must complete Box B.)		
<i>*See detailed list of enumerated projects in each of these categories on pages 14-16 of the Overview of the Final Rule.</i>		
B. Written Justification (Please provide detailed responses to both these questions if checked "Not on Enumerated List" in Box A) (1) What is the specific negative public health impact or harm experienced by an individual or a class? (2) How does proposed project address the negative public health impact or harm?		
C. Is the project reasonably designed to benefit the individual or class that experienced a public health impact or harm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Program/Project Short Name: Revenue Replacement Standard Allowance-General Government Services

D. Is the project related and reasonably proportional to the extent and type of public health impact or harm experienced?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
E. Does proposed project involve a capital expenditure between \$1 million and \$10 million?	<input type="checkbox"/> Yes – Proceed to Box F.	<input type="checkbox"/> No – Proceed to Box G.
F. Is proposed project on enumerated list in Box A? <i>*Written justification must include the following elements:</i> <ul style="list-style-type: none"> Describe the harm or need to be addressed; Explain why a capital expenditure is appropriate; and Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior. 	<input type="checkbox"/> Yes – Record written justification* in file, but not required in Project & Expenditure Reports	<input type="checkbox"/> No – Record written justification* in file and include in Project & Expenditure Reports
G. Does the proposed project involve a capital expenditure of \$10 million or more?	<input type="checkbox"/> Yes – Record written justification* for file and include in Project & Expenditure Reports	<input type="checkbox"/> No – No further action required.

2. Negative Economic Impact

A. Enumerated Beneficiaries (Must select one)

**See detailed list of enumerated beneficiaries and income on pages 17 & 19 of the [Overview of the Final Rule](#).*

Beneficiaries Who Experience Negative Economic Impact from the Pandemic

- ☐ Low-moderate income households or communities
- ☐ Household that experienced unemployment
- ☐ Households that experienced increased food or housing insecurity
- ☐ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund Program, or Medicaid
- ☐ When providing affordable housing programs: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ☐ When providing services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period
- ☐ Small business that experienced decreased revenue or gross receipts, increased costs, financial insecurity, or other financial challenges due to the pandemic
- ☐ Nonprofit the experienced decreased revenue, increased costs, financial insecurity, or other financial challenges due to the pandemic
- ☐ Travel, tourism, hospitality industries
- ☐ Other industry that experienced at least 8% employment loss from pre-pandemic levels or is experiencing comparable or worse economic impacts as national tourism, travel, and hospitality sector
- ☐ Local government

Beneficiaries Who Experienced Disproportionately Negative Economic Impact from the Pandemic

- ☐ Low-income households and communities
- ☐ Households residing in a Qualified Census Tract (QCT)
- ☐ Households that qualify for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.
- ☐ Small businesses operating in a Qualified Census Tract (QCT)
- ☐ Nonprofits operating in a Qualified Census Tract (QCT)

☐ Not on enumerated list (Must complete Box B.)

B. Written Justification (Provide detailed response to this question if proposed beneficiary not on enumerated list in Box A)

Define the group/class/geographical area that experienced a negative economic impact from the COVID-19 pandemic. Be specific in defining group/class/area and in defining the negative economic impact to the group/class/area. **Provide QCT map.**

C. Enumerated / Safe Harbor Projects (Must Select One)**Projects for Negatively Economically Impacted**Households & Communities

- ☐ Food assistance & food banks
- ☐ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ☐ Health insurance coverage expansion
- ☐ Benefits for surviving family members of individuals who have died from COVID-19
- ☐ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly- employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ☐ Financial services for the unbanked and underbanked
- ☐ Burials, home repair & home weatherization
- ☐ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ☐ Cash assistance
- ☐ Paid sick, medical, and family leave programs
- ☐ Assistance in accessing and applying for public benefits or services
- ☐ Childcare and early learning services, home visiting programs, services for child welfare- involved families and foster youth & childcare facilities
- ☐ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ☐ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing

Small Businesses

- ☐ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ☐ Technical assistance, counseling, or other services to support business planning

Nonprofits

- ☐ Loans or grants to mitigate financial hardship
- ☐ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Projects for Disproportionately Negatively Economically ImpactedHouseholds & Communities

- ☐ Pay for community health workers to help households access health & social services
- ☐ Remediation of lead paint or other lead hazards
- ☐ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ☐ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ☐ Investments in neighborhoods to promote improved health outcomes
- ☐ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing
- ☐ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ☐ Schools and other educational equipment & facilities

Small Businesses

- ☐ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ☐ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ☐ Support for microbusinesses, including financial, childcare, and transportation costs

Continued next page

Continued from prior page

Travel, Tourism, Hospitality Industry

- ☐ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ☐ Technical assistance, counseling, or other services to support business planning
- ☐ COVID-19 mitigation and infection prevention measures (see section Public Health)

Local Government

- ☐ Public safety, public health, and human services salaries/benefits, to extent responding to the COVID-19 public health emergency
- ☐ Restoring pre-pandemic employment levels
- ☐ Effective service delivery

☐ Not on enumerated list (Must proceed to Box D.)**D. Written Justification (Provide detailed response to this question if proposed project not on enumerated list in Box C.)**

- (1) What is the specific negative economic impact or harm caused or exacerbated by the pandemic?
- (2) How does the proposed project address the impact or harm?

E. Is the project reasonably designed to benefit the individual or class that experienced a public health impact or harm?☐ Yes☐ No**F. Is the project related and reasonably proportional to the extent and type of public health impact or harm experienced?**☐ Yes☐ No**G. Does proposed project involve a capital expenditure between \$1 million and \$10 million?**☐ Yes – Proceed to H.☐ No – Go to Box I.**H. Is proposed project on enumerated list in Box C?****Written justification must include the following elements:*

- Describe the harm or need to be addressed;
- Explain why a capital expenditure is appropriate; and
- Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.

☐ Yes – Record written justification* for file, but not required in Project & Expenditure Reports☐ No – Record written justification* for file and include in Project & Expenditure Reports**I. Does the proposed project involve a capital expenditure of \$10 million or more?**☐ Yes – Record written justification* for file and include in Project & Expenditure Reports☐ No – No further action needed**3. Premium Pay**

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(c). (More details on this expenditure category are available [here](#).)

4. Water, Sewer, Stormwater Infrastructure

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(1).

Choose eligible EPA Program from drop-down box below:

Choose an item.

5. Broadband Infrastructure

Please provide description of project and attach any necessary documentation. Must conform with requirements in 31 CFR 35.6(e)(2).

6. Revenue Loss

This portion of ARP/CSLFRF funds may be used for the provision of government services. Please provide description of project and attach any necessary documentation. Note that water, sewer, stormwater, and broadband projects may be funded in this category, without having to meet all of the criteria specified in the other categories.

Revenue loss funds can be used for any general service traditionally provided by a government. Treasury has clarified that under the final rule, payroll for employees used to provide any traditional government services are eligible uses of funds. Brunswick County is choosing to use the provision of public safety to streamline reporting and compliance requirements. \$10,000,000 of County Funded personnel expenditures in the Sheriff's Office will be claimed as the standard allowance for payroll posted 7/14/2021 - 3/31/2022.

Program/Project #: 4

Program/Project Short Name: Revenue Replacement Standard Allowance-General Government Services

Program Administration Information

Proposed Project Budget, delineated by Cost Item for Allowable Cost Review

U.G. Provisions	Cost Items	Estimated Amount	Necessary/ Reasonable	% Allocable	Required Documentation (as applicable to each project)
200.430	Compensation	\$7,300,000	Yes	100%	Effort Certification forms for reporting, payroll records, pay schedule, timesheets (non-exempt)
200.431	Fringe Benefits	\$2,700,000	Yes	100%	Written benefits policy
200.475	Travel		Choose an item.		
200.439	Equipment & Other Capital		Choose an item.		Additional justification for capital projects over \$1M, COI documentation, procurement documentation, property management
200.453	Materials & Supplies		Choose an item.		Procurement documentation
200.318 & 200.92	Contractual Services & Subawards		Choose an item.		Sub/Contractor Classification Checklist, Agreements, COI, risk assessment, monitoring plan, procurement documentation
200.459	Consultants / Professional Services		Choose an item.		Agreements, COI documentation, procurement documentation
200.465	Occupancy (Rent & Utilities)		Choose an item.		Agreements, COI documentation, procurement documentation, program income
200.471	Telecommunications		Choose an item.		
200.473	Training & Education		Choose an item.		
200.413 (c)	Direct Administrative Costs		Choose an item.		
	Add'l Cost Item		Choose an item.		
	Total Direct Costs		Choose an item.		
Total Project Budget		\$10,000,000			

Administrative Classification

Administration Type	<input type="checkbox"/> In-House	<input type="checkbox"/> Contractor/Vendor	<input type="checkbox"/> Sub-Recipient/Subaward
If Contractor/Vendor or Sub-recipient, has this been verified using the Classification Checklist?		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Program Sub-Recipient and/or Contractor List:

Name	Tax ID #	Completion of Classification Checklist?	Contractor or Sub-Recipient	DUNS #/UEI	Date checked SAM.gov
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		
		Choose an item.	Choose an item.		

Key Project Dates

Due Date	Task Type	Task Description	Status
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.

Program/Project #: 4

Program/Project Short Name: Revenue Replacement Standard Allowance-General Government Services

Certification

I certify that I have reviewed the ARP Policy (link), [Final Rule](#), [Final Rule Overview](#) and [ARP Compliance and Reporting Guidance and Requirements](#) and understand the responsibilities as project manager in providing detailed documentation, maintaining proper monitoring and compliance and submitting complete quarterly reporting packages in a timely manner to ensure deadlines are met. **CERTIFY** ☒

Reports on all projects (including subawards) are due to US Treasury within 30 calendar days after the end of each calendar quarter. Departments will be required to submit detailed reporting requirements to Finance for review to meet quarterly deadline. ARP funds may be used to cover eligible costs incurred during the period of March 3, 2021 - December 31, 2024. Obligations incurred by December 31, 2024 must be expended by December 31, 2026.

ALL projects will have to be defended to the US Treasury in reporting.

ARPA Committee to Complete

PROHIBITIONS VERIFICATION:

By checking these boxes, the ARPA Committee attests that the statements are true.

- ☒ Project does not contravene the statutory purpose of ARP, including program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19
- ☒ No Conflict of Interest

- ☒ Complies with all state and federal laws and local ordinance
- ☒ No pension fund deposit
- ☒ No borrowings or debt service
- ☒ No financial reserves

Uniform Guidance Compliance Requirements:

By checking these boxes, the ARPA Committee attests that the statements are true.

- ☒ Financial Management Compliance (adopted grant project ordinance; accounting system that tracks obligations and expenditures by project and provides comparison to budgeted amounts; appropriate journal entries completed and documented)
- ☒ Internal Controls (adopt and routinely monitor internal controls related to all financial processes for receiving, managing, obligating, and expending the federal award funds)
- ☒ Civil Rights Compliance (policy adopted and implemented)
- ☒ Eligible Project Documentation (policy adopted and this worksheet completed and approved according to the policy)
- ☒ Allowable Cost / Cost Principles Compliance (policy adopted and this worksheet completed and approved according to the policy)
- ☐ UG Procurement Compliance (only if applicable; policy adopted and implemented)
- ☐ UG Property Management Compliance (only if applicable; policy adopted and implemented)
- ☐ Program Income Compliance (only if applicable; policy adopted and implemented)
- ☐ Subaward Compliance (only if applicable; policy adopted and implemented)

Legal to Complete

STATE LAW AUTHORITY:

1. Authority to accept ARPA funds. 160A-17.1
2. Authority to provide compensation and benefits to employees. 153A-92
3. Public safety authority. 153A-121

ARP ELIGIBILITY (Final Rule):

1. Standard Allowance of up to \$10M for revenue replacement. Final Rule 31 CFR 35.6(d)(1)
2. Use for general government services. Final Rule 31 CFR 35.6(d)
3. Provision of police, fire, and other public safety services. (Example of government services from Overview of Final Rule)

Program/Project #: 4

Program/Project Short Name: Revenue Replacement Standard Allowance-General Government Services

Signature Approvals

Aaron C. Smith

Requester/Department Head

5/26/2022

Date

Haynes M. Brigman

Designated ARP Funding Manager

5/27/2022

Date

Robert V. Shaver, Jr.

Legal

5/27/2022

Date

Aaron C. Smith

Director of Finance

5/27/2022

Date

Steven T. Stone

County Manager

5/27/2022

Date

Provide signed copy of ARPA Project Eligibility Determination and Documentation Template to ARPA Committee at ARPA.Committee@brunswickcountync.gov for review and approval.

Once approved, all projects require an agenda item for BOCC approval. ARP Committee MUST approve project template prior to agenda item being completed.



ARPA Grant Project Ordinance (Standard Allowance – General Government Services)

BE IT ORDAINED by the Board of Commissioners of Brunswick County, North Carolina that, pursuant to N.C.G.S. § 159-13.2, the following grant project ordinance is hereby adopted:

Section 1: This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). Brunswick County has received the first tranche in the amount of \$13,870,555.50 of CSLFRF funds. The total allocation is \$27,741,111.00, with the remainder to be distributed to Brunswick County within twelve (12) months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Section 2: Brunswick County has elected to take the standard allowance, as authorized by 31 C.F.R. Part 35.6(d)(1) and expend its standard allowance of ARP/CSLFRF funds for the provision of general government services.

Section 3: The following amounts are appropriated for the project and authorized for expenditure:

American Rescue Plan

Revenues:

American Rescue Plan Revenue		27,741,111
Total Grant Fund Revenues	\$	27,741,111

Expenditures:

American Rescue Plan Expenditure	\$	15,079,068
Salary and Wages - Reimburse		2,014,016
Fringe Benefits Reimbursement		500,527
Direct Cost Administrative Reimbursement		5,000
Transfer to General Fund		
Revenue Replacement General Government Services		
Law Enforcement Salary and Benefits 7/1/21-3/31/22		10,000,000
Transfer to Sewer Fund		142,500
Total Grant Fund Expenditures	\$	27,741,111

Section 4: The Director of Fiscal Operations is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 C.F.R. 200.430 and 2 C.F.R. 200.431 and Brunswick County's Allowable Costs and Costs Principles Policy.

Section 5: The Director of Fiscal Operations is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

Section 6: Copies of this grant project ordinance shall be furnished to the Clerk to the Board of Commissioners and entered into the minutes of the meeting at which it was adopted.

Section 7: This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by Brunswick County, whichever occurs sooner.

Adopted this the 6th day of June, 2022.

Randy Thompson, Chairman
Brunswick County Board of Commissioners

ATTEST:

Daralyn Spivey, NCCCC
Clerk to the Board

Request Info	
Type	Budget Amendment
Description	ARPA Revenue Replacement
Justification	Board Meeting 06/06/2022 - Transfer \$10,000,0000 of American Rescue Plan Act (ARPA) funding elected as the standard allowance for general government services.
Originator	CHRISTINA KENNEDY

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
230010	498010	American Rescue Plan	Trans To General Fund	10000000	Increase	Debit
230010	464052	American Rescue Plan	American Rescue Plan	-10000000	Decrease	Credit

Total	
Grand Total:	0

Request Info	
Type	Budget Amendment
Description	ARPA General Gov Services
Justification	Board Meeting 06/06/2022 - Transfer \$10,000,000 of the American Rescue Plan Act (ARPA) funding to cover general government services as elected in the standard allowance to cover costs associated with responding to public safety concerns.
Originator	CHRISTINA KENNEDY

Items						
Department	Object	Dept Desc	Object Desc	Amount	Incr/Decr	Dr/Cr
109800	398223	Interfund Trans General Fund	Trans Frm Special Revenue Fund	10000000	Increase	Credit
100000	399100	General Revenues	Fund Balance Appropriated	-10000000	Decrease	Debit

Total	
Grand Total:	0



Brunswick County Board of Commissioners

ACTION AGENDA ITEM

June 6, 2022

Action Item # VIII. - 3.

From:
Steve Stone

Administration – Bond Order for Series 2022A Two-Thirds Bonds and Schedule Public Hearing - (Steve Stone, County Manager)

Issue/Action Requested:

Request that the Board of Commissioners Resolve to Make Certain Statements of Fact concerning the proposed issuance of Series 2022A Two-Thirds Bonds; Introduce the Bond Order authorizing the issuance of not to exceed \$5,740,000 General Obligation Public Improvement Bonds, Setting a Public Hearing on the Bond Order June 20, 2022, and Directing Publication of a Notice of Public Hearing.

Background/Purpose of Request:

Tabled item 2022-05-16 VII 1

While most general obligation bonds are subject to voter approval, the general assembly has authorized certain exceptions to the voter approval requirement in G.S. 159-49, the most significant of which is the two-thirds bond exception. It allows the County to issue non-voted General Obligation debt in an amount of up to two-thirds of the amount by which its outstanding General Obligation indebtedness was reduced in the preceding fiscal year.

The County has been working with the Local Government Commission, Bond Counsel, and Financial Advisors on the Series 2022A Two-Thirds Bonds for a Public Improvement project with a closing date of July 27th, 2022. These bonds will be issued at the same time as the final tranche of the County's voter-approved 2016 school bonds.

The County has begun a project using County Funds approved October 17, 2019, and plans to finance \$5,740,000 to pay the capital costs of the construction of a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management, and other public safety functions. The current estimated all-in true interest cost is 4.2%.

Bond Counsel prepared the attached resolution and bond order as well as the Statement of Estimated Interest Amount that has been filed with the Clerk.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners Resolve to Make Certain Statements of Fact concerning the proposed issuance of Series 2022A Two-Thirds Bonds; Introduce the Bond Order authorizing the issuance of not to exceed \$5,740,000 General Obligation Public Improvement Bonds, Setting a Public Hearing on the

Bond Order June 20, 2022, and Directing Publication of a Notice of Public Hearing.

ATTACHMENTS:

Description

- ▣ Bond Documentation
- ▣ Statement of Debt
- ▣ Statement of Estimated Interest
- ▣ Preliminary Amortization Schedule
- ▣ Additional Information Email - Manager
- ▣ Net Present Value Calculation
- ▣ Additional Information Email - Finance Officer

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Brunswick, North Carolina held in the Commissioners' Chambers, Brunswick County Government Complex, 30 Government Center Drive NE, Bolivia, North Carolina, at 3:00 p.m. on June 6, 2022.

Commissioners Present:

Commissioners Absent:

* * * * *

Commissioner _____ introduced the following resolution, a summary of which had been provided to each Commissioner, a copy of which was available with the Clerk to the Board of Commissioners and which was read by title:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BRUNSWICK, NORTH CAROLINA MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUE

WHEREAS, the Board of Commissioners of the County of Brunswick, North Carolina (the “*Board of Commissioners*”) is considering the issuance of bonds of the County of Brunswick, North Carolina (the “*County*”) which shall be for the maximum principal amount of \$5,740,000 of bonds to pay the capital costs of construction of a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions.

WHEREAS, the Board of Commissioners must make certain findings of fact to enable the Local Government Commission of the State of North Carolina (the “*Commission*”) to make certain determinations as set forth in Section 159-52 of the General Statutes of North Carolina.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners, meeting in open session on the 6th day of June, 2022, has made the following factual findings in regard to this matter:

A. ***Facts Regarding Necessity of Proposed Financing.*** The proposed bonds are necessary and expedient to pay the capital costs of providing a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions.

B. ***Facts Supporting the Amount of Bonds Proposed.*** The sums estimated for these bonds are adequate and not excessive for the proposed purpose.

C. ***Past Debt Management Policies.*** The County’s debt management procedures and policies are good and have been carried out in compliance with law. The County employs a full-time Director of Fiscal Operations to oversee compliance with applicable laws relating to debt management. The Board of Commissioners requires annual audits of County finances. In connection with these audits, compliance with laws is reviewed. The County is not in default in any of its debt service obligations. The County Attorney’s office reviews all debt-related documents for compliance with laws.

D. ***Past Budgetary and Fiscal Management Policies.*** The County's budgetary and fiscal management policies have been carried out in compliance with laws. The Board of Commissioners closely reviews annual budgets before final approval of budget ordinances. Budget amendments changing a function total or between functions are presented to the Board of Commissioners at regular Board of Commissioners meetings. The Director of Fiscal Operations presents financial information to the Board of Commissioners which shows budget to actual comparisons annually and otherwise as the County Manager deems necessary or as a member of the Board of Commissioners may request.

E. ***Retirement of Debt.*** The increase in taxes, if any, necessary to service the proposed debt will not be excessive.

F. ***Marketing of Bonds.*** The proposed bonds can be marketed at reasonable rates of interest.

G. ***Financing Team.*** The County Manager and the Director of Fiscal Operations, with advice from the County Attorney, are hereby authorized and directed to (1) retain Parker Poe Adams & Bernstein LLP, as bond counsel, and (2) retain Davenport & Company LLC, as financial advisor. The County Manager and the Director of Fiscal Operations are authorized to retain and approve the services of other professionals that they deem necessary related to the issuance of the proposed bonds. The filing of an application by the Director of Fiscal Operations with the Commission for its approval of the proposed bonds is hereby ratified and confirmed.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Commissioners that the public hearing on the bond order for the proposed bonds shall be held on 20th day of June, 2022 at 6:00 p.m., or a soon thereafter as practicable, in the Commissioners' Chambers of the Brunswick County Government Complex, 30 Government Center Drive NE, Bolivia, North Carolina. The Clerk to the Board of Commissioners is hereby directed to cause a copy of said bond order to be published with a notice of such hearing in the form prescribed by law in a newspaper of general circulation on or before six days before the public hearing. The Director of Fiscal Operations is hereby directed to file prior to publication of the bond order with the notice of such public hearing a sworn statement of debt as prescribed by law.

PASSED, ADOPTED AND APPROVED this 6th day of June, 2022.

STATE OF NORTH CAROLINA)
) ss:
COUNTY OF BRUNSWICK)

I, Daralyn Spivey, Clerk to the Board of Commissioners of the County of Brunswick, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of so much of the proceedings of the Board of Commissioners as it relates to a resolution entitled “**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF BRUNSWICK, NORTH CAROLINA MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUE**” duly adopted by the Board of Commissioners of the County of Brunswick, North Carolina, at a meeting held on the 6th day of June, 2022 and that such proceedings are to be recorded in the minute books of said Board of Commissioners.

