

**CITY OF NEW BERN
BOARD OF ALDERMEN MEETING
MARCH 22, 2022 – 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 Closing Specific Streets for the Sudan Shriners' Parade.
4. Consider Adopting a Resolution Closing Specific Streets for the Operation of Downtown Street Cafes.
5. Consider Adopting a Resolution to Call for a Public Hearing on Financing the City Hall Elevator Project.
6. Approve Minutes.

7. Presentation on Ethics.
8. Presentation on an Affirmative Action Plan by the New Bern People's Assembly.
9. Conduct a Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 – Endorsements on Major Subdivision Plats of the Land Use Ordinance.
10. Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan. (Plan too large to attach; view on City's website under Development Services)
11. Consider Adopting a Resolution Approving a General Warranty Deed between Habitat for Humanity of Craven County NC, Christine Cox, and the City of New Bern for 1904 Wake Street.
12. Consider Adopting an Amendment to the Capital Project Ordinance to Rename the City Hall Annex Building Project Fund as the City Hall Elevator Project Fund.
13. Consider Adopting a Resolution Authorizing the Filing of an Application with the Local Government Commission for the City Hall Elevator Project.
14. Consider Adopting a Resolution Approving a Declaration of Intent to Reimburse the City Hall Elevator Project.

15. Consider Adopting a Resolution Authorizing the City Manager to Execute a Contract with Daniels & Daniels Construction Company, Inc. for the City Hall Elevator Project.
16. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for an Innovative Stormwater Project.
17. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for Restoration of Degraded Streams.
18. Consider Adopting an Ordinance to Amend the Drainage Improvements Project Fund.
19. Consider Adopting a Resolution Approving a Program Income Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.
20. Consider Adopting a Resolution Approving an Allowable Costs and Cost Principles Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.
21. Consider Adopting an Ordinance to Establish the Southeast Water System Improvements Project Fund.
22. Consider Adopting a Budget Ordinance Amendment for FY21-22.
23. Appointment(s).
24. Attorney's Report.
25. City Manager's Report.
26. New Business.
27. Closed Session.
28. Adjourn.

INDIVIDUALS WITH DISABILITIES REQUIRING SPECIAL ASSISTANCE SHOULD CALL
639-7501 NO LATER THAN 3 P.M. THE DATE OF THE MEETING

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

Foster Hughes
City Manager
Brenda E. Blanco
City Clerk

Kimberly A. Ostrom
Director of Finance

Memo to: Mayor and Board of Aldermen

From: Foster Hughes, City Manager

Date: March 16, 2022

Re: March 22, 2022 Agenda Explanations

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 Closing Specific Streets for the Sudan Shriners' Parade.

(Ward 1) On behalf of the Sudan Shriners, Sharon Evans has requested the 400-800 blocks of George Street, 400-600 blocks of Broad Street, and the 200-300 blocks of Middle Street be closed to vehicular traffic on May 21, 2022 from 10 a.m. until 2 p.m. for the Shriner's Spring Ceremonial Parade. It was also requested that the south side (eastbound lane) of Broad Street be closed to parking from 12 a.m. until the conclusion of the parade. In the event of inclement weather, the parade will not be rescheduled. A memo from Kari Warren, Interim Director of Parks and Recreation, is attached along with a copy of the event application and map of the parade route.

4. Consider Adopting a Resolution Closing Specific Streets for the Operation of Downtown Street Cafes.

(Ward 1) Lynne Harakal, Executive Director of Swiss Bear, has requested portions of downtown streets be closed on various Fridays, Saturdays, and Sundays, from April through December to allow for the operation of street cafes and family entertainment. The streets to be closed are the 200-300 blocks of Middle Street, 300 block of Pollock Street, and 200 block of Craven Street from the point of

Morgan's Tavern and Grill to Pollock Street. Most of the closures will be from 5:00 p.m. until 10:30 p.m., but there are some dates with other specified times as noted in the resolution. A memo from Mrs. Warren is attached along with the event application and a map of the closures.

5. Consider Adopting a Resolution to Call for a Public Hearing on Financing the City Hall Elevator Project.

(Ward 1) With bids coming in substantially more than the anticipated project cost, direction was sought from the Board at its March 08, 2022 meeting on how to proceed with the City Hall elevator project. The Board authorized staff to obtain formal financing quotes and move forward with the project. Because the project involves improvements to real property, the borrowing must be approved by the Local Government Commission ("LGC"), and a public hearing is required pursuant to NCGS §160A-20. It is requested a public hearing be called for April 12, 2022. A memo from Kimberly Ostrom, Director of Finance, is attached.

6. Approve Minutes.

Minutes from the March 08, 2022 meeting are provided for review and approval.

7. Presentation on Ethics.

Members of the Board recently expressed a desire for additional information on ethics for local government officials. Tom Carruthers, Senior Assistant General Counsel with the NC League of Municipalities, will review the laws governing ethics for elected officials and will answer any questions from the Board.

8. Presentation on an Affirmative Action Plan by the New Bern People's Assembly.

On behalf of the New Bern People's Assembly, Kurtis Stewart and Bailey Evans will make a presentation on the group's request for an Affirmative Action Plan to include the addition of a Director of Diversity, Equity, and Inclusion.

9. Conduct a Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 – Endorsements on Major Subdivision Plats of the Land Use Ordinance.

In accordance with NCGS §47-30, it is recommended Section 15-80 of the City's Land Use Ordinance for "Endorsements on Major Subdivision Plats" be amended to alter the certificate of survey and accuracy. The Planning and Zoning Board unanimously voted in favor of the amendment at their February 1, 2022 meeting. After conducting a public hearing, the Board is asked to consider the ordinance

amendment. A memo from Matt Schelly, Interim Director of Development Services, is attached.

10. Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan.

Staff worked with consultants to develop a multiphase, long-term Resiliency Plan that will allow the City, residents, and businesses to be better prepared for and able to respond to situations arising from extreme storms. The draft plan has been made available to the public on the City's website. After conducting a public hearing, it is requested the Board consider adopting the plan. A memo from Mr. Schelly is attached.

11. Consider Adopting a Resolution Approving a General Warranty Deed between Habitat for Humanity of Craven County NC, Christine Cox, and the City of New Bern for 1904 Wake Street.

(Ward 2) On September 24, 2019, the City approved the conveyance of 1904 Wake Street to Habitat for Humanity for the purpose of developing affordable housing for low and moderate-income families. Habitat has subsequently constructed a home on the property and intends to transfer the home to a buyer. By executing a deed to transfer ownership to the buyer, the City will release any rights retained under a Transfer and Reversion Agreement between the City and Habitat. A memo from Jaimee Bullock-Mosley, Assistant City Attorney, is attached.

12. Consider Adopting an Amendment to the Capital Project Ordinance to Rename the City Hall Annex Building Project Fund as the City Hall Elevator Project Fund.

(Ward 1) On May 2, 2019, an ordinance was adopted to establish a capital project fund for the design and construction of an elevator at City Hall. With anticipation that the project would be expanded to include an annex for City Hall, the ordinance was amended on April 28, 2020 to rename the project as the City Hall Annex Building Project Fund. Since that time, the Board has decided to pursue only the construction of an elevator and relocation of restrooms. Therefore, it is desirable to rename the project to reflect the work to be undertaken. A memo from Mrs. Ostrom is attached.

13. Consider Adopting a Resolution Authorizing the Filing of an Application with the Local Government Commission for the City Hall Elevator Project.

(Ward 1) The City will utilize proceeds from debt financing to fund the addition of an elevator at City Hall. Because the debt involves improvements to real property, approval is required from the LGC. The proposed resolution authorizes the filing of an application with the LGC, and it is anticipated the application will be considered at the LGC's May 3, 2022 meeting. A memo from Mrs. Ostrom is attached.

14. Consider Adopting a Resolution Approving a Declaration of Intent to Reimburse the City Hall Elevator Project.

(Ward 1) This item relates to the previous item for the City Hall Elevator project. As required by IRS regulations, a declaration of intent to reimburse needs to be adopted prior to or within 60 days of payment of expenditures that will be reimbursed through financing proceeds. A memo from Mrs. Ostrom is attached.

15. Consider Adopting a Resolution Authorizing the City Manager to Execute a Contract with Daniels & Daniels Construction Company, Inc. for the City Hall Elevator Project.

(Ward 1) Bids for the City Hall elevator project were received on February 24, 2022, and the bid results were presented to the Board at its March 08, 2022 meeting. After discussing the bids, the Board directed staff to proceed with the project. The proposed resolution authorizes the City Manager to execute a contract with the lowest bidder, Daniels & Daniels Construction Company, for \$3,929,000 and any change orders within the budgeted amount.

16. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for an Innovative Stormwater Project.

In 2021, the City was awarded an innovative stormwater grant in the amount of \$100,000 from the NC Land and Water Fund. The funds will be used for the Duffyfield Stormwater Enhancement Project. On January 12, 2021, the Board was notified of the award and authorized the City Manager to execute a grant agreement, which has not yet been carried out and has resulted in a minor revision to the contract. The original contract has been modified to change the construction contract date from September 16, 2020 to June 30, 2022. Since there is a change in the contract, reapproval is needed for the City Manager to sign the latest version of the grant contract. A memo from Mr. Schelly is attached.

17. Consider Adopting a Resolution Approving a Grant Agreement with the NC Land and Water Fund for Restoration of Degraded Streams.

The City has been awarded a grant in the amount of \$150,000 from the NC Land and Water Fund for restoration of degraded streams. The funds will be used to develop draft construction plans and secure permits for a potential wetland and floodplain restoration project for Jack Smith Creek. A memo from Mr. Schelly is attached.

18. Consider Adopting an Ordinance to Amend the Drainage Improvements Project Fund.

The Drainage Improvements Project Fund will be amended to recognize the \$150,000 grant award from NCLWF, as detailed in the previous item. A memo from Mrs. Ostrom is attached.

19. Consider Adopting a Resolution Approving a Program Income Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.

Local governments receiving American Rescue Plan Act ("ARPA") funds and Local Fiscal Recovery Funds ("CSLFRF") are required to adopt a Program Income Policy. The policy indicates the City will comply with federal guidelines when spending the funds. A memo from Mrs. Ostrom is attached.

20. Consider Adopting a Resolution Approving an Allowable Costs and Cost Principles Policy for Expenditures Related to the American Rescue Plan Act and Coronavirus State and Local Fiscal Recovery Funds.

Like the previous item, local governments receiving ARPA and CSLFRF funds are also required to adopt an Allowable Costs and Cost Principles Policy. A memo from Mrs. Ostrom is attached.

21. Consider Adopting an Ordinance to Establish the Southeast Water System Improvements Project Fund.

In July 2021, a contractor caused an accidental fire while working on the Williams Road booster pump station, resulting in a complete loss of the structure. The City received \$488,400 from an insurance settlement. It has been determined that rebuilding the station in its current configuration and location would not be the most beneficial option for the water system. Rather, implementing improvements to the southeast portions of the City's water system would provide the most benefit for domestic supply and firefighting capabilities in the areas south of the Trent River. This ordinance will establish a project fund that is initially funded with the insurance proceeds. Once the total project cost is known, a transfer from the Water Fund fund balance will be requested. Memos from Jordan Hughes, City Engineer, and Mrs. Ostrom are attached.

22. Consider Adopting a Budget Ordinance Amendment for FY21-22.

This budget ordinance will amend the General Fund by appropriating \$18,584 from fund balance to Human Resources to cover temporary help services associated with the handling of COVID-related matters, the replacement of the department's HVAC system, and document storage fees. An additional \$43,538 will be appropriated from fund balance for building repairs at the Fire training grounds. Insurance proceeds in this amount were received and recorded as revenue in 2019 for damage sustained to the training grounds during Hurricane Florence. Lastly, the Employees' Benefit Insurance Fund will be amended to appropriate \$120,000 from fund balance for additional MedCost administration fees of \$120,000 and worker's compensation insurance costs of \$35,000. A memo from Mrs. Ostrom is attached.

23. Appointment(s).

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

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to close streets for Sudan Shriners Parade.

Date of Meeting: 3/22/2022	Ward # if applicable: Ward 1
Department: Parks & Recreation	Person Submitting Item: Kari Warren, Interim Director of Parks & Recreation
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	Sudan Shriners has requested to close the 400-800 blocks of George Street, 400-600 blocks of Broad Street, and the 200-300 blocks of Middle Street to vehicular traffic for Sudan Shriners Parade from 10:00 a.m. until 2:00 p.m., along with the south side (east bound lane) of Broad Street closed to parking from 12:00 a.m. until the conclusion of the parade on May 21, 2022. If the parade is cancelled due to inclement weather, it will not be rescheduled per the event organizer.
Actions Needed by Board:	Adopt the Resolution
Backup Attached:	Resolution – Memo – Application – Map - Petition

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Notes: N/A



Family, fitness and fun come together here.

Aldermen

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

Kari Warren CPRP
Interim Director of Parks & Recreation



Dana E. Outlaw
Mayor
Foster Hughes
City Manager
Brenda E. Blanco
City Clerk
Kimberly A. Ostrom
Director of Finance

Memo To: Mayor and Board of Aldermen

From: Kari Warren, CPRP
Interim Director of Parks & Recreation

Re: Street Closures for Sudan Shriners Spring Ceremonial Parade.

Background Information:

Sudan Shriners has requested to close the 400-800 blocks of George Street, 400-600 blocks of Broad Street, and the 200-300 blocks of Middle Street to vehicle traffic for Sudan Shriners Parade from 10:00 a.m. until 2:00 p.m., along with the south side (east bound lane) of Broad Street closed to parking from 12:00 a.m. until the conclusion of the parade on May 21, 2022. If the parade is cancelled due to inclement weather, it will not be rescheduled per the event organizer.

Recommendation:

Parks and Recreation staff recommends approval and request the Board adopt a Resolution approving the request.

If you have any questions concerning this matter, please call.

1307 Country Club Rd
New Bern, NC 28562
Office 252 639-2901
Fax 252 636-4138

RESOLUTION

THAT WHEREAS, the Sudan Shriners have scheduled their Spring Ceremonial Parade and have requested that specific streets be closed to vehicular traffic from 10:00 a.m. to 2:00 p.m. on Saturday, May 21, 2022, for line-up of the parade. Those streets are the 400-800 blocks of George Street, 400-600 blocks of Broad Street, and 200-300 blocks of Middle Street, along with the south side (eastbound lane) of Broad Street closed to parking from 12:00 a.m. until the conclusion of the parade; and

WHEREAS the Interim 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 400-800 blocks of George Street, 400-600 blocks of Broad Street, and 200-300 blocks of Middle Street be closed to vehicular traffic from 10:00 a.m. until 2:00 p.m., along with the south side (eastbound lane) of Broad Street shall be closed to parking from 12:00 a.m. until the conclusion of the parade on May 21, 2022, for the Sudan Shriners Spring Ceremonial Parade.

ADOPTED THIS 22nd DAY OF MARCH 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK



CITY OF NEW BERN

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.

Parade – 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.

Public Assembly – 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.

Name of Event/Activity: Shriners Parade

Organization Name: Sudan Shriners

Responsible Contact: Sharon A. Evans

Address: P. O. Box 12829

City: New Bern State: NC Zip code: 28561

Phone: 252-637-5197

Alternate Phone: _____

Email: sevens@sudanshriner.com

street
Closing

Type of Event:

☐ Demonstration

☐ Festival

☒ Parade

Date of Event: May 21, 2022

Proposed Rain Date: _____

Event Set up time: 10:00

Event Tear Down Completed Time: 14:00

2pm

Event Start Time: 12:00

Event End Time: 13:00

What is the specific location and/or route of the proposed event? (Attach additional information if needed)

The route will follow along George St. to Broad Street, onto Middle St., and disband on S. Front St., near BB&T and the DoubleTree.

Note: A detailed map of the proposed route as well as a specific list of streets is required. The specific location of the Public Assembly must include the aerial overview with location marked. **Festivals/Events require detailed aerial map with complete layout.**

What is the purpose of this event? Please be detailed in your description - (Attach additional information if needed)

The Spring Ceremonial parade is being held in New Bern because it is the home of Sudan's Potentate and is a positive exposure and public relations for the Shriners and the citizens of New Bern

Estimated attendance: 700; Attendance not to exceed: 800

*Note: If more than 1,000 in attendance is expected 1) **Proof of Crowd Manager Training Certification is required.** Training is available at the following link: http://www.newbernnc.gov/departments/fire_department/crowd_manager_training.php 2) **Public Safety Plan is required.** Information must be submitted with application. For additional info, please contact the Fire Marshall at 252-639-2931.

Tents # _____ Sizes _____ Provide additional info as needed (Note: Tents 700 sq. ft. or bigger must be inspected by Fire Marshall.

How will you handle trash generated from the event?

We are requesting # _____ trash cans.

☐ We will provide our own bags & dispose of any trash generated ourselves.

☐ We request that City Staff dispose of all trash generated. We understand additional fees will be charged for this service, including the cost of labor, and materials (bags, etc.) used.

Are you requesting any City of New Bern Street Closures?

☒ Yes*

☐ No

*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:

George St., Broad St., and Middle Street / S. Front St.

Are you requesting any State Road or Bridge closures?

☐ Yes*

☒ No

*If yes, a 90 day notice and application is required by the NCDOT for in order to consider state roads or bridges. For additional information, please call NCDOT Office at 252-439-2816. The State Road/Bridge Closure permit must be attached to this application.

If this event includes the use of floats, vehicles, placards, loud speakers, or mechanical devices of any type, please provide a detailed explanation of their use, purpose and number.

Will Inflatables or other Play features be part of this event?

☐ Yes

☒ No (Additional insurance may be required)

Will Food Vendors or Commercial/Non-Profit vendors be part of this event?

☐ Yes

☒ No

(If you answered YES, Additional Fees apply. A detailed list of all vendors is required.)

The following items are required and must be attached at the time of Application:

☒ A detailed map – including the location, route with beginning and ending point and street names included.

☐ Petition of Signatures – of business/residents affected – If roads are closed.

The following items are required within two (2) business days of the event or event shall be cancelled:

☒ Certificate of Insurance – Listing the City of New Bern, PO Box 1129, New Bern, NC as "Additional Insured".

☐ List of all food/commercial/non-profit vendors.

☐ Payment in full of applicable fees and charges.

I attest that I am authorized on behalf of this group/organization to request the permit for the activities prescribed herein. I understand that this application must be submitted with full details and attachments. I understand that additional fees and charges may be incurred. Those charges include set-up tear down time for staff, rental of barricades, Public Safety, Trash collection, damages, etc. I further understand that failure to provide the requested information within the specified timelines shall result in application being denied. I agree to indemnify and hold harmless the City of New Bern, its departments, agents, employees, officials and volunteers for any injury, illness or damage to person or property during this activity.

The following items must be submitted with Application:

☐ Completed & Signed Application

☐ Detailed maps of parade route and/or festival layout

☐ Petition of signatures (if road closure is requested)

☐ Proof of Crowd Manager training & Public Safety Plan (if attendance is 1,000 or more)

Sharon Evans, Office Manager

3-2-22

Authorized Signature

Date

All documents have been provided and this application is recommended for approval

Administrative Support Supervisor

Date

This application has been approved.

Harri Warren

3-10-2022

Director of Parks & Recreation

Date

Total Anticipated Charges

Barricades: # _____

\$ _____

Trash Collection:

\$ _____

City Staff:

\$ _____

Vendor Fees

\$ _____

Park/Facility Rental:

\$ _____

Total Due: \$

* ☐ Have HOA's been notified? ☐ Yes ☐ No Spoke with: _____

* ☐ Approved by Department

Date: _____

Staff Initials: _____

* ☐ Submitted for Board Approval

Date: _____

Staff Initials: _____

* ☐ All Paperwork collected

Date: _____

Staff Initials: _____

* ☐ All fees collected \$ _____

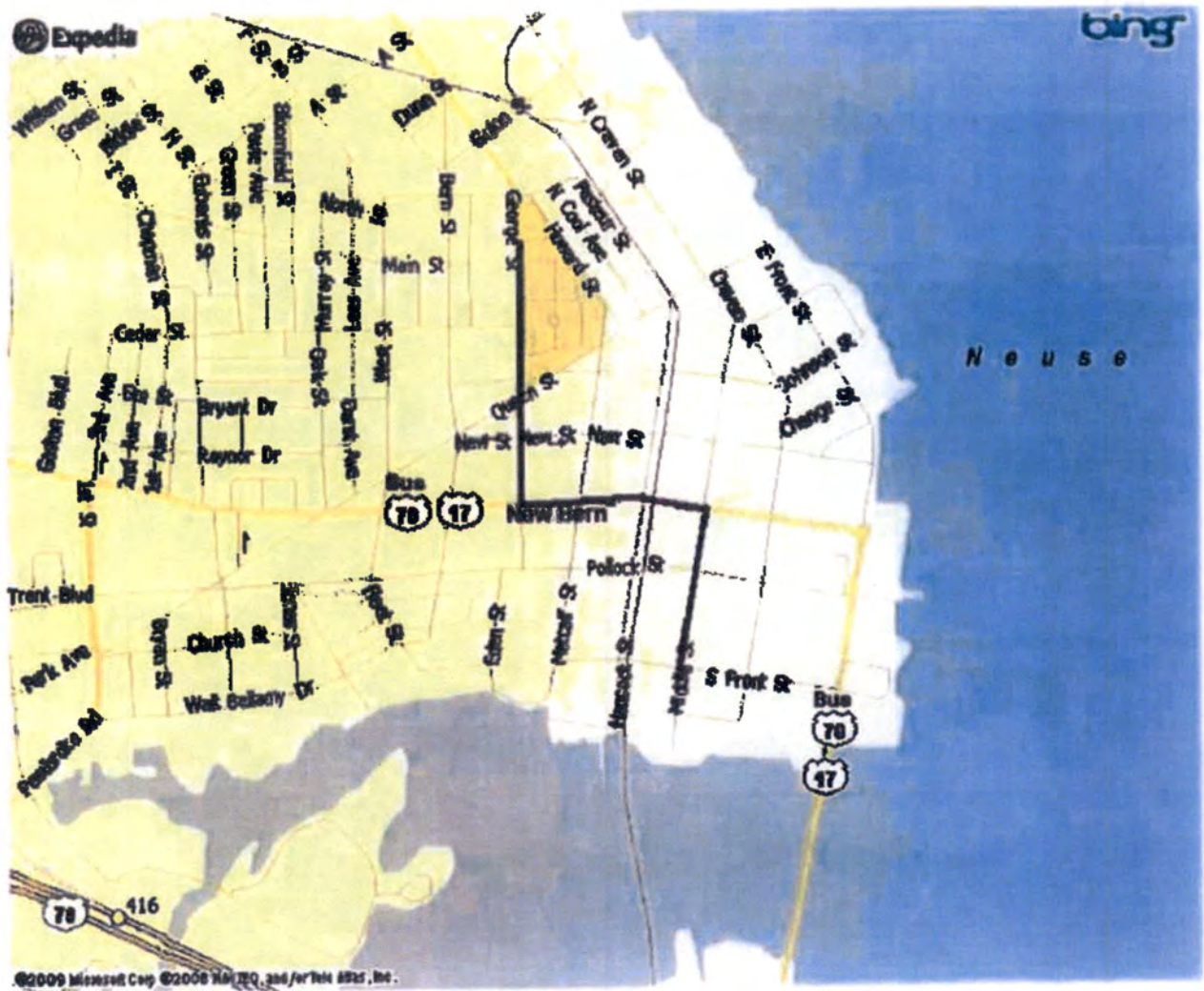
Date: _____

Staff Initials: _____

City Sponsored Event

☐ Yes ☐ No

Updated 6-3-2019



Sudan Shriners

Parade Map

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to close a specific street to vehicular traffic for Swiss Bear Downtown Street Closures.

Date of Meeting: 3/22/2022	Ward # if applicable: Ward 1
Department: Parks & Recreation	Person Submitting Item: Kari Warren, Interim Director of Parks & Recreation
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Swiss Bear has made a request to close portions of downtown streets to allow for the operation of street cafes and family entertainment. The affected streets include the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern & Grill to Pollock Street. The dates requested vary beginning on Friday, April 1, 2022, through Friday, December 9, 2022, 5:00 p.m. until 10:30 p.m., unless otherwise specified.
Actions Needed by Board:	Adopt the Resolution
Backup Attached:	Resolution-Memo-Maps- Application

Is item time sensitive? ☐Yes ☒No

Will there be advocates/opponents at the meeting? ☐Yes ☒No

Cost of Agenda Item:

If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? ☐Yes ☒No

Additional Notes:

Aldermen

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



Kari Warren, CPRP
Interim Director of Parks & Recreation

Dana E. Outlaw
Mayor
Foster Hughes
City Manager
Brenda E. Blanco
City Clerk
Kimberly A. Ostrom
Director of Finance



Memo To: Mayor and Board of Aldermen
From: Kari Warren, CPRP
Interim Director of Parks and Recreation
Re: Downtown Street Closure Request

Background Information:

Swiss Bear has made a request to close portions of downtown streets to allow for the operation of street cafes and family entertainment. The affected streets include the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern & Grill to Pollock Street. The dates requested vary beginning on Friday, April 1, 2022, through Friday, December 9, 2022, 5:00pm until 10:30pm, unless otherwise specified.

Recommendation:

The Interim Director of Parks and Recreation recommends approval and request the Board adopt a Resolution approving the request.

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

1307 Country Club Rd
New Bern, NC 28562
Office 252 639-2901
Fax 252 636-4138

RESOLUTION

THAT WHEREAS, Swiss Bear Downtown Development Corporation is planning their series of restaurant street cafes and family entertainment activities and has requested the 200-300 block of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern and Grill to Pollock Street be closed to vehicular traffic from 5:00 p.m. until 10:30 p.m., unless otherwise specified below. The dates of the closures are as follows:

- Friday, April 1, 2022, and Saturday, April 2, 2022,
- Friday, April 8, 2022,
- Friday, April 15, 2022,
- Sunday, April 17, 2022, from 6:00 a.m. until 3:00 p.m.,
- Friday, April 22, 2022,
- Friday, April 29, 2022,
- Friday, May 6, 2022,
- Sunday, May 8, 2022, from 6:00 a.m. until 3:00 p.m.,
- Friday, May 13, 2022, from 5:00 p.m. until 11:59 p.m.,
- Saturday, May 14, 2022, from 12:00 a.m. until 3:59 a.m. and 3:31 p.m. until 10:30 p.m.,
- Friday, May 20, 2022,
- Friday, May 27, 2022,
- Friday, June 3, 2022,
- Friday, June 10, 2022,
- Friday, June 17, 2022, and Saturday, June 18, 2022,
- Friday, June 24, 2022
- Friday, July 1, 2022,
- Friday, July 8, 2022,
- Friday, July 15, 2022, and Saturday, July 16, 2022,
- Friday, July 22, 2022,
- Friday, July 29, 2022,
- Friday, August 5, 2022,
- Friday, August 12, 2022,
- Friday, August 19, 2022,
- Friday, August 26, 2022,
- Friday, September 2, 2022,
- Friday, September 9, 2022, and Saturday, September 10, 2022,
- Friday, September 16, 2022,
- Friday, September 23, 2022,
- Friday, September 30, 2022,
- Friday, October 14, 2022,
- Friday, October 21, 2022, through Saturday, October 22, 2022, from 4:00 p.m. until 10:30 p.m.,
- Friday, October 28, 2022,

- Saturday, October 29, 2022, from 3:00pm until 10:30 p.m.,
- Friday, November 11, 2022,
- Friday, November 25, 2022, from 3:00 p.m. until 10:30 p.m., and
- Friday, December 9, 2022, from 4:00 p.m. until 10:30 p.m.

WHEREAS, the Interim 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 the 200-300 blocks of Middle Street, 300 block of Pollock Street, and the 200 block of Craven Street from Morgan's Tavern and Grill to Pollock Street shall be closed to vehicular traffic from 5:00 p.m. until 10:30 p.m., unless otherwise specified, on the following dates:

- Friday, April 1, 2022, and Saturday, April 2, 2022,
- Friday, April 8, 2022,
- Friday, April 15, 2022,
- Sunday, April 17, 2022, from 6:00 a.m. until 3:00 p.m.,
- Friday, April 22, 2022,
- Friday, April 29, 2022,
- Friday, May 6, 2022,
- Sunday, May 8, 2022, from 6:00 a.m. until 3:00 p.m.,
- Friday, May 13, 2022, from 5:00 p.m. until 11:59 p.m.,
- Saturday, May 14, 2022, from 12:00 a.m. until 3:59 a.m. and 3:31 p.m. until 10:30 p.m.,
- Friday, May 20, 2022,
- Friday, May 27, 2022,
- Friday, June 3, 2022,
- Friday, June 10, 2022,
- Friday, June 17, 2022, and Saturday, June 18, 2022,
- Friday, June 24, 2022
- Friday, July 1, 2022,
- Friday, July 8, 2022,
- Friday, July 15, 2022, and Saturday, July 16, 2022,
- Friday, July 22, 2022,
- Friday, July 29, 2022,
- Friday, August 5, 2022,
- Friday, August 12, 2022,
- Friday, August 19, 2022,
- Friday, August 26, 2022,
- Friday, September 2, 2022,
- Friday, September 9, 2022, and Saturday, September 10, 2022,
- Friday, September 16, 2022,

- Friday, September 23, 2022,
- Friday, September 30, 2022,
- Friday, October 14, 2022,
- Friday, October 21, 2022, through Saturday, October 22, 2022, from 4:00 p.m. until 10:30 p.m.,
- Friday, October 28, 2022,
- Saturday, October 29, 2022, from 3:00pm until 10:30 p.m.,
- Friday, November 11, 2022,
- Friday, November 25, 2022, from 3:00 p.m. until 10:30 p.m., and
- Friday, December 9, 2022, from 4:00 p.m. until 10:30 p.m.

ADOPTED THIS 22nd DAY OF MARCH 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

RECEIVED

MAR 10 2022

BY: ND**CITY OF NEW BERN****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.

Parade – 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.

Public Assembly – 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.

Name of Event/Activity: Downtown Street Closures for Street Cafes and family entertainment

Organization Name: Swiss Bear, Inc.

Responsible Contact: Lynne Harakal

Address: PO Box 597, 316 S. Front St.

City: New Bern State: NC Zip code: 28563

Phone: 252-626-6280 Alternate Phone: 252-288-9825

Email: director@swissbear.org

Type of Event:

☐ Demonstration

☒ Festival

☐ Parade

Date of Event: See attachment

Proposed Rain Date: N/A

Event Set up time: 5:00pm

Event Tear Down Completed Time: 10:30pm

Event Start Time: 5:30pm

Event End Time: 10:00pm

What is the specific location and/or route of the proposed event? (Attach additional information if needed)
See attachment

Note: A detailed map of the proposed route as well as a specific list of streets is required. The specific location of the Public Assembly must include the aerial overview with location marked. **Festivals/Events require detailed aerial map with complete layout.**

What is the purpose of this event? Please be detailed in your description - (Attach additional information if needed)
It is an economic development event for Downtown businesses, intended to draw locals and tourists to Downtown New Bern

Estimated attendance: 1000; Attendance not to exceed: 1000

*Note: If more than 1,000 in attendance is expected 1) **Proof of Crowd Manager Training Certification is required.** Training is available at the following link: http://www.newbernnc.gov/departments/fire_department/crowd_manager_training.php 2) **Public Safety Plan is required. Information must be submitted with application.** For additional info, please contact the Fire Marshall at 252-639-2931.

Tents # N/A Sizes _____ Provide additional info as needed (Note: Tents 700 sq. ft. or bigger must be inspected by Fire Marshall.

How will you handle trash generated from the event?

We are requesting # _____ trash cans.

☐ We will provide our own bags & dispose of any trash generated ourselves.

☐ We request that City Staff dispose of all trash generated. We understand additional fees will be charged for this service, including the cost of labor, and materials (bags, etc.) used.

I don't expect extra trash volumes - restaurants will handle most of the trash

Are you requesting any City of New Bern Street Closures?

☒ Yes*

☐ No

*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: See attachment

Are you requesting any State Road or Bridge closures?

☐ Yes*

☒ No

*If yes, a 90 day notice and application is required by the NCDOT for in order to consider state roads or bridges. For additional information, please call NCDOT Office at 252-439-2816. The State Road/Bridge Closure permit must be attached to this application.

If this event includes the use of floats, vehicles, placards, loud speakers, or mechanical devices of any type, please provide a detailed explanation of their use, purpose and number. _____

Will Inflatables or other Play features be part of this event?

☐ Yes

☒ No (Additional insurance may be required)

Will Food Vendors or Commercial/Non-Profit vendors be part of this event? ☐ Yes ☒ No

(If you answered YES, Additional Fees apply. A detailed list of all vendors is required.)

The following items are required and must be attached at the time of Application:

☒ A detailed map – including the location, route with beginning and ending point and street names included.

☒ Petition of Signatures – of business/residents affected – If roads are closed.

The following items are required within **two (2) business days of the event or event shall be cancelled**:

☐ Certificate of Insurance – Listing the City of New Bern, PO Box 1129, New Bern, NC as "Additional Insured".

☐ List of all food/commercial/non-profit vendors.

☐ Payment in full of applicable fees and charges.

I attest that I am authorized on behalf of this group/organization to request the permit for the activities prescribed herein. I understand that this application must be submitted with full details and attachments. I understand that additional fees and charges may be incurred. Those charges include set-up tear down time for staff, rental of barricades, Public Safety, Trash collection, damages, etc. I further understand that failure to provide the requested information within the specified timelines shall result in application being denied. I agree to indemnify and hold harmless the City of New Bern, its departments, agents, employees, officials and volunteers for any injury, illness or damage to person or property during this activity.

The following items must be submitted with Application:

☐ Completed & Signed Application

☐ Detailed maps of parade route and/or festival layout

☐ Petition of signatures (if road closure is requested)

☐ Proof of Crowd Manager training & Public Safety Plan (if attendance is 1,000 or more)

Dynne Harakal

Authorized Signature

3/10/2022

Date

All documents have been provided and this application is recommended for approval

Administrative Support Supervisor

Date

This application has been approved.

John Warren

Director of Parks & Recreation

3-11-2022

Date

Total Anticipated Charges

Barricades: # _____
\$ _____

Trash Collection: \$ _____

City Staff: # _____
\$ _____

Vendor Fees # _____
\$ _____

Park/Facility Rental: \$ _____

Total Due: \$

- ☐ Have HOA's been notified? ☐ Yes ☐ No Spoke with: _____
- ☐ Approved by Department Date: _____ Staff Initials: _____
- ☐ Submitted for Board Approval Date: _____ Staff Initials: _____
- ☐ All Paperwork collected Date: _____ Staff Initials: _____
- ☐ All fees collected \$ _____ Date: _____ Staff Initials: _____

City Sponsored Event

☐ Yes ☐ No

Updated 6-3-2019

Street Closure Schedule

2022

Unless noted in red, all street closures are from 5pm to 10:30pm

April

- 4/1 (Friday)
- 4/2 (NB Civic Theatre outdoor event)
- 4/8 (Artwalk, Heritage Homes Tour, Friday)
- 4/15 (Friday)
- 4/17 6am-3pm (Easter)
- 4/22 (Friday)
- 4/29 (Friday)

May

- 5/6 (Friday)
- 5/8 – 6am-3pm (Mother's Day)
- 5/13 – 5pm on 5/13-11:59pm (Artwalk, Friday)
- 5/14 – 12:00am-3:59am & 3:31pm-10:30pm (Antique Car Show – car show already has approval for street closures from 4am-3:30pm)
- 5/20 (Friday)
- 5/27 (Friday)

June

- 6/3 (Friday)
- 6/10 (Artwalk, Friday)
- 6/17 (Friday)
- 6/18 (River Raft Race, Camp Weekend)
- 6/24 (Friday)

July

- 7/1 (Friday)
- 7/8 (Artwalk, Friday)
- 7/15 (Friday)
- 7/16 (Camp Weekend)
- 7/22 (Friday)
- 7/29 (Friday)

August

- 8/5 (Friday)
- 8/12 (Artwalk, Friday)
- 8/19 (Friday)
- 8/26 (Friday)

September

- 9/2 (Friday)
- 9/9 (Artwalk, Bike MS, Friday)
- 9/10 (Bike MS)
- 9/16 (Friday)
- 9/23 (Friday)
- 9/30 (Friday)

October

- 10/14 (Friday)
- 10/21-10/22 – 4pm 10/21 thru 10:30pm 10/22 (Artwalk, Ghostwalk, MumFeast!)
- 10/28 (Friday)
- 10/29 – 3pm-10:30pm (Downtown Trick-or-Treat)

November

- 11/11 (Artwalk, Friday)
- 11/25 – 3pm-10:30pm (11/25 Christmas Lighting)

December

- 12/9 – 4pm-10:30pm (Live Window Display, Artwalk)



AGENDA ITEM COVER SHEET

Agenda Item Title:

Call for a public hearing for comments on financing contracts for the City Hall Elevator Project.

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom, Finance Director
Call for Public Hearing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date of Public Hearing: 4/5/2022

Explanation of Item:	In order to proceed with financing of the City Hall Elevator Project, a public hearing must be held by the Board to receive public comments on financing contracts authorized under G.S. 160A-20 involving real property and contracts extending five or more years which requires approval by the LGC.
Actions Needed by Board:	Approve Resolution
Backup Attached:	Memo, Resolution

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: \$0.00
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen
FROM: Kimberly Ostrom – Director of Finance
DATE: March 15, 2022
RE: Call for Public Hearing on City Hall Elevator Project Financing

Background Information

At the March 8, 2022 Board of Aldermen Meeting, the Board authorized the Director of Finance to proceed with obtaining formal quotes and begin the financing process for the City Hall Elevator Project.

Request for Proposals were sent to banks on March 9, 2022 for an amount not to exceed \$3,900,000.

Because this project involves improvements to real property, the borrowing must be approved by the Local Government Commission. As a result, a public hearing is required pursuant to G.S 160A-20. Attached is a resolution calling for a public hearing to be held at its next meeting on April 12, 2022 for comments on said financing.

Requested Action

It is recommended that the Board adopt the enclosed resolution at its meeting to be held on March 22, 2022.

RESOLUTION BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN

WHEREAS, the City of New Bern is required to hold a public hearing to receive public comments on financing contracts authorized under G.S. 160A-20 involving real property and contracts extending five or more years which requires approval by the Local Government Commission.

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

That a public hearing will be conducted by the Board of Aldermen of the City of New Bern at 6:00 p.m., or as soon thereafter as the matter may be reached, on the 12th day of April, 2022 in the City Hall Courtroom in said City for public discussion on a request to enter into a financing agreement for the City Hall Elevator Project.

ADOPTED THIS THE 22nd DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Presentation on Affirmative Action Plan by New Bern People's Assembly

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Administration	Person Submitting Item: Foster Hughes
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	On behalf of New Bern People's Assembly, Jim Hackett or another representative of the group will provide a presentation on an Affirmative Action Plan
Actions Needed by Board:	Informational only
Backup Attached:	PowerPoint, demography information, job description for DEI director, info on hiring task force

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

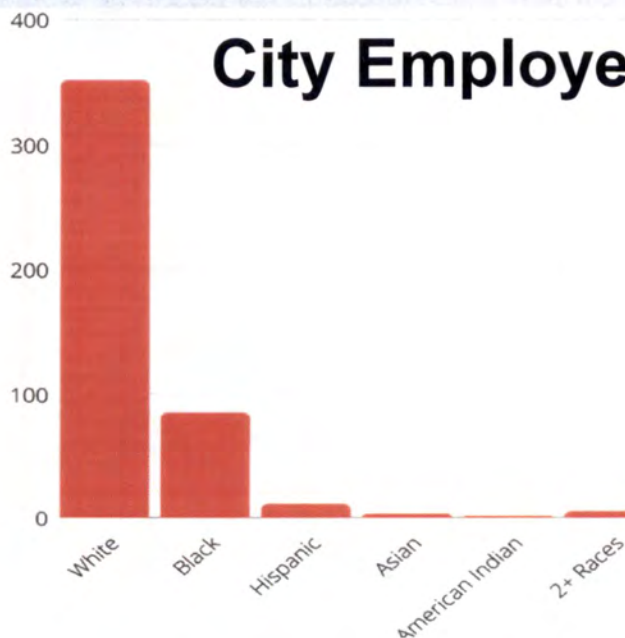
Additional Notes:

Affirmative Action & the City of New Bern

Presented on behalf of the community by the New Bern People's Assembly

1

City Employee Demographics



456 employees (356 male & 100 female)

Of the people employed by the city of New Bern, 77% are White & 18.6% are Black

2

City of New Bern Employee Demographics by Dept.

City of New Bern
Demographics as of December 7, 2021

TOTAL EMPLOYEES 464

ADMINISTRATION			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	1	1	
Native Hawaiian or other Pacific Islander	0		
White	10	4	6
Two or More Races	1	1	
TOTAL ADMINISTRATION	12	6	6

DEVELOPMENT SERVICES			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	3	1	2
Native Hawaiian or other Pacific Islander	0		
White	15	10	5
Two or More Races	2		2
TOTAL DEVELOPMENT SERVICES	20	11	9

FINANCE			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	2	1	1
Native Hawaiian or other Pacific Islander	0		
White	9	2	7
Two or More Races	0		
TOTAL FINANCE	11	3	8

FIRE			
Race		Male	Female
Hispanic or Latino	1	1	
American Indian or Alaska Native	0		
Asian	0		
Black or African American	5	4	1
Native Hawaiian or other Pacific Islander	0		
White	69	66	3
Two or More Races	1	1	
TOTAL FIRE DEPARTMENT	76	72	4

3

City of New Bern Employee Demographics by Dept.

