
The Washington City Council met in a regular session on Monday, June 13, 2011 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Bobby Roberson, Mayor Pro tem; Pete Connet, Interim City Manager; Cynthia Bennett, City Clerk and Franz Holscher, City Attorney.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; Gloria Moore, Library Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Mick Reed, Police Chief; Susan Hodges, Human Resources Director; Mike Voss, of the Washington Daily News and Delma Blinson of the Beaufort Observer.

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

APPROVAL OF MINUTES

By motion of Councilman Mercer, seconded by Councilman Pitt, Council approved the minutes of May 2nd, 16th & 23rd, 2011 as presented.

APPROVAL/AMENDMENTS TO AGENDA

Pete Connet, Interim City Manager suggested the following amendments to the agenda:

1. Remove: Memo – Paving Request for Portion of West 12th Street – Wayne Harrell
2. Postpone some appointments until June 27th: Appointments – to Various Boards, Commissions, and Committees {Rec. Advisory, Board of Adjustment and TDA appointments will be made tonight }
3. Remove: Approve – Classification and Pay Grade Changes
4. Remove: Closed Session – Under NCGS 143-318.11(a)(6) Personnel

Councilman Mercer suggested the following amendments to the agenda:

1. Move from Consent Item C to Old Business: Award – the Financing Bid for the Installment Purchase Contract of the Impressions Building Improvement Project – not to exceed (\$800,000)
2. Move from Consent Item N to Old Business: Approve – Purchase Orders >\$20,000
3. Move from VII.B. to Scheduled Public Appearance: Report – Mr. Trent Tetterton – Washington Harbor District Alliance (WHDA) – Authorization to proceed with offering Old City Hall for Sale
4. Add under Old Business: Discussion of Personnel Policy Chapter 9, Section 12

Mayor Jennings suggested the following amendment to the agenda:

1. Addition: under items from the Mayor: XII.B: Discussion: Opportunity for sublease by NC Estuarium

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

PRESENTATIONS

Gregory Matthew Williamitis, Jr. – Scout of the Year Award
NC Department of Labor Safety Awards
Electric Department Safety Award
Electric Department Lineman Career Development

CONSENT AGENDA

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

- A. Appoint – Matt Rauschenbach as Acting City Manager for the period July 1, 2011 through July 31, 2011
- B. Adopt – Grant Project Ordinance Amendment Keysville Road

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

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

Section 1. That the account numbers in the Keysville Road Subdivision Grant Project Fund appropriations budget be increased or decreased by the following amounts.

51-60-4930-0400	Administration	\$(37,000)
51-60-4930-4500	Street Improvements	22,416
51-60-4930-4501	Water Improvements	(14,729)
51-60-4930-4502	Sewer Improvements	(37,687)
51-60-4930-4510	Water Improvements – City	35,000
51-60-4930-4515	Sewer Improvements – City	35,000
51-60-9990-9900	Contingency	<u>(3,000)</u>
	Total	\$0

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

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

Adopted this the 13th day of June, 2011.

ATTEST:

s/CYNTHIA BENNETT, CMC
 CITY CLERK

s/N. ARCHIE JENNINGS, III
 MAYOR

- C. Authorize – Matt Rauschenbach to act as the Authorized Agent for NC Department of State Treasurer, Local Government Commission – application for approval of installment purchase contract for Impressions Improvements

AUTHORIZE – MATT RAUSCHENBACH TO ACT AS THE AUTHORIZED AGENT FOR NC DEPARTMENT OF STATE TREASURER, LOCAL GOVERNMENT COMMISSION – APPLICATION FOR APPROVAL OF INSTALLMENT PURCHASE CONTRACT FOR IMPRESSIONS IMPROVEMENTS

Mr. Rauschenbach stated the approval of the installment purchase contract to fund the building improvements of the property leased by Impressions Marketing, Inc. is a requirement of the LGC. The application is scheduled to be submitted June 14th and will be on the agenda for the LGC’s review on July 12.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized Matt Rauschenbach to act as the Authorized Agent for the NC Department of State Treasurer, Local Government Commission (LGC), application for approval of installment purchase contract.

- D. (moved to Old Business for discussion) Award – the Financing Bid for the Installment Purchase Contract of the Impressions Building Improvement Project – not to exceed (\$800,000)
- E. Award – Roofing Contract to Curtis Construction Co., Inc for roofing work at Impressions (\$340,900)

BID TABULATION

Bid for: Impressions Roofing
Opened: 10:00 AM, Friday
May 13, 2011

Item	Description	Curtis Construction Co., Inc	Empire Roofing	CSI
1	EPDM Roofing	\$420,500.00	\$504,000.00	\$431,745.00
2	TPO Roofing	\$340,900.00	no bid	\$382,004.00

F. Approve – Contracts for Water and Wastewater Treatment Chemicals and Approve Purchase Orders for Chemical Purchases (\$368,135)

BID TABULATION
Bid for: Water Treatment Chemicals
Opened: 11:00AM, Wednesday
April 20, 2011

Contracts awarded as follows:

<u>Vendor</u>	<u>Cost Per Unit</u>	<u>Estimated Total</u>
(A) <u>Amerochem</u>		
Potassium Permanganate	\$2.23/lb.	\$46,830.00
Hydroflousilicic Acid	\$0.32/lb.	\$11,200.00
Anhydrous Ammonia	\$0.77/lb.	\$ 7,315.00
Liquid Aluminum Sulfate	\$385.00/ton	\$32,725.00
Sodium Bisulfate	\$2.13/gal.	\$34,080.00
(B) <u>Morton Salt</u>		
Sodium Chloride	\$105.45/ton	\$168,720.00
(C) <u>Jones Chemical</u>		
Liquid Chlorine-Ton Cylinders	\$750.00/ton	\$18,000.00
(D) <u>Water Guard</u>		
Sulfur Dioxide	\$0.86/lb.	\$4,085.00
Sodium Hexametaphosphate	\$1.39/lb.	\$25,020.00
Sodium Hypochlorite	\$0.96/gal	\$20,160.00
TOTAL		\$368,135.00

BID TABULATION

Bid for: Water Treatment Chemicals
Opened: 11:00 AM, Wednesday
April 20, 2011

Item	Chemical	Cargill Salt	Morton Salt	GEO Chemical	Amerochem	Water Guard	Delta Chemical	Sterling Water	General Chemical	Jones Chemical	Tanner	C & S Chemical	DPC Enterprises	LCI Ltd.	Brentag
1	Potassium Permanganate				2.23/lb.	2.73/lb.						no quotes	no quotes	no quotes	no quotes
2	Sodium Chloride	112.89/ton	105.45/ton												
3	Liquid Chlorine-Ton Cylinders									750.00/ton					
4	Hydroflousilicic Acid				.32/lb.										
5	Sulfur Dioxide				.86/lb.	.86/lb.				.867/lb.					
6	Anhydrous Ammonia				.77/lb.						.77/lb.				
7	Liquid Aluminum Sulfate			434.50/ton	385.00/ton		447.83/ton		529.00/ton						
8	Sodium Hexametaphosphate					1.39/lb.		1.58/lb.							
9	Sodium Bisulfite				2.13/gal	2.41/gal				5.35/gal.					
10	Sodium Hypochlorite				1.00/gal.	.96/gal				2.87/gal.					

Recommendation: I recommend that we purchase Item 1,4,6,7 and 9 from Amerochem. Item 2 to be purchased from Morton Salt. Item 3 we continue to purchase from Jones Chemical. Item 5, 8 and 10 to be purchased from Water Guard.

Signed: Mike Whaley

G. Adopt – Ordinance Amendment for Chapter 38, Water, to add Sections 38-130 – 38-141 – Water Shortage Response Plan

AN ORDINANCE TO AMEND CHAPTER 38, WATER, BY ADDING ARTICLE III, WATER SHORTAGE RESPONSE PLAN

WHEREAS, Article 38 of Chapter 143 of the North Carolina General Statutes requires, among other things, each unit of local government that provides public water service to prepare a local water supply plan and submit it to the Department of Environment and Natural Resources, which plan must include water conservation measures to respond to drought or other water shortage conditions.

NOW THEREFORE, BE IT ORDAINED by the City Council for the City of Washington, North Carolina that Chapter 38, Water and Wastewater, be amended as follows.

SECTION 1. That Chapter 38, Water, Article II, General Water Use Requirements, be amended by adding the following.

Sec. 38-82 – 38-129. Reserved.

SECTION 2. That Chapter 38, Water, be amended by adding the following Article III, Water Shortage Response Plan.

ARTICLE III. Water Shortage Response Plan (“Plan”).

Sec. 38-130. Purpose and Policy.

The purpose of this Article is to establish procedures for reducing potable water use during times of water shortage whenever existing water supply sources are inadequate to meet the then current demands for potable water.

A water shortage condition will exist whenever it is predicted that the water level in the Castle Hayne Aquifer will decline to the extent that continued availability of water for human consumption, sanitation, health, fire protection, and commercial usage is at risk after considering aquifer levels, demands, long-term precipitation forecasts, and availability of water from other sources. In the event a water shortage condition exists, it shall become necessary to declare a water shortage and implement the conservation requirements under the standards set forth herein.

Sec. 38-131. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meaning subscribed to them in this section except where the context clearly indicates a different meaning:

Customer’s average usage means water usage, measured in gallons, during the corresponding billing period of the most recent twelve month period ending June 30th in which no water use restriction pursuant to this Plan was in effect.

Sec. 38-132. Authorization.

Whenever the trigger conditions outlined in Sec. 38-134 are met, the City Manager shall declare a water shortage condition and implement the water shortage response provisions contained herein.

Sec. 38-133. Notification.

Upon declaration of a water shortage condition by the City Manager, City employees shall be informed of the declaration and the response measures that are required via a Citywide departmental meeting and e-mail notification. The residential, commercial, institutional, and industrial water customers shall be notified of the declaration and the response measures that are required by the following means of communication:

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- (a) Connect CTY mass notification service;
 - (b) City's website <http://www.washingtonnc.gov>;
 - (c) City's cable channel 9;
 - (d) Local newspaper(s);
 - (e) Local television stations - WITN, WNCT and WCTI; and
 - (f) Local radio stations.

Section 38-134. Levels of Response.

There shall be four levels of water shortage responses. A description of each response level and the corresponding water reduction measures are listed below. A customer education and outreach program will be available to encourage water conservation and assist with obtaining maximum results at each stage.

(a) *Stage I, Voluntary Reductions.*

In Stage I, Voluntary Reductions, all water customers will be asked to voluntarily reduce their normal water consumption by five (5) percent per day of the customer's average usage. Examples of such voluntary reductions and efficiency measures include the following:

- (1) Washing dishes by hand or fully loading dishwashers;
- (2) Identifying and repairing plumbing leaks;
- (3) Limiting the frequency of car washing;
- (4) Watering plants with leftover household water;
- (5) Watering plants deeply to encourage root growth;
- (6) Delaying the seeding or sodding of new lawns;
- (7) Washing clothes only with fully loaded washers;
- (8) Installing flow restriction devices on showers and toilets;
- (9) Prohibiting children from playing in lawn sprinklers; and
- (10) Putting industrial/commercial voluntary conservation programs into effect which:
 - a. Restrict water use for dust control,
 - b. Limit the washing of commercial vehicles,
 - c. Reduce usage of automatic exterior sprinklers, and
 - d. Limit the wash down of exterior impervious services.

With the exception of Beaufort County Hospital, private medical offices as well as public health clinics, and customers who purchase water at a wholesale rate, all non-residential customers who consume 1,000 cubic feet (7,480 gallons) of water or more per day shall submit plans to the City Manager demonstrating the ability to reduce water consumption by ten (10) percent per day of the customer's average usage (Stage II, Mandatory Reductions I), which ten (10) percent shall be cumulative and may include any measures to achieve the five (5) percent voluntary reduction, and thirty (30) percent per day of the customer's average usage (Stage III, Mandatory Reductions II), which thirty (30) percent shall be cumulative and may include any measures to achieve the ten (10) percent reduction.

Determining the customers who consume 1,000 cubic feet (7,480 gallons) or more of water per day shall be based on the customer's average usage. If no meter readings are recorded or otherwise available for a customer's billing period, the City Manager will establish an average based on other users similar to the customer with no recorded readings.

(b) *Stage II, Mandatory Reductions I.*

In Stage II, Mandatory Reductions I, all residential water customers shall reduce their normal water consumption by five (5) percent per day of the customer's average usage, which five (5) percent shall be cumulative and may include any measures to achieve the five (5) percent voluntary reduction. With the exception of Beaufort County Hospital, private medical offices as well as public

health clinics, and customers who purchase water at a wholesale rate, all non-residential customers who consume 1,000 cubic feet (7,480 gallons) of water or more per day shall implement the plan submitted in Stage I, Voluntary Reductions, for a ten (10) percent per day reduction and achieve a ten (10) percent per day reduction (cumulative) of the customer's average usage.

When Stage II, Mandatory Reductions I, is in effect and unless specifically allowed, it shall be a violation of this Article for any water customer to use water supplied by the City from the public water system for any of the following purposes.

- (1) Watering lawns, grasses, shrubbery, trees, flowers, and vegetable gardens except under the following circumstances.
 - a. Such watering is done on either a Wednesday and Saturday or Thursday and Sunday schedule as determined by geographic location within the City between the hours of 6:00 p.m. and 9:00 p.m. and such watering is done either by a handheld hose or container, a drip irrigation system, or automated sprinkler devices.
 - b. Persons regularly engaged in the sale of plants shall be permitted to use water to maintain such plants.
 - c. The City Manager shall have the authority to equitably adjust the foregoing restrictions by establishing zones or districts in which watering can be done on specified days and, further, depending on the water level in the aquifer, may authorize the operation of irrigation systems and other water uses restricted or prohibited by this Article, on specified days in specified zones or districts as he determines is consistent with water conservation and the then current level of the aquifer.
- (2) Filling of newly constructed or drained pools, wading pools, ornamental fountains, ponds, or other structures designed to hold more than 100 gallons of water.
- (3) Washing outside areas such as streets, sidewalks, patios, service station aprons, parking lots, exteriors of office buildings, homes, or apartments, or using water for similar purposes; provided, however, that firms having a license from the City to conduct a pressure cleaning business in the City may wash residential, commercial, and office structures and other ancillary facilities as necessary to maintain public health and sanitation standards.
- (4) Using water for dust control or compaction.
- (5) Washing automobiles, trucks, trailers, vans, boats, airplanes, or any other type of mobile equipment; provided, however, persons regularly engaged in the business of washing motor vehicles or operating commercial car wash facilities shall be permitted to use water for such purposes and provided further, a business regularly engaged in the sale and/or leasing of vehicles may wash vehicles at the site of the business when they are received prior to placement on display for sale or lease, and when they are sold or leased to a new owner or lessor.
- (6) Using water from public or private fire hydrants for any purpose except fire suppression or other public emergency or other public works department needs.
- (7) Serving water in restaurants, cafeterias, or other eating establishments except upon request of patrons.

(c) *Stage III, Mandatory Reductions II.*

In Stage III, Mandatory Reductions II, all residential water customers shall reduce their normal water consumption by ten (10) percent per day of the customer's average usage, which ten (10) percent shall be cumulative and may include any measures to achieve the previous five (5) percent mandatory reduction. With the exception of Beaufort County Hospital, private medical offices as well as public health clinics, and customers who purchase water at a wholesale rate, all non-residential customers who consume 1,000 cubic feet (7,480 gallons) of water or more per day shall implement the plan submitted in Stage I, Voluntary Reductions, for a thirty (30) percent per day reduction and

achieve a thirty (30) percent per day reduction (cumulative) of the customer's average usage.

When Stage III, Mandatory Reductions II, is in effect and unless specifically allowed, it shall be a violation of this Article for any water customer to use water supplied by the City from the public water system for the following purposes.

(1) Using water in any of the ways restricted by the Stage II, Mandatory Reductions I, except as hereinafter provided or modified.

(2) Watering lawns, grasses, shrubbery, trees, flowers, and vegetable gardens except under the following circumstances.

a. Such watering is done either on a Saturday or Sunday, as determined by geographic location within the City, between the hours of 6:00 p.m. and 9:00 p.m. and such watering is done only by handheld hose or container, or a drip irrigation system.

b. Persons regularly engaged in the sale of plants shall be permitted to use water to maintain such plants.

c. The City Manager shall have the authority to equitably adjust the foregoing restrictions by establishing zones or districts in which watering can be done on specified days and, further, depending on the water level in the aquifer, may authorize the operation of irrigation systems and other water uses restricted or prohibited by this Article, on specified days in specified zones or districts as he determines is consistent with water conservation and the then current level of the aquifer.

(3) Filling or refilling any swimming or wading pools, ornamental fountains, ponds, or other structures designed to hold more than 100 gallons of water.

(4) Commercial car wash facilities shall be permitted to use water for washing motor vehicles provided they can certify to the City Manager that their car wash facility recycles a minimum of fifty (50) percent of the water.

All thirty (30) percent per day water consumption reduction plans required by this Article must be approved by the City Manager, in his sole discretion, and shall be subject to revision in the discretion of and at the direction of the City Manager. If the managed reduction in water usage cannot be obtained without threatening health or safety, or if there has been a significant change in the customer's circumstances, the customer may apply to the City Manager for a variance of that customer's plan and/or the water use reduction and restriction requirements of this Article. Customers may appeal the administrative decisions of the City Manager as described herein to the City Council.

(d) *Stage IV, Emergency and/or Water Rationing.*

In Stage IV, Emergency and/or Water Rationing, water consumption is restricted solely to providing drinking water to protect public health, such as in residences, residential health care facilities and correctional facilities. All water customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use. Pickup locations for distributing potable water will be announced via the means of communication listed in the notifications section contained hereinabove.

Sec. 38-135. Triggers or Conditions for Each Level.

Stage I, Voluntary Reductions, will be declared and implemented by the City Manager when drought condition thresholds are reached in the City's service area or regionally.

Stage II, Mandatory Reductions I, will be declared and implemented by the City Manager at any time the static water levels drop in any three (3) of the City's eight (8) monitoring wells to a level that is within twenty (20) feet of the corresponding production well's intake, or current trends indicate levels will reach said level within the next thirty (30) days. Stage II, Mandatory, Reductions I, may also be declared and implemented by the City Manager at any time the

City's water treatment facilities treatment capability is reduced by twenty-five (25) percent of its maximum rated capacity.

Stage III, Mandatory Reductions II, will be declared and implemented by the City Manager at any time the static water levels drop in any four (4) of the City's eight (8) monitoring wells to a level that is within fifteen (15) feet of the corresponding production well's intake, or current trends indicate levels will reach said level within the next thirty (30) days. Stage III, Mandatory Reductions II, may also be declared and implemented by the City Manager at any time the City's water treatment facilities treatment capability is reduced by forty-five (45) percent of its maximum rated capacity.

Stage IV, Emergency and/or Water Rationing, will be declared and implemented by the City Manager at any time the static water levels drop in any four (4) of the City's eight (8) monitoring wells to a level that is within ten (10) feet of the corresponding production well's intake, or current trends indicate levels will reach said level within the next thirty (30) days. Stage IV, Emergency and/or Water Rationing, may also be declared and implemented by the City Manager at any time the City's water treatment facilities treatment capability is reduced by fifty-five (55) percent of its maximum rated capacity.

Sec. 38-136. Drought Surcharge Rates.

Drought surcharge rates may be implemented in Stages II, III and IV, and shall be determined and set by the City Council at or after the outset of each respective stage. The percentage increase in rates for residential and non-residential customers, respectively, that results from the imposition of drought surcharge rates at each respective stage shall not exceed the percentage decrease in average usage that is required for residential and non-residential customers, respectively, at each respective stage.

Sec. 38-137. Enforcement of Each Level.

The requirements of this Article will be enforced by the City's Public Works Department representatives, Code Enforcement Officers, and/or Police personnel. Any person who violates this Article shall be subject to a civil citation and shall be liable to the City for the civil penalties listed below, plus actual damages incurred by the City, per violation, per day so long as the violation continues. In addition to the civil penalties and damages specified in this section, the City may recover attorney's fees, court costs and other expenses of enforcement litigation. North Carolina General Statute § 14-4 shall be inapplicable to this Article and violations of this Article shall not be considered a breach of the penal laws of the State of North Carolina.

(a) *Residential Users:*

- (1) First Violation – Warning notice.
- (2) Second Violation – One hundred dollar (\$100.00) civil penalty.
- (3) Third Violation – Two hundred fifty dollar (\$250.00) civil penalty.
- (4) Fourth Violation – Termination of service until such time as the violator establishes to the reasonable satisfaction of the City Manager that such customer has taken appropriate steps to prevent any further violations.
- (5) Fifth Violation – Termination of service until the City Manager declares an end of the water shortage.

(b) *Non-Residential Users:*

- (1) First Violation – Warning notice.
- (2) Second Violation – Two hundred fifty dollar (\$250.00) civil penalty.
- (3) Third Violation – Five hundred dollar (\$500.00) civil penalty.
- (4) Fourth Violation – Termination of service until such time as the violator establishes to the reasonable satisfaction of the City Manager that such customer has taken appropriate steps to prevent any further violations.

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- (5) Fifth Violation – Termination of service until the City Manager declares an end of the water shortage.
- (c) *Non-Residential High Volume Water Users – 1,000 cubic feet (7,480 gallons) or more per day:*
- (1) First Violation – Warning notice.
- (2) Second Violation – One thousand dollar (\$1,000.00) civil penalty.
- (3) Third and Subsequent Violations – Five thousand dollar (\$5,000.00) civil penalty.

Sec. 38-138. Variance Protocols.

Applications for the variances provided for in this Article are available from the Public Works Director's Office. All variance applications must be submitted to the Public Works Department for review by the City Manager or his/her designee. The variance approval or denial will be given within two (2) weeks of the Public Works Director's Office's receipt of a properly completed application and will be determined by consideration of, among other things, the current water supply and demand. Variances are revocable in the discretion of the City Manager.

Sec. 38-139. Abatement.

As water shortage conditions abate, water conservation and reduction measures employed during each stage will be decreased in reverse order of implementation. Permanent measures directed toward long-term monitoring and conservation will be implemented or continued so that the community will be in a better position to prevent shortages and respond to recurring water shortage conditions.

Sec. 38-140. Effectiveness.

The effectiveness of this Article will be evaluated by the measured reductions in water usage for residential and non-residential customers according to each percentage of reduction per stage and the time elapsed during each stage compared to the past history of each customer.

Sec. 38-141. Revision.

This Article will be reviewed and revised as needed to adjust to new water demands based on the City's need and at least every five (5) years. The City Manager and staff will evaluate the Plan after the induction and completion of the Plan. If recommendations for changes are made, the City Manager will notify the City Council and the public of the recommended changes and submit recommended changes to City Council for its consideration.

* **State Law References** – Water conservation measures for drought, G.S. 143-355.2; Publicly and Privately Owned Water System Water Shortage Response Planning Requirements, 15A NCAC 02E .0607.

