



# COUNTY OF DARE

PO Box 1000. MANTEO. NC 27954

## DARE COUNTY BOARD OF COMMISSIONERS

Dare County Administration Building  
954 Marshall C. Collins Dr., Manteo, NC

**Monday, June 20, 2022**

**“HOW WILL THESE DECISIONS IMPACT OUR CHILDREN AND FAMILIES?”**

### AGENDA

- 5:00 PM CONVENE, PRAYER, PLEDGE OF ALLEGIANCE**
- ITEM 1** Opening Remarks - Chairman's Update
- ITEM 2** Public Comments
- ITEM 3** Dare County N.C. Cooperative Extension Report
- ITEM 4** Update on Website Redesign
- ITEM 5** E911 Fund Budget Amendment
- ITEM 6** EMS and Masonic Lodge Construction Manager at Risk Request For Qualification Projects
- ITEM 7** Grant Application - Oregon Inlet Construction Administration Services
- ITEM 8** Grant Application - Hatteras Inlet Construction Administration Services
- ITEM 9** Grant Application - Soundside Boardwalk Improvements Project
- ITEM 10** Island H Modifications Grant
- ITEM 11** **Consent Agenda**
1. Approval of Minutes
  2. Reimbursement Resolutions -  
Fiscal Year 2022-2023 Vehicle & Equipment Financing  
Fiscal Year 2022-2023 Public Works Equipment Financing
  3. Sanitation Fund - Capital Outlay budget amendment
  4. Tax Collector's Report
  5. Tyler Payment Card Processing Agreement
  6. Budget Amendment for Deeds of Trust Fund (Special Revenue Fund)
  7. FY2023 Capital Project Ordinance - Public Works Equipment amendment
  8. Fiscal Year 2023 Opioid Settlement Funds Budget Amendments
  9. Budget Amendment - Leases
  10. Colington Road Project R-5014 Utility Preliminary Engineering Agreement (Payable)
- ITEM 12** **Board Appointments**
1. Fessenden Center Advisory Board
  2. Upcoming Board Appointments
- ITEM 13** **Commissioners' Business & Manager's/Attorney's Business**

**ADJOURN UNTIL 5:00 P.M. ON JULY 18, 2022**



*Opening Remarks - Chairman's Update*

**Description**

Dare County Chairman Robert Woodard will make opening remarks.

**Board Action Requested**

Informational Presentation

**Item Presenter**

Chairman Robert Woodard, Sr.



*Public Comments*

**Description**

The Board of Commissioners encourages citizen participation and provides time on the agenda at every regularly scheduled meeting for Public Comments. This is an opportunity for anyone to speak directly to the entire Board of Commissioners for up to five minutes on any topic or item of concern.

Comments can be made at the Commissioners Meeting Room in Manteo (Administration Bldg., 954 Marshall Collins Drive, Manteo) or through an interactive video link at the Fessenden Center Annex (47013 Buxton Back Road, Buxton).

**Board Action Requested**

Hear Public Comments

**Item Presenter**

Robert Outten, County Manager



*Dare County N.C. Cooperative Extension Report*

**Description**

Tanya Lamo, County Extension Director will provide "the story of Extension through 2021".

**Board Action Requested**

None - Informational Presentation

**Item Presenter**

Tanya Lamo, County Extension Director



*Update on Website Redesign*

**Description**

Dare County Public Relations is coordinating the redesign of [www.darenc.com](http://www.darenc.com) and will provide an update on the process that is being used, the proposed updated design, and the timeline for completion.

**Board Action Requested**

No action required.

**Item Presenter**

Dorothy Hester, Public Information Officer and Katelin Kight, PR Specialist



*E911 Fund Budget Amendment*

**Description**

The State E911 Board has awarded the County additional funds for FY23 to offset planned capital expenditures and equipment maintenance and repair costs. This Amendment allocates the increased revenue and expenditures to the proper accounts.

**Board Action Requested**

Approval

**Item Presenter**

Captain J. Scarborough

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# DARE COUNTY

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## BUDGET AMENDMENT

F/Y 2022-2023

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: E911</u>					
<u>Revenues:</u>					
E911 Surcharge	213527	441200		269,666	
 <u>Expenditures:</u>					
Miscellaneous	214527	525700		265,730	
Maintenance & Repairs-Equipment	214527	511501		3,936	

**Explanation:**

The State E911 Board has awarded the County additional funds for FY23 to offset planned capital expenditures and equipment maintenance and repair costs. This Amendment allocates the increased revenue and expenditures to the proper accounts.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

**Finance only:**

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*EMS and Masonic Lodge Construction Manager at Risk Request For Qualification Projects*

**Description**

On June 6, 2022 the CIP Committee met and evaluated five (5) RFQ responses from construction management companies. Responses were received from: Barnhill Contracting Company, AR Chesson Construction, Daniels & Daniels Construction, Skylar Design Build, and The Whiting-Turner Contracting Company. RFQ responses are posted on County Commissioner webpage. The CIP Committee approved a motion to recommend Barnhill Contracting Company as the preferred Construction Manger at Risk for the EMS and Masonic Lodge construction projects.

**Board Action Requested**

Approve Barnhill Contracting Company as the Construction Manager at Risk for both EMS and Masonic Lodge construction projects and approve the County Manager to negotiate and sign the contract.

**Item Presenter**

Dustin Peele, Project and Procurement Manager





*Grant Application - Oregon Inlet Construction Administration Services*

**Description**

Grants & Waterways is requesting the Board of Commissioners authorize the submission of a N.C. DEQ Shallow Draft Navigation Fund grant application to cost share on construction administration services for maintenance dredging in Oregon Inlet during FY2023.

**Board Action Requested**

Adopt Resolution, approve Budget Amendment, and authorize the County Manager to enter into contract with Coastal Protection Engineering.

**Item Presenter**

Barton Grover, Grants & Waterways Administrator



## **Resolution to Sponsor the FY 2023 Oregon Inlet Maintenance Project**

**WHEREAS**, Dare County desires to sponsor the FY 2023 Oregon Inlet Maintenance Project to provide funding for construction administration services associated with maintaining navigation channels in Oregon Inlet.

**THEREFORE, BE IT RESOLVED THAT:**

- 1) Dare County requests the State of North Carolina provide financial assistance to Dare County for the FY 2023 Oregon Inlet Maintenance Project in the amount of \$23,627 or 66.67% of project cost, whichever is the lesser amount;
- 2) Dare County assumes full obligation for payment of the balance of project costs;
- 3) Dare County will obtain all necessary State and Federal permits;
- 4) Dare County will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;
- 5) Dare County will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) Dare County will obtain appropriate easements, rights-of-way or suitable dredge material disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) Dare County will ensure that the project is open for use by the public on an equal basis with limited restrictions, if on public property;
- 8) Dare County will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) Dare County accepts responsibility for the operation and maintenance of the completed project.

This the 20<sup>th</sup> day of June, 2022.

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Robert Woodard, Sr., Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board

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# **DARE COUNTY**

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## **BUDGET AMENDMENT**

**F/Y 2022-2023**

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Inlet Maintenance</u>					
<u>Revenues:</u>					
Oregon Inlet Construction Admin	253571	427013	00773	23,627	
Appropriated Fund Balance	253571	499900		11,811	
 <u>Expenditures:</u>					
Oregon Inlet Construction Admin	254571	559911	00773	35,438	

**Explanation:**

North Carolina Department of Environmental Quality Shallow Navigation Fund Grant of \$23,627 for construction administration support for maintenance dredging of the navigation channels in the vicinity of Oregon Inlet. \$11,811 in matching funds will be sourced from the Inlet Maintenance Fund.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



May 27, 2022

Robert L. Outten  
Dare County  
954 Marshall C Collins Dr. Room 286  
Manteo, NC 27954

**Proposal: FY 2022-2023 Construction Administration Services Hatteras Inlet /Oregon Inlet Maintenance Dredging**

Dear Mr. Outten:

Coastal Protection Engineering of North Carolina, Inc. (CPE) is pleased to provide you with the attached proposal to provide Dare County engineering consulting, construction administrative, and environmental monitoring services associated with maintaining Hatteras Inlet and Oregon Inlet Navigation Channels. The Scope of Professional Services (the Services) is attached to this proposal as Exhibit A.

Task 1 (Exhibit A) includes services associated with construction administration support for maintenance dredging of the navigation channels in the vicinity of Hatteras Inlet, conducted under existing CAMA and Dept. of the Army permits held by Dare County. Task 1 services are based on the level of service provided to the COUNTY by CPE over the past several years for this project. The proposal assumes up to 3 maintenance dredging events during the Fiscal Year 2022/2023; however, it is understood that the number of maintenance events are subject to change. Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis not-to-exceed \$30,651.00.

Task 2 (Exhibit A) includes services associated with construction administration support for maintenance dredging of the navigation channels in the vicinity of Oregon Inlet, conducted under existing CAMA and Dept. of the Army permits held by Dare County. Task 2 services are based on CPE's understanding of the services necessary to satisfy permit requirements for the Oregon Inlet maintenance and the level of service provided to Dare County by CPE associated with the maintenance of Hatteras Inlet over the past several years. The proposal assumes activities will revolve around 4 quarters of dredging and that coordination and reporting will be required on a quarterly basis throughout the 12 month period of service. Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis not-to-exceed \$35,438.00.

Task 3 (Exhibit A) includes services associated with permit-required submerged aquatic vegetation (SAV) monitoring that may occur in 2022. Based on the variables associated with the mapping methodology, Task 3 has been sub-divided into Task 3A and 3B. It is possible that Task 3B may not be required. Task 3B will only be conducted following coordination with agency representatives and Dare County. Task



3A will be completed for the Lump Sum Fee of \$1,929.00. If Task 3B is required, the entirety of Task 3 will be completed for the lump sum fee of \$26,268.00.

Task 4 (Exhibit A) includes services associated with submerged aquatic vegetation (SAV) monitoring that would be required if dredging is conducted between April 1 and September 30, 2023, under the authorizations granted by permits issued to Dare County for Hatteras Inlet. Task 4 is listed as "OPTIONAL" in Exhibit A because the need for this work will be premised on whether maintenance dredging is conducted between April 1 and September 30, 2022. Based on the variables associated with the mapping methodology, Task 4 has been sub-divided into Task 4A, 4B, and 4C. If Dare County authorizes Task 4, CPE will first complete Task 4A for the lump sum fee of \$16,811.00. If dredging is in fact conducted between April 1 and September 30, 2023, CPE will proceed with Task 4B for an additional Lump Sum Fee of \$1,929.00. If Task 4C is required, CPE will complete Task 4C for an additional Lump Sum Fee of \$22,599.00 (Total Lump Sum fee for Task 4 is \$41,339.00).

Exhibit B of the attached proposal is our standard rate schedule, which will be used in charging time and materials.

CPE's performance of the proposed Services is conditioned upon mutually acceptable contract terms and conditions. In that regard, attached to this proposal is our Services Agreement for your consideration as the terms and conditions that will govern our performance of the proposed Services.

If this proposal is acceptable to you, please sign the attached Services Agreement and return it to me. CPE will then sign the Services Agreement and return a fully signed copy to you for your records.

We look forward to continuing to work with Dare County on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Willson", written over a light blue horizontal line.

Ken Willson

Senior Program Manager

Coastal Protection Engineering of North Carolina, Inc

Office: 910-399-1905

Mobile: 910-443-4471

[kwillson@coastalprotectioneng.com](mailto:kwillson@coastalprotectioneng.com)

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**  
**SERVICES AGREEMENT**  
**LUMP SUM AND TIME & MATERIALS BASIS**

All in accordance with the following terms and conditions.

1. **SCOPE OF SERVICES: COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC. (“CPE”)** agrees to perform for the undersigned CLIENT, engineering and consulting (“Services”) described in the attached Proposal and/or as follows:

**Proposal: FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING.**

2. **FEES, INVOICES AND PAYMENTS:** The Services associated with Tasks 1 and 2 will be performed on a time and materials basis, **not to exceed Thirty thousand, six hundred fifty-one dollars and zero cents (\$30,651.00)**, and **Thirty-five thousand, four hundred thirty-eight dollars and zero cents (\$35,438.00)**, respectively.

The Services associated with Task 3 will be performed for the lump sum fee of: **Twenty-six thousand, two hundred sixty-eight dollars and zero cents (\$26,268.00)**.

If Authorized, the Service associated with Task 4 will be performed for the lump sum fee of: **Forty-one thousand, three hundred thirty-nine dollars and zero cents (\$41,339.00)**.

Invoices will be submitted by CPE no more frequently than every month, with payment due upon CLIENT’S receipt of invoice. Payment shall be in U.S. Dollars. CLIENT shall be responsible for payments (without deduction or offset from the total invoice amount) of any and all sales, use, value added, gross receipts, franchise and like taxes, tariffs and duties levied against CPE or its employees by any government or taxing authority. A service charge equal to one-half percent (1/2 %)

per month, or the maximum rate permitted by law, whichever is less, will be added to all accounts which remain unpaid for more than thirty (30) calendar days beyond the date of the invoice. Should there be any dispute as payments to be made on a percent complete basis to any portion of an invoice, the undisputed portion shall be promptly paid.

3. **CLIENTS COOPERATION:** To assist CPE in performing the Services, CLIENT shall (i) provide CPE with relevant material, data, and information in its possession pertaining to the specific project or activity, (ii) consult with CPE when requested, (iii) permit CPE reasonable access to relevant project sites, (iv) ensure reasonable cooperation of CLIENT's employees in CPE’s activities, and (v) notify and report to all regulatory agencies as required by such agencies.

4. **CONFIDENTIALITY:** In the course of performing Services, to the extent that CLIENT discloses to CPE, business or technical information that CLIENT clearly marks in writing as confidential or proprietary, CPE will exercise reasonable efforts to avoid the disclosure of such information to others. Likewise, to the extent that CPE discloses to CLIENT, business or technical information that CPE clearly marks in writing as confidential or proprietary, CLIENT will exercise reasonable efforts to avoid the disclosure of such information to others.

Nothing herein is meant to prevent nor shall be interpreted as preventing either party from disclosing and/or using any information or data (i) when the information or data are actually known to the receiving party before being obtained or derived from the transmitting party, (ii) when information or data are generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; (iii) where the information or

data are obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereto; (iv) where a written release is obtained by the receiving party from the transmitting party; (v) three (3) years from the date of receipt of such information; or (vi) when required by process of law; or by North Carolina Public Records Law; provided, however, upon service of such process, the recipient thereof shall use reasonable efforts to notify the other party and afford it an opportunity to resist such process.

**5. DELAYS AND CHANGES IN CONDITIONS:**

If CPE is delayed or otherwise in any way hindered or impacted at any time in performing the Services by (i) an act, failure to act or neglect of CLIENT or CLIENT's employees or any third parties; (ii) changes in the scope of the work; (iii) unforeseen, differing or changed circumstances or conditions including differing site conditions, acts of force majeure (such as fires, floods, riots, and strikes); (iv) changes in government acts or regulations; (v) delay authorized by CLIENT and agreed to by CPE; or (vi) any other cause beyond the reasonable control of CPE, then 1) the time for completion of the Services shall be extended based upon the impact of the delay, and 2) CPE shall receive an equitable compensation adjustment. Any such equitable adjustment shall be based on CPE's then current Time and Material Rates, as may be provided in a Rate sheet attached hereto.

**6. INSURANCE:** CPE is presently protected by Worker's Compensation Insurance as required by applicable law and by General Liability and Automobile Liability Insurance (in the amount of \$1,000,000 combined single limit) for bodily injury and property damage. Insurance certificates will be furnished to CLIENT on request. If the CLIENT requires further insurance coverage, CPE will endeavor to obtain said coverage, and CLIENT shall pay any extra costs therefor.

**7. INDEMNITIES:** CPE shall defend, indemnify and hold harmless CLIENT and its officers and employees from and against loss or damage to tangible property, or injury to persons, to the extent arising from the negligent acts or omissions or willful misconduct of CPE, its borrowed servants and their employer and its subcontractors, and their respective employees and agents acting in the course and scope of their employment.

**8. LIMITATIONS OF LIABILITY:**

a. GENERAL LIMITATION - CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED BREACH OF WARRANTY BY CPE SHALL BE TO REQUIRE CPE TO REPERFORM ANY DEFECTIVE SERVICES. CPE'S LIABILITY AND CLIENT'S REMEDIES FOR ALL CAUSES OF ACTION ARISING HEREUNDER WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE, OR ANY OTHER CAUSE OF ACTION, SHALL NOT EXCEED EXCEPT FOR THE INDEMNIFICATIONS SET FORTH IN SECTION 7 ABOVE. THE CUMULATIVE AGGREGATE (INCLUDING ANY INSURANCE PROCEEDS) WITH RESPECT TO ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, SHALL BE THE GREATER OF WHATEVER MINIMUM AMOUNT MAY BE REQUIRED BY LAW OR, IF NONE, THE AMOUNT OF COMPENSATION FOR SUCH SERVICES, OR THE LIMITS OF CPE'S INSURANCE COVERAGE FOR SUCH CLAIMS, WHICH AMOUNT SHALL NOT BE LESS THAN \$1,000,000. CPE SHALL PROVIDE CLIENT PROOF OF COVERAGE UPON EXECUTION OF THIS AGREEMENT

b. CONSEQUENTIAL DAMAGES: FURTHER AND REGARDLESS OF ANY OTHER PROVISION HEREIN, CPE SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, DECLINE IN PROPERTY VALUE, REGULATORY AGENCY FINES, LOST PRODUCTION OR

LOSS OF USE) INCURRED BY CLIENT OR FOR WHICH CLIENT MAY BE LIABLE TO ANY THIRD PARTY OCCASIONED BY THE SERVICES OR BY APPLICATION OR USE OF REPORTS OR OTHER WORK PERFORMED HEREUNDER.

9. **GOVERNING LAWS:** This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

10. **TERMINATION:** Either party may terminate this Agreement with or without cause upon forty five (45) days' written notice to the other party. Upon such termination, CLIENT shall pay CPE for all Services performed hereunder up to the date of such termination. In addition, if CLIENT terminates, CLIENT shall pay CPE all reasonable costs and expenses incurred by CPE in effecting the termination, including, but not limited to non-cancelable commitments and demobilization costs.

11. **ASSIGNMENT:** Neither CPE nor CLIENT shall assign any right or delegate any duty under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CPE may, upon notice to CLIENT, assign, pledge or otherwise hypothecate the cash proceeds and accounts receivable resulting from the performance of any Services or sale of any goods pursuant to this Agreement.

12. **MISCELLANEOUS:**

a. **ENTIRE AGREEMENT, PRECEDENCE, ACCEPTANCE MODIFICATIONS:** The terms and conditions set forth herein constitute the entire understanding of the Parties relating to the provisions of the Services by CPE to the CLIENT. All previous proposals, offers, and other communications relative to the provisions of these Services by CPE, oral or written, are hereby superseded, except to the extent that they have been expressly incorporated by reference herein. In the event of conflict, the three pages of this

Agreement shall govern. CLIENT may accept these terms and conditions by execution of this Agreement or by authorizing CPE to begin work. Any modifications or revision of any provisions hereof or any additional provisions contained in any purchase order, acknowledgement or other document issued by the CLIENT is hereby expressly objected to by CPE and shall not operate to modify the Agreement.

b. **DISPUTES, ATTORNEY FEES** – Any dispute regarding this Agreement or the Services shall be resolved first by exchange of documents by senior management of the parties, who may be assisted by counsel. Any thereafter unresolved disputes shall be litigated in the state whose law governs under Section 9 hereunder. In any litigation, the Prevailing Party shall be entitled to receive, as part of any award or judgment, eighty percent (80%) of its reasonable attorneys' fees and costs incurred in handling the dispute. For these purposes, the "Prevailing Party" shall be the party who obtains a litigation result more favorable to it than its last formal written offer (made at least twenty calendar days prior to the formal trial) to settle such litigation.

c. **WAIVER OF TERMS AND CONDITIONS** - The failure of CPE or CLIENT in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in the Agreement or the waiver by CPE or CLIENT of any breach of the terms or conditions of this Agreement shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

d. **NOTICES** – Any notices required hereunder may be sent by orally confirmed US Mail, courier service (e.g. FedEx), orally confirmed telecopy (fax) or orally confirmed email (further confirmed by US Mail) to the addresses set forth below.

e. **SEVERABILITY AND SURVIVAL** - Each provision of this Agreement is severable from the



others. Should any provision of this Agreement be found invalid or unenforceable, such provision shall be ineffective only to the extent required by law, without invalidating the remainder of such provision or the remainder of this Agreement.

Further, to the extent permitted by law, any provision found invalid or unenforceable shall be deemed automatically redrawn to the extent necessary to render it valid and enforceable consistent with the parties' intent. The terms and conditions set forth herein shall survive the termination of this Agreement.

CLIENT and CPE agree to the foregoing **(INCLUDING THE LIMITATIONS ON LIABILITY IN SECTIONS herein)** and have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

Executed on \_\_\_\_\_, 2022

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**

By (Sign): \_\_\_\_\_

Print Name: Kenneth Willson

Title: President

Address: 4038 Masonboro Loop Road

Wilmington, NC 28409

Phone: (910) 443-4471

Fax: N/A

E-mail: Kwillson@coastalprotectioneng.com

**COUNTY OF DARE, NORTH CAROLINA**

By (Sign): \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Attachments:

Exhibit A – Scope of Services

Exhibit B – Rate Schedule

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

Coastal Protection Engineering of North Carolina, Inc. (CPE) will provide construction administrative services to the County of Dare (COUNTY) in support of maintenance dredging operations conducted under Department of the Army and Division of Coastal Management permits held by the COUNTY in the vicinity of Hatteras Inlet and Oregon Inlet. Also included in the scope of work are services associated with permit-required submerged aquatic vegetation (SAV) monitoring in the vicinity of Hatteras Inlet. A detailed description of each of the services follows.

**TASK 1 – CONSTRUCTION ADMINISTRATIVE SERVICES (HATTERAS INLET)**

During FY 2022-2023 of the Hatteras Inlet maintenance cycle, CPE will assist the COUNTY in complying with permit conditions on a time and materials basis before, during and after dredge maintenance activities in the vicinity of Hatteras Inlet. Services may include pre-construction coordination with representatives from the COUNTY, US Army Corps of Engineers (USACE), Division of Coastal Management (DCM), private dredge contractors, and other state and federal agencies, as well as development of written notice to proceed and planning and facilitating pre-construction meetings. CPE will begin coordination with regulatory agencies as early as possible in advance of each dredging event. CPE will provide a workplan drawing indicating the area to be maintained for each dredging event, the method to be utilized for dredging, the area to be used for spoil disposal, if any, the estimated amount of material to be removed and locations of the submerged aquatic vegetation beds. The workplan drawing for the contractor will be based on the latest survey data available. This proposal assumes that bathymetric survey data needed to prepare these work plans will be provided by the State DOT or USACE. As such, hydrographic surveys are not included in this proposal. CPE will also coordinate with State and Federal agencies regarding any relief from dredge windows needed to execute the proposed work plan. This does not, however, include efforts that require permit modifications. Should modifications of the permit be required CPE will submit a change order for those specific services.

During times of active dredging, CPE will track progress and be available to address questions or concerns from the COUNTY, USACE Navigation Branch, private dredge contractors, and/or regulatory agencies. If necessary, CPE will be available to review dredging data to determine the depth and position of excavation and the resulting channel widths and depths. Regular updates will be provided to the regulatory agencies during dredge operations.

Following completion of a dredge event, CPE will prepare a project report in compliance with Special Condition #24 of the Dept. of Army Permit (SAW-2016-02140). The report will summarize the results of the dredging and contain information on project location, start-up and completion dates, cubic yards of material dredged, incidental takings (include photographs, if available) and sightings of protected species, mitigating actions taken, screening type (inflow, overflow) utilized, daily water temperatures, name of dredge, names of endangered species observers, percent observer coverage, and any other information the contractor deems relevant. The report will be

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

submitted to the County, the USACE, DCM, and National Marine Fisheries Service (NMFS) within 30 working days of completion of the dredging.

Upon request from the COUNTY, CPE will also review the post-dredging surveys to assess the best course of action for the next maintenance dredging event.

Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis. This scope for construction administration services is based on the level of service provided to the COUNTY by CPE during the past several years of maintenance. The proposal assumes up to 3 maintenance dredging events during FY 2022-2023. If additional maintenance events are required, a change order will be prepared and presented to the COUNTY.

*Task 1 services will be provided on a time and materials basis, not to exceed \$30,651.00.*

**TASK 2 – CONSTRUCTION ADMINISTRATIVE SERVICES (OREGON INLET)**

During FY 2022-2023 of the Oregon Inlet maintenance cycle, CPE will assist the COUNTY in complying with permit conditions on a time and materials basis before, during and after dredge maintenance activities that fall under Dept. of Army Permit SAW-2019-00175 and North Carolina Coastal Resources Commission CAMA Major Permit 49-19. Services may include CPE attendance at up to two (4) pre-construction coordination meetings between the COUNTY, regulatory agencies, resource agencies and/or the dredge contractor.

Prior to undertaking any dredge operations, CPE will convene a meeting with representatives from the USACE Washington Field Regulatory Office, DCM, and North Carolina Division of Water Resources (DWR). This meeting will aim to establish a mutual understanding of all terms and conditions contained within the Department of Army and CAMA permits as well as the DWR Water Quality Certification. CPE will also coordinate with the North Carolina Division of Natural and Cultural Resources (NCDNCR) regarding their requirements. Furthermore, CPE will coordinate and confirm that prior to undertaking any dredging and spoil placement activities, a bathymetric survey will be performed to determine the location of the deep water and the depth and exact location of the deep scour holes. CPE will also contact the United States Coast Guard (USCG) 30 days prior to construction to request a notice in the Local Notice to Mariners.

CPE will coordinate with the State of North Carolina and the USACE regulatory staff on a quarterly basis and provide a workplan indicating the areas to be maintained over the next quarter of the annual maintenance cycle. The work plan will also include the methods to be utilized for dredging, areas to be used for spoil disposal if applicable, and the estimated amount of material to be removed. The workplan drawing for the dredger will be based on the latest survey data available and will be coordinated with USACE navigation branch staff. This proposal assumes that

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

bathymetric survey data needed to prepare these workplans will be provided by the USACE, dredge contractor, or other agencies. As such hydrographic surveys are not included in this proposal.