HUMAN RESOURCES			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	1		1
Native Hawaiian or other Pacific Islander	0		
White	4	1	3
Two or More Races	0		
TOTAL HUMAN RESOURCES	5	1	4

PARKS & RECREATION			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	16	11	5
Native Hawaiian or other Pacific Islander	0		
White	13	9	4
Two or More Races	0		
TOTAL PARKS AND RECREATION	29	20	9

PUBLIC WORKS			
Race		Male	Female
Hispanic or Latino	1	1	
American Indian or Alaska Native	1	1	
Asian	0		
Black or African American	7	6	1
Native Hawaiian or other Pacific Islander	0		
White	36	34	2
Two or More Races	0		
TOTAL PUBLIC WORKS	45	42	3

POLICE			
Race		Male	Female
Hispanic or Latino	8	7	1
American Indian or Alaska Native	1	1	
Asian	2	2	
Black or African American	19	9	10
Native Hawaiian or other Pacific Islander	0		
White	84	68	16
Two or More Races	0	0	
TOTAL POLICE	114	87	27

UTILITIES			
Race		Male	Female
Hispanic or Latino	5	3	2
American Indian or Alaska Native	0		
Asian	1	1	
Black or African American	26	15	11
Native Hawaiian or other Pacific Islander	0		
White	119	97	22
Two or More Races	1	1	
TOTAL UTILITIES	152	117	35

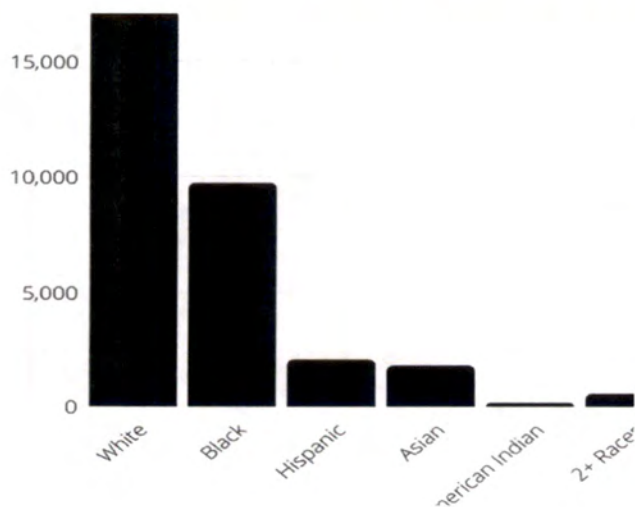
4

—

How does this compare to the city's population?

5

City of New Bern Demographics



31,291 people
(47.8% male &
52.2% female)

New Bern's
population is 58.9%
White & 30.4% Black

6

Black citizens are not proportionately represented in the city government's workforce.

7

We do *not* want...

- A quota system or any policy designed to merely meet a numerical goal.

8



We do *not* want...

- A hiring process that only takes into account a person's identity without concern for qualification or capability.

9



We do *not* want...

- Forced diversity based only on numbers without regard for the spirit of inclusivity.

10



We do want...

- A genuine, dedicated attempt to proactively address the community concern that our city personnel do not accurately reflect the people of our city.

11



We do want...

- Expanded access to city employment opportunities for qualified workers who are members of underrepresented groups.


12



We do want...

- Proactive efforts to create and support a diverse, equitable, inclusive city work environment where all workers thrive.

13



Diversity, Equity, & Inclusion Director

- Accountability
- Advocacy
- Education

14



DEI Director Hiring Task Force

- The community should have input in the hiring of such a significant position.
- A citizen task force will ensure we move forward together with transparency, accountability, and good faith.

15



DEI Director Hiring Task Force

- 7 trusted community members.
- Must be a member of a local organization.
- Membership should reflect the demographics of the citizens most affected by this position.

16




DEI Director Hiring Task Force

- 3 members will be appointed by the Board of Aldermen.
- 4 members will be appointed by the New Bern People's Assembly.

17

We ask the members of the board to adopt this plan and create this position as soon as possible.



18

City of New Bern
Demographics as of December 7, 2021

TOTAL EMPLOYEES	464
------------------------	------------

ADMINISTRATION			
Race		Male	Female
Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	1	1	
Native Hawaiian or other Pacific Islander	0		
White	10	4	6
Two or More Races	1	1	
TOTAL ADMINISTRATION	12	6	6

DEVELOPMENT SERVICES			
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American Indian or Alaska Native	0		
Asian	0		
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Native Hawaiian or other Pacific Islander	0		
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Two or More Races	2		2
TOTAL DEVELOPMENT SERVICES	20	11	9

FINANCE			
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Asian	0		
Black or African American	2	1	1
Native Hawaiian or other Pacific Islander	0		
White	9	2	7
Two or More Races	0		
TOTAL FINANCE	11	3	8

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Hispanic or Latino	0		
American Indian or Alaska Native	0		
Asian	0		
Black or African American	1		1
Native Hawaiian or other Pacific Islander	0		
White	4	1	3
Two or More Races	0		
TOTAL HUMAN RESOURCES	5	1	4

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White	36	34	2
Two or More Races	0		
TOTAL PUBLIC WORKS	45	42	3

POLICE			
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TOTAL POLICE	114	87	27

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Hispanic or Latino	5	3	2
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Asian	1	1	
Black or African American	26	15	11
Native Hawaiian or other Pacific Islander	0		
White	119	97	22
Two or More Races	1	1	
TOTAL UTILITIES	152	117	35

Director of Diversity, Equity, and Inclusion for the City of New Bern

This position reports to the City Manager.

The Director of Diversity, Equity, and Inclusion will lead the development of a vision and strategic initiatives based on the values and principles expressed by the DEI plan adopted by the City of New Bern. The primary purposes of this position are accountability, advocacy and education.

The director will focus on measuring and monitoring diversity within the city's workforce; they will regularly communicate with managers, employees, and the public regarding the city's diversity goals and outcomes. Transparency is a key factor in developing community trust as we continue to strive for more equitable outcomes for the people of New Bern. This position will be responsible for communicating with city leaders, management, employees, and citizens to ensure that the city is educated and updated on the ways in which the city is pursuing racial equity and able to provide input on the efficacy of the programs in place. They will lead the development and participate in the implementation of proactive diversity, equity, and inclusion initiatives across all departments. This position will develop programs and practices to increase and maintain diversity, including creating talent pipelines through positive relationships with sources of qualified candidates who are underrepresented in the city workforce. It will regularly assess barriers to diversity in recruitment and retention while working with other department leaders to identify lessons learned and share next and best practices.

As part of the ongoing process of ensuring a diverse, equitable, and inclusive workplace, the Director of Diversity, Equity and Inclusion will provide training opportunities and other support to all departments in order to develop a sustainable culture of diversity, equity, and inclusion at every level. This person will be an advocate for innovative and sensitive solutions that encourage and sustain adoption of the DEI mindset. They will be available to consult on city-wide matters of equity and disparities.

Responsibilities:

Work with city leaders, management, employees, and citizens to advance the city's Racial Equity Mission and Vision Statements.

Develop performance indicators; collect, analyze, and present diversity metrics, progress, and program effectiveness. Make this data available to the general public and present annually to the Board of Aldermen.

Ensure a diverse, qualified applicant pool for open positions by publicizing job opportunities in all available forums and making connections with candidates via job fairs, educational institutions, and other innovative means.

Work with HR to implement an online applicant tracking system (such as NeoGov) to analyze applicant pool and hiring process. Use this data to evaluate program effectiveness and update strategies for inclusive hiring. Present this data to the Board of Aldermen annually.

Develop and maintain productive relationships with sources of qualified applicants, including HBUs in surrounding cities, local high schools, local community colleges, and other underutilized networks.

Develop and oversee paid internship programs across a variety of departments.

Define project plans and lead implementation; develop necessary processes, documentation, and communications necessary for execution and ongoing support.

Define training initiatives; organize and oversee staff training and development programs.

Assess and update city's DEI plan annually; present findings, progress, and goals to the people of the city before the Board of Aldermen.

Develop, sponsor, and promote employee groups and networks based on shared interests.

Develop and manage budget; research and apply for grants to help fund initiatives and programs.

Work with the Director of HR to ensure compliance with the city's DEI plan, Equal Employment Opportunity, Americans with Disabilities Acts, and other relevant requirements.

Promote transparency by making available to the public the city's DEI plan, current employment demographics, hiring policies, diversity goals, and progress.

Ensure city leaders, management, employees, and citizens are fluent in a shared language regarding racial equity and inclusion. This can include training programs, public workshops, presentations at Board of Aldermen meetings, social media postings, and additions to the city website.

Qualifications:

- Success implementing sustainable DEI measures in similarly structured organizations
- Excellent verbal and written communication abilities
- High-quality interpersonal skills and the ability to create collaborative partnerships
- Empathy and calm demeanor during high-pressure situations
- Experience with a wide range of disciplines, interests, and people
- Sharp analytical and decision-making skills
- Experience with project management and organization development
- Demonstrated abilities to lead large-scale projects
- Experience facilitating change and encouraging others to seek innovative solutions

Diversity, Equity, and Inclusion Director Hiring Task Force

The Director of Diversity, Equity, and Inclusion will play a critical role in shaping the city's future as a place where all people have the opportunity to thrive. To ensure this important position will be filled by a person with the public's trust, we propose that the city create a DEI Director Hiring Task Force to allow community input in the hiring process. We believe that citizen oversight is a vital component to developing trust between the community and its leaders. This task force will ensure we all move forward together with transparency, accountability, and good faith.

We propose that the Hiring Task Force consist of seven community members. Those making appointments are encouraged to carefully consider the importance of this task force and recognize that its membership should reflect the demographics of the citizens most affected by this position's responsibilities. A qualified nominee will be a member of a local community organization, in order to represent the will of more than the seven individual members. The Board of Aldermen will appoint three members. The New Bern People's Assembly will appoint four members.

We ask that this task force be appointed within 60 days of the creation of the position. We ask that the position be filled within 90 days of the appointment of the task force.

Task force members will elect a chair and co-chair at the first meeting.

Responsibilities include:

Reviewing applications

Interviewing candidates

Advising City Manager and Board of Aldermen on all matters related to the hiring process of this position.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Conduct Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 –
 “Endorsements on Major Subdivision Plats” of the Land Use Ordinance.

Date of Meeting: 3/22/2022	Ward # if applicable: All
Department: Development Services	Person Submitting Item: Matt Schelly, Interim Director of Development Services
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: 3/22/2022

Explanation of Item:	Conduct Public Hearing and Consider Adopting an Ordinance to Amend Section 15-80 of the Land Use Ordinance “Endorsements on Major Subdivision Plats”.
Actions Needed by Board:	Adopt an Ordinance
Backup Attached:	Memo, Ordinance, Draft Redline Version of text amendment

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Notes:



MEMORANDUM

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

FROM: Matt Schelly, Interim Director Development Services

DATE: March 11, 2022

SUBJECT: Conduct a Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 – “Endorsements on Major Subdivision Plats” of the Land Use Ordinance.

Background

Development Services is recommending an amendment to Section 15-80 of the Land Use Ordinance “Endorsements on Major Subdivision Plats” to be in accordance with N.C.G.S. 47-30.

During their February 1, 2022, meeting the Planning and Zoning Board unanimously voted in favor of the Amendment to Section 15-80.

Recommendation

Conduct a Public Hearing and Consider Adopting an Ordinance Amending Section 15-80 – “Endorsements on Major Subdivision Plats” of the Land Use Ordinance.

Please contact Matt Schelly at 252-639-7583 should you have questions or need additional information.

AN ORDINANCE TO AMEND PART II. "MAJOR AND MINOR SUBDIVISIONS" OF ARTICLE IV. "PERMITS AND FINAL PLAT APPROVAL" OF APPENDIX A "LAND USE" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Planning and Zoning Board of the City of New Bern unanimously recommends that certain amendments be made to Appendix A "Land Use" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the City's development services staff further recommends approval of said proposed amendments; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Section 15-80. "Endorsements on major subdivision plats." of Article IV. "Permits and Final Plat Approval" of Appendix A "Land Use" 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 Section 15-80. "Endorsements on major subdivision plats." of Article IV. "Permits and Final Plat Approval" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (3) in its entirety and inserting in its stead the following:

" ...

(3) Certificate of survey and accuracy.

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ____, Page ____ of the Register of Deeds Office of Craven County); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ____, Page ____; that the ratio of precision or positional accuracy as calculated is ____; that this plat was prepared in accordance with N.C.G.S. 47-30 as amended. Witness my original signature, license number and seal this ____ day of ____, A.D., ____.

Professional Land Surveyor
License Number

Seal or Stamp

..."

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

ADOPTED this 22nd day of March, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

RED-LINED VERSION

AN ORDINANCE TO AMEND PART II. "MAJOR AND MINOR SUBDIVISIONS" OF ARTICLE IV. "PERMITS AND FINAL PLAT APPROVAL" OF APPENDIX A "LAND USE" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Planning and Zoning Board of the City of New Bern unanimously recommends that certain amendments be made to Appendix A "Land Use" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the City's development services staff further recommends approval of said proposed amendments; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Section 15-80. "Endorsements on major subdivision plats." of Article IV. "Permits and Final Plat Approval" of Appendix A "Land Use" 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 Section 15-80. "Endorsements on major subdivision plats." of Article IV. "Permits and Final Plat Approval" of Appendix A "Land Use" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting subsection (3) in its entirety and inserting in its stead the following:

"...
(3) Certificate of survey and accuracy.
I, _____, hereby certify that this map plat was ~~(drawn by me)~~(drawn under my supervision)-from ~~(an actual survey made by me)~~(an actual survey made under my supervision)(a deed description recorded in Book ____, Page ____ of the Register of Deeds Office of Craven County) ~~that the error of closure as calculated by latitudes and departures is 1: ____;~~ that the boundaries not surveyed are ~~shown as broken lines plotted~~ clearly indicated as drawn from information found in Book ____, Page ____; that the ratio of precision or positional accuracy as calculated is ____; and that this map plat was prepared in accordance with N.C.G.S. 47-30 as amended. Witness my hand original signature, license number and seal this ____ day of ____, A.D., ____.

Seal or Stamp

Registered Professional Land Surveyor
License Number

..."

SECTION 2. This ordinance shall be effective from and after the date of its adoption.
ADOPTED this 8th day of March, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan.

Date of Meeting: 3/22/2022	Ward # if applicable: All
Department: Development Services	Person Submitting Item: Matt Schelly, Interim Director of Development Services
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: 3/22/2022

Explanation of Item:	Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan.
Actions Needed by Board:	Adopt a Resolution
Backup Attached:	Memo, Resolution, Resiliency Plan

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Notes:



MEMORANDUM

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

FROM: Matt Schelly, Interim Director Development Services

DATE: March 11, 2022, 2022

SUBJECT: Conduct a Public Hearing and Consider Adopting a Resolution Approving the Resiliency Plan.

City Staff along with consultant partners Moffat & Nichol, NEMAC + Fernleaf, and the Craig Group have been working on a multi-phase, long term plan. The implementation of the Resiliency Plan will allow the City of New Bern, its residents, businesses, and community stakeholders to be better prepared for and able to respond to future rising tides and extreme storms, embrace equitable and sustainable development, increase economic security, protect public health, and promote its cultural heritage.

Staff will present the Resiliency Plan at the Public Hearing which will be held on March 22, 2022. For any questions including a draft copy of the full plan, you may visit: https://www.newbernnc.gov/departments/development_services/resiliency.php

Please contact Matt Schelly at 252-639-7583 should you have questions or need additional information.

RESOLUTION

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

That the New Bern Resiliency Plan prepared by the Resiliency Consultant Team and City Staff, 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 for and on behalf of the City.

ADOPTED THIS 22nd DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution to Approve a General Warranty Deed between Habitat for Humanity of Craven County NC, Christine Cox, and the City involving property at 1904 Wake Street

Date of Meeting: 3/22/2022	Ward # if applicable: 2
Department: City Attorney	Person Submitting Item: Jaimee Bullock-Mosley, Asst. City Attorney
Call for Public Hearing: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	To approve the City's execution of a general warranty deed for the conveyance of property at 1904 Wake Street by Habitat to release any rights retained by the City by virtue of a Transfer and Reversion Agreement
Actions Needed by Board:	Adopt resolution
Backup Attached:	Resolution, Memo and Deed

Is item time sensitive? <input type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it be budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:

MEMORANDUM

TO: Mayor and Members of the Board
City Manager

FROM: Jaimee Bullock Mosley, Assistant City Attorney

RE: Property at 1904 Wake Street conveyed by the City to Habitat for Humanity of
Craven County NC

DATE: March 11, 2022

In September of 2019, the City conveyed numerous properties, including property at 1904 Wake Street (Craven County parcel identification number 8-037-100) to Habitat for Humanity of Craven County NC to be developed as affordable housing for persons of low and moderate income. This property is subject to the terms and conditions of a Transfer and Reversion Agreement. The property has now been developed as low-income housing, and Habitat has requested that the City execute the deed to the buyer for the sole purpose of releasing any rights retained by the City by virtue of the Transfer and Reversion Agreement.

RESOLUTION

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

That the General Warranty Deed by and between Habitat for Humanity of Craven County NC, Christine Cox, and the City of New Bern, 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 for and on behalf of the City.

ADOPTED THIS THE 22nd DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Prepared by:
Aaron D. Arnette
Attorney at Law
Sumrell Sugg, P.A.
416 Pollock Street
New Bern, NC 28560

The property herein conveyed DOES NOT include the primary residence of a Grantor.

Parcel No. 8-037-100
Revenue Stamps \$ _____

NORTH CAROLINA
CRAVEN COUNTY

GENERAL WARRANTY DEED

THIS GENERAL WARRANTY DEED, dated the ____ day of _____, 2022, is made by and between **Habitat for Humanity of Craven County NC**, a North Carolina nonprofit corporation, whose address is 930 Pollock Street, New Bern, North Carolina 28560, (herein called the "Grantor"); **Christine Cox**, whose address is 1904 Wake Street, New Bern, NC 28562, (herein called the "Grantee") and **The City of New Bern**, a North Carolina municipal corporation, whose address is P.O. Box 1129, New Bern, NC 28563, (herein called the "City"), which joins in the execution of this deed for the sole purpose set out hereinbelow.

The terms "Grantor" and "Grantee" as used herein shall mean and include the parties indicated, whether one or more, and their heirs, legal representatives, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by the context.

WITNESSETH:

WHEREAS, City conveyed to Grantor the hereinafter described real property by Deed recorded in Book 3588, Page 469 of the Craven County Registry; and

WHEREAS, the conveyance by the City to Grantor was to enable Grantor to develop the subject property as affordable housing for persons of low and moderate income in the City of New Bern, as addressed in the Transfer and Reversion Agreement dated September 24, 2019, and recorded in Book 3588, Page 459 of the Craven County Registry.

NOW THEREFORE, Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple the following described real property in the City of New Bern, Township Eight (8), Craven County, to wit:

All that certain tract or parcel of land in Number Eight (8) Township, Craven County, North Carolina, and being more particularly described as follows:

All that certain lot of land situate on the west side of Wake Street, between McKinley and New Bern Avenues, in the subdivision of Pembroke and bounded as follows, viz: beginning in the western line of Wake Street at a point one Hundred feet southwardly from McKinley Avenue and running thence southwardly with the western line of Wake Street fifty feet; thence westwardly and parallel with McKinley Avenue one hundred feet; thence northwardly and parallel with Wake Street fifty feet; thence eastwardly and parallel with McKinley Avenue one hundred feet to Wake Street, the place of beginning. Being Lot No. Three Hundred and Thirty-Eight as shown on the plan of Pembroke registered in the Office of the Register of Deeds of Craven County in Map Book 1 at Page 165.

Being that same property conveyed to Habitat for Humanity of Craven County NC by a Quit Claim Deed dated September 24, 2019 and recorded on October 15, 2019 in Book 3588 at Page 469 of the Craven County Registry.

This conveyance is made subject to the restrictive and protective covenants which are attached hereto as Exhibit A.

A survey depicting the property conveyed herein is attached hereto as Exhibit B.

TO HAVE AND TO HOLD the aforesaid real property and all privileges and appurtenances thereunto belonging to Grantee in fee simple.

And Habitat covenants with Grantee that Grantor is seized of the premises in fee and has the right to convey the same in fee simple, that the title is free and clear of all liens and encumbrances except as herein otherwise described, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever.

The City of New Bern joins in the execution of this deed for the sole purpose of releasing any rights which it retained in the property being conveyed by this instrument by virtue of the Transfer and Reversion Agreement dated March 8, 2016, recorded in Book 3430 at Page 820 of the Craven County Registry.

IN WITNESS WHEREOF, Grantor and City have caused this instrument to be properly executed in such form as to be binding after proper authority having been given this the day and year first above written.

**Habitat for Humanity of Craven County NC,
a North Carolina nonprofit corporation**

By:

Cinda Hill, President

NORTH CAROLINA
CRAVEN COUNTY

I, a Notary Public of _____ County, North Carolina, certify that on this date before me personally appeared **Cinda Hill**, President of Habitat for Humanity of Craven County NC, a North Carolina nonprofit corporation, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein stated and in the capacity indicated.

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



Notary Public

My Commission Expires: _____

City of New Bern
A North Carolina Municipal Corporation

By: _____
Dana E. Outlaw, Mayor

ATTEST:

Brenda E. Blanco, City Clerk

NORTH CAROLINA
CRAVEN COUNTY

I, _____, a Notary Public for said county and state, do hereby certify that on this day 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 for 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 official stamp or seal, this the _____ day of _____, 2022.



Notary Public
My Commission Expires: _____

EXHIBIT A

(Deed: Christine Cox)

This Restrictive and Protective Covenants Agreement, entered into this the ____ day of _____, 2022, by and between **Habitat for Humanity of Craven County NC**, a North Carolina non-profit corporation (hereinafter called "Habitat"), and **Christine Cox** (hereinafter called "Buyer"),

WITNESSETH:

WHEREAS, Habitat is the Craven County affiliate of Habitat for Humanity, an Ecumenical Christian Housing Ministry whose objective is to eliminate poverty housing from the world and to make decent shelter a matter of conscience; and,

WHEREAS, in accordance with its stated goal of providing affordable housing, Habitat agrees to build low cost homes for individuals or families, for no profit to Habitat and with no interest expense to the homeowner; and,

WHEREAS, because of the unique opportunity the Habitat program affords the homeowner, in order to protect the goals of Habitat it is necessary that certain restrictions be placed on the real property in this deed; and,

WHEREAS, Habitat has selected Buyer for whom Habitat has constructed a house; and,

WHEREAS, as a condition to the closing of this house Buyer has agreed to execute this Restrictive and Protective Covenants Agreement simultaneously with the delivery by Habitat of this deed and Buyer's receipt of said Deed in order to protect the interest of Habitat in the house and land.

NOW, THEREFORE, for valuable consideration, including without limitation the substantially below-market price and financing terms offered to Buyer, the receipt and disclosures of which are hereby acknowledged, Habitat and Buyer hereby agree as follows:

1. DESCRIPTION OF PROPERTY. The property which is the subject of this Restrictive and Protective Covenants Agreement is described in the Deed executed simultaneously with this Agreement and appended hereto and is hereinafter called "Property".

2. PROMISSORY NOTE: DEED OF TRUST. Buyer has executed a Promissory Note in favor of Habitat and Buyer has promised to execute a Deed of Trust on the Property. Reference is hereby made to that Offer to Purchase and Contract entered into by and between Habitat and Buyer for documentation of the underlying promises herein cited. For so long as the Habitat Note is outstanding and unpaid, Buyer agrees to comply with the terms of the Habitat

Note and the Habitat Deed of Trust. Buyer also agrees to execute a second Promissory Note and second Deed of Trust as further security for Habitat; a corresponding acknowledgment regarding this liquidated damages provision is documented in said offer to Purchase and Contract.

3. RESTRICTION ON RENTAL; USE AS PRINCIPAL RESIDENCE. For so long as Buyer is indebted to Habitat for the Property, Buyer shall not lease or rent the property/or any part thereof to one or more third parties; and, so long as Buyer is indebted to Habitat, Buyer shall utilize the Property as Buyer's principal residence. A breach of this condition shall be a default under the terms of the Deed of Trust given to secure the loans to Habitat, which default would allow Habitat to foreclose without any other default being evident.

4. FENCE RESTRICTION. No fence shall be erected on the Property that does not comply with the City of New Bern zoning ordinances or historic overlay district restrictions, and no fence shall be erected that is chain link or wire mesh. No fence shall exceed four (4) feet in height and any fence that is allowed must be slatted such that there are visible gaps between pickets to be "see through".

5. RIGHT OF FIRST REFUSAL. So long as Buyer is indebted to Habitat, upon the receipt by Buyer of a bona fide offer to purchase the property, Buyer shall promptly deliver to Habitat a copy of said Notice and a letter indicating that Buyer desires to sell the Property for that price. Habitat shall have a period of thirty (30) days in which to notify Buyer that Habitat is exercising its right of first refusal in electing to purchase the Property. In the event that Habitat elects to purchase the Property, Habitat shall have the right to purchase the Property in accordance with the following price schedule:

(a) If the contract from the third party is received within one (1) year of the date of recording of the Habitat Deed of Trust, (hereinafter called the "Acquisition Date"). Habitat shall be entitled to purchase the Property at the then outstanding amount of the Habitat Note.

(b) If the third party offer is received more than one (1) year after the Acquisition Date, Habitat shall be entitled to purchase the Property for the then outstanding amount of the Habitat Note plus the following described percentage of the difference between the outstanding amount of the Habitat Note and the third party offering price:

<u>Year</u>	<u>Percentage</u>
First anniversary to second anniversary	6.6%
For each subsequent year through the 14 th anniversary add per year	6.6%
Fourteenth anniversary to Final Anniversary	93.4%

(c) After the final anniversary of the Acquisition Date, the right of first refusal granted hereunder to Habitat shall terminate.

(d) The right of first refusal granted hereunder shall remain in effect until the final anniversary, regardless of whether the Habitat Note shall have been prepaid in whole or in part prior to such final anniversary.

(e) If Habitat shall elect to purchase the Property pursuant to this paragraph, closing the sale to Habitat shall occur no later than sixty (60) days from the date of delivery by Habitat of the notice of its election to purchase, and the purchase shall be for cash. Habitat shall be entitled to credit against its purchase price any amount outstanding to Habitat by Buyer on the date of closing under the Habitat Note or otherwise.

(f) In the event of the death of Buyer, Habitat shall be entitled to purchase the Property by giving written notice thereof to the executor or administrator of the estate within thirty (30) days from the date Habitat shall receive written notice of death. The purchase price to Habitat shall be equal to the outstanding amount owing to Habitat under the Habitat Note as of the date of death, plus a percentage of the difference between such outstanding amount and the fair market value of the Property at the date of death, which percentage shall be calculated in the same manner as hereinbefore provided in this section 5, as if the fair market value were identical to the third party offer. In order to determine the fair market value, Habitat shall appoint three (3) certified real estate appraisers, each of whom shall establish a value for the Property, and the fair market value shall be deemed to be the average of the three appraisals.

6. SHARING OF SALE PROCEEDS. If Habitat shall elect not to purchase the Property at the time of a third party offer, Buyer shall be entitled to sell the Property to such third party offeror, subject to the following terms and conditions. First, the purchase price shall be paid in cash or by official bank check at closing. Second, Habitat shall be entitled to receive a percentage of the proceeds of the sale, pursuant to the following schedule:

(a) If the sale occurs prior to the first anniversary of the acquisition Date, Habitat shall be entitled to receive an amount equal to the then outstanding principal amount of the Habitat Note on the date of closing plus one hundred per cent (100%) of the net excess proceeds. For purposes of this paragraph 6, "net excess proceeds" shall mean all proceeds, less all the payoff of the Habitat Note, less sales commission and less all other seller closing costs.

(b) If the sale shall occur after the first anniversary of the Acquisition Date Habitat shall be entitled to receive the outstanding principal amount of the Habitat Note on the date of closing, plus the following described percentage of the net excess proceeds:

<u>Year</u>	<u>Percentages</u>
First anniversary to Second anniversary	93.4%
For each subsequent year through the final anniversary subtract per year	6.6%
After final anniversary	0%

(c) The prepayment of the Habitat Note in whole or in part, shall not affect the right of Habitat to share proceeds as described above.

7. **DEFAULT**. The occurrence of any default or breach under this agreement shall constitute a default under the Habitat Note and the Habitat Deed of Trust, and shall entitle Habitat to accelerate the Habitat Note and foreclose upon the Property and pursue all other legal remedies provided under the Habitat Deed of Trust or otherwise available at law.

8. **SUCCESSORS AND ASSIGNS**. This agreement shall be binding upon, and inure to the benefit of, the parties hereto, and any subsequent owner of the property described herein.

9. **AMENDMENTS**. These restrictive and protective covenants may not be modified or amended without the prior or written consent of Habitat.

10. **ENFORCEMENT**. Enforcement of these restrictive and protective covenants shall be by any proceedings at law or at equity against any person or persons violating or attempting to violate any covenants or restriction contained herein, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by Habitat to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11. **SEVERABILITY**. Invalidity of any one of these covenants or restrictions by judgment or court order shall not affect any of the provisions hereof, which shall remain in full force and effect.

12. **TERMINATION**. These restrictive and protective covenants shall terminate on the final anniversary hereof, said final anniversary being the date on which the debt is repaid in full.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed in such form as to be binding as of the day and year first above written.

_____(SEAL)
Christine Cox

Habitat For Humanity of Craven County NC

By: _____
Cinda Hill, President

NORTH CAROLINA
CRAVEN COUNTY

I, a Notary Public for _____ County, North Carolina, do hereby certify that on this day before me personally appeared **Christine Cox** personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein expressed *and in the capacity indicated*.

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

Notary Public
My Commission Expires: _____

NORTH CAROLINA
CRAVEN COUNTY

I, a Notary Public for _____ County, North Carolina, do hereby certify that on this day before me personally appeared **Cinda Hill**, President of Habitat for Humanity of Craven County NC, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein expressed *and in the capacity indicated*.

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

Notary Public
My Commission Expires: _____

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AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting an Ordinance to Amend the City Hall Annex Building Project Fund

Date of Meeting: 3/22/2022	Ward # if applicable: N/A
Department: Finance	Person Submitting Item: Kimberly Ostrom, Director of Finance
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	An ordinance to amend the name of the City Hall Annex Building Fund to the City Hall Elevator Project Fund and update the scope of the project and budget.
Actions Needed by Board:	Consider adopting the ordinance amendment
Backup Attached:	Memo, Ordinance Amendment

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



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

FROM: Kimberly Ostrom, Director of Finance

DATE: March 15, 2022

RE: Rename the City Hall Annex Building Project Fund

Background

At its meeting on May 28, 2019, the Board adopted a capital project ordinance to establish the City Hall Elevator Project Fund, which on April 28, 2020 was renamed the City Hall Annex Building Project Fund due to the projected expansion of the project to include construction of an annex to City Hall. Since that time, the Board has decided not to construct the annex, but to move forward with only the elevator and relocation of restrooms.

Requested Action

It is recommended that the Board adopt the attached budget amendment to appropriately rename the project fund.

**AMENDMENT TO THE CAPITAL PROJECT ORDINANCE
"CITY HALL ANNEX BUILDING PROJECT FUND"**

WHEREAS, on May 28, 2019, the Board adopted a capital project ordinance to establish the City Hall Elevator Project Fund, which on April 28, 2020 was renamed the City Hall Annex Building Project Fund due to the projected expansion of the project to include an annex to City Hall. Since that time, the Board has decided not to construct the annex, but to move forward with only the elevator and relocation of restrooms.

NOW, THEREFORE, BE IT ORDAINED by the Governing Board of the City of New Bern:

Section 1: That Section 1 of the Ordinance adopted on April 28, 2020 is hereby amended to change the scope of the project and rename the fund as the City Hall Elevator Project Fund. The new project authorized is the design and construction of an elevator and relocation of restrooms.

Section 2: The officers of this unit are hereby directed to proceed with a capital project within the terms of the budget contained herein.

Section 3: The following amount is appropriated for the project:

Building Improvements	<u>\$3,929,000</u>
-----------------------	--------------------

Section 4: The following revenues are estimated to be available to complete the project:

Proceeds from Borrowing	\$3,900,000
Transfer from General Fund	<u>\$ 29,000</u>
Total Revenues	<u>\$3,929,000</u>

Section 5: That the Finance Officer is authorized to make temporary loans between other funds and the City Hall Elevator Project Fund to provide funding until anticipated debt proceeds (if any) are received. If necessary, the Board intends to adopt a "Declaration of Official Intent to Reimburse" in order to be reimbursed for any eligible city funds expended prior to receipt of the financing proceeds.

Section 6: Copies of the ordinance shall be provided to the Budget Officer and the Finance Officer for use in the performance of their duties.

Section 7: That this resolution shall take effect upon adoption.

ADOPTED, THIS THE 22ND DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting a resolution authorizing filing of an application with LGC for approval of financing for the City Hall Annex Building Elevator Project.

Date of Meeting: 3/14/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom, Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	In order to proceed with financing of the City Hall Elevator Project, a resolution must be approved authorizing the filing of an application with the Local Government Commission for the approval of the financing agreement.
Actions Needed by Board:	Adopt a resolution authorizing the filing of an application with the LGC for approval of financing.
Backup Attached:	Memo, Resolution

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: \$0.00
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



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

FROM: Kimberly Ostrom – Finance Director

DATE: March 14, 2022

RE Application for LCG Approval for the Financing of the City Hall Elevator Project

Background

At the March 8, 2022, Board of Aldermen Meeting, the Board authorized the Director of Finance to proceed with obtaining formal quotes and begin the financing process for the City Hall Elevator Project. Financing is not to exceed \$3,900,000.

Current

Due to the dollar amount and the desired terms of the financing, the borrowing will need to be approved by the North Carolina Local Government Commission (LGC). Part of the approval process is the adoption of a resolution authorized by N.C.G.S. 160A-20. A public hearing will also need to be conducted at a later date.

We anticipate obtaining LGC approval at their May 3, 2022, meeting and closing on the loan shortly thereafter.

Requested Action

It is recommended that the Board consider adopting the attached resolution authorizing the filing of an application for approval of financing agreement authorized by N.C.G.S. 160A-20 at the March 22, 2022 meeting.

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR
APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH
CAROLINA GENERAL STATUTE 160A-20**

WHEREAS, the City of New Bern, North Carolina desires to make City Hall Building renovations for the Elevator Project and the financing will be funded through an installment loan with Truist Bank at 2.86% interest for a 15-year period; and

WHEREAS, the City of New Bern, North Carolina desires to finance the Project by use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, the City of New Bern, North Carolina desired to begin making purchases prior to finalization of the financing agreement and adopted a Declaration of Official Intent to Reimburse on March 14, 2022; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Board of Aldermen of the City of New Bern, North Carolina, meeting in regular session on the 22nd day of March, 2022, make the following findings of fact:

1. The proposed contract is necessary because the City is renovating and constructing an elevator to assist our citizens with building accessibility and meet ADA compliance.
2. The proposed contract is preferable to a bond issue for the same purpose because the cost to issue general obligation bonds would be greater. The cost of the proposed Project exceeds the amount that can be prudently raised from currently available appropriations and unappropriated fund balances, and the City does not have any non-voted bonds that could be issued pursuant to Article V, Section 4, of the North Carolina Constitution (the "two-thirds limitation") to fund the project.
3. The sums to fall due under the contract are adequate to complete the Project and are not excessive for the proposed purpose based upon engineering estimates.
4. The City of New Bern's debt management procedures and policies are good because the City carries out policies in strict compliance with the law and will continue to provide adequate debt management as directed by the Local Government Commission.

5. No increases in ad valorem taxes will be necessary to meet debt obligations.
6. The City of New Bern is not in default in any of its debt service obligations.
7. The attorney for the City of New Bern has rendered an opinion that the proposed project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.
8. The probable net revenues of the project to be financed will be sufficient to meet the sums to fall due under the proposed contract.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Director of Finance is hereby authorized to act on behalf of the City of New Bern in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 22nd day of March, 2022.

The motion to adopt this resolution was made by Alderman _____, seconded by Alderman _____ and passed by a vote of _____ to _____.

DANA E. OUTLAW, MAYOR

ATTEST:

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting a Resolution Approving a Declaration of Intent to Reimburse for the City Hall Annex Building Project Fund

Date of Meeting: 03/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom – Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Consider adopting a Resolution Approving a Declaration of Intent to Reimburse for the City Hall Annex Building Project
Actions Needed by Board:	Adopt resolution
Backup Attached:	Memo, resolution

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



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

FROM: Kimberly Ostrom – Finance Director

DATE: March 11, 2022

RE: City Hall Annex Building Project Fund – Installment Financing

Background

In the fiscal year 2021-22 budget, the Board appropriated \$3,000,000 for the renovation of the City Hall Annex Building for the Elevator Project. At the March 8, 2022 Board Meeting the City Manager discussed the recent bids, which were opened on February 24, 2022 for the City Hall Annex Building - Elevator Project. The lowest bid was \$3,929,000, which exceeds the architect's original estimated budget of \$2,160,000. The City Manager requested the Finance Director to present financing estimates for \$3,900,000 to the Board. Additionally, the City Manager requested direction from the Board of Aldermen on how to proceed. The Board requested to move forward with formal financing quotes of \$3,900,000 for 15 years and \$3,900,000 for 20 years. The Finance Director noted that there are additional actions that need to be taken in order to move forward and meet the requirements and the deadlines of the Local Government Commission (LGC). The following items will be presented for approval to the Board of Aldermen: a resolution approving financing terms, a resolution authorizing filing of the LGC Application, and in accordance with IRS regulations, a resolution approving a declaration of intent to reimburse must be issued at the following board meeting.

Requested Action

It is recommended that the Board consider adopting the Resolution and Declaration of Official Intent to Reimburse at the March 22, 2022 meeting.

RESOLUTION

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

Section 1. That the document entitled "Declaration of Official Intent to Reimburse", a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor is hereby authorized and directed to execute said Declaration for and on behalf of the City of New Bern.

ADOPTED THIS 22nd DAY OF MARCH, 2022

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

DECLARATION OF OFFICIAL INTENT TO REIMBURSE

THIS DECLARATION ("Declaration") is made pursuant to the requirements of United States Treasury Regulations § 1.103-18 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations section.

THE UNDERSIGNED, DANA E OUTLAW, Mayor of the City of New Bern, North Carolina, is authorized to declare the official intent of the City of New Bern ("Issuer") with respect to the matters contained herein.

1. FUNDS TO BE EXPENDED. The Issuer intends to incur expenditures ("Expenditures") from its City Hall Annex Building Project Fund. The cost to complete this project is \$3,900,000.

2. PLAN OF FINANCE. The Issuer intends to finance the cost of the Program described above with the proceeds of debt to be issued by the Issuer ("Obligations").

3. MAXIMUM PRINCIPAL AMOUNT OF DEBT TO BE ISSUED. The maximum principal of Obligations to be issued by the Issuer to finance the Program is Three Million Nine Hundred Thousand Dollars (\$3,900,000).

4. DECLARATION OF OFFICIAL INTENT TO REIMBURSE. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Obligations for any of the eligible Expenditures incurred by it prior to the issuance of the Obligations.

THIS 22nd DAY OF MARCH, 2022.

THE CITY OF NEW BERN

By: _____
DANA E. OUTLAW, MAYOR

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Authorizing the City Manager to Execute a Contract for the City Hall Elevator Project

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Administration	Person Submitting Item: Foster Hughes
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Four bids were received for the City Hall elevator project. Daniels & Daniels Construction Company submitted the lowest bid at \$3,929,000, and it is recommended the Manager be authorized to execute a contract with this vendor.
Actions Needed by Board:	Consider approving resolution authorizing the Manager to enter into a contract with Daniels & Daniels Construction Company
Backup Attached:	Memo, bid tabulation sheet, contract

Is item time sensitive? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input type="checkbox"/> No

Cost of Agenda Item: \$3,929,000
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes: Approval of financing will be requested from the LGC. Proposed financing will be with Truist Bank for a term of 15 years at an interest rate of 3.86%.

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

Foster Hughes
City Manager
Brenda E. Blanco
City Clerk

Kimberly A. Ostrom
Director of Finance

TO: Mayor and Members of the Board of Aldermen

FROM: Foster Hughes, City Manager

DATE: March 16, 2022

RE: Contract for City Hall Elevator Project

After receiving bids for the City Hall elevator project on February 24, 2022, the bid results were presented to the Board at its March 08, 2022 meeting. The low bid was \$3,929,000, which significantly exceeded the architect's estimated budget of \$2,160,000. After some discussion, the Board directed staff to proceed with the project.