SECTION 3. All prior ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 4. Should any provision of this Ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

SECTION 5. This Ordinance shall become effective upon adoption.

Adopted this the 13th day of June, 2011

ATTEST:

**s/CYNTHIA BENNETT, CMC
CITY CLERK**

**s/N. ARCHIE JENNINGS, III
MAYOR**

H. Adopt – Ordinance Amendment for Chapter 18, Section 18-128 – One-hour parking areas

**AN ORDINANCE TO AMEND CHAPTER 18,
SECTION 18-128: ONE-HOUR PARKING AREAS,
OF THE WASHINGTON CITY CODE**

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

Section 1. That Chapter 18 Section 18-128 - One-hour parking areas, be amended to add the following:

Sec. 18-128 (b) (5)

East Second Street (south side), from a point one hundred twenty five (125) east of Market Street for one hundred (100) feet.

Section 2. All ordinances in conflict with this ordinance are hereby repealed.

Section 3. This ordinance shall become effective June 14, 2011.

This the 13th day of June 2011.

ATTEST:

**s/CYNTHIA BENNETT, CMC
CITY CLERK**

**s/N. ARCHIE JENNINGS, III
MAYOR**

I. Approve – Purchase of a Rear Loader Refuse Truck from Lilley International (\$112,679.42)

**BID TABULATION
Bid for: REAR LOADER REFUSE TRUCK**

Opened: 10:00AM. Monday
May 23, 2011

Item	VENDOR	Bid	Delivery	Brand
1	Amick	\$126,174.38	165 days	International/Cobra Body
2	Cavalier	\$121,549.00	180 days	Freightliner/E-Z Pak Body
3	Lilley Inter	\$112,679.42	180 days	International/Pak-Mor Body
		\$118,344.42	180 days	International/E-Z Pak Body
4	Whites Inter	\$116,465.00	180 days	International/Pak-Mor Body
5	Tripple - T	\$114,864.00	235/265 days	Freightliner/Pak-Mor Body
		\$116,877.00	235/265 days	Freightliner/Phoenix Body
		\$120,531.00	190/210 days	Freightliner/E-Z Pak Body
		\$113,846.00	120/160 days	International/Pak-Mor Body
		\$115,859.00	120/160 days	International/Phoenix Body
		\$119,513.00	75/110 days	International/E-Z Pak Body

Recommendation: The recommendation is to purchase from Lillie.

J. Approve & Authorize – Director of Parks and Recreation to execute Waterfront Docking Agreement for East Carolina University

**NORTH CAROLINA
DOCKING AGREEMENT
BEAUFORT COUNTY**

WATERFRONT

THIS AGREEMENT, is made and entered into as of the 15th day of August, 2011. by and between the City of Washington, North Carolina (hereinafter may be referred to as "Waterfront Docks") and East Carolina University (hereinafter may be referred to as "Boat Owner"). For and in consideration of \$1.00, the mutual covenants contained herein as well as valuable consideration paid and to be paid, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Waterfront Docks and Boat Owner agree as follows.

1. **GRANT OF LICENSE.** Waterfront Docks hereby grants to Boat Owner and Boat Owner hereby accepts from Waterfront Docks a license to use a certain portion of Waterfront Docks' piers known to Waterfront Docks as East Estuarium Dock (hereinafter referred to as "Slip") subject to the terms and conditions set forth herein. It is agreed between the parties that this license is personal to Boat Owner and shall not inure to the successors or assigns of Boat Owner. Boat Owner agrees that it does not possess and shall not claim at any time an interest or estate of any kind or extent whatsoever by virtue of this license or Boat Owner's exercise or use hereunder of the same and Waterfront Docks conveys no interest in property, including but not limited to slip, dock, or pier, to Boat Owner by this Agreement.

2. **BOAT AND OWNER IDENTIFICATION.** The boat (hereinafter referred to as "Boat") to be berthed in the Slip is described as Follows Name of Boat: RJV Stanley R. Riggs Make: Munson Model: Research Vessel Year: 2010 Registration/Documentation # 1229695 Length 34 10 Beam 13 Draft 3 Owner's Address: East Carolina University, Diving and Water Safety, Building 43, Room 131, Greenville, NC 27858 Owner's Social Security No.: N/A Work Phone: 252-328-4041 Emergency Phone: 252-916-9595 Email: Insurer: State of North Carolina Policy #: N/A — Self-Insured

The information provided above is true and accurate. Boat Owner agrees that, if any of the above information subsequently changes, Boat Owner will provide updated information to Waterfront Docks within fourteen (14) days of such change.

3. **RENTAL/TERMINATION/LATE CHARGES.** In recognition of the obvious and immeasurable benefits to the City of Washington, its citizens, and the public at large that will result from the location of a water-related research vessel on the City of Washington waterfront by an institution of higher learning, rental in the amount of \$260.00 per month shall be waived and East Carolina University shall be entitled to utilize the license granted herein beginning the 15th day of August, 2011 and ending on the 14th day of August, 2012. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days notice to the other party. Upon expiration or earlier termination of this Agreement, Boat Owner shall remove the Boat from the Slip within ten (10) days. Should Boat Owner fail to remove the Boat within the time allowed, Waterfront Docks shall have the right to relocate the Boat from the Slip, including but not limited to placing it at anchorage or storing it on land, and receive reimbursement and indemnification from Boat Owner for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules")

a. **EXTENSION.** Should Boat Owner desire to extend this Agreement beyond the initial one (1) year period; then, in that event, Boat Owner shall notify Waterfront Docks ninety (90) days prior to the end of the initial period. The parties hereby agree that, upon such notice, the parties will enter into good faith negotiations to extend this Agreement. However, Waterfront Docks is under no obligation whatsoever to extend this Agreement beyond the initial one (1) year period.

4. **CONDITION OF SLIP.** Boat Owner hereby accepts the condition of the Slip and common areas of Waterfront Docks "AS IS" and Boat Owner acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of the waterfront docks. Boat Owner covenants to satisfy himself that the Slip and berthing space is adequate for safe berthing of his Boat. Boat Owner shall exercise due caution in occupation of the Slip and shall take good care of the Slip and, at the expiration or earlier termination of this Agreement, surrender and deliver

the Slip to Washington Docks in as good condition as when received by Boat Owner from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of in any manner Boat Owner's personal property not removed from the Slip or Waterfront Docks by Boat Owner at the expiration or earlier termination of this Agreement. Boat Owner waives all claims against Waterfront Docks for any damage to Boat Owner resulting from Waterfront Docks' removal of Boat Owner's personal property at the expiration or earlier termination of this Agreement. Boat Owner shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Boat Owner's personal property at prevailing rates.

a. Waterfront Docks, in its discretion, may retain, or require Boat Owner to remove, any alteration, addition, or improvement made by Boat Owner to the Slip or to any common area pursuant to advance written approval of Waterfront Docks. Any such alteration, addition, or improvement retained by Waterfront Docks constitutes further consideration for this Agreement.

b. Boat Owner shall keep the waterfront area around the Slip clean as well as litter free and in a presentable, acceptable and satisfactory condition to the City.

5. **BAILMENT.** It is understood and agreed that this Agreement does not constitute a bailment. Except as otherwise provided herein, Boat Owner retains and has exclusive care, custody, control, and access to the Boat and its contents at all times.

6. **GENERAL RESPONSIBILITIES AND OBLIGATIONS.** Waterfront Docks' employees, in their sole discretion, may make reasonable efforts to contact Boat Owner and notify Boat Owner of dangerous conditions requiring Boat Owner's attention, but Waterfront Docks assumes no responsibility or liability for the same, including but not limited to tending mooring lines or moving boats from berths to which they are or were assigned. Boat Owner further agrees to provide Waterfront Docks a key or combination to his Boat lock, location of motor key and written starting instructions. It is expressly agreed that Waterfront Docks shall not be liable to Boat Owner if for any reason Waterfront Docks fails to move the Boat.

7. **RATIFICATION OF ACTIONS.** Notwithstanding anything herein to the contrary and although Waterfront Docks has absolutely no obligation to do so, should Waterfront Docks enter upon the Boat or take any action to protect the Boat, which action is hereby approved and authorized by Boat Owner, including but not limited to relocating the Boat, installing mooring lines, or pumping the Boat, or similar services, Boat Owner agrees to reimburse and indemnify Waterfront Docks as more specifically provided for in the Rules and Regulations for Washington Waterfront Docking (hereinafter referred to as "Rules") and to hold Waterfront Docks, its representatives, agents, or contractors harmless for any loss or damage to the Boat as the result of such action undertaken regardless of the action taken or circumstances giving rise to the action.

8. **USE OF SLIP.** Boat Owner shall not be entitled to berth any other boat at the Slip other than as identified above without the express written consent of Waterfront Docks. Boat Owner shall not use the Slip as rental property, a dwelling, or for any purpose other than the purposes stated herein without prior written consent of Waterfront Docks. Boat Owner shall have no interest in the Slip other than the right to use said space in accordance with the terms and conditions of this Agreement and any rules and regulations as Waterfront Docks may make respecting the use thereof.

a. Notwithstanding the foregoing or anything contained in the attached Rules to the contrary, Waterfront Docks hereby authorizes Boat Owner to utilize said Slip to berth and operate the Boat as a water-related research vessel and perform such activities as are customary therewith. Waterfront Docks hereby authorizes Boat Owner to utilize the adjacent common areas or other waterfront docking facilities, in conjunction with said research vessel boat operation, for loading and unloading, but only after specific permission for all such utilization from Waterfront Docks. Boat Owner shall coordinate all boat operations with Waterfront Docks. Boat Owner is prohibited from engaging in, allowing, or authorizing any type of motor vehicle access beyond Water Street except as may be necessary for loading, unloading, fueling, repair and maintenance purposes and

only after receiving prior permission from Waterfront Docks. In no event shall Boat Owner allow or authorize more than two (2) motor vehicles access beyond Water Street at the same time. In no event shall Boat Owner allow or authorize a motor vehicle to be left unattended beyond Water Street. Boat Owner shall perform all such operations and activities associated with its research operations in such a manner that such operations and activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of other slips by other boat owners. Boat Owner agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

9. **HAZARDOUS MATERIALS.** Boat Owner covenants and agrees to comply with all applicable environmental and all other federal, state and local governmental statutes, ordinances, rules and regulations relating to the presence of hazardous substances, hazardous wastes, pollutants or contaminants. Boat Owner agrees and does hereby fully indemnify and shall hold Waterfront Docks absolutely harmless from any loss, damage, or expense, including reasonable attorney's fees and costs and expenses of any appeal, which Waterfront Docks may incur or suffer by reason of any claim or liability arising from Boat Owner's noncompliance with applicable environmental laws and the terms of this paragraph. Boat Owner specifically covenants and agrees that no hazardous substances, hazardous wastes or waste by-products, pollutants or contaminants, shall be dumped in any trash receptacle, or otherwise, in, on or about the Slip or Waterfront Docks' facilities, and that all such substances shall be stored or disposed of in specially marked containers/areas. These covenants and indemnities shall survive the expiration or termination of this Agreement.

a. **REFUELING.** The Boat may not be refueled and Boat Owner may not refuel any other boat at the waterfront docks without prior consent of Waterfront Docks and approval of the Fire Marshal. Prior to any such refueling, Boat Owner must submit to and receive approval from the City of Washington of a Spill Prevention and Containment Plan.

10. **NO ASSIGNMENT OR SUBLICENSING.** This Agreement is not transferable or assignable and runs to Boat Owner only. Boat Owner may not assign this Agreement or sublicense the Slip. In the event Boat Owner sells or transfers his Boat, Waterfront Docks shall have the right to cancel this Agreement or may transfer the Slip to the new owner, at Waterfront Docks' sole election and discretion. In the event Waterfront Docks chooses to transfer the Slip, the new owner shall be required to execute a new Waterfront Docking Agreement with Waterfront Docks as a prerequisite to such transfer.

11. **INSURANCE.** Boat Owner shall, throughout the term of this Agreement and any renewal thereof, at its own expense, keep and maintain in full force and effect the following insurance coverages.

a. Statutory workers' compensation insurance or the maritime equivalent in amounts required by law and, unless exempted by applicable law, employer's liability insurance at a minimum of \$500,000.00 for bodily injury by accident each employee and \$500,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 by disease.

b. Commercial general liability insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1 million per occurrence and \$1 million aggregate.

c. Protection and indemnity insurance insuring against claims of bodily injury, death, property damage, or other loss, in a coverage amount of not less than \$1 million.

d. Collision and tower's liability insurance in a coverage amount of not less than \$1 million.

e. Pollution insurance in a coverage amount of not less than \$1 million.

f. At the option of Boat Owner, the above limits may be less than stipulated herein so long as Boat Owner obtains and maintains an excess policy providing the additional limits needed. This form of coverage must be approved by Waterfront Docks and will

only be acceptable when both the primary and excess policies include the coverage and endorsements required herein.

Each such policy shall list Waterfront Docks as additional insured and provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Waterfront Docks. Boat Owner shall deliver to Waterfront Docks certificates of insurance for all insurance policies required hereunder. Boat Owner shall, within a reasonable time prior to the expiration of any such policy, furnish Waterfront Docks with certificates of insurance evidencing renewal thereof. Waterfront Docks may, in its sole discretion, require Boat Owner to expand the form and/or increase the amounts of all such insurance.

12. **WAIVER OF SUBROGATION.** Boat Owner releases and relieves Waterfront Docks and waives Boat Owner's entire rights of recovery against Waterfront Docks for loss or damage arising out of or incident to any of the perils insured against under this Agreement as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Boat Owner might own, whether loss or damage is due to the negligence of Waterfront Docks or their agents, employees, and/or invitees. Boat Owner shall give notice to its insurance carriers that this waiver of subrogation is contained in this Agreement and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

13. **UTILITIES.** The provision of utilities, including water, sewer, and electricity, and associated on-site services, shall be covered under a separate agreement between East Carolina University and the Partnership for the Sounds, Inc.

14. **CHANGES TO COMMON AREA/SLIP ASSIGNMENT.** Waterfront Docks reserves the right, without recourse to Boat Owner, to relocate and/or change any access ways, parking and similar areas, as may be necessary in Waterfront Docks' sole discretion for the efficient operation of the waterfront docks or for any other purpose. Waterfront Docks may permanently reassign the Boat to another slip or location only upon thirty (30) days written notice. In which case, said written notice shall serve as an amendment hereto, but only as to the slip or location to be licensed and shall not affect any other provision hereof unless such further revision is reduced to writing and signed by the parties hereto. Waterfront Docks reserves the right, without recourse to Boat Owner, to temporarily relocate the Boat to another location on the Waterfront, including another slip, in Waterfront Docks' sole discretion. Boat Owner shall relocate their boat as and when directed by Waterfront Docks if practical and reasonable. If Boat Owner's assistance in such temporary relocation is not practical and reasonable, Waterfront Docks is authorized to perform such temporary relocation of the Boat. The term "Slip" as used herein shall also apply to the slip or location to which the Boat is permanently reassigned or temporarily relocated as provided for hereinabove.

15. **SECURING THE BOAT.** The Boat shall be secured in its Slip in a manner acceptable to Waterfront Docks. If Waterfront Docks secures the Boat, Waterfront Docks is entitled to reimbursement and indemnity as more specifically provided for in the attached Rules.

16. **COMMON AREAS.** This Agreement grants the Boat Owner only a license to use the Slip and non-exclusive access to piers, docks, sidewalks, parking lots and other nearby common areas that are reasonably necessary to use the Slip.

a. Boat Owner acknowledges that Waterfront Docks has granted Partnership for the Sounds, Inc. a non-exclusive easement (hereinafter referred to as "PFS Easement") over a portion of the parcel of land adjacent to said Slip (hereinafter referred to as "adjacent parcel"), which adjacent parcel extends from the boardwalk to Stewart Parkway and Water Street. The PFS Easement is more particularly described in that Deed of Easement recorded in Deed Book 1743, Page 322, of the Beaufort County Registry. Boat Owner shall take no action that would affect or disturb, in any way, the improvements on the PFS Easement or adjacent parcel. Boat Owner must obtain written permission from PFS and then, in turn, Waterfront Docks before making any use of or taking any action that

would affect or disturb, in any way, the PFS Easement including any improvements thereon. Boat Owner must obtain written permission from Waterfront Docks before making any use of or taking any action that would affect or disturb, in any way, the remainder of said adjacent parcel.

17. **RULES AND REGULATIONS.** Boat Owner shall comply with all rules and regulations of Waterfront Docks, including but not limited to the Rules, as the same may be amended from time to time, during the existence of this Agreement. Any crew or guest of the Boat Owner are the responsibility of the Boat Owner and must comply with the Rules. The current version of said Rules is attached hereto as Exhibit "A" and is incorporated herein by reference. Boat Owner acknowledges having received and read the Rules currently in effect. Waterfront Docks reserves the right to reasonably amend the Rules in its sole and absolute discretion from time to time, and Boat Owner further agrees to comply with such amended Rules. Any amended Rules shall also automatically be incorporated herein. If the Boat Owner or those under the responsibility of Boat Owner fail to comply with the Rules or otherwise cause disorder, depredations or indecorous conduct that might injure a person, cause damage to property, or harm Waterfront Docks' reputation, the same shall be cause for immediate removal of the Boat, without prejudicing Waterfront Docks' right to damages and any financial obligation of Boat Owner to Waterfront Docks.

18. **DEFAULT.** Boat Owner shall be in default under this Agreement if any of the following occur.

- a. Boat Owner becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for Boat Owner or the business of Boat Owner. In no event shall this Agreement or any rights or privileges hereunder be an asset of Boat Owner under any bankruptcy, insolvency, or reorganization proceedings.
- b. Boat Owner violates any rule or regulation of Waterfront Docks.
- c. Boat Owner violates, breaches, or fails to keep or perform any covenant, term or condition of this Agreement.

19. **NO WAIVER.** Waterfront Docks shall not be deemed to have waived any right, power, privilege or remedy unless such waiver is in writing and duly executed by Waterfront Docks. No failure or delay in the exercise of any right or remedy shall be construed as a waiver of such right or remedy, and no partial exercise of any right or remedy shall preclude the further exercise of such right or remedy.

20. **REMEDIES.** SHOULD BOAT OWNER FAIL TO COMPLY WITH ANY OF THE PROVISIONS OF THIS AGREEMENT, WATERFRONT DOCKS MAY INSTITUTE ANY ACTION, SUIT OR PROCEEDING TO ENFORCE THE TERMS OF THIS AGREEMENT OR TO COLLECT ANY AMOUNTS DUE HEREUNDER, AND WATERFRONT DOCKS SHALL BE ENTITLED TO REIMBURSEMENT FROM BOAT OWNER FOR ALL COSTS AND EXPENSES REASONABLY INCURRED IN ENFORCING ITS RIGHTS HEREUNDER, INCLUDING BUT NOT LIMITED TO, COLLECTION OF ALL COURT COSTS AND REASONABLE ATTORNEYS' FEES.

21. **INDEMNIFICATION.** Boat Owner does for itself, its officials, agents, successors, representatives, assigns, customers, students, clients, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Boat Owner's operation of the Boat, Boat Owner's operations as well as activities and/or Boat Owner's use of the Slip and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to 1) any injury, including death, to any person; 2) any claim arising from any accident, fire, or casualty from any cause

whatsoever, including negligence; and 3) any claim of Boat Owner's customers, students, clients, invitees, guests, and/or boarders of the Boat caused by, related to, or arising from Boat Owner's use of the Slip, Boat Owner's contemplated operations as well as activities or this Agreement.

22. **ADHERENCE TO REGULATIONS.** Boat Owner agrees to comply with all applicable laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or anytime hereafter may be applicable to the Slip, the waterfront docks, public waters, the Boat, any improvements made by Boat Owner pursuant to advance written consent of Waterfront Docks, and Boat Owner's operation of the Boat, including but not limited to the operations as well as activities contemplated hereby. Boat Owner shall indemnify and hold Waterfront Docks harmless for any and all damage of any kind arising from Boat Owner's failure to comply with the aforementioned Rules, including attorney's fees.

23. **PERSONAL PROPERTY TAXES.** Boat Owner shall pay or discharge prior to delinquency all taxes and other charges assessed against or levied upon its Boat, trade fixtures, equipment, furnishings, and its other personal property located at the Slip.

24. **REPORTING REQUIREMENTS.** Boat Owner shall keep or cause to be kept complete records of its operations and activities as a result of this Agreement and any additional records reasonably requested and, upon request, provide any such records or reports required by the City Council or City Manager.

25. **RELATIONSHIP OF PARTIES.** In carrying out the terms and conditions of this Agreement, Boat Owner is an independent contractor and is not an agent or employee of Waterfront Docks. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between Waterfront Docks and Boat Owner.

26. **ILLEGAL PROVISIONS, GOVERNING LAW.** If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

IN WITNESS WHEREOF, the parties have duly executed this Agreement this the day and year first above written.

s/Mark Keusenkothen
East Carolina University
Director of Diving and Water Safety

s/Teresa Ramaglino
East Carolina University
Purchasing Specialist

s/Philip Mobley
Parks and Recreation Director
City of Washington

Exhibit A

Rules and Regulations For Washington Waterfront Docking

1. All vessels must register with the dock attendant ("Management") upon arrival to the Washington Waterfront Docks ("the Waterfront"). "Management" may also refer to the City of Washington ("City") where required by context.
2. Major repairs of such extent and nature as are normally performed at boat yard facilities, including but not limited to rebuilding or replacing engines, and the sanding, painting, or refinishing of any portion of a boat, shall not be performed at or near a slip or the Waterfront. No other type of work may be performed at or near a slip or the Waterfront unless the boat owner obtains advance approval from Management and the contractor who intends to perform such work satisfies Management that the contractor possesses adequate insurance coverage.
3. Boat owner shall not make any alterations, additions or improvements in or to a slip, the Waterfront or to any adjacent common area without prior written approval from Management. In addition, no dock boxes, steps or any other objects can be installed or kept on the docks or piers without the written consent of Management. No flammable materials, cleaners or pollutants may be kept on the docks or piers. Shore power cables, hoses, dock lines or any other connecting apparatus between the dock and a boat owner's vessel must be kept safely clear of both the passageway on the dock or pier and clear of the fairway to adjacent slips.
4. At all times when on the Waterfront property, or on any boat therein, boat owners shall conduct themselves so as to not violate any City Ordinance nor to create any annoyance, hazard, or nuisance at or to the Waterfront, other boat owners, their guests or other patrons of the Waterfront. Boat owners further accept responsibility for insuring like conduct of their guests, crew or any others in their company.
5. Absolutely no pollutants, including but not limited to sewage, oil, or fuel, will be dumped, pumped or allowed to run into the waters surrounding the Waterfront. All sewage shall be disposed of at the proper facility for such purpose.
6. No swimming, diving or crabbing is permitted at the Waterfront.
7. No advertising or soliciting, including "For Sale" signs, is permitted on any boat or slip at the Waterfront without prior written consent of Management.
8. Vessels may tie to a Waterfront dock only by the cleats or pilings provided for such purpose. No vessel nor any other gear or items may be tied to any other structure, fixture or point along the Waterfront.
9. No commercial vessels may be berthed at the Waterfront and no commercial transactions shall be permitted from the Waterfront without the prior written consent of Management. Soliciting of any kind for any purpose is prohibited without prior written consent of Management.
10. Open fires for cooking, grilling or for any reason are strictly prohibited on the piers and docks at the Waterfront. Boat owners accept liability for any open flames aboard their vessel that may, directly or indirectly, endanger other vessels, docks, piers or any other property at the Waterfront.
11. Laundry is not to be hung from a vessel or the docks.
12. Pets must be leashed at all times when not aboard a vessel. No pets are allowed on the wetland boardwalk.
13. To be berthed at the Waterfront, a vessel must be registered or documented, identified, marked, equipped and maintained as required by law and safe practice. At all times, vessels berthed at the Waterfront must be in a clean, seaworthy, sanitary, fully operational condition, dry within, and regularly repaired and maintained. No vessel berthed at the Waterfront shall be an eyesore or

constitute a fire, safety, sinking or pollution hazard. Any vessel considered to be unsafe; a pollution hazard; threatening to the dock structure, other vessels, or to people; inappropriately sized or shaped; or whose watertight integrity is questionable will be required to vacate the Waterfront.