WITNESS my hand and the seal of the County of Brunswick, North Carolina, this the ____ day of June, 2022.

Clerk to the Board of Commissioners
County of Brunswick, North Carolina

(SEAL)

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

* * *

A regular meeting of the Board of Commissioners of the County of Brunswick, North Carolina (the “*Board of Commissioners*”) was duly held in the Commissioners’ Chambers of the Brunswick County Government Complex, 30 Government Center Drive NE, Bolivia, North Carolina, the regular place of meeting, at 3:00 p.m. on June 6, 2022:

Commissioners Present:

Commissioners Absent:

* * * * *
* * *

Commissioner _____ introduced the following bond order by reading the title thereof:

**BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,740,000
GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS
OF THE COUNTY OF BRUNSWICK, NORTH CAROLINA**

WHEREAS, the Board of Commissioners of the County of Brunswick, North Carolina (the “*County*”) deems it advisable to provide for construction of a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the bonds hereinafter described as required by the Local Government Bond Act, and the Secretary of the Local Government Commission has notified the Board of Commissioners that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of the County of Brunswick, North Carolina, as follows:

Section 1. The Board of Commissioners of the County has ascertained and hereby determines that it is necessary to provide for a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions.

Section 2. To raise the money required for the purposes described above, in addition to funds which may be available for such purpose from any other source, bonds of the County are hereby authorized and shall be issued pursuant to the Local Government Bond Act of North Carolina. The maximum aggregate principal amount of such bonds authorized by this bond order shall be and not exceed \$5,740,000.

Section 3. Taxes will be levied in an amount sufficient to pay the principal and interest of the bonds authorized by this bond order.

Section 4. A sworn statement of the County's debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.

Section 5. No debt shall be contracted during any fiscal year by the issuance of bonds pursuant to this bond order if the amount of such debt and if all other debt contracted during such fiscal year shall exceed two-thirds (2/3rds) of the amount by which the outstanding indebtedness of the County shall have been reduced during the next preceding fiscal year, unless the incurring of such debt shall be submitted to a vote of the people of the County and shall be approved by a majority of those who vote thereon.

Section 6. This bond order will take effect thirty (30) days after its publication following adoption, unless it is petitioned to a vote of the people within thirty (30) days after its publication as introduced, as provided in N.C.G.S. Section 159-60, and in that event the order will take effect when approved by the voters of the County.

STATE OF NORTH CAROLINA)
) ss:
COUNTY OF BRUNSWICK)

I, Daralyn Spivey, Clerk to the Board of Commissioners of the County of Brunswick, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of the bond order entitled **“BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,740,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE COUNTY OF BRUNSWICK, NORTH CAROLINA”** duly introduced by the Board of Commissioners of the County of Brunswick, North Carolina, at a meeting held on the 6th day of June, 2022 and that such proceedings are to be recorded in the minute books of said Board of Commissioners.

WITNESS my hand and the seal of the County of Brunswick, North Carolina, this the ____ day of June, 2022.

Clerk to the Board of Commissioners
County of Brunswick, North Carolina

(SEAL)

NOTICE OF PUBLIC HEARING
BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,740,000
GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS
OF THE COUNTY OF BRUNSWICK, NORTH CAROLINA

WHEREAS, the Board of Commissioners of the County of Brunswick, North Carolina (the “County”) deems it advisable to provide for construction of a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the bonds hereinafter described as required by the Local Government Bond Act, and the Secretary of the Local Government Commission has notified the Board of Commissioners that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of the County of Brunswick, North Carolina, as follows:

Section 1. The Board of Commissioners of the County has ascertained and hereby determines that it is necessary to provide for a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions.

Section 2. To raise the money required for the purposes described above, in addition to funds which may be available for such purpose from any other source, bonds of the County are hereby authorized and shall be issued pursuant to the Local Government Bond Act of North Carolina. The maximum aggregate principal amount of such bonds authorized by this bond order shall be and not exceed \$5,740,000.

Section 3. Taxes will be levied in an amount sufficient to pay the principal and interest of the bonds authorized by this bond order.

Section 4. A sworn statement of the County’s debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.

Section 5. No debt shall be contracted during any fiscal year by the issuance of bonds pursuant to this bond order if the amount of such debt and if all other debt contracted during such fiscal year shall exceed two-thirds (2/3rds) of the amount by which the outstanding indebtedness of the County shall have been reduced during the next preceding fiscal year, unless the incurring of such debt shall be submitted to a vote of the people of the County and shall be approved by a majority of those who vote thereon.

Section 6. This bond order will take effect thirty (30) days after its publication following adoption, unless it is petitioned to a vote of the people within thirty (30) days after its publication as introduced, as provided in N.C.G.S. Section 159-60, and in that event the order will take effect when approved by the voters of the County.

The foregoing bond order has been introduced and a sworn statement of debt has been filed under the Local Government Bond Act showing the appraised value of the County of Brunswick, North Carolina to be \$30,959,323,779 and the net debt thereof, including the proposed bonds, to be \$173,861,180. The Director of Fiscal Operations of the County has filed a statement estimating that the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, is \$3,004,688.89. The estimate

is preliminary, is for general informational purposes only, and may differ from the actual interest paid on the bonds. A tax will be levied to pay the principal and interest on the bonds if they are issued. Anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds may appear at a public hearing or an adjournment thereof to be held in the Commissioners' Chambers of the Brunswick County Government Complex, 30 Government Center Drive NE, Bolivia, North Carolina, at 6:00 p.m., or as soon thereafter as practicable, on the 20th day of June, 2022.

/s/ Daralyn Spivey

Clerk to the Board of Commissioners
County of Brunswick, North Carolina

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER**

*State and Local Government Finance Division
and the Local Government Commission
3200 Atlantic Avenue, Longleaf Building, Raleigh, North Carolina 27604*

STATEMENT OF DEBT

For County of Brunswick, North Carolina

To be filed with the application. The debt described below should not include debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding or refunding bonds. The debt described below should not include revenue bonds or special obligation bonds.

A. Gross Debt

1. Outstanding debt evidenced by bonds:

<u>Purpose</u>	<u>Amount</u>	
Water	\$2,180,000	
Sanitary Sewer		
Electric		
Gas		
Other	\$86,565,000	\$ <u>88,745,000</u>

2. The proposed financing, and bonds authorized by orders introduced but not yet adopted:

<u>Date Introduced</u>	<u>Purpose</u>	<u>Amount</u>	
May 2022	Two-Thirds	\$5,740,000	
November 2016	Schools	\$47,995,000	\$ <u>53,735,000</u>

3. Unissued bonds authorized by adopted orders:

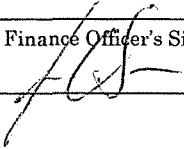
<u>Date Introduced</u>	<u>Purpose</u>	<u>Amount</u>	
			\$ <u>-</u>

4. Outstanding debt not evidenced by bonds (lease-purchase agreements):

<u>Date Incurred</u>	<u>Purpose</u>	<u>Amount</u>	
Vairous	Enterprise	\$2,011,180	
Limited Obligations Bonds		\$31,550 000	\$ <u>33,561,180</u>
Total Gross Debt (Sum of 1, 2, 3 and 4)			\$ <u>176,041,180</u>

B. Deductions

- | | |
|--|-------------------|
| 1. Funding and refunding bonds authorized by orders introduced but not yet adopted. | \$ - |
| 2. Funding and refunding bonds authorized but not issued. | \$ - |
| 3. Amount held in sinking funds or otherwise for the payment of gross debt other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent deductible under Section 159-55[b] of the Local Government Bond Act), or two or more of these purposes. | \$ - |
| 4. Bonded debt included in gross debt and incurred or to be incurred for water, gas or electric light or power purposes, or any two or more of these purposes. | \$ 2,180,000 |
| 5. Bonded debt included in gross debt and incurred or to be incurred for sanitary sewer system purposes (to the extent deductible under Section 159-55[b] of The Local Government Bond Act). | \$ - |
| 6. Uncollected special assessments levied for local improvements for which gross debt (that is not otherwise deducted) was or is to be incurred, to the extent it will be applied, when collected, to the payment of such gross debt. | \$ - |
| 7. Estimate of special assessments to be levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments when collected, will be applied to the payment of any part of gross debt. | \$ - |
| Total Deductions (Sum of 1 through 7) | \$ 2,180,000 |
| C. Net Debt being the difference between Total Gross Debt (A) and Total Deductions (B). | \$ 173,861,180 |
| D. Assessed Value of property subject to taxation being the value from which the assessed value was last fixed for taxation as revealed by the County tax records and certified by the County Tax Supervisor. | \$ 30,959,323,779 |
| E. Percentage that Net Debt bears to the assessed value of property subject to taxation (C ÷ D) | 0.56 % |
| F. Estimated Total Amount of Interest that will be paid on the bonds over the expected term of the bonds. | \$ 26,432,669 |

I certify the above is correct to the best of my knowledge.	Finance Officer's Signature 	Date 5-10-2022
---	--	-------------------

STATE OF NORTH CAROLINA)
)
COUNTY OF Brunswick) ss.:

Aaron C. Smith, being duly sworn, says that he is
the Finance Officer of the County of Brunswick

in the State of North Carolina; and that the foregoing statement is true and was made and
subscribed by him.


Finance Officer

Sworn to and subscribed before me on
the day of the date of said statement

Melissa Modafferi
(Notary Public)

My commission expires the 23 day of Jan, 2025.

STATE OF NORTH CAROLINA)
)
COUNTY OF Brunswick) ss.:

I, the undersigned Clerk of the County
of Brunswick in the State of North Carolina, DO HEREBY CERTIFY that the
foregoing statement and accompanying affidavit were filed in my office on the 10th day of
May, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, this
10th day of May 2022.



Daralyn Spivey
Clerk

**STATEMENT OF ESTIMATED INTEREST AMOUNT ON
GENERAL OBLIGATION BONDS**

The Board of Commissioners (the "*Board of Commissioners*") of the County of Brunswick, North Carolina (the "*County*") will consider the introduction of the following bond order of the County at its June 6, 2022 meeting:

**"BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,740,000
GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE COUNTY OF
BRUNSWICK, NORTH CAROLINA"**

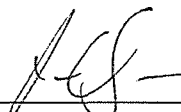
The purpose of the proposed bonds is to provide for construction of a multi-use governmental facility located in the County which is currently expected to house a senior center, emergency management and other public safety functions.

Section 159-55 of the General Statutes of North Carolina requires the finance officer of the County to file with the Clerk to the Board of Commissioners at the time the bond order is introduced a statement estimating the total amount of interest that will be paid on the general obligation bonds over the expected term of the bonds, if issued, and a summary of the assumptions on which the estimate is based.

The total estimated interest on the Public Improvement Bonds is \$3,004,688.89 based on the assumptions that the bonds will be issued in the aggregate principal amount of \$5,740,000 at an average coupon rate of 5.00% and a true interest cost of 3.472816% with level annual principal amortization beginning on August 1, 2023 and final maturity on August 1, 2042. Such assumptions are estimates based on advice from the City's financial advisor about current market conditions as of May 5, 2022.

The total estimated interest amounts are preliminary and are for general informational purposes only. There is no assurance that the assumptions on which the estimates are based will occur, and the actual occurrence of certain of the facts on which the assumptions are based is beyond the County's control. Differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimates could result in significant differences between the estimated interest and the actual interest on the bonds. The validity of the bonds authorized by the bond orders is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in this statement. This statement will be filed with the North Carolina Local Government Commission and maintained by the Clerk to the Board of Commissioners.

May 31, 2022




Director of Fiscal Operations
County of Brunswick, North Carolina

STATE OF NORTH CAROLINA)
)
COUNTY OF BRUNSWICK) SS:

I, Daralyn Spivey, Clerk to the Board of Commissioners of the County of Brunswick, a political subdivision validly organized and existing under the Constitution and laws of the State of North Carolina, hereby certifies that the foregoing statement was filed in my office on the 31 day of May, 2022





Daralyn Spivey
Clerk to the Board of Commissioners
County of Brunswick, North Carolina

TABLE OF CONTENTS

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

Report	Page
General Obligation Bonds, Series 2022	
Sources and Uses of Funds	1
Bond Summary Statistics	2
Bond Pricing	3
Bond Maturity Table	4
Net Debt Service Breakdown	5
Net Debt Service	6
Proof of Arbitrage Yield	7
Form 8038 Statistics	9
General Obligation Bonds, Series 2022A (Two-Thirds)	
Sources and Uses of Funds	10
Bond Summary Statistics	11
Bond Pricing	12
Net Debt Service	13
General Obligation Bonds, Series 2022B	
Sources and Uses of Funds	15
Bond Summary Statistics	16
Bond Pricing	17
Net Debt Service	18
General Obligation Bonds, Series 2022	
Disclaimer	20

SOURCES AND USES OF FUNDS

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

	Dated Date Delivery Date	07/27/2022 07/27/2022	07/28/2022 07/28/2022	
		General Obligation Bonds, Series 2022A (Two-Thirds)	General Obligation Bonds, Series 2022B	Total
Sources:				
Bond Proceeds:				
Par Amount		5,740,000.00	47,860,000.00	53,600,000.00
Premium		580,265.75	3,881,174.60	4,461,440.35
		6,320,265.75	51,741,174.60	58,061,440.35
Uses:				
		General Obligation Bonds, Series 2022A (Two-Thirds)	General Obligation Bonds, Series 2022B	Total
Project Fund Deposits:				
Project Fund		6,264,793.36	51,277,555.39	57,542,348.75
Cost of Issuance:				
Cost of Issuance		26,772.39	223,227.61	250,000.00
Delivery Date Expenses:				
Underwriter's Discount		28,700.00	239,300.00	268,000.00
Other Uses of Funds:				
Additional Proceeds			1,091.60	1,091.60
		6,320,265.75	51,741,174.60	58,061,440.35

BOND SUMMARY STATISTICS

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

	General Obligation Bonds, Series 2022A (Two-Thirds)	General Obligation Bonds, Series 2022B	Aggregate
Earliest Dated Date	07/27/2022	07/28/2022	07/27/2022
Earliest Delivery Date	07/27/2022	07/28/2022	07/27/2022
Last Maturity	08/01/2032	08/01/2042	08/01/2042
Arbitrage Yield	3.467849%	3.467849%	3.467849%
True Interest Cost (TIC)	3.030824%	3.620923%	3.583316%
Net Interest Cost (NIC)	3.235793%	3.781653%	3.750130%
All-In TIC	3.119580%	3.672391%	3.637105%
Average Coupon	4.981598%	4.467106%	4.494921%
Average Life (years)	5.504	11.101	10.504
Duration of Issue (years)	4.882	8.602	8.215
Par Amount	5,740,000.00	47,860,000.00	53,600,000.00
Bond Proceeds	6,320,265.75	51,741,174.60	58,061,440.35
Total Interest	1,573,875.00	23,734,128.75	25,308,003.75
Net Interest	1,022,309.25	20,092,254.15	21,114,563.40
Total Debt Service	7,313,875.00	71,594,128.75	78,908,003.75
Maximum Annual Debt Service	844,750.00	4,274,350.00	5,119,100.00
Average Annual Debt Service	730,575.75	3,578,215.51	3,943,209.52
Underwriter's Fees (per \$1000)			
Average Takedown			
Other Fee	5.000000	5.000000	5.000000
Total Underwriter's Discount	5.000000	5.000000	5.000000
Bid Price	109.609159	107.609433	107.823583

Bond Component	Par Value	Price	Average Coupon	Average Life
Two-Thirds	5,740,000.00	110.109	4.982%	5.504
Bond Component	47,860,000.00	108.109	4.467%	11.101
	53,600,000.00			10.502

	TIC	All-In TIC	Arbitrage Yield
Par Value	53,600,000.00	53,600,000.00	53,600,000.00
+ Accrued Interest			
+ Premium (Discount)	4,461,440.35	4,461,440.35	4,461,440.35
- Underwriter's Discount	(268,000.00)	(268,000.00)	
- Cost of Issuance Expense		(250,000.00)	
- Other Amounts			
Target Value	57,793,440.35	57,543,440.35	58,061,440.35
Target Date	Multiple	Multiple	Multiple
Yield	3.583316%	3.637105%	3.467849%

BOND PRICING

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
General Obligation Bonds, Series 2022A (Two-Thirds), Two-Thirds, 07/27/2022:									
	08/01/2023	575,000	4.000%	2.350%	101.638				9,418.50
	08/01/2024	575,000	5.000%	2.500%	104.873				28,019.75
	08/01/2025	575,000	5.000%	2.550%	107.057				40,577.75
	08/01/2026	575,000	5.000%	2.630%	108.965				51,548.75
	08/01/2027	575,000	5.000%	2.780%	110.317				59,322.75
	08/01/2028	575,000	5.000%	2.920%	111.391				65,498.25
	08/01/2029	575,000	5.000%	3.000%	112.560				72,220.00
	08/01/2030	575,000	5.000%	3.050%	113.766				79,154.50
	08/01/2031	570,000	5.000%	3.100%	114.837				84,570.90
	08/01/2032	570,000	5.000%	3.150%	115.778				89,934.60
	08/01/2033		5.000%	3.180%	115.499 C	3.309%	08/01/2032	100.000	
	08/01/2034		5.000%	3.200%	115.314 C	3.433%	08/01/2032	100.000	
	08/01/2035		5.000%	3.230%	115.037 C	3.547%	08/01/2032	100.000	
	08/01/2036		5.000%	3.250%	114.852 C	3.638%	08/01/2032	100.000	
	08/01/2037		4.000%	3.820%	101.485 C	3.869%	08/01/2032	100.000	
	08/01/2038		4.000%	3.860%	101.153 C	3.902%	08/01/2032	100.000	
	08/01/2039		4.000%	3.880%	100.987 C	3.920%	08/01/2032	100.000	
	08/01/2040		4.000%	3.920%	100.656 C	3.949%	08/01/2032	100.000	
	08/01/2041		4.000%	3.970%	100.245 C	3.981%	08/01/2032	100.000	
	08/01/2042		4.000%	4.000%	100.000				
		5,740,000							580,265.75
General Obligation Bonds, Series 2022B, Bond Component, 07/28/2022:									
	08/01/2023	2,105,000	4.000%	2.350%	101.634				34,395.70
	08/01/2024	2,105,000	5.000%	2.500%	104.867				102,450.35
	08/01/2025	2,110,000	5.000%	2.550%	107.051				148,776.10
	08/01/2026	2,110,000	5.000%	2.630%	108.960				189,056.00
	08/01/2027	2,110,000	5.000%	2.780%	110.312				217,583.20
	08/01/2028	2,110,000	5.000%	2.920%	111.386				240,244.60
	08/01/2029	2,110,000	5.000%	3.000%	112.556				264,931.60
	08/01/2030	2,110,000	5.000%	3.050%	113.762				290,378.20
	08/01/2031	2,110,000	5.000%	3.100%	114.834				312,997.40
	08/01/2032	2,110,000	5.000%	3.150%	115.775				332,852.50
	08/01/2033	2,680,000	5.000%	3.180%	115.496 C	3.309%	08/01/2032	100.000	415,292.80
	08/01/2034	2,680,000	5.000%	3.200%	115.311 C	3.433%	08/01/2032	100.000	410,334.80
	08/01/2035	2,680,000	5.000%	3.230%	115.033 C	3.547%	08/01/2032	100.000	402,884.40
	08/01/2036	2,680,000	5.000%	3.250%	114.849 C	3.638%	08/01/2032	100.000	397,953.20
	08/01/2037	2,675,000	4.000%	3.820%	101.485 C	3.869%	08/01/2032	100.000	39,723.75
	08/01/2038	2,675,000	4.000%	3.860%	101.152 C	3.903%	08/01/2032	100.000	30,816.00
	08/01/2039	2,675,000	4.000%	3.880%	100.987 C	3.920%	08/01/2032	100.000	26,402.25
	08/01/2040	2,675,000	4.000%	3.920%	100.656 C	3.949%	08/01/2032	100.000	17,548.00
	08/01/2041	2,675,000	4.000%	3.970%	100.245 C	3.981%	08/01/2032	100.000	6,553.75
	08/01/2042	2,675,000	4.000%	4.000%	100.000				
		47,860,000							3,881,174.60
		53,600,000							4,461,440.35

Dated Date	07/27/2022	
Delivery Date	07/27/2022	
First Coupon	02/01/2023	
Par Amount	53,600,000.00	
Premium	4,461,440.35	
Production	58,061,440.35	108.323583%
Underwriter's Discount	(268,000.00)	(0.500000%)
Purchase Price	57,793,440.35	107.823583%
Accrued Interest		
Net Proceeds	57,793,440.35	

BOND MATURITY TABLE

Brunswick County, NC
 General Obligation Bonds, Series 2022
 Preliminary Numbers
 Current Market as of 5/17/2022

Maturity Date	General Obligation Bonds, Series 2022A (Two-Thirds)	General Obligation Bonds, Series 2022B	Total
08/01/2023	575,000	2,105,000	2,680,000
08/01/2024	575,000	2,105,000	2,680,000
08/01/2025	575,000	2,110,000	2,685,000
08/01/2026	575,000	2,110,000	2,685,000
08/01/2027	575,000	2,110,000	2,685,000
08/01/2028	575,000	2,110,000	2,685,000
08/01/2029	575,000	2,110,000	2,685,000
08/01/2030	575,000	2,110,000	2,685,000
08/01/2031	570,000	2,110,000	2,680,000
08/01/2032	570,000	2,110,000	2,680,000
08/01/2033		2,680,000	2,680,000
08/01/2034		2,680,000	2,680,000
08/01/2035		2,680,000	2,680,000
08/01/2036		2,680,000	2,680,000
08/01/2037		2,675,000	2,675,000
08/01/2038		2,675,000	2,675,000
08/01/2039		2,675,000	2,675,000
08/01/2040		2,675,000	2,675,000
08/01/2041		2,675,000	2,675,000
08/01/2042		2,675,000	2,675,000
	5,740,000	47,860,000	53,600,000

NET DEBT SERVICE BREAKDOWN

Brunswick County, NC
 General Obligation Bonds, Series 2022
 Preliminary Numbers
 Current Market as of 5/17/2022