The proposed resolution authorizes the City Manager to execute a contract and with the lowest bidder, Daniels & Daniels Construction Company, for \$3,929,000 and any change orders within the budgeted amount.

/beb

RESOLUTION

WHEREAS, the City Hall Elevator Project was publicly advertised, and the following bids were received and opened on February 24, 2022:

<u>VENDOR</u>	<u>BID AMOUNT</u>
Daniels & Daniels Construction Company, Inc. Goldsboro, NC	\$3,929,000
Waters Construction Company Newport, NC	\$3,970,000
Group III Management, Inc. Kinston, NC	\$4,159,000
Muter Construction Zebulon, NC	\$4,301,950

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

That the City Manager is hereby authorized to execute on behalf of the City of New Bern a contract with Daniels & Daniels Construction Company, Inc. in the amount of \$3,929,000 for the City Hall Elevator Project, and any change orders within the budgeted amount.

ADOPTED THIS 22ND DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK



March 15, 2022

Mr. Foster Hughes
City Manager
City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563

hughesf@newbernnc.gov

RE: City Hall Elevator Annex
City of New Bern
New Bern, Craven County
MBFA No: 2009

Dear Mr. Hughes:

Attached please find documentation summarizing the Formal Bid Opening of February 24, 2022. We recommend that contract be awarded to the apparent low bidder in accordance with their proposal as follows:

General Construction

Daniels & Daniels Construction Company, Inc.

\$ 3,929,000

In accordance with Formal Bid requirements, we forward herewith the Certified Bid Tabulation, Bid Summary, Form of Proposal and evidence of MBE participation for the apparent low bidder. Daniels & Daniels Construction Company, Incorporated agreement to hold the bid beyond thirty days and AIA Document A101, Standard Form of Agreement Between Owner and Contractor is also included. By copy of this communication, the apparent low bidder is to forward Affidavit C, Portion of Work by Minority Firms or Affidavit D, Good Faith Efforts, as applicable and with supporting documentation where required.

Prepare a letter summarizing the Contract Award as stated above to continue preparation of contracting documents.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Eure', with a stylized flourish at the end.

Darden J. Eure, III, AIA, NCARB
eure@mbfarchitects.com
MBF Architects, P.A.

Cc: Jeremiah Daniels, jeremiahd@danddcc.com

SINGLE PRIME	BID TABULATIONS	Bid Date: February 24, 2022
General	City Hall Elevator Annex	3:00 PM
Construction	New Bern, Craven County	MBFA No: 2009

Blue Rock Structures, Incorporated Lic No: 48139	Bruin Builders, LLC Lic No: 62374	Daniels & Daniels Construction Company, Inc. Lic No: 23697	Farrior & Sons, Incorporated Lic No: 3934
Base NBS	NBS	\$3,929,000	NBS
Fasco, Incorporated Lic No: 8015	Group III Management, Incorporated Lic No: 22369	IMEC Group, LLC Lic No: 72860	Joyce & Associates Construction, Incorporated Lic No: 47948
Base NBS	\$4,159,000	NBS	NBS
LA. Downey & Son, Incorporated Lic No: 1774	Muter Construction Lic No: 73095	Primus Structures, Incorporated Lic No: 80425	Quadrant Construction, Incorporated Lic No: 54448
Base NBS	\$4,301,950	NBS	NBS
Stocks & Taylor Construction, Incorporated Lic No: 69066	Trader Construction Company Lic No: 2943	Waters Construction Company Lic No: 81408	Lic No:
Base NBS	NBS	\$3,970,000	

NBS Contractor received plans, but no bid submitted.
DQ Disqualified Bid
* Asterisks indicate Alternates selected by the Owner.

Owner:
City of New Bern



Certified on the True Copy
February 24, 2022
MBF Architects, P.A.

SINGLE PRIME

General
Construction**BID SUMMARY**
City Hall Elevator Annex
New Bern, Craven County

Bid Date: February 24, 2022

3:00 PM

MBFA No: 2009

Bid Tab

Cost per Unit

Daniels & Daniels Construction Company, Incorporated
License No. 23697

Apparent Low Bid: \$3,929,000 \$1,118.42

Other Bids Received: \$3,970,000 \$1,130.09
\$4,159,000 \$1,183.89
\$4,301,950 \$1,224.58

Elevator Annex

Average of
Three Lowest Bids: \$4,019,333 \$1,144.13

Estimated Bid: \$3,047,084 \$867.37

Over/(Under) Estimate: \$881,916 \$251.04

Project Size 3,513 SF

Negotiated Contract:

Owner:
City of New Bern**Certified on the True Copy**
February 24, 2022
MBF Architects, P.A.

0.09 SINGLE PRIME GENERAL CONSTRUCTION
Section 00 42 10

FORM OF PROPOSAL
City Hall Elevator Annex
City of New Bern
 New Bern, Craven County
 MBFA No: 2009

BIDDER: Daniels & Daniels Construction Company, Inc.
 DATE: 2/17/22

The undersigned, as Bidder, hereby declares that the only persons interested in this proposal as principals are named herein and that no other persons have any interest in this proposal or the resulting contract; that this proposal is made without connection with any other person, company or party submitting a bid or proposal; and that it is fair and in good faith without collusion or fraud. The Bidder further declares that the site of the work and the Instruments of Service relative thereto have been examined, that related information furnished prior to the bid opening has been received and that a satisfactory understanding of the work to be performed has been developed.

The Bidder proposes and agrees if this proposal is accepted to contract with the **City of New Bern** in accordance with **Section 00 52 00, Form of Contract**, to furnish materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete construction of the **City Hall Elevator Annex** in full and complete accordance with the Instruments of Service, to the full and entire satisfaction of **MBF Architects, P.A.** and the **City of New Bern** with a definite understanding that no money is allowed for extra work except as set forth in the Instruments of Service, for the sum of:

SINGLE PRIME GENERAL CONSTRUCTION CONTRACT:

Base Bid: Three Million Nine Hundred Twenty Nine Thousand Dollars
 Dollars (\$) 3,929,000.00

Masonry Subcontractor:
Manning Masonry Lic _____

Plumbing Subcontractor:
James L. Layton Lic 1697

Mechanical Subcontractor:
Crystal Coast Mechanical Lic 29414

Electrical Subcontractor:
Barker Electrical Lic 24654-U

Under single prime contracts, the **General Contractor** acts as the Project Expediter.

ALLOWANCES:

Allowances quoted apply throughout the life of the contract. Allowances are included within the scope of the Base Bid. Reference **Section 00 53 00, Allowances** for detailed allowance descriptions.

Allow **\$2,500** for engaging an electrical trade to furnish material and install motorized shutter conduit and conductors to support operation as described herein.

Allow **\$3,500** for furnishing exterior lighting fixture material as described herein.

UNIT PRICES:

Unit prices quoted and accepted apply throughout the life of the contract. Unit price allowances are included within the scope of the Base Bid. Reference **Section 00 54 00, Unit Prices** for detailed unit price descriptions.

Replace Wood Underlayment and Subfloor with
0.5 inch Plywood Subfloor (per square foot),
estimated quantity of **320 Square Feet** at

$$\text{\$ } \underline{12.00} \times 320 \text{ SF} = \text{\$ } \underline{3,840.00}$$

Install self leveling underlayment having a 1.5 inch
thickness (per square foot), estimated quantity of
300 Square Feet at

$$\text{\$ } \underline{30.00} \times 300 \text{ SF} = \text{\$ } \underline{9,000.00}$$

Install Various Fire Alarm Components (each),
estimated quantity of **2 Each** at:

Horn Strobes or Strobes

$$\text{\$ } \underline{360.00} \times 2 \text{ Each} = \text{\$ } \underline{720.00}$$

Controls, Monitors or Isolation Modules

$$\text{\$ } \underline{420.00} \times 2 \text{ Each} = \text{\$ } \underline{840.00}$$

Smoke Detectors or Fixed Thermal Detectors

$$\text{\$ } \underline{420.00} \times 2 \text{ Each} = \text{\$ } \underline{840.00}$$

Duct Smoke Detectors and Accessories

$$\text{\$ } \underline{900.00} \times 2 \text{ Each} = \text{\$ } \underline{1,800.00}$$

Perform Undercut Excavation Disposed Off Site
and Furnish Equivalent Import Sand Backfill
(per cubic yard), estimated quantity of
280 Cubic Yards at

$$\text{\$ } \underline{40.00} \times 280 \text{ CY} = \text{\$ } \underline{11,200.00}$$

Perform Undercut Excavation Disposed Off Site
and Furnish Equivalent No. 57 Stone Backfill
(per cubic yard), estimated quantity of
60 Cubic Yards at

$$\text{\$ } \underline{85.00} \times 60 \text{ CY} = \text{\$ } \underline{5,100.00}$$

The bidder further agrees hereby to commence work under this contract on a date specified in a written order and fully complete work thereunder within the time specified in **Section 00 73 00, Supplementary General Conditions**. The applicable liquidated damages amount is also stated in **Section 00 73 00, Supplementary General Conditions**.

MINORITY BUSINESS PARTICIPATION REQUIREMENTS:

Provide with the bid, in accordance with GS 143-128.2(c), identification of the minority businesses used on the project and the total dollar value of the bid performed by minority businesses on the IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form. List the good faith efforts made to solicit minority participation on AFFIDAVIT A, LISTING OF GOOD FAITH EFFORT form.

NOTE: A contractor that performs the entirety of work with its own workforce may submit AFFIDAVIT B, INTENT TO PERFORM WITH OWN WORKFORCE form in lieu of Affidavit A required above. The IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form must still be submitted even if there is zero participation.

After the bid opening, the Owner considers bids and alternates received to determine the lowest responsible, responsive bidder. Upon notification of being the apparent low bidder, the Bidder must then file within seventy-two hours the following:

AFFIDAVIT C, PORTION OF WORK BY MINORITY FIRMS form that includes descriptions of the work executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the **ten** percent goal established.

OR

If less than the **ten** percent goal, provide an AFFIDAVIT D, GOOD FAITH EFFORTS form. The document must include evidence of good faith efforts implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

NOTE: Bidders must always submit with their bid the IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form listing minority business contractors, vendors and suppliers that are used. If there is no minority business participation, then enter none or a zero on the form. AFFIDAVIT A, LISTING OF GOOD FAITH EFFORT or AFFIDAVIT B, INTENT TO PERFORM WITH OWN WORKFORCE, as applicable, also must be submitted with the bid. Failure to file a required affidavit with the bid or documentation after being notified as the apparent low bidder is grounds for bid rejection.

MINORITY BUSINESS PARTICIPATION REQUIREMENTS:

Provide with the bid, in accordance with GS 143-128.2(c), identification of the minority businesses used on the project and the total dollar value of the bid performed by minority businesses on the IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form. List the good faith efforts made to solicit minority participation on AFFIDAVIT A, LISTING OF GOOD FAITH EFFORT form.

NOTE: A contractor that performs the entirety of work with its own workforce may submit AFFIDAVIT B, INTENT TO PERFORM WITH OWN WORKFORCE form in lieu of Affidavit A required above. The IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form must still be submitted even if there is zero participation.

After the bid opening, the Owner considers bids and alternates received to determine the lowest responsible, responsive bidder. Upon notification of being the apparent low bidder, the Bidder must then file within seventy-two hours the following:

AFFIDAVIT C, PORTION OF WORK BY MINORITY FIRMS form that includes descriptions of the work executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the **ten** percent goal established.

OR

If less than the **ten** percent goal, provide an AFFIDAVIT D, GOOD FAITH EFFORTS form. The document must include evidence of good faith efforts implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

NOTE: Bidders must always submit with their bid the IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION form listing minority business contractors, vendors and suppliers that are used. If there is no minority business participation, then enter none or a zero on the form. AFFIDAVIT A, LISTING OF GOOD FAITH EFFORT or AFFIDAVIT B, INTENT TO PERFORM WITH OWN WORKFORCE, as applicable, also must be submitted with the bid. Failure to file a required affidavit with the bid or documentation after being notified as the apparent low bidder is grounds for bid rejection.

PROPOSAL SIGNATURE PAGE:

The undersigned further agrees that in the event of failure to execute said contract and bonds within **ten** consecutive calendar days after being given written notice of the contract award, the certified check, cash or bid bond accompanying this bid is paid into the account of the Owner set aside for the project, as liquidated damages for such failure. Otherwise, the certified check, cash or bid bond accompanying this proposal is returned to the undersigned.

Respectfully submitted this 17th day of February, 20 22

Daniels & Daniels Construction Company, Inc.

(Name of firm or corporation making bid)

WITNESS:

Andy Cruz

Corporation

(Proprietorship or Partnership)

By:

Signature

Name: Jeremiah Daniels

Print or Type

Title: Vice President

(Owner/Partner/President/Vice President)

Address 178 NC HWY 111 South

Goldsboro, NC 27534

License No. 23697

Federal I.D. No. 56-1589955

ATTEST:

By:

William P. Barnes III

Title: William P. Barnes III - Corporate Secretary

(Corporate Secretary or Assistant Secretary only)



Initial addendae received and incorporated within this bid:

Addendum 1 02/10/2022 JSD Addendum 3 02/17/2022 JSD Addendum 5 _____

Addendum 2 _____ Addendum 4 _____ Addendum 6 _____

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of Wayne

(Name of Bidder)

Affidavit of Daniels & Daniels Construction Company, Inc.

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- ☒ 1 – (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- ☒ 2 – (10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- ☒ 3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- ☒ 4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- ☒ 5 – (10 pts) Attended prebid meetings scheduled by the public owner.
- ☐ 6 – (20 pts) Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- ☐ 7 – (15 pts) Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- ☐ 8 – (25 pts) Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- ☐ 9 – (20 pts) Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- ☐ 10 – (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: 02/17/2022 Name of Authorized Officer: Jeremiah Daniels
 Signature: [Signature]
 Title: Vice President



State of NC, County of Wayne
 Subscribed and sworn to before me this 17th day of February 2022
 Notary Public [Signature]
 My commission expires August 12, 2024

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Daniels & Daniels Construction Company, Inc.
P O Box 10337
Goldsboro, NC 27532

SURETY:

(Name, legal status and principal place of business)

Berkley Insurance Company
475 Steamboat Road
Greenwich, CT 06830
Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

City of New Bern
300 Pollock Street
New Bern, NC 28560

BOND AMOUNT: 5% Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

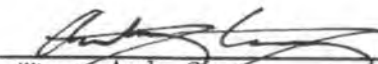
New Bern City Hall Elevator Annex Addition

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 17th day of February, 2022.


(Witness) Andy Cruz


(Witness) Scott D. Mathers

Daniels & Daniels Construction Company, Inc.
(Principal) (Seal)

By: 
(Title) Jeremiah Daniels, Vice President

Berkley Insurance Company
(Surety) (Seal)

By: 
(Title) Michelle A. Adams, Attorney-in-Fact



POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

No. BI-SurePath-a

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: Michelle A. Adams

Surety Bond No.: Bid Bond

Principal: Daniels & Daniels Construction Company, Inc.

Obligee: City of New Bern

Amount of Bond: See Bond Form

USI Insurance Services National, Inc.

Raleigh, NC

its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 25th day of July, 2019.

(Seal)



Attest:

By

Ira S. Lederman
Executive Vice President & Secretary

Berkley Insurance Company

By

Jeffrey M. Hafter
Senior Vice President

STATE OF CONNECTICUT)

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 25th day of July, 2019, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDRAKEN
NOTARY PUBLIC
CONNECTICUT
MY COMMISSION EXPIRES
APRIL 30, 2024

Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 17th day of February, 2022.

(Seal)



Vincent P. Forte

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the FIFTEENTH day of MARCH in the year TWO THOUSAND TWENTY-TWO

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563

and the Contractor:

(Name, legal status, address and other information)

Daniels & Daniels Construction Company, Inc.
178 NC Highway 111 South (27534)
PO Box 10337
Goldsboro, NC 27532

for the following Project:

(Name, location and detailed description)

City Hall Elevator Annex
New Bern, Craven County
MBFA No. 2009

The Architect:

(Name, legal status, address and other information)

MBF Architects, P.A.
317-C Pollock Street
New Bern, NC 28560

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

Init.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Architect.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[X] Not later than Three Hundred Sixty (360) calendar days from the date of commencement of the Work.

[] By the following date:

(Table deleted)

(Paragraph deleted)

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Three Million, Nine Hundred Twenty-Nine Thousand Dollars (\$ 3,929,000), subject to additions and deductions as provided in the Contract Documents.

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 4.3 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
Power motorized shutters	\$2,500
Exterior light fixture	\$3,500

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Price
Wood underlayment and subfloor	\$ 3,840
Self leveling underlayment	\$ 9,000
Sum of various fire alarm components	\$ 4,200
Undercut excavation and sand backfill	\$11,200
Undercut excavation and stone backfill	\$ 5,100

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Four Hundred Fifty dollars per calendar day

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Pay period ends on the Fifteenth day

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Eighteenth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Twentieth day of the coming month. If an Application for Payment is received by the Architect after the application date fixed above,

payment of the amount certified shall be made by the Owner not later than Thirty-two (32) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent

(Paragraphs deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and

Init.

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Not applicable

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

Interest rates, if necessary, will be specified later by mutual agreement.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Not applicable

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2017
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other (Specify)

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

(Paragraphs deleted)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Init.

Foster Hughes, hughesf@newbernnc.gov
City Manager
City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Mr. Jeremiah Daniels, jeremiahd@danddccc.com
Vice President
Daniels & Daniels Construction Company, Inc
178 NC Highway 111 South (27534)
PO Box 10337
Goldsboro, NC 27532

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

(Paragraphs deleted)

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor

(Paragraphs deleted)

- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction

- .5 Drawings

Number	Title
Reference Section 00 22 00	Basis for Bids attached

- .6 Specifications

Section	Title
Reference Section 00 00 02	Volume 1 Table of Contents attached
Reference Section 09 00 02	Volume 2 Table of Contents attached

- .7 Addenda, if any:

Number	Date	Pages
Addendum 1	February 10, 2022	Thirty-six Pages attached
Addendum 2	February 17, 2022	Eight Pages attached

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .8 Other Exhibits:

Init.

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☒ Supplementary and other Conditions of the Contract:

Document	Title
Section 00 73 00	Supplementary General Conditions

(Paragraphs deleted)

This Agreement entered into as of the day and year first written above.

On behalf of:
City of New Bern

On behalf of:
Daniels & Daniels Construction Company, Inc.

OWNER (Signature)

Dana E. Outlaw
Mayor

(Printed name and title)

CONTRACTOR (Signature)

Jeremiah Daniels
Vice President

(Printed name and title)

Date of Execution _____

Original Electronic Counterpart

Init.

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:31:51 ET on 03/15/2022.

PAGE 1

AGREEMENT made as of the FIFTEENTH day of MARCH in the year TWO THOUSAND TWENTY-TWO

...

City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563

...

Daniels & Daniels Construction Company, Inc.
178 NC Highway 111 South (27534)
PO Box 10337
Goldsboro, NC 27532

...

City Hall Elevator Annex
New Bern, Craven County
MBFA No. 2009

...

MBF Architects, P.A.
317-C Pollock Street
New Bern, NC 28560

PAGE 2

☒ A date set forth in a notice to proceed issued by the Owner Architect.

PAGE 3

☒ Not later than Three Hundred Sixty (360) calendar days from the date of commencement of the Work.

...

~~§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:~~

Portion of Work

Substantial Completion Date

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Three Million, Nine Hundred Twenty-Nine Thousand Dollars (\$ 3,929,000), subject to additions and deductions as provided in the Contract Documents.

~~§ 4.2 Alternates~~

~~§ 4.2.1 Alternates, if any, included in the Contract Sum:~~

Item	Price
------	-------

~~§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)~~

Item	Price	Conditions for Acceptance
------	-------	---------------------------

...

<u>Power motorized shutters</u>	<u>\$2,500</u>
<u>Exterior light fixture</u>	<u>\$3,500</u>

...

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

<u>Item</u>	<u>Price</u>
<u>Wood underlayment and subfloor</u>	<u>\$ 3,840</u>
<u>Self leveling underlayment</u>	<u>\$ 9,000</u>
<u>Sum of various fire alarm components</u>	<u>\$ 4,200</u>
<u>Undercut excavation and sand backfill</u>	<u>\$11,200</u>
<u>Undercut excavation and stone backfill</u>	<u>\$ 5,100</u>

...

Four Hundred Fifty dollars per calendar day

~~§ 4.6 Other:~~

~~(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)~~

...

Pay period ends on the Fifteenth day

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Eighteenth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the Twentieth day of the coming month. If an Application for Payment is received by the Architect after the application date fixed above,

payment of the amount certified shall be made by the Owner not later than Thirty-two (32) days after the Architect receives the Application for Payment.

PAGE 4

Five percent

~~§ 5.1.7.1.1 The following items are not subject to retainage:~~

~~(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)~~

~~§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:~~

~~(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)~~

~~§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:~~

~~(Insert any other conditions for release of retainage upon Substantial Completion.)~~

PAGE 5

Not applicable

...

~~% Interest rates, if necessary, will be specified later by mutual agreement.~~

...

Not applicable

...

[☒] Litigation in a court of competent jurisdiction

...

~~§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:~~

~~(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)~~

PAGE 6

Foster Hughes, hughesf@newbernnc.gov
City Manager

City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563

...

Mr. Jeremiah Daniels, jeremiahd@danddcc.com
Vice President
Daniels & Daniels Construction Company, Inc
178 NC Highway 111 South (27534)
PO Box 10337
Goldsboro, NC 27532

...

~~§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~

~~(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)~~

~~§ 8.7 Other provisions:~~

...

- ~~2 AIA Document A101™ 2017, Exhibit A, Insurance and Bonds~~
~~3 AIA Document A201™ 2017, General Conditions of the Contract for Construction~~
~~4 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
~~(Insert the date of the E203-2013 incorporated into this Agreement.)~~

...

Number	Title	Date
--------	-------	------

<u>Number</u>	<u>Title</u>
Reference Section 00 22 00	Basis for Bids attached

...

Section	Title	Date	Pages
---------	-------	------	-------

<u>Section</u>	<u>Title</u>
Reference Section 00 00 02	Volume 1 Table of Contents attached
Reference Section 09 00 02	Volume 2 Table of Contents attached

...

PAGE 7 Addendum 1 February 10, 2022 Thirty-six Pages attached
Addendum 2 February 17, 2022 Eight Pages attached

[X] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

<u>Document</u>	<u>Title</u>
<u>Section 00 73 00</u>	<u>Supplementary General Conditions</u>

9 — Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™ 2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

...

On behalf of:
City of New Bern

On behalf of:
Daniels & Daniels Construction Company, Inc.

...

Dana E. Outlaw
Mayor

Jeremiah Daniels
Vice President

...

Date of Execution


Original Electronic Counterpart

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:31:51 ET on 03/15/2022 under Order No. 3332656585 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)


Doreen J. Ewe, CA, AIA, NCARB

(Title)

VICE PRESIDENT
MBF ARCHITECTS, P.A.

(Dated)

15.MAR.22

0.06 BASIS FOR BIDS

Section 00 22 00

0.06.1 BID CONSTRUCTION:

Review the Instruments of Service and observe the site. Account for labor, material and equipment entering into the work. Provide platforms and scaffolds of ample strengths, hoisting machinery, appliances and material such as ladders, ropes, wedges, centers and other tools, including transportation thereof to and from the site, as required for handling, installation and erection. Perform related work customarily required for completion of construction activities.

Engage competent and properly equipped personnel in accordance with accepted construction practices and applicable industry standards. Furnish skilled, trained and experienced workers for tradework required. Utilize master tradesmen to organize, layout and oversee activities. Supplement with adequate numbers of journeyman to effectively manage apprentices and prosecute work. Execute specified procedures while utilizing appropriate methods for safe work performance. Manufacturer certify or authorize personnel, and complete installation training and assurance programs. Perform construction activities in accordance with practices that result in superior workmanship. Remove and replace substandard and nonconforming work. Complete work within the contract time allowed.

Furnish new material and equipment that is free of defects and imperfections. Remove unlabeled, undocumented or damaged material from the site and procure replacements.

Quote a Base Bid.

0.06.2 CONTRACT DRAWINGS:

G-001	through	G-903	Six sheets	Dated 15-Jan-22
CD101	through	CD102	Two sheets	Dated 15-Jan-22
C-101			One sheet	Dated 15-Jan-22
S-001	through	S-202	Eight sheets	Dated 15-Jan-22
AD101	through	AD201	Three sheets	Dated 15-Jan-22
A-101	through	A-605	Forty-five sheets	Dated 15-Jan-22
P-101	through	P-301	Four sheets	Dated 15-Jan-22
M-101	through	M-301	Four sheets	Dated 15-Jan-22
ED101			One sheet	Dated 15-Jan-22
E-101	through	E-401	Seven sheets	Dated 15-Jan-22
FA101	through	FA201	Five sheets	Dated 15-Jan-22

0.06.3 LIQUIDATED DAMAGES:

Liquidated damages are stated in **Section 00 73 00, Supplementary General Conditions** and may be enforced at the option of the Owner. Circumstances affecting work progress and completion influence any such decision making.

0.06.4 INSTRUMENTS OF SERVICE:

Comply with project procedures, construction execution protocols and the technical specifications.

Examine and study Instruments of Service to understand the scope of work. Report discrepancies without delay.

The drawings and specifications are complementary, one to the other. That which is shown on the drawings or identified in the specifications is as binding as if both were detailed and described. The order of precedence within Instruments of Service is FORM OF CONTRACT, FORM OF PROPOSAL, Divisions 00 and 01, technical specifications, enlarged detail drawings and overview drawings.

Do not construe titles of articles, sheets, details, divisions, sections and paragraphs included for convenience as a correct and complete segregation of tradework, material or labor. No responsibility is assumed, either direct or implied, for bid omissions or duplications resulting from information arrangement within Instruments of Service.

Do not construe instructions, advice or aid relative to document interpretation as an amendment to Instruments of Service unless such instructions, advice or aid is furnished in writing. Verbal responses are only accommodations to verbal inquiries.

Instruments of Service describe a complete, adjusted and operational finished work. Provide customary miscellaneous items and accessories essential to installations, usable structures and functioning plants.

Provide the better quality or greater quantity where inconsistencies occur within Instruments of Service. Comply with more stringent requirements where inconsistencies occur between Instruments of Service and standards, codes and ordinances. Communicate at least **seven** days prior to Bid Opening to address substitutions, clarifications, interpretations or omissions.

Additional sets of Instruments of Service beyond allowances within **Section 00 73 00, Supplementary General Conditions** are prepared on demand and furnished at cost plus applicable mailing charges.

0.06.5 PRODUCT REQUIREMENTS:

Conform to references and standards. Procure products from manufacturers and vendors that provide field technical assistance.

Procure single sourced items from that source. Notations are generally in bold type, and often indicate specific contact information.

Provide specific finish selections and options as cited. Notations are generally in bold type.

Use of any cited product or manufacturer is permitted. However, cited examples only denote qualities and standards of products desired and do not restrict bidders to specific brands, series or manufacturers. Do not assume a product is acceptable where the phrase OR EQUAL occurs unless acknowledged in writing. Submit uncited examples as substitutions.

Substitution requests are only accepted from Bidders. Supplier or subcontractor requests are not considered. Submit **ten** days prior to Bid Opening. Approved substitutions are listed via addendum.

Utilize listed manufacturers, products and approved substitutions following contract award. Use any manufacturer or product meeting performance requirements where products and manufacturers are not cited.

Provide identical products from a single manufacturer where multiple items are required. Provide the companion product series from a single manufacturer where more than one type or capacity of material and equipment serves the same function or purpose.

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Exterior Lighting	Section 26 56 19	26 56 19-1	through	26 56 19-6
Division 27, Communications				
Communications Horizontal Cabling	Section 27 15 00	27 15 00-1	through	27 15 00-9
Division 28, Electronic Safety & Security				
Area of Refuge Communications	Section 28 30 00	28 30 00-1	through	28 30 00-6
Digital Addressable Fire Alarm System	Section 28 31 11	28 31 11-1	through	28 31 11-24

GENERAL or SITEWORK CONSTRUCTION**Division 31, Earthwork**

31.01	Clearing & Grubbing	Section 31 11 00	31.01-1	through	31.01-2
31.02	Grading & Excavating Requirements	Section 31 20 00	31.02-1	through	31.02-2
31.03	Earthwork Aggregates & Accessories	Section 31 20 10	31.03-1	through	31.03-2
31.04	Site Grading	Section 31 20 20	31.04-1	through	31.04-2
31.05	Detailed Excavations	Section 31 20 30	31.05-1	through	31.05-2
31.06	Trenching	Section 31 20 40	31.06-1	through	31.06-2
31.07	Soils Testing	Section 31 25 00	31.07-1	through	31.07-2
31.08	Termite Treatment	Section 31 31 00	31.08-1	through	31.08-2

GENERAL CONSTRUCTION**Division 32, Exterior Improvements**

32.01	Site Concrete Requirements	Section 32 12 00	32.01-1	through	32.01-2
32.02	Site Walks & Improvements	Section 32 12 30	32.02-1	through	32.02-2
32.03	Drive Surfacing Requirements	Section 32 18 00	32.03-1	through	32.03-2
32.04	Asphalt & Aggregates	Section 32 18 20	32.04-1	through	32.04-2
32.05	Site Improvements Testing	Section 32 20 00	32.05-1	through	32.05-2
32.06	Landscaping Requirements	Section 32 90 00	32.06-1	through	32.06-2
32.07	Landscaping Accessories	Section 32 90 10	32.07-1	through	32.07-2
32.08	Turf & Grasses	Section 32 90 20	32.08-1	through	32.08-2
32.09	Plants	Section 32 90 30	32.09-1	through	32.09-4

GENERAL or SITEWORK CONSTRUCTION**Division 33, Utilities**

33.01	Infrastructure Markers & Identification	Section 33 01 00	33.01-1	through	33.01-2
33.02	Utility Infrastructure Requirements	Section 33 05 00	33.02-1	through	33.02-4
33.03	Utilities Accessories	Section 33 06 00	33.03-1	through	33.03-2
33.04	Site Plumbing Distribution	Section 33 30 00	33.04-1	through	33.04-4
33.05	Storm Drainage	Section 33 41 00	33.05-1	through	33.05-2
33.06	Foundation & Landscaping Drainage	Section 33 46 00	33.06-1	through	33.06-2



February 10, 2022

Addendum 1

RE: City Hall Elevator Annex
City of New Bern
New Bern, Craven County
MBFA No: 2009

Accompanying this Addendum are the minutes of the Pre Bid Conference conducted on **February 10, 2022**. Also, please find a current list of plan holders for reference and use.

Text in *italics* replicates language contained in the Instruments of Service. Standard text and strikethrough notations indicate modifications added or deleted.

- Item 1:** Reference **Section 00 11 00, Notice to Bidders**. Modify the following sentence: **Single Prime** ~~**Multi-Prime**~~ bids for providing *site, general, plumbing, mechanical and electrical construction* tradework. Modify the following sentence: General Contractors submitting bids must have a license classification for **Building Contractor** ~~or (S)Roofing~~.
- Item 2:** Reference **Section 04 20 00, Masonry Requirements**. Engage a masonry trade that meets NCMCA Masonry Contractor Certification Program requirements.
- Item 3:** Reference **Section 04 20 30, Brick Units**. Provide a delegated design for concealed lintels referenced in Details 5/S-202 and 6/S-202. Basis for concealed lintel is Series Concealed Lintel System as manufactured by Hohmann & Barnard, Or Equal.
- Item 4:** Reference **Section 08 42 00, Architectural Glass Entrances**. Door Mark 101A is a 6080 pair with transom set in a 6 foot, 0 inch by 14 foot, 0 inch opening.
- Item 5:** Reference **Section 09 00 02, Volume 2 Table of Contents**. **Section 09 66 00, Terrazzo Requirements** replaces that included in the Project Manual. **Section 09 66 10, Terrazzo Accessories**, **Section 09 66 20, Epoxy Terrazzo** and **Section 09 66 30, Precast Epoxy Terrazzo** are added to the Instruments of Service.
- Item 6:** Reference **Detail A4/A-303**. Provide a 6 inch oak base similar to C4/A-519 opposite historic City Hall in Lobby 102, Lobby 201 and Lobby 301.
- Item 7:** Reference **Detail A3/A-504**. Provide two layers, 2.5 inches per layer, of polyisocyanurate insulation in lieu of that indicated.
- Item 8:** Reference **Sheet A-510**. Cast stone ashlar elevations illustrate views above grade. Reference Detail B5/A-305 for installation height.
- Item 9:** Reference **Detail A1/A-513**. Delete the ELEVATOR DATA notes.
- Item 10:** Reference **Detail C5/A-601**. Provide 0.25 inch, clear tempered glass transoms in door elevation Marks C and D.
- Item 11:** Reference **Sheets A-103, A-201, A-203 and A-506**. **Bulletin Sheets 1 through 4**. Details modify cast stone and masonry at the roman arch portico entrance outside Entry 101. Details modify the north and south parapet configurations above Lobby 301.

Item 12: Reference **Sheet G-002, Index to Drawings. Sheets P-101, P-102, P-201 and P-301** replace those included in the Instruments of Service. A booster pump has been added to the plumbing work. **Sheets E-101, E-202 and E-301** replace those included in the Instruments of Service. Panelboard EL has been modified and a booster pump circuit has been added.



Darden J. Eure, III, AIA, NCARB

END OF ADDENDUM
MBF Architects, P.A.



City Hall Elevator Annex
City of New Bern
New Bern, Craven County

MBF Architects, P.A.
MBFA No: 2009

Report 1
Pre Bid Conference

February 10, 2022
1:30 PM

Meeting Attendance

P	Mr. Foster Hughes	City of New Bern
P	Mr. Marvin Williams	City of New Bern
P	Mr. Tripp Eure	MBF Architects, P.A.
P	Mr. Allen Lambert	Daniels & Daniels Construction, Incorporated
P	Mr. Erik Barrow	Group III Management, Incorporated
P	Mr. Zach Hager	Muter Construction
P	Mr. Bishop Williams	Waters Contracting Company

(P) Present/(A) Absent

Architectural Report

- Mr. Eure introduced participants in attendance.
- The Bid Opening is scheduled for **February 17, 2022** in this same location up to **3:00 PM for Single Prime Bids**. Bid security is required in the amount of five percent of the contract price in either cash, certified check or Bid Bond. Payment and Performance Bonds are required in the amount of one hundred percent of the contract price. Addendum 1 is forthcoming.
- Bidders are encouraged to review **Section 00 53 00, Allowances**. Include allowances within the scope of the Base Bid.
- Bidders are encouraged to review **Section 00 54 00, Unit Prices**. Include unit price allowances within the scope of the Base Bid.
- Bidders are encouraged to review **Section 01 70 00, Coordination of Tradework** and **Section 02 40 00, Selective Demolition & Repair** for general descriptions of the division of tradework.
- Preferred Alternate standards are summarized in **Section 04 20 00, Masonry Requirements**, **Section 07 32 00, Synthetic Slate Shingles** and **Section 08 51 00, Historic Aluminum Windows**. Brick, synthetic slate shingle and historic aluminum window products have been approved by the City of New Bern Historic Preservation Commission; alternative systems meeting the approval of the Historic Preservation Commission have not been identified; and manufacturer technical support capabilities have been confirmed. No other Preferred Alternates were submitted for consideration.

- This is a historic preservation project. Use submittals and shop drawings to detail installations based on field verified dimensions. Identify atypical conditions and resolve assembly details prior to implementation.

- Confirm the wood species. The flooring appears to be quarter sawn select southern yellow pine and other wood trims appear to be rift sawn red oak.

- Reference **Section 06 20 00, Architectural Trimwork & Milling** and **Section 01 39 00, Historic Structures**. The design intent is to replicate historic wood trimwork. Perform condition assessments of woodwork present and provide sample assemblies to replicate historic details.

- Reference **Section 06 20 00, Architectural Trimwork & Milling** and **Section 08 14 20, Stile & Rail Wood Doors**. The design intent is to replicate historic stile and rail wood doors. Provide doors from one or both sections without preference provided veneers and finishes are uniform.

END OF REPORT



Darden J. Eure, III, AIA, NCARB

eure@mbfarchitects.com

MBF Architects, P.A.

