AMENDED

CITY OF NEW BERN BOARD OF ALDERMEN MEETING JUNE 23, 2020 – 6:00 P.M. CITY HALL COURTROOM 300 POLLOCK STREET

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderwoman Harris. Pledge of Allegiance.
- 2. Roll Call.

Consent Agenda

- 3. Consider Adopting a Resolution to Close Specific Streets for a Peaceful Demonstration and March.
- 4. Approve Minutes.

- 5. Presentation of GIS Annual Report.
- 6. Conduct a Public Hearing on the Rezoning of 2409 Oaks Road; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 2409 Oaks Road.
- 7. Conduct a Public Hearing on the Rezoning of 1001 and 1003 S. Glenburnie Road; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 1001 and 1003 S. Glenburnie Road.
- 8. Conduct a Public Hearing on the Rezoning of 4416 South US 17 Hwy.; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 4416 South US 17 Hwy.
- 9. Consider Adopting a Resolution Approving an Audit Contract for Fiscal Year Ending June 30, 2020.
- Consider Adopting a Resolution Approving a Lease Agreement with State Employees Credit Union for the ATM Located in the Parking Lot at the Corner of Pollock and Craven Streets.
- 11. Consider Adopting a Resolution Approving a Lease Agreement with the Area Day Reporting Program for Youth for Property Located at 500 Fort Totten Drive.
- 12. Consider Adopting a Resolution Approving a Lease Agreement with Habitat for Humanity of Craven County NC for Property Located at 920 George Street.

- 13. Consider Adopting a Resolution to Initiate the Upset Bid process for 1705 Wilmington Street.
- 14. Consider Adopting a Resolution Approving Administrative Guidelines and Policies for the City of New Bern Hazard Mitigation Grant Programs.
- 15. Consider Adopting a Resolution Approving a Financial Management Plan for the City of New Bern Hazard Mitigation Grant Programs.
- 16. Consider Adopting a Budget Ordinance Amendment for Fiscal Year 2019-20 for Various Funds.
- 17. Consider Adopting an Amendment to the Grant Project Ordinance for the Hurricane Florence Fund to Establish a Stanley White Recreation Center Project Within the Fund.
- 18. Consider Adopting an Amendment to the Capital Project Ordinance for the Township 7 Sewer Improvements Project Fund.
- 19. Consider Adopting an Ordinance Amendment to Close the City Market Workforce Development Training Center Grant Project Fund and the Neuse River Gateway Grant Project Fund.
- 20. Consider Adopting an Ordinance to Amend Chapter 66 "Streets, Sidewalks and Other Public Places" with Respect to Sidewalk Cafes.
- 21. Consider Adopting an Ordinance to Amend Chapter 66 "Streets, Sidewalks and Other Public Places" with Respect to Street Cafes.
- 22. Appointment(s).
- 23. Attorney's Report.
- 24. City Manager's Report.
- 25. New Business.
- 26. Closed Session.
- 27. Adjourn.

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memo to: Mayor and Board of Aldermen

From: Foster Hughes, Acting City Manager

Date: June 18, 2020

Re: June 23, 2020 Agenda Explanations - Amended

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderwoman Harris. Pledge of Allegiance.
- 2. Roll Call.

Consent Agenda

3. Consider Adopting a Resolution to Close Specific Streets for a Peaceful Demonstration and March.

(Ward 1) Natalie Standifer is organizing a peaceful demonstration and march and has requested specific streets be closed to vehicular traffic to accommodate this event on Saturday, June 27, 2020 beginning at 12 p.m. The streets to be closed are a portion of Broad Street from the old Days Inn site to East Front Street and East Front Street to South Front Street. The march will end at Union Point Park, and streets will reopen as the march rolls through. According to the application, the demonstration and march will conclude by 3 p.m. A rain date of Saturday, July 18, 2020 has also been requested. A memo from Foster Hughes, Director of Parks and Recreation, is attached along with a copy of the application and map of the route.

4. Approve Minutes.

Draft minutes from the June 09, 2020 meeting are provided for review and approval.

5. Presentation of GIS Annual Report.

The Board adopted a GIS Strategic Plan in 2015. The plan recommends that an annual report be provided to the Board of Aldermen to relay the status of implementing the plan's recommendations. Alice Wilson, GIS Coordinator, will share a PowerPoint presentation to demonstrate some of the GIS applications and advise of future projects and goals.

- 6. Conduct a Public Hearing on the Rezoning of 2409 Oaks Road; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 2409 Oaks Road.

(Ward 5) After originally being noticed for April 14, 2020 and continued twice due to the restrictions imposed by the Governor's Executive Order relative to the COVID-19 pandemic, a public hearing was held on June 9, 2020. Three residents voiced concern about the rezoning, and the Board continued the public hearing and consideration of the rezoning request until now to allow the applicant an opportunity to attend and address the Board.

As a reminder, Nasr Algaradi requested to rezone the 0.25-acre parcel located at 2409 Oaks Road from R-6S Residential District to C-4 Neighborhood Business District. His previous request in 2019 to rezone the property as C-3 Commercial District was denied by the Board of Alderman due to the perceived impacts a vape/tobacco shop would have on the surrounding neighborhood. Mr. Algaradi has subsequently amended his plans to utilize the property as a convenience store. He is now seeking to have the property rezoned as C-4 Neighborhood Business District. The Planning and Zoning Board unanimously approved this request at its March 3, 2020 meeting.

The Board is asked to reopen the public hearing to hear from the applicant and any other citizens, and then consider adopting a statement of zoning consistency or inconsistency and ultimately consider the zoning request. A memo from Jeff Ruggieri, Director of Development Services, is attached.

- 7. Conduct a Public Hearing on the Rezoning of 1001 and 1003 S. Glenburnie Road; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency;
 - b) Consider Adopting an Ordinance Rezoning 1001 and 1003 S. Glenburnie Road.

(Ward 5) John Delk has requested to rezone 1.28 +/- acres located at 1001 and 1003 South Glenburnie Road from R-6 Residential District to C-3 Commercial District. The Planning and Zoning Board heard this petition at their June 2, 2020 meeting and unanimously approved the request. After conducting a public hearing, the Board is asked to consider adopting a statement of zoning consistency or inconsistency, followed by consideration of the zoning request. A memo from Mr. Ruggieri is attached.

- 8. Conduct a Public Hearing on the Rezoning of 4416 South US 17 Hwy.; and
 - a) Consider Adopting a Statement of Zoning Consistency or Inconsistency; and
 - b) Consider Adopting an Ordinance Rezoning 4416 South US 17 Hwy.

(Ward 6) Corey Thomas has requested to rezone a 0.46+/- parcel located at 4416 South US 17 Hwy. from R-10 Residential District to C-3 Commercial District. The Planning and Zoning Board heard this petition at their June 2, 2020 meeting and unanimously approved the request. After conducting a public hearing, the Board is asked to consider adopting a statement of zoning consistency or inconsistency, followed by consideration of the zoning request. A memo from Mr. Ruggieri is attached.

9. Consider Adopting a Resolution Approving an Audit Contract for Fiscal Year Ending June 30, 2020.

After issuing a Request for Proposal and receiving responses, the Board selected the firm of Thompson, Price, Scott, Adams & Co. to perform the City's audit for Fiscal Year Ending June 30, 2019. The Board is asked to approve a new contract for the firm to also perform the audit for Fiscal Year Ending June 30, 2020. The cost for their services will not exceed \$34,500, which includes all major programs. This fee does not represent an increase from the amount charged for the June 30, 2019 audit. A memo from Mary Hogan, Director of Finance, is attached.

10. Consider Adopting a Resolution Approving a Lease Agreement with State Employees Credit Union for the ATM Located in the Parking Lot at the Corner of Pollock and Craven Streets.

(Ward 1) The State Employee's Credit Union has requested renewal of the lease agreement for the ATM currently located in the City's parking lot at 302 Craven Street. This ATM provides a needed service for those who live and work in the downtown area. The proposed lease term is for a period of 12 months beginning July 1, 2020, at a rate of \$225.00 a month. A memo from Matt Montanye, Director of Public Works, is attached.

11. Consider Adopting a Resolution Approving a Lease Agreement with the Area Day Reporting Program for Youth for Property Located at 500 Fort Totten Drive.

(Ward 1) The Area Day Reporting Program for Youth has requested renewal of the lease agreement for the property located at 500 Fort Totten Drive. The lease is for a 12-month period beginning July 1, 2020, at a rate of \$1.00 a year. A memo from Mr. Montanye is attached.

12. Consider Adopting a Resolution Approving a Lease Agreement with Habitat for Humanity of Craven County NC for Property Located at 920 George Street.

(Ward 1) Habitat for Humanity of Craven County NC has requested renewal of the lease agreement for a portion of the property located at 920 George Street. The proposed lease term is for a period of 12 months beginning on July 1, 2020, at a rate of \$1.00 a year. A memo from Mr. Montanye is attached.

13. Consider Adopting a Resolution to Initiate the Upset Bid process for 1705 Wilmington Street.

(Ward 5) Ashley Boyd has submitted an offer of \$3,580 to purchase the vacant lot at 1705 Wilmington Street. The tax value of the small 0.09-acre lot is \$7,160, and the offer represents 50% of the value. The property was acquired by the City in October of 2008. The bidder is aware of the current zoning and states she has spoken extensively with Development Services about the potential uses and restrictions associated with the property. She has indicated a desire to potentially place a tiny house on the property. A memo from Brenda Blanco, City Clerk, is attached along with the tax card and pictures of the property.

14. Consider Adopting a Resolution Approving Administrative Guidelines and Policies for the City of New Bern Hazard Mitigation Grant Programs.

The Hazard Mitigation Grant Program ("HMGP") assists with implementing long-term mitigation measures following a Presidential Disaster Declaration. This program supports cost-effective, post-disaster projects and is the longest running mitigation program among FEMA's three grant programs. The City has been approved funding to acquire and demolish three residential structures that were substantially damaged during Hurricane Florence and which are located in the Special Flood Hazard Area. Grant funding of \$191,472 will be provided to facilitate this scope of work. It is required that the Board approve administrative guidelines and policies associated with the HMGP. A memo from Amanda Ohlensehlen, Community & Economic Development Manager, is attached.

15. Consider Adopting a Resolution Approving a Financial Management Plan for the City of New Bern Hazard Mitigation Grant Programs.

Like the previous item, the Board must approve a Financial Management Plan establishing that the Director of Finance will serve as the Grant Finance Officer for the HMGP. The plan also confirms that funding will be deposited in the City's bank account at First Citizens Bank. A memo from Ms. Ohlensehlen is attached.

16. Consider Adopting a Budget Ordinance Amendment for Fiscal Year 2019-20 for Various Funds.

To ensure all projected expenditures have a sufficient budget and to realign revenues to equal appropriations, amendments must be made to the Fiscal Year 2019-20 budget. The Electric, Water and Sewer Funds will be amended to align with the Payment in Lieu of Taxes ("PILOT") and funds will be reallocated within the

various divisions to accommodate transfers. The Grants Fund will be amended to recognize grants that rolled from Fiscal Year 2018-19 and to acknowledge a new grant awarded to the Police Department by the Department of Justice in the amount of \$37,014. A memo from Mrs. Hogan is attached.

17. Consider Amending the Grant Project Ordinance for the Hurricane Florence Fund to Establish a Stanley White Recreation Center Project Within the Fund.

A grant project ordinance was adopted on October 9, 2018 to establish the Hurricane Florence Fund. The proposed amendment will recognize estimated revenues of \$15,000,000 that have been obligated by FEMA for damages sustained during the hurricane. The amendment also creates within the fund an \$8,006,649 project for the Stanley White Recreation Center ("SWRC"). Funds designated for SWRC are comprised of \$7,506,649 from FEMA and \$500,000 from insurance proceeds. A memo from Mrs. Hogan is attached.

18. Consider Adopting an Amendment to the Capital Project Ordinance for the Township 7 Sewer Improvements Project Fund.

A capital project ordinance was established on December 10, 2015 for the Township 7 Sewer Improvements Project Fund. During Hurricanes Matthew and Florence, a sewer lift station located adjacent to the Trent River was flooded. The City applied for and received a \$500,000 grant from the Golden Leaf Foundation to assist with mitigating sewer overflows and other hazards. The grant funds will be used toward the cost of relocating the sewer lift station out of the floodplain. This amendment acknowledges the \$500,000 in grant revenues. A memo from Mrs. Hogan is attached.

19. Consider Adopting an Ordinance Amendment to Close the City Market – Workforce Development Training Center Grant Project Fund and the Neuse River Gateway Grant Project Fund.

Grant project funds were created for the City Market – Workforce Development Center and the Neuse River Gateway Project. Both projects are now complete, and the proposed ordinance amendment will formally close out the projects. A memo from Mrs. Hogan is attached.

20. Consider Adopting an Ordinance to Amend Chapter 66 "Streets, Sidewalks and Other Public Places" with Respect to Sidewalk Cafes.

Chapter 66 of the Code of Ordinances makes provision for sidewalk cafes. Those cafes were previously limited to restaurants, but the amendment expands the operation of a sidewalk café to include any business that holds an ABC permit.

21. Consider Adopting an Ordinance to Amend Chapter 66 "Streets, Sidewalks and Other Public Places" with Respect to Street Cafes.

Chapter 66 of the Code of Ordinances makes provision for street cafes. Those cafes were previously limited to restaurants, but the amendment expands the operation of a street café to include any business that holds an ABC permit.

22. Appointment(s).

Ross Beebe's term on the Board of Adjustment will expire June 30, 2020. He serves as an alternate, and this term was his first appointment. Therefore, he is eligible for reappointment to another three-year term. This is a rotating appointment, and Alderman Best is next on the list to make an appointment. She is asked to consider reappointing Mr. Beebe or, in the alternative, to make a new appointment to fill this seat.

- 23. Attorney's Report.
- 24. City Manager's Report.
- 25. New Business.
- 26. Closed Session.
- 27. Adjourn.

AGENDA ITEM COVER SHEET

Agenda Item Title:Consider Adopting a Resolution to close a portion of Broad Street and East Front Street for a peaceful demonstration.

Date of Meeting: 6/23/2020 Department: Parks & Recreation Call for Public Hearing: □Yes⊠No		Ward # if applicable: Ward 1	
		Person Submitting Item: Foster Hughes, CPRE	
		Date of Public Hearing:	
Explanation of Item:	Natalie Standifer has made a request to close a portion of Broad Street (old Days Inn property at 5 points); and a portion of East Front Street to South Front Street for a Peaceful Demonstration March on Saturday, June 27, 2020. Rain date: 6-18-2020.		
Actions Needed by Board:	Adopt the Resolution.		
Backup Attached:	Resolution – Memo – Application - Map		
Is item time sensitive? Will there be advocates		he meeting? □Yes ⊠ No	
Cost of Agenda Item: N	I/A nditure, has it b	peen budgeted and are funds available	

Additional Notes:



Aldermen

Sabrina Bengel lameesha Harris Bobby Aster Johnnie Ray Kinsey Barbara I. Best Jeffrey T. Odham

Family, fliness and fun come together here.

Foster Hughes, CPRE Director of Parks & Recreation



Dana E. Outlaw Mayor

Mark A. Stephens City Manager

Memo To:

Mayor and Board of Aldermen

From:

Foster Hughes, CPRE

Director of Parks and Recreation

Re:

Adopt a Resolution to close streets to vehicle traffic for a peaceful demonstration

march on Saturday, June 27, 2020 (Rain date - Saturday, July 18, 2020).

Background Information:

Natalie Standifer has submitted a request to close Broad Street (the old days inn site at 5 points) to East Front Street; and East Front Street to South Front Street for a Peaceful Demonstration March to Union Point Park, on Saturday, June 27, 2020. The march is scheduled to begin at 12 noon. The streets will re-open once participants have reached Union Point Park. A rain date of Saturday, July 18, 2020 has been selected.

Recommendation:

The Parks and Recreation Department recommends approval and requests the Board adopt a Resolution approving this request.

If you have any questions concerning this matter, please let me know.

RESOLUTION

THAT WHEREAS, Natalie Standifer has organized a peaceful demonstration march to Union Point Park and has requested a portion of Broad Street from the old Days Inn site at Five Points to East Front Street, and East Front Street to South Front Street be closed to vehicular traffic from 12:00 p.m. for the duration of the march on Saturday, June 27, 2020, with a scheduled rain date of Saturday, July 18, 2020.

WHEREAS, the Director of Parks and Recreation of the City of New Bern recommends the streets be closed as requested.

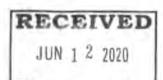
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

- That Broad Street from the old Days Inn site at Five Points to East Front Street, and East Front Street to South Front Street shall be closed to vehicular traffic from 12:00 p.m. on June 27, 2020 for the duration of the march; and
 - That a rain date of July 18, 2020 is approved.

ADOPTED THIS 23rd DAY OF JUNE 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK



CITY OF NEW BERN

BY:APPLICATION FOR PUBLIC ASSEMBLY, PARADE & SPECIAL EVENTS IN CITY PARKS

This application is hereby made for a permit to hold a Public Assembly and/or Parade as described in the City of New Bern Code of Ordinances (Sec. 66-85; 66-86; and 66-87) — Public Assemblies and Parades. This application along with attachments must be presented at least 60 days prior to the event date.

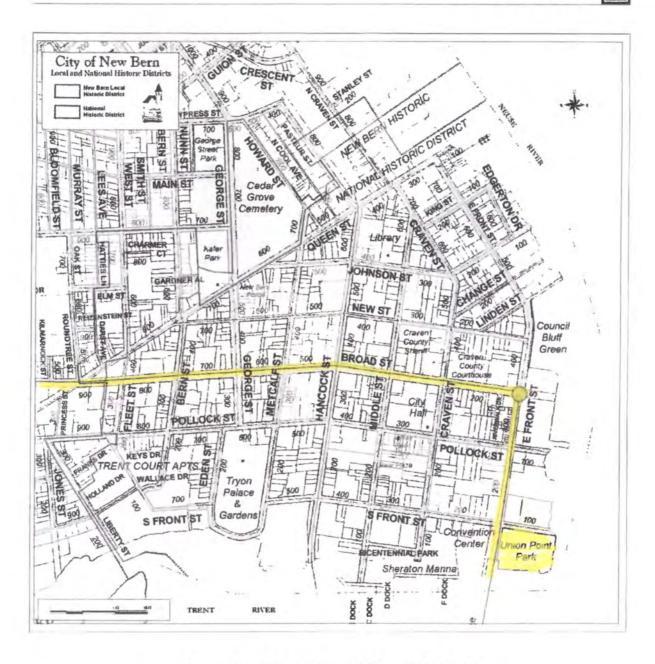
Festival - A concert, fair, festival, exhibit, athletic event, promotion, community event, block party, or similar event.

<u>Parade</u> – A march, ceremony, pageant, procession or other similar activities consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street.

<u>Public Assembly</u> – A festival or demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public street and that is collected together in one place; or a festival in any city-controlled park.

	eful Demonstration March				
Organization Name: Community Leaders					
Responsible Contact: Natalie Standifer					
Address: 180 Stanberry Hick Rd					
City: New Bern	State: NC Zip code: 28562				
Phone: 252-617-9016	Alternate Phone: 252-288-5404				
Email: ncs.standifer@yahoo.com					
ype of Event:	Demonstration				
Date of Event: 6/27/2020 (So	Aturday Proposed Rain Date: 7/18/2020 @				
vent Set up time: 11:00 am	Event Tear Down Completed Time: 3 pm				
vent Start Time: 12 noon	Event End Time: 3 pm				
	d/or route of the proposed event? (Attach additional information if needed) about East Front Street to Union Point, New Bern to main Entran				
Contract Contract	te as well as a specific list of streets is required. The specific location of the Public Assembly				
	ion marked. Festivals/Events require detailed aerial map with complete layout.				
nust include the aerial overview with locati What is the purpose of this even					
oust include the aerial overview with location What is the purpose of this even o draw attention to the unlawful de	ion marked. Festivals/Events require detailed aerial map with complete layout. nt? Please be detailed in your description - (Attach additional information if needed)				
oust include the aerial overview with location What is the purpose of this even o draw attention to the unlawful de	ion marked. Festivals/Events require detailed aerial map with complete layout. The Please be detailed in your description - (Attach additional information if needed) eaths of African Americans in this country and to influence public policy to				
What is the purpose of this even to draw attention to the unlawful de liminate systemic racism in all aspects timated attendance: 150 Note: If more than 1,000 in attendance is the following link: http://www.newbern.equired. Information must be submitted with the submitted with	ion marked. Festivals/Events require detailed aerial map with complete layout. nt? Please be detailed in your description - (Attach additional information if needed) eaths of African Americans in this country and to influence public policy to ects of Black life. Also to encourage positive community relations. ; Attendance not to exceed: 300 ; Attendance not to exceed: 300 ; expected 1) Proof of Crowd Manager Training Certification is required. Training is available not gov/departments/fire department/crowd manager training.php 2) Public Safety Plan Is with application. For additional info, please contact the Fire Marshall at 252-639-2931.				
/hat is the purpose of this even o draw attention to the unlawful de liminate systemic racism in all aspectations and attendance: 150 1	ion marked. Festivals/Events require detailed aerial map with complete layout. nt? Please be detailed in your description - (Attach additional information if needed) at the of African Americans in this country and to influence public policy to ects of Black life. Also to encourage positive community relations. : Attendance not to exceed: 300 : expected 1) Proof of Crowd Manager Training Certification is required. Training is available not.gov/departments/fire department/crowd manager training.php 2) Public Safety Plan Is with application. For additional info, please contact the Fire Marshall at 252-639-2931. Provide additional info as needed (Note: Tents 700 sq. ft. or bigger must be inspected by Fire Marshall.				
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Are you requesting any City of New Bern Street Closures? *Any street closures require approval of the Board of Aldermen. Street closures must be received at least 60 days in advance for consideration. Street closures require barricades. A fee of \$5.00 per barricade must be paid 48 business hours prior to the event. *What Street(s) are you requesting to close? Be specific. Broad Street, East Front St from round about to Union Point				
*What Street(s) are you requesting to close? Be specific: Broad Street, East Front St from round about to Union Point				
1)				
please call NCDOT Office at 252-439-2816	required by the NCDOT for in order to consider state ro . The State Road/Bridge Closure permit must be attach vehicles, placards, loud speakers, or mechanical	ed to this application.		
sectailed explanation of their use, purp				
If you answered YES, Additional Fees apply The following Items are required and A detailed map — including the loca Petition of Signatures — of business, The following Items are required with Certificate of Insurance — Listing the List of all food/commercial/non-pro Payment in full of applicable fees are attest that I am authorized on behalf of the those charges include set-up tear down time anderstand that failure to provide the required.	nd charges. It is group/organization to request the permit for the action in the full details and attachments. I understand that addition for staff, rental of barricades, Public Safety, Trash collected information within the specified timelines shall review Bern, its departments, agents, employees, officials activity. Itted with Application:	treet names included. all be cancelled: "Additional Insured". vities prescribed herein. I understand fonal fees and charges may be incurred. lection, damages, etc. I further sult in application being denied. I agree		
	Public Safety Plan (if attendance is 1,000 or more)	Trash Collection:		
uthorized Signature	Date	S City Staff: #		
ll documents have been provided and	this application is recommended for approval	\$		
dministrative Support Supervisor Date		Vendor Fees #\$		
nis application has been approved.	Park/Facility Rental:			
rector of Parks & Recreation	Date 1873	Total Due:		
	Date: Staff Initials: Date: Staff Initials: Date: Staff Initials: Staff Initials: Staff Initials: Staff Initials: Staff Initials: Staff Initials: Date: Staff Initials: Staff	□ Ves □ No		



Map of the Downtown Historic District

AGENDA ITEM COVER SHEET



Agenda Item Title: Geographic Information System (GIS) Annual Report

Date of Meeting: 6/23/2020 Department: Development Services/GIS Call for Public Hearing: □Yes⊠No		Ward # if applicable: N/A	
		Person Submitting Item: Alice Wilson Date of Public Hearing: N/A	
			Evalenation of Itams
Explanation of Item:	In 2015, the City adopted a GIS Strategic Plan. One of the requirements incorporated into the plan was a presentation to be given to update the City on the Geographic Information System's Work, Projects and Goals		
Actions Needed by Board:	None		
Backup Attached:	PowerPoint Presentation and Cover Letter.		
Is item time sensitive?	□Yes ⊠No		
Will there be advocates	s/opponents at t	he meeting? □Yes ☒ No	
Cost of Agenda Item: \$	0		
If this requires an expe and certified by the Fin		een budgeted and are funds available ☐Yes ☐ No	

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMORANDUM

Memo To: Honorable Mayor and Members of the Board of Aldermen

Memo From: Alice Wilson, AICP, GISP - GIS Manager

SUBJECT: Presentation: GIS Strategic Plan Annual Update

BACKGROUND INFORMATION:

In March of 2015, The Board adopted a GIS Strategic Plan to guide the future direction of the City's Geographic Information System and assure that it becomes a true Enterprise System.

The Plan recommends that an annual report be given to the Board of Aldermen on the progress in implementing the recommendations of the plan.

Staff would like to update the Board of the progress that has been made, demonstrate online maps and applications that have been completed as well as present future projects and goals.