Period Ending	General Obligation Bonds, Series 2022A (Two-Thirds)	General Obligation Bonds, Series 2022B	Total
06/30/2023	143,750	1,124,153.75	1,267,903.75
06/30/2024	844,750	4,274,350.00	5,119,100.00
06/30/2025	818,875	4,179,625.00	4,998,500.00
06/30/2026	790,125	4,079,250.00	4,869,375.00
06/30/2027	761,375	3,973,750.00	4,735,125.00
06/30/2028	732,625	3,868,250.00	4,600,875.00
06/30/2029	703,875	3,762,750.00	4,466,625.00
06/30/2030	675,125	3,657,250.00	4,332,375.00
06/30/2031	646,375	3,551,750.00	4,198,125.00
06/30/2032	612,750	3,446,250.00	4,059,000.00
06/30/2033	584,250	3,340,750.00	3,925,000.00
06/30/2034		3,791,000.00	3,791,000.00
06/30/2035		3,657,000.00	3,657,000.00
06/30/2036		3,523,000.00	3,523,000.00
06/30/2037		3,389,000.00	3,389,000.00
06/30/2038		3,263,500.00	3,263,500.00
06/30/2039		3,156,500.00	3,156,500.00
06/30/2040		3,049,500.00	3,049,500.00
06/30/2041		2,942,500.00	2,942,500.00
06/30/2042		2,835,500.00	2,835,500.00
06/30/2043		2,728,500.00	2,728,500.00
	7,313,875	71,594,128.75	78,908,003.75

NET DEBT SERVICE

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

Date	Principal	Coupon	Interest	Total Debt Service	Net Debt Service	Annual Net D/S
02/01/2023			1,267,903.75	1,267,903.75	1,267,903.75	
06/30/2023						1,267,903.75
08/01/2023	2,680,000	4.000%	1,246,350.00	3,926,350.00	3,926,350.00	
02/01/2024			1,192,750.00	1,192,750.00	1,192,750.00	
06/30/2024						5,119,100.00
08/01/2024	2,680,000	5.000%	1,192,750.00	3,872,750.00	3,872,750.00	
02/01/2025			1,125,750.00	1,125,750.00	1,125,750.00	
06/30/2025						4,998,500.00
08/01/2025	2,685,000	5.000%	1,125,750.00	3,810,750.00	3,810,750.00	
02/01/2026			1,058,625.00	1,058,625.00	1,058,625.00	
06/30/2026						4,869,375.00
08/01/2026	2,685,000	5.000%	1,058,625.00	3,743,625.00	3,743,625.00	
02/01/2027			991,500.00	991,500.00	991,500.00	
06/30/2027						4,735,125.00
08/01/2027	2,685,000	5.000%	991,500.00	3,676,500.00	3,676,500.00	
02/01/2028			924,375.00	924,375.00	924,375.00	
06/30/2028						4,600,875.00
08/01/2028	2,685,000	5.000%	924,375.00	3,609,375.00	3,609,375.00	
02/01/2029			857,250.00	857,250.00	857,250.00	
06/30/2029						4,466,625.00
08/01/2029	2,685,000	5.000%	857,250.00	3,542,250.00	3,542,250.00	
02/01/2030			790,125.00	790,125.00	790,125.00	
06/30/2030						4,332,375.00
08/01/2030	2,685,000	5.000%	790,125.00	3,475,125.00	3,475,125.00	
02/01/2031			723,000.00	723,000.00	723,000.00	
06/30/2031						4,198,125.00
08/01/2031	2,680,000	5.000%	723,000.00	3,403,000.00	3,403,000.00	
02/01/2032			656,000.00	656,000.00	656,000.00	
06/30/2032						4,059,000.00
08/01/2032	2,680,000	5.000%	656,000.00	3,336,000.00	3,336,000.00	
02/01/2033			589,000.00	589,000.00	589,000.00	
06/30/2033						3,925,000.00
08/01/2033	2,680,000	5.000%	589,000.00	3,269,000.00	3,269,000.00	
02/01/2034			522,000.00	522,000.00	522,000.00	
06/30/2034						3,791,000.00
08/01/2034	2,680,000	5.000%	522,000.00	3,202,000.00	3,202,000.00	
02/01/2035			455,000.00	455,000.00	455,000.00	
06/30/2035						3,657,000.00
08/01/2035	2,680,000	5.000%	455,000.00	3,135,000.00	3,135,000.00	
02/01/2036			388,000.00	388,000.00	388,000.00	
06/30/2036						3,523,000.00
08/01/2036	2,680,000	5.000%	388,000.00	3,068,000.00	3,068,000.00	
02/01/2037			321,000.00	321,000.00	321,000.00	
06/30/2037						3,389,000.00
08/01/2037	2,675,000	4.000%	321,000.00	2,996,000.00	2,996,000.00	
02/01/2038			267,500.00	267,500.00	267,500.00	
06/30/2038						3,263,500.00
08/01/2038	2,675,000	4.000%	267,500.00	2,942,500.00	2,942,500.00	
02/01/2039			214,000.00	214,000.00	214,000.00	
06/30/2039						3,156,500.00
08/01/2039	2,675,000	4.000%	214,000.00	2,889,000.00	2,889,000.00	
02/01/2040			160,500.00	160,500.00	160,500.00	
06/30/2040						3,049,500.00
08/01/2040	2,675,000	4.000%	160,500.00	2,835,500.00	2,835,500.00	
02/01/2041			107,000.00	107,000.00	107,000.00	
06/30/2041						2,942,500.00
08/01/2041	2,675,000	4.000%	107,000.00	2,782,000.00	2,782,000.00	
02/01/2042			53,500.00	53,500.00	53,500.00	
06/30/2042						2,835,500.00
08/01/2042	2,675,000	4.000%	53,500.00	2,728,500.00	2,728,500.00	
06/30/2043						2,728,500.00
	53,600,000		25,308,003.75	78,908,003.75	78,908,003.75	78,908,003.75

PROOF OF ARBITRAGE YIELD

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

Date	Debt Service	Total	Present Value to 07/27/2022 @ 3.4678487146%
02/01/2023	1,267,903.75	1,267,903.75	1,245,817.94
08/01/2023	3,926,350.00	3,926,350.00	3,792,202.40
02/01/2024	1,192,750.00	1,192,750.00	1,132,364.19
08/01/2024	3,872,750.00	3,872,750.00	3,614,018.45
02/01/2025	1,125,750.00	1,125,750.00	1,032,635.52
08/01/2025	3,810,750.00	3,810,750.00	3,435,973.19
02/01/2026	1,058,625.00	1,058,625.00	938,243.70
08/01/2026	3,743,625.00	3,743,625.00	3,261,369.85
02/01/2027	991,500.00	991,500.00	849,052.67
08/01/2027	3,676,500.00	3,676,500.00	3,094,643.94
02/01/2028	924,375.00	924,375.00	764,818.72
08/01/2028	3,609,375.00	3,609,375.00	2,935,462.44
02/01/2029	857,250.00	857,250.00	685,308.66
08/01/2029	3,542,250.00	3,542,250.00	2,783,505.83
02/01/2030	790,125.00	790,125.00	610,299.39
08/01/2030	3,475,125.00	3,475,125.00	2,638,467.58
02/01/2031	723,000.00	723,000.00	539,577.50
08/01/2031	3,403,000.00	3,403,000.00	2,496,385.70
02/01/2032	656,000.00	656,000.00	473,029.01
08/01/2032	14,056,000.00	14,056,000.00	9,962,765.08
02/01/2033	321,000.00	321,000.00	223,644.06
08/01/2033	321,000.00	321,000.00	219,832.34
02/01/2034	321,000.00	321,000.00	216,085.58
08/01/2034	321,000.00	321,000.00	212,402.68
02/01/2035	321,000.00	321,000.00	208,782.54
08/01/2035	321,000.00	321,000.00	205,224.11
02/01/2036	321,000.00	321,000.00	201,726.33
08/01/2036	321,000.00	321,000.00	198,288.16
02/01/2037	321,000.00	321,000.00	194,908.60
08/01/2037	2,996,000.00	2,996,000.00	1,788,141.88
02/01/2038	267,500.00	267,500.00	156,934.40
08/01/2038	2,942,500.00	2,942,500.00	1,696,856.21
02/01/2039	214,000.00	214,000.00	121,304.40
08/01/2039	2,889,000.00	2,889,000.00	1,609,698.42
02/01/2040	160,500.00	160,500.00	87,903.51
08/01/2040	2,835,500.00	2,835,500.00	1,526,493.75
02/01/2041	107,000.00	107,000.00	56,621.76
08/01/2041	2,782,000.00	2,782,000.00	1,447,074.56
02/01/2042	53,500.00	53,500.00	27,354.06
08/01/2042	2,728,500.00	2,728,500.00	1,371,280.02
	77,568,003.75	77,568,003.75	58,056,499.12

Proceeds Summary

Delivery Date	Par Value	Premium (Discount)	Yield Target	Present Value to 07/27/2022 @ 3.4678487146%
07/27/2022	5,740,000.00	580,265.75	6,320,265.75	6,320,265.75
07/28/2022	47,860,000.00	3,881,174.60	51,741,174.60	51,736,233.37
	53,600,000.00			58,056,499.12

PROOF OF ARBITRAGE YIELD

Brunswick County, NC
 General Obligation Bonds, Series 2022
 Preliminary Numbers
 Current Market as of 5/17/2022

Assumed Call/Computation Dates for Premium Bonds

Bond Component	Maturity Date	Rate	Yield	Call Date	Call Price	Yield To Call/Maturity
BOND	08/01/2033	5.000%	3.180%	08/01/2032	100.000	3.1800398%
BOND	08/01/2034	5.000%	3.200%	08/01/2032	100.000	3.2000024%
BOND	08/01/2035	5.000%	3.230%	08/01/2032	100.000	3.2300724%
BOND	08/01/2036	5.000%	3.250%	08/01/2032	100.000	3.2500226%

Rejected Call/Computation Dates for Premium Bonds

Bond Component	Maturity Date	Rate	Yield	Call Date	Call Price	Yield To Call/Maturity	Increase to Yield
BOND	08/01/2033	5.000%	3.180%			3.3089111%	0.1288713%
BOND	08/01/2034	5.000%	3.200%			3.4333236%	0.2333212%
BOND	08/01/2035	5.000%	3.230%			3.5472207%	0.3171483%
BOND	08/01/2036	5.000%	3.250%			3.6376317%	0.3876091%

FORM 8038 STATISTICS

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Two-Thirds, 07/27/2022:						
	08/01/2023	575,000.00	4.000%	101.638	584,418.50	575,000.00
	08/01/2024	575,000.00	5.000%	104.873	603,019.75	575,000.00
	08/01/2025	575,000.00	5.000%	107.057	615,577.75	575,000.00
	08/01/2026	575,000.00	5.000%	108.965	626,548.75	575,000.00
	08/01/2027	575,000.00	5.000%	110.317	634,322.75	575,000.00
	08/01/2028	575,000.00	5.000%	111.391	640,498.25	575,000.00
	08/01/2029	575,000.00	5.000%	112.560	647,220.00	575,000.00
	08/01/2030	575,000.00	5.000%	113.766	654,154.50	575,000.00
	08/01/2031	570,000.00	5.000%	114.837	654,570.90	570,000.00
	08/01/2032	570,000.00	5.000%	115.778	659,934.60	570,000.00
	08/01/2033		5.000%	115.499		
	08/01/2034		5.000%	115.314		
	08/01/2035		5.000%	115.037		
	08/01/2036		5.000%	114.852		
	08/01/2037		4.000%	101.485		
	08/01/2038		4.000%	101.153		
	08/01/2039		4.000%	100.987		
	08/01/2040		4.000%	100.656		
	08/01/2041		4.000%	100.245		
	08/01/2042		4.000%	100.000		
Bond Component, 07/28/2022:						
	08/01/2023	2,105,000.00	4.000%	101.634	2,139,395.70	2,105,000.00
	08/01/2024	2,105,000.00	5.000%	104.867	2,207,450.35	2,105,000.00
	08/01/2025	2,110,000.00	5.000%	107.051	2,258,776.10	2,110,000.00
	08/01/2026	2,110,000.00	5.000%	108.960	2,299,056.00	2,110,000.00
	08/01/2027	2,110,000.00	5.000%	110.312	2,327,583.20	2,110,000.00
	08/01/2028	2,110,000.00	5.000%	111.386	2,350,244.60	2,110,000.00
	08/01/2029	2,110,000.00	5.000%	112.556	2,374,931.60	2,110,000.00
	08/01/2030	2,110,000.00	5.000%	113.762	2,400,378.20	2,110,000.00
	08/01/2031	2,110,000.00	5.000%	114.834	2,422,997.40	2,110,000.00
	08/01/2032	2,110,000.00	5.000%	115.775	2,442,852.50	2,110,000.00
	08/01/2033	2,680,000.00	5.000%	115.496	3,095,292.80	2,680,000.00
	08/01/2034	2,680,000.00	5.000%	115.311	3,090,334.80	2,680,000.00
	08/01/2035	2,680,000.00	5.000%	115.033	3,082,884.40	2,680,000.00
	08/01/2036	2,680,000.00	5.000%	114.849	3,077,953.20	2,680,000.00
	08/01/2037	2,675,000.00	4.000%	101.485	2,714,723.75	2,675,000.00
	08/01/2038	2,675,000.00	4.000%	101.152	2,705,816.00	2,675,000.00
	08/01/2039	2,675,000.00	4.000%	100.987	2,701,402.25	2,675,000.00
	08/01/2040	2,675,000.00	4.000%	100.656	2,692,548.00	2,675,000.00
	08/01/2041	2,675,000.00	4.000%	100.245	2,681,553.75	2,675,000.00
	08/01/2042	2,675,000.00	4.000%	100.000	2,675,000.00	2,675,000.00
				53,600,000.00	58,061,440.35	53,600,000.00

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield
Final Maturity	08/01/2042	4.000%	2,675,000.00	2,675,000.00		
Entire Issue			58,061,440.35	53,600,000.00	10.3924	3.4678%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	518,000.00
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	0.00

SOURCES AND USES OF FUNDS

Brunswick County, NC
General Obligation Bonds, Series 2022A (Two-Thirds)
Preliminary Numbers
Current Market as of 5/13/2022

Dated Date 07/27/2022
Delivery Date 07/27/2022

Sources:

Bond Proceeds:	
Par Amount	5,740,000.00
Premium	580,265.75
	<hr/>
	6,320,265.75
	<hr/>

Uses:

Project Fund Deposits:	
Project Fund	6,264,793.36
Cost of Issuance:	
Cost of Issuance	26,772.39
Delivery Date Expenses:	
Underwriter's Discount	28,700.00
	<hr/>
	6,320,265.75
	<hr/>

BOND SUMMARY STATISTICS

Brunswick County, NC
General Obligation Bonds, Series 2022A (Two-Thirds)
Preliminary Numbers
Current Market as of 5/13/2022

Dated Date	07/27/2022
Delivery Date	07/27/2022
Last Maturity	08/01/2032
Arbitrage Yield	3.467849%
True Interest Cost (TIC)	3.030824%
Net Interest Cost (NIC)	3.235793%
All-In TIC	3.119580%
Average Coupon	4.981598%
Average Life (years)	5.504
Duration of Issue (years)	4.882
Par Amount	5,740,000.00
Bond Proceeds	6,320,265.75
Total Interest	1,573,875.00
Net Interest	1,022,309.25
Total Debt Service	7,313,875.00
Maximum Annual Debt Service	844,750.00
Average Annual Debt Service	730,575.75
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	5.000000
Total Underwriter's Discount	5.000000
Bid Price	109.609159

Bond Component	Par Value	Price	Average Coupon	Average Life
Two-Thirds	5,740,000.00	110.109	4.982%	5.504
	5,740,000.00			5.504

	TIC	All-In TIC	Arbitrage Yield
Par Value	5,740,000.00	5,740,000.00	5,740,000.00
+ Accrued Interest			
+ Premium (Discount)	580,265.75	580,265.75	580,265.75
- Underwriter's Discount	(28,700.00)	(28,700.00)	
- Cost of Issuance Expense		(26,772.39)	
- Other Amounts			
Target Value	6,291,565.75	6,264,793.36	6,320,265.75
Target Date	07/27/2022	07/27/2022	07/27/2022
Yield	3.030824%	3.119580%	3.467849%

BOND PRICING

Brunswick County, NC
General Obligation Bonds, Series 2022A (Two-Thirds)
Preliminary Numbers
Current Market as of 5/13/2022

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
Two-Thirds:									
	08/01/2023	575,000	4.000%	2.350%	101.638				9,418.50
	08/01/2024	575,000	5.000%	2.500%	104.873				28,019.75
	08/01/2025	575,000	5.000%	2.550%	107.057				40,577.75
	08/01/2026	575,000	5.000%	2.630%	108.965				51,548.75
	08/01/2027	575,000	5.000%	2.780%	110.317				59,322.75
	08/01/2028	575,000	5.000%	2.920%	111.391				65,498.25
	08/01/2029	575,000	5.000%	3.000%	112.560				72,220.00
	08/01/2030	575,000	5.000%	3.050%	113.766				79,154.50
	08/01/2031	570,000	5.000%	3.100%	114.837				84,570.90
	08/01/2032	570,000	5.000%	3.150%	115.778				89,934.60
	08/01/2033		5.000%	3.180%	115.499 C	3.309%	08/01/2032	100.000	
	08/01/2034		5.000%	3.200%	115.314 C	3.433%	08/01/2032	100.000	
	08/01/2035		5.000%	3.230%	115.037 C	3.547%	08/01/2032	100.000	
	08/01/2036		5.000%	3.250%	114.852 C	3.638%	08/01/2032	100.000	
	08/01/2037		4.000%	3.820%	101.485 C	3.869%	08/01/2032	100.000	
	08/01/2038		4.000%	3.860%	101.153 C	3.902%	08/01/2032	100.000	
	08/01/2039		4.000%	3.880%	100.987 C	3.920%	08/01/2032	100.000	
	08/01/2040		4.000%	3.920%	100.656 C	3.949%	08/01/2032	100.000	
	08/01/2041		4.000%	3.970%	100.245 C	3.981%	08/01/2032	100.000	
	08/01/2042		4.000%	4.000%	100.000				
		5,740,000							580,265.75

Dated Date	07/27/2022	
Delivery Date	07/27/2022	
First Coupon	02/01/2023	
Par Amount	5,740,000.00	
Premium	580,265.75	
Production	6,320,265.75	110.109159%
Underwriter's Discount	(28,700.00)	(0.500000%)
Purchase Price	6,291,565.75	109.609159%
Accrued Interest		
Net Proceeds	6,291,565.75	

NET DEBT SERVICE

Brunswick County, NC
 General Obligation Bonds, Series 2022A (Two-Thirds)
 Preliminary Numbers
 Current Market as of 5/13/2022

Period Ending	Principal	Coupon	Interest	Total Debt Service	Net Debt Service
06/30/2023			143,750	143,750	143,750
06/30/2024	575,000	4.000%	269,750	844,750	844,750
06/30/2025	575,000	5.000%	243,875	818,875	818,875
06/30/2026	575,000	5.000%	215,125	790,125	790,125
06/30/2027	575,000	5.000%	186,375	761,375	761,375
06/30/2028	575,000	5.000%	157,625	732,625	732,625
06/30/2029	575,000	5.000%	128,875	703,875	703,875
06/30/2030	575,000	5.000%	100,125	675,125	675,125
06/30/2031	575,000	5.000%	71,375	646,375	646,375
06/30/2032	570,000	5.000%	42,750	612,750	612,750
06/30/2033	570,000	5.000%	14,250	584,250	584,250
	5,740,000		1,573,875	7,313,875	7,313,875

NET DEBT SERVICE

Brunswick County, NC
 General Obligation Bonds, Series 2022A (Two-Thirds)
 Preliminary Numbers
 Current Market as of 5/13/2022

Date	Principal	Coupon	Interest	Total Debt Service	Net Debt Service	Annual Net D/S
02/01/2023			143,750	143,750	143,750	
06/30/2023						143,750
08/01/2023	575,000	4.000%	140,625	715,625	715,625	
02/01/2024			129,125	129,125	129,125	
06/30/2024						844,750
08/01/2024	575,000	5.000%	129,125	704,125	704,125	
02/01/2025			114,750	114,750	114,750	
06/30/2025						818,875
08/01/2025	575,000	5.000%	114,750	689,750	689,750	
02/01/2026			100,375	100,375	100,375	
06/30/2026						790,125
08/01/2026	575,000	5.000%	100,375	675,375	675,375	
02/01/2027			86,000	86,000	86,000	
06/30/2027						761,375
08/01/2027	575,000	5.000%	86,000	661,000	661,000	
02/01/2028			71,625	71,625	71,625	
06/30/2028						732,625
08/01/2028	575,000	5.000%	71,625	646,625	646,625	
02/01/2029			57,250	57,250	57,250	
06/30/2029						703,875
08/01/2029	575,000	5.000%	57,250	632,250	632,250	
02/01/2030			42,875	42,875	42,875	
06/30/2030						675,125
08/01/2030	575,000	5.000%	42,875	617,875	617,875	
02/01/2031			28,500	28,500	28,500	
06/30/2031						646,375
08/01/2031	570,000	5.000%	28,500	598,500	598,500	
02/01/2032			14,250	14,250	14,250	
06/30/2032						612,750
08/01/2032	570,000	5.000%	14,250	584,250	584,250	
06/30/2033						584,250
	5,740,000		1,573,875	7,313,875	7,313,875	7,313,875

SOURCES AND USES OF FUNDS

Brunswick County, NC
General Obligation Bonds, Series 2022B
Preliminary Numbers
Current Market as of 5/13/2022

Dated Date 07/28/2022
Delivery Date 07/28/2022

Sources:

Bond Proceeds:	
Par Amount	47,860,000.00
Premium	3,881,174.60
	<hr/>
	51,741,174.60
	<hr/>

Uses:

Project Fund Deposits:	
Project Fund	51,277,555.39
Cost of Issuance:	
Cost of Issuance	223,227.61
Delivery Date Expenses:	
Underwriter's Discount	239,300.00
Other Uses of Funds:	
Additional Proceeds	1,091.60
	<hr/>
	51,741,174.60
	<hr/>