Cc: George Chiles, ChilesG@newbernnc.gov
Kaydos-Daniels Engineers, PLLC, lucas@kaydos-daniels.com
En-Tech Engineering, P.A., dham@entech-pme.com
Plan Holders

City Hall Elevator Annex
City of New Bern
New Bern, Craven County

MBF Architects, P.A.
MBFA No: 2009

REGISTER OF BID DOCUMENTS

Bid Date: February 17, 2022

January 20, 2022

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
MBF Architects, P.A. 317-C Pollock Street, New Bern, NC 28560 (T) (252) 637-6373, (F) (252) 637-3259	eure@mbfarchitects.com	
City of New Bern 300 Pollock Street, New Bern, NC 28563 (T) (919) 981-5217, (F) (919) 981-5224	hughesf@newbernnc.gov; colonl@newbernnc.gov; ChilesG@newbernnc.gov	
AGC Raleigh Hispanic Contractors Association Construct Connect	content@constructconnect.com	
NCIMED Plan & Resource Center 114 West Parrish Street, 6th Floor, Durham 27701 (T) (919) 956-8889	ggillespie@TheInstituteNC.org	

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Kaydos-Daniels Engineers, PLLC 400-201 West Morgan Street, Raleigh, 27603 (T) (919) 828-4966, (F) (919) 828-4967	lucas@kaydos-daniels.com	
En-Tech Engineering, P.A. 1003-I N. Berkeley Blvd., Goldsboro 27534 (T) 919-778-9064 (F) 778-9069	dham@entech-pme.com	
Master Terrazzo Technologies 8000 Bristol Pike, Levittown, PA 19057 (T) (919) 608-4897, (F) (215) 949-9422	ben@masterterrazzo.com	
P&D Architectural Precast Inc. 323 E Railroad St, La Grange, NC 28551 (T) (252) 566-9811 (C) (919) 580-8919	mark.fairman@pdarchprecast.com	
West Masonry 1207 Sutton Drive, Kinston, NC 28501 (T) (252) 523-1719	westmasonry@embarqmail.com	
R.E. Bengel Sheet Metal & Roofing 1311 North Craven St, New Bern 28560 (T) (252) 637-3404, (F) (252) 637-2721	steve@rebengel.com ; jim@rebengel.com	23632
Graham Architectural Products 1551 Mount Rose Avenue, York, PA 17403 (T) (704) 609-4118	tcooper@grahamwindows.com	
Brava Roof Tile 915 East Tyler St, Washington, IA 52353 (T) (844) 290-4196	jimmy.clark@bravatile.com	
Custom Brick Company 1613 Old Louisburg Road, PO Box 6245, Raleigh, NC 27628 (T) (919) 832-2804	dorsey@custombrick.com	
Southern Architectural Hardware, Incorporated 1025 Territorial Road, New Bern, NC 28560 (T) (252) 636-1255, (F) (252) 636-1417	johna@souarch.com	

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Blue Rock Structures, Incorporated PO Box 129, 10689 Highway 17, Pollocksville, NC 28573 (T) (910) 743-0505, (F) (910) 743-0500	yaycock@bluerockstr.com	48139
Bruin Builders, LLC 3305 Highway 70 East, New Bern 28560 (T) (252) 635-9940, (F) (252) 635-1815	bruinbuilders@hotmail.com	62374
Daniels & Daniels Construction Company, Inc. 178 NC Hwy 111 South, Goldsboro, NC 27534 (T) (919) 778-4525, (F) (919) 778-6850	estimating@danddccc.com	23697
Farrior & Sons, Incorporated PO Box 127, 9571 Highway 264 West Alt, Farmville 27828 (T) (252) 753-2005 (F) (252) 753-2267	tim@farriorandsons.com	3934
Fasco, Incorporated PO Box 1697 (28503), 2659 Hwy 258 North, Kinston 28504 (T) (252) 522-0591 (F) (252) 522-5613	fasco@fascoinc.com	8015
Group III Management, Incorporated PO Box 1393 (28503), 2715 W Vernon Ave, Kinston 28504 (T) (252) 527-3333, (F) (252) 527-3377	ebarrow@groupiimgt.com	22369
IMEC Group, LLC 1219 Colony Drive, New Bern, NC 28582 (T) (252) 633-5133, (F) (252) 565-4508	gward@imecgroupplc.com	72860
Joyce & Associates Construction, Incorporated PO Box 190, 6994 Highway 70, Newport 28570 (T) (252) 223-3171, (F) (252) 223-3455	info@joyceandassoc.com	47948
LA. Downey & Son, Incorporated 4457 Arendell Street, Morehead City, NC 28557 (T) (252) 726-2847, (F) (252) 726-1966	glott@ladowney.com	1774
Primus Structures, Incorporated 2896 Highway 24, Suite H, Newport 28570 (T) (252) 503-3159, (F) (252) 764-2449	david@primusstructures.com	80425
Quadrant Construction, Incorporated 166 Center Street, Jacksonville, NC 28546 (T) (919) 937-0003	chriswhaley@qcenc.com; markmccloskey@ephnc.com	54448

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Stocks & Taylor Construction, Incorporated PO Box 2147, Washington 27889-2147 (T) (252) 975-5855	staylor@stockstaylor.com; hbrooks@stockstaylor.com	69066
Trader Construction Company PO Drawer 1578, 2500 Hwy 70 East, NB 28563 (T) (252) 633-2424 (F) (252) 633-1370	dstevick@traderconstruction.com	2943
Waters Construction Company 3931 Highway 24, Newport, 28570 (T) (919) 764-2105	bishopw@waterscontracting.net	81408
Muter Construction 111 East Vance Street, Zebulon, NC 27597 (T) 919-404-8330, (c) 919-922-7568	djones@muterconstruction.com	73095

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
James L. Cayton Associates PO Box 3198 (28564), 1906 Hwy 70 East, New Bern 28560 (T) (252) 637-9389, (F) (252) 637-5622	jimmy@jlcayton.com	1697
E.T. Ferrell & Son, Incorporated PO Box 327, 710 North Center Street, Mt. Olive 28365 (T) (919) 658-2971, (F) (919) 658-6713	sueb.etf@bellsouth.net	2483
Ken Hudson Plumbing PO Box 4400, Emerald Isle, NC 28594 (T) (252) 393-7003	kahp31@yahoo.com	20049
Humphrey Mechanical, Incorporated 2421-A North Marine Blvd, Jacksonville, NC 28546 (T) (910) 455-1418, (F) (910) 455-2215	dwhitfield@humphreymechanical.com	7619
Keen Plumbing Company PO Box 1796 (27533) 407 Vann St, Goldsboro 27530 (T) (919) 735-1179, (F) (919) 735-5890	keenplumbing@bellsouth.net	1515
MechWorks Mechanical Contractors, Incorporated 532 Pylon Drive, Raleigh 27606 (T) (919) 322-2090, (F) (919) 322-2092	estimating@mechworksinc.com	11295
Scott Plumbing & Heating 6690 Hwy 55 East, New Bern 28560 (T) (252) 745-5135, (F) (252) 745-5551	scottplbghvac1@gmail.com	6295
Southern Piping Company, Incorporated 1904 Baldree Rd, Wilson 27895 (T) (252) 237-9035, (F) (252) 291-1217	Freddy.Batten@spcmechanical.com	2108
Quality Plumbing & Heating Company 1013 N William Street, Goldsboro, NC 27530 (T) (919) 735-4981, (F) (919) 735-2525	bmalpass2@att.net	1132

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Baker Mechanical Company, Inc 2301 Stantonburg Rd, Wilson 27894 (T) (252) 291-4460, (F) (252) 291-7204	donnamartin@bakermechanicalinc.com	12896
C/A Heating and Air Conditioning, Incorporated 1710 Old Airport Road, New Bern, NC 28562 (T) (252) 633-2744, (F) (252) 633-1064	bill.beese@caheatingandair.com	15760
Crystal Coast Mechanical, Incorporated 206 Campen Road, Beaufort 28516 (T) (252) 418-0038, (F) (252) 418-8038	drobbins@crystalcoastmechanical.com	29414
Humphrey Mechanical, Incorporated 2421-A North Marine Blvd, Jacksonville, NC 28546 (T) (910) 455-1418, (F) (910) 455-2215	tbarrett@humphreymechanical.com	7619
MechWorks Mechanical Contractors, Incorporated 5441 Hwy 70 Morehead City NC 28557 PO box 1168 Morehead City, NC 28557 (T) (252) 504-3201, (F) (252) 504-3202	estimating@mechworksinc.com	11295
Southern Piping Company, Incorporated 1904 Baldree Rd, Wilson 27895 (T) (252) 237-9035, (F) (252) 291-1217	Freddy.Batten@spcmechanical.com	2108

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Allco Electric, Incorporated PO Box 427, 5790 Aldridge Road, Lagrange, 28551 (T) (252) 566-5335, (F) (252) 566-5337	eddylong@allcoelectric.net	22313
R. Brown Electric Service, Incorporated PO Box 2188 (28561), 450 Washington Post Rd, NB 28560 (T) (252) 637-9210, (F) (252) 637-4301	ray@rbrownelectric.com	07589-U
E.L. Electric Contracting, LLC 2121 Ridge Road, New Bern, NC 28560 (T) (252) 559-3119	ernielangstonelectric@gmail.com	34685-U
Nationwide Electrical Services, Incorporated 708 North William Street, Goldsboro 27530 (T) (919) 736-2655, (F) (866) 460-3993	tim@nationwide-electric.com	15521-U
Peco Electric, Incorporated 1711 Elijha Loftin Rd, Kinston 28504 (T) (252) 527-5285, (F) (252) 527-2869	kevin@pecoelectric.com	28165-U
Pitt Electric, Incorporated 1028 Brompton Lane, Greenville, NC 27834 (T) (252) 355-2267, (F) (252) 355-6991	rwebber@pittelectric.com	07848-U
Triple R Electric, Incorporated PO Box 6116, 2488 Poole Rd, Kinston 28504 (T) (252) 523-3558, (F) (252) 523-2641	rwrouse@tripler.com; whrouse@tripler.com	13241-U
Watson Electrical Construction Company, LLC PO Box 1250 (27835), 3121 Bismarck St, Greenville 27834 (T) (252) 756-4550, (F) (252) 756-7983	john.williams@watsonelec.com	00213/05-U
Willis Electric Company PO Box 67, Bayboro, NC 28515 (T) (252) 745-3501	wec1@embarqmail.com	03686-U

9.22 TERRAZZO REQUIREMENTS

Section 09 66 00

Addendum 1, 10-Feb-22

9.22.1 SCOPE:

Provide labor, material, equipment and services necessary for, and reasonably incidental to, furnishing and installing terrazzo work indicated within the Instruments of Service. Incorporate related accessories and specialties to accomplish a complete and proper installation. Coordinate and schedule this work with the work of other trades to ultimately provide superior workmanship in the finished product.

Unless otherwise so qualified, engage a competent terrazzo trade having five years of experience with work of a similar type, scope, complexity and scale to perform this installation.

Standards as specified by the NTMA govern the work, as applicable.

Conform to the following material and workmanship specifications and standards, as applicable:

1. ASTM E 1643, Standard Practice for Selection, Design, Installation and Inspection of Water Vapor Retarders Used in Contact with Earth or Granular Fill Under Concrete Slabs

9.22.2 DESIGN CRITERIA:

Chips used in terrazzo are defined as calcareous, serpentine and other rocks capable of grounding and polishing, such as marble and onyx. Other materials such as quartz, granite, quartzite and silica pebbles are suitable for finishes that do not require polishing, such as rustic terrazzo. Chips are graded by number according to size or gradient as follows:

Terrazzo Type	Size No.	Dimension Passing the Screen	Dimension Retained on the Screen
Standard	No. 1	0.25 inch	0.125 inch
	No. 2	0.375 inch	0.25 inch

9.22.3 WORK PLAN:

Schedule a Terrazzo Conference to review substrates and material assemblies.

9.22.4 MATERIALS:

This section of requirements also consists of the following subset section(s):

Reference **Section 09 66 10, Terrazzo Accessories** for material.

Reference **Section 09 66 20, Epoxy Terrazzo Flooring** for material.

Reference **Section 09 66 30, Precast Epoxy Terrazzo** for material.

The work of this section incorporates the following:

Reference **Section 03 31 00, Concrete Testing** for substrate moisture content testing.

Reference **Section 07 92 00, Joint & Penetration Requirements** for weathertight sealant installed in terrazzo expansion joints.

Furnish fasteners, accessories and options as recommended by the manufacturer for the specific applications and substrates encountered within the work.

9.22.5 INSTALLATION:

Deliver materials in labeled, unopened containers free of packaging damage or contaminated mix ingredients. Store in a clean, dry and heated location. Concrete substrate variations from level are not to exceed a 0.25 inch in 10 feet, 0 inches. Do not use curing agents or other additives that prevent substrate bonding. Separate floors into rectangular areas with control joints not more than 50% longer than wide. The maximum length or width of any floor area must not exceed 20 feet, 0 inches. Broom clean dry floor areas. Maintain ambient room temperatures above 60° F during and after installation. Verify that the dew point is at least 5° F less than slab and air temperatures. Protect adjacent spaces from water and dust created during grinding operations.

Take field measurements for precast terrazzo items prior to preparing shop drawings and fabrication.

Concrete Substrate Preparation

Install a commercial vapor barrier or unreinforced vapor retarder in accordance with ASTM E 1643.

Provide non burnished concrete finishing. Remove chalking, laitance, glaze, efflorescence, form release agents, wax, oil, grease, asphalt, gypsum compound, dust, dirt, sealers, curing compound films, silicate penetrating curing compounds, moisture and similar conditions that interfere with primer or membrane adhesion. Remediate incompatible sealing, hardening and parting compounds. Remove contaminants using mechanical cleaning equipment with vacuum debris containment.

Test for moisture vapor emission. Do not proceed with installation when vapor pressures exceed 3 pounds per 1,000 square feet. Substrates are acceptable for terrazzo bonding when RH is 75% or less. When acceptable results cannot be obtained, provide a surface moisture suppression system. Test concrete substrates for alkalinity to confirm proper adhesion. Substrates are acceptable for receiving terrazzo when pH is neutral within the range of 6.6 to 7.3.

Install an isolation membrane.

Prime concrete substrates prior to installing patching underlayment compounds. Apply primer at the rate of 200 square feet per gallon. Do not allow primer to puddle. Place epoxy terrazzo within three to four hours of applying primer. Lightly broadcast 30 mesh sand to enhance mechanical bonding when primer curing exposures are increased.

Underlayment Installation

Remove debris and eliminate conditions that adversely affect patching underlayment applications.

Apply patching underlayment compounds to create smooth and level substrates. Fill saw cuts, cracks, holes and crevices. Remove ridges and other irregularities.

Mix patching underlayment compounds. Install within flow times allowed using straight edged trowels. Apply sufficient trowel pressure to bond with substrates. Cure for one hour before applying a second layer. Fully cure patching underlayment before proceeding with finish flooring installations.

Flooring Layout and Installation

Install divider strips and accessories. Divider strips perform aesthetic functions and subdivide floor areas bounded by control joints, and do not provide terrazzo contraction relief.

Mix terrazzo topping proportions in accordance with NTMA standards.

Cure terrazzo toppings until sufficient strength is developed to prevent marble chip lifting or pulling during grinding. Use commercial grinding equipment that controls and collects dust byproduct. Prevent grinding fluids from reacting with divider strips and staining terrazzo.

Rough grind floor surfaces with fifty to sixty grit stones or comparable diamond grinding blades. Follow the initial grinding with an intermediate grinding using two hundred to two hundred twenty grit or finer stones. Cleanse with potable water and rinse. Remove excess water and machine apply finishing grout to completely fill voids. Allow grout to cure. Fine grind with two hundred grit diamond pads or finer stones until surface grout is removed.

If large voids are present, repeat rough grinding, intermediate grinding, finish grouting and fine grinding. Remove unbonded terrazzo in full panels between dividers and replace.

Clean floors. Final polish with 400 grit diamond pads to create slip resistant and safe walking surfaces.

Install precast terrazzo base on masonry substrates following the pouring of terrazzo floors. Set precast sections accurately to wall and floor lines in a setting bed. Fill joints between precast sections with matching grout. Clean residual grout.

Precast terrazzo logo installations are similar.

Final clean and seal surfaces.

9.22.1 TERRAZZO ACCESSORIES

Section 09 66 10

Addendum 1, 10-Feb-22

9.22.1.1 SCOPE:

Provide labor, material, equipment and services necessary for, and reasonably incidental to, furnishing and installing terrazzo work indicated within the Instruments of Service. Incorporate related accessories and specialties to accomplish a complete and proper installation. Coordinate and schedule this work with the work of other trades to ultimately provide superior workmanship in the finished product.

Standards as specified by the NTMA govern the work, as applicable.

Conform to the following material and workmanship specifications and standards, as applicable:

1. ACI 503R, Use of Epoxy Compounds with Concrete
2. ASTM C 307, Standard Test Method for Tensile Strength of Chemical Resistant Mortar, Grouts and Monolithic Surfacing
3. ASTM C 579, Standard Test Methods for Compressive Strength of Chemical Resistant Mortars, Grouts, Monolithic Surfacing and Polymer Concretes
4. ASTM C 580, Standard Test Method for Flexural Strength and Modulus of Elasticity of Chemical Resistant Mortars, Grouts, Monolithic Surfacing and Polymer Concretes
5. ASTM D 638, Standard Test Method for Tensile Properties of Plastics
6. ASTM D 1777, Standard Test Method for Thickness of Textile Materials
7. ASTM D 2240, Standard Test Method for Rubber Property, Durometer Hardness
8. ASTM D 3775, Standard Test Method for End, Warp, and Pick, Filling, Count of Woven Fabrics
9. ASTM D 3776, Standard Test Methods for Mass per Unit Area, Weight, of Fabric
10. ASTM D 2370, Standard Test Method for Tensile Properties of Organic Coatings
11. ASTM D 2047, Standard Test Method for Static Coefficient of Friction of Polish Coated Flooring Surfaces as Measured by the James Machine
12. ASTM D 4541, Standard Test Method for Pull Off Strength of Coatings Using Portable Adhesion Testers
13. ASTM D 5035, Standard Test Method for Breaking Force and Elongation of Textile Fabrics, Strip Method
14. ASTM E 96, Standard Test Methods for Gravimetric Determination of Water Vapor Transmission Rate of Materials

9.22.1.2 SUBMITTAL:

Submit certificates of compliance, manufacturer product information and shop drawings.

Submit ACCESSORIES documentation.

Submit a control joint filler color palette from which specific selections will be made at a later date. The palette is to have **ten selections** from which to choose.

Submit samples of each type, color and finish of strips and accessories proposed for use.

The work requires a maximum of **one color selection(s)**. Any one space or area receives a maximum of **one color selection(s)**.

Submit the recommended maintenance practices for each type of installation provided.

Use a terrazzo cleaner that is biodegradable and chemically neutral with a pH within the range of 7.0 to 10.0. Cleaner is free of phosphate, crystallizing salts and water soluble alkaline salts. Provide applicable NTMA maintenance recommendations.

Regularly remove dirt from sealed terrazzo floors. Test cleaning agents for adverse effects prior to performing maintenance. Mop using a solution of commercial detergent and warm water. Treat difficult stains with commercial stain remover and a soft bristled brush. Allow cleaners to dwell. Scrub to loosen stubborn dirt. Remove soiled water and detergent. Rinse thoroughly with clean water.

Remove acrylic sealers with alkaline stripper. Repeated stripping applications and use of a rotary scrubber with a red floor pad may be required.

9.22.1.3 MATERIALS:

Epoxy terrazzo accessories are products manufactured by Balco, Incorporated, www.balcousa.com; Manhattan American Terrazzo Strip Company, www.manhattanamerican.com; Master Terrazzo Technologies, www.masterterrazzo.com; Wooster Products, Incorporated, www.woosterproducts.com; OR EQUAL.

Furnish ACCESSORIES indicated.

Isolation membrane is a 100% solids, flexible epoxy membrane that is self priming, contains no plasticizers and provides long term flexibility. Basis for epoxy membrane is Series MasterFlex Flexible Epoxy Membrane as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

MasterFlex Flexible Epoxy Membrane	Performance	Standard
Shore D hardness at 68° F, 24 hours	34	ASTM D 2240
Shore D hardness at 68° F, 48 hours	52	ASTM D 2240
Tensile strength at 68° F	1,500 PSI	ASTM D 2370
Elongation at 68° F	130%	ASTM D 2370
Adhesion with concrete failure	More than 350 PSI	ASTM D 4541
Impact strength, inch-pounds	More than 174	
Gel time at 68° F	55 minutes	

Fiberglass mesh reinforcing consists of woven fabrics where fill yarns are threaded between two twisting warp yarns. Basis for mesh reinforcing is Series Morricite Fiberglass Fabric as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

Morricite Fiberglass Fabric	Performance	Standard
Thickness	0.017 per inch	ASTM D 1777
Construction, warp	6 yarns per inch	ASTM D 3775
Construction, weft	6 yarns per inch	ASTM D 3775
Weight, per square yard	4.6 ounces	ASTM D 3776
Tensile strength, warp	150 pound-inch	ASTM D 5035
Tensile strength, weft	210 pound-inch	ASTM D 5035
Weave	Leno	
Finish	Alkali resistant	

Divider strip heavy tops are 0.125 inch exposed thickness with a depth corresponding to topping thicknesses.

Provide matching T, K and L divider strips to create patterns, perimeter terminations and expansion joints. Extrusion top sections are brass and lower sections are 0.051 inch, 16 gauge white zinc. Control joints are separate, double L divider strips positioned back to back. Strips with horizontal legs are no longer than 0.5 inches and furnished with a series of prefabricated holes to engage adhesive and increase bonding strength. Stop, edge, toe, base, expansion strips and beads are similar. Basis for divider strips are products manufactured by Manhattan American Terrazzo Strip Company, www.manhattanamerican.com.

Provide the recommended epoxy resin divider strip adhesive.

Primer is a two component, 100% solids, moisture insensitive epoxy. Moisture vapor transmission is less than 1 perm when measured in accordance with ASTM E 96. Combine primer with blended aggregate to patch small voids and use as sloping transition mortar. Primers containing solvents are not permitted. Basis for primer is Series Morricite Primer as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

Morricite Primer	Performance	Standard
Bond strength at 100% concrete failure	350 PSI	ACI 503R
Compressive strength, B type cylinder	10,000 to 12,000 PSI	ASTM C 579
Tensile strength, C type die at 2 inches	2,000 PSI	ASTM D 638

Patching underlayment and mortar bed and compound is a commercial blend of epoxy resins with durable, graded aggregates. Installed thickness ranges from an 0.125 inch to 4 inches depending on application and aggregate blend. Basis for primer is Series MorriFill Epoxy Slope and Fill Mortar as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

MorriFill Epoxy Slope and Fill Mortar	Performance	Standard
Tensile strength	2,000 PSI	ASTM C 307
Compressive strength, B type cylinder	8,000 to 10,000 PSI	ASTM C 579
Flexible strength	3,200 PSI	ASTM C 580
Shore D hardness	75 to 80	ASTM D 2240

Finishing grout is 100% solids epoxy. Basis for finishing grout is Series Morricite Terrazzo Grout as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

Control joint filler is flexible, grindable, 100% solids epoxy. Basis for control joint filler is Series ColorFlex as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

ColorFlex	Performance	Standard
Tensile strength at 68° F	1,600 PSI	ASTM D 2370
Elongation at 68° F	100%	ASTM D 2370
Tensile modulus at 68° F	27,800 PSI	ASTM D 2370

Expansion joint sealant is silicone.

Sealer consists of a urethane base coat followed by two acrylic finish coats complying with ASTM D 2047. Coatings are clear, non ambering, slip and stain resistant. Sealer contains 6.48 pounds of VOC per gallon and has a standard coefficient of friction of 0.6 or more. Coatings are chemically neutral with a pH between 7.0 and 10.0 and resist 10% sodium hydroxide, 10% potassium hydroxide, 10% hydrochloric acid, 10% sulfuric acid, lubricating oil and butter without deleterious effect. Sealer resists tea, coffee, milk, cocoa, cola, rubber heel, lipstick and wax crayon stains with no effect. Basis for sealer is Series SealOn Waterborne Sealer as manufactured by Master Terrazzo Technologies, www.masterterrazzo.com.

Furnish fasteners, accessories and options as recommended by the manufacturer for the specific applications and substrates encountered within the work.

9.22.1.4 INSTALLATION:

Isolation Membrane

Prime concrete substrates at the rate of 200 square feet per gallon. Do not allow primer to puddle. Cure primer.

Isolation membranes consist of a 25 mil flexible epoxy coat, followed by a 15 mil flexible epoxy coat. Embed mesh reinforcing.

Prime isolation membranes at the rate of 200 square feet per gallon. Do not allow primer to puddle.

Flooring Layout and Installation

Configure divider strips and set in adhesive. Provide a 0.375 inch joint between back to back control joints and epoxy filler.

Final clean by removing residual haze and washing surfaces with a cleaner solution. Allow surfaces to dry. Apply 800 to 1,000 square feet of sealer per gallon with fiber mops to reduce streaking and provide a smooth finish. Avoid puddling. Recoat in two to four hours. Protect installations for twenty-four hours after application. Sealer fully cures in forty-eight hours.

1. Terrazzo Sealer:

1st Coat:		158 Urethane Sealer
2nd Coat:	2 mil WFT	SealOn Waterborne Sealer
3rd Coat:	2 mil WFT	SealOn Waterborne Sealer

9.23 EPOXY TERRAZZO FLOORING**Section 09 66 20**

Addendum 1, 10-Feb-22

9.23.1 SCOPE:

Provide labor, material, equipment and services necessary for, and reasonably incidental to, furnishing and installing terrazzo work indicated within the Instruments of Service. Incorporate related accessories and specialties to accomplish a complete and proper installation. Coordinate and schedule this work with the work of other trades to ultimately provide superior workmanship in the finished product.

Conform to the following material and workmanship specifications and standards, as applicable:

1. ACI 503R, Use of Epoxy Compounds with Concrete
2. ASTM C 131, Standard Test Method for Resistance to Degradation of Small Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine
3. ASTM C 140, Standard Test Methods for Sampling and Testing Concrete Masonry Units and Related Units
4. ASTM C 373, Standard Test Methods for Determination of Water Absorption and Associated Properties by Vacuum Method for Pressed Ceramic Tiles and Glass Tiles and Boll Method for Extruded Ceramic Tiles and Non Tile Fired Ceramic Whiteware Products
5. ASTM D 412, Standard Test Methods for Vulcanized Rubber and Thermoplastic Elastomers, Tension
6. ASTM D 635, Standard Test Method for Rate of Burning and Extent and Time of Burning Plastics in a Horizontal Position
7. ASTM D 638, Standard Test Method for Tensile Properties of Plastics
8. ASTM D 646, Standard Test Method for Grammage of Paper and Paperboard, Mass per Unit Area
9. ASTM D 695, Standard Test Method for Compressive Properties of Rigid Plastics
10. ASTM D 1308, Standard Test Method for Effect of Household Chemicals on Clear and Pigmented Coating Systems
11. ASTM D 2240, Standard Test Method for Rubber Property, Durometer Hardness

9.23.2 SUBMITTAL:

Submit certificates of compliance, manufacturer product information and shop drawings.

Submit TERRAZZO documentation.

Submit ACCEPTANCE REPORTING prepared by the technical consultant for recordkeeping.

Furnish evidence of terrazzo manufacturer and installer NTMA membership. Identify the technical consultant that conducts quality control testing during installation.

Terrazzo flooring matrix is as follows: Resin color is **MTT 1502, Pure White, ATF-20** with chip selection is **SA, Raven Black, Size No. 1, 5%**; chip selection is **SA, Raven Black, Size No. 2, 5%**; chip selection is **SA, Ultra White, Size No. 1, 35%**; chip selection is **SA, Ultra White, Size No. 2, 35%**; chip selection is **Arim CP-30, Red Glass, Size No. 1, 10%**; and chip selection is **Arim CP-20 Yellow Glass, Size No. 2, 10%**.

Furnish **two samples** of each selected mix that is representative of the installation.

Furnish the standard **10 year** warranty of the manufacturer. Coverage is to ensure that epoxy terrazzo finishes do not delaminate or crack.

Submit the recommended maintenance practices for each type of installation provided.

9.23.3 MATERIALS:

Epoxy terrazzo floors are products manufactured by Concord Terrazzo Company, www.terrazzco.com; David Allen Company, www.davidallen.com; Master Terrazzo Technologies, www.masterterrazzo.com; OR EQUAL.

The TERRAZZO system consists of the following components applied to the supporting substrate(s) indicated:

The supporting substrate is conventional concrete.

1. Isolation membrane, 40 mil, mesh reinforced
2. Epoxy primer, 175 to 250 square feet per gallon
3. Terrazzo topping, 0.375 inch thickness
4. Urethane and acrylic sealant

Epoxy terrazzo flooring consists of marble chips and aggregates combined with a two component resin binder that creates a 70% finished chip density.

Chips are marble, granite, glass, synthetic or mother of pearl. Marble chips have abrasion and impact resistance with less than a 40% loss when tested in accordance with ASTM C 131. Chips are free of deleterious or foreign materials, and dust content is limited to less than 1% by weight. Pigments are alkali resistant and color stable. The matrix, or bonding agent, is epoxy or polyacrylate modified cement resin. Recyclable content is a total of 20% postconsumer and preconsumer material.

Epoxy resin mix resists 1% soap solution of distilled water; 10% sodium hydroxide and mineral water; 10% hydrochloric acid isopropanol; 30% sulfuric acid ethanol; 5% acetic acid; and 0.025% detergent solution without deleterious effect. Chemical resistance is tested by immersion for seven days at room temperature in accordance with ASTM D 1308. Mixes achieve a minimum bond strength of 300 PSI with 100% concrete failure in accordance with the Field Test Method for surface soundness and adhesion as described in ACI Committee No. 403, Bulletin Title No. 59-43. Test specimens are cured for seven days at $75^{\circ} \pm 2^{\circ}$ F and $50\% \pm 2\%$ RH.

Terrazzo Flooring	Performance	Standard
Bond strength at 100% concrete failure	300 PSI	ACI 503R
Water absorption, twenty-four hours	Less than 0.75%	ASTM C 140, ASTM C 373
Tensile strength, C type die at 2 inches	3,000 to 4,800 PSI	ASTM D 412, ASTM D 638
Flammability, extent of burning	0.25 inch maximum	ASTM D 635
Linear expansion, per %, -12° to 140° F	25 x 10 ⁶ inches per inch	ASTM D 646
Compressive strength, B type cylinder	10,000 to 12,000 PSI	ASTM D 695
Hardness, Shore D durometer	60 to 85	ASTM D 2240

Furnish fasteners, accessories and options as recommended by the manufacturer for the specific applications and substrates encountered within the work.

9.23.4 INSTALLATION:

Concrete substrates receive a steel trowel finish. Install control joints.

Perform concrete moisture testing. Conduct pH testing.

Mechanically abrade concrete substrates with steel shot blast to create a surface profile within the range of CSP 3 to CSP 4.

Install an isolation membrane.

Install divider strips.

Mix terrazzo binder with chips and fillers in proper ratios and proportions. Thoroughly blend for uniformity. Trowel apply terrazzo mixtures into panels flush with divider strip tops and to specified thicknesses. Broadcast additional

chips onto the surface as needed to achieve required chip densities. Trowel to a smooth, seamless and uniform surface that exposes the lines created by divider strips.

Cure terrazzo. Rough grind, intermediate grind, finish grout and clean. Perform final polishing and final cleaning.

Final clean and seal surfaces.

Epoxy Terrazzo Testing

Mix epoxy resin without aggregates and cure for seven days at 73° to 77° F with RH within the range of 48 to 52%. Test specimens for compliance with hardness, tensile strength, compressive strength and chemical resistance properties.

Mix epoxy resin with aggregates. Grind and grout to a 0.25 inch thickness. Cure for seven days at 73° to 77° F with RH within the range of 48 to 52%. Test specimens for compliance with extent of burning and coefficient of linear thermal expansion properties.

Test epoxy terrazzo for compliance with bond strength properties.

Provide ACCEPTANCE REPORTING prepared by the technical consultant for recordkeeping.

9.23.1 PRECAST EPOXY TERRAZZO

Section 09 66 30

Addendum 1, 10-Feb-22

9.23.1.1 SCOPE:

Provide labor, material, equipment and services necessary for, and reasonably incidental to, furnishing and installing terrazzo work indicated within the Instruments of Service. Incorporate related accessories and specialties to accomplish a complete and proper installation. Coordinate and schedule this work with the work of other trades to ultimately provide superior workmanship in the finished product.

Conform to the following material and workmanship specifications and standards, as applicable:

1. ANSI A118.4, Standard Specifications for Modified Dry Set Cement Mortar
2. ANSI A118.5, Standard Specifications for Chemical Resistant Furan Mortars and Grouts for Tile Installation

9.23.1.2 SUBMITTAL:

Submit certificates of compliance, manufacturer product information and shop drawings.

Submit TERRAZZO documentation.

Furnish evidence of terrazzo manufacturer and installer NTMA membership.

Precast terrazzo logo matrix is as follows:

1. Resin color is **MTT 50191, Red, Clear Glass Fines** with chip selection **Arim RC-50, Clear Glass, Size No. 1, 100%**
2. Resin color is **MTT 6005, Athletic Gold, Clear Glass Fines** with chip selection **Arim RC-50, Clear Glass, Size No. 1, 100%**
3. Resin color is **MTT 1509, Black, Clear Glass Fines** with chip selection **Arim RC-50, Clear Glass, Size No. 1, 100%**.

Obtain a digital file from the Owner of the official logo with commercial color designations for replicating color matches. Incorporate this information in the submittal for Owner approval. Logos and colors contained in the Instruments of Service only denote the nature of the work and approximate color selections involved.

Submit samples of each type, color and finish of strips and accessories proposed for use.

Furnish **two samples** of each selected color that is representative of the installation.

Submit the recommended maintenance practices for each type of installation provided.

9.23.1.3 MATERIALS:

Precast epoxy terrazzo items are products manufactured by Angelozzi Precast Terrazzo Products, LLC, www.angelozziterrazzo.com; Precast Terrazzo Enterprises, www.precstterrazzo.com; Romoco Precast Terrazzo Company, www.romanmosaic.com; Wausau Tile, www.wausautile.com; OR EQUAL.

Furnish TERRAZZO indicated.

Precast epoxy terrazzo base is **6 inches** high. Cove base sections are 0.375 inches thick with a 0.75 inch cove radius. Top edges are **beveled and polished**. Outside corners have finished return edges. Ease exposed edges to a 0.125 inch radius. Cast sections are 4 feet, 0 inches in length or less. Mix materials for precast terrazzo base matches adjoining floors.

Precast logos are illustrated in the Instruments of Service.

Provide the recommended epoxy adhesive complying with ANSI A118.5 for substrates encountered. As an alternative, provide the recommended latex portland cement thin set mortar complying with ANSI A118.4.

Furnish fasteners, accessories and options as recommended by the manufacturer for the specific applications and substrates encountered within the work.

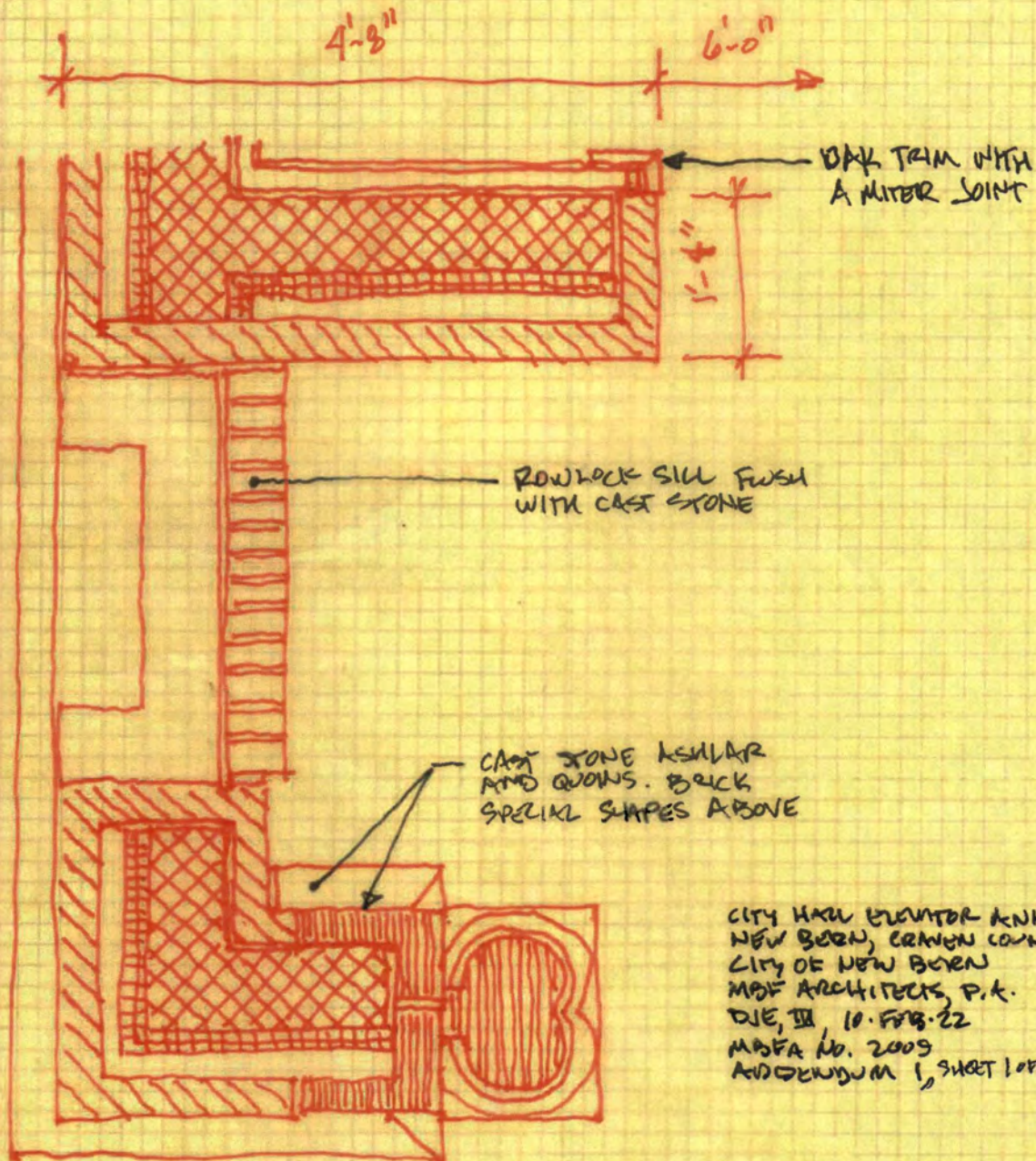
9.23.1.4 INSTALLATION:

Smooth uneven vertical surfaces with patching underlayment. Prime substrates and set precast terrazzo base sections in a setting bed. Grout joints.

Set units level, plumb and true to line with variations less than an 0.125 inch in length, height and width.

Polish exposed edges and surfaces of precast items to match floors.

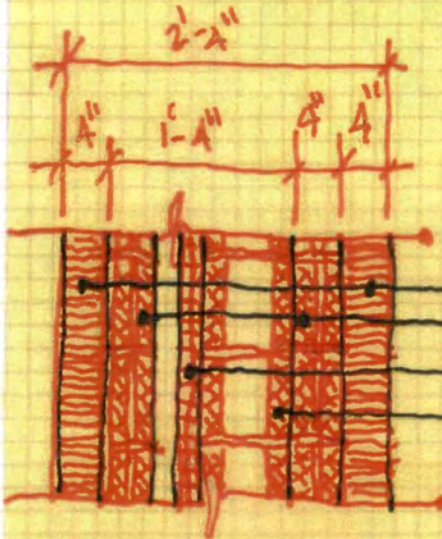
Seal surfaces.



CITY HALL ELEVATOR ANNEX
NEW BERN, CRANFORD COUNTY
CITY OF NEW BERN
MBF ARCHITECTS, P.A.
DJE, III, 10. FEB. 22
MBFA No. 2009
ADDENDUM 1, SHEET 1 OF 4

FIRST FLOOR PORCH DETAIL

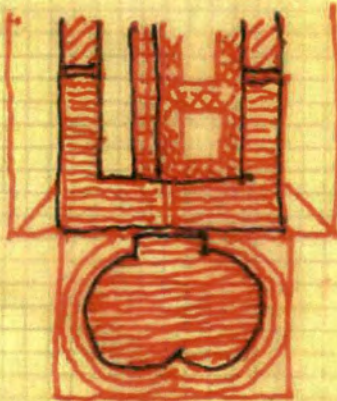
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ROMAN ARCH EXTERIOR
WALL TYPE

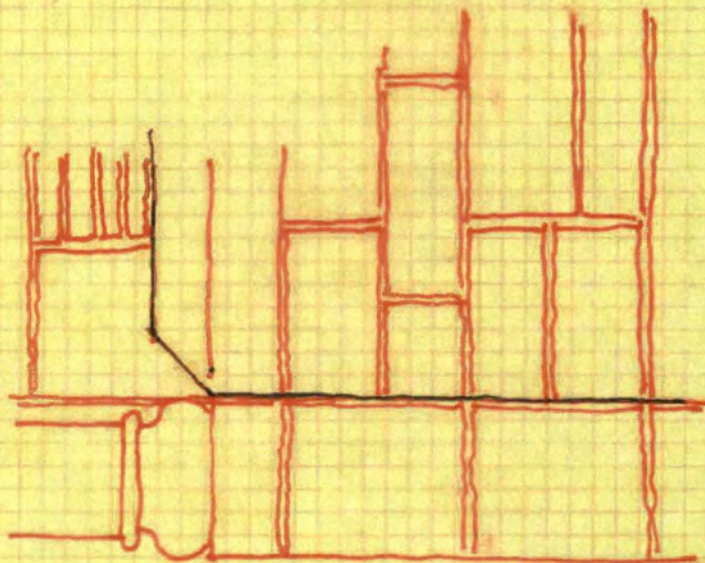
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CITY HALL ELEVATOR ANNEX
NEW BERN, CAROLINA COUNTY
CITY OF NEW BERN
MBF ARCHITECTS, P.A.
PJE, II, 10. FEB. 22, MSEA NO. 2003
ADDENDUM 1, SHEET 2 OF 4

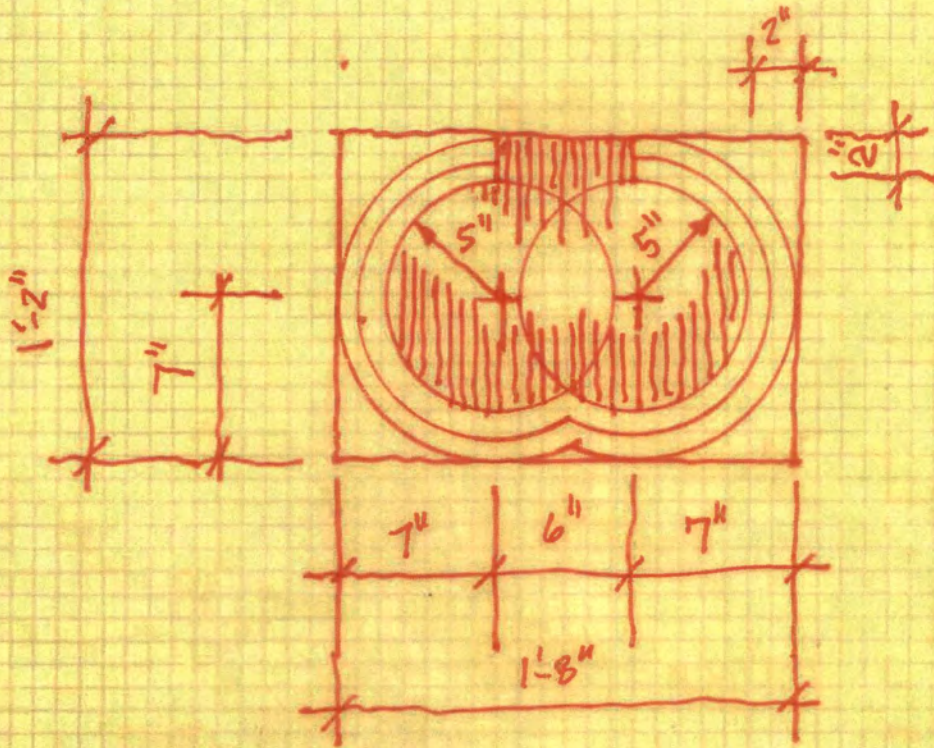


ROMAN ARCH DETAIL

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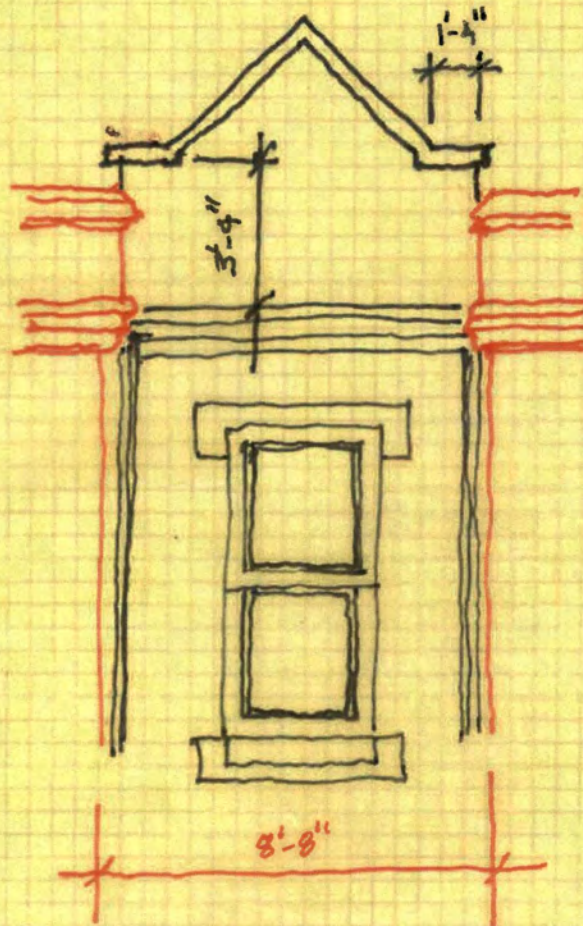


ROMAN ARCH ASHLAR CAST
STONE DETAIL
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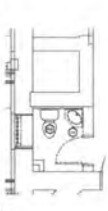
CAST STONE COLUMN
DETAIL
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CITY HALL ELEVATOR ANNEX
NEW BERN, CRAVEN COUNTY
CITY OF NEW BERN
MBF ARCHITECTS, P.A.
TUE, 10. FEB. 12, MBFA NO. 2009
ADDENDUM 1, SHEET 3 OF 4

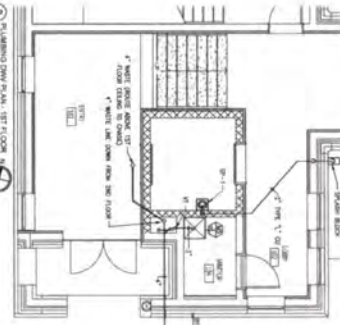


NORTH & SOUTH FIREAPET
ELEVATION
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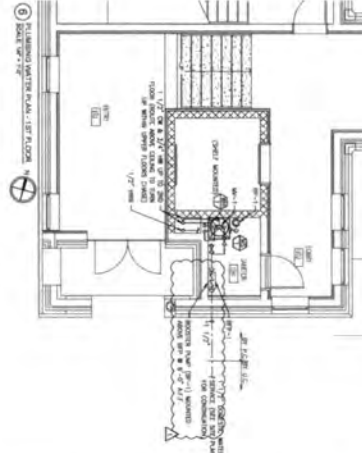
CITY HALL ELEVATOR ANNEX
NEW BERN, CRANFORD COUNTY
CITY OF NEW BERN
MBF ARCHITECTS, P.A.
DUE, III, 10. FEB. 22, 2009
ADDENDUM 1, SHEET 4 OF 4



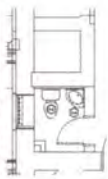
1 PLUMBING CONNECTION PLAN, 1ST FLOOR
SHEET 1 OF 4



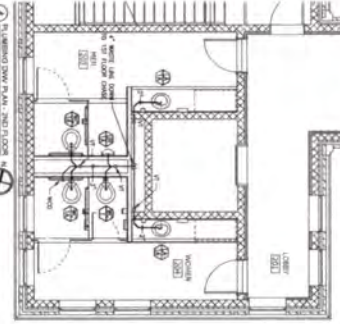
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SHEET 2 OF 4



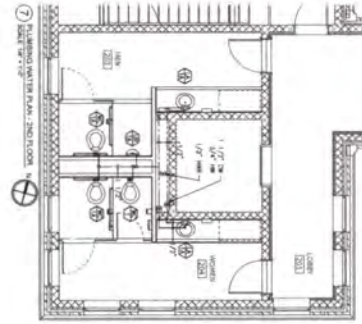
3 PLUMBING CONNECTION PLAN, 1ST FLOOR
SHEET 3 OF 4



4 PLUMBING CONNECTION PLAN, 2ND FLOOR
SHEET 4 OF 4



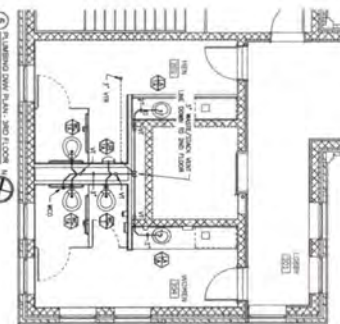
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SHEET 5 OF 4



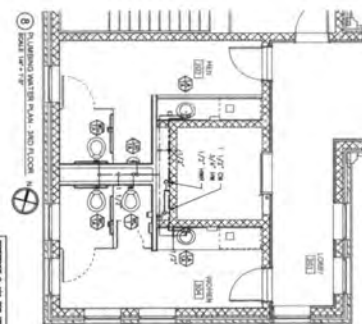
6 PLUMBING CONNECTION PLAN, 2ND FLOOR
SHEET 6 OF 4



7 PLUMBING CONNECTION PLAN, 2ND FLOOR
SHEET 7 OF 4



8 PLUMBING CONNECTION PLAN, 2ND FLOOR
SHEET 8 OF 4



9 PLUMBING CONNECTION PLAN, 2ND FLOOR
SHEET 9 OF 4

GENERAL NOTES:
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF NEW BERN PLUMBING CODE.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF NEW BERN PLUMBING CODE.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF NEW BERN PLUMBING CODE.