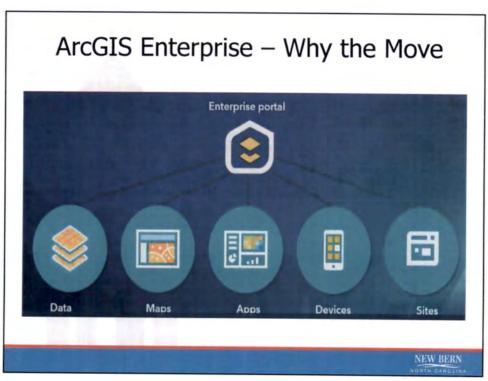


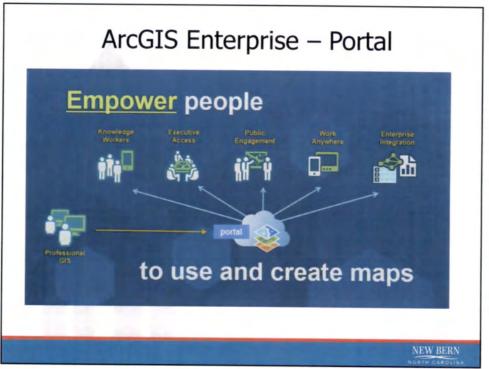
Enterprise Geographic Information System Annual Report, 2020

1

Agenda

- · Enterprise/Portal Migration
 - GIS Standards
 - Training Staff
- · Other Projects/Accomplishments
 - Opening Speaker at 2019 NC GIS Conference
 - URISA Leadership Academy
 - NCGICC: SMAC; APA-NC; Local Gov't Comm.
 - NC Sea Grant with UNCW
- Sharing and Using GIS Data
 - Dash Boards
 - Story Maps
- Next Steps Projects





Sharing & Collaboration



NEW BERN

5

New Bern's GIS Portal

Site:

- Gallery: (Maps and Apps citywide)
- Maps: (Make, Enrich, Save & Share)
- Scene: (Google Earthlike/3D Modeling)
- Groups: (Share and Store content)
- Content: (City-wide authoritative data & Living Atlas Data/Apps:

https://livingatlas.arcgis.com/en/home/

 Users: (Access City Data and Create their Own, View, Create, Publish)

GIS Standards

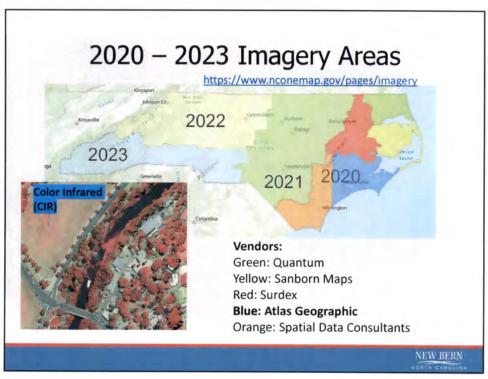
- Spatial Data Policy
- Base Geospatial Standard (General Data)
- · Metadata (Information on the Data)
- Publication Standard (Share Online)
- Collections and Acquisition Standards
- Symbol and Attribute Standards (By Industry/Department)
- Sharing Data Standard (internally & others)

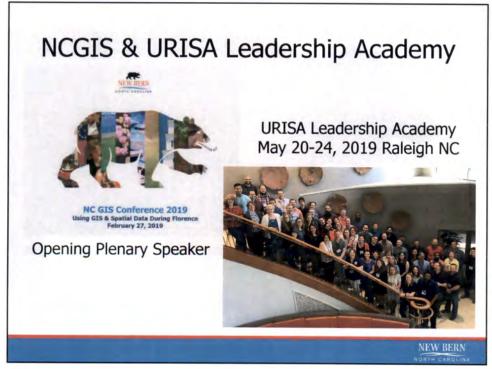
NEW BERN

7

Statewide Initiatives

- Next Gen 911
- Working Group for Enhanced Emergency Response (WGEERS)
- Census 2020
- Imagery Coastal 2020
- 2022 Reference Frame (Datum)
 - US Survey Foot to International Foot
- Elevation LiDAR/Contours/DEM
- · Municipal Boundaries
- Hydrography





NC Sea Grant - Flood Resilience Research

Partners:

- · UNCW Dr. Narcisa Pricope & Dr. Joanna Hall
- Eliza Baldwin New Hanover County



https://ncseagrant.ncsu.edu/news/2020/04/regional-flood-resilience-research-considers-communities-and-infrastructure/

NEW BERN

11

Dash Boards

- Fire Calls: https://bit.ly/2APtr3Y



- Building Permits: https://arcg.is/irXe5

- COVID19: https://coronavirus.jhu.edu/us-map

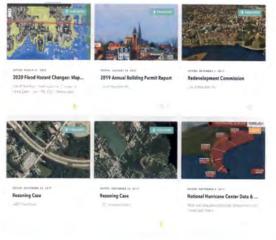
NEW BERN

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Story Maps

Forget the Power Point! (And Yes, I see the Irony ⊗)

- Rezoning Cases: https://bit.ly/2Us6UkA
- Showcase Plans: https://bit.ly/2XMd4hx
- Share Reports: 2019
 Building Permits
 Report
 https://bit.ly/37f137v

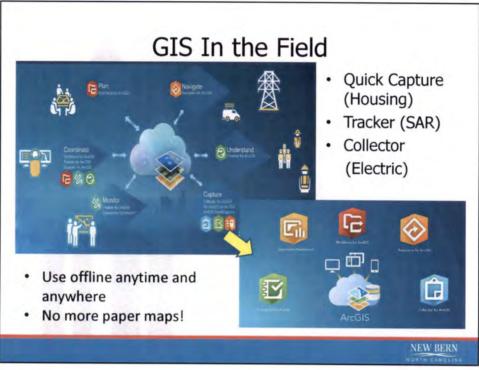


NEW BERN

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Apps: To Start Utilizing

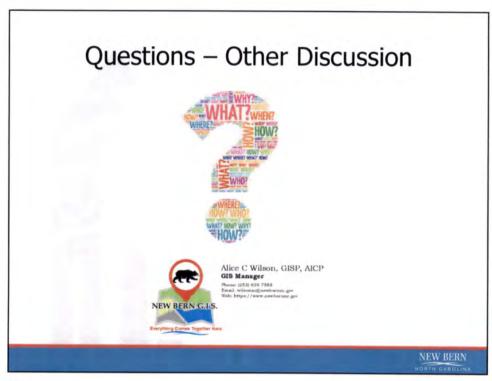
- Survey 123: https://survey123.arcgis.com/
 - o Maps data
 - o Analyze Data
 - o Collaborate
- Special Needs Registry: https://solutions.arcgis.com/localgovernment/help/special-needs-registry/
- Crowd Sourcing: https://solutions.arcgis.com/gallery/#s=31&md=industri es:local-government
- Floodplain Inquiry; Vision Zero; Property Survey; Citizen Reporter



15

Next Steps

- · Update Public Facing Maps
 - New Zoning Map: https://bit.ly/2AkxAqf
 - Public Information Map
 - Detailed Filter Park Map
 - Cemetery Lookup
- Update GIS Plan (5 Years Old)
 - In House (Steering Committee)
 - Incorporate standards
- Standardize Maps and Apps
 - Create & Publish Uniformed, User Friendly Maps & Apps
- Continue User Setups & Training
 - Staff
 - Citizens



AGENDA ITEM COVER SHEET



Agenda Item Title:

Date of Meeting: 06/23/2020

Conduct a Public Hearing and Consider Adopting an Ordinance for the Rezoning of 2409 Oaks Road from R-6S to C-4.

Ward # if applicable: Ward 5

Department: Development Services Call for Public Hearing: □Yes⊠No			
		Person Submitting Item: Jeff Ruggieri, Director of Development Services	
		Date of Public Hearing: 6/23/2020	
Explanation of Item:	Nasr Algaradi is requesting to rezone 2409 Oaks Road from R-6S Residential District to C-4 Neighborhood Business District.		
Actions Needed by Board:	Conduct Public Hearing and Adopt Ordinance		
Backup Attached:	Memo, Ordinance, Consistency or Inconsistency Statements Map		

If this requires an expenditure, has it been budgeted and are funds available

and certified by the Finance Director? □Yes ☒ No

Additional Notes:

Cost of Agenda Item: N/A



MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: June 11, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance for the

Rezoning of 2409 Oaks Road from R-6S to C-4.

Nasr Algaradi has requested consideration of an application to rezone a 0.25+/- acre tract located at 2409 Oaks Rd. The applicant has proposed to rezone the property from R-6S Residential District to C-4 Neighborhood Business District. On May 7th 2019, Mr. Algaradi came before the Planning and Zoning Board on a request to rezone this property to C-3 Commercial District, while the Planning and Zoning Board recommended approval to the Board of Aldermen, the Board of Aldermen denied this request to rezone the property due to the perceived impacts a vape/tobacco shop would have to the surrounding neighborhood. Mr. Algaradi has since amended his plans to instead use this property as a convenience store in the C-4 Neighborhood Business District. The C-4 Neighborhood Business District does not permit the use of the property as a tobacco/vape shop, thus addressing the concerns of neighboring property owners.

The parcel has historically been utilized as a commercial establishment and will provide neighborhood amenities for the surrounding residential area. In addition, commercially zoned parcels are directly across the street from the requested site.

During their March 3, 2020 meeting the Planning and Zoning Board unanimously voted in favor on the rezoning request from Mr. Algaradi.

Please contact Jeff Ruggieri at 639-7587 should you have questions or need additional information.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY NASR ABDO ALI ALGARADI CONSISTING OF APPROXIMATELY 0.25 ACRE LOCATED AT 2409 OAKS ROAD FROM THE ZONING CLASSIFICATION OF R-6S RESIDENTIAL DISTRICT TO C-4 NEIGHBORHOOD BUSINESS DISTRICT

THAT WHEREAS, Nasr Abdo Ali Algaradi owns real property at located 2409 Oaks Road in the City of New Bern, consisting of approximately 0.25 acre, more or less, and an application has been made to change the zoning classification of the subject property from R-6S Residential District to C-4 Neighborhood Business District consistent with the attached plat entitled "REZONING CASE: 2409 OAKS ROAD – Approx. 0.25+- Acres: PID: 8-019-008" prepared by the Development Services Department of the City of New Bern; and

WHEREAS, the Planning and Zoning Board unanimously recommended that said request be approved; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on June 23, 2020, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-4 Neighborhood Business District classification is consistent with the City Land Use Plans and nearby land uses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the subject property owned by Nasr Abdo Ali Algaradi located at 2409 Oaks Road in the City of New Bern, consisting of 0.25 acres, more or less, from R-6S Residential District to C-4 Neighborhood Business District as more specifically shown on the plat entitled "REZONING CASE: 2409 OAKS ROAD – Approx. 0.25+- Acres: PID: 8-019-008" prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

<u>Section 2</u>. That the Board deems it in the public interest to rezone the subject property consistent with the attached plat as the requested C-4 Neighborhood Business District classification is consistent with the City Land Use Plans and nearby land uses.

Section 3. That this ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED THIS 23rd DAY OF JUNE 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Craven County Parcel ID #8-019-008

STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID #8-019-008 to C-4 Neighborhood Business District is reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

- The C-4 Neighborhood Business District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
- The proposed C-4 Neighborhood Business District is deemed to be compatible with adjacent zoning classifications.
- The proposed C-4 Neighborhood Business District is deemed to be compatible with existing uses.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk

Craven County Parcel ID#8-019-008

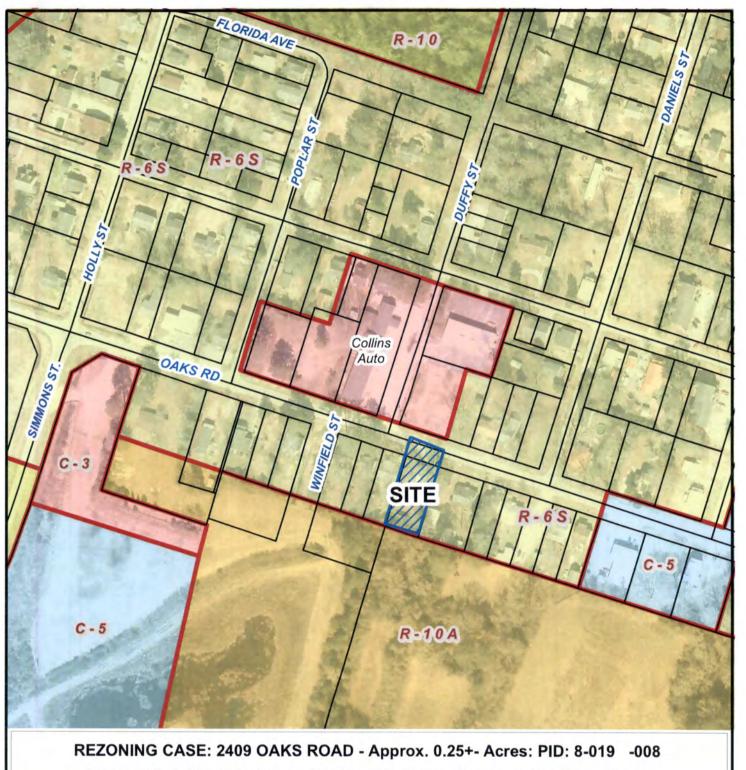
STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID #8-019-008 to C-4 Neighborhood Business District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in that the proposed C-4 Neighborhood Business District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

The proposed C-4 Neighborhood Business District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk



LOCATION: South side of Oaks Road near Duffy Street & east of Simmons Street



Imagery Early 2016

N CITY of NEW BERN Development Services

Scale: 1 = 200 ft

100 400 200 Feet





Request to Rezone 2409 Oaks Road

June 23, 2020

1

Rezoning Request Analysis

- Applicant: Nasr Abdo Ali Algaradi
- Location: 2409 Oaks Road (Craven County PID#8-019-008)
- · Existing Zoning: R-6S Residential District
- Proposed Zoning: C-4 Neighborhood Business District
- Size: 0.25+/- acres
- History/Background: Historically this building has had a commercial use.
- · Present Land Use: Vacant.





Surrounding Zoning

North: Reservoir (C-3 Commercial District

South: Residential (R-10A Residential District)

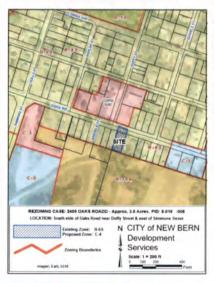
East: Residential (R-6S Residential Districts)

West: Mixed (R-6S Residential District)

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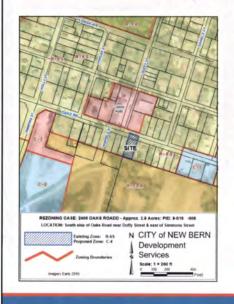
5

Existing Zoning



R-6S: The R-6S residential district is designed to accommodate single-family dwellings with 6,000 square feet minimum lots.

Proposed Zoning



The C-4 neighborhood business district is established as a district in which the principal use of land is to provide for the retailing of goods and services to the nearby residential neighborhoods. The regulations of this district are designed to limit the businesses which may be established therein in order to protect the abutting residential areas.

NEW BERN

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General Survey of Allowed Uses in C4

- · Single Family Residential
- · Low Traffic Retail
- Athletic Facilities
- Carwash
- Restaurants
- Physician/Dental Offices under 10,000 sq ft.
- Veterinarian Offices

Vape Shops

- Vape shops are <u>not</u> an allowed use in the C-4 zoning district.
- Vape shop: Any business whose principal product line for retail sale is electronic nicotine delivery systems. Principal means that the retailer either devotes twenty percent (20%) of more of floor area or display area to, or derives seventy-five percent (75%) or more of gross sales receipts from, the sale or exchange of electronic nicotine delivery systems.

NEW BERN

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Utilities

 All city provided utilities and services are available to the general area.

2010 CAMA Regional Land Use Plan

• The area is classified as "Developed", a mix of land uses are included in this designation. Residential densities range from a maximum of one to five dwelling units per acre. Higher densities are permitted within multi-family residential and planned unit developments and within some zoning overlay districts within commercial areas of New Bern. The intensity permitted varies depending on the zoning district and overlay standards specified in the Land Use Ordinance. Generally the area is characterized by urban and higher intensity uses that require urban municipal or public services. Incompatible uses within this land classification are industrial and agricultural land uses.

NEW BERN

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Environment

According to the North Carolina Floodplain
 Mapping Program the property is located within
 the 100 year floodplain, and is considered zone
 "AE" on the Flood Risk Information System.

Recommendation

 The proposal to rezone the subject property to C-4 Neighborhood Business District is consistent with the character of the adjacent land uses and zoning classifications. The Planning and Zoning Board voted to recommend approval of this rezoning from R-6S to C4 on June 2nd 2020.

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AGENDA ITEM COVER SHEET



Agenda Item Title:

Conduct a Public Hearing and Consider Adopting an Ordinance to Rezone 1001 and 1003 South Glenburnie Road from R-6 to C-3.

Date of Meeting: 06/23/	2020	Ward # if applicable: Ward 5
Department: Developme	nt Services	Person Submitting Item: Jeff Ruggieri, Director of Development Services
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing: 6/23/2020
		LI D II I
Explanation of Item:		John Delk has requested to rezone 1.28+/- acres ential District to C-3 Commercial District.
Actions Needed by Board:	Conduct Public	Hearing, Adopt Ordinance
Backup Attached:	Memo, Ordinar Map	nce, Consistency or Inconsistency Statement,
Is item time sensitive?	□Yes ⊠No	
Will there be advocates	s/opponents at t	he meeting? Yes No
Cost of Agenda Item: N	I/A	
If this requires an expe and certified by the Fir		been budgeted and are funds available ☐Yes ☒ No

Additional Notes:



303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7587

MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: June 11, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance for the

Rezoning of 1001 and 1003 South Glenburnie Road from R-6 to C-3.

Property owner John Delk has requested consideration of an application to rezone 1.28+/- acres from R-6 Residential district to C-3 Commercial district. The parcel is located at 1001 and 1003 South Glenburnie Road and is further identified as Craven County Parcel ID # 8-242-054.

During their June 2, 2020 meeting the Planning and Zoning Board unanimously voted in favor of the rezoning request from Mr. Delk.

Please contact Jeff Ruggieri at 639-7587 should you have questions or need additional information.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY JOHN A. DELK AND ROBERTA C. DELK CONSISTING OF APPROXIMATELY 1,28 ACRE LOCATED AT 1001 SOUTH GLENBURNIE ROAD FROM THE ZONING CLASSIFICATION OF R-6 RESIDENTIAL DISTRICT TO C-3 COMMERCIAL DISTRICT

THAT WHEREAS, John A. Delk and Roberta C. Delk own real property located at 1001 South Glenburnie Road in the City of New Bern, consisting of approximately 1.28 acres, more or less, and an application has been made to change the zoning classification of the subject property from R-6 Residential District to C-3 Commercial District consistent with the attached plat entitled "REZONING CASE: 1001 S. Glenburnie Rd – Approx. 1.28+- Acres: PID: 8-242-054" prepared by the Development Services Department of the City of New Bern; and

WHEREAS, the Planning and Zoning Board unanimously recommended that said request be approved; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on June 23, 2020, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the subject property owned by John A. Delk and Roberta C. Delk located at 1001 South Glenburnie Road in the City of New Bern, consisting of 1.28 acres, more or less, from R-6 Residential District to C-3 Commercial District as more specifically shown on the plat entitled "REZONING CASE: 1001 S. Glenburnie Rd – Approx. 1.28+- Acres: PID: 8-242-054" prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

Section 2. That the Board deems it in the public interest to rezone the subject property consistent with the attached plat as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

Section 3. That this ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Craven County Parcel ID # 8-242-054

STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID # 8-242-054 to C-3 Commercial District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in the proposed C-3 Commercial District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

The proposed C-3 Commercial District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk

Craven County Parcel ID # 8-242-054

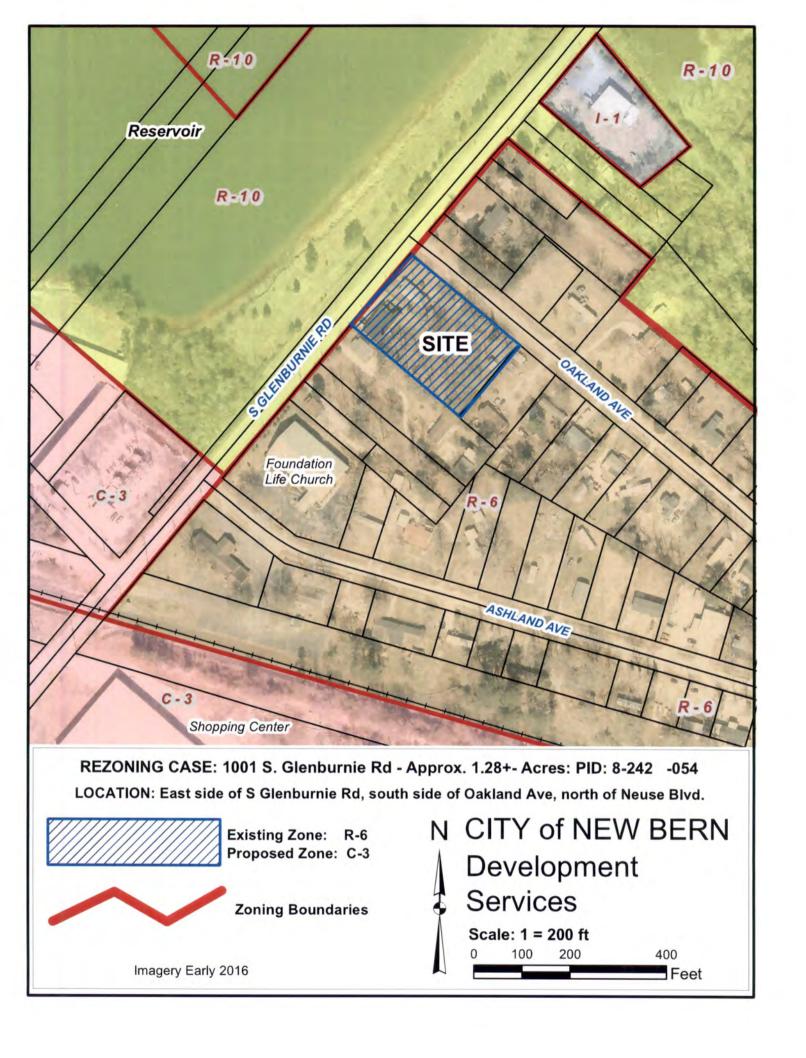
STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID # 8-242-054 to C-3 Commercial District is reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

- The C-3 Commercial District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
- The proposed C-3 Commercial District is deemed to be compatible with adjacent zoning classifications.
- The proposed C-3 Commercial District is deemed to be compatible with existing uses.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk







Request to Rezone 1001 & 1003 S. Glenburnie Road

June 23, 2020

1

Rezoning Request Analysis

- · Applicant: John A. Delk
- Location: 1001 & 1003 S. Glenburnie Road (Craven County PID# 8-242-054)
- · Existing Zoning: R-6 Residential District
- Proposed Zoning: C-3 Commercial District
- Size: 1.28+/- acres
- History/Background: The parcel is developed.
- · Present Land Use: Residential & Commercial.





Existing Zoning

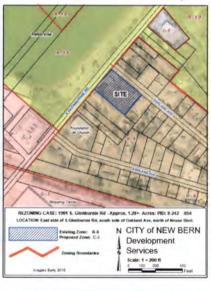


R-6: The R-6 residential district is designed to accommodate single-, two-, and multifamily dwellings with 6,000 square feet minimum lots for one dwelling unit and 2,000 square feet required for each additional unit. Mobile homes and mobile home parks are also permitted.

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Proposed Zoning



The C-3 commercial district is established as a district for offices, personal services, and the retailing of durable and convenience goods. This district will generally be located on the city's major radial roads. Because these districts will be located on high-volume traffic arteries and will be subject to the view not only of local residents but tourists and other non-local motorists, ample off-street parking, controlled traffic movement, and an appropriate appearance including suitable planting shall be provided.

General Survey of Allowed Uses in C3

- · Single Family Residential
- Townhomes
- · Multifamily development
- Hotels, Motels
- Retail
- Banks
- Restaurants
- Athletic facilities
- Marinas
- Hospitals

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Surrounding Zoning

- North: Reservoir (R-10 Residential District)
- South: Residential (R-6 Residential District)
- East: Residential (R-6/R10 Residential Districts)
- West: Mixed (R-10 Residential District / C-3 Commercial District)

Utilities

 All city provided utilities and services are available to the general area.

NEW BERN

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2010 CAMA Regional Land Use Plan

 The area is classified as "Developed", a mix of land uses are included in this designation. Residential densities range from a maximum of one to five dwelling units per acre. Higher densities are permitted within multi-family residential and planned unit developments and within some zoning overlay districts within commercial areas of New Bern. The intensity permitted varies depending on the zoning district and overlay standards specified in the Land Use Ordinance. Generally the area is characterized by urban and higher intensity uses that require urban municipal or public services. Incompatible uses within this land classification are industrial and agricultural land uses.

Environment

- According to the Regional Land Use Plan, the subject property has medium suitability for development.
- According to the North Carolina Floodplain
 Mapping Program the property is located within
 the 100 year floodplain, and is considered zone
 "AE" on the Flood Risk Information System.

NEW BERN

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Recommendation

The proposal to rezone the subject parcel to C-3 Commercial District is consistent with the character of the adjacent land uses and zoning classifications. Staff has found the proposed rezoning to be in the public interest and consistent with City Land Use and Transportation Plans, due to the historical use of the property and close proximity to other commercial zoned parcels. Staff recommends approval of the requested rezoning.

AGENDA ITEM COVER SHEET



Agenda Item Title: Conduct a Public Hearing and Consider Adopting an Ordinance to Rezone 4416 South US 17 Highway from R-10 to C-3.

Date of Meeting: 06/23	/2020	Ward # if applicable: Ward 6	
Department: Developme	nt Services	Person Submitting Item: Jeff Ruggieri, Director of Development Services	
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing: 6/23/2020	
Explanation of Item:		Corey Thomas has requested to rezone 0.46+/- 0 Residential District to C-3 Commercial District.	
Actions Needed by Board:	Conduct Public	Hearing, Adopt Ordinance	
Backup Attached:	Memo, Ordinar Map	nce, Consistency or Inconsistency Statement,	
	Day May		
Is item time sensitive? Will there be advocated		the meeting? Yes No	
Cost of Agenda Item: N			
and certified by the Fir		been budgeted and are funds available ☐Yes ☑ No	

Additional Notes:



New Bern, NC 28563 (252)639-7587

MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: June 11, 2020

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance for the

Rezoning of 4416 South US 17 Highway from R-10 to C-3.

Property owner Corey Thomas has requested consideration of an application to rezone 0.46+/- acres from R-10 Residential district to C-3 Commercial district. The parcel is located at 4416 South US 17 Highway and is further identified as Craven County Parcel ID # 8-206-028.

During their June 2, 2020 meeting the Planning and Zoning Board unanimously voted in favor of the rezoning request from Mr. Thomas.