14. Unsafe conditions or practices on the Waterfront or aboard a vessel are prohibited. Such conditions must be corrected or practices terminated or the responsible party and/or the vessel must vacate the Waterfront at the discretion and direction of Management.
15. Slips, piers, docks, and surrounding areas shall be kept clean, clear and trash free. No garbage, trash or any other materials in violation of MARPOL 73/78 regulations, as may be amended, will be thrown overboard. Shore disposal receptacles intended for that purpose will be utilized.
16. Consumption of alcoholic beverages is prohibited on the Waterfront except while aboard a vessel.
17. Management reserves the right to have raised and repaired at the owner's expense any vessel which sinks for any reason while at the Waterfront _____.
18. NO REFUNDS will be given.
19. All boats must have an assigned space. Except for slips that are governed by a Waterfront Docking Agreement, assigned spaces are subject to change in Management's discretion. Additional boats, regardless of type or size, are not permitted to be placed on the walkways, docks, or finger piers, tied along side another boat or placed on shore. Rafting will only be allowed in conjunction with special events authorized by Management.
20. Refueling any vessel by any means (including portable gas cans) is prohibited at the Waterfront unless consented to by Management and approved by the Fire Marshal. See Section 2210.4 of the Fire Code, as may be amended.
21. Boat owners shall, in times of unusual, predictable water surges, such as a tropical depression or hurricane, move their boats from the Waterfront, including slips, within a reasonable period of time after the Pamlico Sound area is given a NOAA Weather Warning Condition. If a boat owner fails or refuses to remove their boat within said reasonable period of time, Management shall have the right, but not the obligation, to relocate a boat and the owner of any boat that is relocated shall reimburse and indemnify the City as more specifically provided for herein and not hold the City, its representatives, agents, or contractors liable or responsible for damages done to a boat during relocation, subsequent mooring, or anchorage; during a storm; or any incident thereafter _____. Should conditions prohibit any movement of a boat from the Waterfront, including a slip, boat owners assume all liability for any damages suffered to the property, pier, or other facilities of the City. In addition to all of the other liabilities and obligations of boat owners to the City set forth in these Rules and Regulations and any Waterfront Docking Agreement that may be applicable, boat owners shall pay the City for any and all damages suffered by the City as a result of any damage caused by a boat owner or their boat to the City's property, including but not limited to the Waterfront, slip, docks, pilings, bulkhead, utility lines, and any other real or personal property in which the City has an interest. As used herein, damages include all damages which the City may suffer, including but not limited to property damage, business interruption damage, loss of rentals, personal injury, and any other damages, including incidental and consequential damages, be they direct or indirect and regardless of whether the damage is aggravated or incurred in whole or in part by the negligence of the City or its agents, representatives, employees, invitees, partners, or any other person, firm or entity.
22. Live-aboards are not permitted except in the case of transient vessels.
23. If the owner of a vessel tied to the Waterfront cannot be determined or if the owner refuses to sign a registration form, transient dockage fees will immediately and automatically be applied and shall be assessed in the event the owner is identified. Non-payment of such fees within 90 days will cause the vessel to be declared "abandoned".

City Council Adopted - 3/9/2009

24. Any action, including but not limited to relocation of a boat, installing mooring lines, pumping a boat, or similar services, concerning a boat deemed by Management as necessary to be taken, or otherwise authorized to be taken pursuant to these Rules or a Waterfront Docking Agreement, may be taken by Management or a third party at Management's direction. It is expressly understood that Management shall not be liable to a boat owner if for any reason Management fails to take any such action under any circumstance. Boat owners expressly indemnify and hold harmless Management from any and all claims that may arise from Management taking any action contemplated hereby. In the event Management takes any such action contemplated hereby, boat owners shall reimburse Management for the labor, materials, and related expenses associated with such action at the prevailing Management's rates or market rates, if applicable, within ten (10) days upon receipt of a bill for such expenses. In the event a third party takes any such action contemplated hereby at Management's direction, boat owners shall be responsible for and pay the cost charged by said third party within ten (10) days upon receipt of a bill for such charges. Management shall have a lien against and security interest in a boat, her appurtenances and contents, for any unpaid sums due related to said boat, including but not limited to sums arising from these Rules or a Waterfront Docking Agreement and/or sums due for damage caused or contributed to by a boat owner, a boat owner's guests, or an owner's boat to any piers or property of Management or to any other person.
25. Management reserves the right to revoke docking privileges to any person or vessel failing to comply with a directive from Management, these Rules and Regulations, or a Waterfront Docking Agreement.

K. Approve & Authorize – Civic Center Lease and Management Agreement and Authorize Mayor to execute the agreement

**NORTH CAROLINA
BEAUFORT COUNTY**

THIS LEASE AND MANAGEMENT AGREEMENT (“Lease”) is made and entered into as of the 1st day of July, 2011 by and between the **CITY OF WASHINGTON**, a body politic and corporate, existing under the laws of the State of North Carolina (“City”), and the **CITY OF WASHINGTON TOURISM DEVELOPMENT AUTHORITY**, a Public Authority under the Local Government Budget & Fiscal Control Act (“TDA”), (collectively may be referred to as the “Parties”).

WITNESSETH

WHEREAS, the TDA was organized and established under the authority of North Carolina House Bill 592, Chapter 158, as ratified in the 1991 Session of the General Assembly of North Carolina, as later amended, and the City Charter and Code.

WHEREAS, the TDA operates subject to the provisions contained in the bill above referred to, as amended, the City Charter as well as City Code, and pursuant to by-laws adopted by the TDA for the operation of the TDA and the transaction of its business.

WHEREAS, the TDA’s purpose is to promote travel and tourism to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, and engage in similar promotional activities that attract tourists or business travelers to the area.

WHEREAS, the TDA has the authority to spend money that, in the judgment of the TDA, is designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the City or to attract tourists or business travelers to the City.

WHEREAS, the TDA is authorized to contract with appropriate organizations or agencies to assist it in carrying out the above purposes.

WHEREAS, for the last five (5) years the Parties have been party to a Lease and Management Agreement that expires on June 30, 2011.

WHEREAS, the Parties have agreed to enter into this Lease whereby the City will continue to lease to the TDA the Washington Civic Center (“Civic Center”) as described in Exhibit A attached hereto in accordance with the terms and provisions of this Lease and the TDA will continue to manage the Civic Center.

NOW THEREFORE, in consideration of the rents hereinafter agreed to be paid, the mutual covenants and agreements hereinafter recited and for the benefit of the public and the citizens of the City and Beaufort County generally, the receipt and legal sufficiency of which consideration is hereby acknowledged, the City does hereby lease and demise unto the TDA and the TDA does hereby lease and take as tenant from the City those certain premises (hereinafter called the “Premises”) within the City and more particularly described in Exhibit A attached hereto. Except as specifically provided for herein, the City reserves unto itself and the public generally the right to use the parking areas and driveways adjoining the Civic Center building as a means of ingress, egress and access to the adjoining property of the City on which the Peterson Building is located.

Notwithstanding the foregoing, the TDA shall have the right to reserve the parking spots located to the North of the Peterson Building for specific periods of time as may be necessary in conjunction with specific Civic Center events after appropriate consultation and notice to any parties potentially affected thereby, including the City. The TDA has carefully inspected the Premises and acknowledges that the same is in satisfactory condition for its use. Except as may be specifically provided for hereinafter and for those certain improvements that may be specifically addressed hereinafter, the City shall have no obligation to make any improvements to the Premises whatsoever and the TDA agrees to accept the same in its present condition, “as is.”

TO HAVE AND TO HOLD said Premises unto the TDA upon the following terms and conditions.

1. **TERM.** The term of this Lease shall be for a period of three (3) years and will begin as of the 1st day of July, 2011 and shall end at 12:00 o'clock midnight on the 30' day of June, 2014, subject to the provisions herein.

a. **EXTENSION.** The TDA shall give notice at least six (6) months prior to the expiration hereof if it desires to continue this Lease. If the TDA gives the City notice of its desire to extend this Lease, the Parties shall renegotiate the same in good faith.

2. **RENT.** As consideration for the leasehold interest granted herein for this term, the TDA agrees to be responsible for all management and operations of the Civic Center, including supervision of all Civic Center staff as hereinafter defined.

3. **ALLOCATION BY THE CITY.** The City agrees to allocate \$50,000.00 per year to assist in the operation of the Civic Center and, to that end, agrees to pay the TDA the sum of \$4,166.67 per month on or before the 1th of each month beginning as of the 1th day of July, 2011. During the City's budget process, TDA may make specific requests to address maintenance items other than those described in Section 13. Within its recognized budget constraints, the City will use its best efforts to provide funding to address such maintenance items.

4. **TERMINATION.** The TDA has the absolute right to terminate this Lease by providing the City six (6) months written notice prior to the end of each fiscal year of this Lease (on or before December 31, 2011 and December 31, 2012).

5. **CIVIC CENTER STAFF.** The employment of the TDA Director and Civic Center staff including the specifics of all relevant employment terms and relationships, shall be governed by an Interlocal Agreement entered into between the Parties, which Interlocal Agreement is, or shall be, incorporated herein by reference as if fully set forth.

6. **ARTS COUNCIL AND PAMLICO-TAR RIVER FOUNDATION LEASES.** The present leases between the City and the Beaufort County Arts Council as well as the Pamlico-Tar River Foundation shall remain direct leases between those entities and the TDA shall have no responsibility for the operation, maintenance, or liability associated with those premises so leased or any activities conducted thereon. The City may continue such leases as well as renew the same for so long as the City desires. However, in the event the leases between the City and the Beaufort County Arts Council or the Pamlico-Tar River Foundation, respectively, are terminated and not renewed, then, in that event, the TDA shall have the right of first refusal to include such space within the property leased hereunder.

7. **DEFAULT.**

a. The occurrence of one or more of the following events (hereinafter called "Events of Default") shall constitute a default by the TDA:

- i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to the TDA and
- ii. Dissolution of the TDA.

b. The occurrence of one or more of the following events of default shall constitute a default by the City:

- i. Failure to perform any provision of this Lease if the failure to perform is not cured within ten (10) days after written notice thereof has been given to the City.

8. **REMEDIES UPON DEFAULT.**

a. The City shall have the absolute right upon default by the TDA to enter the Premises without notice to vacate (any such right to which is hereby waived by the TDA) and re-let them, changing any and all locks on the Premises, all without being liable for forcible entry, trespass, or other tort.

b. The TDA shall have the absolute right upon default by the City to vacate the Premises, return all keys to the City and have no further obligation to manage and operate the Civic Center.

c. In the event either party shall exercise the above described remedies upon default, the TDA shall promptly deliver any and all of the TDA records, including bookings, necessary for the City to continue the management and operation of the Civic Center.

9. **WAIVER.** No course of dealing or any delay on the part of either party in exercising any rights it may have under this Lease shall operate as a waiver of any of its rights hereunder nor shall any waiver of any prior default operate as a waiver of any subsequent default or defaults and no express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

10. **USE OF PREMISES.** The TDA shall use the Premises to further the purposes of the TDA as stated in its by-laws and for such purposes as may be associated with civic centers, comparable to similar communities and regional activities. The TDA shall be responsible for the entire management of said facility and shall have the right to establish reasonable regulations and policies, including any and all rates applicable to rent the same and for activities taking place within the same.

The TDA shall be responsible for promoting said facility pursuant to an updated, written Three (3) Year Plan, which Three (3) Year Plan will be submitted to the City on or before June 12, 2011. Upon receipt of said Three (3) Year Plan by the City, it shall be attached hereto as Exhibit B and incorporated herein by reference.

11. **DISCRIMINATION.** The TDA, in its use, improvement, or operation of the Premises and facilities of the Civic Center, shall not, on the grounds of race, color, sex, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by law and shall otherwise use the Premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and as said regulations may be amended.

12. **OWNERSHIP OF CONTENTS.** On July 1, 2006, the City conveyed the contents then located in the Civic Center to the TDA and presented the TDA with a Bill of Sale for the same. The Parties acknowledge that ownership of the contents located in the Civic Center at the expiration of the initial term, earlier termination, or expiration of any subsequent term shall revert to and/or become the property of the City without compensation therefor and as further consideration for this Lease. In this regard, the TDA shall present a Bill of Sale for the same to the City at such time.

13. **MAINTENANCE.** The City shall be responsible during the term of this Lease for major structural maintenance of the Civic Center structure and building including decking, flooring, roofing, HVAC, plumbing and electrical systems. The TDA shall be responsible for all other maintenance whatsoever in connection with said facility. Notwithstanding the foregoing, in the event a maintenance or repair issue or need arises, the TDA may contact the City Manager's office at the City concerning said issue or need and, if the City is capable of assisting the TDA in addressing the issue or need with minimal cost or manpower, in its sole discretion, the City will provide such assistance to the extent such assistance does not produce a major disruption in the City's normal operations as well as responsibilities and so long as such assistance is practicable. Nothing herein shall be construed to limit the TDA's maintenance obligation(s) as described herein.

The City shall maintain the landscaping and parking areas in connection with its routine maintenance of the Peterson Building.

14. **ASSIGNMENT AND SUBLETTING.** The TDA shall not assign this Lease or sublet the Premises without the prior written consent of the City.

15. **UTILITIES AND OTHER SERVICES.** The TDA was made responsible for and paid any and all charges (\$2,448.87) for utilities incurred on the Premises during the month before the inception of the initial Lease term (June of 2006). The TDA has since been reimbursed for said payment by the City through a credit. Therefore, the TDA shall be responsible for and pay any and all charges for utilities as may be incurred on the Premises during the term of this Lease. The TDA shall not use or permit in the Premises any electrical device which, in the opinion of the electrical provider, will overload the building's electrical circuits.

16. **ALTERATIONS.** Other than routine improvements, repair and maintenance necessary to address ordinary, daily wear and tear, the TDA shall make no alterations, additions or improvements to the Premises without the prior written consent of the City. All alterations, additions and improvements made by, for or at the direction of the TDA shall become the property of the City and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease without compensation therefor and as further consideration for this Lease. The TDA shall promptly pay and discharge any and all licenses, imposts, liens or other charges arising out of or in connection with the performance of any act required of or permitted the TDA hereunder and shall keep the Premises free and clear from any and all such liens or charges.

Upon receiving the prior written consent of the TDA, the City shall have the right, but not the obligation, to make alterations, additions, or improvements to the Premises and the same shall, when made, be the property of the City and shall remain upon and be surrendered with the Premises as a part thereof at the expiration or earlier termination of this Lease.

17. **CITY'S RIGHT OF ENTRY.** The City Manager or his designee shall have the right to enter and to grant licenses to others to enter the Premises for such lengths of time as the City shall deem reasonable a) to inspect the Premises; b) to exhibit the Premises to prospective tenants or purchasers of the Premises; c) after reasonable notice to the TDA, to make alterations, additions, improvements and repairs to the Premises or to the building and to store necessary materials, tools and equipment for such alterations or repairs; d) after reasonable notice to the TDA, for any purpose which the City shall deem necessary for the operation and maintenance of the Premises, including building, and the general welfare and comfort of its tenants; e) after reasonable notice to the TDA, for the purpose of removing from the Premises any placards, signs, fixtures, alterations or additions not permitted by this Lease or applicable regulation; and f) after reasonable notice to the TDA, to abate any condition which constitutes a violation of any covenant or condition of this Lease.

18. **USAGE BY AND RATE FOR THE CITY.** The TDA agrees to allow any appropriate individual, group, or entity of the City to use the Premises as long as the same is not already reserved. Any such use by the City or its affiliates shall be consistent with the policies and procedures established by the TDA. The TDA agrees, as part of its rate structure, to provide a special rate for use by any appropriate individual, group, or entity of the City, which special rate shall not exceed 33% of the then current, full rate charged to other users of the Premises.

19. **INDEMNIFICATION OF THE CITY.** The TDA agrees to indemnify and defend the City and to save harmless the City, and the tenants, licensees, invitees, agents, servants and employees of the City against and from any and all claims by or on behalf of any person, firm or corporation arising by reason of injury to person or property occurring on the Premises or in the building occasioned in whole or in part by any act or omission on the part of the TDA or any employee, representative, agent, assignee or subtenant of the TDA, including any individuals who are actually City employees but who regularly perform functions for or duties assigned by the TDA such as the TDA Director and TDA staff or by reason of any unlawful use of the Premises or by reason of any breach, violation or nonperformance of any covenant in this Lease on the part of the TDA to be observed or performed, and also by reason of any matter or thing growing out of the occupancy or use of the Premises by the TDA or any one holding under the TDA. The TDA agrees to pay the City promptly for all damage to the Premises or the building, which is not covered by insurance, and for all damage to tenants or occupants caused by the TDA's misuse or neglect of the Premises or the building or of its or their apparatus and appurtenances and the TDA agrees in any event to reimburse and compensate the City as additional rent within five (5) days of rendition of any statement to the TDA by the City for expenditures made by the City or for fines sustained or incurred by the City due to non-performance or non compliance with or breach of or failure to observe any term, covenant or condition of this Lease upon the TDA's part to be kept, observed, performed or complied with.

The City shall not be liable to the TDA for any damage by or from any act or negligence of any co-tenant or other occupant of the building or by any owner or occupant of adjoining or contiguous property. Neither the City nor its agents shall be liable to the TDA or to any person, firm or corporation claiming through or under the TDA for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, glass, electricity, water, rain or snow or leaks from any part of the building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to proven acts of negligence of the City. The City shall not be liable to the TDA or to any person, firm or corporation claiming through or under the TDA for any latent defect in the Premises or in the building.

20. **INDEMNIFICATION OF THE TDA.** The City agrees to indemnify and defend the TDA and to save harmless the TDA, including all tenants, licensees, invitees, agents, servants, and employees of the TDA against and from any and all claims by or on behalf of any person, firm or corporation arising by reason of the City's negligent failure to adequately perform major structural maintenance of the Civic Center structure and building, including decking, roofing, flooring, HVAC, plumbing, and electrical systems. The indemnification provisions of this Section 20 shall not apply to any condition unless and until the TDA provides the City written notice that major structural maintenance is required for the Civic Center structure and building, including decking, roofing, flooring, HVAC, plumbing, and electrical systems.

21. **INSURANCE AND INSURANCE RATES.** Throughout the term of this Lease, City shall carry fire and extended coverage insurance insuring its interest in the building and the Premises, such insurance to be written by insurance companies and in amounts satisfactory to the City. Throughout the term of this Lease, the TDA shall carry fire and extended coverage insurance insuring its interest, if any, in improvements to or in the Premises, its contents, and its interest in its furniture, equipment, supplies or other property. Throughout the term of this Lease, the TDA shall carry public liability insurance insuring against all liability of the TDA and its authorized representatives including any liability whatsoever caused by any accident or

other occurrence causing bodily injury or property damage to any person or property and arising out of and in connection with the TDA's use or occupancy of the Premises, such insurance to be written by insurance companies and in amounts satisfactory to the City. The TDA hereby waives any claim, right of action, or subrogation which it may have against the City for any loss or damage covered by such insurance.

The TDA shall not do or cause to be done or permit on the Premises anything deemed extra hazardous and the TDA shall not use the Premises or the building in any manner which will cause an increase in the premium rate for any insurance in effect on the Premises, building, or part thereof. If, because of anything done, caused to be done, permitted or omitted by the TDA or its agents, servants or employees, the premium rate for any kind of insurance in effect on the Premises shall be raised, the TDA shall pay the City on demand the amount of any such increase in premium. If the City demands that the TDA remedy the condition which caused any such increase in an insurance premium rate, the TDA shall remedy such condition within five (5) days after receipt of such demand.

22. **FIRE OR OTHER CASUALTY.** In the event that before or during the term of this Lease, the Premises or the building shall be damaged by fire or other casualty which renders the building, the Premises or any part of the building or the Premises untenable, the City within twenty (20) days of such fire or casualty or of receipt of written notice from the TDA of such damage (whichever shall last occur) shall have the right to either 1) serve written notice upon the TDA of the City's intent to repair said damage or 2) if said damage renders so much of the Premises untenable [in excess of fifty percent (50%) of the value of the premises] that repair would not be feasible, or if said damage shall have been occasioned by the act or omission of the TDA, its servants, agents, members or employees, serve written notice upon the TDA that this Lease is terminated, provided, however, that the City shall not so terminate this Lease unless such repairs cannot be made within a period of sixty (60) days or unless at the time such notice is given there remains less than one hundred eighty (180) days during the unexpired current term of this Lease. If the City shall elect to repair such damage, such repairs shall be commenced within fifteen (15) days of notice to the TDA of such election and such repairs shall be completed within one hundred eighty (180) days of notice to the TDA of such election.

The other provision of this Section 22 notwithstanding, the City shall have no obligation to replace or repair any property in the building or on the Premises belonging to the TDA or to anyone claiming through or under the TDA nor shall the City have any obligation hereunder to replace or repair any property on the Premises which the City shall have the right to require the TDA to remove from the Premises or any alteration, addition or improvement made to the Premises by, for or at the direction of the TDA.

23. **QUIET ENJOYMENT.** The City agrees that the TDA on paying the rent and performing all the terms and conditions of this Lease shall quietly have, hold and enjoy the Premises for the term aforesaid.

24. **NOTICES.** If to the TDA as follows:

Washington Tourism Development Authority
P.O. Box 1765
Washington, NC 27889

With copy to:

William P. Mayo, Jr.
Mayo & Mayo
102 W. 2nd St.
Washington, NC 27889

As to the City:

Attn: City Manager
City of Washington
P.O. Box 1988
Washington, NC 27889

With copy to:

Franz F. Holscher
Rodman, Holscher, Francisco & Peck, P.A.
P. O. Box 1747
Washington, NC 27889

25. **INTEGRATION AND BINDING EFFECT.** The entire agreement, intent and understanding between the City and the TDA is contained in the provisions of this Lease and any stipulations, representations, promises or agreements, written or oral, made prior to or contemporaneously with this Lease shall have no legal or equitable effect or consequence unless reduced to writing herein. This Lease shall be governed by and construed pursuant to the laws of the State of North Carolina.