City Hall Elevator Annex
300 Pollock Street
New Bern, Craven County
City of New Bern

Revisions	Rev.	Date	Description
	1	8-11-10	ASB-BRICKER PUMP

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P-101
SHEET 1 OF 4
NEW BERN CITY HALL
PLUMBING PLANS

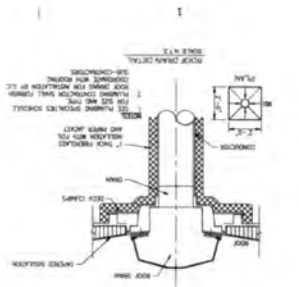
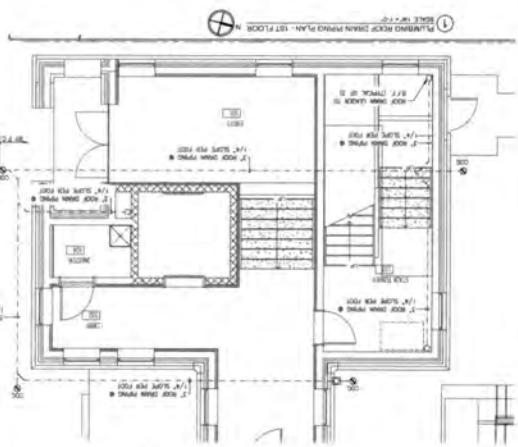
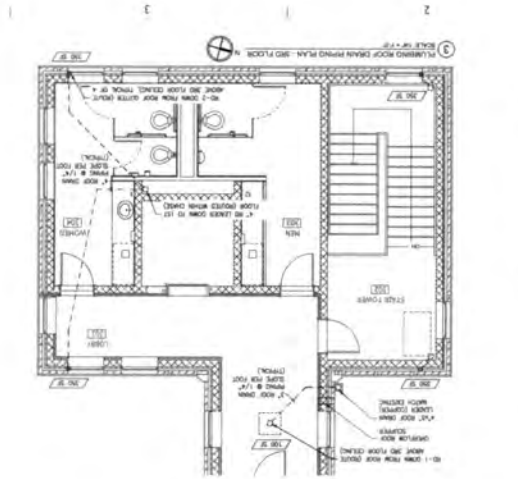
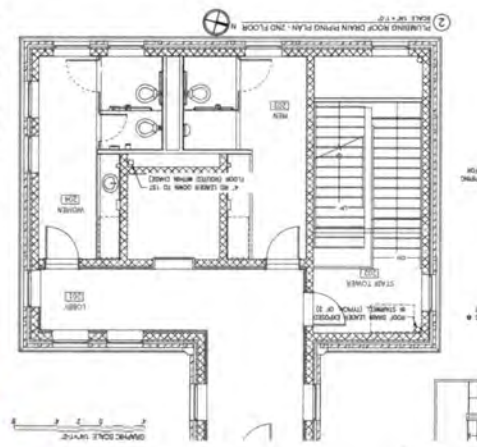
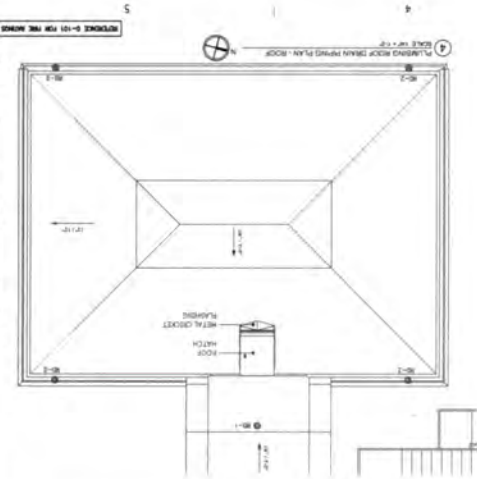


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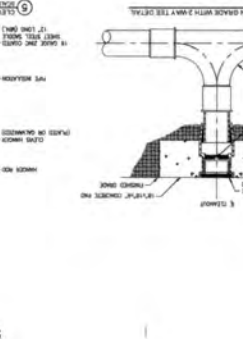
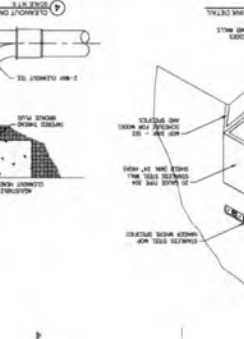
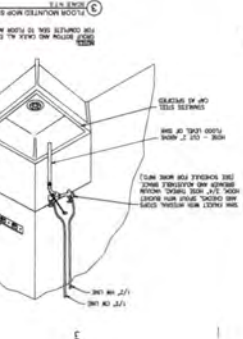
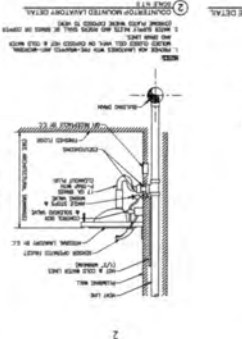
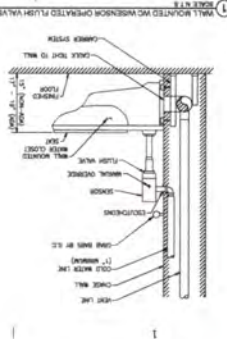
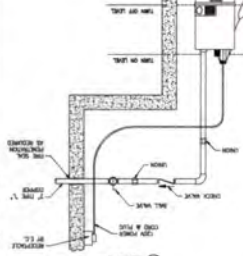
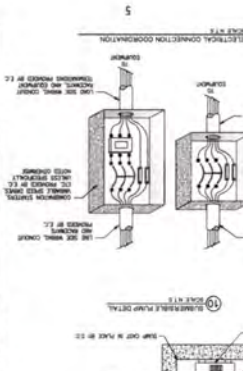
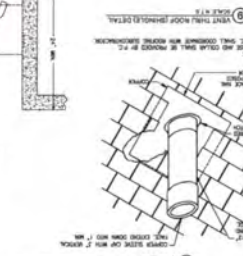
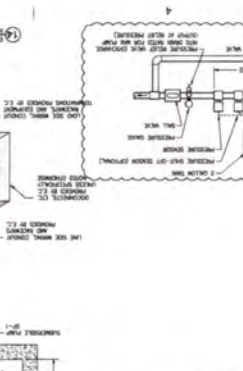
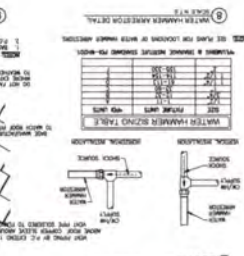
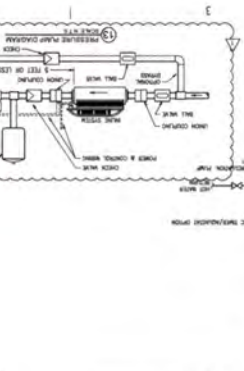
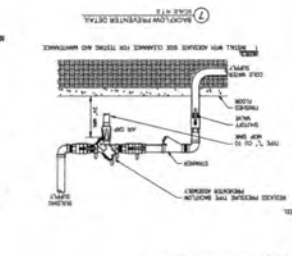
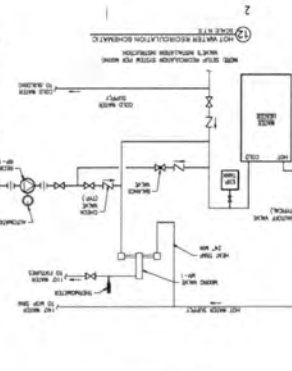
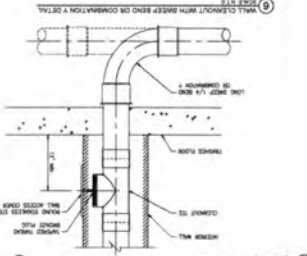
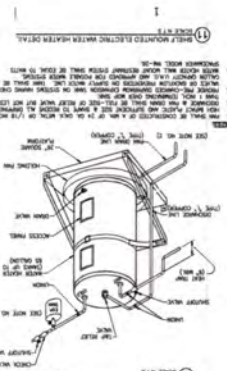
BID SET

NO.	REVISION	DATE
1	ISSUED FOR BIDDING	12/11/2023
2	REVISION	12/11/2023
3	REVISION	12/11/2023
4	REVISION	12/11/2023
5	REVISION	12/11/2023

City Hall Elevator Annex
300 Pollock Street
New Berry, Camden County
City of New Berry



NOTES:
1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO OUTLINE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO OUTLINE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO OUTLINE UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO OUTLINE UNLESS OTHERWISE NOTED.



Sheet 3 of 4

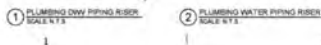
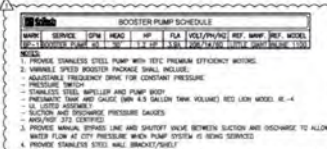
P-201


NEW BERN CITY HALL
PLUMBING DETAILS
2009

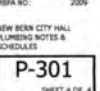
City of New Bern

City Hall Elevator Annex
300 Pollock Street
New Bern, Curran County

architect's po



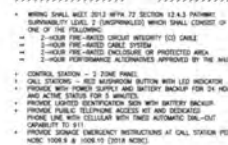
1. REFERENCE SYMBOL,  FOR PROTECTED ROOF AREAS (INCLUDES VERTICAL WALLS).
2. WINDRUM RAINFALL FOR ROOF DRAINS IS BASED ON 4.0 INCHES PER HOUR.
3. WINDRUM RAINFALL FOR OVERFLOW ROOF DRAINS IS BASED ON 7.2 INCHES PER HOUR.
4. ROOF DRAIN SIZING (SEE FLANS FOR LOCATIONS).
5. RO-1 (PRIMARY) 2"
6. RO-2 (PRIMARY) 2"
7. ALL DRAINS AT THE BASE OF EACH VERTICAL CONDUCTOR.





WHERE THE "CONSTANTS" ARE AS FOLLOWS:

- NOTES:**
1. THIS FIGURE ILLUSTRATES THE WORKING SPACE IN FRONT OF ELECTRICAL EQUIPMENT REQUIRED BY NEC SECTION 110-26.
 2. THIS INCLUDES BUT IS NOT LIMITED TO PANELBOARDS, SAFETY SWITCHES, MOTOR STARTERS, JUNCTION BOXES AND OTHER ELECTRICAL EQUIPMENT.



SOURCE IDENTIFICATION

- SIGNAGE SPECIFICATIONS**
- EACH AREA OF REFUGE SHALL HAVE INSTRUCTIONS POSTED ADJACENT TO THE TWO-WAY COMMUNICATION SYSTEMS CONCERNING THE USE OF THE AREA OF REFUGE ASSISTANCE UNDER EMERGENCY CONDITIONS. ALL SIGNS SHALL HAVE LETTERS, NUMBERS, CHARACTERS AND THE BACKGROUND IN WHITE. THE FOLLOWING LOCATIONS SHALL BE SIGNIFIED BY AN EIGHT-TO-FOUR (8-4) (DOWN-WATER), WHITE (FLAT), OR OTHER NON-GLARE FINISH ONLY: CHARACTERS AND SYMBOLS SHALL CONTRAST WITH THE BACKGROUND ON WHICH THEY ARE MOUNTED EITHER BY HAVING LIGHT CHARACTERS ON A DARK BACKGROUND OR DARK CHARACTERS ON A LIGHT BACKGROUND. LETTERS AND NUMBERS ON SIGNS SHALL HAVE A HEIGHT-TO-HEIGHT RATIO BETWEEN 0.5 AND 1.1. STROKE-TO-HEIGHT RATIO SHALL BE BETWEEN 1.5 AND 3/10.





February 17, 2022

Addendum 2

**RE: City Hall Elevator Annex
City of New Bern**
New Bern, Craven County
MBFA No: 2009

Accompanying this Addendum is a current list of plan holders for reference and use.

Text in *italics* replicates language contained in the Instruments of Service. Standard text and strikethrough notations indicate modifications added or deleted.

- Item 1:** Reference **Section 00 10 00, Form of Advertisement**. Only two bids were received. The work will be rebid in accordance with G.S. 143-132(a). Modify the following sentence: *Sealed proposals will be received on February 24, 2022 until 3:00 PM for Single Prime Bids in the Courtroom of City Hall, 300 Pollock Street, New Bern, Craven County for the construction of the City Hall Elevator Annex project, at which time and place bids received will be opened and read.*
- Item 2:** Reference **Section 00 31 00, Coordination & Work by Owner**. Strike the following sentences: *The Owner furnishes and installs landscaping. Furnish and install temporary seeding.*
- Item 3:** Reference **Section 05 10 00, Structural Steel**. Strike the following sentence: *Furnish an AISC Certified Steel Erector, CSE Category certification.*



Darden J. Eure, III, AIA, NCARB

END OF ADDENDUM
MBF Architects, P.A.

City Hall Elevator Annex
City of New Bern
New Bern, Craven County

MBF Architects, P.A.
MBFA No: 2009

REGISTER OF BID DOCUMENTS

Bid Date: February 17, 2022

January 20, 2022

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
MBF Architects, P.A. 317-C Pollock Street, New Bern, NC 28560 (T) (252) 637-6373, (F) (252) 637-3259	eure@mbfarchitects.com	
City of New Bern 300 Pollock Street, New Bern, NC 28563 (T) (919) 981-5217, (F) (919) 981-5224	hughesf@newbernnc.gov; colonl@newbernnc.gov; ChilesG@newbernnc.gov	
AGC Raleigh Hispanic Contractors Association Construct Connect	content@constructconnect.com	
NCIMED Plan & Resource Center 114 West Parrish Street, 6th Floor, Durham 27701 (T) (919) 956-8889	ggillespie@TheInstituteNC.org	

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Kaydos-Daniels Engineers, PLLC 400-201 West Morgan Street, Raleigh, 27603 (T) (919) 828-4966, (F) (919) 828-4967	lucas@kaydos-daniels.com	
En-Tech Engineering, P.A. 1003-I N. Berkeley Blvd., Goldsboro 27534 (T) 919-778-9064 (F) 778-9069	dham@entech-pme.com	
Master Terrazzo Technologies 8000 Bristol Pike, Levittown, PA 19057 (T) (919) 608-4897, (F) (215) 949-9422	ben@masterterrazzo.com	
P&D Architectural Precast Inc. 323 E Railroad St, La Grange, NC 28551 (T) (252) 566-9811 (C) (919) 580-8919	mark.fairman@pdarchprecast.com	
West Masonry 1207 Sutton Drive, Kinston, NC 28501 (T) (252) 523-1719	westmasonry@embarqmail.com	
R.E. Bengel Sheet Metal & Roofing 1311 North Craven St, New Bern 28560 (T) (252) 637-3404, (F) (252) 637-2721	steve@rebengel.com ; jim@rebengel.com	23632
Graham Architectural Products 1551 Mount Rose Avenue, York, PA 17403 (T) (704) 609-4118	tcooper@grahamwindows.com	
Brava Roof Tile 915 East Tyler St, Washington, IA 52353 (T) (844) 290-4196	jimmy.clark@bravatile.com	
Custom Brick Company 1613 Old Louisburg Road, PO Box 6245, Raleigh, NC 27628 (T) (919) 832-2804	dorsey@custombrick.com	
Southern Architectural Hardware, Incorporated 1025 Territorial Road, New Bern, NC 28560 (T) (252) 636-1255, (F) (252) 636-1417	johna@souarch.com	

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Blue Rock Structures, Incorporated PO Box 129, 10689 Highway 17, Pollocksville, NC 28573 (T) (910) 743-0505, (F) (910) 743-0500	vaycock@bluerockstr.com	48139
Bruin Builders, LLC 3305 Highway 70 East, New Bern 28560 (T) (252) 635-9940, (F) (252) 635-1815	bruinbuilders@hotmail.com	62374
Daniels & Daniels Construction Company, Inc. 178 NC Hwy 111 South, Goldsboro, NC 27534 (T) (919) 778-4525, (F) (919) 778-6850	estimating@danddcc.com	23697
Farrior & Sons, Incorporated PO Box 127, 9571 Highway 264 West Alt, Farmville 27828 (T) (252) 753-2005 (F) (252) 753-2267	tim@farriorandsons.com	3934
Fasco, Incorporated PO Box 1697 (28503), 2659 Hwy 258 North, Kinston 28504 (T) (252) 522-0591 (F) (252) 522-5613	fasco@fascoinc.com	8015
Group III Management, Incorporated PO Box 1393 (28503), 2715 W Vernon Ave, Kinston 28504 (T) (252) 527-3333, (F) (252) 527-3377	ebarrow@groupiiimgt.com	22369
IMEC Group, LLC 1299 D Parkway Drive Goldsboro, North Carolina 27534 (T) (252) 429-6052, (F) (252) 565-4508	gward@imecgroupllc.com	72860
Joyce & Associates Construction, Incorporated PO Box 190, 6994 Highway 70, Newport 28570 (T) (252) 223-3171, (F) (252) 223-3455	info@joyceandassoc.com	47948
LA. Downey & Son, Incorporated 4457 Arendell Street, Morehead City, NC 28557 (T) (252) 726-2847, (F) (252) 726-1966	glott@ladowney.com	1774
Primus Structures, Incorporated 2896 Highway 24, Suite H, Newport 28570 (T) (252) 503-3159, (F) (252) 764-2449	david@primusstructures.com	80425
Quadrant Construction, Incorporated 166 Center Street, Jacksonville, NC 28546 (T) (919) 937-0003	chriswhaley@qcenc.com; markmcloskey@ephnc.com	54448

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Stocks & Taylor Construction, Incorporated PO Box 2147, Washington 27889-2147 (T) (252) 975-5855	staylor@stockstaylor.com; hbrooks@stockstaylor.com	69066
Trader Construction Company PO Drawer 1578, 2500 Hwy 70 East, NB 28563 (T) (252) 633-2424 (F) (252) 633-1370	dstevick@traderconstruction.com	2943
Waters Construction Company 3931 Highway 24, Newport, 28570 (T) (919) 764-2105	bishopw@waterscontracting.net	81408
Muter Construction 111 East Vance Street, Zebulon, NC 27597 (T) 919-404-8330, (c) 919-922-7568	djones@muterconstruction.com	73095

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
James L. Cayton Associates PO Box 3198 (28564), 1906 Hwy 70 East, New Bern 28560 (T) (252) 637-9389, (F) (252) 637-5622	jimmy@ilcayton.com	1697
E.T. Ferrell & Son, Incorporated PO Box 327, 710 North Center Street, Mt. Olive 28365 (T) (919) 658-2971, (F) (919) 658-6713	sueb.etf@bellsouth.net	2483
Ken Hudson Plumbing PO Box 4400, Emerald Isle, NC 28594 (T) (252) 393-7003	kahp31@yahoo.com	20049
Humphrey Mechanical, Incorporated 2421-A North Marine Blvd, Jacksonville, NC 28546 (T) (910) 455-1418, (F) (910) 455-2215	dwhitfield@humphreymechanical.com	7619
Keen Plumbing Company PO Box 1796 (27533) 407 Vann St, Goldsboro 27530 (T) (919) 735-1179, (F) (919) 735-5890	keenplumbing@bellsouth.net	1515
MechWorks Mechanical Contractors, Incorporated 532 Pylon Drive, Raleigh 27606 (T) (919) 322-2090, (F) (919) 322-2092	estimating@mechworksinc.com	11295
Scott Plumbing & Heating 6690 Hwy 55 East, New Bern 28560 (T) (252) 745-5135, (F) (252) 745-5551	scottplbghvac1@gmail.com	6295
Southern Piping Company, Incorporated 1904 Baldree Rd, Wilson 27895 (T) (252) 237-9035, (F) (252) 291-1217	Freddy.Batten@spcmechanical.com	2108
Quality Plumbing & Heating Company 1013 N William Street, Goldsboro, NC 27530 (T) (919) 735-4981, (F) (919) 735-2525	bmypass2@att.net	1132

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Baker Mechanical Company, Inc 2301 Stantonsburg Rd, Wilson 27894 (T) (252) 291-4460, (F) (252) 291-7204	donnamartin@bakermechanicalinc.com	12896
C/A Heating and Air Conditioning, Incorporated 1710 Old Airport Road, New Bern, NC 28562 (T) (252) 633-2744, (F) (252) 633-1064	bill.beese@caheatingandair.com	15760
Crystal Coast Mechanical, Incorporated 206 Campen Road, Beaufort 28516 (T) (252) 418-0038, (F) (252) 418-8038	drobbins@crystalcoastmechanical.com	29414
Humphrey Mechanical, Incorporated 2421-A North Marine Blvd, Jacksonville, NC 28546 (T) (910) 455-1418, (F) (910) 455-2215	tbarrett@humphreymechanical.com	7619
MechWorks Mechanical Contractors, Incorporated 5441 Hwy 70 Morehead City NC 28557 PO box 1168 Morehead City, NC 28557 (T) (252) 504-3201, (F) (252) 504-3202	estimating@mechworksinc.com	11295
Southern Piping Company, Incorporated 1904 Baldree Rd, Wilson 27895 (T) (252) 237-9035, (F) (252) 291-1217	Freddy.Batten@spcmechanical.com	2108

NAME, ADDRESS, PHONE	EMAIL ADDRESS	LICENSE NUMBER
Allco Electric, Incorporated PO Box 427, 5790 Aldridge Road, Lagrange, 28551 (T) (252) 566-5335, (F) (252) 566-5337	eddylong@allcoelectric.net	22313
R. Brown Electric Service, Incorporated PO Box 2188 (28561), 450 Washington Post Rd, NB 28560 (T) (252) 637-9210, (F) (252) 637-4301	ray@rbrownelectric.com	07589-U
E.L. Electric Contracting, LLC 2121 Ridge Road, New Bern, NC 28560 (T) (252) 559-3119	ernielangstonelectric@gmail.com	34685-U
Nationwide Electrical Services, Incorporated 708 North William Street, Goldsboro 27530 (T) (919) 736-2655, (F) (866) 460-3993	tim@nationwide-electric.com	15521-U
Peco Electric, Incorporated 1711 Elijha Loftin Rd, Kinston 28504 (T) (252) 527-5285, (F) (252) 527-2869	kevin@pecoelectric.com	28165-U
Pitt Electric, Incorporated 1028 Brompton Lane, Greenville, NC 27834 (T) (252) 355-2267, (F) (252) 355-6991	rwebber@pittelectric.com	07848-U
Triple R Electric, Incorporated PO Box 6116, 2488 Poole Rd, Kinston 28504 (T) (252) 523-3558, (F) (252) 523-2641	rwrouse@tripler.com ; whrouse@tripler.com	13241-U
Watson Electrical Construction Company, LLC PO Box 1250 (27835), 3121 Bismarck St, Greenville 27834 (T) (252) 756-4550, (F) (252) 756-7983	john.williams@watsonelec.com	00213/05-U
Willis Electric Company PO Box 67, Bayboro, NC 28515 (T) (252) 745-3501	wec1@embarqmail.com	03686-U

0.18 SUPPLEMENTARY GENERAL CONDITIONS

Section 00 73 00

0.18.1 GENERAL CONDITIONS OF THE CONTRACT MODIFICATIONS:

Text in italics replicates language contained in GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, AIA DOCUMENT A201-2017. Standard text and strikethrough notations indicate modifications added or deleted.

ARTICLE 1.1.1.1, THE CONTRACT DOCUMENTS

Add a paragraph as follows:

Contracts, proposals and change orders executed in one or more counterparts are each deemed to be an original, and taken together constitute one and the same instrument. Fully executed counterparts exchanged via electronic means are also deemed to be originals.

ARTICLE 2.1.1.1, GENERAL

Add paragraphs as follows:

Specifically, the Owner, as used herein, is identified as follows:

**City of New Bern
300 Pollock Street (28560)
PO Box 1129
New Bern, NC 28563**

ARTICLE 2.2.5, INFORMATION AND SERVICES REQUIRED OF THE OWNER

Delete this paragraph and replace as follows:

Contractors are entitled to receive Instruments of Service via an email link to a downloadable zipfile with electronic drawing and specification files in PDF format.

ARTICLE 3.3.4, SUPERVISION AND CONSTRUCTION PROCEDURES

Add a paragraph as follows:

Provide constant and effective supervision of the work. Cooperate and consult with others. Lay out and execute work to cause the least delay to other trades. Restore damaged tradework.

ARTICLE 3.3.5, SUPERVISION AND CONSTRUCTION PROCEDURES

Add a paragraph as follows:

Home office and field personnel authorized to act on behalf of the Contractor attend monthly progress meetings. Subcontractors, material suppliers and others that contribute to work progress are encouraged to attend. The principal purpose of monthly meetings is to affect coordination and cooperation that maintains schedules and delivers finished work within the contract time allowed.

ARTICLE 3.3.6, SUPERVISION AND CONSTRUCTION PROCEDURES

Add paragraphs as follows:

The Project Expediter is the **Single Prime Contractor**.

The Project Expediter is responsible for construction execution protocols that benefit other trades, managing construction activities and supporting work progress. Specific Project Expediter responsibilities include the following:

- 3.3.6.1 Designate a Safety Inspector to manage accident prevention measures for the work duration
- 3.3.6.2 Obtain individual schedules and cooperate with trades to create a single, integrated project construction schedule. Graphically depict work execution from start to finish using detailed bar charts, critical paths or other approved methods
- 3.3.6.3 Submit inclement weather reporting. Weather days granted extend to other contracts, reconciling the time of each trade with that of the Project Expediter
- 3.3.6.4 Maintain Instruments of Service and submittals at the work site
- 3.3.6.5 Provide temporary utilities and pay utility bills for the work duration. Reference Article 16, UTILITIES and **Section 01 50 00, Temporary Facilities & Controls** for other responsibilities
- 3.3.6.6 Supervise tradework
- 3.3.6.7 Notify trades in a timely and reasonable manner of such events or timeframes that are critical to work progress. Immediately notify if a trade delays work progress
- 3.3.6.8 Establish the construction benchmark elevation and control elevations
- 3.3.6.9 Coordinate utility extensions
- 3.3.6.10 Furnish temporary facilities and controls. Temporary keys are distributed to other trades at the discretion of the Project Expediter
- 3.3.6.11 Furnish temporary elevators, lifts, scaffolding and similar equipment for trade use
- 3.3.6.12 Furnish construction waste management protocols
- 3.3.6.13 Protect completed tradework
- 3.3.6.14 Engage a commercial service for final building cleaning
- 3.3.6.15 Organize trades, forward written notification requesting Pre Final and Final Inspections and complete punch list items

ARTICLE 3.6.1, TAXES

Add paragraphs as follows:

North Carolina Sales and Use Tax Act, Regulation No. 42, Paragraph A as well as Local Option Sales and Use Tax Act, Regulation No. 57 apply to materials furnished for **public** entities. The Owner will not refund any taxes paid.

Provide signed statements containing the information listed in G.S. 105-164.14(e).

The Department of Revenue has agreed that in lieu of obtaining copies of sales receipts, entities may obtain certified statements setting forth the date, type of property and cost of purchases from vendors, the county in which the vendor made the sale and the amount of local sales and use taxes paid thereon. Certified statements are subject to audit.

When several purchases are made from the same vendor, certified statements must indicate each invoice number, date, cost, county of sale and local sales and use taxes paid thereon.

The position of a sale is the place of business located within a taxing county where the vendor becomes contractually obligated to make the sale. Therefore, it is important to report local taxes for the county of sale rather than the county of use.

Property purchased from out of state vendors should list the county of delivery and its local sales and use tax.

Certified statements must also include the cost of any tangible personal property withdrawn from Contractor warehouse stock and the amount of county sales and use tax paid thereon.

Obtain similar certified statements from subcontractors and furnish them to the claimant.

Do not include tax paid on supplies, tools and equipment used to perform work. Certified statements include only building materials, supplies, fixtures and equipment that are incorporated into the building and its site infrastructure.

ARTICLE 4.1.1.1, ARCHITECT

Add paragraphs as follows:

Specifically, the Architect, as used herein, is identified as:

MBF Architects, P.A.
317-C Pollock Street
New Bern, NC 28560
Tel (252) 637-6373
Fax (252) 637-3259

ARTICLE 5.3.1, SUBCONTRACTUAL RELATIONS

Add paragraphs as follows:

Trade relationships conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Incorporated.

Retainage withheld from trade and vendor payments cannot exceed the percentage indicated in **Section 00 11 00, Notice to Bidders** or **Section 00 52 00, Form of Contract**.

ARTICLE 7.1.2, CHANGES IN THE WORK

Add paragraphs as follows:

Itemize change order proposals into detailed quantities of labor and material. Allowances for profit and overhead cannot exceed **ten** percent of the net cost for work furnished by the Contractor. When the change involves work furnished by a subcontractor, the allowance for profit and overhead cannot exceed **ten** percent for the subcontractor, and **five** percent for the Contractor. Credits to the Owner include no less than **five** percent profit, but no allowance for overhead. Where the work involved is covered by unit prices, the value of the change is computed by applying unit prices to the quantities encountered with no additional allowances for overhead and profit. Where changes involve time extensions, no additional compensation or extended overhead, beyond the profit and overhead allowances herein stated is permitted.

Net cost is the difference between cost additions and deductions. Eligible costs include materials and supplies incorporated or consumed as part of the project; labor expended on the project site; rental for tools, excluding hand tools, equipment, machinery and temporary facilities required for the project; premiums for bonds, insurance, permit fees, and sales and use taxes related to the project; and labor burden, limited to the costs of social security FICA and Medicare/Medicaid taxes, unemployment insurance costs; health/dental/vision insurance premiums; paid employee leave for holidays, vacation, sick leave and petty leave, not to exceed a total of thirty days per year; retirement contributions, workers compensation insurance premiums, and general liability insurance when premiums are computed based on payroll amounts, with the total labor burden not to exceed **forty** percent of the cost of labor. Overtime and extra pay for holidays and weekends are not eligible costs.

Time extensions granted for weather days are not subject to extended overhead recovery or any other monetary compensation.

A change order, when issued, is full compensation or credit for the work included, omitted or substituted. It will also document contract time adjustments to accommodate changes.

If a change order proposal is declined, the Owner may, without prejudice, perform that work.

ARTICLE 8.1.2, TIME

Modify this paragraph as follows:

The date of commencement of the Work is the date established in the ~~Agreement~~ NOTICE TO PROCEED.

ARTICLE 8.2.4, PROGRESS AND COMPLETION

Add a paragraph as follows:

Commence work within **ten** days after the date of the NOTICE TO PROCEED and complete work within **three hundred sixty** consecutive calendar days from the said date.

ARTICLE 8.3.4, DELAYS AND EXTENSION OF TIME

Add a paragraph as follows:

For each day in excess of the stipulated contract time, the **Single Prime Contractor** pays the sum of **four hundred fifty** dollars as fixed and agreed liquidated damages. This amount reasonably estimates expenses incurred for extending work beyond the contract time, such time being of the essence and a material consideration of this contract.

ARTICLE 9.3.4, APPLICATIONS FOR PAYMENT

Add a paragraph as follows:

Project records and accounting documentation are subject to audit upon request. Produce organized document files and respond to examination inquiries. The Owner selects and compensates audit professionals.

ARTICLE 10.2.9, SAFETY OF PERSONS AND PROPERTY

Add paragraphs as follows:

Provide safety measures for protection of persons involved in and adjacent to the work, including requirements stated in the AGC Accident Prevention Manual in Construction. Comply with state laws, regulations and the NCSBC to prevent accident and injury. Clearly mark and post hazard warning signs. Barricade open excavations, shafts, stairwells and similar hazards. Protect against damage or injury from falling materials. Maintain protective devices and signs for the work duration.

Adhere to rules, regulations and interpretations of the NCDOL relating to Occupational Safety and Health Standards for the Construction Industry, Title 29, CFR, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register, and revisions thereto as adopted in the GS of North Carolina 95-126 through 95-155.

Act with discretion and without further authorization in the event of emergency affecting life safety, work protection or adjoining property safety to prevent such threatened injury or damage. The provisions of **Section 00 72 00, General Conditions of the Contract** govern claims for taking such action.

ARTICLE 11.1.5, CONTRACTOR'S INSURANCE AND BONDS

Add paragraphs as follows:

The work under this contract cannot commence until certificates of insurance have been approved. Provide Certificate of Liability Insurance, ACORD 25 and Evidence of Property Insurance, ACORD 27 summarizing coverages.

Provide and maintain Workers Compensation and Employers Liability with limits of \$100,000 until OWNER ACCEPTANCE.

Provide and maintain Comprehensive Automotive Liability covering owned, hired and non owned vehicles in amounts not less than the statutory limits required by the North Carolina General Statutes.

Provide and maintain Comprehensive General Liability with a \$500,000 combined single limit for Bodily Injury and Property Damage until OWNER ACCEPTANCE, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, to protect against claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this

contract, whether such operations are by payroll personnel, a subcontractor, or anyone directly or indirectly employed by either.

Provide and maintain Property Insurance upon the entire work until OWNER ACCEPTANCE. Include Owner, Contractor, subcontractor and subsubcontractor interests in the work and insure against the risks of direct physical loss, including the perils of fire, wind, rain, flood, extended coverage, vandalism and malicious mischief. Bear costs attributable thereto for failure to purchase or maintain such insurance. Effect and maintain similar property insurance on portions of the work stored off site in amounts equivalent to applicable line items in the Schedule of Values, or in lieu thereof, equivalent to material supplier invoice amounts. **Single Prime Contractors provide Builder's Risk coverage in an amount equivalent to the contract amount.**

Pay deductibles to receive insurance settlements. Defense cost coverages are in addition to stipulated limits.

Obtain applicable, additional insurance coverages required by the North Carolina GS in amounts not less than the statutory limits.

Furnish coverages from insurance underwriters licensed to conduct business in the State of North Carolina, having a North Carolina office with a resident agent and issuing policy documents on standard NCDol forms. The certificate holder is the **City of New Bern**.

Subcontractors are required to provide and maintain, for the duration of subcontracted work, coverages of the same types and in the same amounts as stipulated. As an alternative, provide insurance coverages for subcontractors within Contractor coverages.

ARTICLE 11.3, PROPERTY INSURANCE

Delete paragraphs 11.3.1 through 11.3.6.

ARTICLE 12.2.6, AFTER SUBSTANTIAL COMPLETION

Add a paragraph as follows:

Issuance of certificate of occupancy, final payment or Owner occupancy of the premises does not relieve responsibilities for fulfilling stipulated warranties and guarantees, addressing acts of negligence and complying with the Instruments of Service.

ARTICLE 13.8, MINORITY BUSINESS PARTICIPATION

Add a paragraph as follows:

GS 143-128.2 establishes a **ten** percent goal for participation by minority businesses in total value of work for each State building project. GUIDELINES FOR THE RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN STATE CONSTRUCTION CONTRACTS, including Affidavits and Appendix E, are hereby incorporated into and made a part of this contract. The role of the State Construction Office is fulfilled by the Architect.

ARTICLE 13.9, EQUAL OPPORTUNITY CLAUSE

Add paragraphs as follows:

Incorporated herein by reference are Section 202, Federal Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for qualified persons, to prohibit discrimination in employment because of race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the USDOL Secretary.

Do not discriminate against any qualified employee or applicant for a position because of physical or mental handicap. Take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in employment practices.

ARTICLE 16, UTILITIES

Add an article as follows:

The Project Expediter provides water, electricity, gas, oil, sewer and other utilities necessary for work completion including those required for cleaning, sterilizing, balancing and testing utilities distribution systems. Facilities include temporary power, lighting, heating, air circulation, dehumidification and the like required for construction activities prior to operation of permanent systems. Provide temporary heat to maintain space temperatures above freezing. Contact utility companies to determine requirements for establishing temporary and permanent services and pay these costs. Coordinate utility company work during construction.

Furnish temporary facility meters and list accounts in the name of the Project Expediter. Transfer permanent meters and list accounts in the name of the Owner following OWNER ACCEPTANCE. The Owner pays for utility usage thereafter.

Enclose and secure the building to furnish temporary climatic control using permanent building systems. A portion of the work is enclosed and secured when windows are in place; exterior entrances, mechanical and electrical equipment rooms are secured with locks; and other openings are protected to provide reasonable climatic control. Mechanical equipment start up and temporary climatic control requirements are determined by conditions in the field. Operate mechanical systems at normal settings while installing interior finishes. Use of equipment does not affect warranty coverages.

The electrical trade provides permanent lighting prior to beginning interior painting and finishing work.