Please contact Jeff Ruggieri at 639-7587 should you have questions or need additional information.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY COREY MITCHELL THOMAS CONSISTING OF APPROXIMATELY 0.46 ACRES LOCATED AT 4416 US HIGHWAY 17 SOUTH FROM THE ZONING CLASSIFICATION OF R-10 RESIDENTIAL DISTRICT TO C-3 COMMERCIAL DISTRICT

THAT WHEREAS, Corey Mitchell Thomas owns real property located at 4416 US Highway 17 South in the City of New Bern, consisting of approximately 0.46 acres, more or less, and an application has been made to change the zoning classification of the subject property from R-10 Residential District to C-3 Commercial District consistent with the attached plat entitled "REZONING CASE: 4416 US Hwy. 17 S. – Approx. 0.46+- Acres: PID: 8-206-028" prepared by the Development Services Department of the City of New Bern; and

WHEREAS, the Planning and Zoning Board unanimously recommended that said request be approved; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on June 23, 2020, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the subject property owned by Corey Mitchell Thomas located at 4416 US Highway 17 South in the City of New Bern, consisting of 0.46 acres, more or less, from R-10 Residential District to C-3 Commercial District as more specifically shown on the plat entitled "REZONING CASE: 4416 US Hwy. 17 S. – Approx. 0.46+- Acres: PID: 8-206-028" prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

Section 2. That the Board deems it in the public interest to rezone the subject property consistent with the attached plat as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

Section 3. That this ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Craven County Parcel ID # 8-206-028

STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID # 8-206-028 to C-3 Commercial District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in the proposed C-3 Commercial District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

The proposed C-3 Commercial District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk

Craven County Parcel ID # 8-206-028

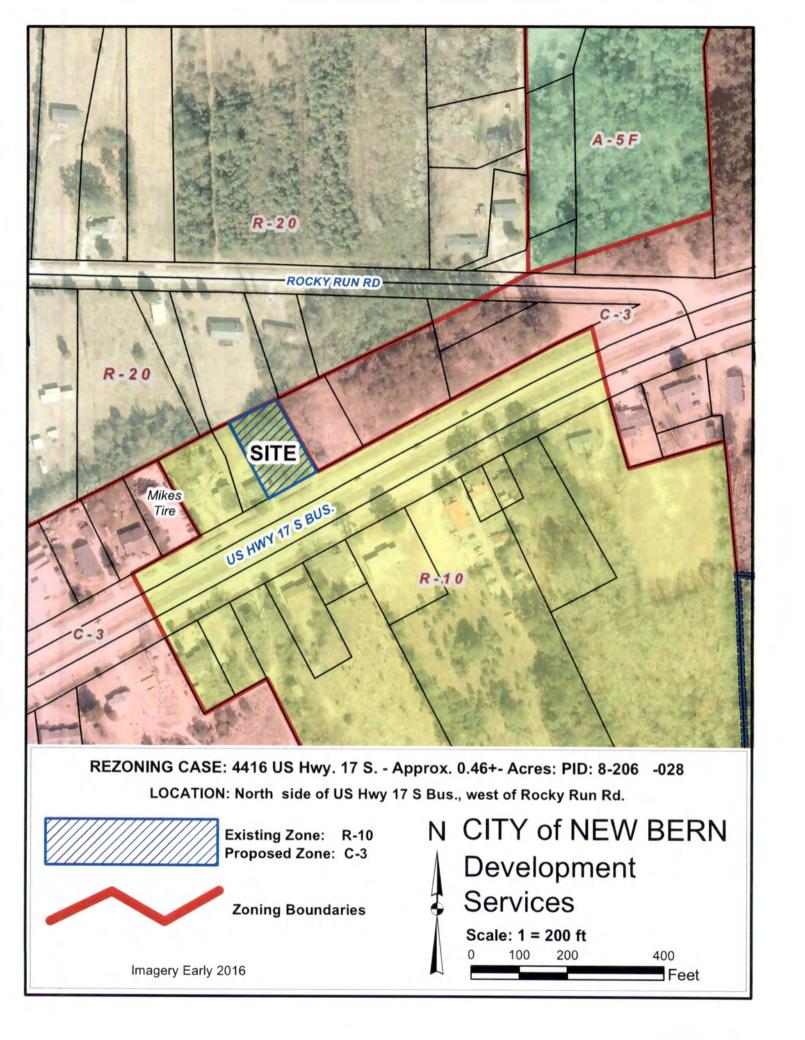
STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID #8-206-028 to C-3 Commercial District is reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

- The C-3 Commercial District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
- The proposed C-3 Commercial District is deemed to be compatible with adjacent zoning classifications.
- The proposed C-3 Commercial District is deemed to be compatible with existing uses.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on June 23, 2020.

Brenda E. Blanco, City Clerk







Request to Rezone 4416 S US 17

June 23, 2020

1

Rezoning Request Analysis

- Applicant: Corey Thomas
- Location: 4416 S US 17(Craven County PID# 8-206-028)
- · Existing Zoning: R-10 Residential District
- Proposed Zoning: C-3 Commercial District
- Size: 0.46+/- acres
- · History/Background: The parcel is undeveloped.
- · Present Land Use: Vacant.



3

Existing Zoning

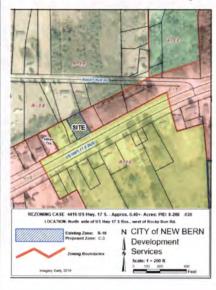


The R-10 residential district is designed to accommodate single- and two-family homes with 10,000 square feet lots required for one-family dwellings and an additional 5,000 square feet required for each additional unit.

NEW BERN

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Proposed Zoning



The C-3 commercial district is established as a district for offices, personal services, and the retailing of durable and convenience goods. This district will generally be located on the city's major radial roads. Because these districts will be located on high-volume traffic arteries and will be subject to the view not only of local residents but tourists and other non-local motorists, ample offstreet parking, controlled traffic movement, and an appropriate appearance including suitable planting shall be provided.

NEW BERN

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General Survey of Allowed Uses in C3

- · Single Family Residential
- Townhomes
- Multifamily development
- · Hotels, Motels
- Retail
- Banks
- Restaurants
- Athletic facilities
- Marinas
- Hospitals

Surrounding Zoning

- North:Residential (R-20 Residential District)
- South: Residential (R-10 Residential District)
- East: Commercial (C-3 Commercial District)
- West: Commercial (C-3 Commercial District)

NEW BERN

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Utilities

 All city provided utilities and services are available to the general area.

2010 CAMA Regional Land Use Plan

• The area is classified as "Developed", a mix of land uses are included in this designation. Residential densities range from a maximum of one to five dwelling units per acre. Higher densities are permitted within multi-family residential and planned unit developments and within some zoning overlay districts within commercial areas of New Bern. The intensity permitted varies depending on the zoning district and overlay standards specified in the Land Use Ordinance. Generally the area is characterized by urban and higher intensity uses that require urban municipal or public services. Incompatible uses within this land classification are industrial and agricultural land uses.

NEW BERN

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Environment

- According to the Regional Land Use Plan, the subject property has high suitability for development.
- According to the Regional Land Use Plan, the subject property has high suitability for development. According to the North Carolina Floodplain Mapping Program the property is located within the minimal risk flood risk zone (Zone X) on the Flood Risk Information System.

Recommendation

The proposal to rezone the subject parcel to C-3 Commercial District is consistent with the character of the adjacent land uses and zoning classifications. Staff has found the proposed rezoning to be in the public interest and consistent with City Land Use and Transportation Plans, due to the close proximity with other commercial zoned parcels. Staff recommends approval of the requested rezoning.

NEW BERN

11

AGENDA ITEM COVER SHEET



Agenda Item Title:
Consider Adopting a Resolution Approving Audit Contract for Fiscal Year Ending June 30, 2020

ate of Meeting: 06/23/2020		Ward # if applicable:	
Department: Finance		Person Submitting Item: Mary M. Hogan, Director of Finance	
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing:	
Explanation of Item:	Consider Adoption	ng a Resolution Approving Audit Contract for Fiscal e 30, 2020	
Actions Needed by Board:	Adopt resolution accounts.	and authorize execution of contract to audit	
Backup Attached:	Memo, Resoluti	on, Contract to Audit Accounts	
Is item time sensitive?	⊠Yes □No		
Will there be advocates	s/opponents at t	the meeting? Yes No	
Cost of Agenda Item: \$			
If this requires an expe and certified by the Fir	그리는 얼마 아니라 하다는 것이 없다.	been budgeted and are funds available ⊠Yes □ No	

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

TO: C

City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM:

Mary M. Hogan - Director of Finance

DATE:

June 12, 2020

RE:

Fiscal Year Ending June 30, 2020 Audit Contract

Background

North Carolina General Statutes (G.S.) 159-34 requires each governmental until to have an annual independent audit and specifies the general terms and conditions of the audit. The firm of Thompson, Price, Scott, Adams & Co. performed our audit for Fiscal Year Ending June 30, 2019.

Please consider this request for the Board of Aldermen to authorize the Mayor to execute a contract (copy enclosed) with the firm of Thompson, Price, Scott, Adams & Co. to audit our accounts for the fiscal year ending June 30, 2020. The contract fee is \$34,500 and includes all major programs. For reference, prior year auditing fees were \$34,500.

Requested Action

The Board adopt a resolution naming Thompson, Price, Scott, Adams & Co. as the audit firm for the City of New Bern for fiscal year ending June 30, 2020 at a cost not-to-exceed \$34,500, and authorize the Mayor to execute a contract for the same.

Requested Action

The Board adopt a resolution naming Thompson, Price, Scott, Adams & Co. as the audit firm for the City of New Bern for fiscal year ending June 30, 2020, and authorize the Mayor to execute a contract for the same.

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the "Contract to Audit Accounts" by and between the City of New Bern and Thompson, Price, Scott, Adams and Co., P.A., a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor be and he is hereby authorized and directed to execute the same in duplicate originals for and on behalf of the City.

ADOPTED this 23rd day of June, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

(SEAL)

	Primary Government Unit (or charter holder)
	CITY OF NEW BERN
ł	Discretely Presented Component Unit (DPCU) (if applicable)
	N/A

Auditor Name
THOMPSON, PRICE, SCOTT, ADAMS & CO, P.A.
Auditor Address
1626 S MADISON STREET, WHITEVILLE, NC 28472

Hereinafter referred to as Auditor

for	Fiscal Year Ending	Audit Report Due Date
	06/30/20	10/31/20

Must be within four months of FYE

hereby agree as follows:

- 1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
- 2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with Government Auditing Standards if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

- 3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 §600.42.
- 4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.
- 5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to Government Accounting Standards or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

- 6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.
- 7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the AICPA Professional Standards (Clarified). The Auditor shall file a copy of that report with the Secretary of the LGC.
- 8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit- related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.
- 9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.)
 [G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

- 10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
- 11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
- 12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
- 13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.
- 14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC staff.
- 15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

- 16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing, on the Amended LGC-205 contract form and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.
- 17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.
- 18. Special provisions should be limited. Please list any special provisions in an attachment.
- 19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the parent government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.
- 20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charterschools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.
- 21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.
- 22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.
- 23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.
- 24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
- 25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

- 26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.
- 27. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

- 28. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.
- 29. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).
- 30. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx.
- 31. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.
- 32. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

 For all non-attest services, the Aud Code of Conduct (as applicable) and this contract for specific requirements presented to the LGC without this info 	Governmental Auditing Standard. The following information must be	s,2018 Revision. Refer to Item 27 of
Financial statements were prepared b	y: ☑Auditor ☐Governmenta	al Unit
If applicable: Individual at Governme experience (SKE) necessary to over- results of these services:		
Name:	Title and Unit / Company:	Email Address;
Mary Hogan	Finance Officer / City of New Bern	hoganm@newbernnc.gov

- 2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.
- 3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees below. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year billings. Should the 75% cap provided below conflict with the cap calculated by LGC staff based on the prior year billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC 3 .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

Primary Government Unit	CITY OF NEW BERN	
Audit Fee	\$ 31,000	
Additional Fees Not Included in Audit Fee:		
Fee per Major Program	\$	
Writing Financial Statements	\$ 3,500	
All Other Non-Attest Services	\$	
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$ 25,875.00	

DPCU FEES (if applicable)

Discretely Presented Component Unit	N/A
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* THOMPSON, PRICE, SCOTT, ADAMS & CO, P.A.	
Authorized Firm Representative (typed or printed)* ALAN W. THOMPSON	Signature*
Date* 05/19/20	Email Address* alanthompson@tpsacpas.com

GOVERNMENTAL UNIT

	1	
Signature*	SIGN	HEI
Email Address OutlawD@newbernnc.gov	1	
Signature		
Email Address		
	Email Address OutlawD@newbernnc.gov Signature	Email Address OutlawD@newbernnc.gov Signature

GOVERNMENTAL UNIT - PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1). Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer* (typed or printed) MARY HOGAN	Signature*	SIGN HERE
Date of Pre-Audit Certificate* June 23, 2020	Email Address* hoganm@newbernnc.gov	

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Thompson, Price, Scott, Adams & Co, P.A.

P.O. Box 398 1626 S Madison Street Whiteville, NC 28472 Telephone (910) 642-2109 Fax (910) 642-5958

Alan W. Thompson, CPA R. Bryon Scott, CPA Gregory S. Adams, CPA

CERTIFIED PUBLIC ACCOUNTANTS

May 19, 2020

City of New Bern PO Box 1129 New Bern, NC 28562

To Management and Those Charged With Governance:

We are pleased to confirm our understanding of the services we are to provide the City of New Bern for the year ended June 30, 2020. We will audit the financial statements of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of City of New Bern as of and for the year ended June 30, 2020. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of New Bern's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of New Bern's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- Management's discussion and analysis.
- 2. Schedule of the Proportionate Share of the Net Pension Liability and Schedule of Contributions LGERS
- Schedule of Changes in Total Pension Liability and Schedule of Total Pension Liability as a Percentage of Covered Payroll – Law Enforcement Officers' Special Separation Allowance
- 4. Schedule of Changes in the Total OPEB Liability and Related Ratios

We have also been engaged to report on supplementary information other than RSI that accompanies City of New Bern's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

- Schedule of Expenditures of Federal and State Awards.
- 2. Combining and Individual Fund Financial Statements, Budgetary Schedules, and Other Schedules

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

Members

 Introductory and Statistical Schedules (prepared for Comprehensive Annual Financial Report presentation)

Our responsibility for other information included in documents containing the entity's audited financial statements and auditors' report does not extend beyond the financial information identified in the report. We have no responsibility for determining whether such other information contained in these documents is properly stated.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on-

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and agreements, noncompliance with which could have a material effect on the financial statements in accordance with Government Auditing Standards.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on
 compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have
 a direct and material effect on each major program in accordance with the Single Audit Act Amendments of
 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements,
 Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

The Government Auditing Standards report on internal control over financial reporting and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Board of Commissioners and management of City of New Bern. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

Audit Procedures-General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because the determination of waste and abuse is subjective, Government Auditing Standards do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, an unavoidable risk exists that some material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and Government Auditing Standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories (if material), and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures-Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Test of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Government Auditing Standards.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, Government Auditing Standards, and the Uniform Guidance.

Audit Procedures-Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of City of New Bern's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to Government Auditing Standards.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB Compliance Supplement for the types of compliance requirements that could have a direct and

material effect on each of City of New Bern's major programs. For federal programs that are included in the 2019 Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the 2019 Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on City of New Bern's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal and State awards, and related notes of City of New Bern in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under Government Auditing Standards and such services will not be conducted in accordance with Government Auditing Standards. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal and State awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal and State awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal and State awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported auditfindings;

and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review by May 29, 2020.

You are responsible for identifying all federal and State awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal and State awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and State awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal and State awards. You also agree to make the audited financial statements readily available to intended users of schedules of expenditures of federal and State awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal and State awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal and State awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and State awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information. With regard to using the auditors' report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents. With regard to electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements, schedules of expenditures of federal and State awards, related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal and State awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, (Mary Hogan), who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate

confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing. We will schedule the engagement based in part on deadlines, working conditions, and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents, and preparing confirmations. If for whatever reason your personnel are unavailable to provide the necessary assistance in a timely manner, it may substantially increase the work we have to do to complete the engagement within the established deadlines, resulting in an increase in fees over our original fee estimate. We will not undertake any accounting services (including but not limited to reconciliation of accounts and preparation of requested schedules) without obtaining approval through a written change order or additional engagement letter for such additional work.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' report or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

We will provide copies of our reports to the Board; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Thompson, Price, Scott, Adams & Co., P.A. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request in a timely manner to Oversight Agencies (or its designee), a federal agency provided direct or indirect funding, or the U.S. Government Accounting Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Thompson, Price, Scott, Adams & Co., P.A. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parities may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal cognizant agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit by approximately May 29, 2020 and to issue our reports no later than October 31, 2020. Alan Thompson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, should not exceed \$34,500. Also, any excessive additional fees incurred in obtaining required audit evidence (i.e. bank confirmations) will be billed directly to the Board. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit.

We appreciate the opportunity to be of service to the City of New Bern and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Alan W. Thompson, CPA

Thompson, Price, Scott, Adams & Co., P.A.

RESPONSE:

This letter correctly sets forth the understanding	g of the City of New Bern.	
Management signature:		SIGN HERE
Title: Director of Finance	V	
Date: June 23, 2020	V	
Governance signature:		SIGN HERE
Title: Mayor	V	
Date: June 23, 2020	V	

CC: Board of Alderman

AGENDA ITEM COVER SHEET

Agenda Item Title:

Date of Meeting: 6/23/2020

Consider adopting resolution approving lease agreement with State Employee's Credit Union for ATM in parking lot located at 302 Craven Street and owned by the City of New Bern.

Ward # if applicable: 1

Department: Public Works Call for Public Hearing: □Yes⊠No		Jack 6 1 37 /2 37 (A. 1.)		
		Person Submitting Item: Matt Montanye, Director of Public Works		
		Date of Public Hearing: N/A		
Explanation of Item:	Consider adopt	ing resolution approving lease agreement with		
State Employee'		e's Credit Union for ATM in parking lot located Street (parcel# 8-002-A-220).		
Actions Needed by Board:	Approve resolution.			
Backup Attached:	Memo			
Is item time sensitive?				
Will there be advocates	s/opponents at t	he meeting? Yes No		
Cost of Agenda Item:				
If this requires an expe and certified by the Fir		been budgeted and are funds available □Yes □ No		

Additional Notes: N/A



Public Works Department
P.O. Box 1129, 1004 S. Glenburnie Road
New Bern, N.C. 28563-1129
Phone: (252) 639-7501
Fax: (252) 636-1848

June 11, 2020

Memo to: Mayor and Board of Aldermen

From: Matt Montanye, Director of Public Works

Re: Consider adopting resolution approving lease agreement with State Employee's

Credit Union for ATM in parking lot located at 302 Craven Street and owned by

the City of New Bern.

Background Information:

The State Employee's Credit Union, a North Carolina non-profit corporation, has requested a renewal of lease agreement between the State Employee's Credit Union and City of New Bern for the ATM that is currently located in the city's parking lot at 302 Craven Street (parcel# 8-002-A-220). The proposed lease agreement would be renewed for a period of twelve (12) months (1 year) effective July 1, 2020, for a sum of \$225.00 per month.

Recommendation:

It is recommended that the Board of Aldermen consider approving the attached lease agreement.

Enclosures

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Lease Agreement dated June 23, 2020, by and between the City of New Bern and State Employees Credit Union, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same in duplicate originals for and on behalf of the City.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

	DANA E. OUTLAW, MAYOR	_
BRENDA E. BLANCO, CITY CLERK	_	

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 23rd day of June, 2020, by and between the CITY OF NEW BERN ("Lessor"), a North Carolina municipal corporation, and STATE EMPLOYEES' CREDIT UNION ("Lessee"), a North Carolina non-profit corporation.

WITNESSETH:

THAT WHEREAS, the Lessor owns the real property located at 302 Craven Street in City of New Bern, said parcel being identified by Craven County Tax Parcel Number 8-002-A-220 ("Subject Property"); and

WHEREAS, Lessee is a North Carolina non-profit corporation which was chartered for the express purpose of operating a credit union; and

WHEREAS, the Lessor has agreed that the Lessee may lease a portion of the Subject Property for the operation of an automated teller machine, subject to the terms and conditions established herein, said portion being more specifically described in Exhibit A (the "Premises"); and

WHEREAS, the Lessor's Board of Aldermen has determined that the Premises will not be needed by the Lessor for the term of the lease; and

WHEREAS, the parties have agreed upon the terms of a one (1) year lease, and wish to reduce their agreement to writing.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of said Lessor, the Premises.

TO HAVE AND TO HOLD said Premises, together with all privileges and appurtenances thereunto belonging to it, the said Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth:

- 1. The term of this Lease shall be for a period of twelve (12) months commencing at 12:01 a.m. on July 1, 2020, and terminating at midnight on June 30, 2021.
- 2. During the term of this Lease, the Lessee shall be responsible for maintaining the Premises and all fixtures located thereon so that the Lessor will have no obligation whatsoever with respect to the maintenance or repair of the leased Premises during the term of this Lease. Prior to commencing any repairs to the exterior of the Premises, the Lessee shall receive the Lessor's written authorization to proceed with such repairs. All repairs initiated by the Lessee shall be completed to the Lessor's satisfaction. At the expiration of the term of this Lease

Agreement, Lessee shall be responsible for removing all fixtures from the Premises and restoring the Premises to a condition consistent with the parking lot located on the Subject Property.

- 3. During the term of this Lease Agreement, Lessee shall maintain comprehensive general liability insurance on an occurrence basis with maximum limits of liability in the amount of Three Hundred Thousand Dollars (\$300,000.00) for property damage, bodily injury, personal injury or death to anyone person; Lessee shall also maintain excess liability coverage with a per occurrence limit of One Million Dollars (\$1,000,000.00); and Lessee shall keep the kiosk structure on the Premises together with the equipment in said building insured against loss or damage by fire or other casualties.
- 4. If the Premises are wholly or partially destroyed by fire or other casualty, rental shall abate in proportion to the loss of use thereof, and Lessee shall, at its own expense, promptly restore the Premises to substantially the same condition as existed before damage or destruction, whereupon full rental shall resume.
- 5. As rental for the Premises, Lessee shall pay to Lessor, at the address noted below, and without notice or demand therefore, the sum of Two Hundred Twenty-five Dollars (\$225.00) per month during the term of the lease, payable monthly in advance on the first day of each calendar month. Rental payments shall be made to City of New Bern, P.O. Box 1129, New Bern, NC 28563.
- 6. The Lessee agrees to utilize the Premises exclusively for the operation of an automated teller machine, and in connection thereto, shall comply with all laws, ordinances, orders, or regulations of any lawful authority having jurisdiction over the premises and the use thereof.
- The Lessee shall make no substantial modification to the exterior of the improvements located on said Premises without the prior written consent of the Lessor.
- 8. If the whole of the Premises, or such portion thereof as will make the Premises unsuitable for use contemplated hereby, shall be taken under the power of eminent domain (including any conveyance in lieu thereof), then the term hereof shall cease as of the date possession thereof is taken by the condemnor, and rental shall be accounted for as between Lessor and Lessee as of that date.
- 9. All applications in connection with necessary utility services on the demised premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for electricity, gas, water, sewer, and telephone services.

- Lessee shall not assign this Lease nor sublet any part of the demised property without written consent of the Lessor.
- 11. It is expressly understood and agreed that if any monthly installment of rent as herein called for shall remain overdue and unpaid for ten (10) days, Lessor may, at its option, at any time during such default, declare this Lease Agreement terminated and canceled and take possession of said Premises, and require the Lessee to remove the structure from the Premises and restore the Premises to their former condition.
- 12. Lessee shall pay prior to delinquency all taxes and assessments of every kind and nature which may be imposed or assessed upon or with respect to the structure and equipment placed on the Premises by Lessee.
- 13. Lessee shall be in exclusive control and possession of the Premises, and Lessor shall not be liable for any injury or damages to any property or to any person on or about the Premises nor for any injury or damage to any property of Lessee. Lessee shall defend, indemnify and hold harmless the Lessor from and against any claims, damages, or expenses (including reasonable attorney's fees), whether due to damage to the Premises, claims for injuries to persons or property, or administrative or criminal action by governmental authority, where such claims, damages, or expenses result from the negligence, misconduct or breach of any provision of this Lease Agreement by Lessee, its agents, or employees.
- 14. If Lessee shall pay the rent and perform and observe all the other covenants and conditions to be performed and observed by it hereunder, Lessee shall at all times during the term hereof have the peaceable and quiet enjoyment of the Premises without interference from Lessor or any person lawfully claiming through Lessor.
- 15. All notices provided for in this Lease Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail addressed to Lessor at:

City Of New Bern Post Office Box 1129 New Bern, NC 28563

and to Lessee at:

State Employees' Credit Union Post Office Box 26807 Raleigh, NC 27611

16. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina.

- 17. This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 18. This Lease contains the complete agreement of the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto which have not been incorporated herein. This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.
- 19. If any provision of this Lease shall be declared invalid or unenforceable, the remainder of the Lease shall continue in full force and effect.

IN TESTIMONY WHEREOF, the CITY OF NEW BERN has caused this instrument to be executed in its corporate name by its Mayor and its corporate seal to be affixed and attested by its City Clerk, all by authority duly given of its Board of Aldermen; and STATE EMPLOYEES' CREDIT UNION has caused this document to be executed by its Senior Vice President and attested by its Secretary, all by authority duly given by its Board of Directors, all as of the day and year first above written; this Agreement being executed in duplicate originals, one of which is retained by each of the parties.

SECRETARY

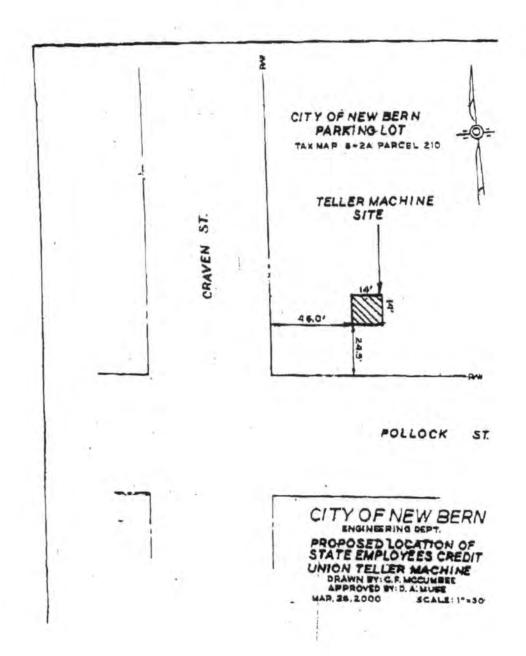
STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I,	personally acquing BLANCO is which execute oration; that the sunicipal corporation	une, 2020 ainted, wh the City C d the fores seal affixed ation was s	before me to, being by relerk of the C going instrumed to the foregoing subscribed the	me duly sworn, sa City of New Bern nent; that he kno going instrument ereto by the said	eared DANA E. ays that he is the n, the municipal ws the common is said common Mayor; that the
and that the said instrument					p. sorporation,
WITNESS my hand	and notarial sea	l, this	_ day of Jur	ne, 2020.	
		Ĩ	Notary Public	2	
My commission expires:			rotary r don		
STATE OF NORTH CARO	LINA				
This is to certify thappeared	at on the			_, 2020, before	
being by me duly sworn, sa the Secretary of STATE foregoing instrument is the signed and sealed by him/h that said instrument is the a	EMPLOYEES corporate seal ner on behalf of	Senior V CREDIT of the said	ice President UNION, are d corporation	nt andnd that the seal n, and that said	is affixed to the instrument was
WITNESS my hand	and notarial sea	l, this	day of	, 2020.	
		Notary I	Public		
My commission expires:					

EXHIBIT A

Commencing at the intersection of the eastern right-of-way line of Craven Street with the northern right-of-way line of Pollock Street; thence in a northerly direction along and with the eastern right-of-way line of Craven Street 24.5 feet; thence in an easterly direction parallel with the northern right-of-way line of Pollock Street 46.0 feet to the point of beginning; thence in a northerly direction parallel with the eastern right-of-way line of Craven Street 14.0 feet; thence in an easterly direction parallel with the northern right-of-way line of Pollock Street 14.0 feet; thence in a southerly direction parallel with the eastern right-of-way line of Craven Street 14.0 feet; thence in a westerly direction parallel with the northern right-of-way line of Pollock Street 14.0 feet; thence in a westerly direction parallel with the northern right-of-way line of Pollock Street 14.0 feet to the point of beginning. (See Exhibit B attached hereto.)