This proposal does not include services associated with obtaining modifications. Should modifications of the permit be required, CPE will submit a change order for those specific services.

During construction, CPE will coordinate with the USACE and DCM regulatory project managers. CPE will be available to review dredging data to determine the depth and position of excavation and the resulting channel widths and depths. If necessary, CPE will provide plan view drawings showing the dredging locations. The drawing may include drag head positioning data provided by the dredger showing the width, depth and length of area that has been excavated since the last dredge location submittal.

Following the completion of the first quarterly cycle, CPE will prepare a project report in compliance with Special Condition #33 of the Dept. of Army Permit (SAW-2019-00175). The report will summarize the results of the dredging during the previous quarter and contain information on project location, start-up and completion dates, cubic yards of material dredged, incidental takings (include photographs, if available) and sightings of protected species, mitigating actions taken, screening type (inflow, overflow) utilized, daily water temperatures, name of dredge, names of endangered species observers, percent observer coverage, and any other information the contractor deems relevant. The report will be submitted to the County, the USACE, DCM, and NMFS within 30 working days of completion of the dredging.

Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis. This scope for construction administration services is based on CPE's understanding of the services necessary to satisfy permit requirements for the Oregon Inlet maintenance and the level of service provided to the COUNTY by CPE associated with the maintenance of Hatteras Inlet over the past several years. The proposal assumes activities will revolve around 4 quarters of dredging and that coordination and reporting will be required on a quarterly basis throughout the 12 month period of service.

*Task 2 services will be provided on a time and materials basis, not to exceed \$34,448.00.*

**TASK 3 – SAV MONITORING AND REPORTING FOR HATTERAS INLET (SPRING-SUMMER 2022)**

On April 1, 2022, the Department of Army (DoA) issued a modification to Dare County's permit (#SAW-2016-02140) allowing for one time relief of up to 21 days of maintenance dredging and

**EXHIBIT A:  
SCOPE OF PROFESSIONAL SERVICES  
DARE COUNTY, NORTH CAROLINA  
FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES  
HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

the expansion of the “Connector Channel Corridor” associated with the Hatteras Inlet Maintenance Project. The modified permit includes a new special condition which states that:

*“SAV should be mapped prior to the start of dredging and again closer to the end of SAV growing season. Mapping should include the edges of SAV beds and percent cover and composition of the SAV community characterized. Monitoring reports will be provided to resource agencies at the end of the growing season in which dredge events occurred”.*

NMFS subsequently stated that the existing SAV map developed by the State of North Carolina can serve for this year’s “start of season” SAV map. Therefore, Task 3 only include efforts associated with developing the “end of SAV growing season” map. Based on the variables associated with the mapping methodology, Task 3 has been sub-divided into Task 3A and 3B.

**Task 3A** - Prior to implementing in situ monitoring, a desktop evaluation will be conducted to assess the extent of SAV resources (as determined 2013 APNEP data) located within 1,000 feet of the area(s) dredged during maintenance operations outside of the environmental dredge window (April 1 through September 30, 2022). A 1,000-foot buffer will then be created from the domain of SAV located within 1,000 feet of the dredged area. The buffer will be established parallel to the plane of the dredged area and extend towards the dredge area. This area will represent the geographic domain of the “late growing season” SAV monitoring effort as described herein. Figure 1 below represents a hypothetical scenario that depicts the extent of SAV within 1,000 feet of a dredge footprint and the subsequent domain of the proposed SAV mapping area (Figure 1).

**Task 3B** - Aerial imagery of the geographic domain established through the completion of Task 3A will be collected by a DJI Phantom 4 Pro 2.0 UAV outfitted with a 1-inch 20 mega pixel camera with a f/2,8 wide-angle lens. Imagery will be obtained between September 1 and October 30, 2022, during optimal environmental conditions as described by Nahimick, 2018. These conditions include wind speeds of less than 15 mph, cloud cover of less than 10% or greater than 90%, and a sun angle between 7 and 40 degrees. CPE will launch the UAV either from land or from a vessel in proximity to the project area and will fly pre-programmed flight missions that will encompass the entirety of the study area. The imagery will then be downloaded from the UAV and uploaded to a cloud-based drone mapping software (Site Scan for ArcGIS or similar) to process the data and create orthorectified orthomosaic images. CPE staff will then hand digitize the edges of any discernable SAV beds visualized within the study area to create polygons representing the geographic extent of these resources. Up to six (6) representative points determined to contain SAV resources from the orthomosaic imagery will then be groundtruthed in-situ by CPE staff to verify the presence of SAV. Using a 1m quadrat at each point, CPE will also determine the percent cover and identify species composition. Percent cover will follow the NC Division of Marine Fisheries assessment categories and will be recorded as either “continuous” (70-100% SAV coverage) or “patchy” (5-70% SAV coverage). Three (3) quadrats will be assessed

**EXHIBIT A:  
SCOPE OF PROFESSIONAL SERVICES  
DARE COUNTY, NORTH CAROLINA  
FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES  
HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

at each groundtruthing points resulting in a total of eighteen (18) quadrats assessed during the groundtruthing effort.



**Figure 1. Example diagram of SAV monitoring domain.**

The results of the SAV mapping effort will be summarized within an annual report. This report will include a summary of the methods employed to generate the SAV maps and figures depicting the polygons of any SAV resources that were identified. The figures will also include the location of the dredged channels, the permitted channel corridor, and the SAV resources identified during the State's 2013 SAV mapping effort. The report will also present in tabular format the acres and/or square feet of SAV resources identified, their percent cover (continuous or patchy), and the species composition. CPE will also provide orthomosaics collected with the UAS as a deliverable. This report will be distributed to NMFS, USACE, NC Division of Marine Fisheries, and NC Division of Coastal Management no later than December 1, 2022.

*It is possible that depending on the actual location of maintenance dredging that occurs between April 1 and September 30, the analysis described under Task 3A will conclude that no additional*

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

monitoring as described under Task 3B is necessary. In this case, CPE will perform Task 3A for the lump sum fee of \$1,929.00.

If after completing Task 3A, and consulting with agencies, Task 3B is required, CPE will perform the entirety of Task 3 (Task 3A and 3B) for the lump sum fee of \$26,268.00.

**TASK 4 (OPTIONAL) – SAV MONITORING AND REPORTING FOR HATTERAS INLET (SPRING-SUMMER 2023)**

As described under Task 3, the permit for the Hatteras Inlet Connector Channel maintenance dredging now requires SAV monitoring if maintenance work is performed between April 1 and September 30. Task 4 is an Optional Task that can be authorized by the County in the event that maintenance dredging under the Dare County permits is required between April 1 and September 30, 2023.

The scope of work will be similar to what is described in Task 3; however, Task 4 includes both a spring survey and an end of growing season survey. Based on the variables associated with the mapping methodology and the uncertainty of dredging frequency, Task 4 has been sub-divided into Task 4A, 4B, and 4C.

**Task 4A** – The COUNTY will need to make a determination as to the likelihood that dredging will be required between April 1 and September 30 of 2023. If the COUNTY determines it is likely that dredging will be required under its permits in the vicinity of Hatteras Inlet during this time, and the COUNTY authorizes CPE to proceed with Task 4A, CPE will conduct the spring SAV monitoring between April 1 and April 30 of 2023. The methodology used to conduct the spring monitoring will follow the same procedure described in Task 3B. This includes both the collection of aerial imagery using a UAV and ground truthing.

**Task 4B** – If following the authorization and completion of Task 4A, dredging under the COUNTY's permits is conducted between April 1 and September 30, 2023, CPE will conduct a desktop evaluation in the same way described under Task 3A. The desktop assessment will assess the extent of SAV resources (as determined by both 2013 APNEP data and data collected during the Spring 2023 monitoring) in the same way as described under Task 3A.

**Task 4C** – If through the completion of Task 4B, and through consultation with regulatory agencies, CPE determines it is necessary to conduct the end of growing season monitoring, aerial imagery of the geographic domain established through the completion of Task 4B will be collected in the same manner as described in Task 3B. Likewise, ground truthing of the aerial imagery will be collected in the same manner as described in Task 3B. The results of the SAV mapping effort will be summarized within an annual report as described in Task 3B.

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

If the COUNTY authorizes CPE to proceed with Task 4A, CPE will complete Task 4A for the lump sum fee of \$13,430.00. The COUNTY must authorize CPE to proceed prior to April 1, 2023. If no maintenance dredging is conducted under the COUNTY permits between April 1 and September 30, 2023, no additional portions of Task 4 will be necessary.

If dredging under the COUNTY permit is conducted between April 1 and September 30, 2023, CPE will proceed to complete Task 4B. It is possible that depending on where maintenance dredging occurs between April 1 and September 30, 2023, the analysis described under Task 4B will conclude that no additional monitoring as described under Task 4C is necessary. In this case, CPE will perform Task 4B for the additional lump sum fee of \$1,929.00. This is in addition to the fee associated with Task 4A.

If after completing Task 4B, and consulting with agencies, Task 4C is required, CPE will perform the entirety of Task 4 (Task 4A, 4B, and 4C) for the lump sum fee of \$41,339.00.



**EXHIBIT B:  
STANDARD RATE SCHEDULE  
DARE COUNTY, NORTH CAROLINA  
FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES  
HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

**I. Labor Rates**

<u>Labor Classification</u>	<u>Bill Rate</u>
Principal Engineer .....	\$289.00
Principal Coastal Scientist .....	\$289.00
Project Manager .....	\$189.00
Senior Coastal Engineer .....	\$189.00
Senior Coastal Scientist .....	\$185.00
Senior Marine Biologist .....	\$165.00
Coastal Project Engineer .....	\$140.00
Junior Coastal Engineer .....	\$110.00
Junior Coastal Geologist .....	\$100.00
CAD / GIS Operator .....	\$95.00
Engineering Intern / Technician .....	\$75.00

**II. Reimbursable Costs\***

<u>Cost Classification</u>	<u>Bill Rate</u>
Mileage .....	\$0.575 / mile
Company Owned Vehicle.....	\$39 / day
Equipment .....	Per Purchase Order
Direct Costs .....	Per Purchase Order
Sub-Consultants .....	10% of Cost

*\*Subject to terms and conditions of governing agreement.*



*Grant Application - Hatteras Inlet Construction Administration Services*

**Description**

Grants & Waterways is requesting the Board of Commissioners authorize the submission of a N.C. DEQ Shallow Draft Navigation Fund grant application to cost share on construction administration services for maintenance dredging in Hatteras Inlet during FY2023.

**Board Action Requested**

Adopt Resolution, approve Budget Amendment, and authorize the County Manager to enter into contract with Coastal Protection Engineering.

**Item Presenter**

Barton Grover, Grants & Waterways Administrator



## **Resolution to Sponsor the FY 2023 Hatteras Inlet Maintenance Project**

**WHEREAS**, Dare County desires to sponsor the FY 2023 Hatteras Inlet Maintenance Project to provide funding for construction administration services associated with maintaining navigation channels in Hatteras Inlet.

**THEREFORE, BE IT RESOLVED THAT:**

- 1) Dare County requests the State of North Carolina provide financial assistance to Dare County for the FY 2023 Hatteras Inlet Maintenance Project in the amount of \$73,694 or 75% of project cost, whichever is the lesser amount;
- 2) Dare County assumes full obligation for payment of the balance of project costs;
- 3) Dare County will obtain all necessary State and Federal permits;
- 4) Dare County will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;
- 5) Dare County will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) Dare County will obtain appropriate easements, rights-of-way or suitable dredge material disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) Dare County will ensure that the project is open for use by the public on an equal basis with limited restrictions, if on public property;
- 8) Dare County will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) Dare County accepts responsibility for the operation and maintenance of the completed project.

This the 20<sup>th</sup> day of June, 2022.

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Robert Woodard, Sr., Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board

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# **DARE COUNTY**

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## **BUDGET AMENDMENT**

**F/Y 2022-2023**

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Inlet Maintenance</u>					
<u>Revenues:</u>					
South Ferry Channel Const Admin	253751	427013	00772	73,694	
<u>Expenditures:</u>					
South Ferry Channel Const Admin	254571	559912	00772	98,258	
Hatteras Island Inlet Maintenance	254571	559912			24,564

**Explanation:**

North Carolina Department of Environmental Quality Shallow Navigation Fund Grant of \$73,694 for construction administration support for maintenance dredging of the navigation channels and environmental monitoring in the vicinity of Hatteras Inlet. \$24,564 in matching funds will be sourced from the Inlet Maintenance Fund.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



May 27, 2022

Robert L. Outten  
Dare County  
954 Marshall C Collins Dr. Room 286  
Manteo, NC 27954

**Proposal: FY 2022-2023 Construction Administration Services Hatteras Inlet /Oregon Inlet Maintenance Dredging**

Dear Mr. Outten:

Coastal Protection Engineering of North Carolina, Inc. (CPE) is pleased to provide you with the attached proposal to provide Dare County engineering consulting, construction administrative, and environmental monitoring services associated with maintaining Hatteras Inlet and Oregon Inlet Navigation Channels. The Scope of Professional Services (the Services) is attached to this proposal as Exhibit A.

Task 1 (Exhibit A) includes services associated with construction administration support for maintenance dredging of the navigation channels in the vicinity of Hatteras Inlet, conducted under existing CAMA and Dept. of the Army permits held by Dare County. Task 1 services are based on the level of service provided to the COUNTY by CPE over the past several years for this project. The proposal assumes up to 3 maintenance dredging events during the Fiscal Year 2022/2023; however, it is understood that the number of maintenance events are subject to change. Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis not-to-exceed \$30,651.00.

Task 2 (Exhibit A) includes services associated with construction administration support for maintenance dredging of the navigation channels in the vicinity of Oregon Inlet, conducted under existing CAMA and Dept. of the Army permits held by Dare County. Task 2 services are based on CPE's understanding of the services necessary to satisfy permit requirements for the Oregon Inlet maintenance and the level of service provided to Dare County by CPE associated with the maintenance of Hatteras Inlet over the past several years. The proposal assumes activities will revolve around 4 quarters of dredging and that coordination and reporting will be required on a quarterly basis throughout the 12 month period of service. Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis not-to-exceed \$35,438.00.

Task 3 (Exhibit A) includes services associated with permit-required submerged aquatic vegetation (SAV) monitoring that may occur in 2022. Based on the variables associated with the mapping methodology, Task 3 has been sub-divided into Task 3A and 3B. It is possible that Task 3B may not be required. Task 3B will only be conducted following coordination with agency representatives and Dare County. Task



3A will be completed for the Lump Sum Fee of \$1,929.00. If Task 3B is required, the entirety of Task 3 will be completed for the lump sum fee of \$26,268.00.

Task 4 (Exhibit A) includes services associated with submerged aquatic vegetation (SAV) monitoring that would be required if dredging is conducted between April 1 and September 30, 2023, under the authorizations granted by permits issued to Dare County for Hatteras Inlet. Task 4 is listed as "OPTIONAL" in Exhibit A because the need for this work will be premised on whether maintenance dredging is conducted between April 1 and September 30, 2022. Based on the variables associated with the mapping methodology, Task 4 has been sub-divided into Task 4A, 4B, and 4C. If Dare County authorizes Task 4, CPE will first complete Task 4A for the lump sum fee of \$16,811.00. If dredging is in fact conducted between April 1 and September 30, 2023, CPE will proceed with Task 4B for an additional Lump Sum Fee of \$1,929.00. If Task 4C is required, CPE will complete Task 4C for an additional Lump Sum Fee of \$22,599.00 (Total Lump Sum fee for Task 4 is \$41,339.00).

Exhibit B of the attached proposal is our standard rate schedule, which will be used in charging time and materials.

CPE's performance of the proposed Services is conditioned upon mutually acceptable contract terms and conditions. In that regard, attached to this proposal is our Services Agreement for your consideration as the terms and conditions that will govern our performance of the proposed Services.

If this proposal is acceptable to you, please sign the attached Services Agreement and return it to me. CPE will then sign the Services Agreement and return a fully signed copy to you for your records.

We look forward to continuing to work with Dare County on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Willson", written over a light blue horizontal line.

Ken Willson

Senior Program Manager

Coastal Protection Engineering of North Carolina, Inc

Office: 910-399-1905

Mobile: 910-443-4471

[kwillson@coastalprotectioneng.com](mailto:kwillson@coastalprotectioneng.com)

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**  
**SERVICES AGREEMENT**  
**LUMP SUM AND TIME & MATERIALS BASIS**

All in accordance with the following terms and conditions.

1. **SCOPE OF SERVICES: COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC. (“CPE”)** agrees to perform for the undersigned CLIENT, engineering and consulting (“Services”) described in the attached Proposal and/or as follows:

**Proposal: FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING.**

2. **FEES, INVOICES AND PAYMENTS:** The Services associated with Tasks 1 and 2 will be performed on a time and materials basis, **not to exceed Thirty thousand, six hundred fifty-one dollars and zero cents (\$30,651.00)**, and **Thirty-five thousand, four hundred thirty-eight dollars and zero cents (\$35,438.00)**, respectively.

The Services associated with Task 3 will be performed for the lump sum fee of: **Twenty-six thousand, two hundred sixty-eight dollars and zero cents (\$26,268.00)**.

If Authorized, the Service associated with Task 4 will be performed for the lump sum fee of: **Forty-one thousand, three hundred thirty-nine dollars and zero cents (\$41,339.00)**.

Invoices will be submitted by CPE no more frequently than every month, with payment due upon CLIENT’S receipt of invoice. Payment shall be in U.S. Dollars. CLIENT shall be responsible for payments (without deduction or offset from the total invoice amount) of any and all sales, use, value added, gross receipts, franchise and like taxes, tariffs and duties levied against CPE or its employees by any government or taxing authority. A service charge equal to one-half percent (1/2 %)

per month, or the maximum rate permitted by law, whichever is less, will be added to all accounts which remain unpaid for more than thirty (30) calendar days beyond the date of the invoice. Should there be any dispute as payments to be made on a percent complete basis to any portion of an invoice, the undisputed portion shall be promptly paid.

3. **CLIENTS COOPERATION:** To assist CPE in performing the Services, CLIENT shall (i) provide CPE with relevant material, data, and information in its possession pertaining to the specific project or activity, (ii) consult with CPE when requested, (iii) permit CPE reasonable access to relevant project sites, (iv) ensure reasonable cooperation of CLIENT's employees in CPE’s activities, and (v) notify and report to all regulatory agencies as required by such agencies.
4. **CONFIDENTIALITY:** In the course of performing Services, to the extent that CLIENT discloses to CPE, business or technical information that CLIENT clearly marks in writing as confidential or proprietary, CPE will exercise reasonable efforts to avoid the disclosure of such information to others. Likewise, to the extent that CPE discloses to CLIENT, business or technical information that CPE clearly marks in writing as confidential or proprietary, CLIENT will exercise reasonable efforts to avoid the disclosure of such information to others.

Nothing herein is meant to prevent nor shall be interpreted as preventing either party from disclosing and/or using any information or data (i) when the information or data are actually known to the receiving party before being obtained or derived from the transmitting party, (ii) when information or data are generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; (iii) where the information or

data are obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereto; (iv) where a written release is obtained by the receiving party from the transmitting party; (v) three (3) years from the date of receipt of such information; or (vi) when required by process of law; or by North Carolina Public Records Law; provided, however, upon service of such process, the recipient thereof shall use reasonable efforts to notify the other party and afford it an opportunity to resist such process.

**5. DELAYS AND CHANGES IN CONDITIONS:**

If CPE is delayed or otherwise in any way hindered or impacted at any time in performing the Services by (i) an act, failure to act or neglect of CLIENT or CLIENT's employees or any third parties; (ii) changes in the scope of the work; (iii) unforeseen, differing or changed circumstances or conditions including differing site conditions, acts of force majeure (such as fires, floods, riots, and strikes); (iv) changes in government acts or regulations; (v) delay authorized by CLIENT and agreed to by CPE; or (vi) any other cause beyond the reasonable control of CPE, then 1) the time for completion of the Services shall be extended based upon the impact of the delay, and 2) CPE shall receive an equitable compensation adjustment. Any such equitable adjustment shall be based on CPE's then current Time and Material Rates, as may be provided in a Rate sheet attached hereto.

**6. INSURANCE:** CPE is presently protected by Worker's Compensation Insurance as required by applicable law and by General Liability and Automobile Liability Insurance (in the amount of \$1,000,000 combined single limit) for bodily injury and property damage. Insurance certificates will be furnished to CLIENT on request. If the CLIENT requires further insurance coverage, CPE will endeavor to obtain said coverage, and CLIENT shall pay any extra costs therefor.

**7. INDEMNITIES:** CPE shall defend, indemnify and hold harmless CLIENT and its officers and employees from and against loss or damage to tangible property, or injury to persons, to the extent arising from the negligent acts or omissions or willful misconduct of CPE, its borrowed servants and their employer and its subcontractors, and their respective employees and agents acting in the course and scope of their employment.

**8. LIMITATIONS OF LIABILITY:**

a. GENERAL LIMITATION - CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED BREACH OF WARRANTY BY CPE SHALL BE TO REQUIRE CPE TO REPERFORM ANY DEFECTIVE SERVICES. CPE'S LIABILITY AND CLIENT'S REMEDIES FOR ALL CAUSES OF ACTION ARISING HEREUNDER WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE, OR ANY OTHER CAUSE OF ACTION, SHALL NOT EXCEED EXCEPT FOR THE INDEMNIFICATIONS SET FORTH IN SECTION 7 ABOVE. THE CUMULATIVE AGGREGATE (INCLUDING ANY INSURANCE PROCEEDS) WITH RESPECT TO ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, SHALL BE THE GREATER OF WHATEVER MINIMUM AMOUNT MAY BE REQUIRED BY LAW OR, IF NONE, THE AMOUNT OF COMPENSATION FOR SUCH SERVICES, OR THE LIMITS OF CPE'S INSURANCE COVERAGE FOR SUCH CLAIMS, WHICH AMOUNT SHALL NOT BE LESS THAN \$1,000,000. CPE SHALL PROVIDE CLIENT PROOF OF COVERAGE UPON EXECUTION OF THIS AGREEMENT

b. CONSEQUENTIAL DAMAGES: FURTHER AND REGARDLESS OF ANY OTHER PROVISION HEREIN, CPE SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, DECLINE IN PROPERTY VALUE, REGULATORY AGENCY FINES, LOST PRODUCTION OR



LOSS OF USE) INCURRED BY CLIENT OR FOR WHICH CLIENT MAY BE LIABLE TO ANY THIRD PARTY OCCASIONED BY THE SERVICES OR BY APPLICATION OR USE OF REPORTS OR OTHER WORK PERFORMED HEREUNDER.

9. **GOVERNING LAWS:** This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

10. **TERMINATION:** Either party may terminate this Agreement with or without cause upon forty five (45) days' written notice to the other party. Upon such termination, CLIENT shall pay CPE for all Services performed hereunder up to the date of such termination. In addition, if CLIENT terminates, CLIENT shall pay CPE all reasonable costs and expenses incurred by CPE in effecting the termination, including, but not limited to non-cancelable commitments and demobilization costs.

11. **ASSIGNMENT:** Neither CPE nor CLIENT shall assign any right or delegate any duty under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CPE may, upon notice to CLIENT, assign, pledge or otherwise hypothecate the cash proceeds and accounts receivable resulting from the performance of any Services or sale of any goods pursuant to this Agreement.

12. **MISCELLANEOUS:**

a. **ENTIRE AGREEMENT, PRECEDENCE, ACCEPTANCE MODIFICATIONS:** The terms and conditions set forth herein constitute the entire understanding of the Parties relating to the provisions of the Services by CPE to the CLIENT. All previous proposals, offers, and other communications relative to the provisions of these Services by CPE, oral or written, are hereby superseded, except to the extent that they have been expressly incorporated by reference herein. In the event of conflict, the three pages of this

Agreement shall govern. CLIENT may accept these terms and conditions by execution of this Agreement or by authorizing CPE to begin work. Any modifications or revision of any provisions hereof or any additional provisions contained in any purchase order, acknowledgement or other document issued by the CLIENT is hereby expressly objected to by CPE and shall not operate to modify the Agreement.

b. **DISPUTES, ATTORNEY FEES** – Any dispute regarding this Agreement or the Services shall be resolved first by exchange of documents by senior management of the parties, who may be assisted by counsel. Any thereafter unresolved disputes shall be litigated in the state whose law governs under Section 9 hereunder. In any litigation, the Prevailing Party shall be entitled to receive, as part of any award or judgment, eighty percent (80%) of its reasonable attorneys' fees and costs incurred in handling the dispute. For these purposes, the "Prevailing Party" shall be the party who obtains a litigation result more favorable to it than its last formal written offer (made at least twenty calendar days prior to the formal trial) to settle such litigation.

c. **WAIVER OF TERMS AND CONDITIONS** - The failure of CPE or CLIENT in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in the Agreement or the waiver by CPE or CLIENT of any breach of the terms or conditions of this Agreement shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

d. **NOTICES** – Any notices required hereunder may be sent by orally confirmed US Mail, courier service (e.g. FedEx), orally confirmed telecopy (fax) or orally confirmed email (further confirmed by US Mail) to the addresses set forth below.

e. **SEVERABILITY AND SURVIVAL** - Each provision of this Agreement is severable from the

others. Should any provision of this Agreement be found invalid or unenforceable, such provision shall be ineffective only to the extent required by law, without invalidating the remainder of such provision or the remainder of this Agreement.

Further, to the extent permitted by law, any provision found invalid or unenforceable shall be deemed automatically redrawn to the extent necessary to render it valid and enforceable consistent with the parties' intent. The terms and conditions set forth herein shall survive the termination of this Agreement.