Each trade is responsible for maintaining permanent distribution systems used during work progress. Adhere to the following procedures:

- 16.1 Prior to OWNER ACCEPTANCE, each trade removes and replaces damaged parts of permanent building utility systems
- 16.2 Install temporary filters in heating and air conditioning equipment and at each return grille while furnishing temporary climatic control. Install new filters prior to OWNER ACCEPTANCE
- 16.3 Maintain clean entrances and a clean building, and only operate mechanical systems when finishing and sitework activities are free of dust, dirt and debris
- 16.4 Equipment warranties begin on the date of OWNER ACCEPTANCE. Warranty costs for temporary use prior to OWNER ACCEPTANCE are borne by the trade furnishing the equipment
- 16.5 Prior to OWNER ACCEPTANCE, fit fixtures with fully operational lamps

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving a grant agreement with the North Carolina Land and Water Fund (NCLWF), also known as the Clean Water Management Trust Fund, a Division of the Department of Natural and Cultural Resources for Innovative Stormwater Project

Date of Meeting: 03/22/2022	Ward # if applicable: NA
Department: Development Services	Person Submitting Item: Matt Schelly, Interim Director of Development Services
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	The City has been awarded a \$100,000 Innovative Stormwater Grant through the North Carolina Land and Water Fund (NCLWF), formerly the NC Clean Water Management Trust Fund (CWMTF). The funds will be used for the Duffyfield Stormwater Enhancement Project.
Actions Needed by Board:	Adopt a Resolution.
Backup Attached:	Memo, Resolution, Grant Contract

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



MEMORANDUM

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

FROM: Matt Schelly, Interim Director Development Services

DATE: March 11, 2022, 2022

SUBJECT: Consider Adopting a Resolution Approving a grant agreement with the North Carolina Land and Water Fund (NCLWF), also known as the Clean Water Management Trust Fund, a Division of the Department of Natural and Cultural Resources for Innovative Stormwater Project.

The City of New Bern has been awarded an Innovative Stormwater Grant in the amount of \$100,000 by the Board of Trustees for the North Carolina Clean Water Management Trust Fund, now known as the North Carolina Land and Water Fund (NCLWF), a Division of the Department of Natural and Cultural Resources. The funds will be used for the Duffyfield Stormwater Enhancement Project.

The North Carolina Land and Water Fund helps protect natural and cultural resources across our state through stewardship programs and other conservation efforts. New Bern was one of five entities to receive this grant this cycle. Construction began on the Duffyfield Stormwater Enhancement project in mid-August and involves enlarging a stormwater retention pond located at East Rose and Biddle streets, as well as the pump station attached to the pond. A new, standby generator will also be installed. The goal of the multi-phased project is to reduce flooding and physical damage from floodwaters, but also to engineer beautiful greenspaces that help improve the environment and promote public health.

Please contact Matt Schelly at 252-639-7583 should you have questions or need additional information.

RESOLUTION

WHEREAS, in 2021, the City was awarded an Innovative Stormwater Grant in the amount of \$100,000 by the Board of Trustees for the North Carolina Clean Water Management Trust Fund, now known as the North Carolina Land and Water Fund ("NCLWF"), a Division of the Department of Natural and Cultural Resources. The funds will be used for the Duffyfield Stormwater Enhancement Project; and

WHEREAS, on January 12, 2021, by Resolution 21-005, the Board authorized the City Manager to execute an electronic version of the grant agreement, which has not yet been carried out and has resulted in a minor revision to the contract; and

WHEREAS, the agreement originally presented to the Board has been modified to change the construction contract date from September 16, 2020 to June 30, 2022. Since there is a change in the contract, reapproval is needed for the City Manager to execute the contract.

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

THAT the City Manager is authorized to execute an electronic version of the grant agreement with the North Carolina Land and Water Fund ("NCLWF") in the amount of \$100,000.00 for the Duffyfield Stormwater Enhancement Project, a copy of which is attached hereto and incorporated herein by reference.

ADOPTED THIS 22nd DAY OF MARCH 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

**STATE OF NORTH CAROLINA
NORTH CAROLINA LAND AND WATER FUND
GRANT CONTRACT
(INNOVATIVE STORMWATER PROJECT)**

NCLWF PROJECT NUMBER: 2020-1007

GRANTOR: North Carolina Land and Water Fund ("NCLWF"), also known as the Clean Water Management Trust Fund, a division of the Department of Natural and Cultural Resources, acting through its Board of Trustees solely in its official capacity pursuant to North Carolina General Statutes ("N.C.G.S.") Chapter 143B, Article 2, Part 41

CONTRACT ADMINISTRATOR: Stephen Bevington
NC Land and Water Fund
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: 919.707.9128
Email: steve.bevington@ncdcr.gov

GRANT RECIPIENT: City of New Bern, a North Carolina Local Government Unit, ("**Grant Recipient**")

CONTRACT ADMINISTRATOR: Matthew Schelly, Interim Director of Development Services
City of New Bern
303 First Street
New Bern, NC 28563
Phone: (252)639-7587
Email: schellym@newbernnc.gov

GRANT AWARD DATE: September 16, 2020 (the "**Award Date**")

CONTRACT EFFECTIVE DATE: _____ (the "**Effective Date**")

CONSTRUCTION CONTRACT DATE: June 30, 2022

CONTRACT EXPIRATION DATE: November 30, 2023 (the "**Expiration Date**")

REIMBURSEMENT DATE: December 14, 2023

GRANT AMOUNT: Up to \$100,000 (the "**Grant**")

THIS GRANT CONTRACT (this “**Grant Contract**”) is made and entered into, as of the Effective Date by and between the NCLWF and Grant Recipient (both sometimes hereinafter referred to individually as a “**Party**” or collectively as the “**Parties**”).

WITNESSETH:

WHEREAS, Grant Recipient submitted to NCLWF an application for a grant of funds (the “**Grant Application**”) to engage in a project for employing innovative technologies, applications, strategies, or approaches for managing stormwater for protecting and improving the quality of water in North Carolina.

WHEREAS, N.C.G.S. Chapter 143B, Article 2, Part 41 authorizes NCLWF to, among other things, fund projects employing innovative technologies, applications, strategies, or approaches for managing stormwater for protecting and improving the quality of water in North Carolina.

WHEREAS, the Grant Recipient is a qualified applicant as defined in N.C.G.S. §143B-135.238(a).

WHEREAS, at its meeting on the Award Date, NCLWF approved Grant Recipient’s application **on** the terms and conditions in this Grant Contract.

WHEREAS, Grant Recipient agrees to conduct the project approved by NCLWF’s Board of Trustees for the purposes and according to the scope of work, conditions, and schedule in **Exhibit A** (the “**Project**”) and according to the project budget in **Exhibit B** of this Grant Contract.

WHEREAS, the Parties desire to enter into this Grant Contract and intend to be bound by its terms.

NOW, THEREFORE, for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. Grant Contract Documents. The Grant Contract consists of, and only of, the documents described below, which are hereinafter collectively referred to as the “**Grant Contract.**” In the case of conflict, specific, and special terms, conditions and requirements shall control over general terms, conditions, and requirements. Upon execution and delivery of the Grant Contract, including the execution of all of the Exhibits that require execution, the Grant Contract shall constitute a valid, binding and binding contract between the Parties. The Grant Contract constitutes the entire contract between the Parties, superseding all prior oral and written statements or contracts. Only changes deemed non-material in type by NCLWF’s Executive Director may be made to the Grant Contract without the consent of NCLWF’s Board of Trustees.

The Grant Contract Documents consist of:

- a. Cover page
- b. The main body of the Grant Contract
- c. **Exhibit A** – Project Summary
- d. **Exhibit B** – Project Budget
- e. **Exhibit C** – NCLWF Pre-Disbursement Checklist
- f. **Exhibit C.1** – Assurances for Non-Federally Funded Contract (not applicable to this grant)
- g. **Exhibit D** – Additional Definitions
- h. **Exhibit E** – General Terms and Conditions
- i. **Exhibit F** – Does not apply to this contract

2. Purpose. The purpose of the Grant is to finance an innovative stormwater project for the improvement of water quality, more particularly described on **Exhibit A**. Grant funds may not be used for the purchase of improvements or for the removal of debris on any property, or for any other purpose not set forth herein. Further, Grant funds may not be used for any eminent domain litigation or any action or expenditure related to eminent domain, unless approved by NCLWF’s Board of Trustees in writing prior to the action. The Board of Trustees shall

review requests to use Grant funds for eminent domain on a case-by-case basis. Grant Recipient shall provide such requests in writing.

3. NCLWF's Duties. Subject to the appropriation, allocation, and availability to NCLWF of Grant funds for the Project, NCLWF hereby agrees to pay the Grant funds to Grant Recipient in accordance with the payment procedures set forth herein. Neither of the Parties is obligated to perform and the Grant Contract is not a binding agreement on all Parties until all Parties have executed the main body of the Grant Contract and all exhibits that require execution, the Department of Natural and Cultural Resources has notified NCLWF that funds for the Grant contemplated hereunder have been encumbered, and Grant Recipient has received its counterpart original of the Grant Contract, fully executed and with all dates inserted where indicated on the cover page to the Grant Contract.

4. Grant Recipient's Duties. Grant Recipient shall carry out the Project pursuant to the terms of this Grant Contract.

5. Contract Period. NCLWF's commitment to disburse Grant funds under this Grant Contract shall cease on the Reimbursement Date. Grant Recipient is responsible to ensure that the Project is completed by the Expiration Date and that all costs to be reimbursed have been submitted to NCLWF by the Reimbursement Date. After the Expiration Date, any Grant monies remaining under this Grant Contract will no longer be available to Grant Recipient except to pay proper invoices for budgeted costs incurred by the Expiration Date and which are submitted to NCLWF no later than the Reimbursement Date. **The burden is on Grant Recipient to request an extension of the Grant Contract if Grant Recipient anticipates that the Project will not be completed by the Expiration Date.** The request for an extension must give complete details of the reasons why an extension is needed, propose a new expiration date for the Grant Contract, and be submitted online via NCLWF's online grants management system. This request must be submitted to and received by NCLWF at least **60 days** prior to the Expiration Date. Approval of any requested extension is at the sole discretion of NCLWF. The approval or denial of the requested extension will be based upon Project performance, among other factors. **NCLWF is not obligated to send reminders or other notification of an approaching Expiration Date.**

6. Access to the Project Site. The Grant may be used only for innovative stormwater projects on real property that is owned by the Grant Recipient or for which the Grant Recipient has entered into a written access agreement with the real property owner to allow specified uses of and activities on the Project site for as long as the site is needed and used for the Project.

7. Pre-Disbursement Requirements. Prior to the disbursement of **any** Grant monies under this Grant Contract, Grant Recipient shall deliver to NCLWF all of the documentation described on **Exhibit C**.

8. Disbursement of Grant Funds.

a. Proportionate Spending of Matching Funds. Grant monies are awarded based on a commitment of matching funds to the Project. NCLWF's final, cumulative portion of the total Project cost will be no more than the percentage of funds originally committed to in the Grant Contract as given in **Exhibit B**. Grant Recipient must demonstrate expenditure of matching funds as payments by NCLWF are requested.

b. Requests for Payment. NCLWF will not disburse Grant funds until receipt by the NCLWF Contract Administrator of the following documentation via NCLWF's online grants management system and the appropriate forms contained thereon:

- i. Appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a

manner that clearly relates expenditures in the supporting documentation to the line items in the project budget. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to Grant Recipient for correction and resubmittal.

- ii. Identification of all amounts of sales tax for which Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. NCLWF will not reimburse Grant Recipient for such amounts.
- iii. A written report containing a detailed narrative of the progress of the Project submitted within three (3) months prior to the reimbursement request.
- iv. A completed request for reimbursement via NCLWF's online grants management system, stating that the Grant Recipient complied with all terms of this Grant Contract in incurring the expenses.

c. Alternate Disbursement of Grant Funds. NCLWF may, upon request by Grant Recipient, disburse Grant funds prior to Grant Recipient's actual payment to its vendors if such expenditures are documented by vendors' third-party invoices. In order for NCLWF to disburse Grant funds to Grant Recipient based on unpaid third-party invoices, Grant Recipient must submit the following documentation via NCLWF's online grants management system and the appropriate forms contained thereon:

- i. Appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items in the project budget. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to Grant Recipient for correction and resubmittal.
- ii. Identification of all amounts of sales tax for which Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. NCLWF will not reimburse Grant Recipient for such amounts.
- iii. A written report containing a detailed narrative of the progress of the Project submitted within three (3) months prior to the reimbursement request.
- iv. A completed request for reimbursement, stating that the Grant Recipient complied with all terms of this Grant Contract in incurring the expense, reviewed and has approved the unpaid third-party invoice, and certifies to NCLWF that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant fund.

The Grant Recipient will confirm in writing to NCLWF, via the appropriate form provided on NCLWF's online grant management system, that the required payment has been made within thirty (30) days of payment.

d. Limited Grant Funds Disbursement in January, June, July, and December. Funds will not be disbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.

e. Certification by Licensed Professional. At the option of NCLWF, payments may be made only on the certificate and seal of an appropriately qualified licensed professional (e.g., licensed Professional Engineer) that the work for which the payment is requested has been completed in accordance with approved plans and specifications, to which certificate shall be attached an estimate by the construction contractor

setting forth items to be paid out of the proceeds of each such payment. NCLWF, at its option, may further require a certificate from such appropriately qualified licensed professional that the portion of the Project completed as of the date of the request for payment has been completed according to schedule and otherwise as approved by NCLWF and according to applicable standards and requirements. However, NCLWF may, at its discretion, make payments without requiring such certificates or construction contractor's estimate, in which event Grant Recipient shall furnish NCLWF a list of and the amounts of items to be paid out of the payment, or such other evidence as NCLWF may require.

f. Payment Based on Progress. Grant Recipient agrees to proceed with diligence to complete the Project according to the schedule set out in **Exhibit A** and shall show appropriate progress prior to each payment. Payment may be withheld or delayed if Grant Recipient fails to make progress on the Project satisfactory to NCLWF. Amounts withheld shall be reimbursed with subsequent payments in the event that Grant Recipient is able to demonstrate an ability to resume satisfactory progress toward completion of the Project.

g. Proof of Payment. Grant Recipient agrees to pay, as the work progresses, all bills for expenses incurred on the Project and agrees to submit to NCLWF all such receipts, affidavits, canceled checks, or other evidences of payment as may be requested from time to time and, when and if requested by NCLWF, to furnish adequate proof of payment of all indebtedness incurred on the Project.

h. NCLWF's Retaining Portion of Funds until Project Completion. NCLWF will withhold payment from Grant Recipient in the amount of **\$7,500** of the Grant until Grant Recipient has satisfactorily submitted its grant contract final report.

i. No Excess Costs. NCLWF agrees to pay or reimburse Grant Recipient only for reasonable costs actually incurred by Grant Recipient that do not exceed the funds budgeted for the Project on **Exhibit B**.

j. Period for Incurring Expenditures. NCLWF will reimburse Grant Recipient for allowable Project expenditures that are incurred by Grant Recipient or its vendors only during the period between the Award Date and the Expiration Date of the Grant Contract. NCLWF will not reimburse Grant Recipient for Project expenditures that are not incurred during this period.

k. Costs of Project Administration. NCLWF agrees to reimburse Grant Recipient for administrative costs consisting only of costs of labor for administrative work conducted exclusively on this Project. Grant Recipient's requests for such payment shall be made under the Project Administration line item of **Exhibit B** and shall conform to the following:

- i. Costs allowable under the Project Administration line item shall be only reasonable costs of labor needed to comply with the general conditions of the Grant Contract (e.g., progress reports, payment requests, preparing the grant contract final report, revisions to the Grant Contract). Allowable Project Administration labor costs may include any of the following:
 - a) Compensation to Grant Recipient's employees, plus Grant Recipient's cost of paying benefits on such compensation (i.e., employees' pay times an audited or auditable benefits multiplier);
 - b) Compensation to Grant Recipient's independent contractors (e.g., temporary office support), payable at Grant Recipient's actual cost, without application of a benefits multiplier; and/or
 - c) Cost of professional services contracted by Grant Recipient (e.g., engineering firm or consultant), payable at Grant Recipient's actual cost.

- ii. Costs of any other work described in the Project Scope of Work in **Exhibit A** are not allowable under the Project Administration line item.

9. Grant Withdrawal for Failure to Enter into a Construction Contract. Pursuant to N.C.G.S. §143B-135.238(f), if the Project includes construction, this Grant award shall be withdrawn if Grant Recipient fails to enter into a construction contract for the Project within one year after the Award Date, unless NCLWF's Board of Trustees finds that Grant Recipient has good cause for the failure. If the Trustees find good cause for Grant Recipient's failure, the Trustees must set a date by which Grant Recipient must take action or forfeit the Grant.

10. Refunds, Reversion of Unexpended Funds, and Reduction of the Grant based on Construction Cost less than Budgeted Construction Cost.

a. Refunds. Grant Recipient shall repay to NCLWF any compensation it has received that exceeds the payment to which it is entitled herein, including any interest earned on funds reimbursed pursuant to the Grant Contract.

b. Reversion of Unexpended Funds. Any unexpended Grant monies shall revert to NCLWF upon termination of the Grant Contract.

c. Reduction of the Grant based on Construction Cost less than Budgeted Construction Cost. NCLWF may reduce the Grant amount if Grant Recipient expects actual construction costs to be less than budgeted construction costs, as follows:

- i. Grant Recipient shall provide to NCLWF construction contract pricing information consisting of at least a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing.
- ii. Grant Recipient shall deliver the construction contract pricing information to NCLWF's Contract Administrator within thirty (30) days of executing a construction contract for the Project.
- iii. NCLWF may, at its discretion after comparing the total anticipated construction cost with the Grant Contract project budget, choose to reduce the Grant. If NCLWF chooses to reduce the Grant, NCLWF's Contract Administrator will prepare an amendment to the Grant Contract for this purpose, and NCLWF will approve requests for reimbursement of Grant Recipient's construction costs only after the amendment has been signed by both Grant Recipient and NCLWF.

11. Reporting Requirements. Beginning three (3) months after the Effective Date, Grant Recipient must submit to NCLWF a quarterly report on the status of the Project, via the appropriate form provided on NCLWF's online grant management system. In addition, N.C.G.S. Chapter §143C, Article 6, Part 3 and Title 09, Subchapter 3M of the North Carolina Administrative Code (N.C.A.C.) require each Grant Recipient of State funds to comply with certain reporting requirements, as applicable. Grant Recipient must also provide the required documentation as set forth on **Exhibit C**. Grant Recipient shall submit to NCLWF's Contract Administrator a Grant Contract final report via the appropriate form available on NCLWF's website and on the NCLWF grant management system (GMS). If the Grant Contract final report is not acceptable to NCLWF, NCLWF shall return it to Grant Recipient for revision. Final payment will not be made until the Grant Contract final report is acceptable to NCLWF.

12. Notice: Contract Administrators. All notices, requests or other communications permitted or required to be made under this Grant Contract shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the Party giving such notice. Notice shall be deemed given on the third business day after the date when deposited in the mail, postage prepaid, registered or certified mail, return receipt requested, unless another form is otherwise noted herein.

13. Signature Warranty. Each individual signing below warrants that he or she is duly authorized to sign this Contract for the respective party, and to bind said party to the terms and conditions of this Grant Contract.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, Grant Recipient and NCLWF have executed this Grant Contract in one (1) original as of the Effective Date. One original shall be retained by NCLWF and a copy of the original will be sent to Grant Recipient. If there is any controversy among the documents, the document on file in NCLWF's office shall control.

GRANT RECIPIENT:

By: _____
Name: Foster Hughes
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Scott Davis,
City Attorney

NCLWF:

NORTH CAROLINA LAND AND WATER FUND

By: _____
Name: John B. Wilson
Title: Chairman, Board of Trustees

By: _____
Name: William B. Summer
Title: Executive Director

EXHIBIT A
NCLWF Project No. 2020-1007

Stream of the Project site: Trent River

Water bodies downstream: Neuse River Estuary

River basin: Neuse

County: Craven

Amount requested from NCLWF: \$175,000

NCLWF approved grant amount: up to \$100,000

Total matching contributions: \$1,825,551

Total project budget: \$1,925,551

Percent match: 95%

Grant award date: September 16, 2020

Related NCLWF-funded projects: NCLWF funded a stormwater project 2007-711 to which this project would discharge water.

Project Site: The project site is a 58.83-acre portion of New Bern's Duffyfield Community that drains to the Biddle Street Pond and Pump Station. The area is bounded to the north by the North Carolina Railroad, to the south by Main Street, and extends from West Street/Bern Street to the West and Mechanic Street to the East.

Site Conditions and Water Quality Objectives: Untreated stormwater with high nutrient and sediment content presently flows to the Neuse River and its tributaries. Further, much of this water can pool and cause flooding and unhealthy conditions in portions of New Bern. The water quality objectives are to improve the treatment level of stormwater leaving the project area and to improve the quality by removal of nitrogen, phosphorus and sediment via plantings in newly constructed wetlands.

Project Summary: This Project will complement ongoing redevelopment activities in the project area and add stormwater treatment and flood abatement to the redevelopment results.

Scope of Work:

The Grant Recipient shall conduct and complete the activities given below:

No.	Activity
1	Plan for a three phased comprehensive project to address water quality and flooding issues in the project area
2	Design and implement a monitoring plan capable of determining the effectiveness of the linear wetland phase of the project
3	Complete engineering designs for a linear constructed wetland phase of the project and obtain all applicable permits
4	Acquire two undeveloped parcels located along F Street to complete the linear stormwater system
5	Construct the linear stormwater storage wetlands per engineering design and plans
6	Monitor the project area per the monitoring plan
7	Analyze monitoring data to determine project effectiveness and note opportunities for future use of such methods
8	Disseminate findings and results of the monitoring and analysis by posting project information on

	websites, databases, and list serves and submitting of an article of publishable quality to a professional trade journal
9	Develop and implement an operation and maintenance plan for the project
10	Oversee construction activities, manage the project in total and report the Fund.

Special Grant Contract Conditions:

1. The Grant Recipient shall provide or otherwise ensure that the matching funds identified in **Exhibit B** are provided to the project.
2. The Grant Recipient shall provide to the NCLWF a copy of each of the following reports or other documents resulting from this project, as given under Scope of Work in **Exhibit A**: engineering drawings, specifications, and associated plans; project final report with documentation of the project work, data, evaluation of findings, and conclusions based on findings; materials developed for outreach on stormwater education; and materials for disseminating project results, such as reports, websites, professional papers, forums, and workshops. The Trust Fund shall approve the request for final payment only after receiving a copy of each of the reports or other documents resulting from this project, as given under Scope of Work in **Exhibit A**.
3. Grant Recipient shall secure applicable Federal and State permits before the start of construction and submit copies of the permits to NCLWF. NCLWF shall approve requests for payment of Grant Recipient's construction costs only after receiving copies of applicable Federal and State permits.
4. The following General Terms and Conditions in **Exhibit E** do not apply to this Grant Contract:
 - a. **Paragraph A.17**, Conservation Easement or Other Land Use Restriction
5. Other conditions special to this grant. *None*

Project Schedule:

1. **Construction Contract Date: September 16, 2021.** Grant Recipient shall enter into a construction contract by this date for the work identified as construction in **Exhibit A** by this date. Failure to enter into a construction contract by this date will result in withdrawal of the Grant, unless NCLWF's Board of Trustees has found Grant Recipient had good cause for such failure and the Board of Trustees has set a date by which Grant Recipient must take action.
2. **Contract Expiration Date: November 30, 2023.** Grant Recipient shall complete the Project Scope of Work and submit the Grant Contract Final Report (Grant Contract **Section 11** and as otherwise specified in **Exhibit A**) by this date. NCLWF will not reimburse Grant Recipient for Project costs incurred after this date.
3. **Reimbursement Date: December 14, 2023.** NCLWF must receive the Final Request for Payment for the Project by this date. NCLWF will not accept or process for payment any request for payment received after this date. NCLWF will not reimburse Grant Recipient for costs incurred after the Contract Expiration Date.

EXHIBIT B
NCLWF Project No. 2020-1007

Project Budget

Item	NCLWF Grant Funds⁽¹⁾	Matching Funds⁽²⁾	Total Item Budget
1. Design and permitting	\$0	\$163,300	\$163,300
2. Easement preparation and recordation	\$0	\$0	\$0
3. Construction	\$100,000	\$1,400,971	\$1,500,971
4. Construction administration/observation	\$0	\$163,300	\$163,300
5. Construction Contingency ⁽³⁾	\$0	\$0	\$0
6. Monitoring, data collection, data evaluation and analysis	\$0	\$7,000	\$7,000
7. Information dissemination: Presentation/publication of results; training/education/workshops	\$0	\$0	\$0
8. Value of easements to be donated	\$0	\$0	\$0
9. Project administration	\$0	\$90,980	\$90,980
Total Project Budget	\$100,000	\$1,825,551	\$1,925,551
% of Total Project Budget	5%	95%	100%

Notes:

(1) To obtain payment, the Grant Recipient must submit itemized documentation substantiating direct costs incurred in the implementing the project.

(2) Matching funds are contributed by:

CDBG Entitlement	\$448,102
NCDEQ Div Water Infrastructure	\$855,000
City of New Bern	\$522,449

(3) Construction contingency funds allow the project to cover unanticipated construction costs, often resulting from unexpected conditions encountered during construction. Construction contingency funds shall not be used for work that is not construction (e.g., design or construction administration) nor for construction that is not part of the project scope of work (e.g., add-on work). Construction contingency funds may be disbursed only after Grant Recipient has demonstrated to NCLWF that it has expended 100 percent of funds in Construction line items, 100 percent of match provided from the Grant Recipient funds, and at least 90 percent of all other matching funds, including matching grant and/or loan funds.

EXHIBIT C
NCLWF Project No. 2020-1007

Pre-Fund Disbursement Checklist

Documents to Be Submitted to NCLWF Before any Funds will be Disbursed under the Grant

REQUIREMENT		DESCRIPTION/WHAT TO SUBMIT
Submit before first request for payment		
1	Authorization to Obligate	Does not apply to this contract
2a	Articles of Incorporation and Bylaws	Does not apply to this contract
2b	Conflict of Interest Policy	Does not apply to this contract
2c	Tax-exempt Status	Does not apply to this contract
3	Matching Funds	Proof of availability of matching funds included in the project budget. (*See note below.)
4	Easements and/or Declarations of Covenants	Does not apply to this contract
5	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of NCLWF funds.
Submit before first request for construction payment		
6	Easements and/or Declarations of Covenants	Does not apply to this contract
7	Construction Permits	Provide a copy of each applicable Federal or State permit issued for construction, or written documentation from the appropriate State agency that construction of the Project does not require a Federal or State permit.
8	Construction Contract Pricing Information	Within 30 days of executing a construction contract for the Project, submit construction contract pricing information consisting minimally of a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing. (Refer to Section 10 of the Grant Contract.)
9	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of NCLWF funds.
Submit before or accompanying request for final payment		
10	Grant Contract Final Report	Report as identified in Exhibit A “Special Grant Contract Conditions” and in Section 11 of the Grant Contract.
11	Easements and/or Declarations of Covenants	Does not apply to this contract
12	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of NCLWF funds.

* Examples of proof of authorization to obligate include:

- Resolution of the governing board to obligate.
- Certified copy of board meeting minutes documenting giving of authority to obligate.

**** Examples of proof of availability of matching funds include:**

- Grants from other sources:
 - Copy of grant agreement.
 - Copy of grant award letter.
- Local agency matching funds:
 - Resolution of the governing board.
 - Budget showing allocation of matching funds to the Project, accompanied by a certified copy of board meeting minutes approving the budget or by a certified copy of board meeting minutes authorizing use of local matching funds for the Project.
 - Certified copy of board meeting minutes attesting to the use and amount of local funds for match.
 - Letters from other sources of matching funds attesting to contribution of the funds.
- Value of conservation easements to be donated:
 - Current properties' fair market tax valuations assessed by the county tax assessor's office, prorated to apply only to the areas of the permanent conservation easements to be recorded for this project, or
 - Appraisals, prepared and signed by a North Carolina-licensed appraiser, of the diminution of properties' fair market values as a result of being encumbered by permanent conservation easements required for this project.

EXHIBIT C.1
ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

Does not apply to this Grant Contract. Applies only to grant recipients that are nonprofit corporations.

(The remainder of this page is intentionally left blank)

EXHIBIT D

ADDITIONAL DEFINITIONS

The definitions set forth in N.C.G.S. Chapter 143C shall apply to this Grant Contract except as otherwise provided herein below. The definitions provided by 09 N.C.A.C. 03M shall apply to this Grant Contract to the extent they are not in conflict with N.C.G.S. Chapter 143C or this Grant Contract. In the event of conflict, N.C.G.S. Chapter 143C shall control over 09 N.C.A.C. 03M, and this Grant Contract shall control over N.C.G.S. Chapter 143C.

1. "Grant Contract" means a legal instrument that is used to reflect a relationship between the Grantor and Grant Recipient and is used interchangeably herein with the term "Contract".
2. "Construction contract" means a legally binding agreement between Grant Recipient and another party for implementing construction work described in the project scope of work given in **Exhibit A**.
3. "Enter into a construction contract" means signature of a construction contract by both Grant Recipient and another party for the construction work described in the project scope of work given in **Exhibit A**.
4. "Grant" and "grant funds" as defined in N.C.G.S. §143C-6-23 means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers' and State Employees, or other similar medical programs. For purposes of this Grant Contract, both "grant" and "grant funds" shall be referred as the Grant which is provided to Grant Recipient to carry out the objectives of the Grant Contract.
5. "Grantee" as defined in the N.C.G.S. § 143C-6-23 means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Grant Contract however, a "grantee" as defined in N.C.G.S. §143C-6-23 shall be referred to as Grant Recipient and the term "grantee" shall mean and refer to an entity that is the recipient of an interest in real property.
6. "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective. For purposes of this Grant Contract, the Grantor is the NC Land and Water Fund.
7. "Stream enhancement" means the process of implementing certain stream rehabilitation practices in order to improve water quality and/or ecological function. These practices typically are conducted on the stream bank or in the flood prone area. An enhancement procedure may include fencing cattle out of a stream and re-establishing vegetation in order to provide streambank stability. These types of practices should be conducted only on a stream reach that is not experiencing severe aggradation or erosion. Enhancement also may include placing in-stream habitat structures, provided that the in-stream structures do not affect the overall dimension, pattern, or profile of a stream that is in dynamic equilibrium.
8. "Stream restoration" means the process of converting an unstable, altered, or degraded stream corridor including adjacent riparian zone and flood prone areas, to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile and biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium.
9. "Stream stabilization" means the in-place stabilization of a severely eroding streambank. Stabilization techniques that include "soft" methods or natural materials (such as root wads, rock vanes, and vegetated crib walls) may be considered as part of a restoration design. However, stream stabilization techniques that rely heavily on "hard" engineering, such as concrete-lined channels, rip rap, or gabions to stabilize streambanks will not be considered to be stream restoration or stream enhancement.
10. "State agency" shall mean a unit of the executive, legislative, or judicial branch of State government, such

as a department, institution, division, commission, board, council, or The University of North Carolina. The term does not include a unit of local government or a public authority. For purposes of this Grant Contract, both the North Carolina Department of Natural and Cultural Resources and the NC Land Water Fund are State agencies.

11. For purposes of this Grant Contract, a "Subgrantee," as defined in N.C.G.S. §143C-6-23, and "Subrecipient," as defined in 09 NCAC 03M .0102 and applicable to 09 N.C.A.C. 03M, shall be referred to as a "Sub-grant Recipient."

EXHIBIT E GENERAL TERMS AND CONDITIONS

A. Affirmative Covenants

1. Title. If the property right to be acquired is fee title, Grant Recipient shall acquire good and marketable title to the Property free and clear of any liens, other charges or encumbrances that would materially affect the use of the Property as intended under this Grant Contract.
2. No Mitigation. Grant Recipient shall not use the Property or any portion thereof to satisfy compensatory mitigation requirements under 33 USC § 1344 or N.C.G.S. §143-214.11.
3. Right of Entry and Inspections. Grant Recipient shall permit NCLWF's representatives to enter the Property for inspection of the Property and to enter any other premises of Grant Recipient associated with the activities of Grant Recipient pursuant to the Grant, including to review books and records in any way related to the Grant or the Property.
4. Retention, Operation, Maintenance and Use.
 - (a) Grant Recipient agrees to complete the Project as approved by NCLWF. The descriptions, purpose, schedules, scope of work and budgets set out in **Exhibits A and B**, and accompanying or related plans, specifications, estimates, procedures and maps submitted to NCLWF by Grant Recipient are the foundation of this Grant Contract. Only changes deemed non-material in type by the Executive Director may be made without the consent of NCLWF's Board of Trustees.
 - (b) For a period of ten (10) years after Project completion, Grant Recipient agrees to maintain and manage, at maximum functional utility, the end product of the Project. Grant Recipient shall inspect the Project on a routine basis and make routine repairs to restore the infrastructure to its full function within two (2) weeks of the need for repairs. The Grant Recipient shall make additional inspections following major storm events and shall make all necessary repairs to return the infrastructure to its full function within the sooner of four (4) months after the major storm event or as soon as is commercially practicable after the major storm event.
 - (c) Property acquired, developed or improved with grant assistance from NCLWF shall be retained and used for the purposes identified in **Exhibit A**, and Grant Recipient hereby agrees to file or record such restrictions as may be required to assure such continued use and such restrictions shall be in form and substance satisfactory to NCLWF.
 - (d) If at some future date, NCLWF and Grant Recipient agree in writing that the Project should no longer continue on as property(ies) of the Project Site, then Grant Recipient will abandon the Project and allow such property to return to its natural state.
5. Signage. If funds are available in the Grant Contract at the end of the Project, Grant Recipient agrees to post signs, acknowledging NCLWF as the source of monies for conservation of the Property, on publicly visible areas of those Properties that have public access and/or where private property owners are amenable to signage.
6. Publicity. To the extent possible, Grant Recipient will use its best efforts to appropriately publicize the Project's benefits to the general public, local government and state representatives, including the role of NCLWF in the funding and development of the project.
7. Conflicts of Interest. Grant Recipient shall at all times comply with Grant Recipient's conflict of interest policy.
8. Compliance with Reporting Requirements. Grant Recipient shall comply with the reporting requirements

contained in **Section 11** of the Grant Contract, and in N.C.G.S. Chapter 143C, Article 6, Part 3, and 09 N.C.A.C. Subchapter 03M-Uniform Administration of State Grants, including audit oversight by the Office of the State Auditor, the provision of access to the accounting records by both the funding entity and the Office of the State Auditor in accordance with N.C.G.S. §147-64.7, and availability of audit work papers in the possession of any auditor of any recipient of State funding. If a grant recipient has not met these reporting requirements and fails to submit revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend further payments to the grant recipient and report the grant recipient to the Office of the State Auditor and the Office of the State Controller.

9. Books and Records. Grant Recipient agrees to maintain and make available for inspection by NCLWF, at all reasonable times, all documents, books, and records of all expenditures for costs applicable to this Grant Contract, and to submit properly certified billings for such costs on forms prescribed by NCLWF and supported by detailed data sheets which will facilitate the audit of Grant Recipient's records. Further, Grant Recipient shall maintain all Grant records for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.
10. Additional Requirements. Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds.
11. Permits and Approvals. All required regulatory approvals to use the Property and the Conservation Easement area in accordance with Exhibit A have or will be obtained.
12. Compliance with Laws. Grant Recipient agrees to perform and maintain the Project in compliance with all federal, state and local laws and regulations, including, without limitation, environmental, zoning and other land use laws and regulations. Grant Recipient agrees to take reasonable steps to advise Project participants that they shall comply in the same manner.
13. Insurance. Grant Recipient agrees to keep structures or improvements of any sort constituting the Project fully insured at all times during construction and to keep fully insured all building materials at any time located on the Project. Grant Recipient will ensure that all contractors furnish adequate payment and performance bonds.
14. No Pollution Credits. If the Project enables Grant Recipient to qualify for pollution credits by reducing the discharge of phosphorus, nitrogen, or any other nutrient or pollutant below, or further below, applicable regulatory limits or otherwise ("Pollution Credits"), Grant Recipient shall not sell, trade or give to another person or entity that percentage of any resulting Pollution Credits achieved by the Project corresponding to the percentage of the Project costs provided by NCLWF.
15. Material Modifications. Any proposed material modification of the Project shall be subject to approval by NCLWF.
16. Data Requests. If NCLWF so requests, Grant Recipient shall provide data to the North Carolina Rural Economic Development Center's Water Resources Inventory and Data Management Project and/or to the North Carolina Geographic Information Coordinating Council's NC One Map Project.
17. Conservation Easement or Other Land Use Restrictions. Grant Recipient shall obtain Conservation Easements or other land use restrictions for this Project satisfactory to NCLWF in its sole discretion.
18. Boundary Marking of Riparian Buffer Easement Areas. Grant Recipient shall mark the outside limits of riparian buffer conservation easement areas in a manner that is clearly visible and identifiable as the limit of the easement area.

B. Representations and Warranties

In order to induce NCLWF to enter into this Grant Contract and to make the Grant as herein provided, Grant Recipient after reasonable inquiry makes the following representations, warranties and covenants, which shall remain in effect after the execution and delivery of this Grant Contract and any other documents required hereunder, any inspection or examinations at any time made by or on behalf of NCLWF, and the completion of the Project by Grant Recipient:

1. No Actions. There are no actions, suits, or proceedings pending, or to the knowledge of Grant Recipient threatened against or affecting Grant Recipient before any court, arbitrator, or governmental or administrative body or agency which might affect Grant Recipient's ability to observe and perform its obligations under this Grant Contract.
2. No Untrue Statements. Neither this Grant Contract nor any information, certificate, statement, or other document furnished by Grant Recipient in connection with the Grant, contains any untrue statement of a material fact or omits disclosure of a material fact which affects a property(ies) of the Project Site, the Conservation Easement or the ability of Grant Recipient to perform this Grant Contract.
3. Validity of Grant. Upon execution and delivery of this Grant Contract, it will be a valid and binding agreement, enforceable in accordance with the terms thereof.
4. Zoning. The present and proposed use of the Property, including, without limitation, the purpose of the Conservation Easement, is in compliance with all applicable zoning ordinances, and all applicable municipal and other governmental and regulatory approvals have been or will be obtained for the use and for operation of the Property according to this Grant Contract.
5. Tax Exempt Status. As applicable, Grant Recipient shall maintain tax-exempt status under Section 501(c) (3) of the Internal Revenue Code of 1986, as amended (or any successor section) and the regulations promulgated there under (the "Code") and shall notify NCLWF within thirty (30) days upon any change in its status under the Code.

C. Termination; Events of Default

1. Termination by Mutual Consent. The Parties may terminate this Grant Contract by mutual written consent with sixty (60) days prior notice, or as otherwise provided by law.
2. Termination for Cause. The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by Grant Recipient of its obligations to NCLWF, and shall entitle NCLWF to exercise all rights and remedies under this Grant Contract and as otherwise available at law or equity:
 - (a) Property Unsuitable. A determination by NCLWF, prior to the disbursement of the Grant funds, that a property(ies) of the Project Site is unsuitable for the purposes of the Grant Contract.
 - (b) Unsuitable Use. A property(ies) of the Project Site is used in a manner materially inconsistent with the purposes of this Grant Contract or the Project.
 - (c) Default in Performance. The default by Grant Recipient in the observance or performance of any of the terms, conditions or covenants of this Grant Contract; provided, however, that no such default shall occur until Grant Recipient has been given written notice of the default and 30 days to cure have elapsed.
 - (d) Misrepresentation. If any representation or warranty made by Grant Recipient in connection with the Grant or any information, certificate, statement or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.

- (e) Eligibility of Grant Recipient. If Grant Recipient ceases to be qualified to receive Grant funds, is dissolved, or otherwise ceases to exist.
- (f) Failure to Monitor Conservation Easement. If Grant Recipient fails to notify NCLWF of any potential violation of the Conservation Easement reasonably known to Grant Recipient within a reasonable period of time so as to avert or cure any potential violation.
- (g) Abandonment of the Project. If Grant Recipient abandons or otherwise ceases to continue to make reasonable progress towards completion of the Project.

D. NCLWF's Rights and Remedies

If an Event of Default shall occur, NCLWF shall have the following rights and remedies, all of which are exercisable at NCLWF's sole discretion, and are cumulative, concurrent and independent rights:

1. Project Termination. If an Event of Default occurs, NCLWF may, at its discretion suspend and/or terminate all obligations of NCLWF hereunder. If, in the judgment of NCLWF, such failure was due to no fault of Grant Recipient, amounts required to resolve, at the minimum cost practical, any irrevocable obligations properly incurred by Grant Recipient shall, in the discretion of NCLWF, be eligible for assistance under this Grant Contract.
2. Additional Remedies. If an Event of Default occurs, NCLWF shall have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Project by any acts which may be unlawful or in violation of this Grant Contract or any other item or document required hereunder, (b) to obtain title to or otherwise preserve or protect its interest in the Project and any property acquired with Grant funds, (c) to compel specific performance of any of Grant Recipient's obligations under this Grant Contract, (d) to obtain return of all Grant Funds, including equipment if applicable and/or (e) to seek damages from any appropriate person or entity. NCLWF, or its designee, may also, at NCLWF's sole discretion, continue to complete the Project, or any portion thereof deemed appropriate by NCLWF, and Grant Recipient shall cooperate in the completion of the Project. NCLWF shall be under no obligation to complete the Project.
3. Non-waiver. No delay, forbearance, waiver, or omission of NCLWF to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to NCLWF may be exercised at any time and as often as may be deemed expedient by NCLWF.