State Employees' Credit Union



ATM Management

June 11, 2020

CITY OF NEW BERN PO BOX 1129 NEW BERN, NC 28563

Dear Sir/Madam:

Re: ATM B2N2 - HISTORICAL NEW BERN - Serviced by Branch # 156

Please be advised that the State Employees' Credit Union wishes to exercise the one year renewal option on the above referenced ATM location. In accordance with the terms of the original lease agreement, the monthly rental payments will be the same as \$225.00 for the lease term beginning July 1, 2020 and ending June 30, 2021.

Thank you.

Sincerely,

Jason Strickland ATM Management Officer

CC: BETH POSTA, VP - # 156 NEW BERN - HIGHWAY 70 TODD WALTERS, SVP - # 062 MOREHEAD CITY

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting resolution approving lease agreement with Area Day Reporting Program for Youth for the property located at 500 Fort Totten Drive and owned by the City of New Bern.

Date of Meeting: 6/23/2020 Department: Public Works Call for Public Hearing: □Yes⊠No		Ward # if applicable: 1 Person Submitting Item: Matt Montanye, Director of Public Works		
				ing resolution approving lease agreement with orting Program for Youth for the property located ten Drive.
Actions Needed by Board:	Approve resolution.			
Backup Attached:	Memo Letter of reques	st		
Is item time sensitive?	⊠Ves □No			
		the meeting? Yes No		
Cost of Agenda Item:				
		been budgeted and are funds available		

Additional Notes: N/A



Public Works Department
P.O. Box 1129, 1004 S. Glenburnie Road
New Bern, N.C. 28563-1129
Phone: (252) 639-7501
Fax: (252) 636-1848

June 11, 2020

Memo to: Mayor and Board of Aldermen

From: Matt Montanye, Director of Public Works

Re: Consider adopting resolution approving lease agreement with Area Day

Reporting Program for Youth for the property located at 500 Fort Totten Drive

and owned by the City of New Bern.

Background Information:

The Area Day Reporting Program for Youth has requested renewal of existing lease agreement between the City of New Bern and Area Day Reporting Program for Youth for the property located at 500 Fort Totten Drive. The proposed lease agreement would be effective July 1, 2020, for a period of 12 months (1 year) at a rate of \$1.00 per year.

Recommendation:

It is recommended that the Board of Aldermen consider approving the attached lease agreement. If you have any questions concerning this matter, please feel free to contact me directly.

Enclosures

Cc: Scott Davis, City Attorney

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Lease Agreement dated June 23, 2020 by and between the City of New Bern and Area Day Reporting Program for Youth, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same in duplicate for and on behalf of the City.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

COUNTY OF CRAVEN

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of the 23rd day of June, 2020, by and between the CITY OF NEW BERN ("Lessor"), a North Carolina municipal corporation, and AREA DAY REPORTING PROGRAM FOR YOUTH ("Lessee"), a North Carolina non-profit corporation, collectively referred to as the "Parties."

WITNESSETH:

THAT WHEREAS, the Lessor owns the facility located at 500 Fort Totten Drive in the City of New Bern (the "Premises"), said facility being located on real property acquired by the Lessor by deed appearing of record in the office of the Register of Deeds of Craven County in Book 478, at Page 357; and

WHEREAS, the Lessor has agreed that the Lessee may lease the Premises for the purpose of operating a youth program; and

WHEREAS, the Lessor's Board of Aldermen has determined that the Premises will not be needed by the Lessor for the term of the Lease; and

WHEREAS, the Parties have agreed upon the terms of a Lease and wish to reduce their agreement to writing.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of said Lessor, the Premises.

TO HAVE AND TO HOLD said Premises, together with all privileges and appurtenances thereunto belonging to it, the said Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth:

- This term of this Lease shall be for a period of twelve (12) months commencing at 12:01 a.m. on July 1, 2020, and terminating at midnight on June 30, 2021.
- During the term of this Lease, the Lessee shall be responsible for maintaining and repairing both the interior and exterior of the Premises so that the Lessor will have no obligation whatsoever with respect to the maintenance or repair of the leased Premises during the term of this Lease.
- 3. The Lessor shall maintain hazard insurance on the improvements located on the Premises, including contents owned by Lessor, in such amount as Lessor may determine in its

sole discretion. Lessor shall also maintain general liability insurance in such amount as it deems necessary to protect the City of New Bern. The Lessee shall pay to the Lessor on or before October 1, 2020, the actual expenses incurred by the Lessor to provide said coverage, both hazard and liability, but no more than the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). In lieu of payment of Lessor's expense in providing general liability insurance in connection with the use of the Subject Property, Lessee may, if it elects to do so, carry its own liability insurance in an amount no less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), so long as the City of New Bern is a named insured therein. In such event, the Lessee shall provide the Lessor with a Certificate of Insurance.

- 4. Should the Premises be damaged or destroyed by fire, the Lessor shall be under no obligation to repair or replace the improvements located on said Premises, and, should it elect not to repair or replace, this Lease shall thereupon terminate, (unless the Lessee shall advise the Lessor, in writing, within thirty (30) days of the date of damage or destruction, that it proposes, at its own expense, to repair or replace the improvements located on said Premises and proceeds to do so within ninety (90) days of the loss.
- 5. As rental for the said Premises, the Lessee agrees to maintain the Premises, as hereinabove set forth, and to pay the sum of ONE DOLLAR (\$1.00) per annum during the term of this Lease, with payment to be made contemporaneously with the execution of this Lease.
- The Lessee agrees to utilize the subject facility to foster the purposes of operating a youth program in the City of New Bern.
- The Lessee shall make no substantial modification of the improvements located on said Premises without the prior written consent of the Lessor.
- 8. It is expressly agreed that all alterations and additions that are made by Lessee to the Premises during the term of this Lease shall be and become a permanent part of the real estate and, as such, the property of the Lessor. It is agreed, however, that all personal property placed in and about the Premises by the Lessee shall be and remain the property of the Lessee and may be removed by it upon the termination of this Lease. All other improvements shall be considered a part of the real estate.
- Lessee shall make timely payment of all utility bills presented to Lessee by the City of New Bern.
 - 10. Lessee shall not assign this Lease nor sublet any part of the demised property

without written consent of the Lessor.

11. It is expressly agreed that, if the Lessee shall neglect to make any payment of rent when due or neglect to do and perform any matter or thing herein agreed to be done and performed by it and shall remain in default thereof for a period of thirty (30) days after written notice from the Lessor calling attention to such default, the Lessor may declare this Lease terminated and cancelled and take possession of said Premises without prejudice to any other legal remedy it may have on account of such default. Said notice may be given to the person at such time in charge of said Premises or sent by certified mail to the Lessee at the following address:

Area Day Reporting Program for Youth 500 Fort Totten Drive New Bern, NC 28560

IN TESTIMONY WHEREOF, Lessor has caused this instrument to be executed in its corporate name by its Mayor and its corporate seal to be affixed and attested by its City Clerk, and Lessee has caused this instrument to be executed in its corporate name by its President, all as of the day and year first above written; this Agreement being executed in duplicate originals, one of which is retained by each of the parties.

By:_______

Brenda E. Blanco, City Clerk

Brenda E. Blanco, City Clerk

AREA DAY REPORTING PROGRAM FOR YOUTH [SEAL]

A North Carolina Nonprofit Corporation

By:______

President

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I,	, a notary public in and for said county and state,
do hereby certify that on the	, a notary public in and for said county and state, day of June, 2020, before me personally appeared DANA E.
	ersonally acquainted, who, being by me duly sworn, says that he is
	A BLANCO is the City Clerk of the City of New Bern, the
	ed in and which executed the foregoing instrument; that he knows cipal corporation; that the seal affixed to the foregoing instrument
	name of the municipal corporation was subscribed thereto by the
	non seal was affixed, all by order of the Board of Aldermen of said
	nat the said instrument is the act and deed of said municipal
corporation.	
WITNESS	1
WITNESS my hand and	d notarial seal, this day of June, 2020.
	57
	Notary Public
My commission expires:	
S. A. Sandanian and Market	

STATE OF NORTH CAROLINA

me this day RAM FOR being duly
corporation
).
C

Brenda Blanco

From: Sherri Baldree

Sent: Wednesday, June 17, 2020 4:19 PM
To: ayouth@suddenlinkmail.com
Cc: Matt Montanye; Brenda Blanco

Subject: RE: Lease Renewal Letter of Request for one year beginning 7/1/20 - Area Day

Reporting Program for Youth, 500 Ft. Totten Drive

Thank you! We will update you as soon as possible once lease presented to Mayor & Board of Aldermen for approval.

Sherri K. Baldree, Administrative Assistant City of New Bern • Public Works Department (252)639-7501 office / (252)636-1848 fax baldrees@newbernnc.gov Mailing Address: P.O. Box 1129, New Bern, N.C. 28563 Shipping Address: 1004 S. Glenburnie Road (rear building), New Bern, N.C. 28562

www.newbernnc.gov

If you are not the intended recipient, you must destroy this message and inform the sender immediately. This electronic mail message and any attachments, as well as any electronic mail message[s] sent in response to it may be considered public record and as such subject to request and review by anyone at any time. It also may contain information which is confidential within the meaning of applicable federal and state laws.

----Original Message-----

From: ayouth@suddenlinkmail.com <ayouth@suddenlinkmail.com>

Sent: Wednesday, June 17, 2020 4:14 PM

To: Sherri Baldree <baldrees@newbernnc.gov>

Subject: Re: Lease Renewal Letter of Request for one year beginning 7/1/20 - Area Day Reporting Center, 500 Ft. Totten Drive

Center, 500 Ft. Totten Drive

Please receive my request to renew the lease for the use of facility at 500 Fort Totten Drive in New Bern as Area Day Reporting Center for Youth.

Respectfully requested by:

Barbara H. Lee Area Day Reporting Center 500 Ft Totten Dr. New Bern, NC 28562 252-638-6542

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting resolution approving lease agreement with Habitat for Humanity for a portion of the property located at 920 George Street and owned by the City of New Bern.

Date of Meeting: 6/23/2020 Department: Public Works Call for Public Hearing: □Yes⊠No		Ward # if applicable: 1	
		Person Submitting Item: Matt Montanye, Director of Public Works Date of Public Hearing: N/A	
			Explanation of Item:
Actions Needed by Board:	Approve resolution.		
Backup Attached:	Memo Letter of request		
Is item time sensitive?	MVes □No		
		he meeting? Yes No	
Cost of Agenda Item:			
and certified by the Fi	market and a fall the paper affects of	been budgeted and are funds available Yes No	

Additional Notes: N/A



Public Works Department P.O. Box 1129, 1004 S. Glenburnie Road New Bern, N.C. 28563-1129 Phone: (252) 639-7501 Fax: (252) 636-1848

June 11, 2020

Memo to: Mayor and Board of Aldermen

From: Matt Montanye, Director of Public Works

Re: Consider adopting resolution approving lease agreement with Habitat for

Humanity for a portion of the property located at 920 George Street and owned

by the City of New Bern.

Background Information:

Habitat for Humanity has requested renewal of lease agreement between the City of New Bern and Habitat for Humanity for a portion of the property located at 920 George Street. The proposed lease agreement would be effective July 1, 2020, for a period of 12 months (1 year) at a rate of \$1.00 per year.

Recommendation:

It is recommended that the Board of Aldermen consider approving the attached lease agreement. If you have any questions concerning this matter, please feel free to contact me directly.

Enclosures

Cc: Scott Davis, City Attorney

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Lease Agreement dated June 23, 2020 by and between the City of New Bern and Habitat for Humanity of Craven County NC, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same in duplicate for and on behalf of the City.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

COUNTY OF CRAVEN

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of the 23rd day of June, 2020, by and between the CITY OF NEW BERN ("Lessor"), a North Carolina municipal corporation, and HABITAT FOR HUMANITY OF CRAVEN COUNTY NC ("Lessee"), a North Carolina non-profit corporation, which has its principal office and place of business in the City of New Bern, North Carolina, collectively referred to as the "Parties."

WITNESSETH:

THAT WHEREAS, the Lessor owns the real property located at 920 George Street in the City of New Bern (the "Subject Property"), the same being identified by Craven County tax parcel identification number 8-004-004; and

WHEREAS, the Lessee was chartered for the purpose of creating a nonprofit housing organization to build simple, decent, affordable housing in partnership with people in need; and

WHEREAS, the Lessor has agreed that the Lessee might use a portion of the building located on the Subject Property for storage of construction equipment and materials, said portion being more particularly described herein as the "Premises"; and

WHEREAS, the Lessor's Board of Aldermen has determined that the Premises will not be needed by the Lessor for the term of the Lease; and

WHEREAS, the Parties have agreed upon the terms of a Lease and wish to reduce their agreement to writing.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of said Lessor, the Premises located on the Subject Property, together with reasonable parking and access across the Subject Property to the Premises from public streets. The leased Premises specifically excludes the following: approximately 640 square feet of the northernmost portion of the building separated by a partition wall which is currently being used as a produce market, together with reasonable parking and access to said building from public streets for use by those who frequent the produce market.

TO HAVE AND TO HOLD said Premises, together with all privileges and appurtenances thereunto belonging to it, the said Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth.

- 1. This term of this Lease shall be for a period of twelve (12) months commencing at 12:01 a.m. on July 1, 2020, and terminating at midnight on June 30, 2021.
- During the term of this Lease, the Lessee shall be responsible for maintaining and repairing both the interior and exterior of the Premises so that the Lessor will have no obligation whatsoever with respect to the maintenance or repair of the leased Premises during the term of this Lease.
- 3. The Lessor shall maintain hazard insurance on the improvements located on the Premises, including contents owned by Lessor, in such amount as Lessor may determine in its sole discretion. Lessor shall also maintain general liability insurance in such amount as it deems necessary to protect the City of New Bern. The Lessee shall pay to the Lessor on or before October 1, 2020, the actual expenses incurred by the Lessor to provide said coverage, both hazard and liability, but no more than the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). In lieu of payment of Lessor's expense in providing general liability insurance in connection with the use of the Subject Property, Lessee may, if it elects to do so, carry its own liability insurance in an amount no less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), so long as the City of New Bern is a named insured therein. In such event, the Lessee shall provide the Lessor with a Certificate of Insurance.
- 4. Should the Premises be damaged or destroyed by fire, the Lessor shall be under no obligation to repair or replace the improvements located on said Premises, and, should it elect not to repair or replace, this Lease shall thereupon terminate, (unless the Lessee shall advise the Lessor, in writing, within thirty (30) days of the date of damage or destruction, that it proposes, at its own expense, to repair or replace the improvements located on said Premises and proceeds to do so within ninety (90) days of the loss.
- 5. As rental for the said Premises, the Lessee agrees to maintain the Premises, as hereinabove set forth, and to pay the sum of ONE DOLLAR (\$1.00) per annum during the term of this Lease, with payment to be made contemporaneously with the execution of this Lease.
- The Lessee agrees to utilize the Premises in connection with its mission of building simple, decent, affordable housing in partnership with people in need in the City of New Bern.
- The Lessee shall make no substantial modification of the interior of the improvements located on said Premises without the prior written consent of the Lessor.

- 8. It is expressly agreed that all alterations and additions that are made by Lessee to the Premises during the term of this Lease shall be and become a permanent part of the real estate and, as such, the property of the Lessor. It is agreed, however, that all personal property placed in and about the Premises by the Lessee shall be and remain the property of the Lessee and may be removed by it upon the termination of this Lease. All other improvements shall be considered a part of the real estate.
- Lessee shall make timely payment of all utility bills presented to Lessee by the City of New Bern.
- Lessee shall not assign this Lease nor sublet any part of the demised property without written consent of the Lessor.
- 11. It is expressly agreed that, if the Lessee shall neglect to make any payment of rent when due or neglect to do and perform any matter or thing herein agreed to be done and performed by it and shall remain in default thereof for a period of thirty (30) days after written notice from the Lessor calling attention to such default, the Lessor may declare this Lease terminated and canceled and take possession of said Premises without prejudice to any other legal remedy it may have on account of such default. Said notice may be given to the person at such time in charge of said Premises or sent by certified mail to the Lessee at the following address:

Habitat for Humanity of Craven County NC Post Office Box 1231 New Bern, NC 28563

IN TESTIMONY WHEREOF, Lessor has caused this instrument to be executed in its corporate name by its Mayor and its corporate seal to be affixed and attested by its City Clerk, and Lessee has caused this instrument to be executed in its corporate name by its President, all as of the day and year first above written; this Agreement being executed in duplicate originals, one of which is retained by each of the parties.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF NEW BERN By: DANA E. OUTLAW, MAYOR ATTEST: BRENDA E. BLANCO, CITY CLERK HABITAT FOR HUMANITY OF CRAVEN COUNTY NC [SEAL] A North Carolina Nonprofit Corporation By: President STATE OF NORTH CAROLINA COUNTY OF CRAVEN , a notary public in and for said county and state, do hereby certify that on the day of June, 2020, before me personally appeared DANA E. OUTLAW, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that BRENDA E. BLANCO is the City Clerk of the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation. WITNESS my hand and notarial seal, this day of June, 2020. Notary Public My commission expires:

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

hereby certify that		n and for said County and State, doersonally appeared before me this da
경기 교실하다 얼마나 아본 얼마가 되었다고 하는 사람들이 되었다.	he is President of HABITA	AT FOR HUMANITY OF CRAVE
	없는 그렇게 하면 하게 그렇게 되면 되는 점심하면 그렇게 어떻게 되는 사람들이 먹어 그렇게 했다.	and that (s)he, as President, being dul
for the purposes stated there		nstrument on behalf of said corporation
WITNESS my hand	and notarial seal, this da	ay of, 2020.
	Notary Public	ic
My commission expires:		



May 7, 2020

Ms. Brenda Blanco City Clerk City of New Bern 209 Pollock Street New Bern, NC 28560

Dear Ms. Blanco,

On behalf of the Board of Directors of Habitat for Humanity of Craven County, I am submitting this letter as our written request to renew the lease on the warehouse at 920 George Street. Please let me know me know if there is any additional information you need from us in order to make this happen.

Thank you in advance for your continued support of our mission.

Sincerely,

Mike Williams

Executive Director

mwilliams@cravencountyhabitat.org

AGENDA ITEM COVER SHEET



Agenda Item Title: Consider Adopting a Resolution to Initiate the Upset Bid Process for 1705 Wilmington Street

Date of Meeting: 6/23/2020		Ward # if applicable: 5			
Department: City Clerk		Person Submitting Item: Brenda Blanco			
Call for Public Hearing: □Yes⊠No		Date of Public Hearing: N/A			
Explanation of Item:	The same of the sa	580 has been received for the purchase of 1705 eet. This represents 50% of the tax value for the t.			
Actions Needed by Board:	Consider adopting resolution				
		on, offer to purchase, map and pictures of the x property card			
Is item time sensitive?	□Yes ⊠No				
Will there be advocates	s/opponents at t	he meeting? □Yes ☒ No			
Cost of Agenda Item:					
If this requires an expe and certified by the Fir		een budgeted and are funds available ☐Yes ☐ No			

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMO TO: Mayor and Board of Aldermen

FROM: Brenda Blanco, City Clerk

DATE: June 12, 2020

SUBJECT: Offer to Purchase 1705 Wilmington Street

Ashley Boyd has submitted an offer of \$3,580 to purchase 1705 Wilmington Street. The tax value of the vacant 0.09-acre lot is \$7,160, and the offer represents 50% of the value. The property was acquired by the City in October of 2008. The bidder is aware of the current zoning and states she has spoken extensively with Development Services about the potential uses and restrictions (housing size, etc.) associated with the property.

/beb

RESOLUTION

THAT WHEREAS, the City of New Bern owns certain real property identified as 1705 Wilmington Street, Craven County parcel identification number 8-015-212; and

WHEREAS, North Carolina General Statute § 160A-269 permits the City to sell property by upset bid after receipt of an offer for the property; and

WHEREAS, the City has received an offer to purchase the above described property in the amount of \$3,580.00, submitted by Ashley Boyd; and

WHEREAS, Ashley Boyd has paid the required five percent (5%) deposit on the offer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

- Section 1. The Board of Aldermen of the City of New Bern authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.
- Section 2. The City Clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
- Section 3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
- Section 4. If a qualifying higher bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of Aldermen.
- Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
- Section 6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check or

certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset bid if a qualifying higher bid is received. If the City accepts the final high bid, the deposit of the final high bidder will be applied to the purchase price at closing.

Section 7. The terms of the final sale are:

- (a) The Board of Aldermen must approve the final high offer before the sale is closed, which it may do within thirty (30) days after the final upset bid period has passed; and
 - (b) The buyer must pay with cash at the time of closing.

Section 8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted, and the right to reject all bids at any time, specifically including the initial offer.

Section 9. If no qualifying upset bid is received after the initial public notice, and if the offer set forth above has not been subsequently rejected, the offer set forth above is hereby accepted, and the appropriate city officials are authorized to execute the instruments necessary to convey the property to Ashley Boyd.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

NORTH CAROLINA

OFFER TO PURCHASE AND CONTRACT

CRAV	EN	COL	UNTY
- 444.4		-	

achiev Bound
as Buyer, hereby offers to purchase and CITY OF NEW BERN, as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below (hereafter referred to
as the "Property"), upon the following terms and conditions:
1. REAL PROPERTY: Located in or near the City of New Bern. Craven County. North Carolina, being known as and more
particularly described as:
Street Address: 1705 Wil Min aton Street
Subdivision Name:
Tax Parcel ID No.: 8-015-212 3580.00
Plat Reference:
Being all of that property more particularly described in Ded Book 2769, Page 0499 in the Craven County Registry.
2. PURCHASE PRICE: The purchase price is \$7. Per and shall be paid as follows:
(a) \$ 350.00 80.00, EARNEST MONEY DEPOSIT with this offer by Cash bank check certified check to be
held by Seller until the sale is closed, at which time it will be credited to Buyer, or until this contract is otherwise properly
terminated. In the event this offer is not accepted, then all earnest monies shall be refunded to Buyer. In the event of breach of
this contract by Seller, all earnest monies shall be refunded to Buyer upon Buyer's request In the event of breach of this contract
by Down they all appears maning shall be forfaited to College upon College's request, but such forfaiture shall not affect any other
by Buyer, then all earnest monies shall be forfeited to Seller upon Seller's request, but such forfeithe shall not affect any other
(b) \$ 600 , BALANCE of the purchase price in cash or readily available funds at Closing.
3. CONDITIONS:
(a) This contract is not subject to Buyer obtaining financing.
(b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear
excepted.
(c) The Property is being sold subject to all liens and encumbrances of record. If any
(d) Other than as provided herein, the Property is being conveyed "as is".
(e) This contract is subject to the provisions of G.S. §160A-269. Buyer acknowledges that this contract is subject to certain notice
provisions and the rights in others to submit upset bids in accordance therewith.
(f) Title shall be delivered at Closing by QUITCLAIM DEED
4. SPECIAL ASSESSMENTS: Seller makes no warranty or representation as to any pending or confirmed governmental special
assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, or pending or confirmed owners'
association special assessments. Buyer shall take title subject to all pending assessments, if any.
5. PAYMENT OF TAXES: Any ad valorem taxes to which the Property is subject shall be paid in their entirety by Buyer.
6. EXPENSES: Buyer shall be responsible for all costs with respect to any title search, title insurance, recording of the deed and its
legal fees. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this
agreement, and for any excise tax (revenue stamps) required by law
7. EVIDENCE OF TITLE: Not Applicable.
8. CLOSING: Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all
documents and papers necessary in connection with Closing and transfer of title within thirty (30) days of the granting of final
approval of the sale by the City of New Bern's Board of Aldermen pursuant to G.S. §160A-269. The deed is to be made to
AShley Boyd
9. POSSESSION: Unless otherwise provided herein, possession shall be delivered at Closing.
10. PROPERTY INSPECTION, APPRAISAL, INVESTIGATION:
(a) This contract is not subject to inspection, appraisal or investigation, as the Property is being bought "as is." Seller makes no
representation as to water, sewer, conditions, title, access, or fitness for any intended use. (b) CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION.
11. RIGHT OF ENTRY, RESTORATION AND INDEMNITY: Buyer and Buyer's agents and contractors shall not have the right to
enter upon the Property for any purpose without advance written permission of the Seller. If such permission is given, Buyer will
indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury
to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property. This indemnity
shall survive this contract and any termination hereof.
12. OTHER PROVISIONS AND CONDITIONS: (ITEMIZE ALL ADDENDA TO THIS CONTRACT AND ATTACH
HERETO,): None.
1402
Buyer Initials Seller Initials
Print 1 - 63
Page 1 of 2

- 13. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller.
- 14. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and the assignee's heirs, successors or assigns (as the case may be).
- 15. PARTIES: This contract shall be binding upon and shall inure to the benefit of the parties, i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.
- 16. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.
- 17. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.
- 18. NOTICE AND EXECUTION: Any notice or communication to be given to a party herein may be given to the party or to such party's agent. This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party, and the parties adopt the word "SEAL" beside their signatures below.

BUYER;	SELLER
(If an individual)	CITY OF NEW BERN
Name: AShley Boyd Date: JUNE 8, 2020 (06/08/2020) Address: 410 Novahoff Street New Bern NC 128560 Phone: 252-571-9245	By: (SEA) Its: Date:
(If a business entity)	
By: (SEA)	L)
Address:	
Phone:	

Buyer Initials Seller Initials

Craven County Geographic Information System

Craven County does NOT warrant the information shown on this page and should be used ONLY for tax assessment purposes.