26. **COMPLIANCE BY THE TDA WITH GOVERNMENTAL REGULATIONS.** The TDA shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties foreseen and unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Premises or any part thereof, or any of the adjoining property, or any use or condition of the Premises or any part thereof. The TDA shall comply with any and all local, State, Federal or other rules and regulations as well as all applicable environmental rules and regulations. In the performance of any acts required of or permitted by the TDA under any provision of this Lease, the TDA shall obey and comply with all lawful requirements, rules, regulations, and ordinances of all legally constituted authorities, existing at any time during the continuance of such performance in any way affecting the Premises or the use of the Premises by the TDA, including but not limited to all wetland regulations, CAMA regulations, or other governmental setbacks. Such compliance shall include compliance by the TDA with requirements of the Occupational Safety and Health Act, and all amendments thereto, as the same applies to the TDA's use of the Premises.

IN WITNESS WHEREOF, the TDA has caused this Lease to be signed by its Chairperson and the City has caused this Lease to be signed by its Mayor by authority duly given as of the day and year first written above.

PRE-AUDIT CERTIFICATE
CITY OF WASHINGTON

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

s/Matt Rauschenbach
Chief Financial Officer

PRE-AUDIT CERTIFICATE
WASHINGTON TOURISM DEVELOPMENT AUTHORITY

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

s/Jackie Woolard
Treasurer

ATTEST:
s/CYNTHIA BENNETT, CMC
CITY CLERK
s/Nan McLendon, Chairperson

s/N. ARCHIE JENNINGS, III
MAYOR

EXHIBIT "A"

BEGINNING at the intersection of the right-of-way lines in the southwest quadrant of the intersection of Gladden Street and West Second Street; thence from said beginning point so located, along the west side of the right-of-way of Gladden Street, South 36° 33' West 340 feet; thence leaving the sideline of Gladden Street and running North 53° 10' West 40 feet; thence North 36° 33' East 70 feet; thence North 53° 10' West 30 feet; thence North 36° 33' East 70 feet; thence North 53° 10' 30 feet; thence North 37° 20' East 204.13 feet to the sideline of Second Street; thence with Second Street South 54° 11' East 188.93 feet to the point of beginning as shown on the attached map prepared by the Public Works Department of the City of Washington.

SAVING AND EXCEPTING, HOWEVER, that portion of the above described property which houses the Beaufort County Arts Council and the Pamlico-Tar River Foundation. Said portion of

premises generally housing these two organizations would be in that portion shown on the attached map as "Arts Council".

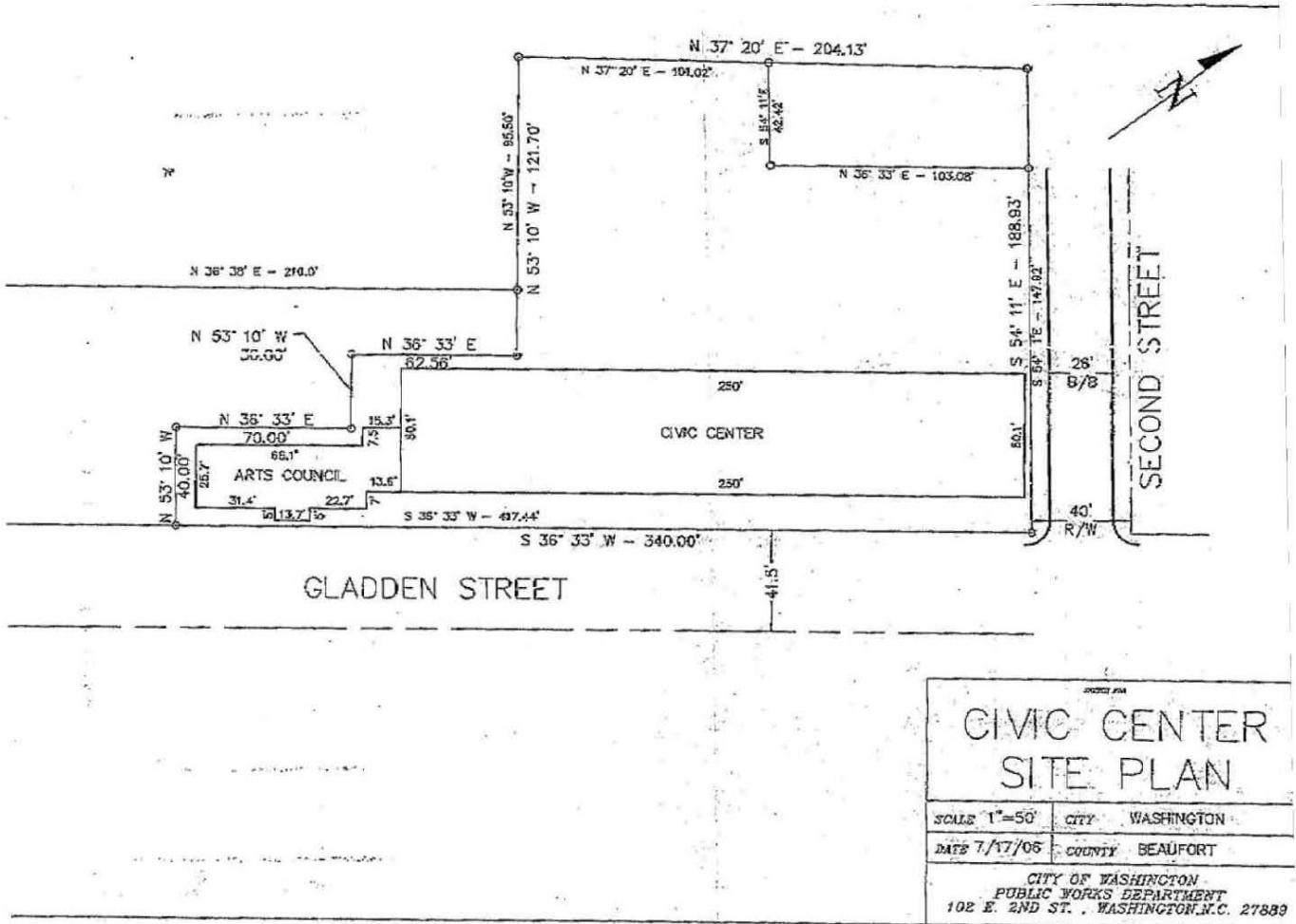


EXHIBIT "B"

Exhibit B

**Civic Center 3-Year Plan
2011-2014**

Sales

- Outside sales efforts will be specifically targeted based on ongoing survey results
- Constant outreach to community members who may belong to statewide/regional associations
- Develop relationships with state offices (DEHNR, Cooperative Ext., DOT, etc) located in Washington/BoCo
- Identify statewide/regional associations that have needs to match our offerings
- Enhance offerings of "turn key" events
- Partnership will be formed with key hotels to increase hotel usage, packaging, and multi-day events

Marketing

- New, streamlined website will be launched in July, 2011
- Direct mail efforts will continue throughout the 3 years
- Promotions are being developed to target lower use times
- Participation in AENC and area Chambers of Commerce events
- E-newsletter to member lists of above organizations
- E-newsletter to current/previous renters
- Wedding packages/partnerships will be coordinated with City for those wishing to rent new venue at Festival Park.

Maintenance & Improvements

- Decking replacement to bring area up to building code
- Target opportunities for utility savings based on energy audit
- Replace canvas awnings
- Aesthetic improvements (drapes, wallpaper, carpet, etc)
- Upgrade of Leff Meeting room to offer all modern amenities for meetings
- Bathroom improvements - replacement of mirrors, replace sinks & faucets, reface countertops
- Window coverings - replace old drapes with new solutions
- Replace lighting fixtures in all 3 meeting rooms
- Up fit of kitchen to meet caterers needs
- New linoleum for kitchen

Management

- Will restructure operations based on outcomes/recommendations from ECU School of Business study in Spring 2011 semester
- Realignment of WTDA operations will shift management focus to the Civic Center
- New rate structure to be determined to drive bookings Monday - Thursday
- Purchase chairs and tables to be used as rentals, anticipate this will pay for itself in 18 months.
- Complete review of rental policies to identify barriers to rental and develop solutions
- Ongoing review of booking trends will help determine efforts for subsequent years

- L. Adopt – Resolution to lease property off Water Street and adjoining the old "McQuay" Building to Pirates Pub, for a period of Two (2) years

**RESOLUTION TO LEASE PROPERTY
OFF WATER STREET AND ADJOINING THE OLD "MCQUAY" BUILDING
TO PIRATES PUB, INC.**

WHEREAS, the City of Washington ("City") owns property located at the intersection of Market and Water streets, including that certain property labeled "Patio & Grease Trap Ground Lease" as more specifically shown on Exhibit "A" attached hereto and incorporated herein by reference ("Premises"), which Premises the City finds it does not currently have a use for.

WHEREAS, the City Council therefore finds the Premises is currently surplus to the City's needs and will not be needed by the City for the term of the lease proposed hereby.

WHEREAS, Pirates Pub, Inc. ("Lessee") desires to lease said Premises from the City in order to utilize the same for an outdoor patio and grease trap in conjunction with a restaurant Lessee intends to operate on the property adjacent to the Premises.

WHEREAS, the City desires to lease said Premises to Lessee in an effort to boost the local economy, including but not limited to downtown business, and tourism.

WHEREAS, North Carolina General Statute §1 60A-272 authorizes the City to enter into leases of up to 10 years upon a resolution of the City Council adopted at a regular meeting after 10 days public notice.

WHEREAS, the required notice has been published and the City Council is convened in a regular meeting.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Washington that:

The City Council hereby approves the proposed lease of said Premises owned by the City to Lessee for an initial term of two (2) years as well as a possible extension for an additional two (2) years and authorizes the City Manager to further negotiate, if necessary, and execute said lease.

Adopted this 13th day of June, 2011.

ATTEST:

s/**CYNTHIA BENNETT,CMC**
CITY CLERK

s/**N. ARCHIE JENNINGS, III**
MAYOR

M. Authorize – the Interim City Manager or his designee to proceed with the removal of the Pamlico Auto Sales Building located at 131 Bridge Street at a cost not to exceed \$3,000

N. (moved to Old Business for discussion) Approve – Purchase Orders >\$20,000

COMMENTS FROM THE PUBLIC

Andrea Nikolai, 120 E. 10th Street requested the City install a sidewalk along 15th Street from Hwy 264E to Hwy 264W. Mayor Pro tem Roberson suggested she review the City's Pedestrian Plan and also explained that easements will need to be obtained from the individual property owners to acquire the proper amount of land for the sidewalk.

Bob Henkel and Virginia Finnerty, WHDA to discuss the installation of American flags and banner on the poles downtown (Main St., Market St. and Stewart Parkway). The American flags will be flown on festive days and can be purchased and sponsored by individuals or businesses. The banner program is a program to help identify Washington as the art community that it is. They currently have 30 artist that are willing to pay for their work to be displayed in the same areas as the American flags. There is no commercial identification on the banners. The WHDA will be paying for the installation and maintenance of the banners. The artwork will be signed by the artist. The banners will stay up most of the time with the exception of when American flags are flown and during maintenance of the banners. Mayor Pro tem Roberson suggested that the WHDA coordinate with the Electric Dept. to insure the proper banner mount and installation process. Mr. Henkel stated the WHDA has contracted with Signs Now from Greenville to install/uninstall the banners. The banners will be removed during hurricane season. Mayor Jennings reminded Mr. Henkel that the utmost respect needs to be paid to the American flag and to ensure that the flag is maintained properly. Mr. Henkel explained the flags will be flown approximately 4 days during each noted holiday. Ms. Finnerty stated the Planning Board and Historic Commission have both approved the flags and the banner program is to be reviewed at the next Historic Commission meeting.

Bob Henkel updated Council on the Greenway project. He stated we received the grant for the Bike/Pedestrian Plan for the City, this is part of the Greenway project. The next leg of the process spans from Plymouth Street to Clark's Neck Road. The Committee will be contacting the property owners along this route to determine their willingness to have the bike/pedestrian path near their property. The grant is for \$35,000 with a City match of \$7000. We have applied for and been declined five times for this grant prior to finally receiving it.

**TRENT TETTERTON – WASHINGTON HARBOR DISTRICT ALLIANCE
AUTHORIZATION TO PROCEED WITH OFFERING OLD CITY HALL FOR SALE**

Trent Tetterton, WHDA Adaptive Reuse Committee is asking for approval from City Council for the authorization to proceed with offering old City Hall for sale. The current agreement with the County states that if the building is sold for an amount in excess of \$60,000, then the proceeds will be split with the County, with the City getting credit for any expenses spent on the structure that were not funded by grant dollars. If the structure sells for less than \$60,000 the County still has to agree to proceed with the sale, even if they are notified by a letter from the City Council.

Franz Holscher, City Attorney noted that any sale would have to go through some statutory process, i.e. upset bid process, and the proceeds from the sale would come to the City. WHDA would be acting as a sales/marketing agent for the City.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council authorized the WHDA to proceed with offering old City Hall for sale on behalf of the City and to bring the offer back to the Council to begin the sales process.

MEMO – CONTRACTS FOR PETROLEUM PRODUCTS

<u>Item</u>	<u>Petroleum Product</u>	<u>Taylor Oil</u>	<u>Seeco-Eastern</u>	<u>Pitt Country Mart</u>	<u>Petroleum Traders</u>	<u>Man sfield</u>	<u>F. Ray Moore</u>	<u>Potter Oil & Tire</u>	<u>Sampson -Bladen</u>
1	Gasohol, E10, (Transport)	no bid	no bid	\$3.3087	\$3.3025	no bid	\$3.3682	\$3.3122	no bid
2	Gasoline 87 Octane (Tankwagon)	no bid	no bid	\$3.5268	no bid	no bid	no bid	no bid	no bid
3	Diesel 40 Cetane (Tankwagon)	no bid	no bid	\$3.4784	no bid	no bid	\$3.6538	\$3.4634	no bid
4	B20 Bio-Diesel (Transport)	no bid	no bid	\$3.2243	\$3.4500	no bid	no bid	\$3.3104	no bid
5	Kerosene 1-K Grade (Tankwagon)	no bid	no bid	\$3.6290	no bid	no bid	no bid	\$3.7890	no bid

The purpose of this request is to inform Council of contract commitments for petroleum product requirements for the City from July 1, 2011 through June 30, 2012.

Contract awarded as follows:

	<u>Vendor</u>	<u>OPIS</u>	<u>Margin</u>	<u>Cost per Gallon</u>	<u>Estimated Usage</u>
A.	<u>Potter Oil & Tire</u> Diesel 40 Cetane (Tankwagon)	\$3.2784	\$.185	\$3.4634/gal	\$462,363.90
B.	<u>Pitt Country Mart</u> B20 Bio-Diesel (Transport)	\$3.1774	\$.0469	\$3.2243/gal	\$257,944.00
	Gasoline 87 Octane (Tankwagon)	\$3.2768	\$.25	\$3.5268/gal	\$ 7,053.60
	Kerosene 1-K Grade (Tankwagon)	N/A	N/A	\$3.6290/gal	\$ 4,717.70
C.	<u>Petroleum Traders</u> Gasohol, E10 (Transport)	\$3.2768	\$.0257	\$3.3025/gal.	\$660,500.00
TOTAL					\$1,392,579.20

Price fluctuations will be governed by the bid margin above or below the OPIS Average Rack price for the commodity on the day May 4, 2011 at Selma, NC. The City will pay the Average Rack price for the commodity on the day of delivery plus or minus the margin bid on May 24, 2011.

MEMO – PAVING REQUEST FOR PORTION OF WEST 12TH STREET – WAYNE HARRELL (request removed by applicant)

MEMO – SIDEWALK REQUEST ALONG THE 700 BLOCK OF WEST 15TH STREET – MS. DOROTHY CIVILS

(begin memo from Allen Lewis, Public Works Director) We are in receipt of a letter, copy attached, from Ms. Dorothy Civils of 120 Mayo Drive regarding this subject. For clarity, the location Ms. Civils is referring to is the southwest quadrant of the intersection of 15th Street and Washington Street or, directly across 15th Street from the Goodwill store. In order to construct a sidewalk at this location, an easement would be required because there is not sufficient street right of way to install a sidewalk behind the curb along 15th Street. As you are aware, 15th Street is a state maintained road so, if you wish to proceed with this request, some amount of coordination would be required with NCDOT. I have made initial contact with them and am waiting on replies. In the meantime, we ask for your direction in regards to this request. (end memo)

MEMO – UPDATE ON HAVENS GARDENS BOAT RAMP

(begin memo from Philip Mobley, Parks and Recreation Director) I have been in contact with the N C Wildlife Resource Commission about their proposed upgrade to the Havens Gardens Boat Ramp site. They are in the process of obtaining the Major CAMA Permit for their construction on Runyon Creek from NCDENR. They informed me of their timetable, which will be starting in October 2011 after the heavy boating season, in order for less of a conflict in that parking area. (end memo)

MEMO – UPDATE ON FESTIVAL PARK

(begin memo from Philip Mobley, Parks and Recreation Director) WIMCO is now telling us their contract on Phase I should be complete during the second week in June. After WIMCO's completion, of the Picnic Shelter, Performance Stage and Grasscrete Drive/Walkway surfaces, the Washington Garden Club will assist with planting materials around the new facilities.

Phase II design work is almost complete. At the July regular City Council Meeting, you should have a contract, for your approval, to start construction of the proposed restrooms and walkways, which may be concrete or Grasscrete, bench areas with trash receptacles, landscaping beds, additional large trees along with a site irrigation system for the great lawn and the landscape beds.

The Gary Tomasulo Playground site prep has started. Fifty percent of the playground equipment has arrived. We will continue to work on site prep by pruning dead limbs off the three trees by the playground location and staking out the location of equipment. We will continue to work on constructing the playground site as Phase I and II continue.

We have started meeting collectively with groups (WHDA, Chamber, Arts Council, Rec. Advisory, Festival Park Design Committee, Estuarium, Police Dept., Fire Dept., WTDA) to get input for the development of a user policy that can be recommended to the Washington Recreation Advisory Committee and then recommended to City Council for the best use of Festival Park area. The user policy will cover the types of activities allowed and operation hours, fees for profit and nonprofit, location for tents, types of cookers, vendors, vehicle types and use, location and movement of vehicles. This policy may have to be included in the City Code for the protection of the waterfront, park lands/facilities and other public amenities in order for City Staff (Police, Fire, Public Works, Pks & Rec. etc.) to have direct control of the site (for public/facility safety). All events would continue to be routed through the Special Event Policy, handled by the Event & Facilities Manager located at the Pks & Rec Administrative Office, Suite 200, 310 West Main Street, in the Peterson Building. (end memo)

MEMO - UPDATE ON ARMY CORP OF ENGINEERS RESCINDING CAMA PERMIT CONDITIONS

(begin memo from Philip Mobley, Parks and Recreation Director) As you know, The Parks and Recreation Department has been tediously trying to build new docks. Many obstacles have come and we have been working through each one as they have presented themselves. One such obstacle threatened funding, availability of completed docks and design just to name a few. This was the condition that was placed on the Major CAMA permit, by the Army Corps of Engineers, disallowing boats on the outside of the new T Docks (within the Setback area). The reason cited (from a comment made by the US Coast Guard) was a significant concern for safety in the Navigational Channel. The Channel within the "Inner Harbor" (between the bridges) is 200' wide with a Setback area of 50' on either side of the Channel for a total of 300'. On either side of the two bridges, the Channel width is 100'.

February 24, 2011 Bay Design Group published "A Study of Boat Traffic Conditions, Washington Harbor, Washington, NC". "This study quantifies boat traffic Levels-of-Service using highway traffic

volume and capacity methods. This study also quantifies the channel capacities and then considers actual and hypothetical boat traffic volumes compared to the channel capacities.” * This study shows that using these recognized methods to evaluate boat traffic congestion, there is not a boating congestion problem in the Inner Harbor of Washington.

On March 10, 2011, Bill Forman, Jr. P.E., Bay Design Group, submitted this study along with a “Request for Appeal or Objection”, to the conditions placed on the Major CAMA Permit of disallowing boats to be docked within the setback area, to Col. Jefferson Ryscavage, Commander, US Army Corps of Engineers, Wilmington District.

On March 28, 2011 Tracey Wheeler, US Army Corps of Engineers, Washington Regional Office, telephoned me to give me the good news! On April 11, 2011 an amended CAMA permit was issued with the condition (# 12) removed, allowing boats to dock on the outside of the T Docks within the setback area.

I would like to take this opportunity to thank Bill Forman, Jr., P.E. for his persistence, patience, thoroughness and efficiency in bringing this issue to such a favorable conclusion. I would also like to thank all of you for your continued support. (end memo)

MEMO – UPDATE ON KUGLER FIELD

Councilman Pitt inquired which teams used Kugler Field. Mr. Mobley stated the Church leagues and Junior Babe Ruth teams use the field. He has been in contact with the school regarding remodeling the Kugler Field concession stand and the Leagues are operating out of that concession stand. Remodeling efforts will continue.

(begin memo from Philip Mobley, Parks and Recreation Director) On May 13, 2011 Mr. Franz Holscher, City Attorney, received a letter from Mrs. Kim Edwards, Attorney to the BC Board of Education, informing the City that we had 30 days to respond to their letter about the “Neil Weeks Memorial”, the Concession/Restrooms located behind the baseball field backstop screen. The BC Board of Education deemed this facility to be unsafe for the Adult Church League to use for restrooms or concessions this season. This came after the BC Board of Education school maintenance personnel and a parks and recreation maintenance staff member did the yearly inspection of Kugler Field as per the Joint Use Agreement.

We are looking into ways to replace the roof, replace sills under front porch cover, replace any rotten boards, replace wooden restroom stalls, paint the insides in both restrooms and remove the bats (flying type). There is a volunteer effort going now by friends and classmates of Neil Weeks, the Adult Softball League, support of historical Kugler Field and volunteers within the community to save this facility at Kugler Field. The BC Board of Education said that if the City wants to use this facility, the City will have to bring it up to standard or the “Neil Weeks Memorial” would be demolished by the BC Board of Education.(end memo)

MEMO – COMMUNITY BRANDING PROJECT

(begin memo from Lynn Lewis, TDA Director) For the year there has been considerable discussion related to the community brand for Washington. The Washington Tourism Development Authority promotes Washington to visitors as the “heart of the Inner Banks.” Other references to the community used by various organizations include: ‘original” Washington, waterfront capital of North Carolina, where the rivers meet the sea. However, none of these references, including heart of the Inner Banks, was coined based on stakeholder audience input.