BOND SUMMARY STATISTICS

Brunswick County, NC
General Obligation Bonds, Series 2022B
Preliminary Numbers
Current Market as of 5/13/2022

Dated Date	07/28/2022
Delivery Date	07/28/2022
Last Maturity	08/01/2042
Arbitrage Yield	3.467849%
True Interest Cost (TIC)	3.620923%
Net Interest Cost (NIC)	3.781653%
All-In TIC	3.672391%
Average Coupon	4.467106%
Average Life (years)	11.101
Duration of Issue (years)	8.602
Par Amount	47,860,000.00
Bond Proceeds	51,741,174.60
Total Interest	23,734,128.75
Net Interest	20,092,254.15
Total Debt Service	71,594,128.75
Maximum Annual Debt Service	4,274,350.00
Average Annual Debt Service	3,578,215.51
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	5.000000
Total Underwriter's Discount	5.000000
Bid Price	107.609433

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	47,860,000.00	108.109	4.467%	11.101
	47,860,000.00			11.101

	TIC	All-In TIC	Arbitrage Yield
Par Value	47,860,000.00	47,860,000.00	47,860,000.00
+ Accrued Interest			
+ Premium (Discount)	3,881,174.60	3,881,174.60	3,881,174.60
- Underwriter's Discount	(239,300.00)	(239,300.00)	
- Cost of Issuance Expense		(223,227.61)	
- Other Amounts			
Target Value	51,501,874.60	51,278,646.99	51,741,174.60
Target Date	07/28/2022	07/28/2022	07/28/2022
Yield	3.620923%	3.672391%	3.467849%

BOND PRICING

Brunswick County, NC
General Obligation Bonds, Series 2022B
Preliminary Numbers
Current Market as of 5/13/2022

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
Bond Component:									
	08/01/2023	2,105,000	4.000%	2.350%	101.634				34,395.70
	08/01/2024	2,105,000	5.000%	2.500%	104.867				102,450.35
	08/01/2025	2,110,000	5.000%	2.550%	107.051				148,776.10
	08/01/2026	2,110,000	5.000%	2.630%	108.960				189,056.00
	08/01/2027	2,110,000	5.000%	2.780%	110.312				217,583.20
	08/01/2028	2,110,000	5.000%	2.920%	111.386				240,244.60
	08/01/2029	2,110,000	5.000%	3.000%	112.556				264,931.60
	08/01/2030	2,110,000	5.000%	3.050%	113.762				290,378.20
	08/01/2031	2,110,000	5.000%	3.100%	114.834				312,997.40
	08/01/2032	2,110,000	5.000%	3.150%	115.775				332,852.50
	08/01/2033	2,680,000	5.000%	3.180%	115.496 C	3.309%	08/01/2032	100.000	415,292.80
	08/01/2034	2,680,000	5.000%	3.200%	115.311 C	3.433%	08/01/2032	100.000	410,334.80
	08/01/2035	2,680,000	5.000%	3.230%	115.033 C	3.547%	08/01/2032	100.000	402,884.40
	08/01/2036	2,680,000	5.000%	3.250%	114.849 C	3.638%	08/01/2032	100.000	397,953.20
	08/01/2037	2,675,000	4.000%	3.820%	101.485 C	3.869%	08/01/2032	100.000	39,723.75
	08/01/2038	2,675,000	4.000%	3.860%	101.152 C	3.903%	08/01/2032	100.000	30,816.00
	08/01/2039	2,675,000	4.000%	3.880%	100.987 C	3.920%	08/01/2032	100.000	26,402.25
	08/01/2040	2,675,000	4.000%	3.920%	100.656 C	3.949%	08/01/2032	100.000	17,548.00
	08/01/2041	2,675,000	4.000%	3.970%	100.245 C	3.981%	08/01/2032	100.000	6,553.75
	08/01/2042	2,675,000	4.000%	4.000%	100.000				
47,860,000									3,881,174.60

Dated Date	07/28/2022	
Delivery Date	07/28/2022	
First Coupon	02/01/2023	
Par Amount	47,860,000.00	
Premium	3,881,174.60	
Production	51,741,174.60	108.109433%
Underwriter's Discount	(239,300.00)	(0.500000%)
Purchase Price	51,501,874.60	107.609433%
Accrued Interest		
Net Proceeds	51,501,874.60	

NET DEBT SERVICE

Brunswick County, NC
 General Obligation Bonds, Series 2022B
 Preliminary Numbers
 Current Market as of 5/13/2022

Period Ending	Principal	Coupon	Interest	Total Debt Service	Net Debt Service
06/30/2023			1,124,153.75	1,124,153.75	1,124,153.75
06/30/2024	2,105,000	4.000%	2,169,350.00	4,274,350.00	4,274,350.00
06/30/2025	2,105,000	5.000%	2,074,625.00	4,179,625.00	4,179,625.00
06/30/2026	2,110,000	5.000%	1,969,250.00	4,079,250.00	4,079,250.00
06/30/2027	2,110,000	5.000%	1,863,750.00	3,973,750.00	3,973,750.00
06/30/2028	2,110,000	5.000%	1,758,250.00	3,868,250.00	3,868,250.00
06/30/2029	2,110,000	5.000%	1,652,750.00	3,762,750.00	3,762,750.00
06/30/2030	2,110,000	5.000%	1,547,250.00	3,657,250.00	3,657,250.00
06/30/2031	2,110,000	5.000%	1,441,750.00	3,551,750.00	3,551,750.00
06/30/2032	2,110,000	5.000%	1,336,250.00	3,446,250.00	3,446,250.00
06/30/2033	2,110,000	5.000%	1,230,750.00	3,340,750.00	3,340,750.00
06/30/2034	2,680,000	5.000%	1,111,000.00	3,791,000.00	3,791,000.00
06/30/2035	2,680,000	5.000%	977,000.00	3,657,000.00	3,657,000.00
06/30/2036	2,680,000	5.000%	843,000.00	3,523,000.00	3,523,000.00
06/30/2037	2,680,000	5.000%	709,000.00	3,389,000.00	3,389,000.00
06/30/2038	2,675,000	4.000%	588,500.00	3,263,500.00	3,263,500.00
06/30/2039	2,675,000	4.000%	481,500.00	3,156,500.00	3,156,500.00
06/30/2040	2,675,000	4.000%	374,500.00	3,049,500.00	3,049,500.00
06/30/2041	2,675,000	4.000%	267,500.00	2,942,500.00	2,942,500.00
06/30/2042	2,675,000	4.000%	160,500.00	2,835,500.00	2,835,500.00
06/30/2043	2,675,000	4.000%	53,500.00	2,728,500.00	2,728,500.00
	47,860,000		23,734,128.75	71,594,128.75	71,594,128.75

NET DEBT SERVICE

Brunswick County, NC
General Obligation Bonds, Series 2022B
Preliminary Numbers
Current Market as of 5/13/2022

Date	Principal	Coupon	Interest	Total Debt Service	Net Debt Service	Annual Net D/S
02/01/2023			1,124,153.75	1,124,153.75	1,124,153.75	
06/30/2023						1,124,153.75
08/01/2023	2,105,000	4.000%	1,105,725.00	3,210,725.00	3,210,725.00	
02/01/2024			1,063,625.00	1,063,625.00	1,063,625.00	
06/30/2024						4,274,350.00
08/01/2024	2,105,000	5.000%	1,063,625.00	3,168,625.00	3,168,625.00	
02/01/2025			1,011,000.00	1,011,000.00	1,011,000.00	
06/30/2025						4,179,625.00
08/01/2025	2,110,000	5.000%	1,011,000.00	3,121,000.00	3,121,000.00	
02/01/2026			958,250.00	958,250.00	958,250.00	
06/30/2026						4,079,250.00
08/01/2026	2,110,000	5.000%	958,250.00	3,068,250.00	3,068,250.00	
02/01/2027			905,500.00	905,500.00	905,500.00	
06/30/2027						3,973,750.00
08/01/2027	2,110,000	5.000%	905,500.00	3,015,500.00	3,015,500.00	
02/01/2028			852,750.00	852,750.00	852,750.00	
06/30/2028						3,868,250.00
08/01/2028	2,110,000	5.000%	852,750.00	2,962,750.00	2,962,750.00	
02/01/2029			800,000.00	800,000.00	800,000.00	
06/30/2029						3,762,750.00
08/01/2029	2,110,000	5.000%	800,000.00	2,910,000.00	2,910,000.00	
02/01/2030			747,250.00	747,250.00	747,250.00	
06/30/2030						3,657,250.00
08/01/2030	2,110,000	5.000%	747,250.00	2,857,250.00	2,857,250.00	
02/01/2031			694,500.00	694,500.00	694,500.00	
06/30/2031						3,551,750.00
08/01/2031	2,110,000	5.000%	694,500.00	2,804,500.00	2,804,500.00	
02/01/2032			641,750.00	641,750.00	641,750.00	
06/30/2032						3,446,250.00
08/01/2032	2,110,000	5.000%	641,750.00	2,751,750.00	2,751,750.00	
02/01/2033			589,000.00	589,000.00	589,000.00	
06/30/2033						3,340,750.00
08/01/2033	2,680,000	5.000%	589,000.00	3,269,000.00	3,269,000.00	
02/01/2034			522,000.00	522,000.00	522,000.00	
06/30/2034						3,791,000.00
08/01/2034	2,680,000	5.000%	522,000.00	3,202,000.00	3,202,000.00	
02/01/2035			455,000.00	455,000.00	455,000.00	
06/30/2035						3,657,000.00
08/01/2035	2,680,000	5.000%	455,000.00	3,135,000.00	3,135,000.00	
02/01/2036			388,000.00	388,000.00	388,000.00	
06/30/2036						3,523,000.00
08/01/2036	2,680,000	5.000%	388,000.00	3,068,000.00	3,068,000.00	
02/01/2037			321,000.00	321,000.00	321,000.00	
06/30/2037						3,389,000.00
08/01/2037	2,675,000	4.000%	321,000.00	2,996,000.00	2,996,000.00	
02/01/2038			267,500.00	267,500.00	267,500.00	
06/30/2038						3,263,500.00
08/01/2038	2,675,000	4.000%	267,500.00	2,942,500.00	2,942,500.00	
02/01/2039			214,000.00	214,000.00	214,000.00	
06/30/2039						3,156,500.00
08/01/2039	2,675,000	4.000%	214,000.00	2,889,000.00	2,889,000.00	
02/01/2040			160,500.00	160,500.00	160,500.00	
06/30/2040						3,049,500.00
08/01/2040	2,675,000	4.000%	160,500.00	2,835,500.00	2,835,500.00	
02/01/2041			107,000.00	107,000.00	107,000.00	
06/30/2041						2,942,500.00
08/01/2041	2,675,000	4.000%	107,000.00	2,782,000.00	2,782,000.00	
02/01/2042			53,500.00	53,500.00	53,500.00	
06/30/2042						2,835,500.00
08/01/2042	2,675,000	4.000%	53,500.00	2,728,500.00	2,728,500.00	
06/30/2043						2,728,500.00
	47,860,000		23,734,128.75	71,594,128.75	71,594,128.75	71,594,128.75

DISCLAIMER

Brunswick County, NC
General Obligation Bonds, Series 2022
Preliminary Numbers
Current Market as of 5/17/2022

The U.S. Securities and Exchange Commission (the 'SEC') has clarified that a broker, dealer or municipal securities dealer engaging in municipal advisory activities outside the scope of underwriting a particular issuance of municipal securities should be subject to municipal advisor registration. Davenport & Company LLC ('Davenport') has registered as a municipal advisor with the SEC. As a registered municipal advisor Davenport may provide advice to a municipal entity or obligated person. An obligated person is an entity other than a municipal entity, such as a not for profit corporation, that has commenced an application or negotiation with an entity to issue municipal securities on its behalf and for which it will provide support. If and when an issuer engages Davenport to provide financial advisory or consultant services with respect to the issuance of municipal securities, Davenport is obligated to evidence such a financial advisory relationship with a written agreement.

When acting as a registered municipal advisor Davenport is a fiduciary required by federal law to act in the best interest of a municipal entity without regard to its own financial or other interests. Davenport is not a fiduciary when it acts as a registered investment advisor, when advising an obligated person, or when acting as an underwriter, though it is required to deal fairly with such persons,

This material was prepared by public finance, or other non-research personnel of Davenport. This material was not produced by a research analyst, although it may refer to a Davenport research analyst or research report. Unless otherwise indicated, these views (if any) are the author's and may differ from those of the Davenport fixed income or research department or others in the firm. Davenport may perform or seek to perform financial advisory services for the issuers of the securities and instruments mentioned herein.

This material has been prepared for information purposes only and is not a solicitation of any offer to buy or sell any security/instrument or to participate in any trading strategy. Any such offer would be made only after a prospective participant had completed its own independent investigation of the securities, instruments or transactions and received all information it required to make its own investment decision, including, where applicable, a review of any offering circular or memorandum describing such security or instrument. That information would contain material information not contained herein and to which prospective participants are referred. This material is based on public information as of the specified date, and may be stale thereafter. We have no obligation to tell you when information herein may change. We make no representation or warranty with respect to the completeness of this material. Davenport has no obligation to continue to publish information on the securities/instruments mentioned herein. Recipients are required to comply with any legal or contractual restrictions on their purchase, holding, sale, exercise of rights or performance of obligations under any securities/instruments transaction.

The securities/instruments discussed in this material may not be suitable for all investors or issuers. Recipients should seek independent financial advice prior to making any investment decision based on this material. This material does not provide individually tailored investment advice or offer tax, regulatory, accounting or legal advice. Prior to entering into any proposed transaction, recipients should determine, in consultation with their own investment, legal, tax, regulatory and accounting advisors, the economic risks and merits, as well as the legal, tax, regulatory and accounting characteristics and consequences, of the transaction. You should consider this material as only a single factor in making an investment decision.

The value of and income from investments and the cost of borrowing may vary because of changes in interest rates, foreign exchange rates, default rates, prepayment rates, securities/instruments prices, market indexes, operational or financial conditions or companies or other factors. There may be time limitations on the exercise of options or other rights in securities/instruments transactions. Past performance is not necessarily a guide to future performance and estimates of future performance are based on assumptions that may not be realized. Actual events may differ from those assumed and changes to any assumptions may have a material impact on any projections or estimates. Other events not taken into account may occur and may significantly affect the projections or estimates. Certain assumptions may have been made for modeling purposes or to simplify the presentation and/or calculation of any projections or estimates, and Davenport does not represent that any such assumptions will reflect actual future events. Accordingly, there can be no assurance that estimated returns or projections will be realized or that actual returns or performance results will not materially differ from those estimated herein. This material may not be sold or redistributed without the prior written consent of Davenport

From: [Steve Stone](#)
To: [Chairman Randy Thompson](#); [Commissioner Forte](#)
Cc: [Haynes Brigman](#); [David Stanley](#); [Aaron Smith](#); [Bob Shaver](#)
Bcc: [Commissioner Sykes](#); [Commissioner Cooke](#); [Frank Williams](#)
Subject: Net Present Value Calculations - Waccamaw Multipurpose Building
Date: Tuesday, May 17, 2022 3:29:00 PM
Attachments: [image001.png](#)

BOC BCC

Randy and Mike,

I didn't do a very good job last night explaining why we were recommending that you consider using 2/3rds bond proceeds to finance the Waccamaw Multipurpose Building. Attached you will find the net present value calculation that Aaron prepared for the project. In both the best case and worse case scenarios the County would come out ahead if we financed the project with this method.

There are other factors to consider when you are building or acquiring durable assets like buildings. When you pay cash, the people that are already here or use to be here are paying for the asset. But when you finance over a period of the useful life of the asset, the people who are here during the use of the asset are participating in the cost of the asset. Given our growth rate, this helps shift part of the burden of new or enhanced buildings to the people that are generating the need.

We will certainly accept whatever final plan the Board may adopt to move this project forward, but I thought it was important for all of you to see why we think financing while rates are still favorable is a viable option. Thanks, and let us know if we can provide more information.

Best regards,

Steve



Steven T. Stone | County Manager
Brunswick County Government
30 Government Center Drive | Bolivia, NC 28422
Phone: 910.253.2015 | Fax: 910.253.2022
Email: steve.stone@brunswickcountync.gov
Website: www.brunswickcountync.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

\$5.74M GO

5% Average Coupon-Worst Case, Numbers Used in Budget

		Principal	Interest	Total
Int. Only	FY 2023		\$ 0	\$ 137,122
1	FY 2024	290,000	279,750	569,750
2	FY 2025	290,000	265,250	555,250
3	FY 2026	290,000	250,750	540,750
4	FY 2027	290,000	236,250	526,250
5	FY 2028	290,000	221,750	511,750
6	FY 2029	290,000	207,250	497,250
7	FY 2030	290,000	192,750	482,750
8	FY 2031	290,000	178,250	468,250
9	FY 2032	285,000	163,875	448,875
10	FY 2033	285,000	149,625	434,625
11	FY 2034	285,000	135,375	420,375
12	FY 2035	285,000	121,125	406,125
13	FY 2036	285,000	106,875	391,875
14	FY 2037	285,000	92,625	377,625
15	FY 2038	285,000	78,375	363,375
16	FY 2039	285,000	64,125	349,125
17	FY 2040	285,000	49,875	334,875
18	FY 2041	285,000	35,625	320,625
19	FY 2042	285,000	21,375	306,375
20	FY 2043	285,000	7,125	292,125
Total				8,735,122

Annual Interest Rate 5.0%

Par Amount \$5,740,000

(The amount the County commits to pay back)

Premium Estimate \$435,738

(Additional received over par amount, impacted by low interest rates and County's credit rating)

Net Present Value \$5,511,925

(The current total value of future payments)

Pay-Go Needs \$6,620,000

\$5.74M GO

3.8% Average Coupon-Best Case

		Principal	Interest	Total
Int. Only	FY 2023		\$ 0	\$ 115,370
1	FY 2024	290,000	234,221	524,221
2	FY 2025	290,000	219,721	509,721
3	FY 2026	290,000	205,221	495,221
4	FY 2027	290,000	190,721	480,721
5	FY 2028	290,000	176,221	466,221
6	FY 2029	290,000	161,721	451,721
7	FY 2030	290,000	147,221	437,221
8	FY 2031	290,000	132,721	422,721
9	FY 2032	285,000	118,346	403,346
10	FY 2033	285,000	104,096	389,096
11	FY 2034	285,000	91,271	376,271
12	FY 2035	285,000	79,871	364,871
13	FY 2036	285,000	69,718	354,718
14	FY 2037	285,000	60,812	345,812
15	FY 2038	285,000	51,728	336,728
16	FY 2039	285,000	42,465	327,465
17	FY 2040	285,000	33,131	318,131
18	FY 2041	285,000	23,726	308,726
19	FY 2042	285,000	14,321	299,321
20	FY 2043	285,000	4,809	289,809
Total				8,017,432

Annual Interest Rate 3.8%

Par Amount \$5,740,000

(The amount the County commits to pay back)

Premium Estimate \$449,859

(Additional received over par amount, impacted by low interest rates and County's credit rating)

Net Present Value \$5,583,550

(The current total value of future payments)

Pay-Go Needs \$6,620,000

From: [Aaron Smith](#)
To: [Randy Thompson](#); [Commissioner Forte](#)
Cc: [Steve Stone](#); [David Stanley](#); [Haynes Brigman](#); [Bob Shaver](#)
Subject: Net Present Value Calculations - Waccamaw Multipurpose Building
Date: Tuesday, May 17, 2022 8:15:18 PM
Attachments: [image001.png](#)

(all Commissioners bcc)

Commissioners,

A few additional considerations:

1. The remaining project's estimated cost is \$6,620,000. With the 2/3 allowance state statutes allow, the County can issue 2/3 of the prior year's outstanding General Obligation Debt principal payments. Since the County is considering issuing in July, this would be calculated on 2022's principal payments of \$8,610,000. The 2/3 allowance is \$5,740,000. \$5,740,000 is the amount of bonds the County would be financing and paying back. Due to bonds currently selling at a premium and the County's credit rating, we can also anticipate receiving an estimated premium of \$440,000 that will also be used towards the cost of the project. The proceeds received from the bond issue of \$5,750,000 and the estimated premium received of \$440,000 total \$6,190,000.
2. Due to the County's agreement with the schools, a worst-case scenario rate of 5% was used in the model so that the total education current expense could be conservatively budgeted. If the bonds sell better than planned, we are giving the schools more funds. 36.5% of any amount not spent on bond debt service increases the amount given to the schools. With an interest-only payment in 2023, the first-year impact on the schools would be as follows:

	No 2/3 Issue	Best Case 2/3 Issue	Presented/Worst Case 2/3 Issue
Schools Current Expense:	\$51,377,529	\$51,355,419	\$51,327,480
Impact to County:	Max Contribution to Schools	\$22,110 funds kept with County	\$50,049 funds kept with County

If it was a full year principal and interest payment, the 1-year impact is as follows:

	No 2/3 Issue	Best Case 2/3 Issue	Presented/Worst Case 2/3 Issue
Schools Current Expense:	\$51,377,529	\$51,186,189	\$51,169,571
Impact to County:	Max Contribution to Schools	\$191,340 funds kept with County	\$207,958 funds kept with County

For all 20 years of the proposed 2/3 issue:

	No 2/3 Issue	Best Case 2/3 Issue	Presented/Worst Case 2/3 Issue
Impact to County:	Max Contribution to Schools	\$2,926,363 funds kept with County	\$3,188,320 funds kept with County

3. The Net Present Value provides the value of spending the money now vs. what its value is spent over a specific time. In the worst-case scenario, spending \$8,735,122 over 20 years is the accounting equivalent of spending \$5,511,925 on Pay-Go today.
4. There is value to pay-go projects, but this value will increase as interest rates increase and hopefully the inflation rate normalizes. In the current environment of rising rates, now will be a more opportune time to issue debt than in the future.

Thanks, and let me know if we can elaborate or provide additional information.