This report was created by Craven County GIS reporting services on 6/8/2020 1:24:55 PM

Parcel ID:

8-015 -212

Owner:

NEW BERN-CITY OF

Mailing Address:

PO BOX 1129 NEW BERN NC 28563

Property Address:

1705 WILMINGTON ST

Description:

92 REVISION OF SUNNY-SIDE

Lot Description:

Subdivision:

Assessed Acreage:

0.094

Calculated Acreage: 0.090

Deed Reference:

2769-0499

Recorded Date :

11 3 2008

Recorded Survey:

Estate Number :

Land Value :

\$6,000

Tax Exempt:

Yes

Improvement Value :

\$1,160

of Improvements :

Total Value :

\$7,160

City Name :

NEW BERN

Fire tax District :

Drainage District:

Special District:

Land use :

VACANT-RESIDENTIAL TRACT

Recent Sales Information

SALE DATE

Sellers Name

Buyers Name

Sale Type

Sale Price

11/3/2008

STRAIGHT

ale Price

1/3/2000

SMITH, GEORGE HENRY NEW BERN-CITY OF & VERION

TRANSFER

\$0

List of Improvements to Site

Type of Structure

Year Built

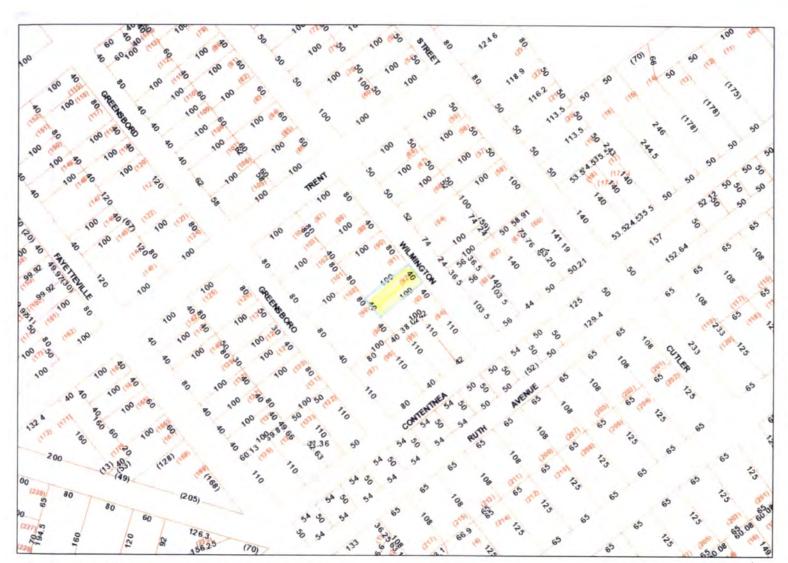
Base Area 1st Floor Value

STORAGE BUILDING-DETACHED-RES

1984

216

\$1,160



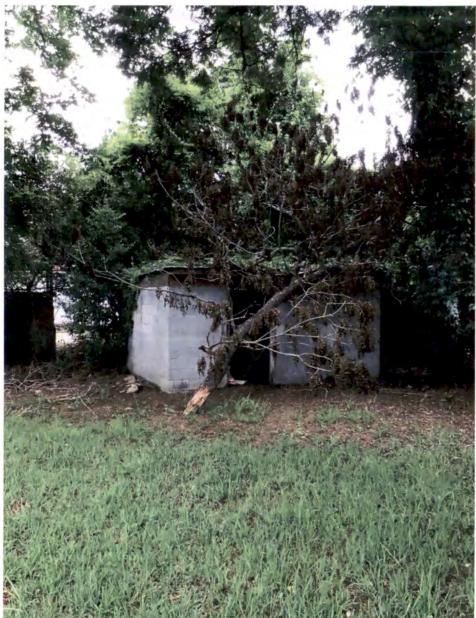
Craven County GIS PID 8-015-212

1 inch = 130 feet









AGENDA ITEM COVER SHEET



Agenda Item Title:Consider Adopting a Resolution Approving Administrative Guidelines and Policies for the Hazard Mitigation Program (HMGP).

Date of Meeting: 06/23/2020		Ward # if applicable: NA	
Department: Development Services		Person Submitting Item: Amanda Ohlensehlen, Community & Economic Development Manager	
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing:	
Grant Programs		w Bern wishes to carry out its Hazard Mitigation (HMGP) in accordance with established state ninistrative guidelines.	
Actions Needed by Board:	Adopt a Resolution.		
Backup Attached:	Memo, Resolu	tion, Supplemental Grant Agreement	
Is item time sensitive?			
		the meeting? Yes No	
Cost of Agenda Item: N			
If this requires an expe and certified by the Fir		been budgeted and are funds available	

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMORANDUM

TO: Mayor Outlaw and Board of Aldermen

FROM: Amanda Ohlensehlen

Community & Economic Development Manger

DATE: June 12, 2020

SUBJECT: Consider Adopting a Resolution Approving Administrative Guidelines and

Policies for the City of New Bern Hazard Mitigation Grant Programs.

Background

The Hazard Mitigation Grant Program assists states and local communities in implementing long-term mitigation measures following a Presidential Disaster Declaration. To meet these objectives, FEMA can fund up to 75 percent of the eligible costs of each project. Federal funding under the HMGP is based on 15 percent of the federal funds spent on the Public and Individual Assistance programs (minus administrative expenses) for each disaster declaration. FEMA's vision is to serve as a catalyst that drives increased understanding and proactive action to help people in communities reduce their losses from natural hazards. To support this vision, FEMA funds three Hazard Mitigation Assistance (HMA) grant programs. Hazard mitigation measures are any sustainable action taken to reduce or eliminate long-term risk to people and property from future disasters. The HMGP supports cost-effective post-disaster projects and is the longest running mitigation program among FEMA's three grant programs.

Under DR 4393, Hazard Mitigation Grant Program (HMGP) 407 Expedited Acquisition, the City of New Bern was approved funding to acquire and demolish three (3) residential structures located in the Special Flood Hazard Area and deemed substantially damaged during Hurricane Florence. An agreement between the State of North Carolina, Department of Public Safety, Division of Emergency Management and the City of New Bern for funding in the amount of \$191,472 with a Federal Share of \$143,604 and a nonfederal share of \$47,868 outlines the scope of work. The City of New Bern wishes to carry out the program in accordance with established state and federal administrative guidelines. The Mayor and Board of Aldermen are requested to consider adopting a resolution approving Administrative Guidelines and Policies for the City of New Bern Hazard Mitigation Grant Programs which include; Local Economic Benefit for Low and

Very Low Income Persons (Section 3) Plan, Procurement Standards Policy Plan and Equal Opportunity Plan.

Please contact Amanda Ohlensehlen at 252-639-7580 if you have questions or need additional information.

CITY OF NEW BERN HAZARD MITIGATION GRANT PROGRAMS (HMGP) Resolution Approving Administrative Guidelines and Policies

WHEREAS, the City of New Bern wishes to carry out its Hazard Mitigation Grant Programs ("HMGP") in accordance with established state and federal administrative guidelines.

NOW, THEREFORE, the Board of Aldermen of the City of New Bern does hereby collectively adopt the following guidelines, plans and policies, copies of which are attached hereto and incorporated herein by reference, and the same are hereby approved, and the Board resolves that these will be utilized during the administration of the City of New Bern Hazard Mitigation Grant Program:

- a. Local Economic Benefit for LMI Persons (Section 3) Plan;
- b. Procurement Standards Policy/Plan; and
- c. Equal Opportunity Plan.

BRENDA E. BLANCO, CITY CLERK

ADOPTED this 23rd day of June, 2020.

DANA E. OUTLAW, MAYOR

CITY OF NEW BERN HAZARD MITIGATION GRANT PROGRAMS (HMGP) Local Economic Benefit for Low and Very Low Income Persons (Section 3) Plan

To ensure that to the greatest extent possible contracts for work are awarded to business concerns located in or owned in substantial part by persons residing in the Section 3 covered area, as required by Section 3 of the Housing and Urban Development Act of 1968, the City of New Bern (hereinafter called "the City") has developed and hereby adopts the following Section 3 Plan:

- This Section 3 Plan shall apply to services needed in connection with the City
 of New Bern Hazard Mitigation Grant Program (HMGP) including, but not limited to,
 businesses in the fields of planning, consulting, design, building construction/renovation,
 maintenance & repair, etc.
- The Section 3 project area for the purpose of the HMGP Program shall include all of the city.
- 3. When in need of a service, the City will identify suppliers, contractors, or subcontractors located in the Section 3 area. Resources for this identification shall include the North Carolina Historically Underutilized Business Office (HUB), local directories, and the Small Business Administration local offices. Word of mouth recommendations shall also be used as a source. Where deemed necessary, listings from any agency noted above shall be distributed to prime contractors as potential sources of subcontractors and suppliers.
- 4. The City will include required Section 3 clauses in all contracts executed under this HMGP Program. Where deemed necessary, listings from any agency noted in Item 3, above, shall be included as well as sources of subcontracts and suppliers.
- 5. All jobs will be listed through and hiring will be done through the local office of the North Carolina Employment Security Commission; all contracts will be listed with the North Carolina Historically Underutilized Business (HUB) office; potential employees and businesses may seek development and training assistance through various state and local agencies.

ADOPTED this 23rd day of June, 2020.

BRENDA E. BLANCO, CITY CLERK

DANA E. OUTLAW, MAYOR

CITY OF NEW BERN HAZARD MITIGATION GRANT PROGRAMS (HMGP) Procurement Standards Policy/Plan

Policy

The City of New Bern will comply with the terms and conditions of Federal and/or State funding that is awarded and accepted, including but not limited to, the terms and conditions of Grant Contract, Title 2 CFR Part 200, and HUD implementing regulations contained in 24 CFR Section 570.489(g) which are incorporated by reference and included herein to the extent of its applicability. The City, as the recipient of Federal and/or State CDBG funds as well as Hazard Mitigation Grant Program funds, acknowledges its responsibility to and will adhere to the aforesaid North Carolina State and Federal Procurement Policies.

The City of New Bern will, to the extent applicable, follow methods of procurement, procure by contracting with small/minority firms, women's business enterprises, and labor surplus area firms. Additionally, the City will demonstrate contract cost and price awareness, and adhere to awarding agency review provisions (Title 2 CFR Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts under Federal Awards).

Plan

All procurement of goods and services by the City with HMGP funds shall be accomplished in accordance with the regulations of **Procurement Standards**, where applicable, Recipient shall follow the procurement standards established in the "Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards" (2 CFR Part 200) and HUD implementing regulations contained in 24 CFR Section 570.489(g), which explicitly prohibit cost plus a percentage of cost and percentage of construction cost methods of contracting. In addition, all purchase orders and contracts shall include any clauses required by Federal Statutes, Executive Orders, and implementing regulations including the Section 3 clause, per 24 CFR 570.489 (g) and 24 CFR 135.38, or the North Carolina General Statutes applying to procurement in general by the North Carolina municipalities and counties.

When the Federal and State regulations are different, the more restrictive regulations shall apply to the procurement in question. Additionally, the City will adhere to the following guidelines during procurement of goods and services with Federal funds:

In all cases where goods or services are procured on the basis of one bid or proposal received, the City will follow established principles included in OMB Circular A 87 to verify the reasonable cost of the procurement, and shall contact the State agency supervising the grant program before making any contract award on the basis of noncompetitive negotiation.

Underutilized businesses, including women-owned, and minority-owned enterprises shall be included on bidders' or professional services' lists maintained by the City, and such firm(s) shall be solicited for all competitive negotiations, small purchases, and informal and formal bids when such firms are potential competitive sources for good and services.

The City shall develop a written scope of work for each service to be awarded on the basis of *competitive negotiation*, which shall include descriptions of tasks to be completed, project timetables, and outline of fee proposal requirements. The statement of work shall also include a written selection procedure. All *competitive negotiations* shall be awarded strictly on the basis of written selections procedures, and cost shall not be the sole or more important factor in selection of services through the use of *competitive negotiations*.

Prior to any contract award, the City shall verify the contractor's eligibility to participate in a federally-assisted program.

No consultant or bidder shall assist in the evaluation of proposals or bid packages for contracts in which that consultant or bidder has an indirect or direct interest. The City shall adhere to all applicable Federal and State conflict of interest regulations in making contract awards.

The City shall request references, or check references, of contractors or firms who are awarded contracts with Federal grant funds and will request a written warranty for all goods and services provided through small purchases requests.

The City shall not award any contract for federally-assisted projects on a contingency or cost plus percentage of cost basis.

ADOPTED this 23rd day of June, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

CITY OF NEW BERN HAZARD MITIGATION GRANT PROGRAMS (HMGP) Equal Opportunity Plan

A. Equal Housing Opportunity Plan

Civil Rights Act of 1964

The Civil Rights Act of 1964 prohibits all racial discrimination in the sale or rental of property.

The Fair Housing Act

The Fair Housing Act declares a national policy of fair housing throughout the United States, making illegal any discrimination in the sale, lease or rental of housing, or making housing otherwise unavailable, because of race, color, religion, sex, handicap, familial status, or national origin.

Executive Order 12892, Equal Opportunity in Housing

Executive Order 12892, as amended (Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing), provides that programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) shall be administered in a manner to further affirmatively the purposes of the Act and shall cooperate with the Secretary of Housing and Urban Development, who shall be responsible for exercising leadership in furthering the design and delivery of Federal programs and activities.

The City of New Bern shall eliminate housing discrimination, and achieve diverse, inclusive communities by leading the City in the enforcement, administration, and public understanding of federal fair housing policies and laws.

The City shall include the Equal Housing Opportunity logo and/or the phrase affirming Equal Opportunity in Housing on all the Hazard Mitigation Grant Program documents intended to be shared with the public.

The City shall post in public buildings and in the HMGP project areas the Equal Housing Opportunity posters and/or additional information the local government has prepared to inform the community with the Equal Housing Opportunity policies and laws.

B. Equal Employment Opportunity Plan

The City of New Bern maintains the policy of providing equal employment opportunities for all persons regardless of race, color, religion, sex, national origin,

handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are bona fide occupation qualifications for employment.

In furtherance of this policy, the City prohibits any retaliatory action of any kind taken by any employee of the locality against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

The City shall strive for greater utilization of all persons by identifying previously underutilized groups in the workforce, such as minorities, women, and the handicapped, and making special efforts toward their recruitment, selection, development and upward mobility and any other term, condition, or privilege of employment.

Responsibility for implementing equal opportunities and affirmative action measures is hereby assigned to the City Manager to assist in the implementation of this policy statement.

The City is committed to this policy and is aware that with its implementation, the City will receive positive benefits through the greater utilization and development of all its human resources.

The City shall include the Equal Employment Opportunity logo and/or the phrase affirming Equal Employment Opportunity on all the HMGP documents intended to be shared with the staff and the public.

The City shall obtain commitment from contractors that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are *bona fide* occupation qualifications for employment. Contractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are *bona fide* occupation qualifications for employment. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The City shall obtain commitment from Contractors that will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are *bona fide* occupation qualifications for employment.

ADOPTED this 23 rd day of June, 2020	
	DANA E. OUTLAW, MAYOR
RDENDA E RI ANCO CITY CI EDK	

U.S. Department of Homeland Security FEMA/State Joint Field Office FEMA-4393|4412-DR-NC 3039 E. Cornwallis Road, Building 307 Durham, NC 27709



August 19, 2019

Michael A. Sprayberry, Director NC Department of Public Safety Governor's Authorized Representative Division of Emergency Management 4236 Mail Service Center Raleigh, NC 27699-4236

Attention: Steven McGugan, State Hazard Mitigation Officer

Reference: Hazard Mitigation Grant Program (HMGP) Project 4393-0015-R City of New Bern:

Acquisition of Three (3) Residential Structures

Dear Mr. Sprayberry:

I am pleased to inform you that the project referenced above has been approved for HMGP funding in the amount of \$191,472 with a Federal share of \$143,604 and a non-federal share of \$47,868. Although different federal programs are packaged to accomplish the overall mitigation objective of the application, this award letter only pertains to the HMGP funding. Financial approval documents for the award are enclosed for your records.

The following is the approved Statement of Work (SOW) for the above referenced project:

The City of New Bern proposes to acquire and demolish three (3) residential structures located in the Special Flood Hazard Area and deemed substantially damaged during Hurricane Florence. The structures will be demolished, including complete removal of the existing foundations. If complete removal is not possible then the existing foundations will be taken down to a depth of approximately 2 to 3 feet below the soil surface and adequately drilled to allow for drainage.

Per the application, demolition and debris removal will be funded by the Public Assistance program. The demolition of the structures will require fine grading only. Ground disturbance will be limited to the immediate area of the demolished properties, and the staging area will be located within the footprint of the existing property boundaries. Debris will be removed, and the properties will initially be stabilized with clean soils, graded, and seeded to prevent erosion. Demolition and debris removal will be completed within two (2) years of the declaration date or September 14, 2020, as required by 44 CFR part 206.224(a)(4). The deeds to the properties will be transferred to the City of New Bern with restrictions imposed for the sites to remain as open space in perpetuity as defined in 44 CFR § 206.434 (e). The City will perform all maintenance on the parcels acquired.

In accordance with 44 CFR 80.19 (d) Monitoring and Reporting, every three (3) years the subrecipient through the Recipient, shall submit to the FEMA Regional Administrator a report certifying that the subrecipient has inspected the property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of 44 CFR Part 80, the property conveyance and the grant award.

HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures August 19, 2019
Page 2

Property Locations:

	Address	City	State	Zip Code	Latitude	Longitude
1	1906 Alabama Ave	New Bern	NC	28560	35.126323	-77.053578
2	204 Beech Street	New Bern	NC	28560		-77.054032
3	821 Bloomfield Street	New Bern	NC	28560		-77.050252

Standard Conditions:

- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- This review does not address all federal, state and local requirements. Acceptance of federal funding
 requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal,
 state and local environmental permits and clearances may jeopardize federal funding.
- If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if
 any potential archeological resources are discovered, will immediately cease construction in that area and
 notify the State and FEMA.

Special Conditions:

- NHPA: If human remains or intact archaeological deposits are uncovered, work in the vicinity of the discovery will stop immediately and all reasonable measures to avoid or minimize harm to the finds will be taken. The applicant will ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries. The applicant's contractor will provide immediate notice of such discoveries to the applicant. The applicant shall contact the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary
- NHPA: If human remains are encountered during permitted activities, all work shall stop immediately and OSA/SHPO/THPO and FEMA contacted immediately, with conditions followed identical to those stipulated for archaeological feature discovery. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP's Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects (February 23, 2007) and any State-specific policies that may be enforced.
- NHPA: Applicant must adhere to all stipulations in the attached Lower Impact Demolition Stipulations document.
- RCRA: Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic

HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures August 19, 2019 Page 3

waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

 RCRA: If any asbestos containing material, lead based paint, and/or other toxic materials are found during construction activities, the applicant must comply with all federal, state and local abatement and disposal requirements. Upon closeout, the applicant must provide Notice of Demolition or Asbestos Renovation forms and confirmation that any ACM were taken to an authorized landfill for such materials.

The period of performance of the grant award will be 36 months from the close of the application period for DR-4393. However, because Public Assistance is funding demolition and debris removal activities for this project, the SOW must be completed within two (2) years of the declaration date or September 14, 2020.

This project must adhere to all program guidelines established for the Hazard Mitigation Grant Program.

Please refer the sub-recipient to the State HMGP Administrative Plan for project cost overrun regulations. If project costs exceed the amount originally funded and additional federal funds are needed, the sub-recipient must contact the Governor's Authorized Representative (GAR). The GAR will evaluate requests for cost overruns and submit to the Regional Administrator written documentation of cost overrun eligibility. Cost overruns shall meet Federal regulations set forth in 44 CFR 206.438(b).

The State HMGP Administrative Plan defines the procedure whereby the GAR may advance portions of the approved Federal share to the sub-recipient. Upon completion of the HMGP project, the sub-recipient's closeout reimbursement for the final Federal share of eligible project costs must be submitted to the Regional Administrator for review and determination.

For close-out of this project, the Governor's Authorized Representative shall send a letter of request to close the project programmatically and financially. The letter will include the following: the date work on the project was fully completed, the date of the Recipient's final site inspection for the project, the final total project cost and federal share, any cost under run, a certification that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the required programmatic, environmental, and any other conditions were met (including attachment of any required documentation) and that the mitigation measure is in compliance with the provisions of the Agreement Articles and this approval letter. A copy of the recipient's final site inspection report will be enclosed with the close-out request letter. This report will contain, at minimum, all the data fields required for final site inspection reports for the HMGP program.

Quarterly progress reports for HMGP projects are required. Please include this HMGP project in your future quarterly reports.

The National Environmental Policy Act (NEPA) stipulates that additions or amendments to a HMGP subrecipient SOW may have to be reviewed by all State and Federal agencies participating in the NEPA process.

The State (Recipient) must obtain prior approval from FEMA before implementing changes to the approved project SOW. Per 2 CFR Part 200 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments:

 A change in the scope of work must be approved by FEMA in advance regardless of the budget implications. HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures August 19, 2019 Page 4

 The Recipient must notify FEMA as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower cost or earlier completion.

The obligation report is included for your records. The obligated funds are available for withdrawal from the Division of Payment Management (DPM) on sub-account number 4393NCP00000155.

If you have any questions, please contact Jean Neptune, HMA Specialist at (770) 220-5474 or Shemeeka

Hopkins at (770) 220-8788.

Turner

Federal Coordinating Officer/ Disaster Recovery Officer FEMA-4393-DR-NC

Enclosures: Obligation Report Supp

Lower Impact Demolition Stipulations

8/14/2019 1:14 PM

FEDERAL EMERGENCY MANAGEMENT AGENCY HAZARD MITIGATION GRANT PROGRAM

HMGP-OB-01

Obligation

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Recipient
4393	15-R	0	7	1	13	NC	Statewide
Sub-Recipi	ent: New Ben	n			Project Title : C	City of N	lew Bern: Expedited Aquisition of 3 Residential Structures

Sub-Recipient FIPS Code: 049-46340

Total Amount Previously Allocated	Total Amount Previously Obligated	Total Amount Pending Obligation	Total Amount Available for New Obligation	
\$143,604.00	\$143,604.00	\$0.00	\$0.00	

	Total Obligation	IEMIS Date	IFMIS Status	CV
Project Amount Subrecipient Management cost amount To \$143,604.00 \$0.00	\$143,604.00	on the page	Accept	2019

Comments

Date: 08/14/2019 User Id: DBURKETT

Comment: 4393-00015-R-DR-NC-HMGP New Bern Application 7 City of New Bern: Expedited Acquisition of 3 Residential Structures Allocation reported August Spend Plan Federal share \$143,604 Supplement 13 approved, HMO

Date: 08/14/2019 User Id: JNEPTUNE

Comment: 4393-00015-R, City of New Bern: Expedited Acquisition of 3 Residential Structures; Fed share \$143,604.

Authorization

Preparer Name: JEAN NEPTUNE Preparation Date: 08/14/2019

HMO Authorization Name: DEBORAH BURKETT HMO Authorization Date: 08/14/2019

BEST PRACTICES: ACQUISITION, DEMOLITION, AND DEBRIS REMOVAL STIPULATIONS FOR HMGP PROJECTS

North Carolina, Hurricane Florence (2/20/2019)

General Approach to Minimize Impact to Soil:

- o Major demolition activities, including placement of vehicles and equipment, must be confined to areas where soils have been previously disturbed as exemplified by surface grading and utility trenching.
- o When vehicles or heavy equipment are not in use, they shall be staged on hard or firm surfaces. Paved surfaces, if available within the project site limits, shall be used to the fullest extent possible.
- o Vehicles and heavy equipment must work from paved or hard surfaces to avoid soil compaction and/or sinking into soft soils. If necessary, use mud mats, access mats, or high traction construction mats (e.g., timber, rubber) when operating on soft soils.
- o Whenever possible, use tracked vehicles to reduce soil disturbance and minimize soil compaction.
- o Excavation and burial of debris on site is prohibited.

Activity Specific Guidelines:

o Debris Removal

Avoid removal of trees. Instead cut trunks to ground level and leave root balls in place. Removal of
uprooted trees and woody debris from historic landscapes, historic parks, undisturbed ground, and
historic districts (but not along public rights-of-way) requires additional historic review. Removal
of standing trees will require consultation with United States Fish and Wildlife Raleigh, NC office.

o Demolition

Foundation Removal

Removal of all structure foundation and basement walls to at least one (1) foot below the finish
grade of the site. Excavation will be limited to within two (2) feet of the foundation perimeter.

Slab/Driveway/Sidewalk Removal

 Limit excavation to private property: within one (1) foot of the slab/driveway/sidewalk perimeter, and not more than one (1) foot below the depth of the asphalt/concrete to minimize soil disturbance.

Oil Tank Location/Removal

- Locate an underground storage tank (UST) (e.g., heating oil tank) using approved methods, which
 include using a magnetometer, probe, or GPR system. Trenches are not permitted.
- The Applicant is required to close an abandoned UST by having it cleaned to remove residual materials (hazardous waste) and then backfilled with clean certified fill (e.g., dry sand, gravel, or concrete) or digging-up and removing the tank (removing any contaminated soil in the process). The contractor will limit potential soil disturbance that may include using smaller machines with two (2) foot wide buckets.

Septic Tanks

• In septic tank decommissioning, the tank shall be disconnected from the main drain of the house and any waste pumped out by tanker. The old tank is either completely removed or, if left in place, disinfected, several holes punched into the bottom, and tank filled using clean, suitable fill (sand, gravel, soil) and its cover and lid securely fastened. If removed, the contractor will limit potential soil disturbance and dispose of the old tank at a licensed or permitted waste disposal facility. The hole shall be filled with clean dirt, gravel or other acceptable material. The area must be graded and vegetative cover established.

o Utility Lines

 Abandoned utility lines (e.g., water, sewer, natural gas) shall be disconnected and capped to meet safety or local code requirements. In cases where there are no shut-off valves, limited excavation within the utility rights-of-way is allowed to cap these service lines.

o Cemetery Buffer Zone

Allow a 25 ft. buffer zone around cemeteries for all demolition projects.

Treatment of Unanticipated Discoveries:

o Archaeological Materials/Human Remains

- If human remains or archaeological features (e.g., middens, refuse/storage pits, privies, wells, cisterns) are uncovered during ground disturbing activities, work shall stop immediately in the vicinity of the discovery and all measures taken to avoid or minimize harm to the finds. The applicant will ensure that the archaeological discovery is secured in place, access to the sensitive area restricted, and all measures taken to avoid further disturbance. The applicant's contractor will immediately notify the applicant of the discovery, with the applicant contacting the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. The documentation will be used by the agencies only for identification purposes and not duplicated or shared (remain confidential in accordance with 36 CFR § 800.11(c)). Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary whether the discovery warrants additional examination and how to proceed in accordance with 36 CFR § 800.
- If human remains are encountered during permitted activities, all work shall stop, and OSA/SHPO/THPO and FEMA contacted immediately. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP's "Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects" (February 23, 2007) and any State-specific policies that may be enforced.

Asbestos Abatement Requirements:

- An asbestos survey is required for each property to determine the presence of asbestos prior to conducting a Hazard Mitigation and/or Public Assistance Project.
- Could be financially prudent for sub-grantee to contract all surveys within their area to one contractor. This allows for seamless transition.
- Asbestos surveys can only be conducted by North Carolina accredited asbestos inspectors.
- All suspect friable and non-friable asbestos containing building materials (ACBM) must be tested for asbestos content. Any material having laboratory results greater than 1% asbestos is considered asbestos-containing.
- The notification form, DHHS 3768, "Asbestos Permit Application and Notification for Demolition/Renovation" is required to be submitted to the HHCU before renovation/demolition activities begin that would involve the removal of at least 160 square feet, 260 linear feet or 35 cubic feet of friable/regulated asbestos. This form is required ten working days before the renovation/demolition activity can begin. Even if no asbestos was identified during the asbestos survey, this form is still required ten working days before the demolition activity begins.