The City of Washington, WTDA, Washington-Beaufort County Chamber of Commerce, and the Washington Harbor District formed a committee to review the options available for the implementation of a community brand strategy. After a review of several organizations who conduct such a service, the group has determined that Eye Integrated Communications based in Greenville, NC offers the best solution for our multi-faceted branding needs.

The WTDA needs a community brand to promote the community to an external visitor audience, the City needs a community brand to add value for its residents and businesses. The Washington-Beaufort County Chamber of Commerce envisions a brand that will show a comprehensive approach to building a more vibrant business community. The Washington Harbor District Alliance needs a brand to encapsulate the uniqueness of the Washington’s Main Street and downtown for its business owners and

visitors. While each of these organizations has a different mission, all are committed to building and promoting Washington as a place to live, work and play. Eye Integrated Communications has been winning awards for Washington for the past seven years and the marketing agency for the WTDA. Their award winning works include the historic walking tour book, postcard fulfillment package, website (www.visitwashinetonnc.com), and magazine ad campaign. They are also responsible for the new billboard campaign along Highway 17 that is getting a lot of attention.

The group appointed to review community branding liked the idea of working with a company that was located nearby, but also one with a reputation for quality work. Eye Integrated has proposed an approach very similar to that used by Land Design when developing the latest downtown master plan. Audience input will be key to the process. Various methods, include charrettes and surveys, will be used to collect impressions and input from key audiences. The final result will be a comprehensive brand and key implementation strategies that can be incorporated by each organization in its line of work. In this branding process it will be important that community members understand that a brand is so much more than a logo. It has been described as “what people say about you when you are not around.” The committee is presently working to secure a date to meet with Eye Integrated again to address key points in the proposal, identify a timeline, and assign next step tasks. (end memo)

MEMO – ASBESTOS SITE INSPECTION TRANSFER

The Budget Officer transferred \$3,200 of funding between divisions of the General Fund to complete an asbestos site inspection of City Hall.

HUMAN RELATIONS COUNCIL

Update Shelter for Women and Children & Domestic Violence -Executive Director of Washington Housing Authority Inc, Marc Recko presented the following:

Group of individuals and agencies that are making an effort to re-establish a shelter:

- * Faith Based Community
- * Washington Housing Authority
- * Washington Housing Nonprofit, Inc. (potential owner)
- * Human Relations Council
- * A number of individuals in the area

The Vision Statement is to create and sustain a safe haven of short term emergency housing for women and children from Beaufort and Martin Counties in a shelter home located in Washington, North Carolina. Mr. Recko discussed the following:

- * The unmet need in Beaufort County
- * The two alternatives for referring families in crisis
- * Proposed program
- * Purchase of property
- * Operating budget

Question & Answers Session:

What happens when someone is a victim of domestic violence? Referred to Pitt County (majority of the time they are full) with transportation being an issue. Source of funding (any funds now from local government) Where to seek funding? Federal funds not coming in and doubtful about any State funding (no funds locally). Private funding and support from any faith based organization (budget crunch for local government so funding is doubtful). Consider a presentation to the United Way. > What would be the incentive for the private investor -what’s the return on investment? This information was available when the “Options” site was located here. What happens to our homeless men since this shelter will be for women and children only? Zion Shelter takes care of the men. The Zion Shelter was funded by the Inter-church Fowm consisting of approximately 24 churches. Mr. Recko noted this is a work in progress and it was suggested that Board members attend some of the local government budget sessions.

Update Multicultural Festival Board member Castro presented the following:

Mr. Rod Bradley, Director, LWCC Programs East Carolina University has officially committed to the festival ECU is willing and agrees to provide transportation for their performers Dancer’s tentative plan

- > Volunteers
- > Sponsorships

Reschedule Fair Housing Forum Tentative dates: June 16 & June 23, 2011

Update Project Next Step Ms. Corbett shared Project Next Step summer program will be starting in June and will be centered on gang prevention. National Night Out will be held in August.

Discuss Amending By-Laws & Agenda Format

Discuss All reminders

FINANCIAL REPORTS

Council accepted the report as presented.

APPOINTMENTS – TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES **{REC. ADVISORY BOARD, BOARD OF ADJUSTMENT, TOURISM & LIBRARY}**

By motion of Councilman Davis, seconded by Councilman Moultrie, Council reappointed Audrey Woolard(inside), Ann Ange(outside) and Arnold Barnes(inside) to the Recreation Advisory Board with terms to expire June 30, 2014.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council reappointed Steve Fuchs as an Alternate Member to the Enlarged Board of Adjustment(subject to the concurrence of the Beaufort County Board of Commissioners); Paula McCullough to the Board of Adjustment; Marion Ore as an Alternate Member to the Board of Adjustment terms to expire June 30, 2014.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council reappointed David Gossett Washington Tourism Development Authority term to expire June 30, 2014.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council reappointed Mayor Pro tem Bobby Roberson as the Council representative to the Washington Tourism Development Authority.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council appointed Yvonne Saleem to the Board of Library Trustees, to fill the expiring term of Susan Murrell, term to expire June 30, 2017.

*The remainder of the appointments will be made at the Committee of the Whole meeting on June 27th.

AUTHORIZE – MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT **TO PERFORM ENGINEERING SERVICES NECESSARY FOR THE MAIN AND** **RESPESS STREET LIFT STATION REPLACEMENT PROJECT**

Pete Connet, Interim City Manager stated that as discussed numerous times over the last several months, including in memorandum form at the April 11, 2011 Council meeting, we have been awarded funding in the form of a low interest loan from the Division of Water Quality (DWQ). The attached agreement will provide for all engineering services necessary to see the project through its completion. This project was listed in the CIP and is proposed in the FY 11-12 budget. If the award is made tonight, no expenditures will take place until July 1, 2011.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council authorized the manager to enter into a professional services agreement with Rivers and Associates, Inc., to perform engineering and other services necessary for the Main and Respepp Street lift station replacement project, effective July 1, 2011.

ADOPT – ELECTRIC RATE SCHEDULES

(memo from Keith Hardt, Electric Director)During the fiscal year 2011-12 budget discussion in May the City Council directed staff to amend the existing Residential Electric Service Schedule for electric service to include electric service delivered only to residential customers located outside the corporate limits of the City of Washington to be billed on or after 1 July 2011 at the same billing determinants as those determinants prior to 1 July 2011. In addition, the City Council directed staff to develop a new Residential Electric Service Schedule to reflect a 5% reduction in current billing determinants for electric service to include electric service delivered only to residential customers located within the corporate limits of the City of Washington for electric service billed on or after 1 July 2011. The reduction in electric sales revenue of \$348,286 associated with this rate adjustment has been included in the proposed Electric Fund fiscal year budget for 2011-12.(end memo)

Councilman Mercer reviewed his calculations regarding the 5% electric rate reduction. Mr. Hardt noted he reduced the rate determinates by 5%. Councilman Mercer suggested the numbers be reviewed and revisited at the Committee of the Whole meeting.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council continued the adoption of the electric rate schedules until the Committee of the Whole meeting on June 27th.

APPROVE & AUTHORIZE – THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR PHASE I FESTIVAL PARK TO WIMCO FOR A NEW CONTRACT AMOUNT OF (\$126,910.45)

Philip Mobley, Parks and Recreation stated the Festival Park Planning Committee asked Mark Smith, Project Architect, to review the need for additional electrical outlets for stage lighting at the light bar. This change is now being recommended at a cost of \$861.30. A second review was done for the removal and reinstallation of storm pipes at the performance stage to allow for drainage of excess ground water. This recommended change totals \$349.15. We believe that the \$1,210.45 cost of the two change orders can be absorbed in the current construction line item budget and are not recommending an appropriation of contingency at this time.

Original Contract Price	\$ 125,700.00
Change Order	\$1,210.45
New Contract Price	\$126,910.45

Councilman Mercer expressed concern over the work being done prior to the change order being approved. Mr. Mobley stated the changes can be absorbed in the current budget.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council approved and authorized the City Manager to execute a Change Order in the amount of \$1,210.45 to WIMCO for a new contract amount of \$126,910.45.

Mr. Mobley advised Council of some upcoming change orders that will need to take place in the next week or so. The architect will need to be paid for change orders, WIMCO will install four PVC 4:" pipes under grasscrete so when irrigation system is installed in Phase 2, the lines can be slid in the pipe instead of tearing up grasscrete for installation. Councilman Mercer stated he was ok with the changes as long as it is less than \$10,000.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council approved the change orders that will need to occur next week to include paying the architect for change orders, and WIMCO's installation of four 4" PVC pipes under grasscrete at a cost not to exceed \$10,000.

APPROVE & AUTHORIZE – THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR THE 2008 BIG- P DOCK CONTRACT IN THE AMOUNT OF (\$24,500) TO TD EURE FOR A NEW CONTRACT AMOUNT OF (\$329,900)

Mr. Mobley explained that he and Bill Forman, the Bay Design Group Project Engineer met with the TD Eure Contractor on the 2008 BIG-P dock project. We discussed and are recommending removing Add Alternate 1 (\$22,000), the removal and disposal of approximately 2450 sq. ft. of treated timber decking on Docks A & B and replace it with 2 x 8 treated timber decking. We likewise recommend deleting Add Alternate 2 (\$2,500), the removal of existing utility pedestals on Docks A & B and resurfacing of fiberglass gel coat with marine paint products.

The purpose of this change order is to change the project scope of work and reduce the contract price. The Engineer and the Contractor agree with this reduction in scope of work.

Original Contract Price \$ 354,400
Change Order reductions (24,500)
New Contract Price \$ 329,900

The \$24,500 savings realized by the above change order will be used to cover additional expenses associated with the mobilization and geotechnical investigation.

Mayor Pro tem Roberson requested that the Attorney review the contract with T.D. Eure. Mayor Jennings explained that the plan is to remove some scheduled board replacements in the original contract and use those savings from that against staying inside the total budgeted amount. The savings will pay for the Geotechnical report for pilings and to pay for the barge from T.J. Marina. Council

discussed the conflicts with TD Eure. TD Eure plans to finish the job and not default on the job, although the contractor feels the job he is doing is greater than the job he bid on. Once he finishes the job, he will have a claim against us for additional funding. Mr. Mobley feels the claim would be against the engineering firm, not the City. The claim could cost up to an additional \$48,000.

Councilman Mercer voiced concern over the project becoming an opened ended project and we should “pull the plug” on the project. Councilman Mercer stated the contractor had the opportunity before he submitted his bid to acquire any additional data he felt necessary prior to submitting his bid and he did not do that. Mr. Holscher stated Council needs to ask themselves if they want to move forward with a contractor and project knowing there is a risk of an additional \$48,000 claim. Mr. Mobley agreed with Councilman Mercer and acknowledged he has been very concerned with this entire project. We would have to turn in the \$200,000 federal grant and possibly the \$50,000 bathroom grant if we stopped this project. Mr. Holscher stated if you don’t take out the change orders this involves an additional \$72,000 claim this could go to mediation and possibly a lawsuit.

Mr. Mobley stated that in March the BIG-P grant was extended to January 31, 2012. Mr. Holscher suggested staff contact the granting agency regarding de-obligating the funding. Teresa Hamilton stated they have done so, and the granting agency explained we would probably not receive future funding. Mr. Holscher discussed the terms of the contract referring to “termination of contract for convenience”. Mr. Mobley stated the contractor has been paid for all work to date.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized the City Manager to execute a change order in the amount of (\$24,500) for the 2008 BIG-P dock contract with TD Eure for a reduced new contract amount of \$329,900. Councilman Mercer opposed the motion.

Council discussed the various options regarding the BIG-P grant relative to piers/boat docks.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council voted to terminate the BIG-P project on the construction of additional piers/boat docks and pay the bills to date. Voting for the motion: Pitt, Moultrie, Roberson, Mercer; against: Davis. Motion carried, 4 to 1.

Councilman Davis inquired as to what was the chance of the City losing the claim from the contractor for additional funds? Mr. Holscher stated he felt the City has a strong argument, but do you want a disgruntled contractor working on this project. Councilman Moultrie and Councilman Pitt agreed we should get out of the contract if we can. Councilman Mercer suggested we may want to review the proposal again from Fred Watkins regarding boat docks/piers.

Recess 7:20pm-7:30pm

ADOPT – ORDINANCE CONDEMNING THE STRUCTURE LOCATED AT 603/605 PARK DRIVE AND AWARD THE DEMOLITION CONTRACT

John Rodman explained that the governing body of the City may adopt and enforce ordinances relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety. The minimum standards address conditions that are dangerous and injurious to public health, safety and welfare and identify circumstances under which a public necessity exists for the repair, closing or demolition of such buildings or structures. If after a notice and hearing the Code Official determines that the property has not been properly maintained and failed to meet minimum standards an order is issued to require the owner to demolish and remove the building or structure. The owner (s) of the subject property has failed to respond to the request by the Senior Building Inspector to bring the structure into compliance. Therefore, it is recommended that an Ordinance be adopted to remove the structure and fill material located at 603/605 Park Drive.

By motion of Councilman Mercer, seconded by Councilman Davis, Council adopted the ordinance condemning the structure located at 603/605 Park Drive as unsafe and demolish and remove the structure and fill material. Councilman Moultrie voted against the motion. Motion carried, 4 to 1.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council awarded the demolition contract to the lowest responsible bidder, T.J.’s Marine Construction LLC in the amount of five thousand dollars paid to the City (-\$5,000).

Mr. Holscher stated the NCGS 160A-426 deals with unsafe structures and provides that when a structure is forced to be demolished because the owner doesn't respond then the cost of the demolition becomes a lien against the property. You are also required by statute to sell any materials that can be sold and those proceeds are credited against the demolition cost. In this situation we had the contractor tell us he would pay us in excess of what it would cost to tear down the structure. The money is deposited to the Clerk of Court who will distribute those funds accordingly.

**AN ORDINANCE FINDING THAT THE BUILDING AND PROPERTY DESCRIBED HEREIN
IN THE CITY OF WASHINGTON IS CONDEMNED AS UNSAFE AND DIRECTING THAT IT
BE DEMOLISHED**

WHEREAS, the City Council of the City of Washington finds that the structure and property having an address of 603 and 605 Park Drive, Washington, North Carolina and being owned by Love Faith and Victory Mission, International, Inc. d/b/a/ Love Faith & Victory, Inc. are condemned as, among other things, unsafe pursuant to North Carolina General Statute § 160A-426 and that all applicable statutory provisions have been complied with as a condition of the adoption of this Ordinance.

WHEREAS, the structure and the fill material located on said property should be demolished and removed as directed by the Senior Building Official for, among other things, the reasons stated by the Senior Building Official in his February 15, 2011 Notice of Decision that was served on the property owner(s).

WHEREAS, the owner(s) of the structure and property have been given a reasonable opportunity to bring the structure and property into compliance with the applicable standards of the City Code as well as State statute in accordance with North Carolina General Statute § 160A-426 as well as pursuant to the Order issued by the Senior Building Official in said Notice of Decision.

WHEREAS, said owners have failed to comply with said Order.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Washington as follows.

Section 1. The Senior Building Official is hereby authorized and directed to proceed to demolish and remove the above described structure and fill material located at 603 and 605 Park Drive in accordance with applicable provisions of the City Code and North Carolina General Statute § 160A-426 *et seq.*

Section 2. The cost of the demolition and removal of the structure and fill material shall constitute a lien against the real property upon which the cost was incurred as provided in North Carolina General Statute § 160A-432.

Section 3. This Ordinance shall be recorded in the Office of the Register of Deeds of Beaufort County, North Carolina.

This Ordinance shall become effective on this date of adoption June 13, 2011.

ATTEST:

s/CYNTHIA BENNETT,CMC
CITY CLERK

s/N. ARCHIE JENNINGS, III
MAYOR

Bids Submitted:

T.J.'s Marine Construction LLC	(-\$5,000) \$5,000 paid to City of Washington
Steve Steiner	(-\$4,000) \$4,000 paid to City of Washington
St. Clair Trucking, Inc.	(-\$100) \$100 paid to City of Washington
CC & G Inc.	\$23,900

If the structure is removed or demolished by the City, the City shall sell the usable materials of the building. The City shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court and shall be disbursed by the court to the person found to be entitled thereto.

AUTHORIZE – INTERIM CITY MANAGER TO ENTER INTO AN INTERIM AGREEMENT FOR FBO OPERATION – MONTH TO MONTH EXTENSION

Pete Connet, Interim City Manager explained that negotiations are still underway for arrangements to operate Warren Field Airport upon expiration of the current Lease, License and Managerial Agreement with Tradewind Aviation, LLC on June 30th. At this same time, the City also is attempting to determine what direction it needs to take and how to structure any agreements that are related to that direction. In any event, it is unlikely that any new long-term agreement(s) will be finalized prior to June 30, 2011. As a result the City Staff is asking permission to enter into some sort of temporary agreement with Tradewind to bridge the period between the expiration of the current agreement and the implementation of any new agreement(s).

Toward that end, please find attached draft red-line version of a Lease, License and Managerial Agreement Extension (Extended Agreement) that would extend, with some revision, the terms of the current agreement on a month to month basis. We had contemplated a 90-day extension, but month to month is the recommendation from FAA, through the Division of Aviation. It should be noted that the City has received some informal, preliminary feedback from the Division of Aviation. This informal, preliminary feedback contains possible recommendations of letting the current agreement expire; undergoing a public request for proposals process; separating the airport management agreement from all contracts and leases with fixed base operators; and, if a fuel price guarantee is contemplated, requiring the recipient of the guarantee to buy a certain, minimum number of gallons, allowing everyone else to receive the same opportunity, and revising the Rules and Regulations for the Airport to incorporate any such fuel price guarantee. Staff recommends the granting of a Month to Month extension of the agreement between Tradewind Aviation and the City of Washington while discussions continue between the parties, and the FAA/NC Division of Aviation.

Thomas Dolder came forward and stated he has operated the airport for 4 ½ years and offered his support with the RFP process by submitting his application, but will continue to manage the airport until the RFP process is complete.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council authorized the Interim City Manager and City Attorney to negotiate, finalize, and enter an Extended Agreement with Tradewind Aviation so long as the final agreement does not require any additional financial obligation from the City and so long as the Extended Agreement is consistent with guidance/direction from the Division of Aviation.

**NORTH CAROLINA
BEAUFORT COUNTY**

THIS LEASE, LICENSE, AND MANAGERIAL AGREEMENT EXTENSION (“Extended Agreement”) is made effective as of the 1st day of July, 2011, by and between the **CITY OF WASHINGTON**, a body politic and corporate under Chapter 160A of the North Carolina General Statutes, (“City”) and **TRADEWIND AVIATION INTERNATIONAL, LLC**, a North Carolina Limited Liability Company (“Operator”).

WITNESSETH

WHEREAS, the parties hereto previously entered into a Lease, License, and Managerial Agreement dated January 16, 2007; a First Amendment to Lease, License and Managerial Agreement effective as of January 16, 2008; and a Lease, License, and Managerial Agreement (“Current Agreement”) effective as of July 1, 2010, all of which concerned the operation and management of Warren Field Airport (“Airport”).

WHEREAS, the Current Agreement has expired or will expire on June 30, 2011.

WHEREAS, the parties desire to enter this Extended Agreement in order to maintain continuity in the provision of certain operational and managerial services that Operator has heretofore provided until such time as the City can finalize a long-term arrangement for the provision of such services.

WHEREAS, the City is the owner of the Airport, with improvements thereon, which is located in Washington Township, Beaufort County, North Carolina and desires to contract with Operator to lease certain portions of said Airport as well as provide certain operational and managerial services at the Airport.

WHEREAS, Operator desires to lease certain portions of said Airport as well as provide certain operational and managerial services at the Airport.

WHEREAS, Operator has represented that it is fully capable of performing the operational and managerial services described in this Extended Agreement and the City has relied on such representation to select the Operator to perform this Extended Agreement.

NOW THEREFORE, pursuant to Chapter 63 of the North Carolina General Statutes, including but not limited to North Carolina General Statute § 63-53 and other relevant statutory authority, and for and in consideration of one dollar (\$1.00), the mutual covenants herein, valuable consideration paid and to be paid, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties agree as follows.

ARTICLE I
LEASED PREMISES

The City hereby grants unto Operator the exclusive use of the nonpublic space of the building known as the Terminal Building as well as the exclusive use of the Terminal Building Annex. Operator accepts said areas and buildings in their present condition and, during the term of this Extended Agreement, agrees to maintain the interior appearance and cleanliness of such buildings in their present condition, ordinary wear and tear excepted, and, upon termination of this Agreement, to surrender said buildings in as good condition as the same now are, ordinary wear and tear excepted. It is understood by the parties hereto that the major structural and maintenance aspects of said buildings shall remain the responsibility of the City.

ARTICLE II
USE OF LEASED PREMISES

1. Terminal Building. Operator shall adequately staff and operate the Terminal Building Monday through Sunday, with a minimum of forty (40) hours Monday through Friday, a minimum of eight (8) hours on Saturdays and Sundays, and an opening every day at 8:00 a.m. Operator reserves the right to specify operating hours and to close for holidays and inclement weather as needed after proper consultation with the City.

2. Terminal Building Annex. Unless otherwise agreed to by the parties, Operator shall occupy the Terminal Building Annex. Operator may utilize the Terminal Building Annex for, among other things, a parachute rigging facility, classroom facility, and/or for flight school instruction.

3. In the event Operator rents the Terminal Building Annex or said nonpublic space of the Terminal Building, it shall remit five percent (5%) of any such rental amounts received to the City.

ARTICLE III
MANAGEMENT SERVICES

1. Subject to the general direction and approval of the City and/or the City's Manager, Operator will operate, manage, direct, and supervise the ongoing operation of the Airport from and after the effective date of this Extended Agreement, including without limitation the following.

- A. Except as specifically provided for hereinafter, Operator shall have the day to day management duty and supervisory responsibility for the Airport and provide and manage all Airport services, staff, and activities except those provided by other operators and major maintenance of runways, taxiways, fields, and hangars as more specifically excepted hereinafter.
- B. Operator shall hire full time employee(s) and part time employee(s) as appropriate or necessary in order to conduct its management services and maintain regular, customary hours of operation.