Thanks,

Aaron C. Smith, CPA
Director of Fiscal Operations
Brunswick County Finance
PO Box 249
Bolivia, NC 28422
Ph# 910-253-2060
Aaron.Smith@brunswickcountync.gov

From: Steve Stone <steve.stone@brunswickcountync.gov>

Sent: Tuesday, May 17, 2022 3:31 PM

To: Randy Thompson <Randy.Thompson@brunswickcountync.gov>; Commissioner Forte <commissioner.forte@brunswickcountync.gov>

Cc: Haynes Brigman <haynes.brigman@brunswickcountync.gov>; David Stanley <David.Stanley@brunswickcountync.gov>; Aaron Smith <Aaron.Smith@brunswickcountync.gov>; Bob Shaver <bob.shaver@brunswickcountync.gov>

Subject: Net Present Value Calculations - Waccamaw Multipurpose Building

Sorry, forgot attachment on first try!

BOC BCC

Randy and Mike,

I didn't do a very good job last night explaining why we were recommending that you consider using 2/3rds bond proceeds to finance the Waccamaw Multipurpose Building. Attached you will find the

net present value calculation that Aaron prepared for the project. In both the best case and worse case scenarios the County would come out ahead if we financed the project with this method.

There are other factors to consider when you are building or acquiring durable assets like buildings. When you pay cash, the people that are already here or use to be here are paying for the asset. But when you finance over a period of the useful life of the asset, the people who are here during the use of the asset are participating in the cost of the asset. Given our growth rate, this helps shift part of the burden of new or enhanced buildings to the people that are generating the need.

We will certainly accept whatever final plan the Board may adopt to move this project forward, but I thought it was important for all of you to see why we think financing while rates are still favorable is a viable option. Thanks, and let us know if we can provide more information.

Best regards,
Steve



Steven T. Stone | County Manager
Brunswick County Government
30 Government Center Drive | Bolivia, NC 28422
Phone: 910.253.2015 | Fax: 910.253.2022
Email: steve.stone@brunswickcountync.gov
Website: www.brunswickcountync.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # VIII. - 4.

From: Administration - Modification of Surplus Property Sale Policy
Steve Stone, County Manager

Issue/Action Requested:

Request that the Board of Commissioners adopt amendments to the Contract and Purchasing Policy relating to disposal of surplus real property and minimum bid requirements.

Background/Purpose of Request:

The intent of the proposed policy amendments are to simplify and expedite the surplus property disposal process, while insuring that the County receives an equitable payment in accord with the governing law. The proposed policy sets the minimum starting bid for any surplus parcel at \$750.00 or the amount paid for the parcel by the County, whichever is greater. The policy delegates Board authority to County Administration to request the statutorily required 5% bid deposit from the first bid that meets the minimum bid requirement, advertise according to N.C.G.S. 160A-269 upset bid regulations when the deposit is received, and authorizes the Chairman to execute a Quit Claim Deed to the successful buyer upon the conclusion of the upset bid process and final payment by the buyer and the approval of the County Attorney.

A redlined copy showing all changes is attached, as well as a clean copy for adoption.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners adopt amendments to the Contract and Purchasing Policy relating to disposal of surplus real property and minimum bid requirements.

ATTACHMENTS:

Description

- ☐ Redlined changes to Contract, Purchasing, and Property Disposal Policy
- ☐ Contract, Purchasing, and Property Disposal Policy - clean for adoption



BRUNSWICK COUNTY

CONTRACT, ~~AND~~ PURCHASING, ~~AND~~ PROPERTY DISPOSAL POLICY

Adopted by the Board of Commissioners: May 6, 2019

As amended and adopted: ~~May 2, 2022~~ June 6, 2022

TABLE OF CONTENTS

1.	PREAMBLE.....	1
2.	GENERAL GUIDELINES.....	2
2.1	Planning.....	2
2.2	Incurring Obligations	2
2.3	Local Buying.....	2
2.4	Buying Proper Quality	2
2.5	Standard of Award.....	3
2.6	Purchase Procedures	3
2.6.1	Purchase Orders	3
2.6.2	Emergency Purchases Orders.....	4
2.7	Limitations of Procurement	4
2.7.1	Debarment.....	4
2.7.2	E-Verification Requirement.....	4
2.7.3	Divestment from Companies that Boycott Israel	4
2.7.4	Non-appropriation of Funds Clause for Contracts Spanning More Than One County Fiscal Year ..	5
2.7.5	Contract Renewals	5
2.7.6	Maximum Length of Contract.....	5
2.8	Contract Approval Process / Review by County Attorney.....	5
2.8.1	Contracts and Documents Subject to Review	5
2.8.2	Use of Document Templates.....	6
3.	PREAUDIT CERTIFICATION	6
4.	ELECTRONIC PAYMENTS.....	7
5.	CONFLICTS OF INTEREST; GIFTS AND FAVORS	7
6.	GENERAL PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING.....	8
6.1	Application	8
6.2	Minority and Women-Owned Business Enterprises	8
7.	SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING	9
7.1	Purchases or Leases for Apparatus, Supplies, Materials and/or Equipment.....	9
7.1.1	Purchases or Leases up to \$30,000	9
7.1.2	Purchases or Leases between \$30,000 and \$90,000.....	9
7.1.3	Delegation of Approval Authority to County Manager (up to \$90,000).....	9
7.1.4	Purchases or Leases \$90,000 or more	9
7.2	Special Considerations for Construction or Repair	10
7.3	Construction and Non-Emergency Repair Procedures	10

7.3.1	Construction and Repair up to \$30,000.....	10
7.3.2	Construction and Repair between \$30,000 and \$500,000.....	10
7.3.3	Construction and Repair \$500,000 or more	10
7.3.4	Construction and Repair involving a building \$300,000 or more	11
7.3.5	Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts	11
7.4	Architectural, Engineering or Surveying Contracts	11
7.5	Non-Emergency Services	11
7.6	Special Procurement Procedures for Technology Goods and Services	12
7.7	Exceptions to Competitive Bidding Requirements	12
7.7.1	Sole Source	12
7.7.2	Purchasing on “State Contract” N.C.G.S. § 143-129(e)(9).....	13
7.7.3	“Piggybacking” on Other Government Agency Purchases N.C.G.S. § 143-129(g).....	13
7.7.4	Group Purchasing Program Exception N.C.G.S. § 143-129(e)(3)	13
7.7.5	Special Emergencies	14
7.8	Delegation of Approval Authority to County Manager for Certain Change Orders and Contract Modifications or Amendments	14
8.	GENERAL PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING	14
8.1	Application	14
8.2	Compliance with Federal Law.....	14
8.3	Minority and Women-Owned Business Enterprise (“M/WBE”) Solicitation	15
8.4	No Evasion	16
8.5	Contract Requirements	16
8.6	Necessity	16
8.7	Clear Specifications	16
8.8	Notice of Federal Funding	16
8.9	Compliance by Contractors.....	16
8.10	Fixed Price	17
8.11	Use of Brand Names	17
8.12	Lease versus Purchase.....	17
8.13	Documentation	17
8.14	Cost Estimate	17
8.15	Contractor Oversight.....	18
8.16	Open Competition.....	18
8.17	Geographic Preference	18
8.18	Settlement of Issues	18

9.	SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING.....	18
9.1	Purchase or Service Contracts	18
9.1.1	Purchases of Goods and/or Services up to \$10,000	18
9.1.2	Purchases of <i>Goods Only</i> between \$10,000 and \$90,000	19
9.1.3	Purchases of <i>Goods Only</i> \$90,000 or more.....	19
9.1.4	Purchases of <i>Services Only</i> between \$10,000 and \$250,000.....	20
9.1.5	Purchases of <i>Services Only</i> \$250,000 or more.....	20
9.1.6	Delegation of Approval Authority to County Manager (up to \$90,000).....	21
9.2	Architectural, Engineering or Surveying Contracts	21
9.2.1	Architectural, Engineering or Surveying Services up to \$250,000	21
9.2.2	Architectural, Engineering or Surveying Services \$250,000 or more.....	22
9.3	Construction and Repair Contracts	22
9.3.1	Construction and Repair up to \$10,000.....	22
9.3.2	Construction and Repair between \$10,000 and \$250,000.....	23
9.3.3	Construction and Repair between \$250,000 and \$500,000.....	23
9.3.4	Construction and Repair \$500,000 or more	24
9.3.5	Construction and Repair involving a building \$300,000 or more	25
9.3.6	Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts	25
9.4	Exceptions	25
9.4.1	Sole Source	25
9.4.2	Public Exigency	26
9.4.3	Inadequate Competition	26
9.4.4	Federal Contract.....	26
9.4.5	Awarding Agency Approval	26
9.4.6	Piggybacking.....	26
9.5	Special Consideration for Purchases Utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds.....	26
10.	DISPOSITION OF SURPLUS PROPERTY	27
10.1	Real or Personal Property Valued Greater Than or Equal To \$30,000	27
10.2	Real or Personal Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000	27
10.3	Personal Property Valued at Less Than \$5,000	27
10.4	Special Consideration for Real Property Surplus; Minimum Terms	28
10.5	Purchase of Surplus Property by Employees.....	28
10.6	Donations of Personal Property to Other Governmental Units.....	29
10.7	Sale or Donations of Property to Entities Carrying Out a Public Purpose	29
11.	VIOLATION OF POLICY.....	29
	APPENDIX A - COMPETITIVE BIDDING REFERENCE CHART	30
	APPENDIX B - CONTRACT APPROVAL REQUIREMENTS	32
	APPENDIX C - RESOURCES	34

1. PREAMBLE

This Contract, ~~and~~ Purchasing, and Property Disposal Policy is intended for use as a guide to Brunswick County's contracting, ~~and~~ procurement, and property disposal methods and practices. The goal of this policy is to standardize Brunswick County's contracting, ~~and~~ procurement, and property disposal methods and to establish and implement a system of internal controls that provide reasonable assurance that the County is in compliance with N.C.G.S. Chapter 143, Article 8: Public Contracts, and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200, as they relate to contracting and purchasing, and N.C.G.S. Chapter 160A, Article 12: Sale and Disposition of Property, as it relates to disposing of County-owned property. While this policy does not answer all procurement or property disposal related questions, it provides a foundation for County ~~procurement~~ methods to be utilized.

The goals of Brunswick County's purchasing program are as follows:

1. To comply with legal and ethical requirements for public purchasing and procurement.
2. To assure vendors that impartial and equal treatment is afforded to all who conduct business with the County.
3. To receive maximum value for money spent by awarding purchase orders to the lowest responsive, responsible bidder, taking into consideration quality, performance, support, delivery schedule, previous performance, business location, and other relevant factors.
4. To provide County departments the required goods and services in a timely manner in the proper quantity and quality while providing necessary information to the County Finance Department.
5. To professionally administer the search for sources of supplies, the development of new sources, and the selection of suppliers.
6. To promote healthy business relationships through informed and fair purchasing practices and maintenance of ethical standards.

This policy supersedes all prior or contemporaneous policies and resolutions related to contracting, ~~and~~ procurement, and property disposal methods and practices by Brunswick County, including, without limitation, the Resolution for Approval of Construction Contract Modifications and Change Orders dated March 17, 2008, and the Resolution for Approval of Professional and Service Contracts dated July 1, 2013.

Any questions or concerns about this policy or the established procedures should be directed to the County Attorney's office or the Director of Fiscal Operations.

2. GENERAL GUIDELINES

2.1 Planning

It is imperative that all County departments take time to properly plan purchases. Purchasing plans should be made for goods and services to be purchased in both the near and distant future, thereby minimizing small orders and last-minute purchases. Planning is of highest importance to the County because proper planning reduces unnecessary clerical and supervisory time and costs associated with the procurement process.

2.2 Incurring Obligations

No obligation may be incurred in a program, function, or activity accounted for in a fund unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction as required by N.C.G.S. § 159-28(a).

2.3 Local Buying

It is the desire of Brunswick County to contract with vendors within Brunswick County provided that such vendors provide the County with the lowest price on equivalent goods or services meeting the County's needs. The County has a responsibility to its citizens and local businesses which is bilateral; both to spend locally when possible, but always to ensure that whenever taxpayer money is spent, it is spent with prudence. Because state statute uses an award standard of the lowest responsive, responsible bidder, the County prohibits the use of geographical preference in the selection of a vendor in competitively bid contracts. However, every effort will be made to encourage qualified local vendors and suppliers to compete for County business.

2.4 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase. It is the duty of the requesting department to secure the most cost-effective goods or services that will meet the requirements for which the goods or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the County from excess expenses in the future. The requesting department should take this into consideration when making a purchase. However, when making a purchase of other than the lowest cost goods or services, the requesting department should be prepared to justify such a purchase to County Administration based on standards directly related to the quality of the goods or services to be obtained, or the terms on which such goods or services are to be provided.

2.5 Standard of Award

Vendors will be selected on a competitive basis, unless exceptions apply. Bid awards, purchase orders, and/or contracts will be issued to the lowest responsive, responsible bidder, unless otherwise noted herein.

2.6 Purchase Procedures

2.6.1 Purchase Orders

All obligations of the County of \$5,000 or more and all recurring/blanket obligations must be supported by an official purchase order (PO). The dollar amount of any single item under a blanket purchase order shall not exceed \$5,000.

The following exceptions apply:

1. Salaries and wages
2. Fringe benefits
3. Travel and registration expenditures
4. Fuel
5. Telephone and utilities
6. Routine maintenance agreements
7. Legal services
8. Medical services
9. Postage
10. Payments for appropriations to non-profit entities, public schools, and community colleges
11. Debt service payments
12. Advertisements in local newspapers
13. Beneficiary payments to social services recipients
14. Social services payments to medical transportation providers
15. Animal services payments for veterinary service providers
16. Payments made to or on behalf of beneficiaries of the Public Housing Section 8 program
17. County credit card purchases
18. Others as periodically determined by the Director of Fiscal Operations or other designated purchasing official
19. Small obligations of less than \$5,000 under the following conditions:
 - a. Non-reoccurring expenditures (i.e. certain dues, subscriptions, or services)
 - b. An unencumbered balance is available for obligation
 - c. Shall be supported with a properly executed original invoice
 - d. Any abuse/misuse as determined by the Director of Fiscal Operations or other designated purchasing official of the small obligation procedure shall cause it to be discontinued for that respective department.

2.6.2 Emergency Purchases Orders

Emergency purchase orders may be issued on a case-by-case basis in accordance with all sections of this policy. If it is anticipated that a purchase will be submitted for FEMA reimbursement, the purchase order must include certain clauses required by FEMA, which may be obtained from Finance or the County Attorney's office.

2.7 Limitations of Procurement

2.7.1 Debarment

Brunswick County is prohibited from and will not use vendors who have been debarred by federal, state, or local governments. Vendor verification can be made through the federal System for Award Management (SAM) website, the NC Debarred Vendor List, and any County list maintained by the Finance Department and published on the County's intranet site.

2.7.2 E-Verification Requirement

No contract can be entered unless the contractor agrees to comply with NC E-Verify hiring requirements pursuant to N.C.G.S. § 143-133.3. Under the law the entity must possess twenty-five (25) or more employees for E-Verify to be applicable.

The following exceptions apply:

1. Expenses related to travel, including transportation and lodging, for employees, officers, agents, elected officials, or members of state or local boards, commissions, committees, or councils.
2. Contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment (contracts that involve a combination of purchase and construction or purchase and service would not be exempt).
3. Contracts let under N.C.G.S. § 143-129(e)(1), (9) or (9a) (the exceptions to competitive bidding requirements for purchases made directly from another unit of government or from a vendor under contract with the State of North Carolina or a federal agency).
4. Contracts let under N.C.G.S. § 143-129(g) (the piggyback exception to competitive bidding requirements).

2.7.3 Divestment from Companies that Boycott Israel

N.C.G.S. Chapter 147, Article 6G prohibits the investment of state funds in, or governmental contracting with, any company that boycotts or is involved in a boycott of Israel. To verify companies please visit the NC Treasurers website at www.nctreasurer.com.

2.7.4 Non-appropriation of Funds Clause for Contracts Spanning More Than One County Fiscal Year

In any contract or other agreement in which the other party's performance occurs in more than one County fiscal year, the following language shall be included in the contract:

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Provider of the non-appropriation, and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

2.7.5 Contract Renewals

Automatic renewals and options to renew must be included in calculating the contract amount for purposes of the approval thresholds in this policy.

2.7.6 Maximum Length of Contract

The maximum length of any contract, including automatic renewals and options to renew, shall not exceed three (3) years without the approval of the signatory authority based on a determination that the longer period is in the best interests of the County.

2.8 Contract Approval Process / Review by County Attorney

2.8.1 Contracts and Documents Subject to Review

The following types of contracts, contract amendments, and documents must go through the contract approval process:

1. Service contracts \$10,000 or more, except those for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies.
2. Service contracts for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies, regardless of the amount.
3. Contracts for the purchase or lease of goods (apparatus, supplies, materials, and/or equipment) \$30,000 or more.
4. Construction or repair contracts \$30,000 or more.

5. Any contract for which Board of Commissioners approval or signature of the Chairman of the Board is sought or required.
6. Any contract \$10,000 or more for which FEMA reimbursement will be sought.
7. Any contract \$10,000 or more with federal source of funds.
8. Any contract involving a grant.
9. Franchise agreements.
10. Leases, licenses or other agreements for the use of County property.
11. Funded Agency.
12. Interlocal.
13. Sole source (all documentation).
14. All Requests for Proposals, Requests for Qualifications, and Invitations to Bid.

Please refer to Appendix B for additional information regarding contract approval requirements.

Contracts requiring approval must be submitted for County Attorney review through the iContracts portal. This process serves as a tool to ensure the correct execution of contracts and to provide instruction and information necessary to assist in the process. A department should not permit a contractor to start work, and create an obligation on the part of the County, until the contract has been fully executed and copies are in the possession of the department, the County, and the contractor.

2.8.2 Use of Document Templates

Departments should utilize standard County contract and document templates available through the iContracts portal if possible. The County Attorney's office has created a library of standard templates that are tailored for use for many specific types of contracts and circumstances. Non-standard (vendor-generated) contracts should be limited, but may be necessary in some circumstances. Contact the County Attorney's office for guidance on use of the appropriate form of contract.

3. PREAUDIT CERTIFICATION

Except as otherwise provided by law, no obligation may be incurred by the County unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.

If an obligation is reduced to a written contract or written agreement requiring the payment of money or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited and shall be signed by the Director of Fiscal Operations to assure compliance with N.C.G.S. §159-28(a1). The certificate will take substantially the following form:

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

(Date)

(Signature of Director of Fiscal Operations)

No preaudit certification is required for: (1) an obligation, or a document related to the obligation, that has been approved by the Local Government Commission; (2) payroll expenditures, including employee benefits; or (3) electronic payments, as specified in the rules adopted by the Local Government Commission.

An obligation incurred in violation of the requirements of state law as specified in this policy is invalid and may not be enforced. The Director of Fiscal Operations shall establish procedures in accordance with any rules adopted by the Local Government Commission to ensure compliance with statutory requirements and this policy.

4. ELECTRONIC PAYMENTS

In order for electronic transactions to qualify for an exemption from the preaudit requirements in N.C.G.S. § 159-28(d1), the disbursement must be in compliance with the rules adopted by the Local Government Commission as detailed below:

1. The amount claimed is payable.
2. There is a budget, project, or grant ordinance appropriation authorizing the expenditure.
3. The monies remain within the appropriation to cover the amount that is due.

5. CONFLICTS OF INTEREST; GIFTS AND FAVORS

Employees and officers shall not, pursuant to their public authority, make or administer any contracts for their own direct financial benefit. Employees and officers who derive a direct benefit, but are not involved in making or administering the contract, are further prohibited from influencing or attempting to influence the award of contracts, or from soliciting or receiving gifts or rewards for recommending, and influencing or attempting to influence contract awards. These matters are generally governed by N.C.G.S. § 14-234.

Pursuant to N.C.G.S. § 133-32, no employee or officer of Brunswick County who is charged with the duty of: (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or

administering public contracts; or (3) inspecting or supervising construction, shall accept any gifts or favors from any vendor or service provider who has a contract with a governmental agency, or has performed under such a contract within the past year, or anticipates bidding on such a contract in the future.

This Section is not intended to prevent a gift a public servant would be permitted to accept under N.C.G.S. § 138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This Section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees and officers who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting.

This Section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship, rather than the business of the individual concerned, which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the recipient to their Department Head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

Please note that Brunswick County has adopted a separate Conflict of Interest Policy for procurements utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds (ARP/CSLFRF). Please refer to the specific ARP/CSLFRF Conflict of Interest Policy contained in the ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements.

6. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

6.1 Application

This Section applies to all local and state funded procurement. Such procurement must be in compliance with local, state and federal rules and regulations, including, without limitation, N.C.G.S. Chapter 143, Article 8: Public Contracts, and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200.

6.2 Minority and Women-Owned Business Enterprises

For building construction and repair projects in excess of \$30,000, the County must make a good faith effort to provide minority and women-owned businesses, as defined in N.C.G.S. § 143-128.2(g), with equal access and opportunity to participate in the County's business opportunities. To that end, at a minimum, contractor bid opportunities must be timely posted to the North Carolina Department of Administration, Office for Historically Underutilized Businesses Bid Posting Website

located at: <https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>.

7. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

7.1 Purchases or Leases for Apparatus, Supplies, Materials and/or Equipment

7.1.1 Purchases or Leases up to \$30,000

Purchases or leases in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.1.2 Purchases or Leases between \$30,000 and \$90,000

Purchases or leases in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. *Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.*

7.1.3 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

7.1.4 Purchases or Leases \$90,000 or more

Purchases or leases in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. All formal bids shall be procured through the County Attorney's office and must be approved by the Board of Commissioners. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids.

Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.

7.2 Special Considerations for Construction or Repair

No contract may be divided for the purpose of avoiding bidding or notice requirements pursuant to N.C.G.S. § 143-133.

7.3 Construction and Non-Emergency Repair Procedures

7.3.1 Construction and Repair up to \$30,000

Construction and repair contracts in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.3.2 Construction and Repair between \$30,000 and \$500,000

Construction and repair contracts in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. Informal bids in this price range must be approved by the Board of Commissioners. *If the contract involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.*

7.3.3 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. Three (3) competitive bids are required for construction and/or repairs. All formal bids shall be procured through the County Attorney's office. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids. If three (3) bids are not received, the County will re-advertise. If three (3) bids are not received for the re-advertisement, the contract may be awarded with less than three (3) bids. Formal bids in this price range must be approved by the Board of Commissioners. *If the contract*

involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.