Asbestos Continued, Other Issues:

- Burning associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials. An asbestos inspection by a NC accredited person and an approved notification form (DHHS-3768) will be required prior to any burning.
- Salvaging associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials. An asbestos inspection by a NC accredited person and an approved notification form (DHHS-3768) will be required prior to salvaging or deconstruction activities.

Grinding associated with these guidelines is not allowed without first addressing the potential for
asbestos containing building materials. An asbestos inspection by a NC accredited asbestos inspector
and an approved notification form (DHHS-3768) will be required prior to any grinding or chipping
activities.

Lead Based Paint:

 The demolition contractor will be responsible for complying with the OSHA Lead in Construction Standard 1926.62 when demolishing homes damaged by Hurricane Florence.

FEMA reserves the right to conduct unannounced field inspections and observe debris removal activities to verify compliance with this "Best Practices" document. Failure to comply with these stipulations may jeopardize the Applicant's receipt of federal funding.

FEMA, North Carolina Office of State Archaeology (OSA), State Historic Preservation Office (SHPO), and Tribal Historic Preservation Office (THPO) have agreed that the Applicant is responsible for ensuring that their demolition contractor adheres to these work restrictions known as "Best Practices: Acquisition, Demolition, and Debris Removal Stipulations for HMGP Projects," as part of FEMA Public Assistance and Hazard Mitigation Grant Program eligible activities.

06/17/2019

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

11:44:47

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

NEPA DETERMINATION

Non Compliant Flag: No

EA Draft Date:

EA Final Date:

EA Public Notice Date:

EA Fonsi

Level: CATEX

EIS Notice of Intent

EIS ROD Date:

Comment SOW: City of, New Bern, NC. Craven County: Three properties to be acquired and demolished to be open green space in perpetuity. Property locations: 204 Beech Street, New Bern (35.126767, 77.054032), 821 Bloomfield St, New Bern (35.112659, -77.050252), 1906 Alabama Ave, New Bern (35.126323, -77.053578). - gthatch1 - 06/14/2019 13:21:26 GMT

CATEX CATEGORIES

Catex Category Code

Description

Selected Yes

*n3

(*n3) Federal Assistance for Property Acquisition and Demolition. Federal assistance for the acquisition of properties and the associated demolition and removal when the acquisition is from a willing seller, the assistance is solely for the purposes of financial compensation for the acquisition, and the land is deed restricted to open space, recreational, wildlife habitat, or wetland uses in perpetuity. The CATEX does not apply to subsurface uses of acquired properties, or acquired properties with encumbrances or easements authorizing current or future subsurface uses that are not allowable and compatible with open space. This CATEX covers actions associated with the determination of program eligibility. This CATEX does not cover Federal assistance actions that involve acquisition for the purpose of construction or development at a site in the acquired property. The use of eminent domain is explicitly excluded from the CATEX.

EXTRAORDINARY

Extraordinary Circumstance Code

Description

Selected ?

No Extraordinary Circumstances were selected

ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law

Executive Order

Status

Description

Comment

Clean Air Act (CAA)

(CBRA)

Completed

Project will not result in permanent air

emissions - Review concluded

Completed

Project is not on or connected to CBRA Unit

or otherwise protected area - Review

concluded

Clean Water Act (CWA)

Coastal Barrier Resources Act

Completed

Project would not affect any water of the U.S.

- Review concluded

06/17/2019 11:44:48

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Environmental Law/ Executive Order	Status	Description	Comment
Coastal Zone Management Act (CZMA)	Completed	Project is located in a coastal zone area and/or affects the coastal zone	CZMA: CAMA coordination letter sent by FEMA on 02/05/2019. CAMA concurrence received on 2/12/2019 gthatch1 - 06/14/2019 13:26:10 GMT
	Completed	State administering agency requires consistency review - Review concluded	
Executive Order 11988 – Floodplains	Completed	Located in floodplain or effects on floodplain/flood levels	EO 11988: The project is located within an AE zone, area of 1% annual chance flooding, per Flood Insurance Rate Map (FIRM) panel number #3720558000J, dated June 2, 2004. The Initial public notice was published on August 25, 2018, online on NCEM and FEMA¿s website. The final public notice was published on February 22, 2019 and March 9, 2019, in The New Bern Sun Journal. 8-step checklist attached. See conditions gthatch1 - 06/14/2019 13:36:46 GMT
	Completed	Beneficial Effect on Floodplain Occupancy/Values - Review concluded	
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	EO 11990: Project is located outside the wetland per review of USFWS National Wetlands Inventory (NWI) mapper, accessed 03/04/2019. See 8-Step Checklist process attached/See project conditions gthatch1 - 06/14/2019 13:37:14 GMT
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
Endangered Species Act (ESA)	Completed	Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action	ESA: Per review of the USFWS website listing of threatened and endangered species for Craven County (I Pac) accessed on 06/14/2019 and the North Carolina Natural Heritage Data Explorer website accessed on 06/14/2019 - gthatch1 - 06/14/2019 13:23:34 GMT
	Completed	No effect to species or designated critical habitat (See comments for justification) - Review concluded	
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	

06/17/2019 11:44:48

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

vironmental Law/ ecutive Order	Status	Description	Comment
sh and Wildlife Coordination t (FWCA)	Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded	
gratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	
	Completed	Project does not have potential to take migratory birds - Review concluded	
ignuson-Stevens Fishery nservation and Management t (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
tional Historic Preservation Act	Completed	Standard Section 106 review	NHPA: SHPO consultation sent on 01/30/2019. Programmatic consultation was sent on 03/21/2019 to the following tribes: Catawba Indian Nation, Cherokee Nation, Easter Band of Cherokee Indians, Lumbee Tribe of North Carolina, Muscogee (Creek) Nation, Seminole Nation of Oklahoma, Shawnee Tribe, Tuscarora Nation, and United Keetoowah Band of Cherokee Indians in Oklahoma. The tribal consultation period ended 04/22/2019. Tribal consultation period ended 04/22/2019. Tribal concurrence response letters were received from the following tribes: Eastern Band of Cherokee Indians on 03/28/2019, Shawnee Tribe on 04/17/2019, Lumbee Tribe of North Carolina on 03/28/2019, Muscogee (Creek) Nation on 04/08/2019, and Catawbe Indian Nation on 04/25/2019. SHPO concurrence letter dated 02/13/2019. See project conditions gthatch1 - 08/14/2019 13:22:33 GMT
	Completed	Building or structure 50 years or older or listed on the National Register in the project area and activity not exempt from review	
	Completed	Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded	
	Completed	Project affects undisturbed ground	
1	ecutive Order th and Wildlife Coordination t (FWCA) gratory Bird Treaty Act (MBTA) gruson-Stevens Fishery nservation and Management t (MSA)	ecutive Order th and Wildlife Coordination t (FWCA) Gratory Bird Treaty Act (MBTA) Gratory Bird Treaty Act (MBTA) Completed Completed Gratory Stevens Fishery Inservation and Management (MSA) Completed Completed Completed Completed Completed Completed Completed Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded Project does not affect, control, or modify a waterway/body of water - Review concluded Project does not have potential to take migratory birds - Review concluded Project not located in or near Essential Fish Habitat - Review concluded Completed Completed Standard Section 106 review Completed Building or structure 50 years or older or listed on the National Register in the project area and activity not exempt from review Completed Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded

Project area has potential for presence of

Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded

archeological resources

Completed

Completed

06/17/2019 11:44:48

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Environmental Law

Executive Order

Status

Description

Comment

Resource Conservation and Recovery Act, aka Solid Waste

Disposal Act (RCRA)

Completed

Review concluded

Wild and Scenic Rivers Act

(WSR)

Completed

Project is not along and does not affect Wild

and Scenic River - Review concluded

CONDITIONS

Special Conditions required on implementation of Projects:

If archaeological features (e.g., middens, refuse/storage pits, privies, wells, cisterns) are discovered during ground disturbing activities, work in the vicinity of the discovery will stop immediately and all reasonable measures will be taken to avoid or minimize harm to the discovery. The applicant is contractor will ensure that archaeological discoveries are secured in place and restrict access to the sensitive area. The contractor will immediately notify such discoveries to the applicant, who shall then contact the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

No

If human remains are encountered during permitted activities, all work shall stop immediately and OSA/SHPO/THPO and FEMA contacted immediately, with conditions followed identical to those stipulated for archaeological feature discovery. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP¿s ¿Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects¿ (February 23, 2007) and any State-specific policies that may be enforced.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

The following Low Impact Demolition Stipulations must be followed: Applicant must adhere to all stipulations in the Lower Impact Demolition Stipulations document. This document is an attachment under NHPA.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposel Act (RCRA)

Monitoring Required:

If any asbestos containing material, lead based paint, and/or other toxic materials are found during construction activities, the applicant must comply with all federal, state and local abatement and disposal requirements. Upon closeout, the applicant must provide Notice of Demolition or Asbestos Renovation forms and confirmation that any asbestos containing materials were taken to an authorized landfill for such materials.

> Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)

Monitoring Required:

Standard Conditions:

06/17/2019 11:44:48

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

AGENDA ITEM COVER SHEET



Agenda Item Title:

Consider Adopting a Resolution Approving the Financial Management Plan for the Hazard Mitigation Grant Program (HMGP).

Date of Meeting: 06/23/	2020	Ward # if applicable: NA		
Department: Developme	nt Services	Person Submitting Item: Amanda Ohlensehlen, Community & Economic Development Manager		
Call for Public Hearing	g: □Yes⊠No	Date of Public Hearing:		
Explanation of Itams	The City of Nev	w Rem has received a Hazard Mitigation Grant		
Program (Acqu		ew Bern has received a Hazard Mitigation Grant uisition) grant in the amount of \$191,472.00 and a agement Plan is required for the program.		
Actions Needed by Board:	Adopt a Resolution.			
Backup Attached:	Memo, Resolu	tion, Supplemental Grant Agreement		
Is item time sensitive?				
Will there be advocates	opponents at t	he meeting? □Yes ☒ No		
Cost of Agenda Item: N	//A			
If this requires an expe	nditure, has it l	peen budgeted and are funds available		
and certified by the Fin	ance Director?	□Yes □ No		

Additional Notes:

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

MEMORANDUM

TO: Mayor Outlaw and Board of Aldermen

FROM: Amanda Ohlensehlen

Community & Economic Development Manger

DATE: June 9, 2020

SUBJECT: Consider Adopting a Resolution Approving a Financial Management Plan

for the City of New Bern Hazard Mitigation Grant Programs.

Background

The Hazard Mitigation Grant Program assists states and local communities in implementing long-term mitigation measures following a Presidential Disaster Declaration. To meet these objectives, FEMA can fund up to 75 percent of the eligible costs of each project. Federal funding under the HMGP is based on 15 percent of the federal funds spent on the Public and Individual Assistance programs (minus administrative expenses) for each disaster declaration. FEMA's vision is to serve as a catalyst that drives increased understanding and proactive action to help people in communities reduce their losses from natural hazards. To support this vision, FEMA funds three Hazard Mitigation Assistance (HMA) grant programs. Hazard mitigation measures are any sustainable action taken to reduce or eliminate long-term risk to people and property from future disasters. The HMGP supports cost-effective post-disaster projects and is the longest running mitigation program among FEMA's three grant programs.

Under DR 4393, Hazard Mitigation Grant Program (HMGP) 407 Expedited Acquisition, the City of New Bern was approved funding to acquire and demolish three (3) residential structures located in the Special Flood Hazard Area and deemed substantially damaged during Hurricane Florence. An agreement between the State of North Carolina, Department of Public Safety, Division of Emergency Management and the City of New Bern for funding in the amount of \$191,472 with a Federal Share of \$143,604 and a nonfederal share of \$47,868 outlines the scope of work. The Mayor and Board of Aldermen are requested to consider adopting a resolution approving the Financial Management Plan for the City of New Bern Hazard Mitigation Grant Programs.

Please contact Amanda Ohlensehlen at 252-639-7580 if you have questions or need additional information.

CITY OF NEW BERN HAZARD MITIGATION GRANT PROGRAMS (HMGP) Financial Management Resolution

WHEREAS, the City of New Bern has received a Hazard Mitigation Grant Program (Acquisition) grant in the amount of \$191,472.00;

NOW, THEREFORE, the City of New Bern hereby resolves the following:

- 1. Mary M. Hogan, Director of Finance, will serve as Grant Finance Officer, and will be responsible for financial management of the programs.
- First Citizens Bank, in New Bern, NC, is hereby designated as the official depository for revenues budgeted for the HMGP-Acquisition Program.

ADOPTED this 23rd day of June, 2020.

	DANA E. OUTLAW, MAYOR
BRENDA E. BLANCO, CITY CLERK	

U.S. Department of Homeland Security FEMA/State Joint Field Office FEMA-4393|4412-DR-NC 3039 E. Cornwallis Road, Building 307 Durham, NC 27709



August 19, 2019

Michael A. Sprayberry, Director NC Department of Public Safety Governor's Authorized Representative Division of Emergency Management 4236 Mail Service Center Raleigh, NC 27699-4236

Attention: Steven McGugan, State Hazard Mitigation Officer

Reference: Hazard Mitigation Grant Program (HMGP) Project 4393-0015-R City of New Bern:

Acquisition of Three (3) Residential Structures

Dear Mr. Sprayberry:

I am pleased to inform you that the project referenced above has been approved for HMGP funding in the amount of \$191,472 with a Federal share of \$143,604 and a non-federal share of \$47,868. Although different federal programs are packaged to accomplish the overall mitigation objective of the application, this award letter only pertains to the HMGP funding. Financial approval documents for the award are enclosed for your records.

The following is the approved Statement of Work (SOW) for the above referenced project:

The City of New Bern proposes to acquire and demolish three (3) residential structures located in the Special Flood Hazard Area and deemed substantially damaged during Hurricane Florence. The structures will be demolished, including complete removal of the existing foundations. If complete removal is not possible then the existing foundations will be taken down to a depth of approximately 2 to 3 feet below the soil surface and adequately drilled to allow for drainage.

Per the application, demolition and debris removal will be funded by the Public Assistance program. The demolition of the structures will require fine grading only. Ground disturbance will be limited to the immediate area of the demolished properties, and the staging area will be located within the footprint of the existing property boundaries. Debris will be removed, and the properties will initially be stabilized with clean soils, graded, and seeded to prevent erosion. Demolition and debris removal will be completed within two (2) years of the declaration date or September 14, 2020, as required by 44 CFR part 206.224(a)(4). The deeds to the properties will be transferred to the City of New Bern with restrictions imposed for the sites to remain as open space in perpetuity as defined in 44 CFR § 206.434 (e). The City will perform all maintenance on the parcels acquired.

In accordance with 44 CFR 80.19 (d) Monitoring and Reporting, every three (3) years the subrecipient through the Recipient, shall submit to the FEMA Regional Administrator a report certifying that the subrecipient has inspected the property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of 44 CFR Part 80, the property conveyance and the grant award.

HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures
August 19, 2019
Page 2

Property Locations:

Ī	Address	City	State	Zip Code	Latitude	Longitude
1	1906 Alabama Ave	New Bern	NC	28560	35.126323	-77.053578
2	204 Beech Street	New Bern	NC	28560	35.126767	-77.054032
3	821 Bloomfield Street	New Bern	NC	28560	35.112659	-77.050252

Standard Conditions:

- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- This review does not address all federal, state and local requirements. Acceptance of federal funding
 requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal,
 state and local environmental permits and clearances may jeopardize federal funding.
- If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if
 any potential archeological resources are discovered, will immediately cease construction in that area and
 notify the State and FEMA.

Special Conditions:

- NHPA: If human remains or intact archaeological deposits are uncovered, work in the vicinity of the discovery will stop immediately and all reasonable measures to avoid or minimize harm to the finds will be taken. The applicant will ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries. The applicant's contractor will provide immediate notice of such discoveries to the applicant. The applicant shall contact the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary
- NHPA: If human remains are encountered during permitted activities, all work shall stop immediately and OSA/SHPO/THPO and FEMA contacted immediately, with conditions followed identical to those stipulated for archaeological feature discovery. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP's Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects (February 23, 2007) and any State-specific policies that may be enforced.
- NHPA: Applicant must adhere to all stipulations in the attached Lower Impact Demolition Stipulations document.
- RCRA: Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic

HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures August 19, 2019
Page 3

waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

RCRA: If any asbestos containing material, lead based paint, and/or other toxic materials are found
during construction activities, the applicant must comply with all federal, state and local abatement and
disposal requirements. Upon closeout, the applicant must provide Notice of Demolition or Asbestos
Renovation forms and confirmation that any ACM were taken to an authorized landfill for such materials.

The period of performance of the grant award will be 36 months from the close of the application period for DR-4393. However, because Public Assistance is funding demolition and debris removal activities for this project, the SOW must be completed within two (2) years of the declaration date or September 14, 2020.

This project must adhere to all program guidelines established for the Hazard Mitigation Grant Program.

Please refer the sub-recipient to the State HMGP Administrative Plan for project cost overrun regulations. If project costs exceed the amount originally funded and additional federal funds are needed, the sub-recipient must contact the Governor's Authorized Representative (GAR). The GAR will evaluate requests for cost overruns and submit to the Regional Administrator written documentation of cost overrun eligibility. Cost overruns shall meet Federal regulations set forth in 44 CFR 206.438(b).

The State HMGP Administrative Plan defines the procedure whereby the GAR may advance portions of the approved Federal share to the sub-recipient. Upon completion of the HMGP project, the sub-recipient's closeout reimbursement for the final Federal share of eligible project costs must be submitted to the Regional Administrator for review and determination.

For close-out of this project, the Governor's Authorized Representative shall send a letter of request to close the project programmatically and financially. The letter will include the following: the date work on the project was fully completed, the date of the Recipient's final site inspection for the project, the final total project cost and federal share, any cost under run, a certification that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the required programmatic, environmental, and any other conditions were met (including attachment of any required documentation) and that the mitigation measure is in compliance with the provisions of the Agreement Articles and this approval letter. A copy of the recipient's final site inspection report will be enclosed with the close-out request letter. This report will contain, at minimum, all the data fields required for final site inspection reports for the HMGP program.

Quarterly progress reports for HMGP projects are required. Please include this HMGP project in your future quarterly reports.

The National Environmental Policy Act (NEPA) stipulates that additions or amendments to a HMGP subrecipient SOW may have to be reviewed by all State and Federal agencies participating in the NEPA process.

The State (Recipient) must obtain prior approval from FEMA before implementing changes to the approved project SOW. Per 2 CFR Part 200 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments:

 A change in the scope of work must be approved by FEMA in advance regardless of the budget implications. HMGP Project 4393-0015-R City of New Bern: Acquisition of Three (3) Residential Structures August 19, 2019
Page 4

 The Recipient must notify FEMA as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower cost or earlier completion.

The obligation report is included for your records. The obligated funds are available for withdrawal from the Division of Payment Management (DPM) on sub-account number 4393NCP00000155.

If you have any questions, please contact Jean Neptune, HMA Specialist at (770) 220-5474 or Shemeeka

Hopkins at (770) 220-8788.

Turner

Federal Coordinating Officer/ Disaster Recovery Officer

FEMA-4393-DR-NC

Enclosures: Obligation Report Supp

Lower Impact Demolition Stipulations

8/14/2019 1:14 PM

FEDERAL EMERGENCY MANAGEMENT AGENCY HAZARD MITIGATION GRANT PROGRAM

HMGP-OB-01

Obligation

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Recipient
4393	15-R	0	7	1	13	NC	Statewide
Sub-Recipi	ent: New Ben	n			Project Title : C	ity of N	lew Bern: Expedited Aquisition of 3 Residential Structures
Sub-Recipie	nt FIPS Code	: 049-46340					

Total Amount reviously Allocated	Total Amount Previously Obligated Po	Total Amount ending Obligation	Total Amount A for New Obli		
\$143,604.00	\$143,604.00	\$0.00		\$0.00	
Project Amount	Subrecipient Management cost amou	nt Total Obligation	IFMIS Date	IFMIS Status	FY
\$143,604.00	\$0.00	\$143,604.00	08/14/2019	Accept	2019

Comments

Date: 08/14/2019 User Id: DBURKETT

Comment: 4393-00015-R-DR-NC-HMGP New Bern Application 7 City of New Bern: Expedited Acquisition of 3 Residential Structures Allocation reported August Spend Plan Federal share \$143,604 Supplement 13 approved, HMO

Date: 08/14/2019 User Id: JNEPTUNE

Comment: 4393-00015-R, City of New Bern: Expedited Acquisition of 3 Residential Structures; Fed share \$143,604.

Authorization

Preparer Name: JEAN NEPTUNE Preparation Date: 08/14/2019

HMO Authorization Name: DEBORAH BURKETT HMO Authorization Date: 08/14/2019

BEST PRACTICES: ACQUISITION, DEMOLITION, AND DEBRIS REMOVAL STIPULATIONS FOR HMGP PROJECTS

North Carolina, Hurricane Florence (2/20/2019)

General Approach to Minimize Impact to Soil:

- o Major demolition activities, including placement of vehicles and equipment, must be confined to areas where soils have been previously disturbed as exemplified by surface grading and utility trenching.
- o When vehicles or heavy equipment are not in use, they shall be staged on hard or firm surfaces. Paved surfaces, if available within the project site limits, shall be used to the fullest extent possible.
- o Vehicles and heavy equipment must work from paved or hard surfaces to avoid soil compaction and/or sinking into soft soils. If necessary, use mud mats, access mats, or high traction construction mats (e.g., timber, rubber) when operating on soft soils.
- o Whenever possible, use tracked vehicles to reduce soil disturbance and minimize soil compaction.
- o Excavation and burial of debris on site is prohibited.

Activity Specific Guidelines:

o Debris Removal

Avoid removal of trees. Instead cut trunks to ground level and leave root balls in place. Removal of
uprooted trees and woody debris from historic landscapes, historic parks, undisturbed ground, and
historic districts (but not along public rights-of-way) requires additional historic review. Removal
of standing trees will require consultation with United States Fish and Wildlife Raleigh. NC office.

o Demolition

Foundation Removal

Removal of all structure foundation and basement walls to at least one (1) foot below the finish
grade of the site. Excavation will be limited to within two (2) feet of the foundation perimeter.

Slab/Driveway/Sidewalk Removal

 Limit excavation to private property: within one (1) foot of the slab/driveway/sidewalk perimeter, and not more than one (1) foot below the depth of the asphalt/concrete to minimize soil disturbance.

Oil Tank Location/Removal

- Locate an underground storage tank (UST) (e.g., heating oil tank) using approved methods, which
 include using a magnetometer, probe, or GPR system. Trenches are not permitted.
- The Applicant is required to close an abandoned UST by having it cleaned to remove residual materials (hazardous waste) and then backfilled with clean certified fill (e.g., dry sand, gravel, or concrete) or digging-up and removing the tank (removing any contaminated soil in the process). The contractor will limit potential soil disturbance that may include using smaller machines with two (2) foot wide buckets.

Septic Tanks

• In septic tank decommissioning, the tank shall be disconnected from the main drain of the house and any waste pumped out by tanker. The old tank is either completely removed or, if left in place, disinfected, several holes punched into the bottom, and tank filled using clean, suitable fill (sand, gravel, soil) and its cover and lid securely fastened. If removed, the contractor will limit potential soil disturbance and dispose of the old tank at a licensed or permitted waste disposal facility. The hole shall be filled with clean dirt, gravel or other acceptable material. The area must be graded and vegetative cover established.

o Utility Lines

 Abandoned utility lines (e.g., water, sewer, natural gas) shall be disconnected and capped to meet safety or local code requirements. In cases where there are no shut-off valves, limited excavation within the utility rights-of-way is allowed to cap these service lines.

o Cemetery Buffer Zone

Allow a 25 ft. buffer zone around cemeteries for all demolition projects.

Treatment of Unanticipated Discoveries:

o Archaeological Materials/Human Remains

- If human remains or archaeological features (e.g., middens, refuse/storage pits, privies, wells, cisterns) are uncovered during ground disturbing activities, work shall stop immediately in the vicinity of the discovery and all measures taken to avoid or minimize harm to the finds. The applicant will ensure that the archaeological discovery is secured in place, access to the sensitive area restricted, and all measures taken to avoid further disturbance. The applicant's contractor will immediately notify the applicant of the discovery, with the applicant contacting the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. The documentation will be used by the agencies only for identification purposes and not duplicated or shared (remain confidential in accordance with 36 CFR § 800.11(c)). Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary whether the discovery warrants additional examination and how to proceed in accordance with 36 CFR § 800.
- If human remains are encountered during permitted activities, all work shall stop, and OSA/SHPO/THPO and FEMA contacted immediately. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP's "Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects" (February 23, 2007) and any State-specific policies that may be enforced.

Asbestos Abatement Requirements:

- An asbestos survey is required for each property to determine the presence of asbestos prior to conducting a Hazard Mitigation and/or Public Assistance Project.
- Could be financially prudent for sub-grantee to contract all surveys within their area to one contractor. This allows for seamless transition.
- Asbestos surveys can only be conducted by North Carolina accredited asbestos inspectors.
- All suspect friable and non-friable asbestos containing building materials (ACBM) must be tested for asbestos content. Any material having laboratory results greater than 1% asbestos is considered asbestos-containing.
- The notification form, DHHS 3768, "Asbestos Permit Application and Notification for Demolition/Renovation" is required to be submitted to the HHCU before renovation/demolition activities begin that would involve the removal of at least 160 square feet, 260 linear feet or 35 cubic feet of friable/regulated asbestos. This form is required ten working days before the renovation/demolition activity can begin. Even if no asbestos was identified during the asbestos survey, this form is still required ten working days before the demolition activity begins.

Asbestos Continued, Other Issues:

- Burning associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials. An asbestos inspection by a NC accredited person and an approved notification form (DHHS-3768) will be required prior to any burning.
- Salvaging associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials. An asbestos inspection by a NC accredited person and an approved notification form (DHHS-3768) will be required prior to salvaging or deconstruction activities.

Grinding associated with these guidelines is not allowed without first addressing the potential for
asbestos containing building materials. An asbestos inspection by a NC accredited asbestos inspector
and an approved notification form (DHHS-3768) will be required prior to any grinding or chipping
activities.

Lead Based Paint:

 The demolition contractor will be responsible for complying with the OSHA Lead in Construction Standard 1926.62 when demolishing homes damaged by Hurricane Florence.

FEMA reserves the right to conduct unannounced field inspections and observe debris removal activities to verify compliance with this "Best Practices" document. Failure to comply with these stipulations may jeopardize the Applicant's receipt of federal funding.