E. Miscellaneous

1. Modification. This Grant Contract may be rescinded, modified or amended only by written agreement executed by all Parties hereto.
2. Benefit. This Grant Contract is made and entered into for the sole protection and benefit of NCLWF, the State and Grant Recipient, and their respective successors and assigns, subject always to the provisions of paragraph E.8 of this **Exhibit E**. Except for the State, there shall be no third party beneficiaries to this Grant Contract.
3. Further Assurance. In connection with and after the payment of Grant funds under this Grant Contract, upon the reasonable request of NCLWF, Grant Recipient shall execute, acknowledge and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by NCLWF or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Contract and the purposes of the Conservation Easement.

4. Compliance by Others. Grant Recipient shall be responsible for compliance with the terms of this Grant Contract by any sub-grant recipient, including but not limited to, a political subdivision, public agency, or qualified non-profit organization to which funds or obligations are transferred, delegated or assigned pursuant to this Grant Contract. Delegation by Grant Recipient to a sub-grant recipient of any duty or obligation hereunder does not relieve Grant Recipient of any duty or obligation created hereunder. Failure by such sub-grant recipient to comply with the terms of this Grant Contract shall be deemed failure by Grant Recipient to comply with the terms of this Grant Contract. Any such delegation of duties or obligations shall be in writing, signed by Grant Recipient and sub-grant recipient, shall be in accordance with paragraph E.8 of this **Exhibit E**, and shall contain an affirmative covenant by the sub-grant recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the North Carolina Administrative Code.

5. Independent Status of the Parties. The Parties are independent entities and this Grant Contract shall not create a partnership or joint venture between the Parties. Further, the Grant Contract shall not in any way be interpreted or construed as making Grant Recipient, its agents or employees, to be agents or representatives of NCLWF. Grant Recipient is and shall be an independent contractor in the performance of this Grant Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its agents and employees. In no event shall NCLWF be liable for debts or claims accruing or arising against Grant Recipient. Grant Recipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Grant Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, NCLWF.

6. Indemnity. Grant Recipient agrees, to the fullest extent permitted by law, to release, protect, indemnify and hold harmless the State, NCLWF, its Trustees, employees, agents and assigns against any and all claims, losses, liabilities, damages, and costs, including reasonable attorney fees, which result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of Grant Recipient, its employees, agents, or assigns in use or management of the Property; (b) use or presence of any hazardous substance, waste or other regulated material in, under or on the Property; or (c) the performance of Grant Recipient's duties under this Grant Contract. The obligations under this Section are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.

7. No Discrimination. Grant Recipient shall assure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Contract solely on the grounds of race, color, age, religion, sex or national origin.

8. Binding Effect, Contract Assignable. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties; provided, however, that Grant Recipient may not assign this Grant Contract or any of its rights, interests, duties or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of NCLWF, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. In the event assignment is allowed, neither Grant Recipient nor the sub-grant recipient shall be relieved of any of the duties and responsibilities of the Grant Contract. Further, the sub-grant recipient shall agree to abide by the all the requirements of this Grant Contract, and to provide all information needed in order for Grant Recipient to comply with this Grant Contract.

9. Governing Law, Construction and Jurisdiction. This Grant Contract and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only. The terms of this Grant Contract shall be construed according to their plain meaning, and not strictly construed for or against either party hereto. Grant Recipient hereby submits to the jurisdiction of the State and Federal courts located in North Carolina and agree that NCLWF may, at its option, enforce its rights under the Grant Contract in such courts. The Parties intend this document to be an instrument executed under seal. NCLWF and any party that is an individual, partnership or limited liability company hereby adopts the word "SEAL" following his/her signature and the name of NCLWF or partnership or limited liability company as his/her/its legal seal.

10. Savings Clause. Invalidation of any one or more of the provisions of this Grant Contract, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.
11. Additional Remedies. Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Contract.
12. Survival. Where any representations, warranties, covenants, indemnities or other provisions contained in this Grant Contract by its context or otherwise, evidences the intent of the parties that such provisions should survive the termination of this Grant Contract or any Closing, the provisions shall survive any termination or Closing. Without limiting the generality of the foregoing, the Parties specifically acknowledge and agree that the provisions of **Exhibit E** and the conditions shown on **Exhibit A** shall survive any termination of this Grant Contract as well as any Closing.
13. Entire Grant Contract; Incorporation of Exhibits. This Grant Contract constitutes the entire Grant Contract between the Parties with respect to the subject matter hereof. All recitals, exhibits, schedules and other attachments hereto are incorporated herein by reference.
14. Headings. The headings of the various sections of this Grant Contract have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Grant Contract.
15. Time of the Essence. Time is of the essence in the performance of this Grant.

EXHIBIT F

Does not apply to this contract

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution Approving a grant agreement with the North Carolina Land and Water Fund (NCLWF), also known as the Clean Water Management Trust Fund, a Division of the Department of Natural and Cultural Resources for Restoration of Degraded Streams.

Date of Meeting: 03/22/2022	Ward # if applicable: NA
Department: Development Services	Person Submitting Item: Matt Schelly, Interim Director of Development Services
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	The City has been awarded a \$150,000 Innovative Restoration of Degraded Streams grant through the North Carolina Land and Water Fund (NCLWF), formerly the NC Clean Water Management Trust Fund (CWMTF). The funds will be used for restoring degraded streams in order to protect the quality of surface waters .
Actions Needed by Board:	Adopt a Resolution.
Backup Attached:	Memo, Resolution, Grant Contract

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



MEMORANDUM

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

FROM: Matt Schelly, Interim Director Development Services

DATE: March 11, 2022, 2022

SUBJECT: Consider Adopting a Resolution Approving a grant agreement with the North Carolina Land and Water Fund (NCLWF), also known as the Clean Water Management Trust Fund, a Division of the Department of Natural and Cultural Resources for Restoration of Degraded Streams.

The City of New Bern has been awarded a Restoration of Degraded Streams Grant in the amount of \$150,000 by the Board of Trustees for the North Carolina Clean Water Management Trust Fund, now known as the North Carolina Land and Water Fund (NCLWF), a Division of the Department of Natural and Cultural Resources. The funds will be used for the Jack Smith Creek.

This area experienced severe flooding in 2018 during Hurricane Florence. The City has since been working to develop a flood mitigation plan that would also address water quality concerns associated with flooding. Natural based stormwater treatment and wetland enhancement have been identified as promising solutions. The proposed project would develop draft construction plans (50% complete) and secure permits for a potential wetland and floodplain restoration project on Jack Smith Creek in the City of New Bern, NC. The project would also gather baseline data to plan for the City's restoration and community resilience goals.

Please contact Matt Schelly at 252-639-7583 should you have questions or need additional information.

RESOLUTION

WHEREAS, The City has been awarded an Innovative Stormwater Grant in the amount of \$150,000 by the Board of Trustees for the North Carolina Clean Water Management Trust Fund, now known as the North Carolina Land and Water Fund ("NCLWF"), a Division of the Department of Natural and Cultural Resources. The funds will be used for the Jack Smith Creek Project; and

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

THAT the City Manager is authorized to execute an electronic version of the grant agreement with the North Carolina Land and Water Fund ("NCLWF") in the amount of \$150,000 for the Jack Smith Creek Project, a copy of which is attached hereto and incorporated herein by reference.

ADOPTED THIS 22nd DAY OF MARCH 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

**STATE OF NORTH CAROLINA
NORTH CAROLINA LAND AND WATER FUND
GRANT CONTRACT
(RESTORATION OF DEGRADED STREAMS)**

NCLWF PROJECT NUMBER: 2021-416

GRANTOR: North Carolina Land and Water Fund ("NCLWF" or "Fund"), also known as the Clean Water Management Trust Fund, a division of the Department of Natural and Cultural Resources, acting through its Board of Trustees solely in its official capacity pursuant to Part 41, Article 2, Chapter 143B of the North Carolina General Statutes ("N.C.G.S.")

CONTRACT ADMINISTRATOR: Stephen Bevington
North Carolina Land and Water Fund
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: 919.707.9128
Email: steve.bevington@ncdcr.gov

GRANT RECIPIENT: City of New Bern, a North Carolina Municipal Corporation ("Grant Recipient")

CONTRACT ADMINISTRATOR: Matthew Schelly, Interim Director of Development Services
City of New Bern
PO Box 1129
New Bern, NC 28563-1129
Phone: (252) 639-7587
Email: schellym@newbernnc.gov

GRANT AWARD DATE: September 15, 2021 (the "Award Date")

CONTRACT EFFECTIVE DATE: _____ (the "Effective Date")

CONSTRUCTION CONTRACT DATE: September 15, 2022

CONTRACT EXPIRATION DATE: November 30, 2023 (the "Expiration Date")

REIMBURSEMENT DATE: December 14, 2023

GRANT AMOUNT: up to \$150,000 (the "Grant")

THIS GRANT CONTRACT (the “Grant Contract”) is made and entered into, as of the Effective Date by and between the NCLWF and the Grant Recipient, both sometimes hereinafter referred to individually as a “Party” or collectively as the “Parties.”

WITNESSETH:

WHEREAS, the Grant Recipient has submitted to the NCLWF an application requesting a grant of funds (hereinafter the “Grant Application”) to engage in a project for restoring degraded lands in order to protect the quality of surface waters.

WHEREAS, the NCLWF is authorized by N.C.G.S. Chapter 143B, Article 2, Part 41, to, among other actions and activities, restore previously degraded lands to reestablish their ability to protect water quality, and acquire conservation easements or other interests in real property for protecting and conserving surface waters and drinking water supplies.

WHEREAS, the Grant Recipient is a qualified applicant as defined in N.C.G.S. §143B-135.238(a).

WHEREAS, the NCLWF approved the Grant Recipient’s application at its meeting on the Award Date and is willing to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Contract.

WHEREAS, the Grant Recipient agrees to conduct the project approved by the NCLWF’s Board of Trustees for the purposes and according to the scope of work, conditions, and schedule in **Exhibit A** (the “Project”) and pursuant to the project budget in **Exhibit B** of this Grant Contract.

WHEREAS, the Parties desire to enter into this Grant Contract and intend to be bound by its terms.

NOW, THEREFORE, for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **Grant Contract Documents**. The Grant Contract consists of, and only of, the documents described below, which are hereinafter collectively referred to as the “Grant Contract.” In the case of conflict, specific and special terms, conditions, and requirements shall control over general terms, conditions, and requirements. Upon execution and delivery of the Grant Contract, including the execution of all of the Exhibits that require execution, the Grant Contract shall constitute a valid and binding contract between the Parties, enforceable in accordance with the terms thereof. The Grant Contract constitutes the entire contract between the Parties, superseding all prior oral and written statements or contracts. Only changes deemed non-material in type by the NCLWF’s Executive Director may be made to the Grant Contract without the consent of the NCLWF’s Board of Trustees.

The Grant Contract Documents consist of:

- (a) Cover page
- (b) The main body of the Grant Contract
- (c) Exhibit A – Project Summary
- (d) Exhibit B – Project Budget
- (e) Exhibit C – NCLWF Pre-Disbursement Checklist
- (f) Exhibit D – Additional Definitions
- (g) Exhibit E – General Terms and Conditions
- (h) Exhibit F – Conservation Easements – Does not apply to this contract

2. **Purpose.** The purpose of the Grant is for restoring degraded streams in order to protect the quality of surface waters, more particularly described in **Exhibit A**. Grant funds may not be used for the purchase of improvements or for the removal of debris on any property, or for any other purpose not set forth herein. Further, Grant funds may not be used for any eminent domain litigation or any action or expenditure related to eminent domain, unless approved by the NCLWF's Board of Trustees in writing prior to the action. The Board of Trustees shall review requests to use Grant funds for eminent domain on a case-by-case basis. The Grant Recipient shall provide such requests in writing.

3. **NCLWF's Duties.** Subject to the appropriation, allocation, and availability to NCLWF of Grant funds for the Project, NCLWF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the payment procedures set forth herein. Neither of the Parties is obligated to perform and the Grant Contract is not a binding agreement on all Parties until all Parties have executed the main body of the Grant Contract and all exhibits that require execution, the Department of Natural and Cultural Resources has notified the NCLWF that funds for the Grant contemplated hereunder have been encumbered, and the Grant Recipient has received its counterpart original of the Grant Contract, fully executed and with all dates inserted where indicated on the cover page to the Grant Contract.

4. **Grant Recipient's Duties.** The Grant Recipient shall carry out the Project pursuant to the terms of this Contract.

5. **Contract Period.** The NCLWF's commitment to disburse Grant funds under this Grant Contract shall cease on the Reimbursement Date. It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date and that all costs to be reimbursed have been submitted to the NCLWF by the Reimbursement Date. After the Expiration Date, any Grant monies remaining under this Grant Contract will no longer be available to the Grant Recipient except to pay proper invoices for budgeted costs incurred by the Expiration Date and that are submitted to the NCLWF no later than the Reimbursement Date. **The burden is on the Grant Recipient to request an extension of the Grant Contract if the Grant Recipient anticipates that the Project will not be completed by the Expiration Date.** The request for an extension must be a formal one made in a writing addressed to the NCLWF's Executive Director, giving complete details of the reasons why an extension is needed, and proposing a new expiration date for the Grant Contract. This written request must be submitted to and received by the NCLWF's office at least 60 days prior to the Expiration Date. Approval of any requested extension is at the sole discretion of the NCLWF. The approval or denial of the requested extension will be based upon Project performance, among other factors. **The NCLWF is not obligated to send reminders or other notification of an approaching Expiration Date.**

6. **Permanent Protections on Properties of the Project Site.**

(a) **Projects for Which Property Protections are Required.** Real property on which NCLWF funds are to be used for construction must be protected permanently by legal instruments conforming to N.C.G.S. Chapter 121, Article 4, and N.C.G.S. Chapter 143B, Article 2, Part 41. The Grant Recipient shall so restrict, or cause to be restricted, uses of and activities on such real property by way of one or more permanent conservation agreements or by other instruments of property interest approved in writing by the NCLWF. Such instruments of property interest must encumber real property essential to the Project, including necessary easements and rights of way. Real property essential to the Project, including necessary easements and rights of way, hereinafter is collectively referred to as the "Project Site" and is the properties listed in the Schedule of Properties for Legal Protection of Riparian Buffers in **Exhibit A**.

(b) **Requirements for Instruments of Property Interest.** Property interests acquired for the Project shall provide or conform to the following:

- i. property interests shall ensure undisturbed use and possession of the properties of the Project Site for the purpose of construction and operation of the Project and include other such restrictions as the NCLWF deems necessary and satisfactory, in its sole discretion;

ii. property interests shall be permanent; and

iii. instruments of property interests shall be approved as to form and content by the NCLWF in writing.

(c) Requirements for Holding of Property Interest. Property interests acquired for the Project shall be held by a party satisfactory to the NCLWF, such party being identified as holder (as defined in NCGS Chapter 121, Article 4) in **Exhibit A**. If a holder of property interests acquired for this Project is not named in **Exhibit A**, or if the Party named as holder in **Exhibit A** does not accept the role and responsibility of holder, the Grant Recipient shall name a party to serve as holder, subject to approval in writing by the NCLWF.

(d) Recordation of Instruments of Property Interest. The Grant Recipient shall provide to the NCLWF a copy of instruments creating property interest obtained and recorded in connection with the Project Site. (The NCLWF will disburse construction funds only after having received from the Grant Recipient a copy of each recorded instrument and associated documents set forth in **Exhibit F**.)

7. **Pre-Disbursement Requirements.** Prior to the disbursement of any Grant monies under this Grant Contract, the Grant Recipient shall deliver to the NCLWF all of the documentation described in Exhibit C.

8. **Disbursement of Grant Funds.**

(a) Proportionate Spending of Matching Funds. Grant monies are awarded based on a commitment of matching funds to the Project. The NCLWF's final, cumulative portion of the total Project cost will be no more than the percentage of funds originally committed to in the Grant Contract as given in **Exhibit B**. The Grant Recipient must demonstrate expenditure of matching funds as payments by the NCLWF are requested.

(b) Requests for Payment. The NCLWF will not disburse Grant funds until receipt by the NCLWF's Contract Administrator of the Grant Recipient's requests for payment. Payment requests shall conform to the following.

i. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.

ii. Payment requests shall identify all amounts of sales tax for which the Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. The NCLWF will not reimburse the Grant Recipient for such amounts.

iii. Each payment request shall include a completed claim form and progress report submitted using the online grants management software (GMS). The progress report shall describe work accomplished on the Project and progress toward completing the Project Scope of Work.

(c) Alternate Disbursement of Grant Funds. The NCLWF may, upon request by the Grant Recipient, disburse Grant funds prior to the Grant Recipient's actual payment to its vendors if such expenditures are documented by vendors' third-party invoices. In order for the NCLWF to disburse Grant funds to the Grant Recipient based on unpaid third-party invoices, the Grant Recipient must submit the following documentation.

- i. The Grant Recipient shall acknowledge on the claim form that the claim contains unpaid expenses to third-party vendors. The Grant Recipient shall also acknowledge that it shall comply with all terms of this Grant Contract in incurring the expense, has reviewed and approved the unpaid third-party invoice, and shall certify to the NCLWF that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant funds.
- ii. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.
- iii. Payment requests shall identify all amounts of sales tax for which the Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. The NCLWF will not reimburse the Grant Recipient for such amounts.
- iv. Each payment request shall include a completed claim form and progress report submitted using the online grants management software (GMS). The progress report shall describe work accomplished as well as progress toward completing the Project Scope of Work.

The Grant Recipient will confirm in writing to the NCLWF that the required payment has been made within thirty (30) days of payment.

- (d) Limited Grant Funds Disbursement in January, June, July, and December. Funds will not be disbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.
- (e) Certification by Licensed Professional. At the option of the NCLWF, payments may be made only on the certificate and seal of an appropriately qualified licensed professional (e.g., licensed Professional Engineer) that the work for which the payment is requested has been completed in accordance with approved plans and specifications, to which certificate shall be attached an estimate by the construction contractor setting forth items to be paid out of the proceeds of each such payment. The NCLWF, at its option, may further require a certificate from such appropriately qualified licensed professional that the portion of the Project completed as of the date of the request for payment has been completed according to schedule and otherwise as approved by the NCLWF and according to applicable standards and requirements. However, the NCLWF may, at its discretion, make payments without requiring such certificates or construction contractor's estimate, in which event the Grant Recipient shall furnish the NCLWF a list of and the amounts of items to be paid out of the payment, or such other evidence as the NCLWF may require.
- (f) Payment Based on Progress. The Grant Recipient agrees to proceed with diligence to complete the Project according to the schedule set out in **Exhibit A** and shall show appropriate progress prior to each payment. Payment may be withheld or delayed if the Grant Recipient fails to make progress on the Project satisfactory to the NCLWF. Amounts withheld shall be reimbursed with subsequent payments in the event that the Grant Recipient is able to demonstrate an ability to resume satisfactory progress toward completion of the Project.
- (g) Proof of Payment. The Grant Recipient agrees to pay, as the work progresses, all bills for expenses

incurred on the Project and agrees to submit to the NCLWF all such receipts, affidavits, canceled checks, or other evidence of payment as may be requested from time to time and, when and if requested by the NCLWF, to furnish adequate proof of payment of all indebtedness incurred on the Project.

- (h) The NCLWF Retaining Portion of Funds until Project Completion. The NCLWF will withhold payment from the Grant Recipient in the amount of **\$15,000** of the Grant until the Grant Recipient has satisfactorily submitted its grant contract final report.
- (i) No Excess Costs. The NCLWF agrees to pay or reimburse the Grant Recipient only for reasonable costs actually incurred by the Grant Recipient that do not exceed the funds budgeted for the Project in **Exhibit B**.
- (j) Period for Incurring Expenditures. The NCLWF will reimburse the Grant Recipient for allowable Project expenditures that are incurred by the Grant Recipient or its vendors only during the period between the Award Date and the Expiration Date of the Grant Contract. The NCLWF will not reimburse the Grant Recipient for Project expenditures that are not incurred during this period.
- (k) Costs of Project Administration. The NCLWF agrees to reimburse the Grant Recipient for administrative costs consisting only of costs of labor for administrative work conducted exclusively on this Project. The Grant Recipient's requests for such payment shall be made under the Project Administration line item of **Exhibit B** and shall conform to the following.
 - i. Costs allowable under the Project Administration line item shall be only reasonable costs of labor needed to comply with the general conditions of the Grant Contract (e.g., progress reports, payment requests, preparing the grant contract final report, revisions to the Grant Contract). Allowable Project Administration labor costs may include any of the following:
 - (a) compensation to the Grant Recipient's employees, plus the Grant Recipient's cost of paying benefits on such compensation (i.e., employees' pay times an audited or auditable benefits multiplier);
 - (b) compensation to the Grant Recipient's independent contractors (e.g., temporary office support), payable at the Grant Recipient's actual cost, without application of a benefits multiplier; and/or
 - (c) cost of professional services contracted by the Grant Recipient (e.g., engineering firm or consultant), payable at the Grant Recipient's actual cost.
 - ii. Costs of any other work described in the Project Scope of Work in **Exhibit A** are not allowable under the Project Administration line item.

9. **Grant Withdrawal for Failure to Enter into a Construction Contract.** Pursuant to N.C.G.S. §143B-135.238(f), if the Project includes construction, this Grant award shall be withdrawn if the Grant Recipient fails to enter into a construction contract for the Project within one year after the Award Date, unless the NCLWF's Board of Trustees finds that the Grant Recipient has good cause for the failure. If the Trustees find good cause for the Grant Recipient's failure, the Trustees must set a date by which the Grant Recipient must take action or forfeit the Grant.

10. **Refunds, Reversion of Unexpended Funds, and Reduction of the Grant based on Construction Cost less than Budgeted Construction Cost.**

- (a) Refunds. The Grant Recipient shall repay to the NCLWF any compensation it has received that exceeds the payment to which it is entitled herein, including any interest earned on funds reimbursed pursuant to the Grant Contract.

- (b) Reversion of Unexpended Funds. Any unexpended Grant monies shall revert to the NCLWF upon termination of the Grant Contract.
- (c) Reduction of the Grant based on Construction Cost less than Budgeted Construction Cost. The NCLWF may reduce the Grant amount if the Grant Recipient expects actual construction costs to be less than budgeted construction costs, as follows:
- i. the Grant Recipient shall provide to the NCLWF construction contract pricing information consisting of at least a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing;
 - ii. the Grant Recipient shall deliver the construction contract pricing information to the NCLWF's Contract Administrator within thirty (30) days of executing a construction contract for the Project; and
 - iii. the NCLWF may, at its discretion after comparing the total anticipated construction cost with the Grant Contract project budget, choose to reduce the Grant. If the NCLWF chooses to reduce the Grant, the NCLWF's Contract Administrator will prepare an amendment to the Grant Contract for this purpose, and the NCLWF will approve requests for reimbursement of the Grant Recipient's construction costs only after the amendment has been signed by both the Grant Recipient and the NCLWF.

11. **Reporting Requirements.** Beginning three (3) months after the Effective Date, the Grant Recipient must submit to the NCLWF a quarterly report on the status of the Project, via the appropriate form provided on the Fund's online grant management system. In addition, N.C.G.S. Chapter §143C, Article 6, Part 3 and Title 09, Subchapter 3M of the North Carolina Administrative Code (N.C.A.C.) require each Grant Recipient of State funds to comply with certain reporting requirements, as applicable. The Grant Recipient must also provide the required documentation as set forth in **Exhibit C**. The Grant Recipient shall submit to NCLWF's Contract Administrator a grant contract final report via the appropriate form available on NCLWF's website and on the NCLWF grant management system (GMS). If the grant contract final report is not acceptable to the NCLWF, the NCLWF shall return it to the Grant Recipient for revision. Final payment will not be made until the grant contract final report is acceptable to the NCLWF.

12. **Notice: Contract Administrators.** All notices, requests, or other communications permitted or required to be made under this Grant Contract shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the Party giving such notice. Notice shall be deemed given three (3) business days next following the date when deposited in the mail, postage prepaid, registered, or certified mail, return receipt requested, unless another form is otherwise noted herein.

13. **Signature Warranty.** Each individual signing below warrants that he or she is duly authorized to sign this Contract for the respective party, and to bind said party to the terms and conditions of this Grant Contract.

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IN WITNESS WHEREOF, the Grant Recipient and the Fund have executed this Grant Contract in one (1) original as of the Effective Date. One original shall be retained by the Fund and a copy of the original will be sent to the Grant Recipient. If there is any controversy among the documents, the document on file in the Fund's office shall control.

GRANT RECIPIENT:

By: _____
Name: Foster Hughes
Title: City Manager

APPROVED AS TO FORM:

City Attorney

NCLWF:

NORTH CAROLINA LAND AND WATER FUND

By: _____
Name: John B. Wilson, Jr.
Title: Chairman, Board of Trustees

By: _____
Name: William B. Summer
Title: Executive Director

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EXHIBIT A
NCLWF PROJECT NO. 2021-416

Stream of the Project Site: Jack Smith Creek

Water bodies downstream: Neuse River, Trent River, Pamlico Sound

River basin: Neuse

County: Craven

Amount requested from NCLWF: \$150,000

NCLWF approved grant amount up to: \$150,000

Total matching contributions: \$150,000

Total project budget: \$300,000

Percent match: 50%

Grant award date: September 15, 2021

Related NCLWF-funded projects: New Bern was awarded a stormwater grant in the watershed; 2007-711.

Site Conditions and Water Quality Objectives: The project area experienced severe flooding in 2018 during Hurricane Florence. The City has since been working to develop a flood mitigation plan that would also address water quality concerns associated with flooding. Natural based stormwater treatment and wetland enhancement have been identified as promising solutions.

Project Summary: The proposed project would develop draft construction plans (50% complete) and secure permits for a potential wetland and floodplain restoration project on Jack Smith Creek in the City of New Bern, NC. The project would also gather baseline data to plan for the City's restoration and community resilience goals.

Scope of Work, the Grant Recipient shall conduct and complete the activities given below:

1. Consult with relevant permitting and regulatory agencies
2. Draft engineering designs and plans (50%)
3. Secure all required local, State, and Federal permits
4. Collect baseline environmental data for the project area to support the City's restoration and community resilience goals
5. Manage the project in total and report to the Fund

Special Grant Contract Conditions:

1. The Grant Recipient shall provide or otherwise ensure that the matching funds identified in **Exhibit B** are provided to the project.
2. The Grant Recipient shall secure applicable Federal and State permits before the start of construction and submit copies of the permits to the NCLWF. The NCLWF shall approve requests for payment of the Grant Recipient's construction costs only after receiving copies of applicable Federal and State permits.
3. In accordance with Water Quality Certification No. 3885, before construction begins the Grant Recipient shall submit a Pre-Construction Notification (PCN) form and three (3) copies of the Project plans and specifications to the North Carolina Division of Water Resources (DWR) 401 Certification Program for review. The Grant Recipient shall follow the latest guidelines on DWR's website (<http://portal.ncdenr.org/web/wq/swp/ws/401>) for

the types of information to submit to DWR for review. The Grant Recipient shall name the NCLWF as the “agent” on the PCN form and shall send a copy of the PCN form to the NCLWF at the same time the form is sent to DWR.

4. In conducting this Project, the Grant Recipient shall employ principles for restoring streams that have been established by the DWR 401 Certification Program. The Grant Recipient shall work with staff of the DWR 401 Certification Program to provide a Project design that, to the extent practicable, re-establishes the structure, function, and self-sustaining behavior of the Project reach of stream to those that existed before the stream reach was disturbed. NCLWF will release funds for reimbursing the Grant Recipient for construction only after receiving a letter from the DWR 401 Certification Program stating that either: (a) the Project design is capable of restoring the stream reach, or (b) if, in the opinion of the DWR 401 Certification Program, restoration of the full stream reach is not practicable but the Project design is capable of enhancing portions of the reach that cannot be restored. If DWR does not provide such a letter within 30 days from receiving the PCN and Project design (plans and specifications) from the Grant Recipient, then NCLWF will deem the design meets the requirements of the DWR 401 Water Quality Certification Program. Definitions used by the DWR 401 Certification Program are given in **Exhibit D**.
5. The following General Terms and Conditions in **Exhibit E** do not apply to this Grant Contract:
 - (a) paragraph A.4, Retention, Operation, Maintenance and Use
 - (b) paragraph A.17, Conservation Easement or Other Land Use Restriction
6. Other conditions special to this grant: none.

Project Schedule

1. **Construction Contract Date: September 15, 2022 (one year after the Contract Award Date)**. The Grant Recipient shall enter into a construction contract by this date for the work identified as construction in **Exhibit A**. Failure to enter into a construction contract by this date will result in withdrawal of the Grant, unless the NCLWF’s Board of Trustees has found that the Grant Recipient had good cause for such failure and the Board of Trustees has set a date by which the Grant Recipient must take action.
2. **Contract Expiration Date: November 30, 2023**. The Grant Recipient shall complete the Project Scope of Work and submit the grant contract final report (Grant Contract Section 10 and as otherwise specified in **Exhibit A**) by this date. The NCLWF will not reimburse the Grant Recipient for Project costs incurred after this date.
3. **Reimbursement Date: December 14, 2023**. The NCLWF must receive the Final Request for Payment for the Project by this date. The NCLWF will not accept or process for payment any request for payment received after this date. The NCLWF will not reimburse the Grant Recipient for costs incurred after the Contract Expiration Date.

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EXHIBIT B
NCLWF PROJECT NO. 2021-416

PROJECT BUDGET

Item	NCLWF Grant Funds¹	Matching Funds²	Total Item Budget
1. Design and permitting	\$150,000	\$0	\$150,000
2. Easement preparation and recordation	\$0	\$0	\$0
3. Construction	\$0	\$0	\$0
4. Construction administration/observation	\$0	\$0	\$0
5. Construction contingency ³	\$0	\$0	\$0
6. Monitoring, data collection, data evaluation and analysis	\$0	\$0	\$0
7. Value of easements to be donated ⁴	\$0	\$0	\$0
8. Project administration	\$0	\$0	\$0
9. Planning	\$0	\$150,000	\$150,000
Total Project Budget	\$150,000	\$150,000	\$300,000
% of Total Project Budget	50%	50%	100%

Notes:

¹To obtain payment, the Grant Recipient must submit itemized documentation substantiating direct costs incurred in implementing the project.

²Matching funds are contributed by: NFWF NCRF, \$150,000.

³Construction contingency funds allow the project to cover unanticipated construction costs, often resulting from unexpected conditions encountered during construction. Construction contingency funds shall not be used for work that is not construction (e.g., design or construction administration) nor for construction that is not part of the project scope of work (e.g., add-on work). Construction contingency funds may be disbursed only after the Grant Recipient has demonstrated to the NCLWF that it has expended 100 percent of funds in Construction line items, 100 percent of local matching funds, and at least 90 percent of all other matching funds, including matching grant and/or loan funds.

⁴The value of a conservation easement (or other legal instrument acceptable to the NCLWF) donated to the project by a property owner or acquired by the Grant Recipient may be claimed as matching funds contributed to the project only after the Grant Recipient has provided to the NCLWF all of the following information for that donated easement:

- (a) calculated area of the easement;
- (b) copy of the easement document as recorded by the county register of deeds; and
- (c) basis for the claimed value of the easement, which may be in the form of:
 - i. current property tax valuation assessed by the Craven County Tax Assessor's Office showing total value of land and/or improvements, if any, with indicated year of the actual assessment. This option is available for land acquisitions for which the total price for any given parcel does not exceed \$100,000. An appraisal is required if the total value of any given parcel exceeds \$100,000. See additional details on appraisal requirements below; or
 - ii. if a recent appraisal has been prepared, the appraisal summary may be used, instead of the tax valuation.

Appraisal Requirements. Appraisals are required if the total value of any given parcel exceeds \$100,000 and must be satisfactory to the NCLWF, performed by an independent certified appraiser acceptable to the NCLWF, and consistent with regulations or policies of the State Property Office (SPO) and policies of the NCLWF, *specifically in the “complete summary appraisal” format in accordance with Uniform Standards of Professional Appraisal Practice (USPAP).* Two (2) appraisals are required if the value of the property is greater than \$500,000.00. All Appraisals should be forwarded to the NCLWF as soon as possible, but no later than 60 days prior to the anticipated closing date. The Appraisal should reflect the fair market value of the property. All Appraisals are subject to review by the SPO. At the discretion of the NCLWF, the Grant Recipient may be required to amend or update the Appraisal. The Grant Recipient specifically acknowledges that NCLWF’s acceptance of the matching funds value for the land acquisition is contingent upon approval of the appraised value by the SPO. **All Appraisals must be ordered in consultation with the NCLWF’s Real Property Agent in the State Property Office. Provide two (2) originals of each Appraisal obtained. NCLWF must be included as an authorized user of the Appraisal.**

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EXHIBIT C
NCLWF PROJECT NO. 2021-416

Pre-Disbursement Checklist

Documents to Be Submitted to NCLWF Before any Funds will be Disbursed under the Grant

Requirement		Description/What to Submit
Submit before first request for payment		
1	Authorization to obligate*	Does not apply to this contract.
2	Documents in Exhibit A	Documents as identified in Exhibit A "Special Contract Conditions" (if any) as required prior to the release of NCLWF funds.
Submit before first request for construction payment		
3	Construction permits	Provide a copy of each applicable Federal or State permit issued for construction, or written documentation from the appropriate State agency that construction of the Project does not require a Federal or State permit.
4	Construction contract pricing information	Within 30 days of executing a construction contract for the Project, submit construction contract pricing information consisting minimally of a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing. (Refer to Section 10 of the Grant Contract.)
5	Documents in Exhibit A	Documents as identified in Exhibit A "Special Contract Conditions" (if any) as required prior to the release of NCLWF funds.
Submit before or accompanying request for final payment		
6	Grant contract final report	Report per Grant Contract Section 10.
7	Documents in Exhibit A	Documents as identified in Exhibit A "Special Contract Conditions" (if any) as required prior to the release of NCLWF funds.

* Examples of proof of authorization to obligate include:

- resolution of the governing board to obligate
- certified copy of board meeting minutes documenting giving of authority to obligate

**Examples of proof of availability of matching funds include:

- grants from other sources:
 - copy of grant agreement
 - copy of grant award letter
- local agency matching funds:
 - resolution of the governing board
 - budget showing allocation of matching funds to the Project, accompanied by a certified copy of board meeting minutes approving the budget or by a certified copy of board meeting minutes authorizing use of local matching funds for the Project
 - certified copy of board meeting minutes attesting to the use and amount of local funds for match
 - letters from other sources of matching funds attesting to contribution of the funds
- value of conservation easements to be donated:
 - current properties' fair market tax valuations assessed by the county tax assessor's office, prorated to apply only to the areas of the permanent conservation easements to be recorded for this project; or
 - appraisals, prepared and signed by a North Carolina-licensed appraiser, of the diminution of properties' fair market values as a result of being encumbered by permanent conservation easements required for this project.

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EXHIBIT C.1
ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

Does not apply to this Grant Contract. Applies only to grant recipients that are nonprofit corporations.

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EXHIBIT D

ADDITIONAL DEFINITIONS

The definitions set forth in N.C.G.S. Chapter 143C shall apply to this Grant Contract except as otherwise provided herein below. The definitions provided by 09 N.C.A.C. 03M shall apply to this Grant Contract to the extent they are not in conflict with N.C.G.S. Chapter 143C or this Grant Contract. In the event of conflict, N.C.G.S. Chapter 143C shall control over 09 N.C.A.C. 03M, and this Grant Contract shall control over N.C.G.S. Chapter 143C.

1. "Grant Contract" means a legal instrument that is used to reflect a relationship between the Grantor and the Grant Recipient and is used interchangeably herein with the term "Contract."
2. "Construction contract" means a legally binding agreement between the Grant Recipient and another party for implementing construction work described in the project scope of work given in **Exhibit A**.
3. "Enter into a construction contract" means signature of a construction contract by both the Grant Recipient and another party for the construction work described in the project scope of work given in **Exhibit A**.
4. "Grant" and "grant funds" as defined in N.C.G.S. §143C-6-23 means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers' and State Employees, or other similar medical programs. For purposes of this Grant Contract, both "grant" and "grant funds" shall be referred to as the Grant that is provided to the Grant Recipient to carry out the objectives of the Grant Contract.
5. "Grantee" as defined in the N.C.G.S. § 143C-6-23 means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Grant Contract, however, a "grantee" as defined in N.C.G.S. §143C-6-23 shall be referred to as the Grant Recipient and the term "grantee" shall mean and refer to an entity that is the recipient of an interest in real property.
6. "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective. For purposes of this Grant Contract, the Grantor is the NC Land and Water Fund.
7. "Stream enhancement" means the process of implementing certain stream rehabilitation practices in order to improve water quality and/or ecological function. These practices typically are conducted on the stream bank or in the flood prone area. An enhancement procedure may include fencing cattle out of a stream and re-establishing vegetation in order to provide streambank stability. These types of practices should be conducted only on a stream reach that is not experiencing severe aggradation or erosion. Enhancement also may include placing in-stream habitat structures, provided that the in-stream structures do not affect the overall dimension, pattern, or profile of a stream that is in dynamic equilibrium.
8. "Stream restoration" means the process of converting an unstable, altered, or degraded stream corridor including adjacent riparian zone and flood prone areas, to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile and biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium.
9. "Stream stabilization" means the in-place stabilization of a severely eroding streambank. Stabilization techniques that include "soft" methods or natural materials (such as root wads, rock vanes, and vegetated crib walls) may be considered as part of a restoration design. However, stream stabilization techniques that rely heavily on "hard" engineering, such as concrete-lined channels, rip rap, or gabions, to stabilize streambanks will not be considered to be stream restoration or stream enhancement.
10. "State agency" shall mean a unit of the executive, legislative, or judicial branch of State government, such as a department, institution, division, commission, board, council, or The University of North Carolina. The term does not include a unit of local government or a public authority. For purposes of this Grant Contract,

both the North Carolina Department of Natural and Cultural Resources and the NC Land and Water Fund are State agencies.

11. For purposes of this Grant Contract, a “Subgrantee,” as defined in N.C.G.S. §143C-6-23, and “Subrecipient,” as defined in 09 NCAC 03M .0102 and applicable to 09 N.C.A.C. 03M, shall be referred to as a “Sub-grant Recipient.”

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EXHIBIT E
GENERAL TERMS AND CONDITIONS

A. Affirmative Covenants

1. **Title.** If the property right to be acquired is fee title, the Grant Recipient shall acquire good and marketable title to the Property free and clear of any liens, other charges, or encumbrances that would materially affect the use of the Property as intended under this Grant Contract.
2. **No Mitigation.** The Grant Recipient shall not use the Property or any portion thereof to satisfy compensatory mitigation requirements under 33 USC § 1344 or N.C.G.S. §143-214.11.
3. **Right of Entry and Inspections.** The Grant Recipient shall permit NCLWF's representatives to enter the Property for inspection of the Property and to enter any other premises of the Grant Recipient associated with the activities of the Grant Recipient pursuant to the Grant, including to review books and records in any way related to the Grant or the Property.
4. **Retention, Operation, Maintenance and Use.**
 - (a) The Grant Recipient agrees to complete the Project as approved by the NCLWF. The descriptions, purpose, schedules, scope of work, and budgets set out in **Exhibits A and B**, and accompanying or related plans, specifications, estimates, procedures, and maps submitted to the NCLWF by the Grant Recipient are the foundation of this Grant Contract. Only changes deemed non-material in type by the Executive Director may be made without the consent of the NCLWF's Board of Trustees.
 - (b) For a period of ten (10) years after Project completion, the Grant Recipient agrees to maintain and manage, at maximum functional utility, the end product of the Project. The Grant Recipient shall inspect the Project on a routine basis and make routine repairs to restore the infrastructure to its full function within two (2) weeks of the need for the repairs. The Grant Recipient shall make additional inspections following major storm events and shall make all necessary repairs to return the infrastructure to its full function within the sooner of four (4) months after the major storm event or as soon as is commercially practicable after the major storm event.
 - (c) Property acquired, developed, or improved with grant assistance from the NCLWF shall be retained and used for the purposes identified in **Exhibit A**, and the Grant Recipient hereby agrees to file or record such restrictions as may be required to ensure such continued use and such restrictions shall be in form and substance satisfactory to the NCLWF.
 - (d) If at some future date, the NCLWF and the Grant Recipient agree in writing that the Project should no longer continue on as property(ies) of the Project Site, then Grant Recipient will abandon the Project and allow such property to return to its natural state.
5. **Signage.** If funds are available in the Grant Contract at the end of the Project, the Grant Recipient agrees to post signs, acknowledging NCLWF as the source of monies for conservation of the Property, on publicly visible areas of those Properties that have public access and/or where private property owners are amenable to signage.
6. **Publicity.** To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's benefits to the general public and to local government and State representatives, including the role of the NCLWF in the funding and development of the project.
7. **Conflicts of Interest.** The Grant Recipient shall at all times comply with the Grant Recipient's conflict of interest policy.