7.3.4 Construction and Repair involving a building \$300,000 or more

All construction and repair contracts involving a building \$300,000 or more must also comply with the following additional requirements:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

7.3.5 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

7.4 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications, which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

7.5 Non-Emergency Services

All non-emergency service contracts, for which the contractor will perform work while on County property, must be accompanied by a written contract. All contracts must be delivered to the County Manager, the Director of Fiscal Operations, and the County Attorney for review prior to execution. The requesting department should utilize iContracts for such review, as applicable, pursuant to the thresholds set forth in this policy. The contract must follow all signature procedures and contain all necessary insurance and payment options and be compliant with the Local

Government Budget and Fiscal Control Act. The completed and signed contract must be reviewed as to form by the County Attorney, signed by the County Manager and/or Board of Commissioners, as appropriate, pre-audited by the Director of Fiscal Operations, and be filed in the respective department. If a contract requires action by the Board of Commissioners, the Chairman of the Board's signature may be required. The executed contract should be scanned and attached to the department requisition that is forwarded to the Finance Department. The County will attempt to structure contracts to coincide with the fiscal year unless another arrangement is in the best interest of the County.

Contracts directly authorized by the Board of Commissioners through direct award or budget authorization may be executed by the County Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the County Manager.

7.6 Special Procurement Procedures for Technology Goods and Services

All technology purchases require the approval of the Information Technology ("IT") Director. This includes, but is not limited to, hardware, software, licensing, maintenance, and all technology-related service contracts. Please note that there are specific requirements related to the purchase of IT goods and services contained in N.C.G.S. § 143-129.8. For additional information or assistance, please contact the County Attorney's office.

7.7 Exceptions to Competitive Bidding Requirements

North Carolina General Statutes provide Exceptions to State Competitive Bidding Requirements for NC Local Governments. Brunswick County departments are encouraged to utilize these alternative procurement methods when the appropriate exception allows the County to procure the goods or services desired more conveniently and efficiently than normal competitive bidding procedures. The intent to use an exception should be submitted to the Director of Fiscal Operations and the County Attorney for review prior to submitting a purchase requisition as some of the exceptions may require approval by the Board of Commissioners. Exceptions are detailed in N.C.G.S. § 143-129, but the most commonly utilized exceptions are described below.

7.7.1 Sole Source

A sole source exception may apply to certain purchases that fall within the competitive bidding ranges (informal or formal) set forth herein. Pursuant to N.C.G.S. § 143-129(e)(6), a sole source exception may apply to purchases made with local or state funding when: (1) performance or price competition for a product are not available; (2) a needed product is available from only one source of supply; or (3) standardization or compatibility is the overriding consideration. Departments that seek to procure goods from a sole source must: (1) ensure the correct application of the sole source exception; (2)

complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies. *Please refer to Section 9.4.1 for specific information related to sole source purchases made, in whole or in part, with the use of federal funds, as federal exceptions to competitive bidding are more restrictive.*

7.7.2 Purchasing on “State Contract” N.C.G.S. § 143-129(e)(9)

An exception applies for purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the State contract.

7.7.3 “Piggybacking” on Other Government Agency Purchases N.C.G.S. § 143-129(g)

Although commonly called “piggybacking,” this exception is actually a waiver for previously bid contracts. It applies to the purchase of apparatus, supplies, materials or equipment (excludes services) when a department seeks to purchase goods from a person or entity that has, through a competitive bidding process within the past twelve (12) months, contracted to furnish an item to: (1) the federal government or any federal agency; (2) the State of North Carolina or any agency or political subdivision of the state; or (3) any other state or agency or political subdivision of that state. The price and terms must be as good as or better than those that could be obtained through a formal bidding process, and the item specifications must be the same.

7.7.4 Group Purchasing Program Exception N.C.G.S. § 143-129(e)(3)

This exception applies to purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two (2) or more public agencies. Some of the most common group purchasing programs include, without limitation, the NC Sheriff’s Association Vehicle Procurement

Program, Sourcewell (formerly NJPA), U.S. Communities, and The Cooperative Purchasing Network.

7.7.5 Special Emergencies

The County Manager may exempt the procurement of any goods or services from the requirements of this policy in cases of special emergency involving the health and safety of the people or their property pursuant to N.C.G.S. § 143-129(e)(2). In order to exercise this emergency exemption, the emergency must be present, immediate, and existing. It cannot be a condition that is merely anticipated and may never actually occur. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required procurement method can be completed before any harm would occur), the emergency exception cannot be invoked. Further, if harm to the public can be averted through temporary measures while the proper procurement method is being conducted, the emergency exception cannot be used. The failure to take proper precautions to prevent the need for an emergency procurement will not be accepted as a justification for exemption from the requirements of this policy.

7.8 Delegation of Approval Authority to County Manager for Certain Change Orders and Contract Modifications or Amendments

The Board of Commissioners delegates approval authority to the County Manager for change orders and contract modifications for previously approved contracts in an amount up to \$30,000 *provided that* there is a current budget appropriation available.

8. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

8.1 Application

This Section applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). All federally funded projects, loans, grants, and sub-grants, whether funded in whole or in part, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200. These requirements also apply to any subrecipient of federal funds.

8.2 Compliance with Federal Law

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County will follow all applicable local, state, and federal procurement requirements when expending federal

funds. Should the County have more stringent requirements, the most restrictive requirement shall apply as long as it is consistent with state and federal law.

8.3 Minority and Women-Owned Business Enterprise (“M/WBE”) Solicitation

For all federally-funded contracts, subcontracts, and procurements for services (including engineering and legal), supplies, equipment, and construction or repair, the County must make minority businesses aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. Pursuant to 2 C.F.R. § 200.321, the County must take affirmative steps, otherwise known as “six good faith efforts,” to ensure that minority firms, women’s business enterprises, and labor surplus area firms are afforded equal contracting opportunities. The affirmative steps include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Ensuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources of products or services to be bid;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises (i.e. provide alternate bidding scenarios);
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises (i.e. timing and flexibility);
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the United States Department of Commerce; and
6. Requiring any prime contractor to take the affirmative steps listed above, if they will be awarding subcontracts.

The County and any prime contractor must maintain documentation evidencing compliance with these “six good faith efforts.”

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. However, as noted below, the procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this policy.

8.4 No Evasion

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or state and federal law.

8.5 Contract Requirements

All contracts, except those that fall at or below the “micro-purchase” threshold as set forth in 2 C.F.R. § 200.67, that are paid for, in whole or in part, with federal funds shall be in writing and must be submitted through iContracts for review by the County Attorney’s office. *Please note that the “micro-purchase” threshold is periodically adjusted for inflation. As of the date of this policy, the threshold is \$10,000.* The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

8.6 Necessity

Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Department Head or other designated purchasing official should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

8.7 Clear Specifications

All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

8.8 Notice of Federal Funding

All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

8.9 Compliance by Contractors

All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

8.10 Fixed Price

Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds. If a time and materials federal contract is awarded, the requesting department must exercise a high degree of oversight to be reasonably assured that the contractor is using efficient methods and effective cost controls.

8.11 Use of Brand Names

When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to achieve the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.

8.12 Lease versus Purchase

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

8.13 Documentation

Documentation must be maintained by the requesting department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

8.14 Cost Estimate

For all procurements costing \$250,000 or more, the requesting department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

8.15 Contractor Oversight

The County department receiving the federal funding must maintain oversight of the contract to ensure that the contractor is performing in accordance with the contract terms, conditions, and specifications.

8.16 Open Competition

Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to, unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.

8.17 Geographic Preference

No contract shall be awarded on the basis of a geographic preference.

8.18 Settlement of Issues

The County, *not* the federal government, shall be solely responsible for settling all contract disputes and claims. The federal government will not be a party to or defend contract claims for any reason.

9. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

The County shall solicit bids in accordance with the requirements under this Section of the policy based on the type and cost of the contract.

9.1 Purchase or Service Contracts

Except for Architectural, Engineering or Surveying services which are covered in the Mini-Brooks Act and for which a qualification-based selection process is required:

9.1.1 Purchases of Goods and/or Services up to \$10,000

Goods and/or services in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.1.2 Purchases of Goods Only between \$10,000 and \$90,000

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis.

9.1.3 Purchases of Goods Only \$90,000 or more

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of two (2) bids must be received in order to open all bids.

6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Board of Commissioners approval is required unless the Board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

9.1.4 Purchases of Services Only between \$10,000 and \$250,000

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).

9.1.5 Purchases of Services Only \$250,000 or more

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposal (“RFP”) must be publicly advertised. Formal advertisement in a newspaper is not required as long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.

5. There must be a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with the most advantageous proposal taking into consideration price and other factors identified in the RFP.
7. Award the contract on a fixed-price or cost-reimbursement basis.

9.1.6 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

9.2 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications (“RFQ”), which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

9.2.1 Architectural, Engineering or Surveying Services up to \$250,000

All architectural, engineering or surveying services in this price range shall be procured using the state “Mini-Brooks Act” requirements as follows:

1. An RFQ must be issued to solicit qualifications from qualified firms. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Respondent qualifications should be evaluated based on the evaluation criteria developed by the requesting department.
4. Respondents should be ranked based solely on qualifications, not price. Preference may be given to in-state, but not local, firms.
5. Fair and reasonable compensation will be negotiated with the best qualified firm. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.

6. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.2.2 Architectural, Engineering or Surveying Services \$250,000 or more

All architectural, engineering or surveying services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)(iv)) as follows:

1. An RFQ must be publicly advertised to solicit qualifications from an “adequate number of qualified sources.” A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. The RFQ should identify the evaluation criteria and relative importance of each criteria (the criteria weight).
4. The County must consider all responses to the publicized RFQ to the maximum extent practical.
5. There must be a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Respondent qualifications should be evaluated to rank respondents and for selection of the most qualified firm. Preference may be given to in-state, but not local, firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
7. Price cannot be a factor in the initial selection of the most qualified firm.
8. Once the most qualified firm is selected, fair and reasonable compensation will be negotiated. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.
9. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.3 Construction and Repair Contracts

9.3.1 Construction and Repair up to \$10,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.3.2 Construction and Repair between \$10,000 and \$250,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price or not-to-exceed basis.

9.3.3 Construction and Repair between \$250,000 and \$500,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid solicitation must be publicly advertised for a period of time sufficient to give bidders notice of opportunity to submit bids. A formal advertisement in a newspaper is not required as long as other means of advertising will provide sufficient notice of the opportunity to bid. The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of two (2) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Any and all bids may be rejected only for “sound documented reasons.” *If the contract involves construction or repair of a building \$300,000 or more, please refer to 9.3.5.*

9.3.4 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of three (3) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the three-bid minimum requirement). The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Board of Commissioners approval is required and cannot be delegated. The Board of Commissioners may reject and all bids only for “sound documented reasons.” *If the contract involves*

construction or repair of a building \$300,000 or more, please refer to 9.3.5.

9.3.5 Construction and Repair involving a building \$300,000 or more

Construction and repair involving a building \$300,000 or more must also comply with the following additional requirements under state law:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

9.3.6 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

9.4 Exceptions

Non-competitive contracts are allowed ***only*** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

9.4.1 Sole Source

A contract may be awarded without competitive bidding when the item is available from only one source. The requesting department shall document the justification for and lack of available competition for the item. Departments that seek to procure goods from a sole source using federal funds must: (1) ensure the correct application of the sole source exception pursuant to 2 C.F.R. § 200.320(c); (2) complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations

or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies.

9.4.2 Public Exigency

A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

9.4.3 Inadequate Competition

A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this policy does not result in a qualified winning bidder.

9.4.4 Federal Contract

A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

9.4.5 Awarding Agency Approval

A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

9.4.6 Piggybacking

The piggybacking exception that may apply to local and state funded contracts is not permitted for federally-funded contracts.

9.5 Special Consideration for Purchases Utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds

On January 6, 2022, US Treasury issued its Final Rule implementing the Coronavirus State and Local Recovery Fund program of the American Rescue Plan Act of 2021 (ARP/CSLFRF). Under ARP/CSLFRF, certain recipients, including eligible units of local government, will receive allocated funds which may only be used for approved expenditures, as determined by US Treasury. In its Final Rule, US Treasury

established strict regulations for a local government's use of ARP/CSLFRF funds, including, without limitation, stringent contracting and reporting requirements. To ensure compliance with the Final Rule, the County has adopted separate policies and procedures, including, without limitation, a detailed project eligibility and pre-approval process, for any procurement made with the use of ARP/CSLFRF funds, whether in whole or in part. ***Please refer to the specific ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements applicable to ARP/CSLFRF-funded procurements. While these separate policies are intended to be an integral part of this overall policy, to the extent the terms of any of the ARP/CSLFRF policies and procedures conflict with the provisions contained in this policy, the provisions of the specific ARP/CSLFRF policies and procedures shall govern for all ARP/CSLFRF-funded expenditures.***

10. DISPOSITION OF SURPLUS PROPERTY

When apparatus, supplies, materials, and/or equipment purchased for use by a County department are no longer suitable for use by that department, but may be useful to another department, the Department Head shall apprise all County departments of such property in order to maximize its benefit to the County. If, after a reasonable period of time, the Department Head determines that such property is not suitable for use by another County department, the Department Head, through the County Manager's office, may dispose of such surplus property as outlined below. All disposition methods set forth below, as well as any disposition of property for circumstances not specifically described below, shall be governed by the procedures set forth in Article 12 of Chapter 160A of the North Carolina General Statutes (160A-265 through 160A-280). (Although these statutes reference cities, note that all of these procedures are made applicable to counties by 153A-176).

10.1 Real or Personal Property Valued Greater Than or Equal To \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by public auction, sealed bid, negotiated offer and upset bid, or exchange.

10.2 Real or Personal Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.1 or by private negotiation.

10.3 Personal Property Valued at Less Than \$5,000

Without authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.2 or as set out below. Such property may be declared surplus and disposed of by the County Manager or his/her designee for fair market value at public or private sale. The County Manager or his/her designee shall have authority to convey title to any property disposed of pursuant to this Section. The County Manager or his/her designee's estimate of value for any one item or group

of items disposed of pursuant to this Section shall be verified by the Director of Fiscal Operations or his/her designee prior to sale.

The County Manager or his/her designee shall keep a record of all property sold under this Section, and the record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

Regarding the disposition of personal property, the County Manager or his/her designee is authorized to use existing private or public electronic auction services and to publish notice of all auctions solely by electronic means. The County Manager or his/her designee is authorized to discard any personal property that: (1) is determined to have no value; (2) remains unsold or unclaimed after the County has exhausted efforts to sell the property using any applicable procedure under this policy; or (3) poses a potential threat to public health or safety.

10.4 Special Consideration for Real Property Surplus; Minimum Terms

Notwithstanding the foregoing, any bids received for real property (of any value) which do not meet the criteria set forth below will be ~~rejected refused and will not be forwarded to the Board of Commissioners for consideration.~~

~~For all surplus real property, the minimum bid shall be \$750 or the amount that the County paid for the parcel, whichever is greater. Bidders will be notified of this minimum if their bid is rejected for failure to meet the required threshold.~~

~~The Board of Commissioners delegates its authority to the County Manager to request a required 5% bid deposit from the first bid received that meets the required minimum, to advertise the parcel in accordance with N.C.G.S. § 160A-269 after receipt of said deposit, and to prepare a quitclaim deed transferring the parcel to the successful bidder upon final payment by the bidder. The Board of Commissioners further authorizes the Chairman to execute said quitclaim deed upon review and approval by the County Attorney.~~

- ~~1. — For properties that have been held by the County for a period of ten (10) years or longer, bids that meet or exceed the lesser of \$750 or 25% of current tax value.~~
- ~~2. — For properties that have been held by the County for a period of less than ten (10) years, bids that meet or exceed the lesser of the County's basis in the property or 50% of current tax value.~~

10.5 Purchase of Surplus Property by Employees

County officials, employees and their immediate family shall be permitted to purchase County surplus property provided that no conflict of interest exists and provided further that the surplus item is otherwise available to the public, and the County

employee does not gain a financial benefit based on non-public information the employee possesses because of his or her job.

10.6 Donations of Personal Property to Other Governmental Units

Pursuant to N.C.G.S. § 160A-280, personal property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to another governmental unit within the United States, a sister county, or a nonprofit organization incorporated by the United States, one of the United States or the District of Columbia. For purposes of this section, a “sister county” is defined as one in a nation other than the United States that has entered into a formal, written agreement or memorandum of understanding with the County for the purposes of establishing a long-term relationship to promote communication, understanding, and goodwill and to develop mutually beneficial activities, programs, and ideas. Any agreement or memorandum of understanding must be signed by the Chairman of the Board of Commissioners for both the donor and recipient. Additionally, the Board of Commissioners must adopt a resolution approving the donation, and the resolution must be posted publicly at least five (5) days prior to its adoption. No donation of any surplus, obsolete, or unused personal property may occur prior to the adoption of such resolution.

Notwithstanding the foregoing, federal guidelines for the disposition of surplus property acquired, in whole or in part, with federal grant funds may differ from County procedure. To ensure compliance with federal guidelines, refer to the federal award document for guidance.

10.7 Sale or Donations of Property to Entities Carrying Out a Public Purpose

Pursuant to N.C.G.S. § 160A-279, property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to any public or non-profit private entity which carries out a public purpose provided that said property was not acquired by condemnation. The Board of Commissioners must adopt a resolution identifying the property and authorizing the action. With the exception of automobiles, the Board shall attach to any conveyance the conditions which assure the property will be put to a public use. A notice summarizing the resolution shall be published once after its adoption, and action cannot take place until ten (10) days after the publication.

11. VIOLATION OF POLICY

Any employee who knowingly violates the provisions of this policy shall be subject to disciplinary action in accordance with the Brunswick County Personnel Policy and may be held personally responsible for obligations incurred as set forth in N.C.G.S. § 159-28.

Adopted, as amended, this ~~2nd~~6th day of ~~May~~June, 2022.

BRUNSWICK COUNTY BOARD OF COMMISSIONERS

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Purchases or lease of apparatus, supplies, materials or equipment Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Purchases or lease of apparatus, supplies, materials or equipment Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department >\$5,000
Purchases or lease of apparatus, supplies, materials or equipment \$30,000 to \$90,000 – Non-Federal \$10,000 to \$90,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Purchases or lease of apparatus, supplies, materials or equipment \$90,000 or more – All	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance
Professional Service Contracts Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Professional Service Contracts \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Professional Service Contracts \$250,000 or more – Federal	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Construction or Repair Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Construction or Repair Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department <\$5,000
Construction or Repair \$30,000 to \$500,000 – Non-Federal \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Commissioners ¹	3 Informal Quotes/Bids	Yes	Yes	Yes	Finance
Construction or Repair \$500,000 or more – Non-Federal \$250,000 or more – Federal	Yes	County Commissioners ¹	Formal Bids	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) \$50,000 or more	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) < \$50,000 (exemption may be requested)	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance

¹The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

**APPENDIX B
CONTRACT APPROVAL REQUIREMENTS**

Contract Type	Contract Amount	Approval Required	Signature Required¹
<i>Board of Commissioners Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	\$30,000 up to \$90,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Purchase or lease of goods, apparatus, supplies, materials and/or equipment requiring formal bids by law	\$90,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded professional services	\$30,000 up to \$50,000 ³	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Non-Federally funded professional services	\$50,000 or more ⁴	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Architectural/Engineering/Surveying services (Mini-Brooks Act/Qualification-Based Selection)	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$500,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Non-Federally funded construction, renovation or repair work requiring formal bids by law	\$500,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Federally funded construction, renovation or repair work requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
ARP/CSLFRF-funded procurements, in whole or in part ⁵	All	County Attorney Director of Fiscal Operations County Manager Board of Commissioners	Board of Commissioners
Real property leases	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Real estate transactions involving the purchase or sale of real property	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Easements or other limited property rights	\$30,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Grants	All	County Attorney County Manager Board of Commissioners	Board of Commissioners

¹The County Manager may periodically delegate his/her signing authority.

²The Board of Commissioners delegates approval and signing authority to the County Manager for the purchase or lease of goods, apparatus, supplies, materials and/or equipment or services in an amount up to \$90,000 and/or for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the item(s) and/or project(s) were included in the annual budget presentation that supports the budget ordinance.

³Service contracts for amounts that are within the available budget appropriation and capital project ordinance for an amount between \$30,000 and \$50,000 may be placed on the consent agenda of a regularly scheduled Board of Commissioners meeting.

⁴Service contracts for amounts greater than \$50,000 shall be placed on an agenda for consideration of the Board of Commissioners.

⁵ Refer to the separate ARP/CSLFRF Policies and Procedures Manual for more detailed guidance and requirements.