- C. Operator shall manage and maintain all t-hangars currently present or hereafter erected on the Airport. In compensation for this particular service, Operator will receive five percent (5%) of all rental receipts received by the City for such t-hangars occupied by tenants. The maintenance contemplated hereunder shall be limited to minor maintenance. It is understood by the parties hereto that the major structural and maintenance aspects of said t-hangars shall remain the responsibility of the City.
- D. Operator shall manage and maintain all tie-down spaces currently present or hereafter provided for on the Airport. Specifically, Operator shall establish reasonable rules, procedures, prices, and other terms by which said tie-downs are let, consistent with the applicable Rules and Regulations of the Airport. Operator shall remit all amounts received for the occupancy of said tie-downs to the City. In compensation for this particular service, City shall pay Operator twenty-five percent (25%) of all amounts so collected.
- E. Operator shall at all times supervise and coordinate the activities of its employees and contractors in order to keep and maintain all public rooms and Terminal Building and Terminal Building Annex facilities of the Airport in a proper and clean condition for the accommodation of passengers, visitors, and others rightfully on the Airport. Operator shall also be responsible for maintaining the grounds immediately adjacent to the Terminal Building and Terminal Building Annex in a presentable manner such that the same will have a pleasant appearance.
- F. Operator shall at all times supervise and coordinate the activities of its employees and monitor contractors' activities relating to the maintenance and upkeep of safety devices for aeronautics, aeronautical aids, safety equipment, and other devices and equipment for the safe use of the Airport.
- G. Operator shall work with the City to develop and maintain short and long range planning as well as recommend appropriate policies to the City.
- H. Operator shall participate in the development and administration of the annual capital and operating budgets for the Airport.
- I. Operator shall coordinate Airport activities with those of other City divisions, departments, outside agencies and organizations. Operator shall recommend capital equipment purchases and replacement.
- J. Operator shall stay abreast of new trends and innovations in the field of Airport management and periodically present a report concerning the same to the City and/or City Council.
- K. Operator shall respond appropriately and responsibly to inquiries and complaints regarding the Airport and will involve the City when necessary.
- L. Operator shall represent the Airport to City departments, elected officials and outside agencies as well as assist the City in explaining and interpreting Airport programs, policies, and activities. Operator shall maintain a working relationship with the Federal Aviation Agency (FAA),

- the North Carolina Division of Aviation, and other regulatory agencies as well as provide the City with copies of any correspondence from and to the FAA, the Division of Aviation, or other regulatory agencies that concern the Airport.
- M. Operator shall prepare and update policy and procedure manuals as necessary. It is understood by the parties hereto that the City has established Rules and Regulations for the Airport. Operator shall be consulted prior to any anticipated amendment of the same and Operator shall recommend any amendment it deems worthy of consideration.
 - N. As may be more specifically provided for hereinafter, Operator shall adhere to safe work practices and procedures.
 - O. Operator shall support the City in advertising or other business solicitation and promotional activities as well as business policies in cooperation with the City. Expenses related to promotional activities implemented solely by the City shall be borne by the City.
 - P. Except for activities performed by other operators, Operator shall monitor the work performed and services rendered by service providers under contract with the City at the Airport.
 - Q. Operator shall recommend pricing and packaging for City services and products at the Airport.
 - R. Operator shall provide and maintain at least one courtesy vehicle at the Airport for limited use by transient pilots.
 - S. The Operator shall provide qualified personnel to operate the Airport's aviation related communications systems and services during regular business hours of the Operator.
 - T. Operator shall keep or cause to be kept complete records of the business conducted or transacted in relation to the Airport and any additional records reasonably requested by the City and, upon request of the City, provide any such records or reports required by the City, City Council or its Manager. Nothing in this Extended Agreement, however, shall be construed to permit the City to copy documents of Operator that contain trade secrets or attorney-client privileged information. Operator shall provide statistical records related to the operation of the Airport to the City on a regular basis.
 - U. The City shall provide Operator, at no cost, the right to use the hangar commonly referred to and known by the parties as the maintenance hangar as long as said maintenance hangar is not being used, or is not needed by, the City or so long as the City has not contracted with an aircraft maintenance operator for its use. Said use by Operator shall be at will and may be terminated in the City's sole discretion. Said use shall be solely for the purposes of storing aircraft owned by Operator and used by Operator to perform the services and activities provided for herein. Operator accepts said maintenance hangar as is. Operator shall be responsible for routine maintenance and repair obligations that might arise, including the obligation to keep the hangar and its grounds in a clean and orderly

manner and appearance. The parties understand that the City has no maintenance obligation whatsoever in regard to said maintenance hangar.

2. The parties hereto recognize and acknowledge that the City is currently a party to various leases of the Airport property and nothing herein shall be construed to affect the City's rights, obligations, or benefits controlled or derived from the same except as specifically provided for hereunder. The City reserves the right to further develop or improve the Airport property, facilities, and improvements thereon and enter into additional leases and/or contractual relationships, including leases and/or contracts with other operators so long as the same do not have the effect of putting Operator at a competitive disadvantage.

ARTICLE IV
FUELING SERVICES

1. The City grants Operator the non-exclusive right to sell retail aviation fuel, aviation engine oils, aviation lubricants, and other aviation petroleum products. Operator shall manage and operate the existing fuel farm, including the self service fuel component thereof, utilizing any equipment currently owned by the City and located on the Airport, but shall be responsible for contracting for any such further equipment necessary for such operation.

- A. Unless otherwise agreed upon, the City shall purchase all aviation fuel to be dispensed at the Airport by the Operator or through self service. Operator shall be responsible for keeping detailed records of such fuel sales. All payments for such fuel sales shall be made directly to the City, either by check, credit, or monthly account. The City shall rebate a sixty cents (\$0.60) per gallon markup to the Operator for all fuel sales. Upon negotiation with and approval from the City, Operator may receive the right to assume responsibility for the purchase and sale of all aviation fuels.
- B. Before any renewal of fuel supply contracts, the City and the Operator shall mutually agree on the selection of any future fuel supplier to the extent permitted by law. The final decision on the fuel supplier shall be made by the party who purchases and sells the fuel.
- C. Fuel price policy. As long as the City assumes the responsibility for the purchase and sale of all aviation fuels, the City shall have, after consultation with the Operator, the right to specify the sales price of the fuels to the public. If the Operator receives the right to assume responsibility for the purchase and sale of all aviation fuels, the Operator shall have, after consultation with the City, the right to specify the sales price of the fuels to the public.
- D. If the City assumes the responsibility for the Jet-A fuel truck service, including lease, or provides a replacement for such service at its expense, the rebate to Operator shall be renegotiated.
- E. Notwithstanding the foregoing, Operator shall pay the City a ten cents (\$0.10) per gallon markup above the supplier's delivered invoice price

including FET and NC Inspection Fee for all aviation fuel obtained by Operator for Operator's business.

2. The City may grant a subsequent operator the similar right as granted to Operator hereinabove in this Article IV so long as the same does not have the effect of putting Operator at a competitive disadvantage.

ARTICLE V
OTHER OPERATIONS

1. Subject to the terms of this Extended Agreement, the City grants to Operator the non-exclusive privilege to operate, conduct, and perform the following services at the Airport.

- A. Operator shall provide, among other things, at least two planes and one instructor to conduct flight training.
- B. Operator shall provide, among other things, introductory flights, a fueling operation, a fuel price policy, flight school, pilot shop, and a parachute/sky diving program. Operator shall also seek collaboration with Beaufort County Community College to begin an aviation program. Operator shall use its best efforts to provide an air charter operation and conduct contract flying.
- C. Operator will use its best efforts to offer flight training under 14 CFR Part 141, glider training, training for the sport pilot certificate, and aircraft maintenance including avionics services (possibly in conjunction with an existing avionics company). Operator also will use its best efforts to provide certified flight instructor training.
- D. Other than aviation fuel sales, Operator shall assume responsibility for the purchase and sale of all commodities and supplies.

ARTICLE VI
PERFORMANCE REQUIREMENTS

1. In performing all services under this Extended Agreement, Operator shall consult and coordinate with legal counsel for the City as necessary and appropriate as well as advise and report to the City and its legal counsel, as necessary or appropriate, with respect to any compliance or other matters that come to its attention.

2. Operator shall consult with and keep the City advised concerning all material aspects of Operator's activities with respect to the management and operation of the Airport. Operator shall cause to be prepared and furnished to the City member financial statements of Operator including a balance sheet as of the end of each calendar year, a statement of income for such calendar year, and statements of changes in financial position. Such statements may be audited on an annual basis by the City's independent audit firm.

ARTICLE VII
SUBSIDY

The City shall provide Operator with an operating subsidy in the amount of \$4,166.67 per month.

ARTICLE VIII

This Article intentionally left blank.

ARTICLE IX
USE OF AIRPORT

Subject to the express conditions contained in Article XIV, Part 2 hereof, City grants Operator the non-exclusive use, in common with others similarly authorized, of the Airport, together with all adequate space and facilities consisting of sufficient ground area to permit the efficient taxiing, servicing, taking off; equipment; improvements and services which have been or may hereafter be provided at or in connection with the Airport from time to time, including, but not limited to, the landing field and any extensions thereof or additions thereto, roadways, runways, aprons, taxiways, floodlights, landing lights, beacons, signals, radio aids, and any and all other conveniences for flying, landing, and take off.

City grants Operator the non-exclusive right, in common with others similarly authorized, to load and unload persons and property as is customary in said Airport so long as the normal routine of Airport operations is not interfered with or made burdensome and to install, maintain and operate radio communications, meteorological and aerial navigations and such other equipment and facilities, in, on or about the premises herein leased, as may be necessary and convenient for Operator's operation so long as all applicable City, County and Governmental regulations are complied with.

The City grants Operator, its employees, customers, passengers, guests, and other licensees or invitees, the nonexclusive use, in common with others similarly authorized, of all public space in the Terminal Building of the Airport as well as all additional public space that may hereafter be made available therein and any additions thereto, including, but not limited to, the lobby, passenger lounges, waiting rooms, hallways, restrooms, rooms for flight personnel and other public and passenger conveniences.

The City, in its sole discretion, may grant Operator the right to establish a drop zone for parachute jumping at the Airport and a space designated for periodic, temporary use by a self-sufficient camper with no hookups located on the lot outside the fence. The parties understand said camper may not be permanent or residential in nature.

The City will make efforts to impose the airport Rules and Regulations, specifically in order to protect the business interests of the Operator against unauthorized

flight training or other activities that are in contradiction to the airport Rules and Regulations and weaken the Operator's business interests.

The City will use its best efforts to maintain a wildlife control program in order to reduce wildlife population on airport grounds.

The City will take measures to upkeep runway and taxiway surfaces, in particular to sweep gravel and rocks off the surfaces and to arrange for the repair of pot holes.

ARTICLE X
ACCEPTANCE, MAINTENANCE AND USE OF PREMISES

Operator agrees to accept the premises in the physical condition in which the same now is. As more specifically provided for herein, Operator further agrees to maintain the same in at least a like condition during the term of this Extended Agreement, normal wear and tear excepted. As more specifically provided for herein, Operator further agrees to maintain the premises in a clean, neat and orderly manner so as to promote the use of the Airport, and further agrees to abide by such reasonable requests as may be made by the City for the proper use and maintenance of the Airport to the end that the general welfare of the public may be promoted and served thereby, and that there not be permitted any accumulation of non-aviation equipment or discarded junk or the discharge of hazardous or regulated chemicals onto the Airport. Operator further agrees to surrender the premises back to the City in as good a condition as the same now are, ordinary wear and tear accepted, upon termination of this Extended Agreement.

ARTICLE XI
PARKING SPACE

The City grants Operator, its employees, customers, passengers, suppliers, and other licensees or invitees, without charge, adequate vehicular parking space located as near as possible to the premises. The City shall designate the area to be used, which area shall be maintained and kept in good order and condition by the City.

ARTICLE XII
RIGHT OF INGRESS AND EGRESS

Operator shall have at all times the full and free right of ingress to and egress from the premises and facilities referred to in this Extended Agreement for Operator, its employees, customers, passengers, guests, and other licensees or invitees. Such rights also extend to persons or organizations supplying materials or furnishing services to Operator, to include vehicles, machinery and equipment reasonably required by such persons or organizations.

ARTICLE XIII
TERM

This Extended Agreement shall commence as of the 1st day of July, 2011, and shall continue on a month to month basis until terminated by either party upon thirty (30) days written notice. Neither party shall have or make any claim, for damages or otherwise, upon the other should either party elect to exercise its right to unilateral termination hereunder.

ARTICLE XIV
RIGHTS, PRIVILEGES, OBLIGATIONS, AND RESPONSIBILITIES

1. In its use of the Airport and related facilities, Operator is granted the following specific rights and privileges:
 - A. Operator has the right to add and remove any additional capital improvements on the premises under the exclusive control of Operator, including the right to install, maintain, and remove additional, adequate storage facilities and appurtenances for the purposes of carrying out any of the activities provided for herein, subject to advance approval from the City as well as any other conditions herein generally or particularly set forth. All improvements so added by Operator will be and become the property of the City at the termination of this Extended Agreement without cost to the City. Any improvements that involve alterations to the leased premises under the non-exclusive control of Operator shall be subject to approval in advance by City and all improvements so added by the Operator will be and become the property of the City at the termination of this Extended Agreement without cost to the City as further consideration hereof.

2. In its use of the Airport and related facilities, Operator accepts the following obligations and responsibilities:
 - A. Except as hereinafter specifically provided, the use and occupancy of the premises by Operator shall be without cost or expense to the City. It is understood and agreed that the City is not obligated to furnish any utility services such as light, water, sewer or gas to Operator during the period of occupancy. If the City operates or maintains utility services to the premises, it will continue to furnish such utility services at the request of Operator provided that Operator shall assume and pay fifty percent (50%) of all charges for providing such service. Except as provided for hereinabove, Operator shall save the City harmless of and from any and all costs or charges for utility services furnished to or required by Operator during the term hereof and shall provide, at its own cost or expense, such services as may be necessary or required in the operation and maintenance of the premises to any and all storm and sanitary sewers, water, and utility outlets at its own expense and shall pay for any and all service charges incurred or used on the premises.

- B. As more specifically provided hereinabove, Operator shall maintain and be responsible for all minor repairs located on the leased premises. Operator agrees, at its own expense, to cause the premises, and the buildings, improvements, and appurtenances thereto, to be maintained in a presentable condition and equal in appearance and character to similar improvements on the Airport. Tools, machines, parts and maintenance equipment shall be appropriately stored.
- C. Operator agrees, at its own expense, to cause all waste, garbage and rubbish to be removed from the leased premises and agrees not to deposit the same on any City premises, except Operator may temporarily deposit the same on the premises in connection with their collection or removal. Operator agrees it will not allow the accumulation of rubbish or waste, foul, contaminate or otherwise create an unhealthy or hazardous condition on the premises.
- D. Operator will not suffer or permit to be maintained upon the outside of any improvements located on the leased premises any billboards or advertising signs unless previously approved in writing by the City. A normal company identification sign will be permissible on the premises subject to the approval of the City and any applicable ordinance.
- E. Operator will make no unlawful, improper or offensive use of the premises.
- F. Any and all improvements to, use of, or activities upon the premises shall conform to and be consistent with the then current Airport plan, minimum standards, and the Rules and Regulations adopted for the Airport by the City, as amended.
- G. Operator, in its use, improvement, or operation of the premises and facilities of the Airport including premises, shall not, on the grounds of race, color, sex, or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by law and shall otherwise use the premises in compliance with all other requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and as said regulations may be amended.
- H. In furnishing any service to the public as allowed hereunder, Operator shall furnish such service on a reasonable, and not unjustly discriminatory, basis to all users thereof and shall charge reasonable, and not unjustly discriminatory, prices for each unit or service furnished to the public, provided that Operator may be allowed to make reasonable and non-discriminatory discounts, rebates, or other, similar types of price reductions to volume purchasers.

ARTICLE XV
TAXES AND ASSESSMENTS

Operator shall be responsible for and promptly pay before default any and all real and personal property taxes or special assessments, if any, that may be levied or assessed against the premises or any improvements or other property situated thereon, it being the

mutual intention of the parties that the City shall not be required to pay any taxes on either real or personal property by reason of permitting Operator to use said real property as herein described. Operator also agrees to indemnify the City against any loss or liability resulting from any and all claims or liens in connection with such taxes and assessments.

If required by law, Operator shall insure that its aircraft that are based at the Airport, including any spare parts located on the Airport, are listed on the tax rolls of Beaufort County, North Carolina, for the current year.

ARTICLE XVI
MAINTENANCE AND UTILITIES

During the term of this Extended Agreement, the City shall maintain and keep in good repair vehicle parking areas and all roadways, runways, aprons and taxiways. Subject to the conditions expressly set forth in Article XIV, Part 2 hereof, the City shall also maintain and operate all sewage and water facilities, electrical and electronic facilities and such other appurtenances and services as are now or hereafter connected with the operation of the Airport.

ARTICLE XVII
RULES AND REGULATIONS

Operator agrees to comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agencies, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Airport including leased premises or any part thereof, or any of the adjoining property, or any use or condition of the premises or any part thereof. Further, Operator shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including, but not limited to, such rules and regulations regulating hazardous or similar substances or conditions, their storage and disposal.

Operator agrees to observe and obey the rules and regulations with respect to the use of the Airport premises, including leased premises; provided, however, that such rules and regulations shall be consistent with all rules, regulations, and orders of the FAA; and provided further, that such rules and regulations shall not be inconsistent with the provisions of this Extended Agreement or the procedures prescribed or approved from time to time by the FAA with respect to Operator's use of the Airport premises, including leased premises. Operator further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Operator's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of cleanup, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Operator, its employees, customers, passengers, guests, or other licensees or invitees.

Operator agrees to abide by and cooperate with the City in the enforcement and implementation of applicable Airport security regulations, safety plan standards and measures as may be adopted by the City.

ARTICLE XVIII
SUBORDINATION

This Extended Agreement shall be subject to and subordinate with the provisions of any existing or future agreement between the City and the United States, the State of North Carolina, or any agencies thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal or State funds for the development or operation of the Airport or as a condition precedent to the acquisition of the Airport facilities by the City. It is specifically understood by Operator that this Extended Agreement is subject to the recapture clause and other conditions of grant agreements by, and grant assurances with, the FAA, the Civil Aeronautics Administration, and the State of North Carolina. The City shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Operator in and to the premises, and to compensation for the taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of the City or the United States or the State of North Carolina pursuant thereto.

ARTICLE XIX
INDEMNIFICATION

The City shall stand indemnified by Operator as hereinafter provided. It is expressly understood and agreed by and between the parties hereto that Operator herein is and shall be deemed to be an independent contractor, responsible to all parties for its respective acts or omissions and the City shall in no way be responsible therefor. It is further agreed that, in the use of the Airport; the maintenance, erection, or construction of any improvements thereon and the exercise or enjoyment of the privileges herein granted, Operator agrees to indemnify and save harmless the City from any negligence of Operator.

Operator agrees to indemnify the City against any and all liability for injuries to persons or damage to property caused by Operator's negligent use or occupancy of the leased premises; provided, however, that Operator shall not be liable for any injury, damage, or loss occasioned by the negligence of the City or its agents or employees; and provided further that the City shall give to Operator prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly, contingent or otherwise, affects or might affect Operator, and Operator shall have the right to compromise and defend the suit to the extent of its own interest.

ARTICLE XX
INSURANCE

Operator shall procure and maintain in force necessary liability insurance coverage for the leased premises and Operator's activities at the Airport in the minimum amount of \$1,000,000.00 for personal injury, death and property damage, including any environmental damage as well as damages relating to or arising from hazardous material or product related to fueling operations, including Operator's utilization of the self serve fuel service, resulting from each occurrence to indemnify and hold harmless the City from any and all liability of claims for loss, damage, or injury to persons or property caused or occasioned by the use of the leased premises by Operator or the Operator's activities on the Airport during the term of this Extended Agreement. In addition, Operator shall procure and maintain in force necessary insurance coverage as follows: 1) \$1,000,000 – products/completed operations aggregate limit, 2) \$1,000,000 – personal/advertising injury aggregate limit, and 3) \$250,000/500,000 – hangar keepers limit any one aircraft/any one occurrence (if applicable). All insurance shall be carried by a responsible company licensed in North Carolina and shall be in a form satisfactory to the City. The City shall be furnished copies of any and all insurance policies obtained by Operator in compliance with this requirement. Operator agrees to maintain sufficient coverage on a current status and that all such insurance policies obtained by Operator in compliance with this requirement name the City as additional insured and provide a thirty (30) day written notice to the City of termination or material change in the terms thereof or non-renewal of such policies.

ARTICLE XXI
TERMINATION AND DEFAULT

1. This Extended Agreement shall terminate upon notice as hereinbefore provided. No holding over by Operator after the expiration of this Extended Agreement shall operate to extend or renew this Extended Agreement for any further term whatsoever; but Operator will, by any such holding over, become the tenant at will of the City. After any written notice by the City to vacate the premises, continued occupancy thereof by Operator shall constitute Operator a trespasser.
2. This Extended Agreement shall be subject to termination for cause by either party if the other party:
 - A. Materially breaches any material provision of this Extended Agreement and, after notice of such breach, shall have failed to cure such breach within thirty (30) days after notice of such breach is given to the breaching party; or
 - B. Commits any act of willful misconduct, gross negligence, or fraud. Such termination may be effected by giving the other party written notice of termination, which notice shall specifically identify the act upon which termination is based; or
 - C. Has a petition filed against it for an involuntary proceeding under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, and such petition shall not have been dismissed within sixty (60) days of filing; or a Court having jurisdiction shall have appointed a

- receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of such party for any substantial portion of its property, or order the winding up or liquidation of its affairs; or
- D. Commences a voluntary proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall have made any general assignment for the benefit of creditors, or shall have failed generally to pay its debts as they become due. The defaulting party agrees that, if any of the events specified in Section 2 (B) or (C) of this Article XXI shall occur, it shall give written notice thereof to the other party within seven (7) days following the occurrence of such event. Upon receipt of such notice, or upon becoming aware of default, the other party may, in its sole discretion, terminate this Extended Agreement immediately upon delivery of a written notice of such termination to the defaulting party.
 - E. The abandonment of the Airport as an airport or airfield for any type, class, or category of airport.
 - F. Damage to or destruction of all or any material part of the leased premises or Airport facilities as necessary for the Operator's use of the leased premises and Airport.
 - G. The lawful assumption by the United States, or the State of North Carolina or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Operator from using the premises for a period in excess of ninety (90) days.

ARTICLE XXII
SURRENDER OF POSSESSION

Upon termination of this Extended Agreement, Operator's right to use the leased premises and Airport as described in this Extended Agreement shall cease, and Operator shall vacate the same without unreasonable delay. Operator shall surrender the same in approximately the same condition as upon taking of possession, allowing for reasonable wear and tear. Upon any such above termination, Operator shall have no further right or interest in any of the leased premises, Airport or the improvements thereon. It is mutually agreed the title to any and all improvements currently situated, hereafter erected, or hereafter constructed upon the leased premises or Airport shall remain, revert to or become owned and possessed, as the case may be, by the City upon the termination of this Extended Agreement, without any additional payment or consideration to Operator therefor, free and clear of all liens on the part of Operator on account of any repair or improvement work. The vesting of title in the City at the time specified is part of the consideration for this Extended Agreement.

ARTICLE XXIII
INSPECTION BY LESSOR

ARTICLE XXVI
GOVERNING LAW

This Extended Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of North Carolina.

ARTICLE XXVII
SEVERABILITY

Any covenant, condition, or provision of this Extended Agreement that is held to be invalid by any Court of competent jurisdiction shall be considered deleted from this Extended Agreement, but such deletions shall in no way effect any other covenant, condition or provision of this Extended Agreement, so long as such deletion does not materially prejudice the City or Operator in their respective rights and obligations contained in the valid covenants, conditions or provisions of this Extended Agreement.