CLIENT and CPE agree to the foregoing **(INCLUDING THE LIMITATIONS ON LIABILITY IN SECTIONS herein)** and have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

Executed on \_\_\_\_\_, 2022

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**

By (Sign): \_\_\_\_\_

Print Name:  Kenneth Willson

Title:  President

Address:  4038 Masonboro Loop Road

Wilmington, NC 28409

Phone:  (910) 443-4471

Fax:  N/A

E-mail:  Kwillson@coastalprotectioneng.com

**COUNTY OF DARE, NORTH CAROLINA**

By (Sign): \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Attachments:

Exhibit A – Scope of Services

Exhibit B – Rate Schedule

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

Coastal Protection Engineering of North Carolina, Inc. (CPE) will provide construction administrative services to the County of Dare (COUNTY) in support of maintenance dredging operations conducted under Department of the Army and Division of Coastal Management permits held by the COUNTY in the vicinity of Hatteras Inlet and Oregon Inlet. Also included in the scope of work are services associated with permit-required submerged aquatic vegetation (SAV) monitoring in the vicinity of Hatteras Inlet. A detailed description of each of the services follows.

**TASK 1 – CONSTRUCTION ADMINISTRATIVE SERVICES (HATTERAS INLET)**

During FY 2022-2023 of the Hatteras Inlet maintenance cycle, CPE will assist the COUNTY in complying with permit conditions on a time and materials basis before, during and after dredge maintenance activities in the vicinity of Hatteras Inlet. Services may include pre-construction coordination with representatives from the COUNTY, US Army Corps of Engineers (USACE), Division of Coastal Management (DCM), private dredge contractors, and other state and federal agencies, as well as development of written notice to proceed and planning and facilitating pre-construction meetings. CPE will begin coordination with regulatory agencies as early as possible in advance of each dredging event. CPE will provide a workplan drawing indicating the area to be maintained for each dredging event, the method to be utilized for dredging, the area to be used for spoil disposal, if any, the estimated amount of material to be removed and locations of the submerged aquatic vegetation beds. The workplan drawing for the contractor will be based on the latest survey data available. This proposal assumes that bathymetric survey data needed to prepare these work plans will be provided by the State DOT or USACE. As such, hydrographic surveys are not included in this proposal. CPE will also coordinate with State and Federal agencies regarding any relief from dredge windows needed to execute the proposed work plan. This does not, however, include efforts that require permit modifications. Should modifications of the permit be required CPE will submit a change order for those specific services.

During times of active dredging, CPE will track progress and be available to address questions or concerns from the COUNTY, USACE Navigation Branch, private dredge contractors, and/or regulatory agencies. If necessary, CPE will be available to review dredging data to determine the depth and position of excavation and the resulting channel widths and depths. Regular updates will be provided to the regulatory agencies during dredge operations.

Following completion of a dredge event, CPE will prepare a project report in compliance with Special Condition #24 of the Dept. of Army Permit (SAW-2016-02140). The report will summarize the results of the dredging and contain information on project location, start-up and completion dates, cubic yards of material dredged, incidental takings (include photographs, if available) and sightings of protected species, mitigating actions taken, screening type (inflow, overflow) utilized, daily water temperatures, name of dredge, names of endangered species observers, percent observer coverage, and any other information the contractor deems relevant. The report will be

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

submitted to the County, the USACE, DCM, and National Marine Fisheries Service (NMFS) within 30 working days of completion of the dredging.

Upon request from the COUNTY, CPE will also review the post-dredging surveys to assess the best course of action for the next maintenance dredging event.

Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis. This scope for construction administration services is based on the level of service provided to the COUNTY by CPE during the past several years of maintenance. The proposal assumes up to 3 maintenance dredging events during FY 2022-2023. If additional maintenance events are required, a change order will be prepared and presented to the COUNTY.

*Task 1 services will be provided on a time and materials basis, not to exceed \$30,651.00.*

**TASK 2 – CONSTRUCTION ADMINISTRATIVE SERVICES (OREGON INLET)**

During FY 2022-2023 of the Oregon Inlet maintenance cycle, CPE will assist the COUNTY in complying with permit conditions on a time and materials basis before, during and after dredge maintenance activities that fall under Dept. of Army Permit SAW-2019-00175 and North Carolina Coastal Resources Commission CAMA Major Permit 49-19. Services may include CPE attendance at up to two (4) pre-construction coordination meetings between the COUNTY, regulatory agencies, resource agencies and/or the dredge contractor.

Prior to undertaking any dredge operations, CPE will convene a meeting with representatives from the USACE Washington Field Regulatory Office, DCM, and North Carolina Division of Water Resources (DWR). This meeting will aim to establish a mutual understanding of all terms and conditions contained within the Department of Army and CAMA permits as well as the DWR Water Quality Certification. CPE will also coordinate with the North Carolina Division of Natural and Cultural Resources (NCDNCR) regarding their requirements. Furthermore, CPE will coordinate and confirm that prior to undertaking any dredging and spoil placement activities, a bathymetric survey will be performed to determine the location of the deep water and the depth and exact location of the deep scour holes. CPE will also contact the United States Coast Guard (USCG) 30 days prior to construction to request a notice in the Local Notice to Mariners.

CPE will coordinate with the State of North Carolina and the USACE regulatory staff on a quarterly basis and provide a workplan indicating the areas to be maintained over the next quarter of the annual maintenance cycle. The work plan will also include the methods to be utilized for dredging, areas to be used for spoil disposal if applicable, and the estimated amount of material to be removed. The workplan drawing for the dredger will be based on the latest survey data available and will be coordinated with USACE navigation branch staff. This proposal assumes that

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

bathymetric survey data needed to prepare these workplans will be provided by the USACE, dredge contractor, or other agencies. As such hydrographic surveys are not included in this proposal.

This proposal does not include services associated with obtaining modifications. Should modifications of the permit be required, CPE will submit a change order for those specific services.

During construction, CPE will coordinate with the USACE and DCM regulatory project managers. CPE will be available to review dredging data to determine the depth and position of excavation and the resulting channel widths and depths. If necessary, CPE will provide plan view drawings showing the dredging locations. The drawing may include drag head positioning data provided by the dredger showing the width, depth and length of area that has been excavated since the last dredge location submittal.

Following the completion of the first quarterly cycle, CPE will prepare a project report in compliance with Special Condition #33 of the Dept. of Army Permit (SAW-2019-00175). The report will summarize the results of the dredging during the previous quarter and contain information on project location, start-up and completion dates, cubic yards of material dredged, incidental takings (include photographs, if available) and sightings of protected species, mitigating actions taken, screening type (inflow, overflow) utilized, daily water temperatures, name of dredge, names of endangered species observers, percent observer coverage, and any other information the contractor deems relevant. The report will be submitted to the County, the USACE, DCM, and NMFS within 30 working days of completion of the dredging.

Given the uncertainty of the number and duration of channel maintenance events, CPE will provide these services on a time and materials basis. This scope for construction administration services is based on CPE's understanding of the services necessary to satisfy permit requirements for the Oregon Inlet maintenance and the level of service provided to the COUNTY by CPE associated with the maintenance of Hatteras Inlet over the past several years. The proposal assumes activities will revolve around 4 quarters of dredging and that coordination and reporting will be required on a quarterly basis throughout the 12 month period of service.

*Task 2 services will be provided on a time and materials basis, not to exceed \$34,448.00.*

**TASK 3 – SAV MONITORING AND REPORTING FOR HATTERAS INLET (SPRING-SUMMER 2022)**

On April 1, 2022, the Department of Army (DoA) issued a modification to Dare County's permit (#SAW-2016-02140) allowing for one time relief of up to 21 days of maintenance dredging and

**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

the expansion of the “Connector Channel Corridor” associated with the Hatteras Inlet Maintenance Project. The modified permit includes a new special condition which states that:

*“SAV should be mapped prior to the start of dredging and again closer to the end of SAV growing season. Mapping should include the edges of SAV beds and percent cover and composition of the SAV community characterized. Monitoring reports will be provided to resource agencies at the end of the growing season in which dredge events occurred”.*

NMFS subsequently stated that the existing SAV map developed by the State of North Carolina can serve for this year’s “start of season” SAV map. Therefore, Task 3 only include efforts associated with developing the “end of SAV growing season” map. Based on the variables associated with the mapping methodology, Task 3 has been sub-divided into Task 3A and 3B.

**Task 3A** - Prior to implementing in situ monitoring, a desktop evaluation will be conducted to assess the extent of SAV resources (as determined 2013 APNEP data) located within 1,000 feet of the area(s) dredged during maintenance operations outside of the environmental dredge window (April 1 through September 30, 2022). A 1,000-foot buffer will then be created from the domain of SAV located within 1,000 feet of the dredged area. The buffer will be established parallel to the plane of the dredged area and extend towards the dredge area. This area will represent the geographic domain of the “late growing season” SAV monitoring effort as described herein. Figure 1 below represents a hypothetical scenario that depicts the extent of SAV within 1,000 feet of a dredge footprint and the subsequent domain of the proposed SAV mapping area (Figure 1).

**Task 3B** - Aerial imagery of the geographic domain established through the completion of Task 3A will be collected by a DJI Phantom 4 Pro 2.0 UAV outfitted with a 1-inch 20 mega pixel camera with a f/2,8 wide-angle lens. Imagery will be obtained between September 1 and October 30, 2022, during optimal environmental conditions as described by Nahimick, 2018. These conditions include wind speeds of less than 15 mph, cloud cover of less than 10% or greater than 90%, and a sun angle between 7 and 40 degrees. CPE will launch the UAV either from land or from a vessel in proximity to the project area and will fly pre-programed flight missions that will encompass the entirety of the study area. The imagery will then be downloaded from the UAV and uploaded to a cloud-based drone mapping software (Site Scan for ArcGIS or similar) to process the data and create orthorectified orthomosaic images. CPE staff will then hand digitize the edges of any discernable SAV beds visualized within the study area to create polygons representing the geographic extent of these resources. Up to six (6) representative points determined to contain SAV resources from the orthomosaic imagery will then be groundtruthed in-situ by CPE staff to verify the presence of SAV. Using a 1m quadrat at each point, CPE will also determine the percent cover and identify species composition. Percent cover will follow the NC Division of Marine Fisheries assessment categories and will be recorded as either “continuous” (70-100% SAV coverage) or “patchy” (5-70% SAV coverage). Three (3) quadrats will be assessed

**EXHIBIT A:  
SCOPE OF PROFESSIONAL SERVICES  
DARE COUNTY, NORTH CAROLINA  
FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES  
HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

at each groundtruthing points resulting in a total of eighteen (18) quadrats assessed during the groundtruthing effort.



**Figure 1. Example diagram of SAV monitoring domain.**

The results of the SAV mapping effort will be summarized within an annual report. This report will include a summary of the methods employed to generate the SAV maps and figures depicting the polygons of any SAV resources that were identified. The figures will also include the location of the dredged channels, the permitted channel corridor, and the SAV resources identified during the State's 2013 SAV mapping effort. The report will also present in tabular format the acres and/or square feet of SAV resources identified, their percent cover (continuous or patchy), and the species composition. CPE will also provide orthomosaics collected with the UAS as a deliverable. This report will be distributed to NMFS, USACE, NC Division of Marine Fisheries, and NC Division of Coastal Management no later than December 1, 2022.

*It is possible that depending on the actual location of maintenance dredging that occurs between April 1 and September 30, the analysis described under Task 3A will conclude that no additional*

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**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

monitoring as described under Task 3B is necessary. In this case, CPE will perform Task 3A for the lump sum fee of \$1,929.00.

If after completing Task 3A, and consulting with agencies, Task 3B is required, CPE will perform the entirety of Task 3 (Task 3A and 3B) for the lump sum fee of \$26,268.00.

**TASK 4 (OPTIONAL) – SAV MONITORING AND REPORTING FOR HATTERAS INLET (SPRING-SUMMER 2023)**

As described under Task 3, the permit for the Hatteras Inlet Connector Channel maintenance dredging now requires SAV monitoring if maintenance work is performed between April 1 and September 30. Task 4 is an Optional Task that can be authorized by the County in the event that maintenance dredging under the Dare County permits is required between April 1 and September 30, 2023.

The scope of work will be similar to what is described in Task 3; however, Task 4 includes both a spring survey and an end of growing season survey. Based on the variables associated with the mapping methodology and the uncertainty of dredging frequency, Task 4 has been sub-divided into Task 4A, 4B, and 4C.

**Task 4A** – The COUNTY will need to make a determination as to the likelihood that dredging will be required between April 1 and September 30 of 2023. If the COUNTY determines it is likely that dredging will be required under its permits in the vicinity of Hatteras Inlet during this time, and the COUNTY authorizes CPE to proceed with Task 4A, CPE will conduct the spring SAV monitoring between April 1 and April 30 of 2023. The methodology used to conduct the spring monitoring will follow the same procedure described in Task 3B. This includes both the collection of aerial imagery using a UAV and ground truthing.

**Task 4B** – If following the authorization and completion of Task 4A, dredging under the COUNTY’s permits is conducted between April 1 and September 30, 2023, CPE will conduct a desktop evaluation in the same way described under Task 3A. The desktop assessment will assess the extent of SAV resources (as determined by both 2013 APNEP data and data collected during the Spring 2023 monitoring) in the same way as described under Task 3A.

**Task 4C** – If through the completion of Task 4B, and through consultation with regulatory agencies, CPE determines it is necessary to conduct the end of growing season monitoring, aerial imagery of the geographic domain established through the completion of Task 4B will be collected in the same manner as described in Task 3B. Likewise, ground truthing of the aerial imagery will be collected in the same manner as described in Task 3B. The results of the SAV mapping effort will be summarized within an annual report as described in Task 3B.



**EXHIBIT A:**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES**  
**HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

If the COUNTY authorizes CPE to proceed with Task 4A, CPE will complete Task 4A for the lump sum fee of \$13,430.00. The COUNTY must authorize CPE to proceed prior to April 1, 2023. If no maintenance dredging is conducted under the COUNTY permits between April 1 and September 30, 2023, no additional portions of Task 4 will be necessary.

If dredging under the COUNTY permit is conducted between April 1 and September 30, 2023, CPE will proceed to complete Task 4B. It is possible that depending on where maintenance dredging occurs between April 1 and September 30, 2023, the analysis described under Task 4B will conclude that no additional monitoring as described under Task 4C is necessary. In this case, CPE will perform Task 4B for the additional lump sum fee of \$1,929.00. This is in addition to the fee associated with Task 4A.

If after completing Task 4B, and consulting with agencies, Task 4C is required, CPE will perform the entirety of Task 4 (Task 4A, 4B, and 4C) for the lump sum fee of \$41,339.00.

**EXHIBIT B:  
STANDARD RATE SCHEDULE  
DARE COUNTY, NORTH CAROLINA  
FY 2022-2023 CONSTRUCTION ADMINISTRATION SERVICES  
HATTERAS INLET / OREGON INLET MAINTENANCE DREDGING**

**I. Labor Rates**

<u>Labor Classification</u>	<u>Bill Rate</u>
Principal Engineer .....	\$289.00
Principal Coastal Scientist .....	\$289.00
Project Manager .....	\$189.00
Senior Coastal Engineer .....	\$189.00
Senior Coastal Scientist .....	\$185.00
Senior Marine Biologist .....	\$165.00
Coastal Project Engineer .....	\$140.00
Junior Coastal Engineer .....	\$110.00
Junior Coastal Geologist .....	\$100.00
CAD / GIS Operator .....	\$95.00
Engineering Intern / Technician .....	\$75.00

**II. Reimbursable Costs\***

<u>Cost Classification</u>	<u>Bill Rate</u>
Mileage .....	\$0.575 / mile
Company Owned Vehicle.....	\$39 / day
Equipment .....	Per Purchase Order
Direct Costs .....	Per Purchase Order
Sub-Consultants .....	10% of Cost

*\*Subject to terms and conditions of governing agreement.*



*Grant Application - Soundside Boardwalk Improvements Project*

**Description**

Grants & Waterways is requesting the Board of Commissioners authorize the submission of a N.C. DEQ Water Resources Development Grant Program application. See attached staff report for more details.

**Board Action Requested**

Adopt Resolution to Sponsor the Soundside Boardwalk Improvements Project

**Item Presenter**

Barton Grover, Grants & Waterways Administrator



## **Resolution to Sponsor the Soundside Boardwalk Improvements Project**

**WHEREAS**, Dare County desires to sponsor the Soundside Boardwalk Improvements Project at the Soundside Event Site in Nags Head to provide additional water-based recreation opportunities.

**THEREFORE, BE IT RESOLVED THAT:**

- 1) Dare County requests the State of North Carolina provide financial assistance to Dare County for the Soundside Boardwalk Improvements Project in the amount of \$200,000 or 50% of project cost, whichever is the lesser amount;
- 2) Dare County assumes full obligation for payment of the balance of project costs;
- 3) Dare County will obtain all necessary State and Federal permits;
- 4) Dare County will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;
- 5) Dare County will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) Dare County will obtain appropriate easements, rights-of-way or suitable dredge material disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) Dare County will ensure that the project is open for use by the public on an equal basis with limited restrictions, if on public property;
- 8) Dare County will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) Dare County accepts responsibility for the operation and maintenance of the completed project.

This the 20<sup>th</sup> day of June, 2022.

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Robert Woodard, Sr., Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board



## County of Dare

P.O. Box 1000 | Manteo, North Carolina 27954 | 252.475.5000

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6/10/22

### MEMORANDUM

TO: DARE COUNTY BOARD OF COMMISSIONERS

FROM: Barton Grover

RE: Dare County Tourism Board Grant Application

The North Carolina Division of Water Resources (DWR) Development Grant Program provides funding to local governments to implement water-based recreation projects such as boardwalks, docks and piers, and kayak launches.

The Dare County Tourism Board is seeking \$200,000 from DWR to construct a boardwalk, boat slips, a gazebo, and walkways to the Sound at the Soundside Event Site in Nags Head. However, the Tourism Board is not eligible for this grant. Therefore, the Dare County Tourism Board is requesting the Board of Commissioners adopt the Resolution to Sponsor the Soundside Boardwalk Improvements Project. The Tourism Board agrees to undertake all obligations required of Dare County in this resolution and will provide the \$200,000 in matching funds if the grant is awarded. The Board of Commissioners previously approved the submission of a Parks and Recreation Trust Fund application for this project.



*Island H Modifications Grant*

**Description**

Dare County received a grant in the amount of \$498,691.60 for modifications to the Island H confined disposal facility near Wanchese, which are needed in preparation for the upcoming Corps of Engineers pipeline project. Coastal Protection Engineering will provide engineering, consulting, and construction administrative services for the project.

**Board Action Requested**

Approve Budget Amendment and authorize the County Manager to enter into contract with Coastal Protection Engineering.

**Item Presenter**

Barton Grover, Grants & Waterways Administrator

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# DARE COUNTY

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## BUDGET AMENDMENT

F/Y 2022-2023

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Inlet Maintenance</u>					
<u>Revenues:</u>					
NCDEQ - Island H-CW27123	253571	427013	00778	498,692	
Appropriated Fund Balance	253571	499900		249,308	
<u>Expenditures:</u>					
Maintenance-Island H Mod	254571	559913	00778	748,000	

**Explanation:**

Dare County received 66% match, in the amount of \$498,691.60, from the North Carolina Department of Environmental Quality Navigation Fund for the engineering, consulting, and construction of Island H improvements to provide the necessary capacity for dredged materials during the upcoming Corps of Engineers pipeline dredging project. Dare County matching funds, in the amount of \$249,308.40, will be sourced from the Inlet Maintenance Fund.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



May 17, 2022

Robert L. Outten  
Dare County  
954 Marshall C Collins Dr. Room 286  
Manteo, NC 27954

**Proposal: Construction Administration Services Island H Modifications**

Dear Mr. Outten:

Coastal Protection Engineering of North Carolina, Inc. (CPE) is pleased to provide you with this proposal to provide Dare County (OWNER), engineering consulting and construction administrative services associated with modifications to the confined disposal facility (CDF) referred to as Island H. The modifications are required to increase the capacity of the CDF to allow the USACE to use the facility for navigation maintenance projects scheduled for 2022/2023.

The Scope of Professional Services (the Services) is attached to this proposal as Exhibit A. The Work included under Task 1 and 2 will be performed for a lump sum fee of \$39,261.00. The Work included under Task 3 will be performed on a time and material basis not-to-exceed \$52,162.00. The services include development of construction bid documents, bidding support services, and construction observation services.

The total amount of the proposed services for Tasks 1 through 3 as set forth herein, is \$91,423.00. Exhibit B includes a breakdown of costs by Task. Exhibit C – Rate Schedule includes rates to be billed for work completed under Task 3 – Construction Administrative Services.

Please see Exhibit D – List of Deliverables, for a description of each of the following:

- Draft Construction Plans & Specifications
- Construction Bidding Package
- Contractor Recommendation Letter
- Daily Field Observation Reports
- Recommendations for Payment and Final Closeout
- Project Completion Report

CPE's performance of the proposed Services is conditioned upon mutually acceptable contract terms and conditions. In that regard, attached to this proposal is our Services Agreement for your consideration as the terms and conditions that will govern our performance of the proposed Services.





If this proposal is acceptable to you, please sign the attached Services Agreement and return it to me. CPE will then sign the Services Agreement and return a fully signed copy to you for your records.

We look forward to continuing to work with Dare County on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Willson", written over a light blue horizontal line.

Ken Willson  
Senior Program Manager  
Coastal Protection Engineering of North Carolina, Inc

Office: 910-399-1905

Mobile: 910-443-4471

[kwillson@coastalprotectioneng.com](mailto:kwillson@coastalprotectioneng.com)

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**  
**SERVICES AGREEMENT**  
**LUMP SUM AND TIME & MATERIALS BASIS**

All in accordance with the following terms and conditions.

1. **SCOPE OF SERVICES: COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC. (“CPE”)** agrees to perform for the undersigned CLIENT, engineering and consulting (“Services”) described in the attached Proposal and/or as follows:

**Proposal: CONSTRUCTION ADMINISTRATION SERVICES ISLAND H MODIFICATIONS.**

2. **FEES, INVOICES AND PAYMENTS:** The Services associated with Tasks 1 and 2 will be performed for a lump sum fee of: **Thirty-nine thousand, two hundred sixty-one dollars and zero cents (\$39,261.00).**

The Services associated with Task 3 will be performed on a time and materials basis, **not to exceed: Fifty-two thousand, one hundred sixty-two dollars and zero cents (\$52,162.00).**

Invoices will be submitted by CPE no more frequently than every month, with payment due upon CLIENT’S receipt of invoice. Payment shall be in U.S. Dollars. CLIENT shall be responsible for payments (without deduction or offset from the total invoice amount) of any and all sales, use, value added, gross receipts, franchise and like taxes, tariffs and duties levied against CPE or its employees by any government or taxing authority. A service charge equal to one-half percent (1/2 %) per month, or the maximum rate permitted by law, whichever is less, will be added to all accounts which remain unpaid for more than thirty (30) calendar days beyond the date of the invoice. Should there be any dispute as payments to be made on a percent complete basis to any portion of an invoice, the undisputed portion shall be promptly paid.

3. **CLIENTS COOPERATION:** To assist CPE in performing the Services, CLIENT shall (i) provide CPE with relevant material, data, and information in its possession pertaining to the specific project or activity, (ii) consult with CPE when requested, (iii) permit CPE reasonable access to relevant project sites, (iv) ensure reasonable cooperation of CLIENT’s employees in CPE’s activities, and (v) notify and report to all regulatory agencies as required by such agencies.

4. **CONFIDENTIALITY:** In the course of performing Services, to the extent that CLIENT discloses to CPE, business or technical information that CLIENT clearly marks in writing as confidential or proprietary, CPE will exercise reasonable efforts to avoid the disclosure of such information to others. Likewise, to the extent that CPE discloses to CLIENT, business or technical information that CPE clearly marks in writing as confidential or proprietary, CLIENT will exercise reasonable efforts to avoid the disclosure of such information to others.

Nothing herein is meant to prevent nor shall be interpreted as preventing either party from disclosing and/or using any information or data (i) when the information or data are actually known to the receiving party before being obtained or derived from the transmitting party, (ii) when information or data are generally available to the public without the receiving party’s fault at any time before or after it is acquired from the transmitting party; (iii) where the information or data are obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereto; (iv) where a written release is obtained by the receiving party from the transmitting party; (v) three (3) years from the date of receipt of such information; or (vi) when required by process of

law; or by North Carolina Public Records Law; provided, however, upon service of such process, the recipient thereof shall use reasonable efforts to notify the other party and afford it an opportunity to resist such process.

**5. DELAYS AND CHANGES IN CONDITIONS:**

If CPE is delayed or otherwise in any way hindered or impacted at any time in performing the Services by (i) an act, failure to act or neglect of CLIENT or CLIENT's employees or any third parties; (ii) changes in the scope of the work; (iii) unforeseen, differing or changed circumstances or conditions including differing site conditions, acts of force majeure (such as fires, floods, riots, and strikes); (iv) changes in government acts or regulations; (v) delay authorized by CLIENT and agreed to by CPE; or (vi) any other cause beyond the reasonable control of CPE, then 1) the time for completion of the Services shall be extended based upon the impact of the delay, and 2) CPE shall receive an equitable compensation adjustment. Any such equitable adjustment shall be based on CPE's then current Time and Material Rates, as may be provided in a Rate sheet attached hereto.

**6. INSURANCE:** CPE is presently protected by Worker's Compensation Insurance as required by applicable law and by General Liability and Automobile Liability Insurance (in the amount of \$1,000,000 combined single limit) for bodily injury and property damage. Insurance certificates will be furnished to CLIENT on request. If the CLIENT requires further insurance coverage, CPE will endeavor to obtain said coverage, and CLIENT shall pay any extra costs therefor.

**7. INDEMNITIES:** CPE shall defend, indemnify and hold harmless CLIENT and its officers and employees from and against loss or damage to tangible property, or injury to persons, to the extent arising from the negligent acts or omissions or willful misconduct of CPE, its borrowed servants and their employer and its subcontractors,

and their respective employees and agents acting in the course and scope of their employment.