APPENDIX B CONTRACT APPROVAL REQUIREMENTS			
Contract Type	Contract Amount	Approval Required	Signature Required¹
Interlocal	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Sole Source	Any amount subject to competitive bidding	County Attorney County Manager Board of Commissioners	Board of Commissioners
<i>County Manager Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	Up to \$30,000	County Manager	County Manager
Non-Federally funded professional services	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded professional services <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Easements or other limited property rights	Up to \$30,000	County Attorney County Manager	County Manager
Roadway Encroachment Agreements	All	County Attorney County Manager	County Manager

APPENDIX C RESOURCES

- North Carolina General Statutes governing Public Contracts can be found here:
https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_8.html
- Code of Federal Regulations (CFR) can be found here:
<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>
- Uniform Guidance can be found here:
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=468eb6b7cfa5f58ae694694ec6ab1098&mc=true&n=pt2.1.200&r=PART&ty=HTML>
- Uniform Guidance for Administrative Requirements can be found here:
Pre-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.c&rgn=div6>
Post-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.d&rgn=div6>
- Uniform Guidance for Contract Provisions for Contracts Under Federal Awards can be found here:
<https://www.ecfr.gov/current/title-2/part-200/appendix-Appendix%20II%20to%20Part%20200>
- A comparison chart of federal and state procurement requirements can be found here:
https://www.sog.unc.edu/sites/www.sog.unc.edu/files/general_media/Federal%20and%20State%20Procurement%20Comparison%20Chart%20-%20FEMA_3.pdf
- Further information on dollar thresholds can be found here:
<https://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf>
- The State of North Carolina Interactive Purchasing System can be found here:
<https://www.ips.state.nc.us/ips/Default.aspx>
- The North Carolina E-Procurement System can be found here:
<http://eprocurement.nc.gov/>
- The North Carolina Department of Administration, Office of Historically Underutilized Businesses Bid Posting Website can be found here:
<https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>
- Exceptions to State Competitive Bidding Requirements can be found here:
<https://www.sog.unc.edu/resources/legal-summaries/exceptions-state-competitive-bidding-requirements-table>
- The Federal System for Award Management (SAM) can be found here:
<https://www.sam.gov/SAM/>
- The NC Debarred Vendor List can be found here:
<https://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendors>



BRUNSWICK COUNTY

CONTRACT, PURCHASING, AND PROPERTY DISPOSAL POLICY

Adopted by the Board of Commissioners: May 6, 2019

As amended and adopted: June 6, 2022

TABLE OF CONTENTS

1.	PREAMBLE	1
2.	GENERAL GUIDELINES	2
2.1	Planning	2
2.2	Incurring Obligations	2
2.3	Local Buying.....	2
2.4	Buying Proper Quality	2
2.5	Standard of Award	3
2.6	Purchase Procedures.....	3
2.6.1	Purchase Orders	3
2.6.2	Emergency Purchases Orders.....	4
2.7	Limitations of Procurement.....	4
2.7.1	Debarment.....	4
2.7.2	E-Verification Requirement	4
2.7.3	Divestment from Companies that Boycott Israel	4
2.7.4	Non-appropriation of Funds Clause for Contracts Spanning More Than One County Fiscal Year ..	5
2.7.5	Contract Renewals	5
2.7.6	Maximum Length of Contract.....	5
2.8	Contract Approval Process / Review by County Attorney.....	5
2.8.1	Contracts and Documents Subject to Review	5
2.8.2	Use of Document Templates	6
3.	PREAUDIT CERTIFICATION	6
4.	ELECTRONIC PAYMENTS	7
5.	CONFLICTS OF INTEREST; GIFTS AND FAVORS	7
6.	GENERAL PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING	8
6.1	Application.....	8
6.2	Minority and Women-Owned Business Enterprises	8
7.	SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING	9
7.1	Purchases or Leases for Apparatus, Supplies, Materials and/or Equipment	9
7.1.1	Purchases or Leases up to \$30,000	9
7.1.2	Purchases or Leases between \$30,000 and \$90,000.....	9
7.1.3	Delegation of Approval Authority to County Manager (up to \$90,000).....	9
7.1.4	Purchases or Leases \$90,000 or more	9
7.2	Special Considerations for Construction or Repair	10

7.3	Construction and Non-Emergency Repair Procedures	10
7.3.1	Construction and Repair up to \$30,000.....	10
7.3.2	Construction and Repair between \$30,000 and \$500,000.....	10
7.3.3	Construction and Repair \$500,000 or more	10
7.3.4	Construction and Repair involving a building \$300,000 or more	11
7.3.5	Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts	11
7.4	Architectural, Engineering or Surveying Contracts	11
7.5	Non-Emergency Services.....	11
7.6	Special Procurement Procedures for Technology Goods and Services.....	12
7.7	Exceptions to Competitive Bidding Requirements	12
7.7.1	Sole Source	12
7.7.2	Purchasing on “State Contract” N.C.G.S. § 143-129(e)(9).....	13
7.7.3	“Piggybacking” on Other Government Agency Purchases N.C.G.S. § 143-129(g).....	13
7.7.4	Group Purchasing Program Exception N.C.G.S. § 143-129(e)(3)	13
7.7.5	Special Emergencies	14
7.8	Delegation of Approval Authority to County Manager for Certain Change Orders and Contract Modifications or Amendments.....	14
8.	GENERAL PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING	14
8.1	Application.....	14
8.2	Compliance with Federal Law	14
8.3	Minority and Women-Owned Business Enterprise (“M/WBE”) Solicitation.....	15
8.4	No Evasion.....	16
8.5	Contract Requirements.....	16
8.6	Necessity	16
8.7	Clear Specifications	16
8.8	Notice of Federal Funding	16
8.9	Compliance by Contractors.....	16
8.10	Fixed Price	17
8.11	Use of Brand Names	17
8.12	Lease versus Purchase.....	17
8.13	Documentation.....	17
8.14	Cost Estimate	17
8.15	Contractor Oversight.....	18
8.16	Open Competition	18
8.17	Geographic Preference.....	18
8.18	Settlement of Issues.....	18

9.	SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING.....	18
9.1	Purchase or Service Contracts.....	18
9.1.1	Purchases of Goods and/or Services up to \$10,000	18
9.1.2	Purchases of <i>Goods Only</i> between \$10,000 and \$90,000	19
9.1.3	Purchases of <i>Goods Only</i> \$90,000 or more.....	19
9.1.4	Purchases of <i>Services Only</i> between \$10,000 and \$250,000.....	20
9.1.5	Purchases of <i>Services Only</i> \$250,000 or more.....	20
9.1.6	Delegation of Approval Authority to County Manager (up to \$90,000).....	21
9.2	Architectural, Engineering or Surveying Contracts	21
9.2.1	Architectural, Engineering or Surveying Services up to \$250,000	21
9.2.2	Architectural, Engineering or Surveying Services \$250,000 or more.....	22
9.3	Construction and Repair Contracts	22
9.3.1	Construction and Repair up to \$10,000.....	22
9.3.2	Construction and Repair between \$10,000 and \$250,000.....	23
9.3.3	Construction and Repair between \$250,000 and \$500,000.....	23
9.3.4	Construction and Repair \$500,000 or more	24
9.3.5	Construction and Repair involving a building \$300,000 or more	25
9.3.6	Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts	25
9.4	Exceptions	25
9.4.1	Sole Source	25
9.4.2	Public Exigency	26
9.4.3	Inadequate Competition	26
9.4.4	Federal Contract.....	26
9.4.5	Awarding Agency Approval	26
9.4.6	Piggybacking.....	26
9.5	Special Consideration for Purchases Utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds.....	26
10.	DISPOSITION OF SURPLUS PROPERTY	27
10.1	Real or Personal Property Valued Greater Than or Equal To \$30,000.....	27
10.2	Real or Personal Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000.....	27
10.3	Personal Property Valued at Less Than \$5,000.....	27
10.4	Special Consideration for Real Property Surplus; Minimum Terms.....	28
10.5	Purchase of Surplus Property by Employees.....	28
10.6	Donations of Personal Property to Other Governmental Units	28
10.7	Sale or Donations of Property to Entities Carrying Out a Public Purpose	29
11.	VIOLATION OF POLICY	29
	APPENDIX A - COMPETITIVE BIDDING REFERENCE CHART	30
	APPENDIX B - CONTRACT APPROVAL REQUIREMENTS	32
	APPENDIX C - RESOURCES	34

1. PREAMBLE

This Contract, Purchasing, and Property Disposal Policy is intended for use as a guide to Brunswick County's contracting, procurement, and property disposal methods and practices. The goal of this policy is to standardize Brunswick County's contracting, procurement, and property disposal methods and to establish and implement a system of internal controls that provide reasonable assurance that the County is in compliance with N.C.G.S. Chapter 143, Article 8: Public Contracts, and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200, as they relate to contracting and purchasing, and N.C.G.S. Chapter 160A, Article 12: Sale and Disposition of Property, as it relates to disposing of County-owned property. While this policy does not answer all procurement or property disposal related questions, it provides a foundation for County methods to be utilized.

The goals of Brunswick County's purchasing program are as follows:

1. To comply with legal and ethical requirements for public purchasing and procurement.
2. To assure vendors that impartial and equal treatment is afforded to all who conduct business with the County.
3. To receive maximum value for money spent by awarding purchase orders to the lowest responsive, responsible bidder, taking into consideration quality, performance, support, delivery schedule, previous performance, business location, and other relevant factors.
4. To provide County departments the required goods and services in a timely manner in the proper quantity and quality while providing necessary information to the County Finance Department.
5. To professionally administer the search for sources of supplies, the development of new sources, and the selection of suppliers.
6. To promote healthy business relationships through informed and fair purchasing practices and maintenance of ethical standards.

This policy supersedes all prior or contemporaneous policies and resolutions related to contracting, procurement, and property disposal methods and practices by Brunswick County, including, without limitation, the Resolution for Approval of Construction Contract Modifications and Change Orders dated March 17, 2008, and the Resolution for Approval of Professional and Service Contracts dated July 1, 2013.

Any questions or concerns about this policy or the established procedures should be directed to the County Attorney's office or the Director of Fiscal Operations.

2. GENERAL GUIDELINES

2.1 Planning

It is imperative that all County departments take time to properly plan purchases. Purchasing plans should be made for goods and services to be purchased in both the near and distant future, thereby minimizing small orders and last-minute purchases. Planning is of highest importance to the County because proper planning reduces unnecessary clerical and supervisory time and costs associated with the procurement process.

2.2 Incurring Obligations

No obligation may be incurred in a program, function, or activity accounted for in a fund unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction as required by N.C.G.S. § 159-28(a).

2.3 Local Buying

It is the desire of Brunswick County to contract with vendors within Brunswick County provided that such vendors provide the County with the lowest price on equivalent goods or services meeting the County's needs. The County has a responsibility to its citizens and local businesses which is bilateral; both to spend locally when possible, but always to ensure that whenever taxpayer money is spent, it is spent with prudence. Because state statute uses an award standard of the lowest responsive, responsible bidder, the County prohibits the use of geographical preference in the selection of a vendor in competitively bid contracts. However, every effort will be made to encourage qualified local vendors and suppliers to compete for County business.

2.4 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase. It is the duty of the requesting department to secure the most cost-effective goods or services that will meet the requirements for which the goods or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the County from excess expenses in the future. The requesting department should take this into consideration when making a purchase. However, when making a purchase of other than the lowest cost goods or services, the requesting department should be prepared to justify such a purchase to County Administration based on standards directly related to the quality of the goods or services to be obtained, or the terms on which such goods or services are to be provided.

2.5 Standard of Award

Vendors will be selected on a competitive basis, unless exceptions apply. Bid awards, purchase orders, and/or contracts will be issued to the lowest responsive, responsible bidder, unless otherwise noted herein.

2.6 Purchase Procedures

2.6.1 Purchase Orders

All obligations of the County of \$5,000 or more and all recurring/blanket obligations must be supported by an official purchase order (PO). The dollar amount of any single item under a blanket purchase order shall not exceed \$5,000.

The following exceptions apply:

1. Salaries and wages
2. Fringe benefits
3. Travel and registration expenditures
4. Fuel
5. Telephone and utilities
6. Routine maintenance agreements
7. Legal services
8. Medical services
9. Postage
10. Payments for appropriations to non-profit entities, public schools, and community colleges
11. Debt service payments
12. Advertisements in local newspapers
13. Beneficiary payments to social services recipients
14. Social services payments to medical transportation providers
15. Animal services payments for veterinary service providers
16. Payments made to or on behalf of beneficiaries of the Public Housing Section 8 program
17. County credit card purchases
18. Others as periodically determined by the Director of Fiscal Operations or other designated purchasing official
19. Small obligations of less than \$5,000 under the following conditions:
 - a. Non-reoccurring expenditures (i.e. certain dues, subscriptions, or services)
 - b. An unencumbered balance is available for obligation
 - c. Shall be supported with a properly executed original invoice
 - d. Any abuse/misuse as determined by the Director of Fiscal Operations or other designated purchasing official of the small obligation procedure shall cause it to be discontinued for that respective department.

2.6.2 Emergency Purchases Orders

Emergency purchase orders may be issued on a case-by-case basis in accordance with all sections of this policy. If it is anticipated that a purchase will be submitted for FEMA reimbursement, the purchase order must include certain clauses required by FEMA, which may be obtained from Finance or the County Attorney's office.

2.7 Limitations of Procurement

2.7.1 Debarment

Brunswick County is prohibited from and will not use vendors who have been debarred by federal, state, or local governments. Vendor verification can be made through the federal System for Award Management (SAM) website, the NC Debarred Vendor List, and any County list maintained by the Finance Department and published on the County's intranet site.

2.7.2 E-Verification Requirement

No contract can be entered unless the contractor agrees to comply with NC E-Verify hiring requirements pursuant to N.C.G.S. § 143-133.3. Under the law the entity must possess twenty-five (25) or more employees for E-Verify to be applicable.

The following exceptions apply:

1. Expenses related to travel, including transportation and lodging, for employees, officers, agents, elected officials, or members of state or local boards, commissions, committees, or councils.
2. Contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment (contracts that involve a combination of purchase and construction or purchase and service would not be exempt).
3. Contracts let under N.C.G.S. § 143-129(e)(1), (9) or (9a) (the exceptions to competitive bidding requirements for purchases made directly from another unit of government or from a vendor under contract with the State of North Carolina or a federal agency).
4. Contracts let under N.C.G.S. § 143-129(g) (the piggyback exception to competitive bidding requirements).

2.7.3 Divestment from Companies that Boycott Israel

N.C.G.S. Chapter 147, Article 6G prohibits the investment of state funds in, or governmental contracting with, any company that boycotts or is involved in a boycott of Israel. To verify companies please visit the NC Treasurers website at www.nctreasurer.com.

2.7.4 Non-appropriation of Funds Clause for Contracts Spanning More Than One County Fiscal Year

In any contract or other agreement in which the other party's performance occurs in more than one County fiscal year, the following language shall be included in the contract:

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Provider of the non-appropriation, and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

2.7.5 Contract Renewals

Automatic renewals and options to renew must be included in calculating the contract amount for purposes of the approval thresholds in this policy.

2.7.6 Maximum Length of Contract

The maximum length of any contract, including automatic renewals and options to renew, shall not exceed three (3) years without the approval of the signatory authority based on a determination that the longer period is in the best interests of the County.

2.8 Contract Approval Process / Review by County Attorney

2.8.1 Contracts and Documents Subject to Review

The following types of contracts, contract amendments, and documents must go through the contract approval process:

1. Service contracts \$10,000 or more, except those for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies.
2. Service contracts for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies, regardless of the amount.
3. Contracts for the purchase or lease of goods (apparatus, supplies, materials, and/or equipment) \$30,000 or more.
4. Construction or repair contracts \$30,000 or more.

5. Any contract for which Board of Commissioners approval or signature of the Chairman of the Board is sought or required.
6. Any contract \$10,000 or more for which FEMA reimbursement will be sought.
7. Any contract \$10,000 or more with federal source of funds.
8. Any contract involving a grant.
9. Franchise agreements.
10. Leases, licenses or other agreements for the use of County property.
11. Funded Agency.
12. Interlocal.
13. Sole source (all documentation).
14. All Requests for Proposals, Requests for Qualifications, and Invitations to Bid.

Please refer to Appendix B for additional information regarding contract approval requirements.

Contracts requiring approval must be submitted for County Attorney review through the iContracts portal. This process serves as a tool to ensure the correct execution of contracts and to provide instruction and information necessary to assist in the process. A department should not permit a contractor to start work, and create an obligation on the part of the County, until the contract has been fully executed and copies are in the possession of the department, the County, and the contractor.

2.8.2 Use of Document Templates

Departments should utilize standard County contract and document templates available through the iContracts portal if possible. The County Attorney's office has created a library of standard templates that are tailored for use for many specific types of contracts and circumstances. Non-standard (vendor-generated) contracts should be limited, but may be necessary in some circumstances. Contact the County Attorney's office for guidance on use of the appropriate form of contract.

3. PREAUDIT CERTIFICATION

Except as otherwise provided by law, no obligation may be incurred by the County unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.

If an obligation is reduced to a written contract or written agreement requiring the payment of money or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited and shall be signed by the Director of Fiscal Operations to assure compliance with N.C.G.S. §159-28(a1). The certificate will take substantially the following form:

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

(Date)

(Signature of Director of Fiscal Operations)

No preaudit certification is required for: (1) an obligation, or a document related to the obligation, that has been approved by the Local Government Commission; (2) payroll expenditures, including employee benefits; or (3) electronic payments, as specified in the rules adopted by the Local Government Commission.

An obligation incurred in violation of the requirements of state law as specified in this policy is invalid and may not be enforced. The Director of Fiscal Operations shall establish procedures in accordance with any rules adopted by the Local Government Commission to ensure compliance with statutory requirements and this policy.

4. ELECTRONIC PAYMENTS

In order for electronic transactions to qualify for an exemption from the preaudit requirements in N.C.G.S. § 159-28(d1), the disbursement must be in compliance with the rules adopted by the Local Government Commission as detailed below:

1. The amount claimed is payable.
2. There is a budget, project, or grant ordinance appropriation authorizing the expenditure.
3. The monies remain within the appropriation to cover the amount that is due.

5. CONFLICTS OF INTEREST; GIFTS AND FAVORS

Employees and officers shall not, pursuant to their public authority, make or administer any contracts for their own direct financial benefit. Employees and officers who derive a direct benefit, but are not involved in making or administering the contract, are further prohibited from influencing or attempting to influence the award of contracts, or from soliciting or receiving gifts or rewards for recommending, and influencing or attempting to influence contract awards. These matters are generally governed by N.C.G.S. § 14-234.

Pursuant to N.C.G.S. § 133-32, no employee or officer of Brunswick County who is charged with the duty of: (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or

administering public contracts; or (3) inspecting or supervising construction, shall accept any gifts or favors from any vendor or service provider who has a contract with a governmental agency, or has performed under such a contract within the past year, or anticipates bidding on such a contract in the future.

This Section is not intended to prevent a gift a public servant would be permitted to accept under N.C.G.S. § 138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This Section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees and officers who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting.

This Section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship, rather than the business of the individual concerned, which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the recipient to their Department Head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

Please note that Brunswick County has adopted a separate Conflict of Interest Policy for procurements utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds (ARP/CSLFRF). Please refer to the specific ARP/CSLFRF Conflict of Interest Policy contained in the ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements.

6. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

6.1 Application

This Section applies to all local and state funded procurement. Such procurement must be in compliance with local, state and federal rules and regulations, including, without limitation, N.C.G.S. Chapter 143, Article 8: Public Contracts, and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200.

6.2 Minority and Women-Owned Business Enterprises

For building construction and repair projects in excess of \$30,000, the County must make a good faith effort to provide minority and women-owned businesses, as defined in N.C.G.S. § 143-128.2(g), with equal access and opportunity to participate in the County's business opportunities. To that end, at a minimum, contractor bid opportunities must be timely posted to the North Carolina Department of Administration, Office for Historically Underutilized Businesses Bid Posting Website

located at: <https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>.

7. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

7.1 Purchases or Leases for Apparatus, Supplies, Materials and/or Equipment

7.1.1 Purchases or Leases up to \$30,000

Purchases or leases in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.1.2 Purchases or Leases between \$30,000 and \$90,000

Purchases or leases in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. *Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.*

7.1.3 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

7.1.4 Purchases or Leases \$90,000 or more

Purchases or leases in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. All formal bids shall be procured through the County Attorney's office and must be approved by the Board of Commissioners. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids.

Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.

7.2 Special Considerations for Construction or Repair

No contract may be divided for the purpose of avoiding bidding or notice requirements pursuant to N.C.G.S. § 143-133.

7.3 Construction and Non-Emergency Repair Procedures

7.3.1 Construction and Repair up to \$30,000

Construction and repair contracts in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.3.2 Construction and Repair between \$30,000 and \$500,000

Construction and repair contracts in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. Informal bids in this price range must be approved by the Board of Commissioners. *If the contract involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.*

7.3.3 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. Three (3) competitive bids are required for construction and/or repairs. All formal bids shall be procured through the County Attorney's office. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids. If three (3) bids are not received, the County will re-advertise. If three (3) bids are not received for the re-advertisement, the contract may be awarded with less than three (3) bids. Formal bids in this price range must be approved by the Board of Commissioners. *If the contract*

involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.

7.3.4 Construction and Repair involving a building \$300,000 or more

All construction and repair contracts involving a building \$300,000 or more must also comply with the following additional requirements:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

7.3.5 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

7.4 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications, which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

7.5 Non-Emergency Services

All non-emergency service contracts, for which the contractor will perform work while on County property, must be accompanied by a written contract. All contracts must be delivered to the County Manager, the Director of Fiscal Operations, and the County Attorney for review prior to execution. The requesting department should utilize iContracts for such review, as applicable, pursuant to the thresholds set forth in this policy. The contract must follow all signature procedures and contain all necessary insurance and payment options and be compliant with the Local

Government Budget and Fiscal Control Act. The completed and signed contract must be reviewed as to form by the County Attorney, signed by the County Manager and/or Board of Commissioners, as appropriate, pre-audited by the Director of Fiscal Operations, and be filed in the respective department. If a contract requires action by the Board of Commissioners, the Chairman of the Board's signature may be required. The executed contract should be scanned and attached to the department requisition that is forwarded to the Finance Department. The County will attempt to structure contracts to coincide with the fiscal year unless another arrangement is in the best interest of the County.

Contracts directly authorized by the Board of Commissioners through direct award or budget authorization may be executed by the County Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the County Manager.

7.6 Special Procurement Procedures for Technology Goods and Services

All technology purchases require the approval of the Information Technology ("IT") Director. This includes, but is not limited to, hardware, software, licensing, maintenance, and all technology-related service contracts. Please note that there are specific requirements related to the purchase of IT goods and services contained in N.C.G.S. § 143-129.8. For additional information or assistance, please contact the County Attorney's office.

7.7 Exceptions to Competitive Bidding Requirements

North Carolina General Statutes provide Exceptions to State Competitive Bidding Requirements for NC Local Governments. Brunswick County departments are encouraged to utilize these alternative procurement methods when the appropriate exception allows the County to procure the goods or services desired more conveniently and efficiently than normal competitive bidding procedures. The intent to use an exception should be submitted to the Director of Fiscal Operations and the County Attorney for review prior to submitting a purchase requisition as some of the exceptions may require approval by the Board of Commissioners. Exceptions are detailed in N.C.G.S. § 143-129, but the most commonly utilized exceptions are described below.