ARTICLE XXVIII
EFFECT OF WAIVER

The waiver of any breach, violation, or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any such subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

ARTICLE XXIX
ARBITRATION

In the event of any disagreement as to whether there has been a breach of contract under this Extended Agreement, the question shall be submitted to arbitration, each party hereto selecting one arbitrator and the two so selected selecting a third arbitrator (but if no agreement can be reached as to the third arbitrator, he shall be appointed by the Clerk of the Superior Court of Beaufort County), which board of arbitrators shall sit within two weeks following the date of their appointment, and after proper notice to both parties, shall hear the evidence presented by both sides and render their decision. The majority vote shall be binding on both the City and the Operator, and it shall be made and announced as soon as possible, and in no event later than two (2) weeks after the aforementioned hearing. Each party shall pay the arbitrator appointed by it, and the third arbitrator shall be paid jointly by the City and the Operator. In this connection, attention is invited to the fact that the management of said Airport, its general appearance and the manner in which the Operator serves and meets the general public is of paramount importance to the City, and in the event of any disagreement requiring adjustment or adjudication by arbitration, as herein provided, said arbitrators shall give particular attention to these considerations to the extent that Operator shall comply with all requirements of this Extended Agreement.

ARTICLE XXX
EFFECT OF AGREEMENT

All covenants, conditions, or provisions in this Extended Agreement shall extend to and bind the legal representatives, successors and assigns of their respective parties. This Extended Agreement is in lieu of any agreement heretofore executed between the parties hereto and any such prior agreement is hereby cancelled and no longer in effect.

ARTICLE XXXI
ATTORNEY'S FEES

In the event any action is filed in relation to this Extended Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all sums that either party may be called on to pay under this Agreement, a reasonable sum for the successful party's attorney's fees; provided, however, if there is a monetary award, the reasonable fees as awarded by the Court shall not exceed fifteen percent (15%) of any outstanding balance or award.

ARTICLE XXXII
ENTIRE AGREEMENT

This Extended Agreement shall constitute the sole agreement between the parties hereto and it is understood that the provisions contained herein shall not be altered, modified or changed in any manner except by written agreement executed by the City and the Operator, and no oral contact or agreement, or informal memorandum shall have the effect of so modifying, altering, or changing this Extended Agreement. Any prior understanding or representation of any kind, preceding the date of this Extended Agreement shall not be binding on either party except to the extent incorporated in this Extended Agreement.

ARTICLE XXXIII
MODIFICATION OF THIS AGREEMENT

Any modification of this Extended Agreement or additional obligations assumed by either party in connection with this Extended Agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

ARTICLE XXXIV
CONFIDENTIALITY

All books, records, information and data that are exchanged or received between the parties shall remain confidential and shall not be disclosed to any other person, except as specifically authorized or as may be required by law.

ARTICLE XXXV
OTHER BUSINESS AND ACTIVITIES OF OPERATOR

Except to the extent necessary to perform Operator's obligations under this Extended Agreement, nothing herein shall be deemed to limit or restrict the right of Operator or any employee of Operator to engage in any other business or to devote time and attention to the managerial or other aspects of any other business, whether of a similar or dissimilar nature, or to render services of any kind to any other corporation, firm, individual, or association; provided, however, that during the term of this Extended Agreement, Operator agrees not to engage in any activities which are functionally competitive with the services provided to the City. The City acknowledges the persons employed by Operator to assist in the performance of Operator's duties under this Extended Agreement are not required to devote the full time to such service and nothing contained in this Extended Agreement shall be construed to the contrary.

ARTICLE XXXVI
NEGATION OF MEMBERSHIP OR JOINT VENTURE

Nothing contained in this Extended Agreement shall constitute, or be construed to be or to create, a partnership or joint venture between Operator and the City.

(Signatures Appear On The Following Pages)

IN WITNESS WHEREOF, each party to this Extended Agreement has caused it to be duly and properly executed in duplicate originals as of the day and year first above written as evidenced by the authorized signatures below.

PRE-AUDIT CERTIFICATE

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



ATTEST:

Cynthia S. Bennett
Cynthia S. Bennett, City Clerk

Matt Rauschenbach (SEAL)
Matt Rauschenbach, Chief Financial Officer
City of Washington

CITY OF WASHINGTON

By: Peter T. Connet
Peter T. Connet, Interim City Manager
City of Washington

**OPERATOR:
TRADEWIND AVIATION
INTERNATIONAL, LLC**

(corporate seal)

By: Thomas Dolder
Thomas Dolder, Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, Reatha B. Johnson, a Notary Public of the State and County aforesaid, do hereby certify that **CYNTHIA S. BENNETT** personally appeared before me this day and acknowledged that she is the City Clerk for the **CITY OF WASHINGTON**, a body politic and incorporate, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Interim Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and Notarial Seal, this the 20 day of June, 2011.

Reatha B. Johnson
Notary Public



My Commission expires: 12/14/2014

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

Before me, the undersigned Notary Public in and for the State and County aforesaid, this day personally appeared **THOMAS DOLDER**, who being by me duly sworn says that he is a Member/Manager of **TRADEWIND AVIATION INTERNATIONAL, LLC**, a North Carolina Limited Liability Company, and that by authority duly given and as an act of the Company, he executed the foregoing instrument for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the 27th day of June, 2011.

Kathleen L. Sunshine
Notary Public

My Commission expires: December 4, 2015



**AWARD – THE FINANCING BID FOR THE INSTALLMENT PURCHASE CONTRACT OF
THE IMPRESSIONS BUILDING IMPROVEMENT PROJECT –
NOT TO EXCEED (\$800,000)**

Councilman Mercer stated he wanted to make sure that we don't borrow more funding than we actually need. He wondered if the amount borrowed should be lowered to \$750,000 or even less being the bid for the roof repairs came in lower than anticipated.

Mr. Rauschenbach stated the new lease agreement with Impressions generates enough revenue to service \$770,000 in debt, the additional revenue stream started on April 1st. Since we have received the roof bids in May, we have also received other bids such as the fire protection system inside the building at \$27,000, but the fire protection supply line projected at \$83,000 will cost at least \$145,000 due to the addition of a back flow prevention system. We tried to stay within the \$770,000, we met with Impressions and they provided the City a "wish list" of repairs, such as painting the outside of the building at a cost of \$59,000. We would like to continue along the lines of our \$769,000 lease structure

and continue with the needed repairs. If all the borrowed funding is not spent the remaining amount will be applied back to the principal.

The lease with Impressions dated April 1, 2011 includes these building improvements to be funded by the City and reimbursed through supplemental rent payments over five years in the amount of \$ 14,727.58/ month. LGC approval is required for the installment purchase contract to provide this funding.

The supplemental rent and debt service are included in the 2011-2012 proposed budget. Construction bids are still being received and the loan amount will be finalized prior to the planned July 15th closing.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council awarded a not to exceed \$800,000 installment purchase financing bid to RBC Bank for the funding of the building improvements of the property leased by Impressions Marketing Group, INC. and authorize the C.F.O. to execute the necessary documents to close this transaction contingent on the approval of the Local Government Commission and have the City Attorney review the documents prior to execution.

APPROVE – PURCHASE ORDERS >\$20,000

Councilman Mercer asked for clarification regarding the BCI Utility Construction purchase order. Is this the underground piping going in at Smallwood? Keith Hardt stated yes it is and we were under the time schedule to get the work completed while the contractor was onsite.

Councilman Mercer inquired about the RFP regarding phone systems, was Cisco the only phone system that was bid? Mr. Rauschenbach explained yes as it was the most appropriate system for our needs.

*Requisition #9163, T&D Solutions, LLC, \$22,746, DOT reimbursable Hwy 17 utility relocation. Account 35-90-7220-041 1.

*Requisition #9193, Pitt Country Mart., \$50,000, fuel for peak shaving generators. Account 35-90-8370-3 101.

*Requisition #9313, BCI Utility Construction, \$85,000, relocate underground electric utilities for storm water project. Account 58-90-5710-4500.

*Requisition #9373, Computer Service Partners, \$80,395, equipment for new phone system. Account 10-00-4400-7401.

*Requisition #9385, Covington Diesel, \$26,617, backup generator for lift station. Account 32-90-8320-7400.

*Requisition #9387, B.E. Singleton & Sons, \$45,750, demolition of old Ed Tech building for storm water project. Account 58-90-5710-4500.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council approved the purchase orders as presented.

Mr. Rauschenbach asked if the fuel purchase orders could be done similarly to the chemical purchase orders for the annual requirement next year instead of bringing individual purchase orders and be excluded from the \$20,000 purchase order policy.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council excluded the fuel purchase orders from the "PO's over \$20,000" beginning with the new FY 11-12 fiscal year. Councilman Mercer opposed. Motion carried, 4 to 1.

DISCUSSION OF PERSONNEL POLICY CHAPTER 9, SECTION 12

Councilman Mercer stated well over a year ago we began looking at the Personnel Policy, most particular "car allowance/travel policy". The current policy reads: " With the exclusion of department heads for whom the City provides a City owned vehicle, department heads may be provided a travel bonus subject to annual approval by the City Council. Department heads receiving the travel bonus will not be eligible for reimbursement of mileage expenses within a specified mile radius of the City in

accordance with the provisions of the bonus. Travel beyond the specified mile radius will be reimbursed in accordance with the City's travel policy".

We have had numerous discussion regarding we want to pay our department heads when they drive their vehicle for City business. He is recommending the following change to the personnel policy: Department Heads- It is recognized that on many occasions Department Head are required to operate their personal vehicles to conduct city business, when a City owned vehicle is not available. In order to provide compensation for this use, each Department Head is required to maintain a personal vehicle mileage use log for the City business and submit a report at the end of each month to the Finance Officer. The Finance Officer will reimburse the Department Head for the business mileage using the approved reimbursement rate (normally the approved IRS rate). This reimbursement will be paid to the Department Head in accordance with the procedures used to pay other expense reports."

A motion was made by Councilman Mercer and seconded by Councilman Davis to adopt the proposed language as a replacement for the current language regarding department head travel allowance, "Department Heads- It is recognized that on many occasions Department Head are required to operate their personal vehicles to conduct city business, when a City owned vehicle is not available. In order to provide compensation for this use, each Department Head is required to maintain a personal vehicle mileage use log for the City business and submit a report at the end of each month to the Finance Officer. The Finance Officer will reimburse the Department Head for the business mileage using the approved reimbursement rate (normally the approved IRS rate). This reimbursement will be paid to the Department Head in accordance with the procedures used to pay other expense reports."

Mayor Pro tem Roberson noted that there should be some guidance regarding consistency with the travel logs and Councilman Mercer suggested reviewing sample logs at the next meeting. We also should review this periodically. Mr. Connet stated that since he has been Interim City Manager he has had several discussions with Department Heads and was advised this was presented as part of their compensation package. Mr. Rauschenbach and Mr. Rodman explained they were told this was part of their compensation package during the hiring process at a rate of \$350 per month and this would be a significant pay reduction. Mayor Pro tem Roberson and Councilman Moultrie stated it is not fair to take away that allowance if it was discussed as part of the hiring process. Mayor Pro tem Roberson would like a list of all of the Department Heads that were promised the car allowance as part of the compensation package. Councilman Mercer reviewed a change that was made in 2006 when the City Manager gave all Department Heads the same amount for car/travel allowance. Susan Hodges, HR Director stated some of the department heads would've fallen through the cracks; this was the most equitable way to give them all the same amount. Councilman Mercer stated he has asked for quite some time to have meetings to review the personnel policy and those meetings have not occurred. We either need to adopt the change or not.

Mayor Jennings reviewed the motion: A motion was made by Councilman Mercer and seconded by Councilman Davis to adopt the proposed language as a replacement for the current language regarding department head travel allowance, "Department Heads- It is recognized that on many occasions Department Head are required to operate their personal vehicles to conduct city business, when a City owned vehicle is not available. In order to provide compensation for this use, each Department Head is required to maintain a personal vehicle mileage use log for the City business and submit a report at the end of each month to the Finance Officer. The Finance Officer will reimburse the Department Head for the business mileage using the approved reimbursement rate (normally the approved IRS rate). This reimbursement will be paid to the Department Head in accordance with the procedures used to pay other expense reports." Voting for the motion: Mercer and Davis; against: Roberson, Moultrie & Pitt. Motion fails: 3-2.

ACCEPT & ADOPT – THE RECOMMENDATION OF THE PLANNING DEPARTMENT AND ADOPT ORDINANCE TO AMEND CHAPTER 20, OFFENSES AND MISCELLANEOUS ARTICLE 1, BY ADDING SEC. 20-17 (GRAFFITI)

John Rodman, Planning Director explained that he, the City Manager, the Police Department felt the need to develop and implement an ordinance on the abatement of graffiti. The purpose is to establish a program for the removal of graffiti from public and private property. Graffiti has been found to be a public nuisance and is destructive of the rights and value of property owners as well as the entire community. Once graffiti has been reported this will be channeled through the Police Department to attempt to identify the perpetrator. If that cannot be determined, then this will be routed back to the Planning Department and will follow the nuisance ordinance. We will notify the property owner of the

structure regarding removing the graffiti. Council discussed various concerns including the number of days the property owner has to remove the graffiti as well as de-criminalize the charge. Mr. Rodman stated that on other nuisance orders the person is given 10 days to correct the problem. The perpetrator is fined, not the property owner.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council continued this item until the next regular meeting in July.

APPROVE – THE TEMPLATE FOR AND AUTHORIZE CITY MANAGER TO ENTER INTO LEASE AGREEMENT FOR ROOMS AT THE PETERSON BUILDING ON AN ANNUAL BASIS

Mr. Mobley stated the majority of the tenants are being charged. Currently, there are three non-profits with only one of them paying(WAHF), two do not pay: Pamlico Pals/Horizons and Beaufort/Hyde Special Olympics. Councilman Mercer suggested we need to review a template for all the rooms being rented out to other agencies. We need to establish a rate and include a definitive policy regarding non-profits.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council agreed to continue this item until the next regular meeting in July.

ADOPT – BUDGET ORDINANCE AMENDMENT WORKERS COMP RESERVE FY 2011/12

Mr. Rauschenbach explained the City’s self funded workers compensation fund was established in fiscal year 2009/2010 with an excess reinsurance reserve of \$600,000 and \$225,094 for claims. We have operated from the reserve for two years without additional funding and need to provide adequate reserves for future claims through fiscal year 2011/2012. The benefit realized from being self funded vs. fully insured is estimated to have been \$81,167/year.

Self Funded Workers Comp Benefit Recap 6/2/2011

Self Funded Cost

Claims paid	305,175
Third Party Administrator	40,000
Excess Reinsurance	77,469
Total Cost	422,644

Fully Insured Cost

Cost/yr	292,489
# of years	2
Total Fully Insured Cost	584,978

Self Funded Benefit

First two years	162,334
Average per year	81,167

By motion of Councilman Moultrie, seconded by Mayor Pro tem Roberson, Council adopted the Budget Ordinance Amendment to appropriate funds to replenish the workers compensation reserve fund.

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

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

Section 1. That the Estimated Revenues in the below operating fund account numbers be increased to provide funds for the Worker’s Compensation Reserve Fund.

10-00-3991-9910	Fund Balance Appropriated	\$199,185
32-90-3991-9910	Fund Balance Appropriated	1,811
34-90-3991-9910	Fund Balance Appropriated	3,048
35-90-3991-9910	Fund Balance Appropriated	<u>39,211</u>
	Total	\$243,255

Section 2. That the appropriations be increased or decreased in the fund account numbers below to provide funds for the Worker's Compensation Reserve Fund.

10-00-4400-5402	Worker's Comp Insurance	\$239,599
10-00-9990-9900	Contingency	(40,414)
30-90-6610-5402	Worker's Comp Insurance	427
30-90-9990-9900	Contingency	(427)
32-90-6610-5402	Worker's Comp Insurance	1,811
34-90-5710-5402	Worker's Comp Insurance	3,048
35-90-6610-5402	Worker's Comp Insurance	39,211
38-90-4710-5402	Worker's Comp Insurance	1,081
38-90-9990-9900	Contingency	<u>(1,081)</u>
	Total	\$243,255

Section 3. That the Estimated Revenues in the Worker's Compensation Reserve Fund be increased in the account numbers below to accept payments from the operating funds.

85-60-3940-1000	Payments from General Fund	\$239,599
85-60-3940-3000	Payments from Water Fund	427
85-60-3940-3200	Payments from Sewer Fund	1,811
85-60-3940-3400	Payments from Storm Water Fund	3,048
85-60-3940-3500	Payments from Electric Fund	39,211
85-60-3940-3800	Payments from Solid Waste Fund	<u>1,081</u>
	Total	\$285,177

Section 4. That the Worker's Compensation Reserve Fund appropriations budget be increased in the fund account numbers below to provide for the payment of worker's compensation claims.

85-60-4930-1000	WC Claims - General Fund	\$239,599
85-60-4930-3000	WC Claims - Water Fund	427
85-60-4930-3200	WC Claims - Sewer Fund	1,811
85-60-4930-3400	WC Claims - Storm Water Fund	3,048
85-60-4930-3500	WC Claims - Electric Fund	39,211
85-60-4930-3800	WC Claims - Solid Waste Fund	<u>1,081</u>
	Total	\$285,177

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of June.

ATTEST:

s/CYNTHIA BENNETT, CME
CITY CLERK

s/N. ARCHIE JENNINGS, III
MAYOR

ADOPT – REVISED POLICY FOR WATER & SEWER BILLING ADJUSTMENT

Mr. Connet explained that it has been almost Seven (7) years since this policy was revised by the City Council (December 2004). He has reviewed the policy and checked to see what other cities are doing about large water bill adjustments. Most of the ones he heard from allow for some type of adjustment to the water bill & sewer bill if the water didn't go through the sewer system. Customer Service makes every effort when a leak is detected to notify the customer as soon as possible, using door hangers and phone messages.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adopted the Revised Policy for Water and Sewer Billing Adjustments.

**POLICY FOR WATER AND SEWER BILLING ADJUSTMENTS
EFFECTIVE MAY 2011
WATER & SEWER ADJUSTMENTS**

To make an adjustment, the City of Washington will need the following information from the customer:

- When the leak was discovered;
- Who made repairs, where and when; and
- A copy of the plumber's bill, or receipts for materials purchased if you made the repairs.

The amount of the bill adjustment depends in part on whether the water from the leak returned to the sanitary sewer system or leaked elsewhere on your property.

The City of Washington will issue a billing adjustment to any customer having a water leak repaired based on the following formula:

1. The customer will be required to pay for his monthly average water consumption, plus 40% of the total amount over the average.
2. The customer will be required to pay for his monthly average sewer consumption and will not be billed any additional charge, if the water did not go into the Sewer System.
3. If a customer has a high water usage due to leaks or malfunctions of equipment and the water did go back into the sewer system, then the customer will not receive an adjustment. Faulty commodes or constant running of water in commodes are good examples of this high water usage.

The City will only allow one adjustment during any 365 day period.

If the City notifies a customer of a water leak at their premise and the customer does not correct the problem within 30 days of notification, the City will not issue any adjustment(s).

The following procedure will be followed before an adjustment is given:

- The customer has to provide the Customer Service Representative with proof that the water leaked on the ground or premises before an adjustment can be considered.
- A check-read service order will be generated by a customer service representative to verify the reading of the meter and to investigate signs of a leak. The water and sewer department will be notified, if any assistance is needed.
- Approximately sixty (60) days from the date of repair, the customer's account will be printed and given to Public Works Department for review.
- Upon review of customer's usage history, a water and/or sewer adjustment will be granted based on an average monthly usage.
- The adjustment will appear on the customer's utility account.

ADOPT – BUDGET ORDINANCE – FISCAL YEAR 2011-2012

Mr. Rauschenbach explained the Budget Ordinance for Fiscal Year 2011-2012, totaling \$62,225,970. This ordinance appropriates the following amounts in the funds listed for operational expenses during the fiscal year:

General Fund	\$14,284,101
Water Fund	3,090,869
Sewer Fund	3,750,671
Storm Water Management Fund	689,229
Electric Fund	37,951,962
Airport Fund	406,229
Solid Waste Fund	1,248,500
Cemetery Fund	272,605
Library Trust Fund	225
Cemetery Trust Fund	800
E-911 Surcharge Fund	0
Public Safety Capital Reserve Fund	120,000
Economic Development Capital Reserve Fund	189,779
Water Capital Reserve Fund	30,000
Sewer Capital Reserve Fund	86,000
Facade Fund	10,000

Internal Service Fund	95,000
Grand Total	\$62,225,970

Councilman Mercer reviewed the fee schedules and noted they were not discussed at all during the budget workshops. He also noted that during the budget discussions last year a recommendation was made to the electric deposits. It was apparent those changes were never made to the fee schedule. Mr. Rauschenbach reviewed the deposit schedules with Council and stated this change evidently fell through the cracks and he apologized for that. Councilman Mercer reminded Council that last year Council approved changing the fee deposit back to the language from 2007-2008. Ms. Radcliffe asked if we could change the policy beginning July 1st, Councilman Mercer stated he was ok with that as long as the correction was made July 1st.

The following Electric Deposit Schedule will become effective July 1, 2011(Mr. Rauschenbach distributed the corrected fee schedule for Electric Deposits via e-mail on June 15th)

DEPOSITS - ELECTRIC

Definition/Comments – Process deposits for electric utility customers

Fees Charged –

- (a) *Residential.* Any person applying for electric services to be furnished to residential premises will have their credit checked using the Online Utility Exchange service. That credit information along with the history of usage at the service address, and the following schedules will be used to determine if a deposit will be charged and, if so, the amount:

- (1) Owners without electric heat.....\$50
- (2) Owners with electric heat.....\$100
- (3) Tenants without electric heat.....\$100
- (4) Tenants with electric heat.....\$125

Or at the City’s discretion 2/12 average annual charges based on the utility billing history at the location of service request.

After applying the above criteria, deposits will be capped as follows:

- (5) residential electric deposits will be capped at \$200 if the customer provides his/her social security number.
- (6) residential electric deposits will be capped at \$300 if the customer does not provide his/her social security number.

Such deposit requirement may be satisfied as follows:

- (7) A cash deposit or billed deposit over a period not to exceed 3 months, which shall be refunded by credit to the customer's account at the end of a six month period during which the customer has paid six (6) bills on time and service has not been disconnected for failure to pay and has not had any returned checks or drafts on the account;
- (8) Proof that the deposit refund requirements of subsection (a) of this section have been met at another location for which the customer is responsible; or
- (9) A personal, written guarantee of payment by a current city customer who has satisfied the deposit refund requirements of subsection (a) of this section.

- (b) *Increases.* A deposit may be increased or a new deposit may be required, at the city's discretion, after the customer's third failure to pay a bill in a timely manner, having service terminated for nonpayment, or having a check or draft returned because of insufficient funds or a closed account. This increase shall be the amount as defined in section (a)(1 & 2).