**8. LIMITATIONS OF LIABILITY:**

a. GENERAL LIMITATION - CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED BREACH OF WARRANTY BY CPE SHALL BE TO REQUIRE CPE TO REPERFORM ANY DEFECTIVE SERVICES. CPE'S LIABILITY AND CLIENT'S REMEDIES FOR ALL CAUSES OF ACTION ARISING HEREUNDER WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE, OR ANY OTHER CAUSE OF ACTION, SHALL NOT EXCEED EXCEPT FOR THE INDEMNIFICATIONS SET FORTH IN SECTION 7 ABOVE. THE CUMULATIVE AGGREGATE (INCLUDING ANY INSURANCE PROCEEDS) WITH RESPECT TO ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, SHALL BE THE GREATER OF WHATEVER MINIMUM AMOUNT MAY BE REQUIRED BY LAW OR, IF NONE, THE AMOUNT OF COMPENSATION FOR SUCH SERVICES, OR THE LIMITS OF CPE'S INSURANCE COVERAGE FOR SUCH CLAIMS, WHICH AMOUNT SHALL NOT BE LESS THAN \$1,000,000. CPE SHALL PROVIDE CLIENT PROOF OF COVERAGE UPON EXECUTION OF THIS AGREEMENT

b. CONSEQUENTIAL DAMAGES: FURTHER AND REGARDLESS OF ANY OTHER PROVISION HEREIN, CPE SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, DECLINE IN PROPERTY VALUE, REGULATORY AGENCY FINES, LOST PRODUCTION OR LOSS OF USE) INCURRED BY CLIENT OR FOR WHICH CLIENT MAY BE LIABLE TO ANY THIRD PARTY OCCASIONED BY THE SERVICES OR BY APPLICATION OR USE OF REPORTS OR OTHER WORK PERFORMED HEREUNDER.

9. **GOVERNING LAWS:** This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

10. **TERMINATION:** Either party may terminate this Agreement with or without cause upon forty five (45) days' written notice to the other party. Upon such termination, CLIENT shall pay CPE for all Services performed hereunder up to the date of such termination. In addition, if CLIENT terminates, CLIENT shall pay CPE all reasonable costs and expenses incurred by CPE in effecting the termination, including, but not limited to non-cancelable commitments and demobilization costs.

11. **ASSIGNMENT:** Neither CPE nor CLIENT shall assign any right or delegate any duty under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CPE may, upon notice to CLIENT, assign, pledge or otherwise hypothecate the cash proceeds and accounts receivable resulting from the performance of any Services or sale of any goods pursuant to this Agreement.

12. **MISCELLANEOUS:**

a. **ENTIRE AGREEMENT, PRECEDENCE, ACCEPTANCE MODIFICATIONS:** The terms and conditions set forth herein constitute the entire understanding of the Parties relating to the provisions of the Services by CPE to the CLIENT. All previous proposals, offers, and other communications relative to the provisions of these Services by CPE, oral or written, are hereby superseded, except to the extent that they have been expressly incorporated by reference herein. In the event of conflict, the three pages of this Agreement shall govern. CLIENT may accept these terms and conditions by execution of this Agreement or by authorizing CPE to begin work. Any modifications or revision of any provisions hereof or any additional provisions contained in any purchase order, acknowledgement or other document issued by the CLIENT is hereby

expressly objected to by CPE and shall not operate to modify the Agreement.

b. **DISPUTES, ATTORNEY FEES** – Any dispute regarding this Agreement or the Services shall be resolved first by exchange of documents by senior management of the parties, who may be assisted by counsel. Any thereafter unresolved disputes shall be litigated in the state whose law governs under Section 9 hereunder. In any litigation, the Prevailing Party shall be entitled to receive, as part of any award or judgment, eighty percent (80%) of its reasonable attorneys' fees and costs incurred in handling the dispute. For these purposes, the "Prevailing Party" shall be the party who obtains a litigation result more favorable to it than its last formal written offer (made at least twenty calendar days prior to the formal trial) to settle such litigation.

c. **WAIVER OF TERMS AND CONDITIONS** - The failure of CPE or CLIENT in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in the Agreement or the waiver by CPE or CLIENT of any breach of the terms or conditions of this Agreement shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

d. **NOTICES** – Any notices required hereunder may be sent by orally confirmed US Mail, courier service (e.g. FedEx), orally confirmed telecopy (fax) or orally confirmed email (further confirmed by US Mail) to the addresses set forth below.

e. **SEVERABILITY AND SURVIVAL** - Each provision of this Agreement is severable from the others. Should any provision of this Agreement be found invalid or unenforceable, such provision shall be ineffective only to the extent required by law, without invalidating the remainder of such provision or the remainder of this Agreement.

Further, to the extent permitted by law, any provision found invalid or unenforceable shall be deemed automatically redrawn to the extent necessary to render it valid and enforceable consistent with the parties' intent. The terms and conditions set forth herein shall survive the termination of this Agreement.

CLIENT and CPE agree to the foregoing **(INCLUDING THE LIMITATIONS ON LIABILITY IN SECTIONS herein)** and have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

Executed on \_\_\_\_\_, 2022

**COASTAL PROTECTION ENGINEERING OF NORTH CAROLINA, INC.**

By (Sign): \_\_\_\_\_

Print Name:  Kenneth Willson

Title:  President

Address:  4038 Masonboro Loop Road

Wilmington, NC 28409

Phone:  (910) 443-4471

Fax:  N/A

E-mail:  Kwillson@coastalprotectioneng.com

**COUNTY OF DARE, NORTH CAROLINA**

By (Sign): \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Attachments:

Exhibit A – Scope of Services

Exhibit B – Breakdown of Costs

Exhibit C – Rate Schedule

Exhibit D – List of Deliverables

**EXHIBIT “A”**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**CONSTRUCTION ADMINISTRATION SERVICES**  
**ISLAND H MODIFICATION**

Coastal Protection Engineering of North Carolina, Inc. (hereinafter CPE) proposes to provide professional engineering services to Dare County (hereinafter the OWNER), associated with modifications to the confined disposal facility (CDF) referred to as Island H. Island H is a 36-acre island located approximately  $\frac{3}{4}$  of a mile east of the entrance to the Wanchese harbor. This proposal includes development of construction bid documents, bidding support, and construction administrative services. These tasks are described in detail in the following sections.

**TASK 1 – DEVELOPMENT OF CONSTRUCTION BID DOCUMENTS**

CPE will prepare construction bid documents for the modifications to Island H to include the invitation to bid, instructions to bidders, bid form, proposed form of agreement between the OWNER and contractor, general and technical specifications, and construction plans. The invitation to bid will provide general information regarding the project and schedule for submitting bids. This document can be used by the OWNER to advertise for the work. The instructions to bidders will include specific instructions on how and when to submit bids, information to accompany bids, requirements for bid bond, evaluation factors for award, contract award, and description of contract documents. The bidding requirements section will also include such items as the Certificate of Corporate Authority, Acknowledgments of the Contractor, Performance and Payment Bonds, Final Receipt, and any special instructions. CPE will also develop the bid form to be included in the bid package.

CPE will provide, as part of the construction bid document, a proposed form of agreement between OWNER and the contractor for the subject project. The agreement provided by CPE is one that has been used for similar projects in the past and will be tailored to this specific project. This form of agreement should be reviewed by legal counsel representing OWNER to ensure that the agreement provides required language for the OWNER to enter into such an agreement as well as any other provisions desired by the OWNER for such a project.

CPE will also provide general and technical specifications for the construction project. This section of the construction bid documents will include general conditions, technical provisions and environmental protection. The general conditions will include information related to the commencement, prosecution and completion of the work. It will address such issues as liquidated damages, performance of work by the contractor and subcontractors, and a designation of certain contractor personnel for tasks such as project superintendent. The general conditions will also describe the layout of the earth work, address mobilization and demobilization from the project area, identify the method of payment to the contractor and the clauses for liquidated damages, if necessary, and acceptance sections for the construction work. The technical provisions will also include any specifics regarding the order of work, the project schedule, excavation requirements, CDF modification construction requirements including clearing and grubbing, dike construction, clean-up, and other issues related to construction. A QA/QC Plan approved by the U.S. Army Corps of Engineers (USACE) and NC Division of Coastal Management (NCDQM) may also be incorporated into these provisions.

**EXHIBIT “A”**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**CONSTRUCTION ADMINISTRATION SERVICES**  
**ISLAND H MODIFICATION**

A section on environmental protection will also be included in the specifications. This section will identify the important clauses contained in the permits, including a copy of permits received for the project. The contractor will be advised that he/she is required by law to abide by all the conditions provided by Federal and State permits and licenses for the project. Issues to be addressed in this section may include soil erosion control, protection of environmental resources, restoration of landscape damage, maintenance of pollution control facilities, and a requirement for an environmental protection plan.

The construction plans will include plan views and cross-sections sufficient for the construction of the Project. The project is currently planned to remove approximately 20,000 cy of material from within Island H and use it to elevate the dikes of the facility to an elevation sufficient to achieve the necessary capacity for one additional maintenance event of the channel to Wanchese (Ranges 14A, B, C). CPE will use publicly available data collected by the USACE and other federal agencies to develop the plans.

The plans will include a cover sheet, an overall plan view of the island and surrounding area, a detailed plan view of the island showing areas of excavation and placement, cross sections, detail sheets showing typical dike cross section detail and temporary silt fence detail, as well as erosion and sediment control measures, seeding, and mulching information.

The construction bid documents will be submitted for review to the OWNER in draft form. If required by permit, the draft construction bid documents will also be provided to the USACE and the NCDPCM in draft form. Upon approval by OWNER and/or regulatory agencies, the construction bid documents will be solicited to perspective contractors.

**TASK 2: BIDDING SUPPORT SERVICES**

CPE will assist the OWNER in the selection of a construction contractor for the Island H Modification project. The OWNER’s purchasing department will manage the bidding process with assistance from CPE. The bid package prepared by CPE will be made available for distribution to all interested contractors. CPE will provide a list of eligible contractors to the OWNER for bidding purposes. In conjunction with the OWNER, CPE will conduct a pre-bid conference, inviting contractors, representatives of the USACE, and representatives of the NCDPCM to attend. The pre-bid conference will provide an opportunity to describe the project and to solicit questions from potential contractors. The conference will be conducted at the project site and if requested, a tour will be conducted with the potential contractors of the project site to answer any additional questions. OWNER representatives will be on hand to address issues related to infrastructure, OWNER requirements, and any other issues affecting the local government.

The construction site is an island, accessible only by boat. Accessing the island if required for the pre-bid conference would require transportation via boat. CPE will help to facilitate these

**EXHIBIT “A”**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**CONSTRUCTION ADMINISTRATION SERVICES**  
**ISLAND H MODIFICATION**

logistics; however, no cost for boat rental is built into the cost of this proposal. OWNER will be responsible for these added costs if needed.

During the bidding process, CPE will answer questions and issue addenda as required. This proposal assumes up to two (2) addenda may be issued during the bidding process.

A CPE representative will be available via phone or web-conference for the bid opening and will assist the OWNER in reviewing the bids and evaluation of the low bidder, taking into consideration the capability of the contractor (low bidder) in constructing the project. CPE will provide the OWNER a written recommendation concerning the selection of the contractor. CPE will also assist the OWNER in negotiating with the low bidder if required, to bring the project in line with available budget.

This proposal assumes a contractor will be selected through the completion of the bidding process described above. If a contractor is not selected by the OWNER through the conduct of this bidding process and the OWNER decides to modify the bid package and re-bid the project, CPE will submit a change order request to cover its cost in modifying the bid documents and assisting the OWNER with additional bidding services.

**TASK 3 – CONSTRUCTION OBSERVATION SERVICES**

During times of construction CPE will provide a REPRESENTATIVE to provide onsite administrative services. The REPRESENTATIVE will provide open communication with OWNER staff to inform them of the construction status and address outstanding issues or complaints. Task 3 assumes construction will take place over approximately 10 weeks and be completed prior to October 31, 2022. This schedule is based on information provided by prospective contractors and other factors considered. The assumed duration includes time for mobilization and demobilization. Given the uncertainty of exact construction times, CPE will complete Task 3 on a time and materials basis.

The work proposed by CPE under Task 3 includes the following items:

- Observing the contractor’s work and recommending if it is compliant with the permits and contract documents;
- Holding bi-weekly (every other week) progress meetings to discuss the construction status with contractor;
- Site visit reports to the OWNER regarding the construction progress for each day a site visit is conducted;
- Recommendations for payment and final closeout;
- Assisting the OWNER with permit compliance issues for which the contractor is not responsible; and,
- Notifying the OWNER and regulatory agencies of any observed non-compliant item of work as required by the permit and contract documents.



**EXHIBIT “A”**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**CONSTRUCTION ADMINISTRATION SERVICES**  
**ISLAND H MODIFICATION**

A more detailed description of the anticipated work included in these items is described below:

**Construction Observations:** The REPRESENTATIVE will be present at the construction site, access corridors or staging areas during major phases of the work and all times considered critical to completing the project. The REPRESENTATIVE will be on call throughout the period of construction. Observations will be conducted to check compliance with the construction plans, contract documents, and permit authorizations granted for the work.

The proposal assumes the REPRESENTATIVE will conduct an average of one (1) site visit per week, for up to 16 weeks. The REPRESENTATIVE will provide Field Observation Reports via email to the OWNER for each day the REPRESENTATIVE is on-site. The report will be provided within 1 day of conducting the site observations. The reports will list the following:

- Inspections and results from the day for which it is being provided.
- Details of the construction process and the contractor’s activities.
- The location of excavation and dike construction activities. The locations will be referenced to station numbers as shown on the construction drawings.
- The quantity and type of equipment on the job site.
- Digital pictures will be provided with each report showing the construction process. (A minimum of 3 pictures are expected to be included in each daily report).
- Conversations held between the contractor and REPRESENTATIVE.
- Observation on the quality of material used and any testing being conducted by contractor.
- All observed compliance issues the contractor experiences with the Contract documents.

**Progress Meetings with Contractor:** CPE will prepare for and chair biweekly progress meetings to be held on the same day, prior to the public meeting, with the contractor and the contractor 's associated sub-contractors as appropriate during construction. These meetings will be held at a time agreeable to the contractor. The REPRESENTATIVE will provide an agenda in advance of the meeting via email to the OWNER and contractor. The agenda will provide the meeting times and place so the OWNER may attend the meeting if desired.

**Recommendations for Payment:** CPE shall review contractor progress and pay surveys and pay requests for all work elements. CPE shall carefully review for accuracy of computation and completeness the contractor 's periodic payment invoices and will make recommendations to the OWNER regarding payment. CPE shall make a volumetric comparison of the contractor’s pre-construction and pay survey in order to check the work is conducted to specifications and assist the OWNER in evaluating the periodic and final payments to the contractor.

**Non-compliance Notification:** The REPRESENTATIVE will notify (via email) the OWNER, NCDENR and USACE, of any observed non-compliant issue with any condition or limitation

**EXHIBIT “A”**  
**SCOPE OF PROFESSIONAL SERVICES**  
**DARE COUNTY, NORTH CAROLINA**  
**CONSTRUCTION ADMINISTRATION SERVICES**  
**ISLAND H MODIFICATION**

specified in the permit. The REPRESENTATIVE will work with the contractor to provide a written report containing a description of and cause of noncompliance and the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

**Project Completion Report:** Following the completion of the construction activities, CPE will prepare a project completion report that will document the construction of the project. The completion report will provide:

- Detailed description of the construction sequence, volume placed, and cost of the project;
- Record drawings of the completed dike and confined disposal facility;
- Estimates of the added capacity and as-built elevation of dikes;
- A summary of any compliance issues encountered by the contractor with the permit conditions.
- Summary of any change orders or field adjustment reports made during the construction.

A digital copy of the draft of the report will be provided to OWNER within 60 days following construction. Upon review by OWNER, CPE will make any final edits to the report and provide two (2) hard copies of the report to OWNER. The final report will include as-built drawings and any final survey data submitted by contractor. An electronic copy of the entire report will also be provided in PDF format.

**EXHIBIT B:  
 BREAKDOWN OF COSTS  
 DARE COUNTY, NORTH CAROLINA  
 CONSTRUCTION ADMINISTRATION SERVICES  
 ISLAND H MODIFICATION**

Table 1. Breakdown of the total cost of the Construction Administration Services associated with the Island H Modification Projects.

<b>TASK</b>	<b>DESCRIPTION</b>	<b>Cost</b>
1	Development of Construction Bid Documents	\$30,348.00
2	Bidding Support Services	\$8,913.00
3	Construction Observation Services	\$52,162.00
<b>TOTAL:</b>		<b>\$91,423.00</b>

Tasks 1 and 2 to be completed for the lump sum fee of \$39,261.00

Task 3 will be completed on a time and materials basis not to exceed \$52,162.00

**EXHIBIT C:  
STANDARD RATE SCHEDULE  
DARE COUNTY, NORTH CAROLINA  
CONSTRUCTION ADMINISTRATION SERVICES  
ISLAND H MODIFICATION**

**I. Labor Rates**

<u>Labor Classification</u>	<u>Bill Rate</u>
Principal Engineer .....	\$289.00
Principal Coastal Scientist .....	\$289.00
Project Manager .....	\$189.00
Senior Coastal Engineer .....	\$189.00
Senior Coastal Scientist .....	\$185.00
Senior Marine Biologist .....	\$165.00
Coastal Project Engineer .....	\$140.00
Junior Coastal Engineer .....	\$110.00
Junior Coastal Geologist .....	\$100.00
CAD / GIS Operator .....	\$95.00
Engineering Intern / Technician .....	\$75.00

**II. Reimbursable Costs\***

<u>Cost Classification</u>	<u>Bill Rate</u>
Mileage .....	\$0.575 / mile
Company Owned Vehicle.....	\$39 / day
Equipment .....	Per Purchase Order
Direct Costs .....	Per Purchase Order
Sub-Consultants .....	10% of Cost

*\*Subject to terms and conditions of governing agreement.*

**EXHIBIT C:  
LIST OF DELIVERABLES  
DARE COUNTY, NORTH CAROLINA  
CONSTRUCTION ADMINISTRATION SERVICES  
ISLAND H MODIFICATIONS**

The following items have been identified by Coastal Protection Engineering of North Carolina, Inc. (CPE) as deliverables for the completion of this scope of work.

- Draft Construction Plans & Specifications
- Construction Bidding Package
- Contractor Recommendation Letter
- Daily Field Observation Reports;
- Recommendations for Payment and Final Closeout;
- Project Completion Report

A detailed description and an individual schedule for each deliverable are provided below.

Draft Construction Plans & Specifications: As described in Exhibit A under Task 1, CPE will develop construction plans and specifications for the project. The plans and specifications will be compiled into a formal construction bidding documents package that can be used by Dare County to solicit bids from contractors to construct the proposed project. A Draft version of the construction plans and specifications will be provided to Dare County for review. Barring any unforeseen circumstances, the draft construction bid documents will be provided within two (2) months following written authorization to proceed.

Construction Bidding Package: Once comments have been received from the County on the draft construction plans and specifications, CPE will address comments and finalize the construction bidding package. Barring any unforeseen circumstances, the final bid package will be provided within 2 weeks of receipt of all comments from the County and Towns.

Contractor Recommendation Letter: As described in the Scope of Professional Services under Task 2, CPE will assist in the evaluation of bids received from perspective contractors. Within 1 weeks following the bid opening, and after CPE has verified all information provided with the bid and checked work references, CPE will provide a formal recommendation regarding which contractor is the lowest responsive and responsible bidder.

Daily Field Observation Reports: CPE will provide field observation reports summarizing the project status via e-mail during the anticipated construction contract period. The reports will include inspections and results from days on which site visits are conducted. The reports will also include details of the construction process and contractor activities, location of excavation and dike construction activities, type of equipment on the job, photographs, information on

**EXHIBIT C:  
LIST OF DELIVERABLES  
DARE COUNTY, NORTH CAROLINA  
CONSTRUCTION ADMINISTRATION SERVICES  
ISLAND H MODIFICATIONS**

conversations held between CPE representative and the contractor, and any observed compliance issues the contractor experienced.

Recommendations for Payment and Final Closeout: CPE will review pay requests for all work elements and provide a written recommendation regarding payment. Payment recommendations will be provided monthly.

Project Completion Report: Following the completion of the construction activities, CPE will prepare a Project Completion Report that will document the construction of the project. The report will provide a detailed description of construction sequence, volume placed, estimates of the added capacity, a summary of compliance issues encountered by the contractor with the permit conditions, a summary of any change orders or field adjustment reports made during the construction, and the cost of the project. The report will also include record drawings of the completed dike and confined disposal facility as well as as-built elevations of the dike. The project completion report will be provided within 90 days of the completion of construction activities.

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

GRANTEE'S FEDERAL  
IDENTIFICATION  
NUMBER: \*\*-\*0293

## North Carolina Department of Environmental Quality Financial Assistance Agreement

This financial assistance agreement is hereby made and entered into this «1<sup>st</sup> day of June 2022, by and between the NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY (the "Department") and DARE COUNTY (the "Grantee"<sup>1</sup>).

1. **Audit and Other Reporting Requirements of the Local Government Commission.** If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Grantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.
2. **Contract Documents.** The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:
  - a. State's General Terms and Conditions (Attachment A)
  - b. Department's Request for Proposal ("RFP") (Attachment B)
  - c. Grantee's Response to RFP, including scope of work, line item budget, budget narrative and, *if applicable*, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment C)
  - d. Notice of Certain Reporting and Audit Requirements (Attachment D)
  - e. Conflict of Interest (Attachment E)Together, these documents (the "Contract Documents") constitute the entire agreement between the parties (the "Agreement"), superseding all prior oral or written statements or agreements. Modifications to this Contract Cover or to any other Contract Document may only be made through written amendments processed by the Department's Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party.
3. **Precedence Among Contract Documents.** In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
4. **Contract Period.** This Agreement shall be effective from **06/01/2022** to **12/31/2022**, inclusive of those dates.
5. **Grantee's Duties.** As a condition of the grant award, the Grantee agrees to:
  - a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment C), adhering to all budgetary provisions set out therein throughout the course of performance.
  - b. Ensure that all award funds are expended in a manner consistent with the purposes for which they were awarded, as described more fully in the attached Contract Documents.

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<sup>1</sup> The contract documents attached hereto may at times use alternative terms to describe the Grantee. Such terms might include, but are not necessarily limited to, the following (in common or proper form): "recipient," "applicant," or "participant."

**GRANT CONTRACT NO. CW27123**  
**SDNF Island H Modification Dare County**

- c. Comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.
- d. Comply with the applicable provisions of Attachment D, Notice of Certain Reporting and Audit Requirements.
- e. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, or (ii) until all audit exceptions have been resolved, whichever is longer.
- f. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.
- g. Obtain written approval from the Department's Contract Administrator (see § 14 below) prior to making any subaward or subgrant not already described in the Award Proposal.
- h. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, are made applicable to, and binding upon, any subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Grantee hereunder.
- i. Take reasonable measures to ensure that any subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, and (ii) provides such information in its possession as may be necessary for the Grantee to comply with such terms, conditions, restrictions and requirements.

**6. Historically Underutilized Businesses.** Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the Department invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this contract. Any questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at (919) 807-2330.

**7. Department's Duties.** The Department shall pay the Grantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.

**8. Total Award Amount.** The total amount of award funds paid by the Department to the Grantee under this Agreement shall not exceed **FOUR HUNDRED NINETY EIGHT THOUSAND SIX HUNDRED NINETY ONE DOLLARS and SIXTY CENTS (\$498,691.60)** (the "Total Award Amount"). This amount consists of:

*Funding:*

Type of Funds	Funding Source	CFDA No.
Receipts	Shallow Draft Navigation Fund	NA

*Account Coding Information:*

Dollars	GL Company	GL Account	GL Center
\$498,691.60	1602	536990	2182



*Grantee Matching Information:*

- a. There are no matching requirements from the Grantee.
- b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

	In-Kind	\$
	Cash	\$
	Cash and In-Kind	\$
	Other/ Specify:	\$

- c. The Grantee's matching requirement is **\$249,308.40**, which shall consist of:

	In-Kind	\$
X	Cash	\$249,308.40
	Cash and In-Kind	\$
	Other/ Specify:	\$

- d. The Grantee is committing to an additional \$ to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is **\$748,000.00**

**9. Invoice and Payment.** The award funds shall be disbursed to the Grantee in accordance with the following provisions :

- a. The Grantee shall submit invoices to the Department's Contract Administrator at least quarterly. The final invoice must be received by the Department within forty-five (45) days following the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department's Financial Services Division within six (6) months of such date. Any invoice received thereafter shall be returned without action.
- b. The Department shall reimburse the Grantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, "allowable expenditures" are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment C.

**10. Grantee's Fiscal Year.** The Grantee represents that its fiscal year is from July 1 to June 30.

**11. Availability of Funds.** The Grantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

**12. Reversion of Unexpended Funds.** The Grantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.

**13. Supplantation of Expenditure of Public Funds.** The Grantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Grantee would otherwise expend to carry out the project or services described in the Award Proposal.

**14. Contract Administrators.** Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

<b>Grantee Contract Administrator</b>	<b>Department's Contract Administrator</b>
Barton Grover Dare County PO BOX 1000 Manteo, NC 27954 Telephone: 252-475-5628 Fax: 252-473-6653 Email: barton-grober@darenc.com	Kevin Hart NC DEQ Water Resources 1617 Mail Service Center Raleigh, NC 27699-1617 Telephone: 919-707-3607 Fax: Email: kevin.hart@ncdenr.gov

- 15. Assignment.** The Grantee may not assign its obligations or its rights to receive payment hereunder.
- 16. Procurement.** The Grantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:
- a. None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Grantee shall be contracted without prior written approval from the Department.
  - b. In the event the Grantee or any subrecipient of the Grantee contracts for any of the work to be performed hereunder, the Grantee shall not be relieved of any duties or responsibilities herein set forth.
  - c. The Grantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147-86.60.
- 17. Subawards.** The Grantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Grantee of any duties or responsibilities herein set forth.
- 18. Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, the Grantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:

- Title VI of the Civil Rights Act of 1964, as amended;
- Civil Rights Restoration Act of 1987, as amended;
- Section 504 of the Rehabilitation Act of 1973, as amended;
- Age Discrimination Act of 1975, as amended;
- Titles II and III of the Americans with Disabilities Act of 1990, as amended;
- Title IX of the Education Amendments of 1972, as amended;
- Part III of Executive Order No. 11246 (September 24, 1965), as amended; and
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

In accordance with the above laws and their implementing regulations, the Grantee agrees to ensure that no person in the United States is, on the basis of race, color, national origin, sex, age or disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity for which the Grantee receives Federal assistance. For purposes of this provision, "program or activity" shall have the meaning ascribed to that term under Federal law (see 42 U.S.C.S. § 2000d-4a).

The Grantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Grantee agrees to include a similar provision in any financial assistance agreement made with any lower-tier recipient of such assistance.

- 19. E-Verify.** To the extent applicable, the Grantee represents that it and each of its subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.
- 20. Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.
- 21. Survival.** Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.
- 22. Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

**GRANT CONTRACT NO. CW27123  
SDNF Island H Modification Dare County**

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by the duly authorized representative in duplicate originals, one of which is retained by each of the Parties.

**DARE COUNTY**

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY**

By \_\_\_\_\_  
Grantee's Signature

By \_\_\_\_\_  
Signature of Department Head or Authorized Agent

\_\_\_\_\_  
Printed Name and Title

Tommy Kirby, Purchasing Director  
\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Organization

Financial Services Division, Purchasing and Contracts Section  
\_\_\_\_\_  
Division/Section

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**ORIGINAL**

## General Terms and Conditions Governmental Entities

### DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patientservices.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in NCGS 143C-6-23(a)(2): a non-State entity that receives a grant of State funds

from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.

- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in NCGS 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (13) "Public Authority" has the meaning in NCGS 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to NCGS 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grantee" has the meaning in NCGS 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(18) "Unit of Local Government has the meaning in NCGS 159-7(b)(15): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by NCGS 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

#### Relationships of the Parties

**Independent Contractor:** The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

**Subcontracting:** To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

**Sub-grantees:** The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

**Assignment:** The Grantee may not assign the Grantee's obligations or the Grantee's right to receive payment hereunder. However, upon Grantee's written request approved by the issuing purchasing authority, the Agency may:

- (a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
- (b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this Contract inures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any

third person receiving services or benefits under this Contract is an incidental beneficiary only.

#### Indemnity

**Indemnification:** In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party's sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

**Insurance:** During the term of the contract, the Grantee at its sole cost and expense provides commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Grantee provides and maintains the following coverage and limits:

- (a) **Worker's Compensation:** The Grantee provides and maintains Worker's Compensation insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees who are engaged in any work under this contract. If any work is sublet, the Grantee requires the subgrantee to provide the same coverage for any of his employees engaged in any work under this contract.
- (b) **Commercial General Liability:** General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile:** Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit is \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this contract. The Grantee may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. Grantee obtains insurance that meets all laws of the State of North Carolina. Grantee obtains coverage from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee complies at

all times with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Grantee do not limit the Grantee's liability and obligations under the contract.

### Default and Termination

**Termination by Mutual Consent:** Either party may terminate this agreement upon sixty (60) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

**Termination for Cause:** If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

**Waiver of Default:** Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

**Availability of Funds:** The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

**Force Majeure:** Neither party is in default of its obligations hereunder if it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

### Intellectual Property Rights

**Copyrights and Ownership of Deliverables:** Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environmental Quality a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

### Compliance with Applicable Laws

**Compliance with Laws:** The Grantee understands and agrees that it is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Grantee understands and agrees that it is subject to compliance with all Federal and State laws relating to equal employment opportunity.

### Confidentiality

**Confidentiality:** As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

### Oversight

**Access to Persons and Records:** The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with NCGS 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of six (6) years

following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

**Record Retention:** The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of six (6) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than six (6) years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the six (6) year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period described above, whichever is later.

**Time Records:** The GRANTEE will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

### Miscellaneous

**Choice of Law:** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Time of the Essence:** Time is of the essence in the performance of this Contract.

**Care of Property:** The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Grantee. As it relates to software development or study results, ownership rests with the Agency. In the event that clarification of ownership is required, the Agency Contract Administrator will make the determination.

**Travel Expenses:** All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

**Sales/Use Tax Refunds:** If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to NCGS 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

**Advertising:** The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

**Recycled Paper:** The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

**Sovereign Immunity:** The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

**Gratuities, Kickbacks or Contingency Fee(s):** The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

**Lobbying:** The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.



**By Executive Order 24, issued by Governor Perdue, and**

**NCGS § 133-32:** It is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and NCGS Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."



*Consent Agenda*

**Description**

1. Approval of Minutes (06/06/22)
2. Reimbursement Resolutions: FY22-23 Vehicle & Equipment Financing & Public Works Equipment Funding
3. Sanitation Fund - Capital Outlay Budget Amendment
4. Tax Collector's Report    5. Tyler Payment Card Processing Agreement
6. Budget Amendment for Deeds of Trust Fund (Special Revenue Fund)
7. FY2023 Capital Project Ordinance-Public Works Equipment Amendment
8. FY2023 Opioid Settlement Funds Budget Amendments    9. Budget Amendment - Leases
10. Colington Road Project R-5014 Utility Preliminary Engineering Agreement (Payable)

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager



*Approval of Minutes*

**Description**

The Board of Commissioners will review and approve their previous minutes, which follow this page.

**Board Action Requested**

Approve Previous Minutes

**Item Presenter**

Robert Outten, County Manager



# County of Dare

P.O. Box 1000 | Manteo, NC 27954

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## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

**9:00 a.m., June 6, 2022**

Commissioners present: Chairman Robert Woodard, Sr., Vice Chairman Wally Overman  
Rob Ross, Steve House, Jim Tobin, Danny Couch, Ervin Bateman

Commissioners absent: None

Others present: County Manager/Attorney, Robert Outten  
Deputy County Manager/Finance Director, David Clawson  
Master Public Information Officer, Dorothy Hester  
Clerk to the Board, Cheryl C. Anby

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com).

At 9:00 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Rev. Tom Wilson to share a prayer, and then he led the Pledge of Allegiance to the flag.

#### **ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE**

A brief outline of the items mentioned by Chairman Woodard follows:

- National Park Service had spent \$200,000 cleaning the debris from homes that recently fell into the ocean. He reminded everyone to be careful while walking beaches nearby.
- The Jug Handle Bridge opening to vehicles had been extended another week.
- Avon beach nourishment was moving along. Great Lakes was in the process of setting up with completion expected in August.
- He cautioned it would be an active hurricane season. NOA had reported the expectation of a higher number of named storms for the country.
- Remembered today as the anniversary of “D-Day” when Allied forces landed on the beaches of Normandy on June 6, 1944.
- Recognized the U.S. had experienced 245 mass shooting since January 1, 2022. He stated the country needed an awakening. At 9:10 a.m. there was a moment of silence.

#### **ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS- 115 years of service**

- 1) Kristen Burritt, EMS Medical Tech Paramedic, received a 10-year pin.
- 2) Helene Taylor, Admin Specialist Transportation, received a 20-year pin.
- 3) Dorothy Hester, Master Public Information Officer, received a 25-year pin.
- 4) Andrian Tillett, Permit Specialist, Planning, received a 30-year pin.
- 5) Veronica Brickhouse, Library Branch Manager, received a 30-year pin.

### **ITEM 3 – EMPLOYEE OF THE MONTH – June, 2022**

Employee of the Month award was presented by Jack Scarborough to Amy Elkins. Amy has been with the County for thirteen years and currently serves as a telecommunication shift supervisor for the County Sheriff's Office 911 Communications Center in Manteo.

### **ITEM 4 – PUBLIC COMMENTS**

At 9:34 a.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Following is a summary of all citizen remarks, which may be viewed in their entirety in a video on the County website:

*The following comments were made in Manteo:*

1. Wayne Barry addressed the Board regarding the mass murders of adults and children in the recent weeks and stated "None of us" are safe anywhere. He offered Dare County needed to develop a policy of gun control. He proposed at the August meeting of the Board a report should be made by up to twenty residents "entrusted with studying the issues surrounding the proliferation of guns and gun violence" and the threat to our community.
2. Rev Spottswood Graves followed similarly regarding the need to act to "save our children". He provided comparison with how an estimated 330,000 lives since 1983 with the creation of MADD. He stated as to gun violence "something can be done".
3. Rev. David Morris remarked he had walked his seven-year old grandson to the Manteo elementary school bus stop today. He said no parent should have to worry about gun violence in their child's school. Gun violence was noted to be the leading cause of death in America. He stated there was no level of government where some action could be accomplished.
4. Rev. Gaye Morris followed with several suggestions: 1. Raise public awareness of fire arm safety especially in homes. 2. Initiate a gun violence initiative to prevent homicide and suicide. 3. Form a summit of community partners, to include public health, hospitals, schools, public defenders and youth services to develop strategies for preventing gun violence.
5. Arlene Arnold told the Board she wanted to give them a different perspective on the gun violence issue. She was a grandmother who had lost her grandchild at the Sandy Hook massacre. She stated it could certainly happen here. She had two other grandchildren and worries about them every day.
6. Jeannine Emery recently relocated here from Atlanta. She commented America was the only developed country in the world with mass killings of our citizens and we do nothing about it.

There were no comments made in Buxton. Public Comments closed at 9:56 p.m.

**ITEM 5 – RED SHED LLC, GROUP DEVELOPMENT SPECIAL USE PERMIT #4-2022**

After all parties were duly sworn, Noah Gillam, outlined a Special Use Permit (SUP) application from Red Shed LLC for a group housing project to be located at 27221 A Sand Street. Two existing dwellings on the parcel would be removed and three new residential duplex structures built. One would have three-bedroom units and the other two buildings would have two-bedroom units. Copies of the site plan were provided along with the Fire Marshal's comments. The Developer had agreed to install a residential sprinkler system in the three-unit structure. The County Manager asked Mike Morway, engineer with Albemarle & Associates and representative for the applicant, if he agreed to the admission into evidence of the material submitted by the Planning Director, which was on file in the Planning Department, the facts presented by Mr. Gillam, and the terms and conditions outlined in the SUP. Mr. Morway indicated his agreement. Taylor Jones, a resident near the area, was concerned that homes were being taken down to construct employee housing. Mr. Outten explained the owner of the property was planning to construct dwellings which were permitted and within county zoning regulations. The County could not control who could live in a home. He added the County, aware of the need, was working on constructing affordable housing. Mr. Morway advised the units would have a total of twelve bedrooms.

**MOTION**

Commissioner Ross motioned to approve SUP #4-2022 and associated site plan for the proposed group development.

Commissioners Tobin and House seconded the motion.

VOTE: AYES unanimous

**ITEM 6 – NORTH CAROLINA DIVISION OF TRANSPORTATION**

C.W. "Win" Bridgers, Deputy Division Engineer for NCDOT, and Ronald K. Sawyer, Division Maintenance Engineer, Jack Liverman, Randy Midgett, Gretchen Byrum, Craig Midgett, and David Otts were present. With the inclusion of Jeff Ryder, who was not in attendance, there was 182 collective years of DOT experience to provide a review of Dare County road projects. Two completed projects were the replacement of bridge #8 and epoxy overlay and deck crack repair along US 64. Even after receiving some funds, the program was currently \$8 billion over program. NCDOT would continue to bring projects as funds became available. Commissioner Ross asked if NCDOT managed the bridge openings. Mr. Bridgers explained NCDOT hired bridge operators, however, the bridge openings was governed by the Coast Guard. They would not allow scheduled openings for the Alligator River Bridge. The replacement of the Alligator Bridge had an estimate of \$212,265,400 and design work continued. The Board continued discussion to have the bridge replacement funded and Mr. Bridgers stated as NCDOT was governed by legislation, it was important to continue pressing for federal funding. The Mid Currituck Bridge was still in the works with a \$500,000,000 price tag. See the archived video for full discussion. Commissioner Tobin thanked the NCDOT for the striping the roads so quickly. NCDOT was also applauded for their response to the last storm for cleaning the sand from the roads.

**ITEM 7 – COMMUNITY CARE CLINIC DARE**

Lyn Jenkins, Executive Director of Community Care Clinic Dare and a registered nurse, was joined by Karen Reeder, a pharmacist, to provide an update of primary care services offered by the clinic. (See archived presentation on the website.) Ms. Jenkins advised they would be

integrating a dental clinic and a pharmacy to the clinic. They served 730 adults at this time, who were uninsured or underinsured and 250 patients did not speak English. Many needed assistance with affordable medications. Karen Reeder would be the new pharmacist. Ms. Reeder stressed the need to get the information out about medications. Unopened manufactured packaging could be accepted by the public and the collected nursing home medications could be used by the clinic to help others.

**At 11: 26 a.m. the Board recessed and the meeting resumed at 11:38 a.m.**

**ITEM 8 – APPROPRIATION FOR TOURISM BOARD GRANT MATCH TO GRAVEYARD OF THE ATLANTIC MUSEUM**

Mr. Clawson explained the Tourism Board had met and approved a grant of \$250,000 to the Graveyard of the Atlantic Museum in order to aid the completion of audio visual and permanent exhibits. The Board was asked to approve a match. Mr. Clawson explained after this item match the fund balance used would be estimated at \$3,250,000.

**MOTION**

Commissioner Bateman motioned to adopt the budget amendment presented.

Commissioner House seconded the motion.

VOTE: AYES unanimous

**ITEM 9 – DARE COUNTY TOURISM BOARD REQUEST CONSENT EXPENDITURE FROM LONG TERM UNAPPROPRIATED GRANT FUND LINE ITEM 4585 (Att. #1)**

Diane Bognich, Director of Administration/Grants Administration, stated she looked forward to partnering with the Board as the museum had been a great asset for the community.

**MOTION**

Vice-Chairman Overman motioned to consent to the expenditures in the amount of \$250,000 for Friends of the Graveyard of the Atlantic Museum.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

**ITEM 10– CONSENT AGENDA**

The Manager announced the items as they were visually displayed in the meeting room.

**MOTION**

Commissioner House motioned to approve the Consent Agenda:

- 1) Approval of Minutes (05.16.22) (Att. #1)
- 2) Required Policies Pertaining to Expenditure of ARP/CSLFRF
- 3) Amendment to Grant Project Ordinance for Amer. Rescue Plan & SLFRF Grant(Att. #2)
- 4) NC U.N.C. Greensboro Grant Application “Dare County Sheriff’s Office Regional Human Trafficking Task Force”
- 5) NC Department of Transportation – ADA Compliant Curb Ramps
- 6) Avon Property Owners Association “Fourth of July” 2022 Fireworks Display

Commissioner Tobin seconded the motion.

VOTE: AYES unanimous

## **ITEM 11 – BOARD APPOINTMENTS**

- 1) Virginia S. Tillett Community Center Advisory Board  
Commissioner Ross motioned to reappoint Lynda Hester, Cindy Perry, Rha Otte and Sara Hester Smith.  
Vice-Chairman Overman seconded the motion.  
VOTE: AYES unanimous
- 2) Wanchese Community Center  
Vice-Chairman Overman motioned to reappoint Robert L. Walter and appoint Justin Bateman.  
Commissioner Bateman seconded the motion.  
VOTE: AYES unanimous
- 3) Library Board - Dare  
Commissioner Bateman motioned to appoint Bea Basnight and Susan Pfaff.  
Commissioner House seconded the motion.  
VOTE: AYES unanimous
- 4) Fessenden Center Advisory Board  
Commissioner Couch motioned to appoint Wendi Munden.  
Commissioner House seconded the motion.  
VOTE: AYES unanimous
- 5) Game and Wildlife Commission  
Vice-Chairman Overman motioned to reappoint Timmy Midgett, Mike Johnson and Edward “Bow” Meekins.  
Commissioner Couch seconded the motion.  
VOTE: AYES unanimous

## **ITEM 12 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS**

A summary of the items mentioned by the Commissioners and County Manager during this segment follow:

### Commissioner House

- Updated the Board on the May 25-26 Marine Fisheries meeting in Beaufort. He had presented two resolutions previously adopted by the Board. After a heavy debate to lift the ban on gill net use, it was voted to keep it in place.
- The federal government was looking at another windmill farm off of our coast which would be thirty miles off Oregon inlet. It would be detrimental to the fishing and charter fleets.
- For a day in history he remembered June 6, 1944 as the day of the Normandy landings.

### Vice-Chairman Overman

- He congratulated and thanked the service pin recipients for their 115 years of combined service. He also congratulated Amy Elkins as the employee of the month.
- He had attended the Special Olympic send off for Dare participants at the Virginia S. Tillett Community Center. The athletes were very excited and had a great party send off.



### Commissioner Bateman

- He had also attended the Special Olympic sendoff and commented on their enthusiasm.
- On Saturday he had attended the Bill Walker field dedication at Kitty Hawk Elementary School.
- Reported on the professionalism of the SPCA in assisting him with the removal of three raccoons and relocating them to a refuge.
- He had attended the Oregon Inlet discussion in Wanchese on Friday. He commented the very vocal group met with Dr. Greg Murphy to discuss the inlet and jetties.

### Commissioner Couch

- The activities for the staging of the beach nourishment projects were very visible. There had been some difficulty finding housing for the contractors but the community had pulled together to meet the challenge.

### Commissioner Tobin

- He requested a letter be drafted by the County Manager and sent to Norm Sanderson, Ed Goodwin, Pat McElraft and Bobby Hanig regarding the pending legislation on dredging matching grants from one third to a quarter. Mr. Outten offered the cost for dredging projects shall be one non-state dollar for every three dollars from the fund.

#### **MOTION**

Commissioner Tobin motioned to send a letter in support of changing GS 143-215.73F(c) as proposed.

Commissioner Couch seconded the motion

VOTE: AYES unanimous.

- He had met with Congressman Murphy at his home Friday along with the Chairman and others to discuss the Oregon Inlet. One take away from the meeting was for him to draft a letter to be sent to the Secretary of the Army for our congressmen to sign to outline the immediate short, mid and long-term challenges for the Oregon Inlet.

### Commissioner Ross

- Commented the Special Olympic launch for the athletes had been a worthwhile celebration with 17 sponsors and 33 athletes. He thanked the Virginia S. Tillett Community Center staff for providing the venue for the celebration.
- The Links Ladies, a charitable group, held their drive for the cure for breast cancer and reproductive cancer. There had been 124 women golfers and 60 volunteers who raised funds in the tournament with all funds being used in the area.

Chairman Woodard asked the County Manager about the buoy at the swimming hole. Mr. Outten explained they were trying to get a CAMA permit in order to place a more permanent marker. In the meantime, he has instructed staff to continue with the temporary buoy.

### **MANAGER'S/ATTORNEY'S BUSINESS**

Mr. Outten provided the Board with a GIS map reflecting a parcel of land owned by the County (025251011) near the school bus garage and public works. A developer had recently purchased the undeveloped land nearby and wanted to put cluster houses there. He explained the county had settled a boundary dispute approximately forty years ago and a deed had been put to record which included an easement. Many years ago, it had been

proposed the county would cut the trees and creating an open road in the area. It was his opinion the statute of limitations had run. The 1978 deed indicated the county would dedicate a 60' wide strip and remove vegetation. An alternative solution would be to allow the developer to use the paved piece and switch easements. Mr. Outten would contact Kellog Supply nearby the site to insure the easement would not cause an issue to their business. Mr. Outten would bring the easement issue back to the Board if there were problems.

**MOTION**

Commissioner Couch motioned to authorize an easement for ingress and egress be granted as proposed.

Vice-Chairman Overman seconded the motion

VOTE: AYES unanimous

At the June 6<sup>th</sup> Board meeting an easement had been granted to Dominion Power near the Kitty Hawk skate board park. The utility had requested to enlarge the easement by 30' to install a pole. Mr. Outten had suggested fifteen feet was sufficient.

**MOTION**

Vice-Chairman Overman motioned to enlarge the easement as discussed by fifteen feet for installation of a pole.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

On the same parcel Dominion needed to go underground behind the park and to run cable for several houses. The plan presented by Dominion would have placed it down the center of the paved road. Mr. Outten had walked the area and determined a better location which would not prevent future county development. The area to be disturbed would be less then fifteen feet for equipment.

**MOTION**

Commissioner Bateman motioned to allow the easement for the installation of the cable with the County Manager to review Dominion's final sketch and agreement.

Commissioner House seconded the motion.

VOTE: AYES unanimous.

Mr. Outten explained there was an opportunity for an approximate \$1 million dollar grant to find sand sources for future northern beach projects which would require the county to provide a match. The County would be looking for sand sources in approximately three to four years. There were a few sand sources north of Duck which would make Duck's projects cheaper and the grant would pay for some of that research. If the sources were good, it would make the Kill Devil Hills source last longer and be cheaper for the long term. The sand that moves into the inlet was fine and erodes more quickly. Along with the study they would check to see if the sand sources if the three miles. Mr. Outten suggested that the grant match be paid out of the beach nourishment fund to make it cheaper for Duck and extend the life of the sand source for Kill Devil Hills and Kitty Hawk. Everyone would benefit with the other sand source. Full Board discussion may be found with the archived meeting on the website.

**MOTION**

Commissioner Couch motioned to approve spending the million out of the Beach Nourishment Fund to match the grant over time for future nourishment projects.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous.

Mr. Outten stated the procurement guidelines regarding the \$35 million for affordable housing were difficult to navigate. He suggested we ask the state to do what they did for local governments with the \$7 million that was received. That was placed in the General Fund as assumed expenses without further need to make accounting with the federal guidelines. If the same was done with the \$35 million it would resolve those issues. He suggested a resolution of support from the Board to authorize the state to move the funds and allow housing projects to move forward. Vice-Chairman Overman asked if it would alleviate the risk of paying the money back. Mr. Outten responded that if the state stated we did not have to follow the Federal procurement guidelines then we would not have the liability. The state of Pennsylvania had already taken this action.

**MOTION**

Commissioner Ross motioned to get a resolution requesting the state to authorize the funds be placed in the General Fund as outlined in the Board’s discussion.

Commissioners Tobin and House seconded the motion.

VOTE: AYES unanimous.

Dave Clawson Division provided an update on the beach nourishment projects. Most of the beach pipe had been delivered to Avon. One project was slated to begin at Kill Devil Hills and move north to Kitty Hawk. He added the Beach Nourishment Fund at the end of June, 2022 would have a projected \$39 million and decrease to \$31 million next year.

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

**MOTION**

Commissioner Tobin House motioned to adjourn the meeting.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

At 12:35 p.m., the Board of Commissioners adjourned until 5:00 p.m., June 20, 2022.

Respectfully submitted,

[SEAL]

By: \_\_\_\_\_  
Cheryl C. Anby, Clerk to the Board

APPROVED: By: \_\_\_\_\_  
Robert Woodard, Sr., Chairman  
Dare County Board of Commissioners

Note: Copies of attachments (Att.), ordinances, resolutions, contracts, presentations, and supporting material considered by the Board of Commissioners at this meeting are on file in the office of the Clerk.



***Reimbursement Resolutions -  
Fiscal Year 2022-2023 Vehicle & Equipment Financing  
Fiscal Year 2022-2023 Public Works Equipment Financing***

**Description**

The FY 2023 Capital Investment fund budget includes \$1,823,834 to be financed for the purchase of vehicles and equipment.

The FY 2023 Sanitation fund budget, as amended, and CIP capital project ordinance, as amended, includes \$2,243,880 to be financed for the purchase of public works equipment.

Adoption of the attached resolutions will allow the County to be reimbursed from the proceeds of the financings for those items that need to be purchased prior to the placement of the financings.

**Board Action Requested**

Adopt the reimbursement resolutions.

**Item Presenter**

None

Resolution No. \_\_\_\_\_

**REIMBURSEMENT RESOLUTION – FISCAL YEAR 2022-2023 VEHICLE AND EQUIPMENT FINANCING PROJECT**

*WHEREAS*, the County Manager and the Finance Officer have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the County’s use of financing proceeds to restore County funds when the County makes capital expenditures prior to closing on a bond issue or other financing;

*NOW, THEREFORE, BE IT RESOLVED* by the Board of Commissioners of the County of Dare, North Carolina as follows:

Section 1. *Official Declaration of Intent.* The County presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the County on or after the date occurring 60 days prior to the date of adoption of this resolution from a portion of the proceeds of the obligations. The County reasonably expects to execute and deliver the obligations to finance all or a portion of the costs of the project and the maximum principal amount of obligations expected to be executed and delivered by County to pay for all or a portion of the costs of the project is \$1,823,834.

Section 2. *Compliance with Regulations.* The County adopts this resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County’s intent to reimburse itself for the original expenditures from proceeds of the obligations.

Section 3. *Itemization of Capital Expenditures.* The Finance Director of the County is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the original expenditures incurred and paid by the County in connection with the project during the period commencing on the date occurring 60 days prior to the date of adoption of this resolution and ending on the date of execution and delivery of the obligations.

Section 4. *Effective Date.* This resolution shall become effective immediately upon the date of its adoption.

Adopted this 20th day of June, 2022.

\_\_\_\_\_  
Chairman, Board of County Commissioners

[SEAL]

COUNTY OF DARE, NORTH CAROLINA

\_\_\_\_\_  
Clerk to the Board

Resolution No. \_\_\_\_\_

**REIMBURSEMENT RESOLUTION – FISCAL YEAR 2022-2023 PUBLIC WORKS  
EQUIPMENT FINANCING PROJECT**

*WHEREAS*, the County Manager and the Finance Officer have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the County’s use of financing proceeds to restore County funds when the County makes capital expenditures prior to closing on a bond issue or other financing;

*NOW, THEREFORE, BE IT RESOLVED* by the Board of Commissioners of the County of Dare, North Carolina as follows:

Section 1. *Official Declaration of Intent.* The County presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the County on or after the date occurring 60 days prior to the date of adoption of this resolution from a portion of the proceeds of the obligations. The County reasonably expects to execute and deliver the obligations to finance all or a portion of the costs of the project and the maximum principal amount of obligations expected to be executed and delivered by County to pay for all or a portion of the costs of the project is \$2,243,880.