7.7.1 Sole Source

A sole source exception may apply to certain purchases that fall within the competitive bidding ranges (informal or formal) set forth herein. Pursuant to N.C.G.S. § 143-129(e)(6), a sole source exception may apply to purchases made with local or state funding when: (1) performance or price competition for a product are not available; (2) a needed product is available from only one source of supply; or (3) standardization or compatibility is the overriding consideration. Departments that seek to procure goods from a sole source must: (1) ensure the correct application of the sole source exception; (2)

complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies. *Please refer to Section 9.4.1 for specific information related to sole source purchases made, in whole or in part, with the use of federal funds, as federal exceptions to competitive bidding are more restrictive.*

7.7.2 Purchasing on “State Contract” N.C.G.S. § 143-129(e)(9)

An exception applies for purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the State contract.

7.7.3 “Piggybacking” on Other Government Agency Purchases N.C.G.S. § 143-129(g)

Although commonly called “piggybacking,” this exception is actually a waiver for previously bid contracts. It applies to the purchase of apparatus, supplies, materials or equipment (excludes services) when a department seeks to purchase goods from a person or entity that has, through a competitive bidding process within the past twelve (12) months, contracted to furnish an item to: (1) the federal government or any federal agency; (2) the State of North Carolina or any agency or political subdivision of the state; or (3) any other state or agency or political subdivision of that state. The price and terms must be as good as or better than those that could be obtained through a formal bidding process, and the item specifications must be the same.

7.7.4 Group Purchasing Program Exception N.C.G.S. § 143-129(e)(3)

This exception applies to purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two (2) or more public agencies. Some of the most common group purchasing programs include, without limitation, the NC Sheriff’s Association Vehicle Procurement

Program, Sourcewell (formerly NJPA), U.S. Communities, and The Cooperative Purchasing Network.

7.7.5 Special Emergencies

The County Manager may exempt the procurement of any goods or services from the requirements of this policy in cases of special emergency involving the health and safety of the people or their property pursuant to N.C.G.S. § 143-129(e)(2). In order to exercise this emergency exemption, the emergency must be present, immediate, and existing. It cannot be a condition that is merely anticipated and may never actually occur. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required procurement method can be completed before any harm would occur), the emergency exception cannot be invoked. Further, if harm to the public can be averted through temporary measures while the proper procurement method is being conducted, the emergency exception cannot be used. The failure to take proper precautions to prevent the need for an emergency procurement will not be accepted as a justification for exemption from the requirements of this policy.

7.8 Delegation of Approval Authority to County Manager for Certain Change Orders and Contract Modifications or Amendments

The Board of Commissioners delegates approval authority to the County Manager for change orders and contract modifications for previously approved contracts in an amount up to \$30,000 *provided that* there is a current budget appropriation available.

8. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

8.1 Application

This Section applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). All federally funded projects, loans, grants, and sub-grants, whether funded in whole or in part, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200. These requirements also apply to any subrecipient of federal funds.

8.2 Compliance with Federal Law

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County will follow all applicable local, state, and federal procurement requirements when expending federal

funds. Should the County have more stringent requirements, the most restrictive requirement shall apply as long as it is consistent with state and federal law.

8.3 Minority and Women-Owned Business Enterprise (“M/WBE”) Solicitation

For all federally-funded contracts, subcontracts, and procurements for services (including engineering and legal), supplies, equipment, and construction or repair, the County must make minority businesses aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. Pursuant to 2 C.F.R. § 200.321, the County must take affirmative steps, otherwise known as “six good faith efforts,” to ensure that minority firms, women’s business enterprises, and labor surplus area firms are afforded equal contracting opportunities. The affirmative steps include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Ensuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources of products or services to be bid;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises (i.e. provide alternate bidding scenarios);
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises (i.e. timing and flexibility);
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the United States Department of Commerce; and
6. Requiring any prime contractor to take the affirmative steps listed above, if they will be awarding subcontracts.

The County and any prime contractor must maintain documentation evidencing compliance with these “six good faith efforts.”

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. However, as noted below, the procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this policy.

8.4 No Evasion

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or state and federal law.

8.5 Contract Requirements

All contracts, except those that fall at or below the “micro-purchase” threshold as set forth in 2 C.F.R. § 200.67, that are paid for, in whole or in part, with federal funds shall be in writing and must be submitted through iContracts for review by the County Attorney’s office. *Please note that the “micro-purchase” threshold is periodically adjusted for inflation. As of the date of this policy, the threshold is \$10,000.* The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

8.6 Necessity

Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Department Head or other designated purchasing official should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

8.7 Clear Specifications

All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

8.8 Notice of Federal Funding

All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

8.9 Compliance by Contractors

All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

8.10 Fixed Price

Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds. If a time and materials federal contract is awarded, the requesting department must exercise a high degree of oversight to be reasonably assured that the contractor is using efficient methods and effective cost controls.

8.11 Use of Brand Names

When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to achieve the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.

8.12 Lease versus Purchase

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

8.13 Documentation

Documentation must be maintained by the requesting department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

8.14 Cost Estimate

For all procurements costing \$250,000 or more, the requesting department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

8.15 Contractor Oversight

The County department receiving the federal funding must maintain oversight of the contract to ensure that the contractor is performing in accordance with the contract terms, conditions, and specifications.

8.16 Open Competition

Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to, unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.

8.17 Geographic Preference

No contract shall be awarded on the basis of a geographic preference.

8.18 Settlement of Issues

The County, *not* the federal government, shall be solely responsible for settling all contract disputes and claims. The federal government will not be a party to or defend contract claims for any reason.

9. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

The County shall solicit bids in accordance with the requirements under this Section of the policy based on the type and cost of the contract.

9.1 Purchase or Service Contracts

Except for Architectural, Engineering or Surveying services which are covered in the Mini-Brooks Act and for which a qualification-based selection process is required:

9.1.1 Purchases of Goods and/or Services up to \$10,000

Goods and/or services in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.1.2 Purchases of Goods Only between \$10,000 and \$90,000

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis.

9.1.3 Purchases of Goods Only \$90,000 or more

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of two (2) bids must be received in order to open all bids.

6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Board of Commissioners approval is required unless the Board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

9.1.4 Purchases of Services Only between \$10,000 and \$250,000

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).

9.1.5 Purchases of Services Only \$250,000 or more

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposal (“RFP”) must be publicly advertised. Formal advertisement in a newspaper is not required as long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.

5. There must be a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with the most advantageous proposal taking into consideration price and other factors identified in the RFP.
7. Award the contract on a fixed-price or cost-reimbursement basis.

9.1.6 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

9.2 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications (“RFQ”), which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

9.2.1 Architectural, Engineering or Surveying Services up to \$250,000

All architectural, engineering or surveying services in this price range shall be procured using the state “Mini-Brooks Act” requirements as follows:

1. An RFQ must be issued to solicit qualifications from qualified firms. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Respondent qualifications should be evaluated based on the evaluation criteria developed by the requesting department.
4. Respondents should be ranked based solely on qualifications, not price. Preference may be given to in-state, but not local, firms.
5. Fair and reasonable compensation will be negotiated with the best qualified firm. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.

6. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.2.2 Architectural, Engineering or Surveying Services \$250,000 or more

All architectural, engineering or surveying services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)(iv)) as follows:

1. An RFQ must be publicly advertised to solicit qualifications from an “adequate number of qualified sources.” A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. The RFQ should identify the evaluation criteria and relative importance of each criteria (the criteria weight).
4. The County must consider all responses to the publicized RFQ to the maximum extent practical.
5. There must be a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Respondent qualifications should be evaluated to rank respondents and for selection of the most qualified firm. Preference may be given to in-state, but not local, firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
7. Price cannot be a factor in the initial selection of the most qualified firm.
8. Once the most qualified firm is selected, fair and reasonable compensation will be negotiated. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.
9. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.3 Construction and Repair Contracts

9.3.1 Construction and Repair up to \$10,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.3.2 Construction and Repair between \$10,000 and \$250,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price or not-to-exceed basis.

9.3.3 Construction and Repair between \$250,000 and \$500,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid solicitation must be publicly advertised for a period of time sufficient to give bidders notice of opportunity to submit bids. A formal advertisement in a newspaper is not required as long as other means of advertising will provide sufficient notice of the opportunity to bid. The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of two (2) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Any and all bids may be rejected only for “sound documented reasons.” *If the contract involves construction or repair of a building \$300,000 or more, please refer to 9.3.5.*

9.3.4 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of three (3) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the three-bid minimum requirement). The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Board of Commissioners approval is required and cannot be delegated. The Board of Commissioners may reject and all bids only for “sound documented reasons.” *If the contract involves*

construction or repair of a building \$300,000 or more, please refer to 9.3.5.

9.3.5 Construction and Repair involving a building \$300,000 or more

Construction and repair involving a building \$300,000 or more must also comply with the following additional requirements under state law:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

9.3.6 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

9.4 Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

9.4.1 Sole Source

A contract may be awarded without competitive bidding when the item is available from only one source. The requesting department shall document the justification for and lack of available competition for the item. Departments that seek to procure goods from a sole source using federal funds must: (1) ensure the correct application of the sole source exception pursuant to 2 C.F.R. § 200.320(c); (2) complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations

or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies.

9.4.2 Public Exigency

A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

9.4.3 Inadequate Competition

A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this policy does not result in a qualified winning bidder.

9.4.4 Federal Contract

A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

9.4.5 Awarding Agency Approval

A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

9.4.6 Piggybacking

The piggybacking exception that may apply to local and state funded contracts is not permitted for federally-funded contracts.

9.5 Special Consideration for Purchases Utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds

On January 6, 2022, US Treasury issued its Final Rule implementing the Coronavirus State and Local Recovery Fund program of the American Rescue Plan Act of 2021 (ARP/CSLFRF). Under ARP/CSLFRF, certain recipients, including eligible units of local government, will receive allocated funds which may only be used for approved expenditures, as determined by US Treasury. In its Final Rule, US Treasury

established strict regulations for a local government's use of ARP/CSLFRF funds, including, without limitation, stringent contracting and reporting requirements. To ensure compliance with the Final Rule, the County has adopted separate policies and procedures, including, without limitation, a detailed project eligibility and pre-approval process, for any procurement made with the use of ARP/CSLFRF funds, whether in whole or in part. ***Please refer to the specific ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements applicable to ARP/CSLFRF-funded procurements. While these separate policies are intended to be an integral part of this overall policy, to the extent the terms of any of the ARP/CSLFRF policies and procedures conflict with the provisions contained in this policy, the provisions of the specific ARP/CSLFRF policies and procedures shall govern for all ARP/CSLFRF-funded expenditures.***

10. DISPOSITION OF SURPLUS PROPERTY

When apparatus, supplies, materials, and/or equipment purchased for use by a County department are no longer suitable for use by that department, but may be useful to another department, the Department Head shall apprise all County departments of such property in order to maximize its benefit to the County. If, after a reasonable period of time, the Department Head determines that such property is not suitable for use by another County department, the Department Head, through the County Manager's office, may dispose of such surplus property as outlined below. All disposition methods set forth below, as well as any disposition of property for circumstances not specifically described below, shall be governed by the procedures set forth in Article 12 of Chapter 160A of the North Carolina General Statutes (160A-265 through 160A-280). (Although these statutes reference cities, note that all of these procedures are made applicable to counties by 153A-176).

10.1 Real or Personal Property Valued Greater Than or Equal To \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by public auction, sealed bid, negotiated offer and upset bid, or exchange.

10.2 Real or Personal Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.1 or by private negotiation.

10.3 Personal Property Valued at Less Than \$5,000

Without authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.2 or as set out below. Such property may be declared surplus and disposed of by the County Manager or his/her designee for fair market value at public or private sale. The County Manager or his/her designee shall have authority to convey title to any property disposed of pursuant to this Section. The County Manager or his/her designee's estimate of value for any one item or group

of items disposed of pursuant to this Section shall be verified by the Director of Fiscal Operations or his/her designee prior to sale.

The County Manager or his/her designee shall keep a record of all property sold under this Section, and the record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

Regarding the disposition of personal property, the County Manager or his/her designee is authorized to use existing private or public electronic auction services and to publish notice of all auctions solely by electronic means. The County Manager or his/her designee is authorized to discard any personal property that: (1) is determined to have no value; (2) remains unsold or unclaimed after the County has exhausted efforts to sell the property using any applicable procedure under this policy; or (3) poses a potential threat to public health or safety.

10.4 Special Consideration for Real Property Surplus; Minimum Terms

Notwithstanding the foregoing, any bids received for real property (of any value) which do not meet the criteria set forth below will be rejected.

For all surplus real property, the minimum bid shall be \$750 or the amount that the County paid for the parcel, whichever is greater. Bidders will be notified of this minimum if their bid is rejected for failure to meet the required threshold.

The Board of Commissioners delegates its authority to the County Manager to request a required 5% bid deposit from the first bid received that meets the required minimum, to advertise the parcel in accordance with N.C.G.S. § 160A-269 after receipt of said deposit, and to prepare a quitclaim deed transferring the parcel to the successful bidder upon final payment by the bidder. The Board of Commissioners further authorizes the Chairman to execute said quitclaim deed upon review and approval by the County Attorney.

10.5 Purchase of Surplus Property by Employees

County officials, employees and their immediate family shall be permitted to purchase County surplus property provided that no conflict of interest exists and provided further that the surplus item is otherwise available to the public, and the County employee does not gain a financial benefit based on non-public information the employee possesses because of his or her job.

10.6 Donations of Personal Property to Other Governmental Units

Pursuant to N.C.G.S. § 160A-280, personal property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to another governmental unit within the United States, a sister county, or a nonprofit organization incorporated by the United States, one of the United States

or the District of Columbia. For purposes of this section, a “sister county” is defined as one in a nation other than the United States that has entered into a formal, written agreement or memorandum of understanding with the County for the purposes of establishing a long-term relationship to promote communication, understanding, and goodwill and to develop mutually beneficial activities, programs, and ideas. Any agreement or memorandum of understanding must be signed by the Chairman of the Board of Commissioners for both the donor and recipient. Additionally, the Board of Commissioners must adopt a resolution approving the donation, and the resolution must be posted publicly at least five (5) days prior to its adoption. No donation of any surplus, obsolete, or unused personal property may occur prior to the adoption of such resolution.

Notwithstanding the foregoing, federal guidelines for the disposition of surplus property acquired, in whole or in part, with federal grant funds may differ from County procedure. To ensure compliance with federal guidelines, refer to the federal award document for guidance.

10.7 Sale or Donations of Property to Entities Carrying Out a Public Purpose

Pursuant to N.C.G.S. § 160A-279, property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to any public or non-profit private entity which carries out a public purpose provided that said property was not acquired by condemnation. The Board of Commissioners must adopt a resolution identifying the property and authorizing the action. With the exception of automobiles, the Board shall attach to any conveyance the conditions which assure the property will be put to a public use. A notice summarizing the resolution shall be published once after its adoption, and action cannot take place until ten (10) days after the publication.

11. VIOLATION OF POLICY

Any employee who knowingly violates the provisions of this policy shall be subject to disciplinary action in accordance with the Brunswick County Personnel Policy and may be held personally responsible for obligations incurred as set forth in N.C.G.S. § 159-28.

Adopted, as amended, this 6th day of June, 2022.

BRUNSWICK COUNTY BOARD OF COMMISSIONERS

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Purchases or lease of apparatus, supplies, materials or equipment Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Purchases or lease of apparatus, supplies, materials or equipment Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department >\$5,000
Purchases or lease of apparatus, supplies, materials or equipment \$30,000 to \$90,000 – Non-Federal \$10,000 to \$90,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Purchases or lease of apparatus, supplies, materials or equipment \$90,000 or more – All	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance
Professional Service Contracts Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Professional Service Contracts \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Professional Service Contracts \$250,000 or more – Federal	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Construction or Repair Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Construction or Repair Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department <\$5,000
Construction or Repair \$30,000 to \$500,000 – Non-Federal \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Commissioners ¹	3 Informal Quotes/Bids	Yes	Yes	Yes	Finance
Construction or Repair \$500,000 or more – Non-Federal \$250,000 or more – Federal	Yes	County Commissioners ¹	Formal Bids	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) \$50,000 or more	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) < \$50,000 (exemption may be requested)	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance

¹The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

APPENDIX B
CONTRACT APPROVAL REQUIREMENTS

Contract Type	Contract Amount	Approval Required	Signature Required¹
<i>Board of Commissioners Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	\$30,000 up to \$90,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Purchase or lease of goods, apparatus, supplies, materials and/or equipment requiring formal bids by law	\$90,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded professional services	\$30,000 up to \$50,000 ³	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Non-Federally funded professional services	\$50,000 or more ⁴	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Architectural/Engineering/Surveying services (Mini-Brooks Act/Qualification-Based Selection)	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$500,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Non-Federally funded construction, renovation or repair work requiring formal bids by law	\$500,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Federally funded construction, renovation or repair work requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
ARP/CSLFRF-funded procurements, in whole or in part ⁵	All	County Attorney Director of Fiscal Operations County Manager Board of Commissioners	Board of Commissioners
Real property leases	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Real estate transactions involving the purchase or sale of real property	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Easements or other limited property rights	\$30,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Grants	All	County Attorney County Manager Board of Commissioners	Board of Commissioners

¹The County Manager may periodically delegate his/her signing authority.

²The Board of Commissioners delegates approval and signing authority to the County Manager for the purchase or lease of goods, apparatus, supplies, materials and/or equipment or services in an amount up to \$90,000 and/or for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the item(s) and/or project(s) were included in the annual budget presentation that supports the budget ordinance.

³Service contracts for amounts that are within the available budget appropriation and capital project ordinance for an amount between \$30,000 and \$50,000 may be placed on the consent agenda of a regularly scheduled Board of Commissioners meeting.

⁴Service contracts for amounts greater than \$50,000 shall be placed on an agenda for consideration of the Board of Commissioners.

⁵ Refer to the separate ARP/CSLFRF Policies and Procedures Manual for more detailed guidance and requirements.

APPENDIX B CONTRACT APPROVAL REQUIREMENTS			
Contract Type	Contract Amount	Approval Required	Signature Required¹
Interlocal	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Sole Source	Any amount subject to competitive bidding	County Attorney County Manager Board of Commissioners	Board of Commissioners
<i>County Manager Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	Up to \$30,000	County Manager	County Manager
Non-Federally funded professional services	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded professional services <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Easements or other limited property rights	Up to \$30,000	County Attorney County Manager	County Manager
Roadway Encroachment Agreements	All	County Attorney County Manager	County Manager

APPENDIX C RESOURCES

- North Carolina General Statutes governing Public Contracts can be found here:
https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_8.html
- Code of Federal Regulations (CFR) can be found here:
<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>
- Uniform Guidance can be found here:
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=468eb6b7cfa5f58ae694694ec6ab1098&mc=true&n=pt2.1.200&r=PART&ty=HTML>
- Uniform Guidance for Administrative Requirements can be found here:
Pre-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.c&rgn=div6>
Post-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.d&rgn=div6>
- Uniform Guidance for Contract Provisions for Contracts Under Federal Awards can be found here:
<https://www.ecfr.gov/current/title-2/part-200/appendix-Appendix%20II%20to%20Part%20200>
- A comparison chart of federal and state procurement requirements can be found here:
https://www.sog.unc.edu/sites/www.sog.unc.edu/files/general_media/Federal%20and%20State%20Procurement%20Comparison%20Chart%20-%20FEMA_3.pdf
- Further information on dollar thresholds can be found here:
<https://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf>
- The State of North Carolina Interactive Purchasing System can be found here:
<https://www.ips.state.nc.us/ips/Default.aspx>
- The North Carolina E-Procurement System can be found here:
<http://eprocurement.nc.gov/>
- The North Carolina Department of Administration, Office of Historically Underutilized Businesses Bid Posting Website can be found here:
<https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>
- Exceptions to State Competitive Bidding Requirements can be found here:
<https://www.sog.unc.edu/resources/legal-summaries/exceptions-state-competitive-bidding-requirements-table>
- The Federal System for Award Management (SAM) can be found here:
<https://www.sam.gov/SAM/>
- The NC Debarred Vendor List can be found here:
<https://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendors>



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # VIII. - 5.

From:

Steve Stone, County Manager

Tax Supervisor Appointment Term

Issue/Action Requested:

Request that the Board of Commissioners appoint Mr. Jeffery Niebauer to serve as Brunswick County Tax Supervisor through June 30, 2026 per NCGS 105-294.

Background/Purpose of Request:

Mr. Jeffery Niebauer was last appointed as the Brunswick County Tax Supervisor on June 4, 2018 for a 4-year term ending on June 30, 2022. Mr. Niebauer has continued to display a commitment to Brunswick County, professionalism, adherence to statutes, and capable management skills.

It is advantageous for Brunswick County to retain a Tax Supervisor to provide stability and continuity from one tax period to the next. The statutes provide that the Board of Commissioners shall appoint a county assessor to serve a term of not less than two nor more than four years. It is recommended that Mr. Niebauer be appointed as Tax Supervisor and given the Order to Collect for the maximum appointment term of 4 years.

Fiscal Impact:

Approved By County Attorney:

Yes

County Manager's Recommendation:

Recommend that the Board of Commissioners appoint Mr. Jeffery Niebauer to serve as Brunswick County Tax Supervisor through June 30, 2026 per NCGS 105-294.



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
June 6, 2022

Action Item # IX. - 1.

From:

Daralyn Spivey

Clerk to the Board - Board Appointment

Issue/Action Requested:

Request the Board to consider the appointment of Diana Dornfeld to the District 2 Library Board and Debbie Lambert or Renee Cooper to the Substance Use and Addiction Commission at large appointment

Background/Purpose of Request:

Several boards/committees have seats expiring June 30, 2022. The appointees presented, if approved, will fill two (2) of those seats. All remaining vacancies will be brought to the Board at a later date.

Fiscal Impact:

Reviewed By Director of Fiscal Operations

Approved By County Attorney:

Yes