8. **Compliance with Reporting Requirements.** The Grant Recipient shall comply with the reporting requirements contained in Section 9 of the Grant Contract, and in N.C.G.S. Chapter 143C, Article 6, Part 3, and 09 N.C.A.C. Subchapter 03M-Uniform Administration of State Grants, including audit oversight by the Office of the State Auditor, the provision of access to the accounting records by both the funding entity and the Office of the State Auditor in accordance with N.C.G.S. §147-64.7, and availability of audit work papers in the possession of any auditor of any recipient of State funding. If a Grant Recipient has not met these reporting requirements and fails to submit revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend further payments to the Grant Recipient and report the Grant Recipient to the Office of the State Auditor and the Office of the State Controller.
9. **Books and Records.** The Grant Recipient agrees to maintain and make available for inspection by the NCLWF, at all reasonable times, all documents, books, and records of all expenditures for costs applicable to this Grant Contract, and to submit properly certified billings for such costs on forms prescribed by the NCLWF and supported by detailed data sheets which will facilitate the audit of the Grant Recipient's records. Further, the Grant Recipient shall maintain all Grant records for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.
10. **Additional Requirements.** The Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds.
11. **Permits and Approvals.** All required regulatory approvals to use the Property and the Conservation Easement area in accordance with **Exhibit A** have or will be obtained.
12. **Compliance with Laws.** The Grant Recipient agrees to perform and maintain the Project in compliance with all Federal, State, and local laws and regulations, including, without limitation, environmental, zoning, and other land use laws and regulations. The Grant Recipient agrees to take reasonable steps to advise Project participants that they shall comply in the same manner.
13. **Insurance.** The Grant Recipient agrees to keep structures or improvements of any sort constituting the Project fully insured at all times during construction and to keep fully insured all building materials at any time located on the Project. The Grant Recipient will ensure that all contractors furnish adequate payment and performance bonds.
14. **No Pollution Credits.** If the Project enables the Grant Recipient to qualify for pollution credits by reducing the discharge of phosphorus, nitrogen, or any other nutrient or pollutant below, or further below, applicable regulatory limits, or otherwise ("Pollution Credits"), the Grant Recipient shall not sell, trade, or give to another person or entity that percentage of any resulting Pollution Credits achieved by the Project corresponding to the percentage of the Project costs provided by the NCLWF.
15. **Material Modifications.** Any proposed material modification of the Project shall be subject to approval by the NCLWF.
16. **Data Requests.** If the NCLWF so requests, the Grant Recipient shall provide data to the North Carolina Rural Economic Development Center's Water Resources Inventory and Data Management Project and/or to the North Carolina Geographic Information Coordinating Council's NC One Map Project.
17. **Conservation Easement or Other Land Use Restrictions.** The Grant Recipient shall obtain Conservation Easements or other land use restrictions for this Project satisfactory to the NCLWF in its sole discretion.
18. **Boundary Marking of Riparian Buffer Easement Areas.** The Grant Recipient shall mark the outside limits of riparian buffer conservation easement areas in a manner that is clearly visible and identifiable as the limit of the easement area.

B. Representations and Warranties

In order to induce the NCLWF to enter into this Grant Contract and to make the Grant as herein provided, the Grant Recipient after reasonable inquiry makes the following representations, warranties, and covenants, which shall remain in effect after the execution and delivery of this Grant Contract and any other documents required hereunder, any inspection or examinations at any time made by or on behalf of the NCLWF, and the completion of the Project by the Grant Recipient:

1. **No Actions.** There are no actions, suits, or proceedings pending, or to the knowledge of the Grant Recipient threatened against or affecting the Grant Recipient before any court, arbitrator, or governmental or administrative body or agency that might affect the Grant Recipient's ability to observe and perform its obligations under this Grant Contract.
2. **No Untrue Statements.** Neither this Grant Contract nor any information, certificate, statement, or other document furnished by the Grant Recipient in connection with the Grant contains any untrue statement of a material fact or omits disclosure of a material fact that affects a property(ies) of the Project Site, the Conservation Easement, or the ability of the Grant Recipient to perform this Grant Contract.
3. **Validity of Grant.** Upon execution and delivery of this Grant Contract, it will be a valid and binding agreement, enforceable in accordance with the terms thereof.
4. **Zoning.** The present and proposed use of the Property, including, without limitation, the purpose of the Conservation Easement, is in compliance with all applicable zoning ordinances, and all applicable municipal and other governmental and regulatory approvals have been or will be obtained for the use and for operation of the Property according to this Grant Contract.
5. **Tax Exempt Status.** As applicable, the Grant Recipient shall maintain tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or any successor section) and the regulations promulgated thereunder (the "Code") and shall notify the NCLWF within thirty (30) days upon any change in its status under the Code.

C. Termination: Events of Default

1. **Termination by Mutual Consent.** The Parties may terminate this Grant Contract by mutual written consent with sixty (60) days prior notice, or as otherwise provided by law.
2. **Termination for Cause.** The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by the Grant Recipient of its obligations to the NCLWF, and shall entitle the NCLWF to exercise all rights and remedies under this Grant Contract and as otherwise available at law or equity.
 - (a) **Property Unsuitable.** A determination by the NCLWF, prior to the disbursement of the Grant funds, that a property(ies) of the Project Site is unsuitable for the purposes of the Grant Contract.
 - (b) **Unsuitable Use.** A property(ies) of the Project Site is used in a manner materially inconsistent with the purposes of this Grant Contract or the Project.
 - (c) **Default in Performance.** The default by the Grant Recipient in the observance or performance of any of the terms, conditions, or covenants of this Grant Contract; provided, however, that no such default shall occur until the Grant Recipient has been given written notice of the default and 30 days to cure have elapsed.
 - (d) **Misrepresentation.** If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement, or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.

- (e) Eligibility of Grant Recipient. If the Grant Recipient ceases to be qualified to receive Grant funds, is dissolved, or otherwise ceases to exist.
- (f) Failure to Monitor Conservation Easement. If the Grant Recipient fails to notify the NCLWF of any potential violation of the Conservation Easement reasonably known to the Grant Recipient within a reasonable period of time so as to avert or cure any potential violation.
- (g) Abandonment of the Project. If the Grant Recipient abandons or otherwise ceases to continue to make reasonable progress towards completion of the Project.

D. The NCLWF's Rights and Remedies

If an Event of Default shall occur, the NCLWF shall have the following rights and remedies, all of which are exercisable at the NCLWF's sole discretion, and are cumulative, concurrent, and independent rights.

1. **Project Termination**. If an Event of Default occurs, the NCLWF may, at its discretion, suspend and/or terminate all obligations of the NCLWF hereunder. If, in the judgment of the NCLWF, such failure was due to no fault of the Grant Recipient, amounts required to resolve at minimum costs any irrevocable obligations properly incurred by the Grant Recipient shall, in the discretion of the NCLWF, be eligible for assistance under this Grant Contract.
2. **Additional Remedies**. If an Event of Default occurs, the NCLWF shall have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Project by any acts that may be unlawful or in violation of this Grant Contract or any other item or document required hereunder, (b) to obtain title to or otherwise preserve or protect its interest in the Project and any property acquired with Grant funds, (c) to compel specific performance of any of the Grant Recipient's obligations under this Grant Contract, (d) to obtain return of all Grant Funds, including equipment if applicable and/or (e) to seek damages from any appropriate person or entity. The NCLWF, or its designee, may also, at the NCLWF's sole discretion, continue to complete the Project, or any portion thereof deemed appropriate by the NCLWF, and the Grant Recipient shall cooperate in the completion of the Project. The NCLWF shall be under no obligation to complete the Project.
3. **Non-waiver**. No delay, forbearance, waiver, or omission of the NCLWF to exercise any right, power, or remedy accruing upon any Event of Default shall exhaust or impair any such right, power, or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power, and remedy given to the NCLWF may be exercised at any time and as often as may be deemed expedient by the NCLWF.

E. Miscellaneous

1. **Modification**. This Grant Contract may be rescinded, modified, or amended only by written agreement executed by all Parties hereto.
2. **Benefit**. This Grant Contract is made and entered into for the sole protection and benefit of the NCLWF, the State, and the Grant Recipient, and their respective successors and assigns, subject always to the provisions of Section E.8 of this **Exhibit E**. Except for the State, there shall be no third-party beneficiaries to this Grant Contract.
3. **Further Assurance**. In connection with and after the payment of Grant funds under this Grant Contract, upon the reasonable request of the NCLWF, the Grant Recipient shall execute, acknowledge, and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by the NCLWF or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Contract and the purposes of the Conservation Easement.

4. **Compliance by Others.** The Grant Recipient shall be responsible for compliance with the terms of this Grant Contract by any Sub-grant Recipient, including but not limited to, a political subdivision, public agency, or qualified non-profit organization to which funds or obligations are transferred, delegated, or assigned pursuant to this Grant Contract. Delegation by the Grant Recipient to a Sub-grant Recipient of any duty or obligation hereunder does not relieve the Grant Recipient of any duty or obligation created hereunder. Failure by such Sub-grant Recipient to comply with the terms of this Grant Contract shall be deemed failure by the Grant Recipient to comply with the terms of this Grant Contract. Any such delegation of duties or obligations shall be in writing, signed by the Grant Recipient and Sub-grant Recipient, shall be in accordance with Section E.8 of this **Exhibit E**, and shall contain an affirmative covenant by the Sub-grant Recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the North Carolina Administrative Code.

5. **Independent Status of the Parties.** The Parties are independent entities and this Grant Contract shall not create a partnership or joint venture between the Parties. Further, the Grant Contract shall not in any way be interpreted or construed as making the Grant Recipient, its agents, or employees, to be agents or representatives of the NCLWF. The Grant Recipient is and shall be an independent contractor in the performance of this Grant Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its agents and employees. In no event shall the NCLWF be liable for debts or claims accruing or arising against the Grant Recipient. The Grant Recipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Grant Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, the NCLWF.

6. **Indemnity.** The Grant Recipient agrees, to the fullest extent permitted by law, to release, protect, indemnify, and hold harmless the State, the NCLWF, its Trustees, employees, agents, and assigns against any and all claims, losses, liabilities, damages, and costs, including reasonable attorney fees, that result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of the Grant Recipient, its employees, agents, or assigns in use or management of the Property; (b) use or presence of any hazardous substance, waste, or other regulated material in, under, or on the Property; or (c) the performance of the Grant Recipient's duties under this Grant Contract. The obligations under this Section are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.

7. **No Discrimination.** The Grant Recipient shall ensure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Contract solely on the grounds of race, color, age, religion, sex, or national origin.

8. **Binding Effect, Contract Assignable.** The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties; provided, however, that the Grant Recipient may not assign this Grant Contract or any of its rights, interests, duties, or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the NCLWF, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. In the event assignment is allowed, neither the Grant Recipient nor the Sub-grant Recipient shall be relieved of any of the duties and responsibilities of the Grant Contract. Further, the Sub-grant Recipient shall agree to abide by the all the requirements of this Grant Contract, and to provide all information needed in order for the Grant Recipient to comply with this Grant Contract.

9. **Governing Law, Construction and Jurisdiction.** This Grant Contract and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only. The terms of this Grant Contract shall be construed according to their plain meaning, and not strictly construed for or against either Party hereto. The Grant Recipient hereby submits to the jurisdiction of the State and Federal courts located in North Carolina and agree that the NCLWF may, at its option, enforce its rights under the Grant Contract in such courts. The Parties intend this document to be an instrument executed under seal. The NCLWF and any Party that is an individual, partnership, or limited liability company hereby adopts the word "SEAL" following his/her signature and the name of the NCLWF or partnership or limited liability company as his/her/its legal seal.

10. **Savings Clause.** Invalidation of any one or more of the provisions of this Grant Contract, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.
11. **Additional Remedies.** Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Contract.
12. **Survival.** Where any representations, warranties, covenants, indemnities, or other provisions contained in this Grant Contract by its context or otherwise evidences the intent of the Parties that such provisions should survive the termination of this Grant Contract or any Closing, the provisions shall survive any termination or Closing. Without limiting the generality of the foregoing, the Parties specifically acknowledge and agree that the provisions of **Exhibit E**, **Exhibit F**, and the conditions shown in **Exhibit A** shall survive any termination of this Grant Contract as well as any Closing.
13. **Entire Grant Contract: Incorporation of Exhibits.** This Grant Contract constitutes the entire Grant Contract between the Parties with respect to the subject matter hereof. All recitals, exhibits, schedules, and other attachments hereto are incorporated herein by reference.
14. **Headings.** The headings of the various sections of this Grant Contract have been inserted for convenience only and shall not modify, define, limit, or expand the express provisions of this Grant Contract.
15. **Time of the Essence.** Time is of the essence in the performance of this Grant.

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EXHIBIT F
CONSERVATION EASEMENTS

1. As used in this Exhibit, "Conservation Easement" refers to the more general term "Conservation Agreement" as defined in NCGS Chapter 121, Article 4.
2. Conservation Easements obtained and recorded in connection with this Project shall be patterned after the NCLWF's template Deed of Conservation Easement for Restoration Purposes ("Restoration Easement").
3. Conservation Easements obtained and recorded in connection with this Project shall be held by a party satisfactory to the NCLWF.
4. Before disbursement of any construction funds under this Grant Contract, the NCLWF must review and approve the Conservation Easements, and said Conservation Easements must be recorded in the official land records of the appropriate county.
5. The acquisition of the Conservation Easements may herein also be referred to as the "Closing."
6. "Donated Conservation Easements" are Conservation Easements for which neither the NCLWF nor the Grant Recipient has expended or will expend any funds to obtain property interest.
7. Conservation easements for stream restoration riparian buffers may not be purchased using Grant funds. Conservation easements for stream restoration riparian buffers must be donated easements, be purchased with matching funds, and/or be purchased with funds not included in the project budget in **Exhibit B**.
8. The following requirements apply to all Conservation Easements obtained and recorded in connection with this Project:
 - (a) Conservation Easements shall have good and marketable title;
 - (b) the terms of Conservation Easements shall provide a third party right of enforcement to the State of North Carolina, such that in the event the easement holder satisfactory to the NCLWF fails to enforce any of the terms of Conservation Easements, the State shall have the independent right to enforce the terms of Conservation Easements through any and all authorities available under State law;
 - (c) donated Conservation Easements shall be conveyed as an absolute gift to the easement holder satisfactory to the NCLWF subject to an executory interest in the State such that in the event that the easement holder satisfactory to the NCLWF attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests in a Conservation Easement without the prior written consent of the State, then all rights, title, or interest in the Conservation Easement shall automatically vest in the State;
 - (d) Conservation Easements shall provide that, in the event the easement holder satisfactory to the NCLWF transfers or assigns the Conservation Easement to a third party, the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code, which is organized or operated primarily for one of the conservation purposes specified in Section 170 (h)(4)(A) of the Internal Revenue Code, and that the transferee or assignee will further covenant and agree that the terms of the transfer or assignment will require it to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance. Specifically, Conservation Easements shall provide that, in the event the easement holder satisfactory to the NCLWF transfers the Conservation Easement, the easement holder satisfactory to the NCLWF shall covenant and agree to continue to monitor and observe the Conservation Easement in perpetuity with the State for such purposes as are described in the Conservation Easement and this Grant Contract and to report to the State and the NCLWF any observed violations thereof. The easement holder satisfactory to the NCLWF may

be released from the obligation to monitor the Conservation Easement only with prior written approval of the State and the NCLWF; and

- (e) any specific terms and conditions set forth in **Exhibit A**.

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AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting an Ordinance to Amend the Drainage Improvements Project Fund

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kim Ostrom, Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	The ordinance amends Drainage Improvements Project Fund to acknowledge the NCLWF grant fund in the amount of \$150,000
Actions Needed by Board:	Adopt Ordinance Amendment
Backup Attached:	Memo; Budget Ordinance Amendment

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen
FROM: Kim Ostrom – Finance Director
DATE: March 16, 2022
RE: Amendment to Drainage Improvements Project Fund

Drainage Improvements Project Fund

The Drainage Improvements Project Fund will be amended to recognize an Innovative Stormwater Grant received by the City in the amount of \$150,000 by the Board of Trustees for the North Carolina Clean Water Management Trust Fund, now known as the North Carolina Land and Water Fund ("NCLWF"), a Division of the Department of Natural and Cultural Resources. The funds will be used for the Jack Smith Creek Project.

Requested Action

The Board considers adopting the enclosed budget amendment at its meeting on March 22, 2022.

**AN ORDINANCE TO AMEND THE CAPTIAL PROJECT ORDINANCE
Drainage Improvements Project Fund**

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

Section 1. That Section 3 of the Drainage Improvements Project Fund Ordinance adopted on July 11, 2017 is hereby amended to recognize additional appropriations.

Increase: Drainage Improvements \$150,000

Section 2. That Section 4 of the Drainage Improvements Project Fund Ordinance adopted on July 11, 2017 is hereby amended to recognize grant revenue from the North Carolina Land and Water Fund.

Increase: Grant Revenues \$150,000

Section 3. This amendment shall become effective upon adoption.

ADOPTED THIS 22ND DAY OF MARCH 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution for the Program Income Policy

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom, Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	Before ARPA/CSLFRF funds can be disbursed, local government recipients must adopt a Program Income Policy.
Actions Needed by Board:	Consider adopting resolution
Backup Attached:	Memo, resolution, and policy

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



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

FROM: Kimberly Ostrom - Director of Finance

DATE: March 14, 2022

RE Resolution to Adopt a Program Income Policy for Federal and State Grant Awards and Subawards

Before American Rescue Plan Act (ARPA) – Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) funds can be disbursed, local government recipients must adopt Program Income Policy.

RESOLUTION

WHEREAS, the Board of Aldermen of the City of New Bern has received an allocation of funds from the Coronavirus "State Fiscal Recovery Fund" or "Coronavirus Local Fiscal Recovery Fund" (together "CSLFRF") established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 ("ARPA").

WHEREAS, the City of New Bern shall comply with the terms of ARPA, and the U.S. Department of Treasury's ("Treasury") federal regulations governing the spending of CSLFRF funds, including the Final Rule, and Treasury's regulations governing expenditures of CSLFRF funds, including the Award Terms and Conditions, Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (together the "Federal regulations"), and any additional guidance Treasury has issued or may issue governing the spending of CSLFRF funds.

WHEREAS, the City of New Bern shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200 (the "Uniform Guidance"); and

WHEREAS, the City of New Bern shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, and as stipulated in Compliance and Reporting Guidance for the State and Local Recovery Funds.

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

Section 1. That the Program Income Policy ("Policy") Related to the Expenditure of American Rescue Plan Act - Coronavirus Local Fiscal Recovery Fund (CSLFRF) and procedures for the use of program income earned from the expenditure of CSLFRF funds pursuant to the ARP/CSLFRF award, a copy of which is attached hereto and incorporated hereby by reference, be and the same is hereby adopted.

Section 2. The Policy replaces and supersedes any previous City policies, departmental policies, handbooks, or unwritten policies or practices covering the same subject as described in Section 1 of the Policy, and in addition to all other existing City policies and ordinances addressing CSLFRF program income.

ADOPTED THIS 22nd DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

**City of New Bern
Program Income Policy
For the Expenditure of American Rescue Plan Act –
Coronavirus State and Local Fiscal Recovery Funds (CSLFRF)
Effective March 22, 2022**

I. PURPOSE AND SCOPE

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

The responsibility for following this policy lies with the Finance Department, who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to the Finance Department.

II. DEFINITIONS¹

- a. *ARP/CLSFRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the Assistance Listing and as administered by the U.S. Department of Treasury pursuant to the American Rescue Plan Act of 2021 (“ARPA”), Pub. L. No. 117-2 (Mar. 11, 2021).
- b. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively “CSLFRF”) awarded to the City of New Bern pursuant ARPA.
- c. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
- d. *Federal awarding agency* means the Federal agency that provides a Federal award directly to a non-Federal entity.
- e. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash

¹ Excluding the first two, the definitions in this section are found in 2 C.F.R. 200.1.

contributions, direct appropriations, food commodities, or other financial assistance, including loans.

- f. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
- g. *Non-Federal entity* means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
- h. *Period of performance* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The period of performance for the ARP/CSLFRF award ends December 31, 2026.
- i. *Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in § § 200.307(f).

III. PROGRAM INCOME OVERVIEW

For purposes of this policy, program income is the gross income earned by the City of New Bern that is directly generated by a supported activity or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. 2 CFR 200.1.

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

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

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

- The use of rebates, credits, discounts, and interest earned on any of them.
- Governmental revenues, such as taxes, special assessments, levies, or fines.
- Proceeds from the sale of real property, equipment, or supplies.²

IV. USE OF PROGRAM INCOME

Program income earned pursuant to expenditures of CSLFRF is the property of US Treasury and shall be accounted for in one of three ways pursuant to 2 C.F.R. § 200.307(e).

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

Deduction Method: Program income must be deducted from total allowable costs to determine net allowable costs. Program income shall be used to reduce Treasury's obligation under the ARP/CSLFRF award rather than to increase the funds committed a project. Program income shall be used for current costs. The City of New Bern shall track and account for program income during the period of performance and shall reimburse Treasury, as required. 2 C.F.R. § 200.307(e)(1).

Addition Method: With prior approval, program income may be added to the total amount of the ARP/CSLFRF award, thereby increasing the total amount of the award. Program income must be expended on an eligible project or program. 2 C.F.R. § 200.307(e)(2). Pursuant to the terms of the ARP/CSLFRF award, the repayment of principal and interest on loans made with CSLFRF funds that will mature or be forgiven on or before December 31, 2026, may be accounted for using the addition method (see Section VI).

Matching or Cost Sharing Method: With prior approval, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award shall not change.³ 2 C.F.R. § 200.307(e)(3).

Unless the ARP/CSLFRF award otherwise stipulates, or the City of New Bern has received prior approval, the City of New Bern **shall apply the deduction method** to account for the use of program income. [Treasury may issue additional guidance that could potentially exempt other sources of program income from the deduction method.]

V. ALLOCATION OF PROGRAM INCOME

The City of New Bern shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award.⁴ To adhere to these requirements, the City of New Bern shall comply with the cost principles included in 2 C.F.R. § 200, as outlined in the City of New Bern's allowable cost policy. The City of New Bern shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if CSLFRF funds cover half of a project's cost, with general revenue covering the other half, the unit shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to § 200.307).

³ The Final Rule provides that a non-Federal entity may expend up to the amount of its reduction in revenue due to the pandemic to meet the non-federal cost-share or matching requirements of other federal programs. However, the Final Rule does not mention whether *program income* may be used to meet cost-sharing or matching requirements. A non-Federal entity should not allocate program income to cost share or matching requirements unless it receives prior approval from Treasury.

⁴ 2 C.F.R. § § 200.404, 408.

VI. REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE WITH ARP/CSLFRF FUNDS

Treasury expects that a significant share of loans made with ARP/CSLFRF funds will be repaid. Accordingly, it has issued guidance on how to appropriately account for the repayment of principal and interest. The City of New Bern agrees to appropriately account for the return of loan funds according to the ARP/CSLFRF award terms, as follows:

- **For Loans that mature or are forgiven on or before December 31, 2026:** The City of New Bern may add the repayment of principal and interest (program income) to the ARP/CSLFRF award. When the loan is made, the City of New Bern shall report the principal of the loan as an expense. The City of New Bern shall expend the repayment of principal only on eligible uses and is subject to restrictions on the timing of the use of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award. Interest payments received prior to the end of the period of performance will be considered **an addition** to the total award and may be used for any purpose that is an eligible use. *The City of New Bern is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) in accounting for the use of program income.*⁵
- **For Loans with maturities longer than December 31, 2026:** The City of New Bern is not required to separately account for the repayment of principal and interest on loans that will mature after the ARP/CSLFRF award's period of performance. The City of New Bern may use CSLFRF for only the projected cost of the loan. The City of New Bern may estimate the subsidy cost of the loan, which equals the expected cash flows associated with the loan discounted at the City's cost of funding. The cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by the City of New Bern or (ii) recently issued by a unit of state, local, or Tribal government similar to the City. If the City of New Bern has adopted the Current Expected Credit Loss (CECL) standard, it may also treat the cost of the loan as equal to the CECL-based expected credit losses over the life of the loan. The City of New Bern may measure projected losses either once, at the time the loan is extended, or annually over the covered period. *Under either approach, the City of New Bern is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) and need not separately track repayment of principal or interest.*⁶
- **Revolving Loan Funds:** The City of New Bern shall treat the contribution of ARP/CSLFRF funds to a revolving loan fund according to approach described above for loans with maturities longer than December 31, 2026.⁷ The City of New

⁵ Final Rule, p. 4436

⁶(See question 4.11 in [Treasury's Interim Final Rule FAQ document](#).)

⁷See question 4.11 in [Treasury's Interim Final Rule FAQ document](#).)

Bern may contribute ARP/CSLFRF funds to a revolving loan only if the loan is determined to be for eligible use and the ARP/CSLFRF funds contributed represent the projected cost of loans made over the life of the revolving loan fund.

[Note: In the Final Rule, Treasury expressly provides that the repayment of principal and interest on loans that mature on or before Dec. 31, 2026, shall be added to the award (i.e., the deduction method doesn't apply). With respect for loans with maturities after Dec. 31, 2026, the Final Rule directs readers to Treasury's Interim Final Rule FAQs, which was last updated January 2022. The IFR is set to expire April 1, 2022. Treasury anticipates issuing FAQs for the Final Rule at some point. It is advisable to read any additional guidance, including the Final Rule FAQ document once it is issued, for updates on the treatment of program income.]

VII. ADDITIONAL PROGRAM INCOME REQUIREMENTS

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

Program income shall be accounted for separately. The City of New Bern shall not commingle program income earned from programs supported by ARP/CSLFRF funds with the general award of ARP/CSLFRF funds the City of New Bern received from Treasury. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

- (b) **Program Income Earned After the Period of Performance.** The City of New Bern shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, the City of New Bern shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
- (c) **Subawards.** The City of New Bern agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to the City of New Bern on a quarterly basis, or as determined in the award contract.
- (d) **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.

- (e) **Subject to Audit.** The City of New Bern recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

VIII. IMPLEMENTATION OF POLICY

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

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Adopting a Resolution for the Allowable Costs and Cost Principles Policy

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom, Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing: N/A

Explanation of Item:	Before ARPA/CSLFRF funds can be disbursed, local government recipients must adopt an Allowable Costs and Cost Principles Policy.
Actions Needed by Board:	Consider adopting resolution
Backup Attached:	Memo, resolution, and policy

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item: N/A
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



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

FROM: Kimberly Ostrom - Director of Finance

DATE: March 14, 2022

RE Resolution to Adopt an Allowable Costs and Cost Principles Policy for Federal and State Grant Awards and Subawards

Before American Rescue Plan Act (ARPA) – Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) funds can be disbursed, local government recipients must adopt an Allowable Costs and Cost Principles Policy.

RESOLUTION

WHEREAS the Board of Aldermen of the City of New Bern, North Carolina, has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listing; and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides, in relevant part:

Allowable Costs/Cost Principles. As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that ARP/CSLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.

Treasury's Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

- a. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the ARP/CSLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the ARP/CSLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the ARP/CSLFRF award such as the cost of facilities or administrative functions like a director's office. Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

- b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of ARP/CSLFRF award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

- (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.

- (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.
- (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles and must provide for adequate documentation to support costs charged to the Federal award.
- (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.
- (f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of Federal awards for research must be recognized in the application of these principles.
- (g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award;

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

Section 1. That the US Cost Principles Policy ("Policy") for the expenditure of ARP/CSLFRF funds, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby adopted.

Section 2. The Policy replaces and supersedes any previous City policies, departmental policies, handbooks, or unwritten policies or practices covering the same

subject as described in Section 1 of the Policy, and in addition to all other existing City policies and ordinances addressing US Cost Principles.

ADOPTED THIS 22nd DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

City of New Bern
Allowable Costs and Cost Principles Policy for
Expenditure of American Rescue Plan Act
Coronavirus State and Local Fiscal Recovery Funds
Effective March 22, 2022

ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

The City of New Bern shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Finance Department, who are charged with the administration and financial oversight of the ARP/CSLFRF. Further, all local government employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects must be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the Finance Department. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

GENERAL COST ALLOWABILITY CRITERIA

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

1. Be necessary and reasonable for the proper and efficient performance and administration of the grant program.

A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant project.

- Whether the cost is identified in the approved project budget or application.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses project goals and objectives and is based on program data.

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of the City of New Bern or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
- Market prices for comparable goods or services for the geographic area.
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the City of New Bern, its employees, the public at large, and the federal government.
- Whether the City of New Bern significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.

- 2. Be allocable to the ARP/CSLFRF federal award.** A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program. *For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program.*

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship

of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

3. **Be authorized and not prohibited under state or local laws or regulations.**
4. **Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.**
5. **Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of the City of New Bern.**
6. **Be accorded consistent treatment.** A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
7. **Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UGG.**
8. **Be net of all applicable credits.** The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms and the City of New Bern’s Policy for Program Income.
9. **Be adequately documented.**

SELECTED ITEMS OF COST

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420-.475.

The Department responsible for determining cost allowability must be familiar with the Selected Items of Cost. The City of New Bern must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. The Finance Department personnel will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, State laws, the City of New Bern’s regulations, and program-specific rules may

deem a cost as unallowable, and the Finance Department personnel must follow those non-federal rules as well.

Exhibit A identifies and summarizes the Selected Items of Cost.

DIRECT AND INDIRECT COSTS

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Direct costs are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of a grant-eligible project.

Indirect costs are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

For indirect costs, the City of New Bern may charge a 10 percent de minimis rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance the subawards under the award). MTDC EXCLUDES equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.

SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

§ 200.444 General costs of government.

- (a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in § 200.475). Unallowable costs include:
- (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;
 - (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
 - (3) Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils of Governments (COGs) (see definition for *Local government* in § 200.1 of this part), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

§ 200.416 COST ALLOCATION PLANS AND INDIRECT COST PROPOSALS.

(a) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:

(1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and

(2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to this part.

§ 200.417 INTERAGENCY SERVICE.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

COST ALLOWABILITY REVIEW PROCESS

PREAPPROVAL COST ALLOWABILITY REVIEW

Before an ARP/CSLFRF-funded project is authorized, the Finance Department must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- Local government personnel must submit proposed ARP/CSLFRF projects to the Finance Department for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- Along with a general review of project eligibility and conformance with other governing board management directives, the Finance Department must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury.
- If a proposed project includes a request for an unallowable cost, the Finance Department will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.
- Once a proposed project budget is pre-approved by the Finance Department, the local government personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

POST-EXPENDITURE COST ALLOWABILITY REVIEW

Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the local government, the Finance Department must perform a second review to ensure that actual expenditures comprise allowable costs.

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Finance Department will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The Finance Department must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the Finance Department must proceed through the local government's normal disbursement process.

- If any cost item is deemed unallowable, the Finance Department will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The Finance Department may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the local government remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. The City of New Bern's governing board must approve any allocation of other funds for this purpose.
- The Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

COST TRANSFERS

Any costs charged to the ARP/CSLFRF federal award that do not meet the allowable cost criteria must be removed from the award account and charged to an account that does not require adherence to federal UGG or other applicable guidelines.

Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs and discontinuance of funding.

EXHIBIT A

Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 CFR § 200.421	Allowable with restrictions
Advisory councils	2 CFR § 200.422	Allowable with restrictions
Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Not specifically addressed
Audit services	2 CFR § 200.425	Allowable with restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Not specifically addressed
Compensation – personal services	2 CFR § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5))
Compensation – fringe benefits	2 CFR § 200.431	Allowable with restrictions
Conferences	2 CFR § 200.432	Allowable with restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with exceptions
Contributions and donations	2 CFR § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435	Allowable with restrictions

Depreciation	2 CFR § 200.436	Allowable with qualifications
Employee health and welfare costs	2 CFR § 200.437	Allowable with restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with exceptions
Equipment and other capital expenditures	2 CFR § 200.439	Allowability based on specific requirement
Exchange rates	2 CFR § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with exceptions
Fund raising and investment management costs	2 CFR § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200.443	Allowable with restrictions
General costs of government	2 CFR § 200.444	Unallowable with exceptions
Goods and services for personal use	2 CFR § 200.445	Unallowable (goods/services); allowable (housing) with restrictions
Idle facilities and idle capacity	2 CFR § 200.446	Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with restrictions
Intellectual property	2 CFR § 200.448	Allowable with restrictions
Interest	2 CFR § 200.449	Allowable with restrictions
Lobbying	2 CFR § 200.450	Unallowable
Losses on other awards or contracts	2 CFR § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)
Maintenance and repair costs	2 CFR § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with restrictions

Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 CFR § 200.455	Unallowable except federal prior approval
Participant support costs	2 CFR § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 CFR § 200.457	Allowable; capital expenditures are subject to § 200.439
Pre-award costs	2 CFR § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 CFR § 200.459	Allowable with restrictions
Proposal costs	2 CFR § 200.460	Allowable with restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 CFR § 200.463	Allowable with restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 CFR § 200.466	Not specifically addressed
Selling and marketing costs	2 CFR § 200.467	Unallowable with exceptions
Specialized service facilities	2 CFR § 200.468	Allowable with restrictions
Student activity costs	2 CFR § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with restrictions
Termination costs	2 CFR § 200.471	Allowable with restrictions

Training and education costs	2 CFR § 200.472	Allowable for employee development
Transportation costs	2 CFR § 200.473	Allowable with restrictions
Travel costs	2 CFR § 200.474	Allowable with restrictions
Trustees	2 CFR § 200.475	Not specifically addressed

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting an ordinance to establish Southeast Water System Improvements Project Fund

Date of Meeting: 03/22/22	Ward # if applicable:
Department: Finance	Person Submitting Item: Kimberly Ostrom
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Consider adopting an ordinance to establish the Southeast Water System Improvements Project Fund
Actions Needed by Board:	Adopt ordinance.
Backup Attached:	Memo, Ordinance

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> 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

Foster Hughes
City Manager
Brenda E. Blanco
City Clerk
Kimberly A. Ostrom
Director of Finance

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

FROM: Kimberly Ostrom – Director of Finance

DATE: March 11, 2022

RE: Ordinance to Establish Southeast Water System Improvements Project Fund

Background Information

In July of 2021, an accidental fire was caused by a contractor working on the Williams Road booster pump station and the structure was determined to be a complete loss. The damage claim was settled in February 2022, and the City received \$488,400.00 from the insurance settlement.

In reviewing replacement options for the booster pump station, it was determined that rebuilding the station of its current configuration and location was not the most beneficial option for the water system. Instead, implementing improvements to the southeast portions of the City's water system was identified as the option that will provide the most benefit for domestic supply and firefighting capabilities for the areas of New Bern south of the Trent River.

This ordinance will establish the Southeast Water System Improvements Project Fund with the \$488,400 insurance settlement initially funding the project. Once the total project cost is known, a transfer from the Water Fund fund balance will be requested.

Requested Action

The Board considers adopting the enclosed ordinance to establish the fund at its meeting on March 22, 2022.



Department of Public Utilities
Water Resources
527 NC Highway 55 West, P.O. Box 1129
New Bern, NC 28563-1129
(252) 639-7526

MEMORANDUM

TO: Kim Ostrom, Finance Director
FROM: Jordan B. Hughes P.E., City Engineer *JBH*
DATE: February 23, 2022

SUBJECT: Southeast Water System Improvements Project Fund

In July of 2021, an accidental fire was caused by a contractor working on the Williams Road booster pump station and the structure was determined to be a complete loss. Over the past six months, City staff have been working to settle the damage claim with the contractor's insurance carrier and have evaluated replacement options for the booster pump station.

The damage claim was settled this week and the City has received \$488,400.00 from the insurance settlement.

In reviewing replacement options for the booster pump station, it was determined that rebuilding the station in its current configuration and location was not the most beneficial option for the water system. Instead, implementing improvements to the southeast portions of the City's water system was identified as the option that will provide the most benefit for domestic supply and firefighting capabilities for the areas of New Bern south of the Trent River. The design of the southeast water system improvements has been completed and is currently being submitted for permitting, with anticipation of going out for bids within the next 90 days.

To continue moving forward with the proposed southeast water system improvements, I'm requesting that the Southeast Water System Improvements project fund be established and the aforementioned proceeds from the insurance settlement be transferred into the project fund. Once the bids for construction work have been received and the total project cost is known, an additional request for a transfer from water fund balance to the project fund will be made.

Please contact me if there are any questions or if additional information should be required

CAPTIAL PROJECT ORDINANCE FOR THE CITY OF NEW BERN
"SOUTHEAST WATER SYSTEM IMPROVEMENTS PROJECT FUND"

BE IT ORDAINED by the Governing Board of the City of New Bern, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statues of North Carolina, the following capital project ordinance is hereby adopted:

- Section 1: There is hereby established a Fund to be known as the "Southeast Water System Improvements Project Fund".
- Section 2: The project authorized is to implement improvements to the southeast portions of the City's water system. This project will be initially financed by the Williams Road booster pump station fire insurance settlement in the amount of \$488,400. Once the total project cost is known, a transfer from the Water Fund fund balance will be requested.
- Section 3: The Finance Officer is hereby directed to maintain within the Fund sufficient specific detailed accounting records to provide the accounting to the agency as required by State and Federal regulations.
- Section 4: Copies of the ordinance shall be provided to the Budget Officer and the Finance Officer for use in the performance of their duties.

ADOPTED THIS 22ND DAY OF MARCH, 2022.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider adopting an amendment to the FY 2021-22 annual adopted budget.

Date of Meeting: 3/22/2022	Ward # if applicable:
Department: Finance	Person Submitting Item: Kim Ostrom, Finance Director
Call for Public Hearing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date of Public Hearing:

Explanation of Item:	Add \$18,584 for Human Resources and \$43,538 for Fire from General Fund fund balance; Add \$120,000 for insurance costs from Employees' Benefit Insurance Fund fund balance
Actions Needed by Board:	Adopt ordinance amendment
Backup Attached:	Memo, Ordinance Amendment

Is item time sensitive? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will there be advocates/opponents at the meeting? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Cost of Agenda Item:
If this requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director? <input type="checkbox"/> Yes <input type="checkbox"/> No

Additional Notes:



TO: City Manager, Honorable Mayor and Members of the Board of Aldermen
FROM: Kim Ostrom – Finance Director
DATE: March 15, 2022
RE: Amendments to the FY 2021-22 Operating Budget

The following are amendments to the Fiscal Year 2021-22 Operating Budget:

General Fund

The General Fund is amended to appropriate \$18,584 from fund balance for the following Human Resources Department costs: Temporary Help Services (COVID related) - \$12,000; HVAC System Replacement - \$5,584; Document Storage Fees - \$1,000. The General Fund is also amended to appropriate \$43,538 from fund balance for building repairs at the Fire Department training grounds. Insurance proceeds totaling this amount were received and recorded as revenue in 2019 for damage to the grounds during Hurricane Florence.

Employees' Benefit Insurance Fund

The Employees' Benefit Insurance Fund is amended to appropriate \$120,000 from fund balance for additional MedCost Administration Fees of \$85,000 and Workers' Compensation insurance costs of \$35,000.

Requested Action

The Board considers adopting the enclosed budget amendment at its meeting on March 22, 2022.

CITY OF NEW BERN, NORTH CAROLINA
REQUESTED AMENDMENT TO
Fiscal Year 2021-2022

FROM: Kim Ostrom, Finance Director

Meeting Date: March 22, 2022

EXPLANATION:

The General Fund is amended to appropriate \$18,584 from fund balance for the following Human Resources Department costs: Temporary Help Services (COVID related) - \$12,000; HVAC System Replacement - \$5,584; Document Storage Fees - \$1,000. The General Fund is also amended to appropriate \$43,538 from fund balance for building repairs at the Fire Department training grounds. Insurance proceeds totaling this amount were received and recorded as revenue in 2019 for damage to the grounds during Hurricane Florence. The Employees' Benefit Insurance Fund is amended to appropriate \$120,000 from fund balance for additional MedCost Administration Fees of \$85,000 and Workers' Compensation insurance costs of \$35,000.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN
THAT THE 2021-2022 ANNUAL BUDGET ORDINANCE IS AMENDED AS FOLLOWS:

Section 1 - Appropriations

Schedule A - GENERAL FUND

Increase: Human Resources	\$ 18,584
Fire Department	43,538
	<u>\$ 62,122</u>

Schedule G - EMPLOYEES' BENEFIT INSURANCE FUND

Increase: Health Insurance	\$ 85,000
Workers' Compensation Insurance	35,000
	<u>\$ 120,000</u>

Section 2 - Estimated Revenues

Schedule A - GENERAL FUND

Increase: Fund Balance Appropriated	<u>\$ 62,122</u>
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Schedule G - EMPLOYEES' BENEFIT INSURANCE FUND

Increase: Fund Balance Appropriated	<u>\$ 120,000</u>
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NATURE OF TRANSACTION:

<input type="checkbox"/>	ADDITIONAL REVENUE AVAILABLE FOR APPROPRIATION
<input type="checkbox"/>	TRANSFER WITHIN ACCOUNTS OF SAME FUND
<input checked="" type="checkbox"/>	OTHER: <u>FUND BALANCE APPROPRIATION</u>

APPROVED BY THE BOARD OF ALDERMEN AND
ENTERED ON MINUTES DATED MARCH 22, 2022
AGENDA ITEM NUMBER _____

BRENDA E. BLANCO, CITY CLERK