Section 2. *Compliance with Regulations.* The County adopts this resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County’s intent to reimburse itself for the original expenditures from proceeds of the obligations.

Section 3. *Itemization of Capital Expenditures.* The Finance Director of the County is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the original expenditures incurred and paid by the County in connection with the project during the period commencing on the date occurring 60 days prior to the date of adoption of this resolution and ending on the date of execution and delivery of the obligations.

Section 4. *Effective Date.* This resolution shall become effective immediately upon the date of its adoption.

Adopted this 20th day of June, 2022.

\_\_\_\_\_  
Chairman, Board of County Commissioners

[SEAL]

COUNTY OF DARE, NORTH CAROLINA

\_\_\_\_\_  
Clerk to the Board



*Sanitation Fund - Capital Outlay budget amendment*

**Description**

Increase capital outlay funding and related debt proceeds due to price increases between time of budget preparation and letter of intent to purchase.

**Board Action Requested**

Approve budget amendment.

**Item Presenter**

None.

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# **DARE COUNTY**

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## **BUDGET AMENDMENT**

**F/Y 2022-2023**

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Sanitation</u>					
<u>Revenues:</u>					
Proceeds Lease Purchases	243720	470100		23,129	
 <u>Expenditures:</u>					
Capital Outlay	244720	537400		23,129	

**Explanation:**

Increase capital outlay funding and related debt proceeds due to price increases between time of budget preparation and letter of intent to purchase.

3 frontloading trucks from \$971,595 estimated to \$991,312 quoted (including NCDMV fees).

2 sideloading trucks from \$618,000 estimated to \$621,412 quoted (including NCDMV fees).

Total increase of \$23,129.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_





*Tax Collector's Report*

**Description**

May 2022 Refunds  
May 2022 NCVTS Refunds over \$100

**Board Action Requested**

Approved

**Item Presenter**

Becky Huff, Tax Collector

# Refund Report for REAL ESTATE and PERSONAL PROPERTY

(Refunds over \$100.00 )

**MONTH:** May      **Date Range:** 5/1/2022 - 5/30/2022      **SUBMITTED BY:** Becky Huff

Taxpayer Name	Parcel	Bill Yr	Reason	Refund Amount
BETWEEN THE SETS, LLC	012785000	2021	Overpayment	<u>-1,429.24</u>
				<b>-1,429.24</b>





# North Carolina Vehicle Tax System

## NCVTS Pending Refund report

May 2022

Payee Name	Address 1	Address 3	Tax Jurisdiction	Change	Interest Change	Total Change
AYSCUE, DWIGHT MILTON	207 DEVON ST	MANTEO, NC 27954	C99	(\$74.34)	\$0.00	(\$74.34)
			T10	(\$64.13)	\$0.00	(\$64.13)
			<b>Refund</b>			
MILLER, BRIAN ERIC	179 DUNLO ST	PORT CHARLOTTE, FL 33954	C99	(\$75.86)	\$0.00	(\$75.86)
			T10	(\$65.44)	\$0.00	(\$65.44)
			<b>Refund</b>			
VEST, CHRISTOPHER TODD	38 PATTON DR	NEWPORT NEWS, VA 23606	C99	(\$66.63)	\$0.00	(\$66.63)
			T07	(\$53.24)	\$0.00	(\$53.24)
			<b>Refund</b>			
<b>Total Refund</b>						<b>\$399.64</b>



*Tyler Payment Card Processing Agreement*

**Description**

Please see attached Item Summary.

**Board Action Requested**

Authorize County Manager to execute the Tyler Payment Card Processing Agreement, with a term of 3 years, and all other documents, as necessary, to proceed with the implementation of Tyler Payments.

**Item Presenter**

None.

## Item Summary: Tyler Payment Card Processing Agreement

Dare County currently utilizes multiple merchant processors for credit card and e-Check payments: PNC Bank for point of sale (in-office), OpenEdge for online, and Official Payments Corp for IVR (telephone). As a result, there are differing service fees and payment limits related to each processor, and there are multiple settlement deposits into our bank account daily. Also, payers are often confused by charges on their statements because the description varies by processor.

With approval of the Tyler Payment Card Processing Agreement, Tyler Payments will become our single merchant processor for these payments. The service fee for credit card payments at point of sale and online will be 2.95% with a \$2.50 minimum (currently 2.00% point of sale and 2.75% online). The eCheck payment fee will be \$1.25 (currently \$0.50 with the County absorbing a significant amount of cost that the \$0.50 is not covering). The IVR payment fee will be 2.95% plus \$0.50 (currently 2.75%).

Advantages of a single vendor relationship for payment processing.

- Fewer solutions provides more control.
- A single source for transactions and for settlement deposits into our bank account.
- Simplified workflow and streamlined reconciliation of payment activity County-wide.
- Service fees and charge descriptions will be consistent for payers regardless of how they pay.

Advantages of Tyler Payments for the County.

- Zero cost for the platform.
- Seamless integration with our existing Munis Citizen Self-Service and Tyler Cashiering systems.
- Paperless billing and emailed receipt options.
- Customized branding to match the look of the County website.

Advantages of Tyler Payments for customers. Many customers, especially Water customers, have expressed a desire for these features.

- Single portal for all types of bills.
- Options to pay as a guest or to register as a user to link multiple accounts and access history.
- Option to set up email notifications.
- Option to securely store card and bank account information.
- Options to set recurring payments and schedule payments for a future date.
- Acceptance of various payment methods, including ApplePay.
- Tyler Payments handles the entire payment process from start to finish. There is no redirect to a 3<sup>rd</sup> party website to complete a payment.

# Payment Card Processing Agreement

This Payment Card Processing Agreement (this “Processing Agreement”) is made and entered into by and between Tyler Technologies, Inc., a Delaware corporation (“Tyler”), and Client (the “Merchant”).

## 1. ACKNOWLEDGEMENTS

- a. By executing this Processing Agreement or an accompanying Order Form, Merchant is contracting with Tyler to obtain Card processing services on Merchant’s behalf.
- b. Merchant acknowledges that Tyler contracts with a payment processor (a “Processor”), Members, and other third party providers to provide services under this Processing Agreement, and Merchant hereby consents to the use of such Processor, Members, and others to provide such services.
- c. Tyler represents that the terms and provisions of this Processing Agreement are not inconsistent with the terms and provisions of the agreements between Tyler and such third party providers.

## 2. MEMBER BANK AGREEMENT REQUIRED

- a. When Merchant’s customers pay Merchant through Tyler, Merchant may be the recipient of a Card funded payment. The organizations that operate these Card systems (such as Visa U.S.A., Inc. and MasterCard International Incorporated; collectively, the “Associations”) require that Merchant (i) enter into a direct contractual relationship with an entity that is a member of the Association and (ii) agree to comply with Association Rules as they pertain to applicable Card Transactions that Merchant submits through Tyler.
- b. Merchant shall complete an application with the Member with which Tyler has contracted, and execute an agreement with such Member (the “Member Bank Agreement”). By executing a Member Bank Agreement, Merchant is fulfilling the Association Rule of entering into a direct contractual relationship with a Member, and Merchant agrees to comply with Association Rules as they pertain to Transactions Merchant submits for processing through the Tyler service.
- c. Merchant acknowledges that Tyler may have agreed to be responsible for Merchant’s obligations to a Member for such Transactions as set forth in the Member Bank Agreement. Member should debit the Merchant Account for chargebacks, however, in the event Member assesses any such chargeback or dispute related fees to Tyler, Tyler shall invoice the same to Merchant.

## 3. SETTLEMENT AND CHARGEBACKS

- a. Merchants Bank Account. In order to receive funds, Merchant must maintain a bank account (the “Merchant Bank Account”) at a bank that is a member of the Automated Clearing House (“ACH”) system and the Federal Reserve wire system. Merchant agrees not to close the Merchant Bank Account without giving Tyler at least thirty (30) days’ prior written notice and substituting another bank account. Merchant is solely liable for all fees and costs associated with Merchant Bank Account and for all overdrafts. Tyler shall not be liable for any delays in receipt of funds or errors in bank account entries caused by third parties, including but not limited to delays or errors by the Member Bank or payment processor to Merchant Bank Account.
- b. Settlement. Transactions shall be settled according to the terms of the Member Bank Agreement using the account(s) which are designated by Merchant.
- c. Chargebacks. Chargebacks shall be paid by Merchant in accordance with the Member Bank Agreement.
- d. Retrieval Requests. Merchant is required by the Associations to store original documentation, and to timely respond to Retrieval Requests, of each Transaction for at least six months from the date of the respective Transaction, and to retain copies of all such data for at least 18 months from the date of the respective Transaction. Merchant is responsible for any Chargebacks that result from Merchant’s failure to timely respond to Retrieval Requests for documentation relating to a Transaction.

### Terms of Use Contents

- Acknowledgements
- Member Bank Agreement Required
- Settlement and Chargebacks
- Fees and Invoicing
- License
- Third Party Providers
- Tyler Confidential and Proprietary Information
- Representations and Warranties
- Limitation of Liability
- Indemnification
- Taxes
- Term, Suspension, and Termination
- Dispute Resolution
- Miscellaneous
- Certain Definitions
- Exhibit A

## 4. FEES AND INVOICING

- a. Order Form. Merchant agrees to pay Tyler the fees set forth in or attached to the Order Form for services provided by Tyler and to which this Agreement is hyperlinked or attached. This may include fees for Payment Service Devices or other Equipment that Merchant has elected to purchase or rent as set forth on the Order Form. Fees for purchase will be invoiced upon shipment and Fees for rental will be invoiced annually in advance. All Fees due hereunder are due within 45 days of invoice. The terms and conditions of such purchase or rental are set forth on Exhibit A attached hereto and incorporated herein.
- b. Adjustments to Pricing. By giving written notice to Merchant, Tyler may change Merchant's fees, charges and discounts resulting from (i) changes in Association fees (such as interchange, assessments and other charges); (ii) changes in pricing by any third party provider of a product or service used by Merchant; or (iii) other market adjustment. Such new prices shall be applicable as of the effective date established by the Association or third party provider, or as of any later date specified in Tyler's notice to Merchant. In addition, Tyler may update pricing for rental of Equipment by giving written notice to Merchant at the end of any initial rental term or when such Equipment is upgraded to a newer model or replaced in accordance with the pricing set forth on Tyler's then-current Order Form.
- c. Payment of Fees.
  - i. Online Payments. For payments that are initiated online, a convenience fee or service fee may be assessed to the Cardholder for each payment transaction that is paid electronically using a credit or debit card. Such convenience fee or service fee is set forth in the Order Form and will be charged at the time of the transaction to be deposited directly into a Tyler bank account from which all fees associated with processing and settling the transactions will be paid.
  - ii. Over the Counter Payments. For payments that are initiated in your offices, a service fee may be assessed to the Cardholder for each payment transaction and Tyler shall invoice Merchant for services and service fees on a monthly basis. Each invoice shall state the total invoiced amount and shall be accompanied by a reasonably detailed itemization of services and service fees. Following receipt of a properly submitted invoice, the Merchant shall pay amounts owing therein thirty (30) days in arrears.
  - iii. Absorbed Payments. For payments that are initiated online and/or in-person, the Merchant may elect to pay for all fees related to the transaction including, without limitation, interchange fees, dues, assessments, card brand fees, and Tyler fees.

## 5. LICENSE

Tyler hereby grants Merchant a non-exclusive, revocable license to use the Tyler Intellectual Property (as defined in Section 10(c) for the limited purpose of performing under this Processing Agreement. Merchant shall at all times be responsible for compliance with applicable law and Association Rules. Unless otherwise provided in a separate agreement between Tyler and Merchant, any Intellectual Property or machinery provided by Tyler, but not developed by Tyler, is being licensed or purchased by Merchant directly from the manufacturer or developer of such machinery or Intellectual Property. Merchant acknowledges that the license granted herein is limited to Merchant's use exclusively and that Merchant does not have the right to sub-license any of the Intellectual Property in either their original or modified form. Merchant agrees that it shall not reverse-engineer, disassemble or decompile the Intellectual Property. Merchant shall not give any third party, except Merchant's employees, access to the Intellectual Property without Tyler's prior written consent.

## 6. THIRD PARTY PROVIDERS

Tyler may, in its sole discretion, contract with alternate Members, payment processors or other third party providers to provide services under this Processing Agreement. In such event, Merchant shall reasonably cooperate with Tyler, including the execution of a new Member Bank Agreement by Merchant; provided, however, that if the terms and conditions of the new Member Bank Agreement are substantially different than Merchant's existing Member Bank Agreement, then Merchant shall have the right to terminate this Processing Agreement.



## 7. TYLER CONFIDENTIAL AND PROPRIETARY INFORMATION

- a. Protection of Tyler Confidential and Proprietary Information. Merchant shall not disclose, disseminate, transmit, publish, distribute, make available, or otherwise convey Tyler Confidential and Proprietary Information, and Merchant shall not use, make, sell, or otherwise exploit any such Tyler Confidential and Proprietary Information for any purpose other than the performance of this Processing Agreement, without Tyler's written consent, except: (a) as may be required by law, regulation, judicial, or administrative process; or (b) as required in litigation pertaining to this Processing Agreement, provided that Tyler is given advance notice of such intended disclosure in order to permit it the opportunity to seek a protective order. Merchant shall ensure that all individuals assigned to perform services herein shall abide by the terms of this Section 7(a) and shall be responsible for breaches by such persons.
- b. Judicial Proceedings. If Merchant is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to disclose any Tyler Confidential and Proprietary Information, Merchant shall provide Tyler with prompt written notice of such request or requirement so that Tyler may seek protective orders or other appropriate remedies and/or waive compliance with the provisions of this Processing Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by Tyler, Merchant nonetheless is legally compelled to disclose Tyler Confidential and Proprietary Information to any court or tribunal or else would stand liable for contempt or suffer other censure or penalty, Merchant may, without liability herein, disclose to such court or tribunal only that portion of Tyler Confidential and Proprietary Information which the court requires to be disclosed, provided that Merchant uses reasonable efforts to preserve the confidentiality of Tyler Confidential and Proprietary Information, including, without limitation, by cooperating with Tyler to obtain an appropriate protective order or other reliable assurance that confidential treatment shall be accorded Tyler Confidential and Proprietary Information.

## 8. REPRESENTATIONS AND WARRANTIES

- a. No Actions, Suits, or Proceedings. There are no actions, suits, or proceedings, pending or, to the knowledge of Tyler, threatened, that shall have a material adverse effect on Tyler's ability to fulfill its obligations pursuant to or arising from this Processing Agreement.
- b. Compliance with Laws. In performing this Processing Agreement, Tyler shall comply with all applicable material licenses, legal certifications, or inspections. Tyler and Merchant shall comply in all material respects with applicable federal, state, and local statutes, laws, ordinances, rules, and regulations.
- c. Ownership. Tyler is a Delaware corporation that is listed for trading on the New York Stock Exchange. No director, officer, or 5% or more stockholder shall, during the course of this Processing Agreement, receive or confer improper personal benefits or gains associated with the performance of the services outlined in this Processing Agreement.
- d. Certain Business Practices. Neither Tyler nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Processing Agreement by any federal department or agency. Tyler further represents and warrants that it is not listed on any local, state or federal consolidated list of debarred, suspended, and ineligible contractors and grantees. No person (other than permanent employees of Tyler) has been engaged or retained by Tyler to solicit, procure, receive, accept, arrange, or secure this Processing Agreement for any compensation, consideration, or value.
- e. Equipment Manufacturer Warranties. Tyler will pass through to Merchant any applicable manufacturer warranties that apply to Equipment purchased by Merchant through this Agreement.
- f. Disclaimer of Implied Warranties. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS PROCESS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TYLER HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 9. LIMITATION OF LIABILITY

TYLER'S LIABILITY TO MERCHANT FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS PROCESSING AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE TOTAL FEES PAID TO TYLER UNDER THIS PROCESSING AGREEMENT (NET OF ASSOCIATION INTERCHANGE, ASSESSMENTS AND FINES) FOR THE SIX MONTHS PRIOR TO THE TIME THE LIABILITY AROSE.

WHILE BOTH PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR SERVICES TO WHICH THE UNIFORM COMMERCIAL CODE DOES NOT APPLY, IN NO EVENT SHALL TYLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS OR LOSS OF DATA ARISING OUT OF THIS PROCESSING AGREEMENT, IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

## 10. INDEMNIFICATION

- a. Chargebacks. Merchant acknowledges that Tyler has agreed to be responsible for Merchant's obligations to a Member for Transactions and Association Rules as set forth in the Member Bank Agreement. Member should debit the Merchant Account for chargebacks, however, in the event Member assesses any such chargeback or dispute related fees to Tyler, Tyler shall invoice the same to Merchant.
- b. Applicable Law and Interpretations: Merchant shall indemnify and hold harmless Tyler from and against any claim or action related to Merchant's violation of applicable law and/or Association Rules including without limitation any election to apply custom fee structures or customer surcharges.
- c. Intellectual Property.
  - i. Tyler retains all ownership and copyright interest in and to any and all intellectual property, computer programs, related documentation, technology, know how and processes developed by Tyler and provided in connection with this Processing Agreement (collectively, the "Intellectual Property"),
  - ii. Notwithstanding any other provision of this Processing Agreement, if any claim is asserted, or action or proceeding brought against Merchant that alleges that all or any part of the Intellectual Property, in the form supplied, or modified by Tyler, or Merchant's use thereof, infringes or misappropriates any United States intellectual property, intangible asset, or other proprietary right, title, or interest (including, without limitation, any copyright or patent or any trade secret right, title, or interest), or violates any other contract, license, grant, or other proprietary right of any third party, Merchant, upon its awareness, shall give Tyler prompt written notice thereof. Tyler shall defend, and hold Merchant harmless against, any such claim or action with counsel of Tyler's choice and at Tyler's expense and shall indemnify Merchant against any liability, damages, and costs resulting from such claim. Without waiving any rights pursuant to sovereign immunity, Merchant shall cooperate with and may monitor Tyler in the defense of any claim, action, or proceeding and shall, if appropriate, make employees available as Tyler may reasonably request with regard to such defense. This indemnity does not apply to the extent that such a claim is attributable to modifications to the Intellectual Property made by Merchant, or any third party pursuant to Merchant's directions, or upon the unauthorized use of the Intellectual Property by Merchant.
- d. If the Intellectual Property becomes the subject of a claim of infringement or misappropriation of a copyright, patent, or trade secret or the violation of any other contractual or proprietary right of any third party, Tyler shall, at its sole cost and expense, select and provide one of the following remedies, which selection shall be in Tyler's sole discretion: (a) promptly replace the Intellectual Property with a compatible, functionally equivalent, non-infringing system; or (b) promptly modify the Intellectual Property to make it non-infringing; or (c) promptly procure the right of Merchant to use the Intellectual Property as intended.

## 11. TAXES

- a. Tax Exempt Status. Merchant is a governmental tax-exempt entity and shall not be responsible for any taxes for any Licensed Property or services provided for herein, whether federal or state.

The fees paid to Tyler pursuant to this Processing Agreement are inclusive of any applicable sales, use, personal property, or other taxes attributable to periods on or after the Effective Date of this Processing Agreement.

- b. Employee Tax Obligations. Each party accepts full and exclusive liability for the payment of any and all contributions or taxes for Social Security, Workers' Compensation Insurance, Unemployment Insurance, or Retirement Benefits, Pensions, or annuities now or hereafter imposed pursuant to or arising from any state or federal laws which are measured by the wages, salaries, or other remuneration pay to persons employed by such party for work performed under this Processing Agreement.

## 12. TERM, SUSPENSION, AND TERMINATION

- a. Term. The term of this Processing Agreement (the "Term") shall commence on the Effective Date and shall continue in effect for three years unless otherwise set forth on an Order Form; provided, however, that at the end of such initial term, and on each subsequent anniversary of the Effective Date, the term shall automatically extend for an additional year unless either party provides, at least ninety (90) days prior to the end of the then current term, written notice that it does not wish to extend the term or otherwise terminates the agreement for Cause pursuant to Section 12(b).
- b. Termination for Cause. Either party may terminate this Processing Agreement for Cause, provided that such party follows the procedures set forth in this Section (b).
- i. For purposes of this Section, "Cause" means either:
- A. a material breach of this Processing Agreement, which has not been cured within ninety (90) days of the date such party receives written notice of such breach;
  - B. if Tyler services provided under this Processing Agreement fail to conform to generally accepted standards for such services in the Card processing industry and, after ninety (90) days written notice, Tyler does not rectify its failure of performance;
  - C. the failure by Merchant to timely pay when due any fees owed to Tyler pursuant to this Processing Agreement and any delinquent amounts remain outstanding for a period of thirty (30) days after Tyler provides written notice of its intent to terminate for failure to pay;
  - D. breach of Section 7; or
  - E. if Tyler becomes insolvent or bankrupt, or is the subject of any proceedings relating to its liquidation or insolvency or for the appointment of a receiver or similar officer for it, has a receiver of its assets or property appointed or makes an assignment for the benefit of all or substantially all of its creditors, or institutes or causes to be instituted any proceeding in bankruptcy or reorganization or rearrangement of its affairs.
- ii. No party may terminate this Processing Agreement under Section 12 b(i)(A) unless it cooperates in good faith with the alleged breaching party during the cure period and complies in good faith with the dispute resolution procedures set forth in Section 13 following such period.
- iii. In the event either party terminates this Processing Agreement pursuant to this Section (b), each party shall return all products, documentation, confidential information, and other information disclosed or otherwise delivered to the other party prior to such termination, all revocable licenses shall terminate.
- c. Survival. The following provisions shall survive after the Term of this Processing Agreement: 3; 4(c); 7; 10; 11; 12; 13; 14; and 15.

## 13. DISPUTE RESOLUTION

Any dispute arising out of, or relating to, this Processing Agreement that cannot be resolved within five (5) Business Days shall be referred to the individual reasonably designated by Merchant and Tyler's representative assigned to Merchant's account ("Intermediary Dispute Level"). Any dispute that cannot be resolved in ten (10) Business Days at the Intermediary Dispute Level shall then be referred to Merchant's chief executive officer or other individual reasonably designated by Merchant and Tyler's applicable division President ("Executive Dispute Level"), at such time and location reasonably designated by the parties. Any negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement

negotiations for purposes of the applicable rules of evidence. For any dispute that the parties are unable to resolve through informal discussions or negotiations or pursuant to the dispute resolution and escalation procedures set forth in this Processing Agreement, the parties shall submit the matter to mediation prior to the commencement of any legal proceeding. The foregoing shall not apply to claims for equitable relief under Section 7.

## 14. MISCELLANEOUS

- a. Assignment. Neither party may assign this Processing Agreement or any of its respective rights or obligations herein to any third party without the express written consent of the other party, which consent shall not be unreasonably withheld.
- b. Cumulative Remedies. Except as specifically provided herein, no remedy made available herein is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy provided herein or available at law or in equity.
- c. Notices. Except as otherwise expressly specified herein, all notices, requests or other communications shall be in writing and shall be deemed to have been given if delivered personally or mailed, by certified or registered mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth on the signature page hereto, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or three (3) days following deposit in the mail. Notwithstanding the foregoing, notice shall be deemed delivered when provided in connection with billing or invoicing.
- d. Counterparts. This Processing Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- e. Waiver. The performance of any obligation required of a party herein may be waived only by a written waiver signed by the other party, which waiver shall be effective only with respect to the specific obligation described therein.
- f. Entire Agreement. This Processing Agreement constitutes the entire understanding and contract between the parties and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, including an agreement for other Tyler software or services with which Tyler Payments is included.
- g. Amendment. This Processing Agreement shall not be modified, amended, or in any way altered except by an instrument in writing signed by the properly delegated authority of each party. All amendments or modifications of this Processing Agreement shall be binding upon the parties despite any lack of consideration.
- h. Severability of Provisions. In the event any provision hereof is found invalid or unenforceable pursuant to judicial decree, the remainder of this Processing Agreement shall remain valid and enforceable according to its terms.
- i. Relationship of Parties. The parties intend that the relationship between the parties created pursuant to or arising from this Processing Agreement is that of an independent contractor only. Neither party shall be considered an agent, representative, or employee of the other party for any purpose.
- j. Governing Law. Any dispute arising out of or relating to this Processing Agreement or the breach thereof shall be governed by the laws of the state of Merchant's domicile, without regard to or application of choice of law rules or principles.
- k. Audit. Tyler shall maintain complete and accurate records of all work performed pursuant to and arising out of this Processing Agreement. Merchant may, upon the written request, audit any and all records of Tyler relating to services provided herein. Merchant shall provide Tyler twenty-four hour notice of such audit or inspection. Tyler shall have the right to exclude from such inspection any Tyler Confidential and Proprietary Information not otherwise required to be provided to Merchant as a part of this Processing Agreement. Tyler shall make such books and records available to Merchant during normal business hours. Any such audit shall be conducted at Tyler's principal place of business during Tyler's normal business hours and at Merchant's sole expense.
- l. No Third Party Beneficiaries. Nothing in this Processing Agreement is intended to benefit, create any rights in, or otherwise vest any rights upon any third party.

- m. Contra Proferentem. The doctrine of contra proferentem shall not apply to this Processing Agreement. If an ambiguity exists in this Processing Agreement, or in a specific provision, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.
- n. Force Majeure. No party to this Processing Agreement shall be liable for delay or failure in the performance of its contractual obligations arising from any one or more events that are beyond its reasonable control, including, without limitation, acts of God, war, terrorism, and riot. Upon such delay or failure affecting one party, that party shall notify the other party and use all reasonable efforts to cure or alleviate the cause of such delay or failure with a view to resuming performance of its contractual obligations as soon as practicable. Notwithstanding the foregoing, in every case the delay or failure to perform must be beyond the control and without the fault or negligence of the party claiming excusable delay. Any performance times pursuant to or arising from this Processing Agreement shall be considered extended for a period of time equivalent to the time lost because of any delay that is excusable herein.
- o. Equitable Relief. Each party covenants, represents, and warrants that any violation of this Processing Agreement by such party with respect to its respective obligations set forth in Section 7 shall cause irreparable injury to the other party and shall entitle the other party to extraordinary and equitable relief by a court of competent jurisdiction, including, without limitation, temporary restraining orders and preliminary and permanent injunctions, without the necessity of posting bond or security.