FEMA, North Carolina Office of State Archaeology (OSA), State Historic Preservation Office (SHPO), and Tribal Historic Preservation Office (THPO) have agreed that the Applicant is responsible for ensuring that their demolition contractor adheres to these work restrictions known as "Best Practices: Acquisition, Demolition, and Debris Removal Stipulations for HMGP Projects," as part of FEMA Public Assistance and Hazard Mitigation Grant Program eligible activities.

06/17/2019

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

11:44:47

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

NEPA DETERMINATION

Non Compliant Flag: No

EA Draft Date:

EA Final Date:

EA Public Notice Date:

EA Fonsi

Level: CATEX

EIS Notice of Intent

EIS ROD Date:

Comment SOW: City of, New Bern, NC. Craven County: Three properties to be acquired and demolished to be open green space in perpetuity. Property locations: 204 Beech Street, New Bern (35.126767, -77.054032), 821 Bloomfield St, New Bern (35.112659, -77.050252), 1906 Alabama Ave, New Bern

(35.126323, -77.053578). - gthatch1 - 06/14/2019 13:21:26 GMT

CATEX CATEGORIES

Catex Category Code

Description

Selected

Yes

*n3

(*n3) Federal Assistance for Property Acquisition and Demolition. Federal assistance for the acquisition of properties and the associated demolition and removal when the acquisition is from a willing seller, the assistance is solely for the purposes of financial compensation for the acquisition, and the land is deed restricted to open space, recreational, wildlife habitat, or wetland uses in perpetuity. The CATEX does not apply to subsurface uses of acquired properties, or acquired properties with encumbrances or easements authorizing current or future subsurface uses that are not allowable and compatible with open space. This CATEX covers actions associated with the determination of program eligibility. This CATEX does not cover Federal assistance actions that involve acquisition for the purpose of construction or development at a site in the acquired property. The use of eminent domain is explicitly excluded from the CATEX.

EXTRAORDINARY

Extraordinary Circumstance Code

Description

Selected?

No Extraordinary Circumstances were selected

ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comment
Clean Air Act (CAA)	Completed	Project will not result in permanent air emissions - Review concluded	
Coastal Barrier Resources Act (CBRA)	Completed	Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded	
Clean Water Act (CWA)	Completed	Project would not affect any water of the U.S - Review concluded	17

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Environmental Law/ Executive Order	Status	Description	Comment
Coastal Zone Management Act (CZMA)	Completed	Project is located in a coastal zone area and/or affects the coastal zone	CZMA: CAMA coordination letter sent by FEMA on 02/05/2019. CAMA concurrence received on 2/12/2019 gthatch1 - 08/14/2019 13:26:10 GMT
	Completed	State administering agency requires consistency review - Review concluded	
Executive Order 11988 - Floodplains	Completed	Located in floodplain or effects on floodplain/flood levels	EO 11988: The project is located within an AE zone, area of 1% annual chance flooding, per Flood Insurance Rate Map (FIRM) panel number #3720558000J, dated June 2, 2004. The Initial public notice was published on August 25, 2018, online on NCEM and FEMA¿s website. The final public notice was published on February 22, 2019 and March 9, 2019, in The New Bern Sun Journal. 8-step checklist attached. See conditions gthatch1 - 06/14/2019 13:36:46 GMT
	Completed	Beneficial Effect on Floodplain Occupancy/Values - Review concluded	
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	EO 11990: Project is located outside the wetland per review of USFWS National Wetlands Inventory (NWI) mapper, accessed 03/04/2019. See 8-Step Checklist process attached/See project conditions gthatch1 - 06/14/2019 13:37:14 GMT
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
Endangered Species Act (ESA)	Completed	Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action	ESA: Per review of the USFWS website listing of threatened and endangered species for Craven County (I Pac) accessed on 06/14/2019 and the North Carolina Natural Heritage Data Explorer website accessed on 06/14/2019 - gthatch1 - 06/14/2019 13:23:34 GMT
	Completed	No effect to species or designated critical habitat (See comments for justification) - Review concluded	
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Environmental Law/ Executive Order	Status	Description	Comment
Fish and Wildlife Coordination Act (FWCA)	Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Standard Section 106 review	NHPA: SHPO o Programmatic o 03/21/2019 to the Indian Nation, O

consultation sent on 01/30/2019. consultation was sent on the following tribes: Catawba Cherokee Nation, Easter Band of Cherokee Indians, Lumbee Tribe of North Carolina, Muscogee (Creek) Nation, Seminole Nation of Oklahoma, Shawnee Tribe, Tuscarora Nation, and United Keetoowah Band of Cherokee Indians in Oklahoma. The tribal consultation period ended 04/22/2019. Tribal concurrence response letters were received from the following tribes: Eastern Band of Cherokee Indians on 03/28/2019, Shawnee Tribe on 04/17/2019, Lumbee Tribe of North Carolina on 03/28/2019, Muscogee (Creek) Nation on 04/08/2019, and Catawba Indian Nation on 04/25/2019, SHPO concurrence letter dated 02/13/2019. See project conditions. - gthatch1 -06/14/2019 13:22:33 GMT

Completed	listed on the National Register in the project area and activity not exempt from review
Completed	Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded
Completed	Project affects undisturbed ground
Completed	Project area has potential for presence of archeological resources
Completed	Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded

06/17/2019

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

11:44:48

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Environmental Law/

Executive Order

Status

Description

Comment

Resource Conservation and Recovery Act, aka Solid Waste

Disposal Act (RCRA)

Completed

Review concluded

Wild and Scenic Rivers Act

(WSR)

Completed

Project is not along and does not affect Wild and Scenic River - Review concluded

CONDITIONS

Special Conditions required on Implementation of Projects:

If archaeological features (e.g., middens, refuse/storage plts, privies, wells, cisterns) are discovered during ground disturbing activities, work in the vicinity of the discovery will stop immediately and all reasonable measures will be taken to avoid or minimize harm to the discovery. The applicant/s contractor will ensure that archaeological discoveries are secured in place and restrict access to the sensitive area. The contractor will immediately notify such discoveries to the applicant, who shall then contact the Office of State Archaeology (OSA)/SHPO/THPO and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with OSA/SHPO, Tribes, and other consulting parties as necessary.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

No

If human remains are encountered during permitted activities, all work shall stop immediately and OSA/SHPO/THPO and FEMA contacted immediately, with conditions followed identical to those stipulated for archaeological feature discovery. In cases where human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representative(s), State Archaeologist and the Executive Director of the North Carolina Commission of Indian Affairs, and SHPO. Additionally, FEMA shall follow the guidelines outlined in the ACHP is ¿Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects ¿ (February 23, 2007). and any State-specific policies that may be enforced.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

No

The following Low Impact Demolition Stipulations must be followed: Applicant must adhere to all stipulations in the Lower Impact Demolition Stipulations document. This document is an attachment under NHPA.

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required:

Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)

Monitoring Required:

If any asbestos containing material, lead based paint, and/or other toxic materials are found during construction activities, the applicant must comply with all federal, state and local abatement and disposal requirements. Upon closeout, the applicant must provide Notice of Demolition or Asbestos Renovation forms and confirmation that any asbestos containing materials were taken to an authorized landfill for such materials.

> Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)

Monitoring Required:

Standard Conditions:

06/17/2019 11:44:48

FEDERAL EMERGENCY MANAGEMENT AGENCY

REC-01

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project 4393-0015

Title: New Bern City Acquisition of 3 properties

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

AGENDA ITEM COVER SHEET



Agenda Item Title: Consider adopting an amendment to the FY 2019-20 annual adopted budget.

Date of Meeting: 06/23/2020 Department: Finance Call for Public Hearing: □Yes⊠No		Ward # if applicable: Person Submitting Item: Mary M. Hogan, Director of Finance		
		Explanation of Item:	Consider adoptir budget.	ng an amendment to the FY 2019-20 annual adopted
Actions Needed by Board:	Adopt ordinance amendment.			
Backup Attached: Memo, Ordinan		nce Amendment		
Is item time sensitive?	▼Vas □Na			
		he meeting? □Yes ☒ No		
		8		
Cost of Agenda Item:				
		een budgeted and are funds available ☐Yes ☐ No		

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM: Mary M. Hogan - Director of Finance

DATE: June 12, 2020

RE: Amendments to the FY 2019-20 Operating Budget

Background Information

This budget ordinance allows for the Fiscal Year 2019-20 budget amendments to ensure all projected expenditures have sufficient budget and to realign the revenues to equal the appropriations.

The Electric, Water and Sewer Funds budgets are amended to align with the Payment In Lieu Of Taxes (PILOT) due and the budgets are reallocated within the various divisions of each fund to accommodate the transfers. The Grants Fund is amended to acknowledge grants that rolled from Fiscal Year 2018-19 and a new grant award for the Coronavirus Response Initiative in the amount of \$37,014 from the Department of Justice, which will be allocated to the Police Department.

Requested Action

The Board considers adopting the enclosed budget amendment at its meeting on June 23, 2020.

CITY OF NEW BERN, NORTH CAROLINA REQUESTED AMENDMENT TO Fiscal Year 2019-2020

FROM: Mary M. Hogan, Director of Finance Meeting Date: __June 23, 2020

EXPLANATION:

This budget ordinance allows for the Fiscal Year 2019-20 budget amendments to ensure all projected expenditures have sufficient budget and to realign the revenues to equal the appropriations.

The Electric, Water and Sewer Funds budgets are amended to align with the Payment In Lieu Of Taxes (PILOT) due and the budgets are reallocated within the various divisions of each fund to accommodate the transfers. The Grants Fund is amended to acknowledge grants that rolled from Fiscal Year 2018-19 and a new grant award for the Coronavirus Response Initiative in the amount of \$37,014 from the Department of Justice, which will be allocated to the Police Department.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN THAT THE 2019-2020 Annual Budget ORDINANCE IS AMENDED AS FOLLOWS:

Section 1 - Appropriations

Schedule C - WATER FUND	
Increase: Interfund Transfers & Transfer Supports	5,000
Decrease: Water System Maintenance	(5,000)
	\$
Schedule D - SEWER FUND	
Increase: Interfund Transfers & Transfer Supports	23,000
Decrease: Sewer Treatment	(23,000)
	\$ (20,000)
Schedule E - ELECTRIC FUND	
Increase: Interfund Transfers & Transfer Supports	\$ 12,000
Decrease: Power Supply	(12,000)
	\$ - 1.2.007
Schedule K - GRANTS FUND	
Increase:	
Police - SRF	37,014
	\$ 37,014

Section 2 - Estimated Revenues

	Police SRF	\$ 37,014 \$ 37,014
NATURE	OF TRANSACTION:	
X	ADDITIONAL REVENU	JE AVAILABLE FOR APPROPRIATION
X	TRANSFER WITHIN A OTHER :	CCOUNTS OF SAME FUND
		APPROVED BY THE BOARD OF ALDERMEN AND ENTERED ON MINUTES DATED JUNE 23, 2020 AGENDA ITEM NUMBER
		BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET



Agenda Item Title:
Consider adopting an amendment to the Hurricane Florence Fund.

Date of Meeting: 06/23/2020 Department: Finance Call for Public Hearing: □Yes⊠No		Ward # if applicable:	
		Person Submitting Item: Mary M. Hogan, Director of Finance Date of Public Hearing:	
			Explanation of Item:
Actions Needed by Board:	Adopt ordinance amendment.		
Backup Attached:	Memo, Ordinance Amendment		
Is item time sensitive?	⊠ Yes □No		
Will there be advocates	s/opponents at t	he meeting? □Yes ⊠ No	
Cost of Agenda Item: If this requires an expe and certified by the Fin		peen budgeted and are funds available □Yes □ No	

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM: Mary M. Hogan - Director of Finance

DATE: June 12, 2020

RE: Amendment to the Hurricane Florence Fund

Background Information

The Hurricane Florence Fund aids in the accounting of revenues and expenses related to this event. The attached amendment of \$15,000,000 will recognize estimated revenues that have been obligated and are due from FEMA for damages incurred by the City, which include the Stanley White Recreation Center, debris removal and various other repairs to equipment and property. \$7,506,649 is specifically earmarked for the Stanley White Recreation Center. Future budget amendments are expected as recovery efforts, repairs, replacements and mitigation measures continue.

This amendment also creates an \$8,006,649 project within the Hurricane Florence Fund for the Stanley White Recreation Center. This project will be funded with \$7,506,649 obligated from FEMA and \$500,000 from insurance proceeds.

Requested Action

The Board considers adopting the enclosed budget amendment at its meeting on June 23, 2020.

AMENDMENT TO GRANT PROJECT ORDINANCE Hurricane Florence Fund

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That Section 2 of the Ordinance adopted on October 9, 2018 is hereby amended to establish the Stanley White Recreation Center project within the fund.

Section 2. That Section 4 of the Ordinance adopted on October 9, 2018 is hereby amended for additional estimated revenues:

Increase: Insurance Proceeds \$ (500,000)
Insurance Proceeds-Stanley White 500,000
Grant Revenues 7,493,351
Grant Revenues-Stanley White 7,506,649
\$15,000,000

Section 3. That Section 5 of the Ordinance adopted on October 9, 2018 is hereby amended for additional appropriations:

Increase: Hurricane Florence \$ 6,993,351 Hurricane Florence-Stanley White \$ 8,006,649 \$15,000,000

Section 4. This amendment shall become effective upon adoption.

ADOPTED THIS 23RD DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET



Agenda Item Title:

Consider adopting an amendment to the Township 7 Sewer Improvement Project Fund.

Date of Meeting: 06/23/2020 Department: Finance Call for Public Hearing: □Yes⊠No		Ward # if applicable: Person Submitting Item: Mary M. Hogan, Director of Finance Date of Public Hearing:			
			Explanation of Item:	Consider adopting an amendment to the Township 7 Sewer Improvement Fund to recognize a GoldenLeaf grant.	
			Actions Needed by Board:	Adopt ordinance amendment.	
Backup Attached:	Memo, Ordinance Amendment				
Is item time sensitive?	⊠Yes □No				
Will there be advocates	opponents at t	he meeting? □Yes ⊠ No			
Cost of Agenda Item: If this requires an expe and certified by the Fin		peen budgeted and are funds available □Yes □ No			

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM: Mary M. Hogan - Director of Finance

DATE: June 12, 2020

RE: Amendment to the Township 7 Sewer Improvement Fund

Background Information

After Hurricane Matthew, New Bern began a phased approach to mitigate sewer overflows and other hazards following flood events, focused on infrastructure located adjacent to the Trent River. This infrastructure was flooded again during Hurricane Florence. The city proposes to relocate a lift station currently located on the bank of the river to a higher elevation and out of the floodplain. To assist with funding the project the City applied for and received a grant award from the Golden LEAF Foundation in the amount of \$500,000. The grant proceeds will be used towards the costs related to abandoning the current station and the construction of a new station at a different location. This amendment will appropriate the grant funds.

Requested Action

The Board considers adopting the enclosed budget amendment at its meeting on June 23, 2020.

AN ORDINANCE TO AMEND THE CAPITAL PROJECT ORDINANCE TOWNSHIP 7 SEWER IMPROVEMENTS PROJECT FUND

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That Section 3 of the Township 7 Sewer Improvements Project Fund Ordinance adopted on December 10, 2015 is hereby amended to recognize additional appropriation:

Increase: Sewer System Improvements \$500,000

Section 2. That Section 4 of the Township 7 Sewer Improvements Project Fund Ordinance adopted on December 10, 2015 is hereby amended to recognize grant revenue from the Golden LEAF Foundation:

Increase: Grant Revenues \$500,000

Section 3. This amendment shall become effective upon adoption.

ADOPTED THIS 23RD DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET



Agenda Item Title:
Consider adopting an amendment to close two project grant funds

Date of Meeting: 06/23/2020 Department: Finance Call for Public Hearing: □Yes⊠No		Ward # if applicable: Person Submitting Item: Mary M. Hogan, Director of Finance Date of Public Hearing:			
			Explanation of Item:	Consider adopting amendments to close the City Market – Workforce Development Training Center and Neuse River Gateway Grant Funds	
			Actions Needed by Board:	Adopt ordinance amendments.	
Backup Attached:	Memo, Ordinance Amendments				
Is item time sensitive?	⊠Yes □No				
Will there be advocates	s/opponents at t	he meeting? Yes No			
그림 그 경험에서 하셨다. 구나는 사람 하는 사람이 되었다.		been budgeted and are funds available ☐Yes ☐ No			

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM: Mary M. Hogan - Director of Finance

DATE: June 15, 2020

RE: Grant Projects Closing Budget Amendments

Background Information

City Market - Workforce Development Training Center Grant Project

On September 21, 2016 the Board of Aldermen adopted an ordinance to establish a grant project for the City Market – Workforce Development Center project consisting of improvements to the existing City owned parcel on First Street transforming it into a workforce development training center and makerspace for entrepreneurs. The related grants are complete and the attached amendment will formally close out the project on the City's financial system.

Neuse River Gateway Grant Project

On November 22, 2016 the Board of Aldermen adopted an ordinance to establish a grant project for the Neuse River gateway project consisting of an accessible transfer system for kayaks/canoes and paving of the parking lot. The related grant is complete and the attached amendment will formally close out the project on the City's financial system

Requested Action

The Board consider adopting the budget amendments to close the two project funds.

AN ORDINANCE TO AMEND GRANT PROJECT FUNDS

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

- **Section 1.** That the City Market Workforce Development Training Center Grant Project Fund is closed out as of June 30, 2020.
- Section 2 That the Neuse River Gateway Grant Project Fund is closed out as of June 30, 2020.
- Section 2. This amendment shall become effective upon adoption.

ADOPTED THIS 23RD DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET



Agenda Item Title:Consider adopting an ordinance to amend Chapter 66 "Streets, Sidewalks and Other Public Places" With Respect to Sidewalk Cafes

Date of Meeting: 06/23/20 Department: City Attorney Call for Public Hearing: □Yes⊠No		Ward # if applicable:	
		Person Submitting Item: Scott Davis Date of Public Hearing:	
Explanation of Item:	The ordinance that allows sidewalk cafes is being expanded beyond restaurants to include all businesses with ABC permit		
Actions Needed by Board:	Consider adopting the ordinance amendment		
Backup Attached:	Redline and final versions of the ordinance amendment		
Is item time sensitive?	⊠Yes ⊠No		
Will there be advocates	s/opponents at t	he meeting? □Yes ☒ No	
Cost of Agenda Item:		peen budgeted and are funds available	

AN ORDINANCE TO AMEND CHAPTER 66 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article III "Obstructions" of Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 66-70 "Sidewalk cafes." as follows:

"Sec. 66-70. Sidewalk cafes.

- (a) *Definitions*. The following definitions shall apply in this section:
- (1) ABC permit holder means any person or business entity possessing a valid and current ABC permit as defined in G.S. § 18B-101(2).
- (2) Alcoholic beverage means any beverage containing at least one-half of one percent (0.5%) alcohol by volume including, but not limited to, malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
- (3) Pedestrian way means an improved walk or passageway intended for use by pedestrians, but not adjacent to any city street.
- (4) Restaurant means any establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafes, grills and other establishments that have a food counter where food is sold.
- (5) Restaurant operator means the person, firm, or corporation operating a restaurant and associated sidewalk café. This definition includes the owner, and manager if different from the owner, of the restaurant and associated sidewalk café.
- (6) Sidewalk means that portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.
- (b) Sidewalk café permit generally. The city manager or his designee may issue permits for the serving of food and beverages on the city sidewalks and pedestrian ways.
- (c) Application. Any restaurant or ABC permit holder desiring to operate a sidewalk cafe

shall prepare and file an application with the city manager or his designee which shall contain the following information.

- (1) The name, address, and telephone number of the restaurant or ABC permit holder desiring to operate a sidewalk cafe.
- (2) The name, address, and telephone number of the restaurant operator or ABC permit holder.
 - (3) A current and valid Tax ID.
- (4) The type of food, beverage, or food product to be sold and served at the sidewalk cafe. If alcoholic beverages are to be sold, the type of such alcoholic beverages.
- (5) The hours of operation of the restaurant or ABC permit holder and the proposed hours of operation of the sidewalk cafe.
 - (6) A scaled drawing or site plan showing the following:
 - a. The section of sidewalk or alley to be used;
 - b. The section to be kept clear for pedestrian use; and
- c. The proposed placement of the tables, chairs and other furnishings on the sidewalk or alley. If modifications of the original drawing or site plan are desired by either the city or the applicant, a new drawing must be submitted and approved by the city manager or his designee.
- (7) Evidence that the applicant has obtained and will maintain a general liability and workers compensation insurance policy in the amount of one million dollars (\$1,000,000) for the operation of a sidewalk cafe which names the city as an additional insured.
- (8) An indemnity statement, approved by the city attorney, whereby the restaurant operator or ABC permit holder agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the sidewalk cafe.
- (9) A copy of all permits and licenses issued by the state or the city, including health and ABC permits and business licenses, necessary for the operation of the business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the business.
- (10) A sworn statement describing any violation by the restaurant operator or ABC permit holder of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five (5) years immediately preceding the date of the permit application.

- (11) Such additional information as may be requested by the city manager or his designee to determine compliance with this section.
- (12) A fee as provided in the City of New Bern fee schedule to cover the cost of processing and investigating the application and issuing the permit.
- (d) Issuance of permit. No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met:
- (1) The sidewalk cafe must be associated with an operating business such that it is under the same management and shares the same food preparation facilities, restroom facilities, and/or other customer convenience facilities as the operating business. The sidewalk cafe must be operated under the same name as the restaurant or ABC permit holder and may not be open or operated at any time when the restaurant or ABC permit holder is not open for business.
- (2) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant or ABC permit holder business. The seating capacity of the sidewalk cafe may not be more than fifty (50) percent of the interior seating capacity of the associated restaurant or ABC permit holder. In addition, no more patrons than can be accommodated by the actual seats provided in the sidewalk cafe can occupy the area of the sidewalk cafe.
 - (3) All furnishings used for sidewalk use pursuant to this section:
- a. Shall comply with the American with Disabilities Act pertaining to pedestrian travel;
- b. Shall not be at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exit way;
- c. Shall not extend beyond the sidewalk or pedestrian-way frontage of the associated restaurant or ABC permit holder.
- (4) The restaurant or ABC permit holder seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe.
- (5) Tables, chairs, and other furnishings utilized for sidewalk cafes shall be of a type that can be easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within twenty-four (24) hours of notice from the city. If such items are not removed upon twenty-four (24) hours notice, the city shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. These items shall not be permanently affixed to the sidewalk and must remain within the designated boundaries as delineated by city-installed sidewalk markers. The city shall also have the right to remove such items immediately in emergency situations. The city shall not be responsible for damage to public sidewalk cafe furnishings under any circumstances.

- (6) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant or ABC permit holder. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (7) No person shall operate a sidewalk cafe later than 11:00 p.m. After such hour, the area of the sidewalk cafe shall be open to the public and shall not be considered part of the premises of the restaurant or ABC permit holder. Any person consuming alcoholic beverages in a sidewalk cafe after such hour shall be subject to the provisions Section 46-5 of the city code.
- (8) The approved site plan for the sidewalk cafe must be posted conspicuously within the place of business at all times.
- (9) All restaurants or ABC permit holders operating a sidewalk cafe shall keep the approved site area clean.
- (10) The restaurant or ABC permit holder seeking to operate the sidewalk café shall meet other reasonable conditions that may be necessary as determined by the city manager or his designee.
- (11) Alcoholic beverages may be served at sidewalk cafes provided the following additional requirements are met:
- a. The sidewalk cafe shall be part of a restaurant or ABC permit holder, and shall otherwise be authorized, permitted, or licensed under the state law and the city code to serve and sell alcoholic beverages for on-premises consumption.
- b. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.
- c. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued, pursuant to G.S. § 18B-1001, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.
- d. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.
- e. The restaurant operator or ABC permit holder shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five (5) years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
 - f. The applicant shall obtain and maintain an insurance policy in the amount

of one million dollars (\$1,000,000.00) for liquor liability, and shall name the city as additional-insured.

- (e) Denial or revocation of sidewalk café permit.
- (1) The city manager or his designee may deny or revoke a permit, pursuant to this section, if he finds that the granting or continuation of the permit would not be in the public's interest or if he finds that the operator of the business or establishment has:
- a. Made a deliberate misrepresentation or provided false information in the application;
- b. Used the sidewalk or alley in such a manner as to create a public nuisance or constitute a hazard to the public health, safety, or welfare;
 - c. Failed to keep the sidewalk or alley clean and free of refuse;
- d. Failed to maintain any health, business or other permit or license required by law for the operation of the business or establishment;
- e. Violated any of the terms of this ordinance, or violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
 - f. Failed to maintain the amount and type of insurance required herein; or
 - g. Failed to uphold the terms of the permit.
- (2) The applicant may appeal the denial of the permit to the board of aldermen within fifteen (15) working days after the date of the written denial and the board of aldermen may take such corrective action as it shall find necessary. The findings and determination of the board of aldermen shall be final.
- (3) Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager shall notify the permit holder in writing of this decision and the reasons therefor. A decision of the city manager to revoke a permit may be appealed to the board of aldermen in accordance with the provisions of subsection (2) herein.
- (f) Reservation of rights. The city reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the city. The city further reserves the right to amend, alter, or change the

permit as provided for in this article upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the city manager or his designee will notify the applicant by certified mail of amendments to the permit. These amendments will require issuance of a new permit within the time period specified in the notice. If the new permit is issued prior to the expiration of the original permit that is being amended, the fee shall be waived for the amended permit. Failure to comply with the amended permit pursuant to this section will result in automatic termination of the sidewalk café permit.

- (g) Term, transfer, renewal, etc. Permits issued in accordance with the provisions of this section shall:
- (1) Be issued for the period beginning July 1 and expiring June 30 of each year and in all events will automatically expire on June 30 but may be renewed on a year-to-year basis;
- (2) Be in addition to any annual privilege license required pursuant to the city's fee schedule:
 - (3) Not be transferable or assignable;
- (4) Specifically provide whether the sale and consumption of alcohol is permitted under the permit; and
- (5) Be subject to site inspection prior to initial permit issuance as well as annual permit renewal. If such zoning permit is approved, a fee shall be levied for each separate annual issuance of the permit in accordance with the city's adopted fee schedule."

SECTION 2. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

RED-LINED VERSION

AN ORDINANCE TO AMEND CHAPTER 66 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article III "Obstructions" of Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 66-70 "Sidewalk cafes." as follows:

"Sec. 66-70. Sidewalk cafes.

- (a) *Definitions*. The following definitions shall apply in this section:
- (1) ABC permit holder means any person or business entity possessing a valid and current ABC permit as defined in G.S. § 18B-101(2).
- (2) Alcoholic beverage means any beverage containing at least one-half of one percent (0.5%) alcohol by volume including, but not limited to, malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
- (3) Pedestrian way means an improved walk or passageway intended for use by pedestrians, but not adjacent to any city street.
- (4) Restaurant means any establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafes, grills and other establishments that have a food counter where food is sold.
- (5) Restaurant operator means the person, firm, or corporation operating a restaurant and associated sidewalk café. This definition includes the owner, and manager if different from the owner, of the restaurant and associated sidewalk café.
- (6) Sidewalk means that portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.
- (b) Sidewalk café permit generally. The city manager or his designee may issue permits for the serving of food and beverages on the city sidewalks and pedestrian ways.