(c) *Commercial.* Any person applying for electric services to be furnished to commercial premises will have their credit checked using the Online Utility Exchange service. It will be determined from that if a deposit shall be charged. Generally, deposits for commercial electric services shall be in an amount equal to two-twelfths of the estimated annual charges. The initial deposit shall be based upon the city's estimate of customer's usage. After six (6) billing periods following the initial deposit, the customer's actual usage will be reviewed, and the deposit adjusted to reflect such actual usage. If the amount of the required deposit is decreased, the difference shall be credited to the customer's account; if the amount of the required deposit is increased, the difference shall be billed to the customer.

(1) Such a deposit requirement may be satisfied as follows:

(a) A cash deposit or billed deposit, which shall be refunded by credit to the customer's account at the end of the first twenty-six-month period during which the customer has paid at least twenty-four (24) bills on time and service has not been disconnected for failure to pay;

(b) Proof that the deposit refund requirements of subsection (a) of this section, have been met at another location within the city's system for which the customer is responsible; or

(c) A surety bond or letter of credit issued by an entity satisfactory to the city; such bond or letter of credit shall be in the amount of the cash deposit and shall be irrevocable for a period of at least twenty-four (24) months from the date of the application.

(2) If the customer chooses to use its credit history at other locations to satisfy the deposit requirement, the customer shall designate all such locations. If service is disconnected at any such location for nonpayment, the city may disconnect service to any or all such locations until the customer pays its account in full.

(d) *Contractors.* Building contractors requesting temporary electric services will not be required to provide a deposit. However, each building contractor or his representative will be required to make a written request showing the date, the location of the service and the name in which the service is required.

(e) *Increases.* A deposit may be increased, at the city's discretion, after the customer's third failure to pay a bill in a timely manner, having service terminated for nonpayment, or having a check or draft returned because of insufficient funds or a closed account. This increase shall be an amount equal to two-twelfths (2/12) of the estimated annual charges for commercial premises.

(f) *Credit, refund, transfer.* When service is disconnected at the customer's request, the deposit shall be credited to the customer's final bill. If any deposit remains, the city will hold the final bill and mail it, along with a city check to the customer at the address given by customer. If the departing customer does not leave a valid forwarding address with the city, any refund will be held for thirty (30) days at city hall before being placed into an inactive status file. Deposit returns apply only to customers who are moving off of the city's system and not to those customers who are transferring service from one location to another within the system in which the deposit shall be transferred with the service.

(g) *Termination of service.* Customers may terminate electric services in person or by phone.

General Ledger Code - 35-90-2500-0000 Electric Consumer Meter Deposits

Previous Legislative Reference - (Code 1972, § 25-11; Code 1993, § 6-33; Ord. No. 86-23, § 1, 11-10-1986; Ord. No. 88-15, § 2, 11-14-1988; Ord. No. 93-2, § 2, 3-8-1993)

Councilman Mercer noted that in the motion to adopt last year's budget the following item was included in the motion: "...set the Advalorem Tax rate at \$0.50(1 ½ cents going toward the Public Safety Capital Reserve Fund)...". Mr. Rauschenbach stated this was understood to be included in that rate.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council adopted the Budget Ordinance for Fiscal Year 2010-2011, set the 2011 Advalorem Tax rate at \$0.50 (1 ½ cents going toward the Public Safety Capital Reserve Fund)per \$100.00 value, and set the user fee schedule included in the appendix of the budget. Voting for the motion: Moultrie, Pitt, Davis; against: Mercer and Roberson. Motion carried: 3-2.

**CITY OF WASHINGTON, NORTH CAROLINA
BUDGET ORDINANCE FOR FISCAL YEAR 2011-2012**

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

Section 1. The following amounts are hereby appropriated for the operation of the City of Washington government and its activities for the fiscal year beginning July 1, 2011, and ending June 30, 2012, according to the following schedules:

Schedule A. General Fund

General Government

City Council	62,503
Mayor	14,075
City Manager	289,403
Legal	

260,000

TDA Director

112,256

Human Resources

278,593

Finance

482,423

Purchasing	126,724
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Information Systems	248,393
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Billing	154,722
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Customer Services	660,980
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Municipal Building	155,801
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Miscellaneous	833,008
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Economic Development	202,053
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Debt Service	415,332
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Public Safety

Police	2,881,186
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E-911 Communication	393,190
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Fire	1,618,293
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Emergency Medical Services	832,355
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Code Enforcement	234,511
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Planning/Zoning	310,634
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Public Works

Administration	80,103
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Equipment Services	146,533
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Street Lighting	122,000
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Street Maintenance	453,690
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Powell Bill	275,391
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Stormwater Improvements	302,277
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Cultural and Leisure	
Brown Library	423,749
Recreation Administration	203,785
Recreation Events & Facilities	181,263
Athletics and Programs	34,582
Senior Programs	215,206
Waterfront Docks	101,306
Civic Center	148,525
Aquatic Center	339,878
Parks and Grounds	538,209
Agency Contributions	69,350
Contingency	
Contingency	<u>81,819</u>
Total General Fund Appropriations	\$14,284,101

Schedule B. Water Fund

Administration	85,600
Debt Services	268,499
Miscellaneous	592,477
Water Meter Services	370,702
Water Treatment	1,228,051
Water Distribution Maintenance	224,027
Water Distribution Construction	321,513
Contingency	<u>0</u>
Total Water Fund Appropriations	3,090,869

Schedule C. Sewer Fund

Administration	83,625
Debt Service	585,259
Miscellaneous	502,899
Wastewater Collection Maintenance	264,376
Wastewater Collection Construction	174,437
Wastewater Treatment	1,133,179
Wastewater Stations	975,298
Contingency	<u>31,598</u>
Total Sewer Fund Appropriations	3,750,671

Schedule D. Storm Water Management Fund

Operations	95,055
Debt Payment	586,002
Nutrient Control	6,100
Contingency	<u>2,072</u>
Total Storm Water Management Fund Appropriations	689,229

Schedule E. Electric Fund

Administration	298,449
Customer Service	0
Debt Service	891,949
Miscellaneous	2,690,807
Electric Meter Services	
	469,807
Utility Communications	300,703
Substation Maintenance	1,125,957
Load Management	243,690
Power Line Maintenance	1,329,707
Power Line Construction	1,491,462
Purchase Power	29,064,240
Contingency	<u>45,191</u>
Total Electric Fund Appropriations	37,951,962

Schedule F. Airport Fund

Operational Expenses	406,229
Contingency	<u>0</u>
Total Airport Fund Appropriations	406,229

Schedule G. Solid Waste Fund

Debt Service	71,160
Solid Waste Operations	1,143,529
Contingency	<u>33,811</u>
Total Solid Waste Fund Appropriations	1,248,500

Schedule H. Cemetery Fund

Operational Expenses	272,605
Contingency	<u>0</u>
Total Cemetery Fund Appropriations	272,605

Schedule I. Library Trust Fund

Administration Charges to General Fund for Library Operations	<u>225</u>
Total Library Trust Fund Appropriations	225

Schedule J. Cemetery Trust Fund

Administration Charges to General Fund for Cemetery Operations	<u>800</u>
Total Cemetery Trust Fund Appropriations	800

Schedule K. E-911 Surcharge Fund

Contract Services	0
Contingency	<u>0</u>
Total E-911 Surcharge Fund Appropriations	0

Schedule L. Public Safety Capital Reserve Fund

Transfer to General Fund	<u>120,000</u>
Total Public Safety Capital Reserve Fund Appropriations	120,000

Schedule M. Economic Development/Capital Reserve Fund

Transfer to General Fund	<u>189,779</u>
Total Economic Development/Capital Reserve Fund	

Appropriations	189,779
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Schedule N. Water Capital Reserve Fund

Transfer to Water Fund	<u>30,000</u>
Total Water Capital Reserve Fund	
Appropriations	30,000

Schedule O. Sewer Capital Reserve Fund

Transfer to Sewer Fund	<u>86,000</u>
Total Sewer Capital Reserve Fund	
Appropriations	86,000

Schedule P. Facade Fund

Economic Development-Facade Grant	<u>10,000</u>
Total Facade Fund Appropriations	10,000

Schedule Q. Internal Service Fund

Worker's Compensation Claim Payments	<u>95,000</u>
Total Internal Service Fund Appropriations	95,000

Total Appropriations for all Funds	\$62,225,970
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Section 2. It is estimated that the following revenue will be available during the

year beginning July 1, 2011, and ending June 30, 2012, to meet the foregoing appropriations according to the following schedule:

Schedule A. General Fund

Ad Valorem Taxes	4,080,260
Other Taxes	2,338,370
Restricted Intergovernmental Revenue	580,228
Unrestricted Intergovernmental Revenue	1,736,989
Licenses and Permits	60,820
Rents	601,716
Sales and Services	816,072
Interest Earnings	50,830
Lease Purchase Proceeds	232,000
Private Contributions	11,000
Miscellaneous	25,000
Fund Balance Appropriated	0
Administrative Charges from Other Funds for Services:	
Electric Fund	1,269,231
Water Fund	279,503
Sewer Fund	280,932
Solid Waste Fund	176,879
Storm Water	0
Airport Fund	19,296
Cemetery Fund	20,146
Library Trust Fund	225
Tourism Development Authority	111,970
Civic Center	84,715
Transfers from Other Funds:	
Water	143,926
Sewer	81,064
Electric	973,150
Capital Reserves	<u>309,779</u>
Total General Fund Revenues	14,284,101

Schedule B. Water Fund

Water Charges	2,850,000
Sales and Services	69,460
Interest Earnings	2,200

Miscellaneous	4,175
Installment Note Proceeds	0
Rents	34,777
Transfer from Water Capital Reserve	30,000
Fund Balance Appropriated	<u>100,257</u>
Total Water Fund Revenues	3,090,869

Schedule C. Sewer Fund

Wastewater Charges	3,020,000
Sales and Services	25,500
Interest Earnings	7,500
Assessments	11,671
Loan Proceeds (State Revolving Loan)	600,000
Transfer from Capital Reserve	<u>86,000</u>
Total Sewer Fund Revenues	3,750,671

Schedule D. Storm Water Management Fund

Interest Earnings	1,500
Sales & Service	7,800
Storm Water Charges	492,000
Interest Rebates (RZEDB)	104,738
Fund Balance Appropriated	<u>83,191</u>
Total Storm Water Management Fund Revenues	689,229

Schedule E. Electric Fund

Electric Charges	36,651,859
Sales and Services	453,220
Interest Earnings	10,000
Miscellaneous	75,000
Installment Note Proceeds	630,000
Administration Charges From Other Funds:	
Water	82,208
Sewer	<u>49,675</u>
Total Electric Fund Revenues	\$37,951,962

Schedule F. Airport Fund

Rentals	63,300
Sales & Services	106,280
Grants	150,000
Transfer from Other Funds:	
General Fund	<u>86,649</u>
Total Airport Fund Revenues	406,229

Schedule G. Solid Waste Fund

Interest Earnings	800
Solid Waste Tax	6,700
Fees	<u>1,241,000</u>
Total Solid Waste Fund Revenues	1,248,500

Schedule H. Cemetery Fund

Interest Earnings	0
Sales & Services	196,400
Transfer from G/F	74,505
Adm. Charges from Cemetery Trust	<u>1,700</u>
Total Cemetery Fund Revenues	272,605

Schedule I. Library Trust Fund

Interest Earnings	<u>225</u>
Total Library Trust Fund Revenues	225

Schedule J. Cemetery Trust Fund

Interest Earnings	<u>800</u>
Total Cemetery Trust Fund Revenues	800

Schedule K. E-911 Surcharge Fund

Surcharge Collections	0
Interest Earnings	<u>0</u>
Total E-911 Surcharge Fund Revenues	0

Schedule L. Public Safety Capital Reserve Fund

Transfer From General Fund	120,000
Fund Balance Appropriated	<u>0</u>
Total Public Safety Capital Reserve Fund Revenues	120,000

Schedule M. Economic Development /Capital Reserve Fund

Payments From Other Funds	<u>189,779</u>
Total Economic Development/Capital Reserve Fund Revenues	189,779

Schedule N. Water Capital Reserve Fund

Fund Balance Appropriated	<u>30,000</u>
Total Water Capital Reserve Fund Revenues	30,000

Schedule O. Sewer Capital Reserve Fund

Fund Balance Appropriated	<u>86,000</u>
Total Sewer Capital Reserve Fund Revenues	86,000

Schedule K. E-911 Surcharge Fund

Surcharge Collections	0
Interest Earnings	<u>0</u>
Total E-911 Surcharge Fund Revenues	0

Schedule L. Public Safety Capital Reserve Fund

Transfer From General Fund	120,000
Fund Balance Appropriated	<u>0</u>
Total Public Safety Capital Reserve Fund Revenues	120,000

Schedule M. Economic Development /Capital Reserve Fund

Payments From Other Funds	<u>189,779</u>
Total Economic Development/Capital Reserve Fund Revenues	189,779

Schedule N. Water Capital Reserve Fund

Fund Balance Appropriated	<u>30,000</u>
Total Water Capital Reserve Fund Revenues	30,000

Schedule O. Sewer Capital Reserve Fund

Fund Balance Appropriated	<u>86,000</u>
Total Sewer Capital Reserve Fund Revenues	86,000

Schedule P. Facade Fund

Transfer from G/F	<u>10,000</u>
Total Façade Fund Revenues	10,000

Schedule Q. Workers Comp Internal Service Fund

Payments from Operational Funds	<u>95,000</u>
Total Workers Comp Internal Service Fund Revenues	95,000

Total Estimated Revenues for all Funds **62,225,970**

Section 3. There is hereby levied the following rate of tax on each one hundred dollars (\$100.00) valuation of estimated taxable property listed for taxes as of January 1, 2011, for the purpose of raising the revenues from property taxes, as set forth in the foregoing estimates, and in order to finance the foregoing appropriations:

General Fund	
Total Rate per \$100 of	
Valuation of Taxable Property	.50

Such rate of tax is based on an estimated total assessed valuation of property tax for the purpose of taxation of \$828,459,000 with an estimated rate of collections of ninety-three percent (92.82%).

Section 4. Some estimates of revenue other than the property tax exceed the amount actually realized in cash from each source in the preceding fiscal year, but the facts warrant the expectations that in each case the estimated amount will actually be realized in cash during the budget year.

Section 5. Appropriations are authorized by department totals. The Finance Officer is authorized to reallocate departmental appropriations among various line item objects of expenditures and revenues as necessary during the budget year. The City Manager is authorized to reallocate appropriations among the various departmental totals of expenditures within the General Fund, Water Fund, Sewer Fund, Electric Fund, Storm Water Management Fund, Airport Fund, Solid Waste Fund, and Cemetery Fund as allowed by North Carolina General Statute 159-15. Any such transfers between departments shall be reported to the City Council at its next regular meeting following the transfer and shall be entered into the official minutes of the City of Washington.

Section 6. Copies of this ordinance shall be filed with the Finance Director of the City of Washington, to be kept on file by her for her direction in the disbursement of City funds.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall become effective July 1, 2011.

Adopted this 19th day of June, 2011.



ATTEST

Cynthia S. Bennett
CITY CLERK

[Signature]
MAYOR

Councilman Mercer reminded Council of the possible reductions he suggested during the budget workshops in excess of \$600,000, while only \$80-90,000 in reductions were adopted. He stated he will not vote for this budget. Mayor Jennings stated he is proud of the budget that was presented to Council and proud of the staff that presented this budget. There are tax breaks for our citizens and rewards for our employees for the first time in a long time.

Discussions were held regarding the reduction in fees for league play.

A motion was made by Councilman Moultrie and seconded by Councilman Davis that if a particular league does not reduce their fees by \$30 per person then that \$30 fee will be imposed on that League. All voted in favor and the motion carried.

UPDATE – POLICE DEPARTMENT FUNDING

(begin memo from Pete Connet) We had a good meeting with Susan Christensen of the USDA last week. She was in-town to go over some of the invoices to-date on the Police project and we brought her up to speed on the funding issues we are facing. As I understand it, their loan commitment is still solid and we would need to complete the construction by the summer of 2013. She shared with us that a recent bid in Washington (March 2011) came in \$600,000 under the \$7 million estimate. They had 18 bidders on the project. She also said that USDA could go up to a 40 year term if that would help with the budget issues; this would reduce the DS payment on a \$3 million loan, offered by USDA, by \$22,000. There would be no penalty if the City wanted to pay-off the loan earlier than the proposed 40 year term. She stated that USDA knows that this a very important project for the City of Washington and they are willing to help in any way they can. Susan also pointed out to us that there are no new USDA projects being funded at this time, nor are they taking any new applications.

What savings we may see from a contractor is unknown at this time. In today's construction market contractors are hungry for work as evidenced in the recent bid in Washington that Susan shared with us. The only way to find out is to take the project all the way to the bidding phase. The cost to get there is approximately \$116,000 above what we will have spent to get through the Design Development Phase.

Of Kevin's total contract price for A&E Services of \$257,667, the City would have spent \$206,133 to get through the bidding phase versus \$90,183 if we stop at the end of the Design Development Phase. Additional related expense for the project, as of this date, amount to approximately \$50,000, for such items as legal fees, soil testing, appraisals, detailed land surveys and topographic mapping, and pre-project A&E expenses (approximately \$10,100). Total estimated expenses (A&E and Other related expenses as noted) through Design Development Phase would be approximately \$140,000. The project total cost commitment for the City through getting bids in-hand (the next phase) would be approximately \$256,000.

We have also learned that the EOC Grant application window is now open. As part of the discussions on the 13th if the Council decides to keep pushing forward with the project, we ask for you to consider filing for this grant. There is still no word on the FEMA Buyout funds for the existing PD.

I wish I had a good recommendation for you on this. It is a roll of the dice. If we stop at the DD Phase those dollars are not wasted if we stick with the airport site. Nor are the dollars wasted if you take it all the way to getting bids in-hand and then have to put things on the shelf until funds are available to carry the debt.

The downside to putting things on the shelf for a 12 to 18 month period of time is that there a very good chance the USDA funding might not be there in the future.

We are at a crossroads and direction is needed:

- Do we incur additional expenses? Nearing completion of design development at a project cost of \$140,000 to date. Construction documents and bidding are the next phase with additional engineering cost of \$116,000 taking us to approximately a \$256,000 investment.
- Does DOA proceed with FAA land release? DOA needs direction on proceeding and expending State funds to process application. An alternate use for this site will likely require reapplication. The payment to the airport for release of the land would be done in a lump sum to a Capital Project Reserve.
- Do we stay on schedule to complete project within June 2013 USDA guideline by proceeding?

Project Cost

- \$4.3 million estimate vs. \$3 million Council direction
- As of this time there does not appear to be a way to reduce the total project cost to \$3 million.
- Construction cost may reduce the estimate, bidding will quantify, but won't reduce the estimated total cost to \$3 million

Other Funding Sources/Considerations (find \$1 million)

- Pursuing FEMA & EOC grants without guarantees in a funding environment that is tightening
- Do we proceed with the EOC grant application?
- Electric fund pay for the \$140,000 emergency generator for load management?

Ability to Service Debt (\$3 million 4.125% USDA loan)

- \$62,500 construction interest is included in FY 11-12 proposed budget
- \$ 176,133/ year 30 year USDA (additional \$113,633 from FY 11-12)
- \$ 154,401/ year 40 year USDA (additional \$91,901 from FY 11-12)
- Additional recurring revenue sources and or expenditure reductions will be necessary to service the additional debt.

Additional Considerations:

- USDA is not processing new loan applications. Long term financing may not be available if the project is postponed.
- Construction cost will likely increase in the future.(end memo)

Preliminary Cost Estimation of Police Department Facility.					
Numbers taken in part from USDA Loan Application and updated info as known					
For Discussion Purposes only					
Expense Item			Est. Cost		Notes
Development and Construction			\$ 3,235,160		
	Building Cost	\$ 2,543,710			based on 14,963 SF x \$170/sf
	Site Work Cost	\$ 472,450			
	IT/Telecom	\$ 38,000.00			
	Security	\$ 41,000.00			
	Emergency Gen.	\$ 140,000.00			
Land Surveys & Appraisals, sites 1&2			\$ 15,000		\$11,475 paid to date
Land Cost/FAA/airport Improvements			\$ 200,000		Two appraisals--1@\$300,000 and
Legal and Administrative			\$ 20,000		Estimate from Atty.
Architect /Engineering fees (max.per contract)			\$ 257,667		8% of Development and Construc
Interest on Construction Loan			\$ 112,500		\$3 million, 2.5%, 18 months
Furniture/Fixtures/Equipment (FFE)			\$ 200,000		6.2% of Development cost
Contingency			\$ 200,000		6.2% of Development cost
Geotech/soils analysis			\$ 3,900		from actual quote
Detailed site survey/including topo			\$ 6,100		Estimate
Preliminary Reports/prior to Design contract			\$ 10,650		paid to date
Estimated Moving cost of the Department			\$ 35,000		Est. moving \$35,000
			\$ 4,295,977		
Revenue Sources					
Public Safety Capital Reserve fund			\$ 1,000,000		
USDA Loan			\$ 2,000,000		They will go up to \$3,000,000
			\$ 3,000,000		
Potential Funding Sources					
	FEMA BUY OUT <u>NET</u> NEW MONEY	\$ 600,000			
	EOC Grant Program	\$ 457,000			
		\$ 1,057,000			
Revenue/Expenses			\$ (1,295,977)		

Council discussed the various possibilities relating to continuing, stopping or placing on hold the Police Department project, including ideas such as reconfiguration of the facility, keeping it as is and placing out for bids as well as continue looking for funding sources.

Council, by consensus agreed to suspend the Police station project for 60 days and during this time possibly redesign the facility and review funding/financing sources. Council requested that staff give an update/review at the August 8th Council meeting.

The City Attorney will forward a letter to FAA asking them to place the land release on hold. By consensus, Council authorized staff to proceed with submitting the E.O.C. grant application.

DISCUSSION – ETJ BOUNDARY

Mayor Pro tem Roberson suggested the need to reduce the ETJ Boundary. The pending legislation would allow for citizens inside the ETJ to vote and to be allowed to be on City Council. We could possibly reduce the 1 ½ ETJ area. Council suggested the item be sent to the Planning Board for further review. Councilman Mercer noted this bill is now considered a study bill.

DISCUSSION – PARTNERSHIP FOR THE SOUNDS

Mayor Jennings requested permission from Council for the City Attorney to write a letter to Partnership for the Sounds stating their lease allows for a sub-lease in regards to the proposed upland bathhouse. Council by consensus agreed to the allowing the attorney to write the letter.

DISCUSSION – GATES AT MOSS LANDING

Councilman Davis asked the City Manager to review the installation of the gates at Moss Landing and the City's boardwalk. He understood the gates would be at the Moss property line not beginning at the City's boardwalk. These gates are locked and should be opened.

ADJOURN

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council adjourned the meeting at July 18, 2011 at 5:30pm in the Council Chambers at the Municipal Building.

Cynthia S. Bennett, CMC
City Clerk