## 15. CERTAIN DEFINITIONS

- a. Association means a group of Card issuer banks or debit networks that facilitates the use of payment cards accepted under this Processing Agreement for processing, including, without limitation, Visa, U.S.A., Inc., MasterCard International, Inc., Discover Financial Services, LLC and other credit and debit card providers, debit network providers, gift card and other stored value and loyalty program providers. Associations also includes the Payment Card Industry Security Standards Council.
- b. Association Rules means the bylaws, rules, and regulations, as they exist from time to time, of the Associations.
- c. Card or Payment Card means an account, or evidence of an account, authorized and established between a Cardholder and an Association, or representatives or members of a Association that Merchant accepts from Cardholders as payment for a good or service. Payment Instruments include, but are not limited to, credit and debit cards, stored value cards, loyalty cards, electronic gift cards, authorized account or access numbers, paper certificates and credit accounts.
- d. Cardholder means the person to whom a Card is issued or who is otherwise entitled to use a Card.
- e. Chargeback means a reversal of a Card sale Merchant previously presented pursuant to Association Rules.
- f. Member or Member Bank means an entity that is a member of the Associations.
- g. Order Form means a document listing the pricing associated with this Processing Agreement.
- h. Processing Agreement means this Payment Card Processing Agreement, including all exhibits attached hereto and to be attached throughout the Term of this Processing Agreement, all of which are incorporated by reference herein.
- i. Retrieval Request means a request for information by a Cardholder or Card issuer relating to a claim or complaint concerning a Card sale Merchant has made.
- j. Transaction means the evidence and electronic record of a sale or lease transaction representing payment by use of a Card or of a refund/credit to a Cardholder.
- k. Tyler Confidential and Proprietary Information means all information in any form relating to, used in, or arising out of Tyler's operations and held by, owned, licensed, or otherwise possessed by Tyler (whether held by, owned, licensed, possessed, or otherwise existing in, on or about Tyler's premises or Merchant's offices, residence(s), or facilities and regardless of how such information came into being, as well as regardless of who created, generated or gathered the information), including, without limitation, all information contained in, embodied in (in any media whatsoever) or relating to Tyler's inventions, ideas, creations, works of authorship,

business documents, licenses, correspondence, operations, manuals, performance manuals, operating data, projections, bulletins, customer lists and data, sales data, cost data, profit data, financial statements, strategic planning data, financial planning data, designs, logos, proposed trademarks or service marks, test results, product or service literature, product or service concepts, process data, specification data, know how, software, databases, database layouts, design documents, release notes, algorithms, source code, screen shots, other research and development information and data, and Intellectual Property. Notwithstanding the foregoing, Tyler Confidential and Proprietary Information does not include information that: (a) becomes public other than as a result of a disclosure by Merchant in breach hereof; (b) becomes available to Merchant on a non-confidential basis from a source other than Tyler, which is not prohibited from disclosing such information by obligation to Tyler; (c) is known by Merchant prior to its receipt from Tyler without any obligation of confidentiality with respect thereto; or (d) is developed by Merchant independently of any disclosures made by Tyler.

## Exhibit A

### Payment Service Devices/Equipment – Rental and Purchase

This Exhibit A is incorporated into that certain Payment Card Processing Agreement between Tyler and Merchant (the “Agreement”).

#### 1. TERMS APPLICABLE TO BOTH PURCHASE AND RENTAL OF EQUIPMENT

- a. Generally. Tyler will provide PCI-compliant Payment Service Devices as elected by Merchant and described in the Order Form and related equipment for rent or purchase during the term of this Agreement for the fees set forth in the Order Form.
- b. Shipping Timelines. Tyler shall ship newly-requested Payment Service Devices (and associated supplies, such as printers, cables, power supplies, mounting hardware or other equipment identified in an Order Form) (“Equipment”) to Merchants within (a) 14 calendar days of the request or (b) 14 calendar days prior to payment service commencement/go-live, whichever is later. Tyler shall ship failure-related replacement Equipment to Merchants within two (2) Business Days of a written request.
- c. Delivery and Acceptance. Tyler will deliver the Equipment to the location designated by Merchant in the Order Form. If an address for delivery is not expressly designated in the Order Form, such Equipment will be delivered to Merchant's address otherwise set forth in the Order Form. Merchant will be deemed to have accepted each piece of Equipment on the earlier of (i) when Merchant acknowledges receipt, and (ii) seven days after shipment of each such piece of Equipment, unless Tyler is notified earlier in writing by Merchant that the Equipment has not been received or is not functional.
- d. Rights and Restrictions. Tyler shall process payments received from Merchant's Payment Service Devices provided by Tyler. Merchant acknowledges that the Payment Service Devices are embedded with proprietary encryption technology that will be injected by Tyler's designee into the Payment Services Devices. Merchant agrees that all of Merchant's over-the-counter transactions processed through a Tyler application will be required to use Payment Service Devices provided by Tyler. Merchant will maintain each Payment Service Device in its possession and will not permit any physical alteration or modification of any piece of Equipment. Each piece of Equipment will be used only in the ordinary course of Merchant's business in connection with Tyler applications. The Equipment is not being sold or rented to the Merchant for home or personal use. Merchant acknowledges that the Equipment rented or purchased through this Exhibit may not be compatible with another processor's systems. Merchant hereby grants Tyler a security interest in (i) all Equipment to secure payment of the purchase price, and (ii) all Equipment to secure payment of the monthly rental payments. Merchant authorizes Tyler to file financing statements with respect to the Equipment in accordance with the Uniform Commercial Code, signed by Tyler directly or as Merchant's attorney-in-fact.
- e. Change Notice. Tyler shall provide thirty (30) calendar days written notice for Equipment changes that affect Merchants, which includes, without limitation, when Tyler will no longer support a Payment Service Device. Tyler will only be obligated to replace Equipment when a Payment Service Device is no longer capable of functioning or Tyler ends support of the specific make and model of the Equipment.
- f. PCI DSS Compliance. Each party understands and agrees to comply with PCI DSS and any amendments thereto. Merchant shall be responsible for compliance with PCI DSS version

3.2.1 and any more current versions regarding the Payment Service Devices, including, but not limited to, the maintenance, inspection, and training obligations set forth in PCI DSS Requirement 9.9.

## 2. TERMS APPLICABLE ONLY TO EQUIPMENT PURCHASED

Tyler will sell to Merchant the Equipment identified in the Order Form, free and clear of all liens and encumbrances, except that any proprietary encryption technology included within the Payment Service Devices or any other Tyler Intellectual Property will be provided to you pursuant to the License set forth in Section 5 of the Agreement. Maintenance and repair of Merchant-purchased Equipment is the responsibility of Merchant, unless Merchant has purchased Tyler's maintenance services for Payment Service Devices.

## 3. TERMS APPLICABLE ONLY TO EQUIPMENT RENTAL

- a. Tyler will rent to Merchant the Equipment identified in the Order Form, as set forth herein. The rental period will commence when the Equipment is deemed accepted. At the end of the rental term identified in an Order Form or when the Agreement is terminated, Merchant will promptly return each piece of Equipment to Tyler at Merchant's cost, in the same condition as when received, ordinary wear and tear excepted, unless otherwise directed by Tyler. The rental period will terminate when Equipment is returned to Tyler at 840 West Long Lake Road, Detroit, Michigan 48098, Attention: Tyler Payments, or at an earlier date specified by Tyler in writing. The following information must be included within the shipping box: (i) Merchant name, complete address and phone number; (ii) name of person to contact if there are any questions; (iii) your Merchant account number; and (iv) serial number of the Equipment. Merchant will retain proof of delivery documents and the applicable serial number. For any piece of Equipment that is not returned to Tyler in accordance with this paragraph, Merchant will pay Tyler the greater of \$250.00 or the fair market value of such piece of Equipment as if it were in the condition described herein.
- b. Merchant will not assign its rights or obligations under this Exhibit, or pledge, lend, create a security interest in, incur any liens or encumbrances on, or sublease the Equipment to any other person or entity without Tyler's prior written consent. Any such assignment, delegation, sublease, pledge, security interest or lien in the absence of consent shall be void.
- c. The provisions of this Exhibit will survive the termination or expiration of the Agreement and continue until all rented Equipment is returned to Tyler or paid for.

Updated 10/26/21

## Agree to Terms

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By providing information in the required fields below, you confirm the following:

- You are authorized to bind the Client listed.
- You have read, understand, and agree to these terms and conditions.

Client Name

Email Address

Submit



*Budget Amendment for Deeds of Trust Fund (Special Revenue Fund)*

**Description**

The budget and estimate for FY 2022 for Register of Deeds collections of the State deeds of trust fees may be low. The Board is asked to increase the fund budget.

**Board Action Requested**

Adopt budget amendment

**Item Presenter**

David Clawson, Finance Director



# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2021-2022

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
Deeds of Trust Fund					
<u>Revenues:</u>					
Revenue stamps - State	283460	430020		\$100,000	
<u>Expenditures:</u>					
State deeds of trust fees	284460	525728		\$100,000	

Explanation:

Register of deeds collections of state fees may be over budget/estimate.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*FY2023 Capital Project Ordinance - Public Works Equipment amendment*

**Description**

Increase CIP funding and related debt proceeds due to price increases between time of budget preparation and purchase order quote date.

**Board Action Requested**

Approve capital project ordinance amendment.

**Item Presenter**

None.

**County of Dare, North Carolina**  
**Capital Project Ordinance**  
**for**  
**Approved FY 2023 CIP Projects**

BE IT ORDAINED as authorized by the Board of Commissioners of the County of Dare, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance, originally adopted on 5/16/2022, is adopted:

Section 1 This ordinance is to establish a budget for the approved FY 2023 CIP projects per the Capital Investment Model.

Section 2 The following budget shall be conducted within the Capital Projects Fund (fund #61).

Section 3 The following amounts are changed as indicated for the projects:

Public Works Equipment	615717-737583-98735	\$4,263 increase
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Section 4 The following revenues are anticipated to be available to complete the projects:

LP Proceeds PW Equipment (59 months)	613090-470100-98735	\$4,263 increase
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Section 5 The Finance Officer is directed to report the financial status of the project as a part of the normal monthly reporting process.

Section 6 Copies of this capital project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to the Board of Commissioners.

Adopted this 20<sup>th</sup> day of June, 2022

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Chairman, Board of Commissioners

[SEAL]

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Cheryl Anby, Clerk to the Board of Commissioners



*Fiscal Year 2023 Opioid Settlement Funds Budget Amendments*

**Description**

The FY2023 Opioid Settlement funds were budgeted in the General Fund. A new FAQ released by the NC Dept. of Justice states that the funds must be budgeted in a separate Special Revenue Fund. The first budget amendment reduces the budgeted amounts to remove them from the General Fund. The second budget amendment creates a budget in a new Special Revenue Fund (fund #31). This budget amendment also identifies the expenditures per the requirements of the MOA.

**Board Action Requested**

Adopt the budget amendment for the General Fund and adopt the budget amendment for the Opioid Settlement Fund.

**Item Presenter**

David Clawson, Finance Director

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2022-2023

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
General Fund - Health					
<u>Revenues:</u>					
Opioid settlement funds	103052	460100	56001		\$156,188
<u>Expenditures:</u>					
Salaries	104600	500200	56001		\$37,068
FICA	104600	500300	56001		\$2,836
Retirement	104600	500400	56001		\$4,507
Health Ins	104600	500500	56001		\$11,712
Retiree Health	104600	500700	56001		\$65
Court Diversion	104600	510900	56002		\$100,000

Explanation:

The MOA with the State of NC Dept. of Justice states that opioid settlement funds must be budgeted and expended from a Special Revenue Fund and not the General Fund. This amendment reduces budgeted amounts in the General Fund.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2022-2023

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
Opioid Settlement Special Revenue Fund					
<u>Revenues:</u>					
Opioid settlement funds	313052	460100	56001	\$156,188	
<u>Expenditures:</u>					
Salaries	314600	500200	56001	\$37,068	
FICA	314600	500300	56001	\$2,836	
Retirement	314600	500400	56001	\$4,507	
Health Ins	314600	500500	56001	\$11,712	
Retiree Health	314600	500700	56001	\$65	
Court Diversion	314600	510900	56002	\$100,000	

Explanation:

Identification of expenditures per the MOA with the State Dept of Justice:

Peer Support Specialist and Services	<i>Exhibit A, Item 3, Recovery Support Services</i>	\$56,188
Probation Officer & Srvc Drug Recovery	<i>Exhibit A, Item 10, Criminal Justice Diversion</i>	\$100,000

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

Finance only:

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*Budget Amendment - Leases*

**Description**

Budget amendment for GASB87 (new accounting standard for leases) which requires leases with a term exceeding 12 months to be treated as a financing transaction. The County has recently approved two lease agreements for equipment - one for a dishwashing machine for the Detention Center and one for a digital wide format copier for Register of Deeds. This budget amendment makes the required appropriations should the equipment be delivered prior to 6/30/2022. Net effect on the budget is \$0.

**Board Action Requested**

Approve budget amendment.

**Item Presenter**

None.

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2021-2022

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
<u>Revenues:</u>					
Other Financing Source-Capital Lease	103090	471800		\$22,500	
<u>Expenditures:</u>					
Detention Center-Capital Lease	104520	537480		\$12,500	
Register of Deeds-Capital Lease	104460	537480		\$10,000	

Explanation:

Budget amendment for GASB87 (new accounting standard for leases) which requires leases with a term exceeding 12 months to be treated as a financing transaction. The County has recently approved two lease agreements for equipment - one for a dishwashing machine for the Detention Center and one for a digital wide format copier for Register of Deeds. This budget amendment makes the required appropriations should the equipment be delivered prior to 6/30/2022. Net effect on the budget is \$0.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_





*Colington Road Project R-5014 Utility Preliminary Engineering Agreement (Payable)*

**Description**

NCDOT Colington Road Water Line upgrade agreement to cover engineering cost to Dare County Water Department.

**Board Action Requested**

Approval of the Utility Preliminary Engineering Agreement (Payable)

**Item Presenter**

Pat Irwin

\*\*\*\*\*

**UTILITY PRELIMINARY ENGINEERING AGREEMENT (PAYABLE)**

**WBS ELEMENT:** \_\_\_\_\_

**TRANSPORTATION IMPROVEMENT PROGRAM NO.:** \_\_\_\_\_

**COUNTY:** \_\_\_\_\_

\*\*\*\*\*

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and

between the Department of Transportation, an agency of the State of North

Carolina, hereinafter referred to as the DEPARTMENT, and \_\_\_\_\_

\_\_\_\_\_ hereinafter referred to as the COMPANY:

**W I T N E S S E T H:**

**THAT WHEREAS, the DEPARTMENT will submit a project for construction as follows:**

known as route \_\_\_\_\_ in \_\_\_\_\_ County, North Carolina to be designated as N.C. State Highway Project and/or WBS Element \_\_\_\_\_ and,

**WHEREAS, the construction of said project will require certain engineering of plans for adjustments to be made to the existing facilities of the COMPANY;**

**NOW, THEREFORE, in order to facilitate the orderly and expeditious relocation of the said facilities of COMPANY, the DEPARTMENT and the COMPANY have**

**agreed as follows:**

**1. That the DEPARTMENT has agreed to reimburse the COMPANY for preliminary engineering charges associated with certain adjustments to be made to the existing facilities of the COMPANY.**

**2. That any work performed under this agreement shall comply with DEPARTMENT's "NCDOT Utilities Accommodations Manual, and such amendments thereto as may be in effect at the date of this agreement. The work to be performed by the COMPANY shall conform with Federal Highway Administration's Federal-Aid Policy Guide, Subchapter G, Part 645, Subpart A hereinafter referred to as FAPG dated December 9, 1991, and such amendments**

thereto as may be in effect at the date of this agreement. The provisions of said FAPG and amendments thereto are incorporated in this agreement by reference as fully as if herein set out. Any work performed under this agreement not in compliance with FAPG shall constitute unauthorized work and the DEPARTMENT shall be relieved of participating in the costs of such unauthorized work unless such work is done pursuant to a supplemental agreement attached to and made a part hereof.

3. That the COMPANY or COMPANY Engineering firm will prepare an estimate, broken down as to estimated cost of preliminary engineering, overhead rate, job classification pay rate, indirect cost rates, cost of capital rate and estimated man-day hours all in sufficient detail to provide the DEPARTMENT a reasonable basis for analysis. The before mentioned estimate is attached hereto and made a part hereof. The DEPARTMENT will not reimburse the COMPANY for any preliminary engineering not necessitated by the construction of the highway project, nor for changes made solely for the benefit or convenience of the COMPANY.

4. That payment for all work done hereunder shall be made in accordance with the requirements of FAPG unless payment is being made pursuant to a supplemental agreement attached to and made a part of this agreement.

5. That the preliminary engineering work provided for in this agreement will be performed by the method or methods as specified below:

BY COMPANY'S REGULAR FORCE: The COMPANY proposes to use its regular personnel at its standard schedule of wages and working hours in accordance with the terms of its agreement with such employees.

BY EXISTING WRITTEN CONTINUING CONTRACT: The COMPANY proposes to use an existing written continuing contract under which certain work as shown by the COMPANY's estimate is regularly performed for the COMPANY and under which the lowest available costs are developed. The COMPANY shall submit a copy of the continuing contract (including rates) to the DEPARTMENT for review and approval.

BY CONTRACT: The COMPANY does not have adequate staff to perform the necessary engineering design with its own forces. The COMPANY submits to DEPARTMENT a draft advertisement for review and approval, and in accordance with NC General Statute 143-64.31 and 23 CFR 172, will select firms qualified to provide such service on the basis of demonstrated competence and qualification for the type of professional services and to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. The COMPANY shall submit overhead rates to the DEPARTMENT for review and approval in accordance with DEPARTMENT audit requirements. Refer to DEPARTMENT requirements at the following site:

<https://connect.ncdot.gov/projects/Roadway/Private%20Engineering%20Firm%20Resources/NCDOT%20Audit%20Requirements%20Fiscal%20Form.pdf>

6. a. It is contemplated by the parties hereto that the construction of this State Highway Project will begin on or about the \_\_\_\_\_

b. Based on the best information available at the present time to the COMPANY, indicate applicable paragraph below:

Preliminary Engineering will be complete allowing adequate time for materials and completion of certain adjustments prior to highway construction.

Preliminary Engineering will be complete prior to highway construction; however, certain adjustments are not expected to be complete prior to highway construction.

Other (Specify)

7. Indicate if (a) or (b) is applicable:

a.  That preliminary engineering is for the adjustments of existing facilities in conflict with said project.

b.  That the preliminary engineering involves COMPANY's request for new facilities in addition to adjustments of existing facilities in conflict with said project.

8. That the total estimated cost of the preliminary engineering proposed herein, including all cost to the DEPARTMENT and COMPANY, is estimated to be----- \$ \_\_\_\_\_

The estimated preliminary engineering cost to the DEPARTMENT, including all cost less any preliminary engineering for new facilities requested by the COMPANY.----- \$ \_\_\_\_\_

The estimated cost to the COMPANY for any additional preliminary engineering charges for new facilities requested by the COMPANY will be----- \$ \_\_\_\_\_

*(The above costs shall be supported by attached estimate)*

9. That in the event it is determined there are changes in the scope of work, extra work, or major changes from the statement of work covered by this agreement, reimbursement shall be limited to costs covered by a modification of this agreement or a written change or extra work order approved by the DEPARTMENT.

10. Periodic progress billings of incurred costs may be made by COMPANY to the DEPARTMENT not to exceed monthly intervals; however, total progress billing payments shall not exceed 95% of the approved non-betterment estimate. Progress billing forms may be obtained from the Area Utility Agent. One final and detailed complete billing of all costs shall be made by COMPANY to the DEPARTMENT at the earliest practicable date after completion of work and in any event within 6 months after completion of work. The statement of final billing shall

follow as closely as possible the order of the items in the estimate portion of this agreement.

11. That the DEPARTMENT shall have the right to inspect all books, records, accounts and other documents of the COMPANY pertaining to the work performed by it under this agreement at any time after work begins and for a period of 3 years from the date final payment has been received by the COMPANY.

12. That in the future, it becomes necessary due to highway construction or improvement to adjust or relocate utilities covered under this agreement, the DEPARTMENT does not obligate itself to participate in future payments for preliminary engineering.

IN WITNESS WHEREOF, the parties hereby have affixed their names by their duly authorized officers the day and year first above written.

**DEPARTMENT OF TRANSPORTATION**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**ATTEST OR WITNESS**

\_\_\_\_\_  
**(NAME OF COMPANY)**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

CDM Smith  
Attention: John D. Boyer  
5400 Glenwood Avenue, Suite 400  
Raleigh, NC 27612

John,

Please sign Page 2 of the Amendment No: 1, Agreement Between Owner and Engineer. Return the original to:

Patrick Irwin  
600 Mustian Street  
Kill Devil Hills, NC 27948



*Engineering Contract Amendment 1 for the Colington Road Water Line Project*

**Description**

Engineering Contract Amendment 1 for the Colington Road Water Line Betterment Project

**Board Action Requested**

Approval of Engineering Contract Amendment 1

*Approved.*

**Item Presenter**

Pat Irwin

*Cheyl C. Anby, Clerk to the Board*

*5/3/21*



5400 Glenwood Avenue, Suite 400  
Raleigh, North Carolina 27612  
tel: +1-919-325-3500  
fax: +1-919-781-5730  
cdmsmith.com

April 16, 2021

Mr. Pat Irwin  
Utilities Director, Dare County  
600 S. Mustain Street  
Kill Devil Hills, NC 27984

Subject: **Amendment 1 – Colington Road Waterline Relocation**  
CDM Smith Project Number 229115

Dear Pat,

The purpose of this letter is to request authorization for Amendment 1 to the Colington Road Waterline Relocation Project (Project), for completion of additional engineering services during the Design Phase and to account for the two-year NCDOT-initiated project delay. The details of Amendment 1 are included below.

The additional work performed during the design phase was made in response to NCDOT-initiated stormwater design changes, and included updates to the plan and profile drawings, the special provisions, and the betterment estimate. Additionally, a two-year project delay was initiated by the NCDOT. CDM Smith is seeking an increase in the upper limit to account for an increase in labor rates associated with the two tasks that have yet to be initiated and completed. These are Task 600 - Bidding Assistance and Task 700 - Construction Contract Administration.

EXHIBIT A includes the original scope of work and fee for the Project, which was authorized as an Agreement between Dare County and CDM Smith on May 29, 2018. A copy of the Agreement is attached to this letter. The additional work and requested fee increase are detailed below.

### **Additional Work Performed**

In January 2021, NCDOT contacted CDM Smith and noted that updates to the waterline design were necessary due to stormwater design changes made by the NCDOT that occurred after the final plans were prepared and sealed in 2019. In response to NCDOT design changes, CDM Smith completed the following drawing updates:

UC-1 Stations updated for WL1, WL4, and WL5.

UC-3F Details A, B, C & D updated for upsized culverts. Details E & F added for upsized culverts

UC-3H Sheet removed as meter vault was removed on sheet UC-16.





Amendment 1 – Colington Road Waterline Relocation

April 16, 2021

Page 2

- UC-4 -WL1- extended 135' with 12" waterline to culvert crossing. Fittings added and removed
- UC-5 -WL1- extended 445' with 12" waterline to culvert crossing. Concrete cradle and air release added at culvert crossing. Thrust collar and valve added near connection with existing 12" waterline. Fittings added/removed as necessary.
- UC-8 Note for concrete cradle updated for upsized culvert
- UC-10 Note for concrete cradle updated for upsized culvert
- UC-13 Valve relocated 20'. -WL4- extended 310' with 12" waterline to -WL5- and profile lowered to avoid conflict. Proposed valve relocated closer to Baum Bay Drive. Thrust collar and air release valve removed. Fittings added/removed as necessary
- UC-14 -WL4- extended 125' with 12" waterline to -WL5- and profile lowered to avoid conflict. Proposed valve relocated closer to Baum Bay Drive on sheet UC-13. Thrust collar removed. Fittings added/removed as necessary
- UC-16 Removed meter vault. Removed 12"x12" tee and replace with two 45 bends. Relocated Thrust Collar. Fittings added/removed as necessary
- UC-17 to UC-22 Stationing and matchlines adjusted on all profile sheets to account for increased length of WL-1 and WL-4
- UC-17 -WL1- extended for culvert crossing. Concrete cradle, air release and thrust collar added.
- UC-18 Proposed culverts and cradle updated.
- UC-19 Proposed culverts and cradle updated.
- UC-20 Profile lowered to provide clearance at the 18" culvert
- UC-21 Profile lowered to provide clearance at the 15" culvert
- UC-22 Thrust Block changed to thrust collar at end of -WL5-

As of the date of this letter, various drawings are still being updated to include waterline encasement at select road crossings, and to address an additional round of NCDOT review comments. This additional work is expected to be completed by April 23, 2020 and has been accounted for in the requested fee increase.



CDM Smith has also made, and continues to make, updates to the Special Provisions and the betterment estimate, in response to the NCDOT-initiated design changes. CDM Smith has also performed additional project management and meetings to coordinate the out-of-scope work, and incurred time to re-acquaint the project team with the design following the two-year project delay.

### Fee Increase for Project Delay

The original project Agreement noted an expected bid date of March 2019. The current bid date is anticipated to be May-June 2021. As a result of the two-year NCDOT-initiated project delay, CDM Smith is seeking a 3.5 percent increase in labor rates for each year of the project delay. The increase in labor rates applies to Task 600 - Bidding Assistance and Task 700 - Construction Contract Administration. No increase is requested for other direct charges (e.g., travel, meals, incidentals, etc.) that are part of Task 700 or for ongoing work related to Task 500 - Permitting and Agency Coordination.

### Fee Estimate

Table 1 below shows the proposed fee for Amendment 1 is \$32,100, as a lump sum method of payment, per the terms and conditions set forth in the Agreement, including Exhibit A (original scope of work).