- (c) Application. Any restaurant or ABC permit holder desiring to operate a sidewalk cafe shall prepare and file an application with the city manager or his designee which shall contain the following information.
- (1) The name, address, and telephone number of the restaurant <u>or ABC permit holder</u> desiring to operate a sidewalk cafe.
- (2) The name, address, and telephone number of the restaurant operator or ABC permit holder.
 - (3) A current and valid Tax ID.
- (4) The type of food, beverage, or food product to be sold and served at the sidewalk cafe. If alcoholic beverages are to be sold, the type of such alcoholic beverages.
- (5) The hours of operation of the restaurant <u>or ABC permit holder</u> and the proposed hours of operation of the sidewalk cafe.
 - (6) A scaled drawing or site plan showing the following:
 - a. The section of sidewalk or alley to be used;
 - b. The section to be kept clear for pedestrian use; and
- c. The proposed placement of the tables, chairs and other furnishings on the sidewalk or alley. If modifications of the original drawing or site plan are desired by either the city or the applicant, a new drawing must be submitted and approved by the city manager or his designee.
- (7) Evidence that the applicant has obtained and will maintain a general liability and workers compensation insurance policy in the amount of one million dollars (\$1,000,000) for the operation of a sidewalk cafe which names the city as an additional insured.
- (8) An indemnity statement, approved by the city attorney, whereby the restaurant operator <u>or ABC permit holder</u> agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the sidewalk cafe.
- (9) A copy of all permits and licenses issued by the state or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the restaurant business.
- (10) A sworn statement describing any violation by the restaurant operator or ABC permit holder of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five

- (5) years immediately preceding the date of the permit application.
- (11) Such additional information as may be requested by the city manager or his designee to determine compliance with this section.
- (12) A fee as provided in the City of New Bern fee schedule to cover the cost of processing and investigating the application and issuing the permit.
- (d) *Issuance of permit.* No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met:
- (1) The sidewalk cafe must be associated with an operating <u>restaurant business</u> such that it is under the same management and shares the same food preparation facilities, restroom facilities, and/<u>or</u> other customer convenience facilities as the <u>restaurant operating business</u>. The sidewalk cafe must be operated under the same name as the restaurant <u>or ABC permit holder</u> and may not be open or operated at any time when the restaurant <u>or ABC permit holder</u> is not open for business.
- (2) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant or ABC permit holder business. The seating capacity of the sidewalk cafe may not be more than fifty (50) percent of the interior seating capacity of the associated restaurant or ABC permit holder. In addition, no more patrons than can be accommodated by the actual seats provided in the sidewalk cafe can occupy the area of the sidewalk cafe.
 - (3) All furnishings used for sidewalk use pursuant to this section:
- a. Shall comply with the American with Disabilities Act pertaining to pedestrian travel;
- b. Shall not be at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exit way;
- c. Shall not extend beyond the sidewalk or pedestrian-way frontage of the associated restaurant or ABC permit holder.
- (4) The restaurant <u>or ABC permit holder</u> seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe.
- (5) Tables, chairs, and other furnishings utilized for sidewalk cafes shall be of a type that can be easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within twenty-four (24) hours of notice from the city. If such items are not removed upon twenty-four (24) hours notice, the city shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. These items shall not be permanently affixed to the sidewalk and must remain within the designated boundaries as delineated by city-installed

sidewalk markers. The city shall also have the right to remove such items immediately in emergency situations. The city shall not be responsible for damage to public sidewalk cafe furnishings under any circumstances.

- (6) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant or ABC permit holder. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.
- (7) No person shall operate a sidewalk cafe later than 11:00 p.m. After such hour, the area of the sidewalk cafe shall be open to the public and shall not be considered part of the premises of the restaurant or ABC permit holder. Any person consuming alcoholic beverages in a sidewalk cafe after such hour shall be subject to the provisions Section 46-5 of the city code.
- (8) The approved site plan for the sidewalk cafe must be posted conspicuously within the place of business at all times.
- (9) All restaurants <u>or ABC permit holders</u> operating a sidewalk cafe shall keep the approved site area clean.
- (10) The restaurant <u>or ABC permit holder</u> seeking to operate the sidewalk café shall meet other reasonable conditions that may be necessary as determined by the city manager or his designee.
- (11) Alcoholic beverages may be served at sidewalk cafes provided the following additional requirements are met:
- a. The sidewalk cafe shall be part of a restaurant <u>or ABC permit holder</u>, and shall otherwise be authorized, permitted, or licensed under the state law and the city code to serve and sell alcoholic beverages for on-premises consumption.
- b. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.
- c. The sidewalk cafe must be included as part of the premises for which an ABC permit for a restaurant, as defined in G.S. § 18B-1000(6), is issued, pursuant to G.S. § 18B-1001, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.
- d. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.
- e. The restaurant operator <u>or ABC permit holder</u> shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of

intoxicating beverages or controlled substances for the five (5) years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.

- f. The applicant shall obtain and maintain an insurance policy in the amount of one million dollars (\$1,000,000.00) for liquor liability, and shall name the city as additional-insured.
- (e) Denial or revocation of sidewalk café permit.
- (1) The city manager or his designee may deny or revoke a permit, pursuant to this section, if he finds that the granting or continuation of the permit would not be in the public's interest or if he finds that the operator of the business or establishment has:
- a. Made a deliberate misrepresentation or provided false information in the application;
- b. Used the sidewalk or alley in such a manner as to create a public nuisance or constitute a hazard to the public health, safety, or welfare;
 - c. Failed to keep the sidewalk or alley clean and free of refuse;
- d. Failed to maintain any health, business or other permit or license required by law for the operation of the business or establishment;
- e. Violated any of the terms of this ordinance, or violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
 - f. Failed to maintain the amount and type of insurance required herein; or
 - g. Failed to uphold the terms of the permit.
- (2) The applicant may appeal the denial of the permit to the board of aldermen within fifteen (15) working days after the date of the written denial and the board of aldermen may take such corrective action as it shall find necessary. The findings and determination of the board of aldermen shall be final.
- (3) Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager shall notify the permit holder in writing of this decision and the reasons therefor. A decision of the city manager to revoke a permit may be appealed to the board of aldermen in accordance with the provisions of subsection (2) herein.
- (f) Reservation of rights. The city reserves the right to require any sidewalk cafe established pursuant to this article to cease part or all of its operation in order to allow for construction,

maintenance, or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the city. The city further reserves the right to amend, alter, or change the permit as provided for in this article upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the city manager or his designee will notify the applicant by certified mail of amendments to the permit. These amendments will require issuance of a new permit within the time period specified in the notice. If the new permit is issued prior to the expiration of the original permit that is being amended, the fee shall be waived for the amended permit. Failure to comply with the amended permit pursuant to this section will result in automatic termination of the sidewalk café permit.

- (g) Term, transfer, renewal, etc. Permits issued in accordance with the provisions of this section shall:
- (1) Be issued for the period beginning July 1 and expiring June 30 of each year and in all events will automatically expire on June 30 but may be renewed on a year-to-year basis;
- (2) Be in addition to the any annual privilege license required pursuant to the city's fee schedule;
 - (3) Not be transferable or assignable;
- (4) Specifically provide whether the sale and consumption of alcohol is permitted under the permit; and
- (5) Be subject to site inspection prior to initial permit issuance as well as annual permit renewal. If such zoning permit is approved, a fee shall be levied for each separate annual issuance of the permit in accordance with the city's adopted fee schedule."

SECTION 2. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR	

AGENDA ITEM COVER SHEET



Agenda Item Title:

Consider adopting an ordinance to amend Chapter 66 "Streets, Sidewalks and Other Public Places" With Respect to Street Cafes

Date of Meeting: 06/23/20 Department: City Attorney Call for Public Hearing: □Yes⊠No		Ward # if applicable: Person Submitting Item: Scott Davis Date of Public Hearing:			
			Explanation of Item:	The ordinance that allows street cafes is being expanded beyond restaurants to include all businesses with ABC permits.	
Actions Needed by Board:	Consider adopting the ordinance amendment				
Backup Attached:	Redline and fin	al versions of the ordinance amendment			
Is item time sensitive?	⊠Yes ⊠No				
Will there be advocates	opponents at t	he meeting? □Yes ☒ No			
Cost of Agenda Item:					
		een budgeted and are funds available ☐Yes ☐ No			

Additional Notes:

AN ORDINANCE TO AMEND CHAPTER 66 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article III "Obstructions" of Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 66-71 "Street cafés." as follows:

"Sec. 66-71. Street cafés.

- (a) Definitions. The following definitions shall apply in this section:
- (1) ABC permit holder means any person or business entity possessing a valid and current ABC permit as defined in G.S. § 18B-101(2).
- (2) Alcoholic beverage means any beverage regulated by Chapter 18B "Regulation of Alcoholic Beverages" of the North Carolina General Statutes that a restaurant may lawfully serve or sell for consumption in a street as defined herein while operating as a street café.
- (3) Restaurant means any establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafés, grills and other establishments that have a food counter where food is sold.
- (4) Restaurant operator means the person, firm, or corporation operating a restaurant and associated street café. This definition includes the owner, and manager if different from the owner, of the restaurant and associated street café.
- (5) *Street* means that portion of a city street between the curb lines, or between the lateral lines of the street if there is no curb.
- (b) Street café permit generally. The city manager or his designee may issue permits for the serving of food and beverages on a designated portion of a street to be effective only during such periods that the board of aldermen closes a street for the purpose of allowing street cafés.
- (c) Application. Any restaurant or ABC permit holder desiring to operate a street café shall prepare and file an application with the city manager or his designee which shall contain the following information:

- (1) The name, address, and telephone number of the restaurant or ABC permit holder desiring to operate a street café.
- (2) The name, address, telephone number, and email address of the restaurant operator or ABC permit holder.
 - (3) A current and valid Tax ID.
- (4) The type of food, beverage, or food product to be sold and served at the street café. If alcoholic beverages are to be sold, the type of such alcoholic beverages.
- (5) The hours of operation of the restaurant or ABC permit holder and the proposed hours of operation of the street café.
 - (6) A scaled drawing or site plan showing the following:
 - a. The section of street to be used; and
- b. The proposed placement of the tables, chairs and other furnishings on the street. If modifications of the original drawing or site plan are desired by either the city or the applicant, a new drawing must be submitted and approved by the city manager or his designee.
- (7) Evidence that the applicant has obtained and will maintain a general liability and workers compensation insurance policy in the amount of one million dollars (\$1,000,000) for the operation of a street café which names the city as an additional insured.
- (8) An indemnity statement, approved by the city attorney, whereby the restaurant operator or ABC permit holder agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the street café.
- (9) A copy of all permits and licenses issued by the state or the city, including health and ABC permits and business licenses, necessary for the operation of the business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the business.
- (10) A sworn statement describing any violation by the restaurant operator or ABC permit holder of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five (5) years immediately preceding the date of the permit application.
- (11) Such additional information as may be requested by the city manager or his designee to determine compliance with this section.
- (12) A fee as provided in the City of New Bern fee schedule to cover the cost of processing and investigating the application and issuing the permit.

- (d) *Issuance of permit.* No permit for the operation of a street café may be issued unless the application is complete and unless the following requirements are met:
- (1) The street café must be associated with an operating business such that it is under the same management and shares the same food preparation facilities, restroom facilities, and/or other customer convenience facilities as the operating business. The street café must be operated under the same name as the restaurant or ABC permit holder and may not be open or operated at any time when the restaurant or ABC permit holder is not open for business.
- (2) The operation of the street café must be clearly incidental to the associated restaurant or ABC permit holder business. The cumulative seating capacity of the street café, associated restaurant business, and any associated sidewalk café may not be more than one hundred (100%) percent of the interior seating capacity of the associated restaurant or ABC permit holder. In addition, no more patrons than can be accommodated by the actual seats provided in the street café can occupy the area of the street café.
 - (3) All furnishings used for street café use pursuant to this section:
 - a. Shall comply with the American with Disabilities Act;
- b. Shall not be placed at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exit way;
- c. Shall not extend beyond the street café area as designated in the application.
- (4) The restaurant or ABC permit holder seeking to operate the street café must front on and open onto the street proposed for the street café.
- (5) Tables, chairs, and other furnishings utilized for sidewalk cafés shall be of a type that can be easily removed from the street. Tables, chairs, and other furnishings used in the operation of the street café must be removed no later than the time specified in any street closing ordinance for the street to reopen. If such items are not removed by such time, the city shall have the right to remove and dispose of these items and may assess the restaurant operator for the cost of such removal and disposal. These items shall not be permanently affixed to the street and must remain within the designated boundaries as delineated by street markers. The city shall also have the right to remove such items immediately in emergency situations. The city shall not be responsible for damage to street café furnishings under any circumstances.
- (6) Except as elsewhere permitted, the operation or furnishing of the street café shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or to the exterior of the associated restaurant or ABC permit holder. The owner of the street café shall be responsible for repairing any incidental damage to streets or public sidewalks resulting from the operation of the street cafe.

- (7) No person shall operate a street café later than 11:00 p.m. After such hour, the area of the street café shall be open to the public and shall not be considered part of the premises of the restaurant or ABC permit holder. Any person consuming alcoholic beverages in a street café after such hour shall be subject to the provisions Section 46-5 of the city code.
- (8) The approved site plan for the street café must be maintained within the place of business at all times.
- (9) All restaurants or ABC permit holders operating a street café shall keep the approved site area clean.
- (10) The restaurant or ABC permit holder seeking to operate the street café shall meet other reasonable conditions that may be necessary as determined by the city manager or his designee.
- (11) Alcoholic beverages may be served at street cafés provided the following additional requirements are met:
- a. The street café shall be part of a restaurant or ABC permit holder and shall otherwise be authorized, permitted, or licensed under the state law and the city code to serve and sell alcoholic beverages for on-premises consumption.
- b. The portion of the street café where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.
- c. The street café must be included as part of the premises for which an ABC permit is issued, pursuant to G.S. § 18B-1001, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.
- d. Signs shall be posted, visible at all exit points from the street café, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.
- e. The restaurant operator or ABC permit holder shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five (5) years preceding the commencement of the sale of alcoholic beverages at the street café.
- f. The applicant shall obtain and maintain an insurance policy in the amount of one million dollars (\$1,000,000.00) for liquor liability, and shall name the city as additional-insured.
- (e) Denial or revocation of street café permit.
- (1) The city manager or his designee may deny or revoke a permit, pursuant to this section, if he finds that the granting or continuation of the permit would not be in the public's

interest, or if he finds that the operator of the business or establishment has:

- a. Made a deliberate misrepresentation or provided false information in the application;
- b. Used the street in such a manner as to create a public nuisance or constitute a hazard to the public health, safety, or welfare;
 - c. Failed to keep the street or alley clean and free of refuse;
- d. Failed to maintain any health, business or other permit or license required by law for the operation of the business or establishment;
- e. Violated any of the terms of this ordinance, or violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
 - f. Failed to maintain the amount and type of insurance required herein; or
 - g. Failed to uphold the terms of the permit.
- (2) The applicant may appeal the denial of the permit to the board of aldermen within fifteen (15) working days after the date of the written denial and the board of aldermen may take such corrective action as it shall find necessary. The findings and determination of the board of aldermen shall be final.
- (3) Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager shall notify the permit holder in writing of this decision and the reasons therefor. A decision of the city manager to revoke a permit may be appealed to the board of aldermen in accordance with the provisions of subsection (2) herein.
- (f) Reservation of rights. The city reserves the right to require any street café established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the city. The city further reserves the right to amend, alter, or change the permit as provided for in this article upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the city manager or his designee will notify the applicant by email of amendments to the permit. These amendments will require issuance of a new permit within the time period specified in the notice. If the new permit is issued prior to the expiration of the original permit that is being amended, the fee shall be waived for the amended permit. Failure to comply with the amended permit pursuant to this section will result in automatic termination of the street café

permit.

- (g) Term, transfer, renewal, etc. Permits issued in accordance with the provisions of this section shall:
- (1) Be issued for the period beginning July 1 and expiring June 30 of each year and in all events will automatically expire on June 30, but shall only be effective during periods when the board of aldermen closes a public street for the purpose of allowing street cafés;
 - (2) Be renewed on a year-to-year basis;
- (3) Be in addition to the annual privilege license, if any, required pursuant to the city's fee schedule;
 - (4) Not be transferable or assignable;
- (5) Specifically provide whether the sale and consumption of alcohol is permitted under the permit; and
- (6) Be subject to site inspection prior to initial permit issuance as well as annual permit renewal. If such street café permit is approved, a fee shall be levied for each separate annual issuance of the permit in accordance with the city's adopted fee schedule."

SECTION 2. This ordinance shall be effective from and after its date of adoption.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

RED-LINED VERSION

AN ORDINANCE TO AMEND CHAPTER 66 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Article III "Obstructions" of Chapter 66 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by adding Section 66-71 "Street cafés." as follows:

"Sec. 66-71. Street cafés.

- (a) Definitions. The following definitions shall apply in this section:
- (1) ABC permit holder means any person or business entity possessing a valid and current ABC permit as defined in G.S. § 18B-101(2).
- (2) Alcoholic beverage means any beverage regulated by Chapter 18B "Regulation of Alcoholic Beverages" of the North Carolina General Statutes that a restaurant may lawfully serve or sell for consumption in a street as defined herein while operating as a street café.
- (3) Restaurant means any establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafés, grills and other establishments that have a food counter where food is sold.
- (4) Restaurant operator means the person, firm, or corporation operating a restaurant and associated street café. This definition includes the owner, and manager if different from the owner, of the restaurant and associated street café.
- (5) Street means that portion of a city street between the curb lines, or between the lateral lines of the street if there is no curb.
- (b) Street café permit generally. The city manager or his designee may issue permits for the serving of food and beverages on a designated portion of a street to be effective only during such periods that the board of aldermen closes a street for the purpose of allowing street cafés.
- (c) Application. Any restaurant or ABC permit holder desiring to operate a street café shall prepare and file an application with the city manager or his designee which shall contain the following information:

- (1) The name, address, and telephone number of the restaurant <u>or ABC permit holder</u> desiring to operate a street café.
- (2) The name, address, telephone number, and email address of the restaurant operator or ABC permit holder.
 - (3) A current and valid Tax ID.
- (4) The type of food, beverage, or food product to be sold and served at the street café. If alcoholic beverages are to be sold, the type of such alcoholic beverages.
- (5) The hours of operation of the restaurant <u>or ABC permit holder</u> and the proposed hours of operation of the street café.
 - (6) A scaled drawing or site plan showing the following:
 - a. The section of street to be used; and
- b. The proposed placement of the tables, chairs and other furnishings on the street. If modifications of the original drawing or site plan are desired by either the city or the applicant, a new drawing must be submitted and approved by the city manager or his designee.
- (7) Evidence that the applicant has obtained and will maintain a general liability and workers compensation insurance policy in the amount of one million dollars (\$1,000,000) for the operation of a street café which names the city as an additional insured.
- (8) An indemnity statement, approved by the city attorney, whereby the restaurant operator or ABC permit holder agrees to indemnify and hold harmless the city and its officers, agents, and employees from any claim arising from the operation of the street café.
- (9) A copy of all permits and licenses issued by the state or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city for exterior alterations or improvements to the restaurant business.
- (10) A sworn statement describing any violation by the restaurant operator or ABC permit holder of any laws, regulations, or ordinances relating to the possession, sale, consumption, or transportation of intoxicating beverages or controlled substances during the five (5) years immediately preceding the date of the permit application.
- (11) Such additional information as may be requested by the city manager or his designee to determine compliance with this section.
 - (12) A fee as provided in the City of New Bern fee schedule to cover the cost of

processing and investigating the application and issuing the permit.

- (d) Issuance of permit. No permit for the operation of a street café may be issued unless the application is complete and unless the following requirements are met:
- (1) The street café must be associated with an operating <u>restaurant business</u> such that it is under the same management and shares the same food preparation facilities, restroom facilities, <u>and/or</u> other customer convenience facilities as the <u>restaurant operating business</u>. The street café must be operated under the same name as the restaurant <u>or ABC permit holder</u> and may not be open or operated at any time when the restaurant <u>or ABC permit holder</u> is not open for business.
- (2) The operation of the street café must be clearly incidental to the associated restaurant or ABC permit holder business. The cumulative seating capacity of the street café, associated restaurant business, and any associated sidewalk café may not be more than one hundred (100%) percent of the interior seating capacity of the associated restaurant or ABC permit holder. In addition, no more patrons than can be accommodated by the actual seats provided in the street café can occupy the area of the street café.
 - (3) All furnishings used for street café use pursuant to this section:
 - a. Shall comply with the American with Disabilities Act;
- b. Shall not be placed at any location which obstructs underground utility access points, ventilation areas, meters, accessible ramps or other facilities provided for physically challenged persons, a building access or exit, or any emergency access or exit way;
- c. Shall not extend beyond the street café area as designated in the application.
- (4) The restaurant <u>or ABC permit holder</u> seeking to operate the street café must front on and open onto the street proposed for the street café.
- (5) Tables, chairs, and other furnishings utilized for sidewalk cafés shall be of a type that can be easily removed from the street. Tables, chairs, and other furnishings used in the operation of the street café must be removed no later than the time specified in any street closing ordinance for the street to reopen. If such items are not removed by such time, the city shall have the right to remove and dispose of these items and may assess the restaurant operator for the cost of such removal and disposal. These items shall not be permanently affixed to the street and must remain within the designated boundaries as delineated by street markers. The city shall also have the right to remove such items immediately in emergency situations. The city shall not be responsible for damage to street café furnishings under any circumstances.
- (6) Except as elsewhere permitted, the operation or furnishing of the street café shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or to the exterior of the associated restaurant or ABC permit holder. The owner of the street café shall be

responsible for repairing any incidental damage to streets or public sidewalks resulting from the operation of the street cafe.

- (7) No person shall operate a street café later than 11:00 p.m. After such hour, the area of the street café shall be open to the public and shall not be considered part of the premises of the restaurant or ABC permit holder. Any person consuming alcoholic beverages in a street café after such hour shall be subject to the provisions Section 46-5 of the city code.
- (8) The approved site plan for the street café must be maintained within the place of business at all times.
- (9) All restaurants <u>or ABC permit holders</u> operating a street café shall keep the approved site area clean.
- (10) The restaurant <u>or ABC permit holder</u> seeking to operate the street café shall meet other reasonable conditions that may be necessary as determined by the city manager or his designee.
- (11) Alcoholic beverages may be served at street cafés provided the following additional requirements are met:
- a. The street café shall be part of a restaurant <u>or ABC permit holder</u> and shall otherwise be authorized, permitted, or licensed under the state law and the city code to serve and sell alcoholic beverages for on-premises consumption.
- b. The portion of the street café where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two (2) points of ingress and egress.
- c. The street café must be included as part of the premises for which an ABC permit for a restaurant, as defined in G.S. § 18B-1000(6), is issued, pursuant to G.S. § 18B-1001, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages on-premises.
- d. Signs shall be posted, visible at all exit points from the street café, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises.
- e. The restaurant operator <u>or ABC permit holder</u> shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five (5) years preceding the commencement of the sale of alcoholic beverages at the street café.
- f. The applicant shall obtain and maintain an insurance policy in the amount of one million dollars (\$1,000,000.00) for liquor liability, and shall name the city as additional-insured.

(e) Denial or revocation of street café permit.

- (1) The city manager or his designee may deny or revoke a permit, pursuant to this section, if he finds that the granting or continuation of the permit would not be in the public's interest, or if he finds that the operator of the business or establishment has:
- a. Made a deliberate misrepresentation or provided false information in the application;
- b. Used the street in such a manner as to create a public nuisance or constitute a hazard to the public health, safety, or welfare;
 - c. Failed to keep the street or alley clean and free of refuse;
- d. Failed to maintain any health, business or other permit or license required by law for the operation of the business or establishment;
- e. Violated any of the terms of this ordinance, or violated any law, regulation, or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
 - f. Failed to maintain the amount and type of insurance required herein; or
 - g. Failed to uphold the terms of the permit.
- (2) The applicant may appeal the denial of the permit to the board of aldermen within fifteen (15) working days after the date of the written denial and the board of aldermen may take such corrective action as it shall find necessary. The findings and determination of the board of aldermen shall be final.
- (3) Before the revocation of a permit, the city manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the city manager shall notify the permit holder in writing of this decision and the reasons therefor. A decision of the city manager to revoke a permit may be appealed to the board of aldermen in accordance with the provisions of subsection (2) herein.
- (f) Reservation of rights. The city reserves the right to require any street café established pursuant to this article to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the city, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the city. The city further reserves the right to amend, alter, or change the permit as provided for in this article upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any costs to the city. In such event, the city manager or his designee will notify the applicant by email of amendments to the

permit. These amendments will require issuance of a new permit within the time period specified in the notice. If the new permit is issued prior to the expiration of the original permit that is being amended, the fee shall be waived for the amended permit. Failure to comply with the amended permit pursuant to this section will result in automatic termination of the street café permit.

- (g) Term, transfer, renewal, etc. Permits issued in accordance with the provisions of this section shall:
- (1) Be issued for the period beginning July 1 and expiring June 30 of each year and in all events will automatically expire on June 30, but shall only be effective during periods when the board of aldermen closes a public street for the purpose of allowing street cafés;
 - (2) Be renewed on a year-to-year basis;
- (3) Be in addition to the annual privilege license, if any, required pursuant to the city's fee schedule;
 - (4) Not be transferable or assignable;
- (5) Specifically provide whether the sale and consumption of alcohol is permitted under the permit; and
- (6) Be subject to site inspection prior to initial permit issuance as well as annual permit renewal. If such street café permit is approved, a fee shall be levied for each separate annual issuance of the permit in accordance with the city's adopted fee schedule."

<u>SECTION 2</u>. This ordinance shall be effective from and after its date of adoption.

ADOPTED THIS 23rd DAY OF JUNE, 2020.

DANA E. OUTLAW, MAYOR

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw
Mayor
Mark A. Stephens
City Manager
Brenda E. Blanco
City Clerk
Mary M. Hogan
Director of Finance

Memorandum

TO: Alderman Barbara Best

FROM: Brenda Blanco, City Clerk

DATE: June 15, 2020

SUBJECT: Appointment to Board of Adjustment

Ross Beebe's term on the Board of Adjustment will expire June 30, 2020. He serves as an alternate, and this term was his first appointment. Therefore, he is eligible for reappointment to another three-year term. You are asked to consider reappointing Mr. Beebe or to make a new appointment to fill this seat.

/beb