Task		Amendment 1	Original Contract Authorization	Total Contract (Original + Amendment 1)
100	Project Management & Administration	\$0	\$45,500	\$45,500
200	Conceptual Design Evaluation	\$0	\$47,600	\$47,600
300	Field Data Collection	\$0	\$9,900	\$9,900
400	Final Design	\$22,600	\$174,300	\$196,900
500	Permitting and Agency Coordination	\$0	\$44,600	\$44,600
600	Bidding Assistance	\$300	\$4,400	\$4,700
700	Construction Contract Administration	\$9,200	\$139,100	\$148,300
<b>Contract Total</b>		<b>\$32,100</b>	<b>\$465,400</b>	<b>\$497,500</b>

### Schedule

The Project period of performance will be modified as follows:

- Task 400 will be completed by May 1, 2021, assuming no additional NCDOT-initiated design changes are necessary





Amendment 1 – Colington Road Waterline Relocation  
April 16, 2021  
Page 4

- Tasks 500 and 600 are outside the control of the ENGINEER, but the ENGINEER agrees to assist in the timely completion of the work. Task 700 is budgeted for a 9-month construction period starting with the Contractor's notice-to-proceed.

CDM Smith appreciates the County's consideration of this amendment. If you have questions or need any additional information, including additional information for the County to seek reimbursement from the NCDOT, please do not hesitate to contact me.

Sincerely,

John D. Boyer, PE, PMP, BCEE  
Sr. Project Manager  
CDM Smith

cc: Reed Barton, CDM Smith

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Sally DeTooe 5/3/2021



**AMENDMENT NO: 1  
TO AGREEMENT  
BETWEEN  
OWNER AND ENGINEER**

This Amendment No: 1 is made and entered into this 3<sup>rd</sup> day of May, 2021 to the Agreement between CDM Smith Inc. (CDM Smith) ("ENGINEER") and DARE COUNTY ("OWNER") dated May 21, 2018, ("the Agreement").

WHEREAS, ENGINEER and OWNER entered into the Agreement for the COLINGTON ROAD WATERLINE RELOCATION project, which includes engineering, bidding, and construction contract administration services, and

WHEREAS, the parties desire to amend the Agreement so as to amend the scope of work, time periods of performance and payment, and/or responsibilities of OWNER; and

WHEREAS, the Agreement provides that any amendments shall be valid only when expressed in writing and signed by the parties.

NOW THEREFORE, in consideration of the mutual understandings and Agreements contained herein, the parties agree to amend the Agreement as follows:

1. The Basic Services of ENGINEER as described in the Agreement are amended and supplemented as follows:

In January 2021, NCDOT contacted ENGINEER and noted that updates to the waterline design were necessary due to stormwater design changes made by the NCDOT that occurred after the final plans were prepared and sealed in 2019. In response to NCDOT design changes, ENGINEER completed updates to 18 drawings. Additional updates will be performed to add encasement pipe to the drawings, per OWNER request, at select locations where the waterlines crosses the roadway.

ENGINEER has also made, and continues to make, updates to the Special Provisions and the betterment estimate, in response to the NCDOT-initiated design changes. ENGINEER has also performed additional project management and meetings to coordinate the out-of-scope work, and has incurred time to re-acquaint the project team with the design following the two-year project delay.

2. The responsibilities of OWNER as described in the Agreement are amended and supplemented as follows:

Provide review of the updates plan and profile sheets.

3. The time periods for the performance of ENGINEER's services as set forth in the Agreement are amended and supplemented as follows:

Task 400 is anticipated to be completed by May 1, 2021, assuming no additional NCDOT-initiated design changes are necessary. Tasks 500 and 600 are outside the control of the ENGINEER, but the ENGINEER agrees to assist in the timely completion of the work. Task 700 is budgeted for a 9-month construction period starting with the Contractor's notice-to-proceed

4. The payment for services rendered by ENGINEER shall be as set forth below:

The lump sum amount is increased by \$32,100, resulting in a change from \$465,400 to \$497,500.

5. Except as herein modified, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this amendment on the date indicated above for the purpose

12/27/2011

1

herein expressed.



ENGINEER Reed M. Barton

5/12/2021

DATE:



OWNER Robert Woodard, Sr, Chairman

DATE: 5/3/2021

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Sally DeRose 5/3/2021

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2020/2021

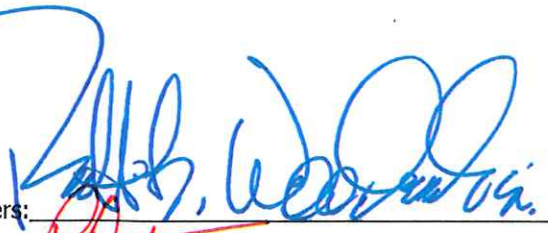
ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Revenues:</u>					
Department: Water Capital Projects					
NCDOT-Colington Road WLR	383090	427550	38048	32,100	
<u>Expenditures:</u>					
ED Line Relocation-Colington	385815	710302	38048	32,100	

**Explanation:**

A two year project delay increased engineering cost to the design stage of the Colington Road Water Line Betterment Project.

**Approved by:**

Board of Commissioners:



Date: 5/3/21

County Manager:



(sign in red)

Date: 5/3/21

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_

**OVERALL SUMMARY**

<b>TIP NUMBER:</b>	R-5014	<b>1ST STEP FOR FINAL ESTIMATE (SEE BELOW)</b>	
<b>WBS NUMBER(s):</b> Note 1: Populates from "Acct Initiation Request" worksheet tab. Note 2: Firm team, fill out WBS Number(s) section only on this "Acct Initiation Request" worksheet tab. Note 3: DOT team, the Project Manager fills out the entire "Acct Initiation Request" worksheet tab.			
<b>COUNTY:</b>	Dare County	READY TO COMPLETE FINAL ESTIMATE?	
<b>TASK ORDER NUMBER (if applicable):</b>		ENTER A '1', IF YES. ---->	[Orange Box]
<b>FA NUMBER (if applicable):</b>		THEN CLICK THE BUTTON TO THE RIGHT	
<b>ESTIMATE SUBMITTAL NUMBER:</b> <i>(Version Control-if needed) (Ex. InitialV2 (initial estimate version 2))</i>	InitialV1		
<b>OTHER PROJECT IDENTIFIER INFORMATION:</b> <i>(if needed)</i>	Colington Road Waterline Relocation		
<b>DESCRIPTION:</b> <i>(List the project parameters; where the project starts and stops)</i>			
<b>DISCIPLINE USED:</b> <i>(List each discipline that will be involved in this project)</i>	Roadway :		

DISCIPLINE ITEM	INITIAL			FINAL		
	MD	COST	COST/MANDAY	MD	COST	COST/MANDAY
Roadway	450.000	\$ 444,711.24	\$ 988.25			
Direct Costs		\$ 20,688.76				
<b>Grand Total - All Disciplines</b>	<b>450.000</b>	<b>\$ 465,400.00</b>		<b>0.000</b>	<b>\$ -</b>	

Labor, Overhead & Fee

**MANAGING DOT UNIT:** \_\_\_\_\_

**ENGINEERING FIRM:** CDM Smith

**ENGINEERING FIRM CONTRACT NUMBER:** \_\_\_\_\_ **CONTRACT TYPE:** \_\_\_\_\_ **PAYMENT TYPE:** \_\_\_\_\_

**SCOPE/MANDAY ESTIMATE PREPARED BY:** David Doran **DATE:** October 6, 2017

**SCOPE/MANDAY ESTIMATE APPROVED BY:** Reed Barton **DATE:** October 6, 2017

**REASON FOR SUPPLEMENTAL:**  
*(If this is a supplemental to the original Scope of Services, state reason for supplemental.)* Utilized supplemental worksheet because there is not a section dedicated for utility/waterline design, and this worksheet provided the most open/green space to work in.

**PO NUMBER (if Available):** \_\_\_\_\_ **SUPPLEMENTAL NUMBER (if Applicable):** \_\_\_\_\_

TIP NUMBER: R-5014  
WBS NUMBER(s):  
COUNTY: Dare County  
DESCRIPTION: 0  
DISCIPLINE(S) SELECTED: Roadway  
PRIMARY CONSULTANT OR NCDOT UNIT: CDM Smith

**EMPLOYEE NAME / INITIALS**  
Format: (First Name initial, Last Name initial) Name as submitted to NCDOT  
I.e. (JH) John Hancock III  
(List the name of each employee that will be involved on this project next to their respective classification or classification equivalent. This field is optional if an NCDOT unit is indicated in row 16. All firms will need to document this unless the raw hourly rate in the contract is based on the classification.)  
Note: Just initials will populate on the following sheets. i.e. (JH)

**RAW HOURLY RATE**  
(For Consultants, this is the rate approved by NCDOT for the employee indicated and the consultant name indicated OR the classification rate contracted. For NCDOT units, this is the rate approved for the classification or employee name indicated.)

**OVERHEAD**  
(This is the rate approved by NCDOT for the consultant indicated in column C for this DISCIPLINE.)

**FEE**  
(This is the rate approved by NCDOT for the consultant indicated in column C for this DISCIPLINE.)

**Cost of Capital**  
(This is the rate approved by NCDOT for the consultant indicated in column C for this DISCIPLINE.)

**DISCIPLINE**  
(Unit(s) selected to complete the scope & manday estimate(s) for this project. These are the same units which were selected on the "DISCIPLINE SELECTION" worksheet.)

**CLASSIFICATION**  
(List the consultant name that is being selected to compare scope and manday estimates with NCDOT for this DISCIPLINE. Indicate the classification or classification equivalent of each employee that will be involved in the scope of this project.)

DISCIPLINE	CONSULTANT	EMPLOYEE NAME / INITIALS	RAW HOURLY RATE	OVERHEAD	FEE	Cost of Capital
Roadway	CDM Smith			165.55%	9.00%	0.3330%
For Roadway	ENGINEER ADVANCED	(JB) John Boyer	\$ 66.93			
If needed, List Additional Classifications	ENGINEER ADVANCED	(KI) Kevin Irby	\$ 79.17			
ADMIN	PROJECT MANAGER	(RB) Reed Barton	\$ 57.80			
PROJECT MANAGER	DESIGN ENGINEER	(RN) Robert Nagel	\$ 44.53			
	PROJECT ENGINEER	(DN) Danielle Neamtu	\$ 66.38			
	PROJECT ENGINEER	(DD) David Doran	\$ 29.43			
	ENGINEER ADVANCED	(KB) Kelly Boone	\$ 57.96			
	PROJECT ENGINEER	(MD) Mark Darwin	\$ 29.96			
	DESIGN ENGINEER	(JW) Jintao Wen	\$ 38.87			



**Roadway Supplemental Manday Estimate**

R-5014

TIP NUMBER

CDM Smith FIRM

Supplemental Reason: Utilized supplemental worksheet because there is not a section dedicated for utility/waterline design, and this worksheet provided the most open/"green" space to work in.

PROJECT PHASE	TOTAL	MANDAYS									NOTES:
	EMPLOYEE	(JB)	(KI)	(RB)	(RN)	(DN)	(DD)	(KB)	(MD)	(JW)	
	CLASSIFICATION	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER	
<b>SUPPLEMENTAL - PRELIMINARY STAGE</b>	MANDAYS										
Overall Project Management & Administration	22.00			12.00	8.00		2.00				
Design Meetings	11.00			2.00	2.00		2.00	1.00		4.00	
Conceptual Layout & Preliminary Design, and Easements	46.50	0.50		6.00	14.00		18.00			8.00	
Project Kickoff and Scope Review Meeting, Site Visit, Data Gathering	14.00	0.50	0.50	3.00	4.00		3.00		2.00	1.00	
Task Delivery Management for Preliminary Design	5.00			3.00	2.00						
Conceptual Design Workshop	9.00	0.50	0.50	2.00	2.00		1.00		1.00	2.00	
SUE Field Services											
<b>TOTAL SUPPLEMENTAL PRELIMINARY STAGE MANDAYS</b>	107.50	1.50	1.00	28.00	32.00		26.00	1.00	3.00	15.00	

PROJECT PHASE	TOTAL	MANDAYS									NOTES:
	CLASSIFICATION	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER	
	<b>SUPPLEMENTAL - FDFI / CFI STAGE</b>	MANDAYS									

PROJECT PHASE	TOTAL	MANDAYS									NOTES:
	CLASSIFICATION	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER	
	<b>SUPPLEMENTAL - RIGHT OF WAY STAGE</b>	MANDAYS									

PROJECT PHASE	TOTAL	MANDAYS									NOTES:
	CLASSIFICATION	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER	
	<b>SUPPLEMENTAL - PLFI &amp; 90% STAGE</b>	MANDAYS									
Task Delivery Management for Design Drawings & Specifications	4.00			2.00	2.00						
Design Drawings, Specifications, Contract Documents, and OPCC	98.00			5.00	10.00		70.00	4.00	1.00	8.00	
Project Meetings	33.00	1.00	1.00	15.00	10.00		4.00			2.00	
Quality Assurance / Quality Control - Technical Review	11.00	2.00	2.00	3.00	2.00		2.00				
Permitting	22.00			1.00	1.00	10.00		6.00	2.00	2.00	
<b>TOTAL SUPPLEMENTAL PLFI &amp; 90% STAGE MANDAYS</b>	168.00	3.00	3.00	26.00	25.00	10.00	76.00	10.00	3.00	12.00	

PROJECT PHASE	TOTAL	MANDAYS									NOTES:
	CLASSIFICATION	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER	
	<b>SUPPLEMENTAL - FINAL PLANS STAGE</b>	MANDAYS									
Final Design Drawings, Specifications, Contract Documents, and OPCC	47.50	1.00	1.00	4.00	5.00		30.00	1.50	1.00	4.00	
Quality Assurance / Quality Control 100% - Technical Review	5.00	1.00	1.00	1.00	1.00		1.00				
Bidding Services	6.00			2.00	2.00		2.00				

Construction Contract Administration, Periodic Inspections, and Closeout	116.00			30.00	50.00		30.00			6.00
<b>TOTAL SUPPLEMENTAL FINAL PLANS STAGE MANDAYS</b>	174.50	2.00	2.00	37.00	58.00		63.00	1.50	1.00	10.00

TOTAL ESTIMATED MANDAYS:	TOTAL	MANDAYS								
	MANDAYS	ENGINEER ADVANCED	ENGINEER ADVANCED	PROJECT MANAGER	DESIGN ENGINEER	PROJECT ENGINEER	PROJECT ENGINEER	ENGINEER ADVANCED	PROJECT ENGINEER	DESIGN ENGINEER
	450.00	<b>6.50</b>	<b>6.00</b>	<b>91.00</b>	<b>115.00</b>	<b>10.00</b>	<b>165.00</b>	<b>12.50</b>	<b>7.00</b>	<b>37.00</b>



*Board Appointments*

**Description**

The following Boards have appointments this month:  
1. Fessenden Center Advisory Board  
2. Upcoming Board Appointments

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager



*Fessenden Center Advisory Board*

**Description**

See Attached Summary

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager

June, 2022

**FESSENDEN CENTER ADVISORY BOARD**

This Advisory Board establishes goals and policies to enhance the Fessenden Center operation and community outreach consistent with the goals, objectives and policies of Dare County. The overall objective is to develop procedures and operations that improve the quality of life through interaction of all age groups on Hatteras Island.

**The Board recommends Jennifer Cromwell for appointment  
for their At-Large vacancy.**

Other Members:  
See attached list

**FESSENDEN CENTER ADVISORY BOARD**  
(Four Year Term)

**This Advisory Board establishes goals and policies to enhance the Fessenden Center operation and community outreach consistent with the goals, objectives, and policies of Dare County. The overall objective is to develop procedures and operations that improve the quality of life through interaction of all age groups on Hatteras Island.**

<b><u>MEMBER</u></b>	<b><u>TERM EXPIRATION</u></b>	<b><u>ACTION</u></b>
Kenneth Brite P.O. Box 95 Avon, NC 27915 252-996-0432 <a href="mailto:kbrite@darenc.com">kbrite@darenc.com</a> (Rodanthe area)	6-24	Apptd. 2/17; Reapptd. 6/20
Wendi Munden 46080 Diamond Shoals Dr. Buxton, NC 27920 252-305-0090 <a href="mailto:wendipalm@gmail.com">mailto:wendipalm@gmail.com</a> (Buxton area)	6-26	Apptd. 6/22
Keith Durham P.O. Box 713 Buxton, NC 27920 910-514-4538 <a href="mailto:durhamke@daretolearn.org">durhamke@daretolearn.org</a> (Salvo area)	6-24	Apptd. 2/17; Reapptd. 6/20
Marcie Shoemaker P.O. Box 161 Buxton, NC 27920 252-995-5799 (H) 252-996-0581 (O) <a href="mailto:budnmar@earthlink.net">budnmar@earthlink.net</a> (Buxton area)	6-26	Apptd. 2/16 Reapptd. 6/1; 5/22
Robyn (Hali) Easley P.O. Box 613 Hatteras, NC 27943 Cell 252-996-0043 Business 252-986-2154 <a href="mailto:Rustygirl2007@aol.com">Rustygirl2007@aol.com</a> (Hatteras area)	6-24	Apptd. 6/18 Reapptd. 6/16; 6/20
Forrest Paddock P.O. Box 534 Buxton, NC 27920 252-216-7856 <a href="mailto:fgpaddock@outlook.com">fgpaddock@outlook.com</a> (Frisco area)	6-26	Apptd. 2/17 Reapptd. 6/18; 5/22
Edward J. O'Brien, Jr. 41193 Carronade Ct., P.O. Box 805	10-25	Apptd. 10/21

Avon, NC 27915  
[Edobrien41193@gmail.com](mailto:Edobrien41193@gmail.com)  
610-842-9065  
(Avon area)

**Vacant**  
**At-Large**

Megan Vayette  
47520 Lost Tree Tr., Box 1257  
Buxton, NC 27920  
252-216-7176  
[mvayette@gmail.com](mailto:mvayette@gmail.com)  
(At Large) 10/25 Apptd., 10/21

James Richard Kenner  
P.O. Box 1044  
47106 Middle Ridge Trail  
Buxton, NC 27920  
252-216-5427  
[richk@chec.coop](mailto:richk@chec.coop)  
(At Large) 6-26 Apptd. 6/19  
Reapptd: 5/22

John Griffin  
P.O. Box 382  
Rodanthe, NC 27968  
252-987-2332  
[griffijt@embarqmail.com](mailto:griffijt@embarqmail.com)  
(At Large) 6-24 Apptd. 7/10  
Reapptd. 7/12, 16  
6/20

Danny Couch  
47297 Dippin Vat Road  
P.O. Box 1001  
Buxton, NC 27920  
[dannyc@darenc.com](mailto:dannyc@darenc.com)  
252-216-7383  
(Commissioner Appointee) 6-26 Apptd. 6/17  
Reapptd. 6/18; 5/22

**MEETING DATE: Quarterly, Fessenden Center**

**NOTE:** Chairman Bobby Owens appointed to serve at the pleasure of the Board as long as he is serving as a county commissioner.  
3/97 Apptd. USCG Representative to seat on the Board. Though apptd. 3/97, term will expire 6/98 to be consistent with other appointments

- 10/97 - Commissioner Mac Midgett replaced Bobby Owens.
- 3/99 - George Volsky apptd. to fill term of Bill Barley, Kathy Kiddy apptd. to fill term of Tom Barclay.
- 5/99 - Jinny McBride apptd. to fill unexpired term of Jackie Leeling.
- 9/00 - Rev. Holt Clarke fill unexpired term of Rev. Jim Huskins and Commissioner John Robert Hooper appointed to replace Mac Midgett.
- 5/02 - Michelle Edwards appointed to fill unexpired term of Jenny Hooper.
- 6/04 - Heidi Blackwood to fill term of George Volsky and Charles Moseley to fill term of Holt Clarke
- 6/04 - Matt Caviness apptd. to fill expired term of Dave Umberger.
- 6/04 - Susan Gray to fill term of Michelle Edwards & Jennifer Kingery apptd. to fill term of Jane Oden.
- 1/05 - Commissioner Mac Midgett replaced John Robert Hooper.
- 3/06 - Allen Burrus replaced the late Mac Midgett.

- 6/06 - Jack Painter replaced John Leatherwood.
- 11/08 - Steve Jennette filled unexpired term of Ken Wenberg.
- 2/09 - Rev. Cory B. Oliver filled unexpired term of Rev. Charles Moseley.
- 6/09 - Cheryl Austin filled term of Kathy Kiddy and Danny Couch filled term of Jennifer Kingery.
- 7/10 - John Griffin filled unexpired term of Ormond Fuller.
- 7/12 - Mary Ellen D. Balance replaced Danny Couch.
- 3/14 - Laura Fiscus filled term of Cheryl Austin and Sonny Quidley filled term of Susan Gray.
- 2/16 - Marcie Shoemaker filled unexpired term of Heidi Blackwood.
- 2/17 - Kenneth Brite filled term of Laura Fiscus & Keith Durham filled term of Sonny Quidley.
- 2/17 - Forrest Paddock filled unexpired term of Jack Painter.
- 6/17 - Danny Couch appointed to replace Allen Burrus
- 2/18 - Louise Rossiter passed away
- 6/18 - Robyn (Hali) Easley filled unexpired term of Mary Ellen Balance
- 6/19 - James Kenner filled At-Large vacancy caused by death of Louise Rossiter
- 2/22 - Steven Jennette passed away and William Lengyel resigned
- 5/22 - Forrest Paddock, Marcie Shoemaker, James Kenner, & Danny Couch were all reappointed.
- 6/22 - Wendi Munden appointed.

**REV. 06/22**





APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**Advisory Board or Committee interested in:**

1<sup>st</sup> choice: Fessenden Center Advisory Board

2<sup>nd</sup> choice:

3<sup>rd</sup> choice:

**Name:** JENNIFER CROMWELL

**Address:** 47220 CROSSWAY DR. BOX 162

**City/State/Zip:** BUXTON

**Email Address:** hivinylgraphics@gmail.com

**Telephone:** Home: (252)489-8215 Business:

**Resident of Dare County:** YES

**Occupation:** OWNER OF HATTERAS ISLAND VINYL GRAPHICS

**Business Address:** 48879 NC HWY 12 (PO BOX 162) BUXTON NC 27920

**Educational background:**

I completed K-12 at Cape Hatteras School and graduated with honors in 1995. I went on to earn my Bachelor of Science degree from East Carolina University (majoring in Recreation and Leisure Studies with a concentration in Therapeutic Recreation). I graduated from ECU with honors in 1999.

**Business and civic experience and skills:**

After graduating from college, I moved back to the island and worked for a short time at the Fessenden Center. From there I worked local retail and restaurant positions until a position opened at Life, Incorporated here in Buxton. My job there consisted of being a mentor to children with behavioral disabilities. From there I worked for the USPS for several years before starting my own business, HI Vinyl Graphics, which I have run since 2016.

**Other Boards/Committees/Commissions on which you presently serve:**

Prior to the COVID 19 pandemic, I had the honor of serving on the Cape Hatteras Secondary School Improvement Committee, as well as being involved with the Secondary School's CTE (Career & Technical Education) oversight committee.

**REFERENCES**

List three persons who are not related to you and who have definite knowledge of your qualifications for the position for which you are applying.

Name	SCOTT BUSBEY
Business/Occupation	NATURAL ART SURF SHOP / IN THE EYE, INC.
Address	47331 NC HWY 12 (PO BOX 333) BUXTON, NC 27920
Telephone	(252)995-5682



APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name JESSICA SAWYER  
Business/Occupation LIGHTHOUSE SERVICE CENTER  
Address 46813 NC HWY 12, BUXTON NC 27920  
Telephone (252)995-5645

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Name JARVIS WILLIAMS  
Business/Occupation JARVIS TOWING  
Address 47237 NC HWY 12, BUXTON NC  
Telephone (252)475-4285

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I understand this application will be kept on the active file for three years and I hereby authorize Dare County to verify all information included in this application.

Signature of applicant:

*Jennifer E Cromwell*

Date: 6/2/2022



*Upcoming Board Appointments*

**Description**

The Dare County Board of Commissioners welcomes citizen participation on its many Boards and Committees.

Following is a list of the Boards and Committees that have terms expiring during the next 3 months. The list indicates when the item will be presented to the County Commissioners and any requirements that may pertain to the appointment.

Instructions on how to obtain and submit an application are attached along with additional information about each of the Boards and Committees with upcoming term appointments.

**Board Action Requested**

None

**Item Presenter**

Robert Outten, County Manager

## Upcoming Board & Committee Appointments

The Dare County Board of Commissioners welcomes citizen participation on Advisory Boards and Committees. This type of grassroots public involvement is the foundation of democracy and a vital part of maintaining Dare County as a quality place to live.

Following is a list of Boards and Committees with terms expiring during the next three months.

*Information on how to obtain and submit applications follows the list.*

**Please note there are several boards with vacancies – please check the website.**

### July, 2022

**Airport Authority** - 2 terms expiring

**East Lake Community Center Board** – 2 terms expiring

**Game and Wildlife Commission** – 3 terms expiring

**Library Board – East Albemarle Region** – 1 term expiring

**Parks and Recreation Advisory Council** – 1 term expiring

**Wanchese Community Center Board** – 2 terms expiring

### August, 2022

ABC Board 1 term expiring

Airport Authority – 1 term expiring

Parks and Recreation Advisory Council – 1 term expiring

Stumpy Point Community Center Board – 4 terms expiring

Virginia S. Tillett Community Center Advisory Board – 4 terms expiring

### September, 2022

Health & Human Services Board – 4 terms expiring

Nursing Home Community Advisory Council – 1 term expiring

### *~~~~~Instructions for Obtaining and Submitting Applications~~~~~*

An application must be submitted in order for your name to be considered for a Board or Committee appointment. The form is available on the Dare County website (Please see Board of Commissioners under Advisory Boards and Committees for link)

**Cheryl C. Anby, Clerk to the Board at 475-5700**



*Commissioners' Business & Manager's/Attorney's Business*

**Description**

Remarks and items to be presented by Commissioners and the County Manager.

**Board Action Requested**

Consider items presented

**Item Presenter**

Robert Outten, County Manager