



**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, February 06, 2023**

**“HOW WILL THESE DECISIONS IMPACT OUR CHILDREN AND FAMILIES?”**  
*Caring for Our Community – A Nurturing Place Where All Can Live and Grow.*

**AGENDA**

- 9:00 AM            CONVENE, PRAYER, PLEDGE OF ALLEGIANCE**
- ITEM 1**            Opening Remarks - Chairman's Update
- ITEM 2**            Service Pins - February, 2023
- ITEM 3**            Employee of the Month
- ITEM 4**            Employee of the Year - 2022
- ITEM 5**            Public Comments
- ITEM 6**            Pet Crematory Accessory Use-Special Use Permit Application #2-2023
- ITEM 7**            Community Care Clinic of Dare - Update
- ITEM 8**            Dare County DHHS - Public Health Division T-21 Resolution
- ITEM 9**            Dare County Regional Airport - Driftwood Drive
- ITEM 10**           Island H Modifications Project
- ITEM 11**           Avon Harbor Dredging Project
- ITEM 12**           First Flight Elementary and Middle School Field Use
- ITEM 13**           Audit Contract for Fiscal Year 2023
- ITEM 14**           EMS Projects Capital Project Amendment to Split Budget into Three Phases
- ITEM 15**           Capital Improvements Planning Committee Report
- ITEM 16**           Dare MedFlight and Southern Shores EMS Stations - Approval of GMP and Capital Project Ordinance; Update for Kill Devil Hills Station Estimate
- ITEM 17**           Resolution of the Board of Commissioners of the County of Dare, NC, Authorizing the Negotiation of an Installment Financing Contract, Directing the Publication of Notice with Respect Thereto and Providing for Certain Other Related Matters Thereto
- ITEM 18**           Resolution Supporting Step Pay and Compression Increases for Division of Juvenile Justice and Delinquency Prevention Secure Detention, Youth Development Center, and Court Services Staff

**ITEM 19      Consent Agenda**

1. Approval of Minutes (1/3/23 and 1/18/23)
2. Monarch Beach Club of Dare Lease Renewal
3. DHHS - Community Child Protection Team and Child Fatality Prevention Team (CCPT/CFPT) Annual Report
4. Older Adult Fire Alarm Proposal
5. Water Department NCDOT Three Party Right of Way Encroachment Agreement
6. Tax Collector's Report
7. Updates to County Financial Policies and Travel Policy
8. Capital Project Ordinance for Frisco-Buxton Pathway
9. Capital Project Ordinance for the Soundside Boardwalk Improvements Project
10. Use and Occupancy Permit NCDOT Slash Bridge Project Water Line Agreement

**ITEM 20      Board Appointments**

1. Senior Tar Heel Legislative Delegates
2. Aging Advisory Council for the Albemarle Commission
3. Community Child Protection Team Child Fatality Prevention Team
4. A.B.C. Board
5. Upcoming Board Appointments

**ITEM 21      Commissioners' Business & Manager's/Attorney's Business**

***ADJOURN UNTIL 9:00 A.M. ON MARCH 6, 2023***



*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.



*Service Pins - January, 2023*

**Description**

Service pins for the month of January will be presented

**Board Action Requested**

None

**Item Presenter**

Robert Outten, County Manager



*Employee of the Month*

**Description**

The Employee of the Month Certification will be presented.

**Board Action Requested**

None

**Item Presenter**

To Be Determined



*Employee of the Year - 2022*

**Description**

Employee of the Month Committee will recognize and present the 2022 Employee of the Year Award.

Employees of the Month for 2022 were:

January: Jeff Mitchell, EMS Dept; February: Katelin Kight, Public Relations; March: Jessica Parra, Water Department; April: Willie Spencer, Social Services; May: Avery Whitfield, EMS Dept.; June: Amy Elkins, Communications; July: Acra Styron, Parks & Recreation; August: Olga Roberts, Health & Human Services; September: Matt Cartwright, EMS Dept.; October: Stephen Stetson, Sheriff's Office; November: Ray Griggs, Public Works; December: Kelly Aiken, Health & Human Services

**Board Action Requested**

None

**Item Presenter**

Robert Outten, County Manager



*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



*Pet Crematory Accessory Use-Special Use Permit Application #2-2023*

**Description**

Pamela Anderson has submitted a special use permit for a pet crematory as an accessory use to the existing pet grooming and animal kennel facility, Ocean Sands K9 Resort, located at 208 Williams Dr in Colington. The property is zoned R-2B and pet crematories as an accessory use to an existing pet grooming and animal kennel facility are permitted subject to special use permit review.

**Board Action Requested**

Motion to approve draft SUP " I move that SUP #2-2023 for the proposed pet crematory at Ocean Sands K9 Resort be approved."

**Item Presenter**

Savannah Newbern, Planner



**SPECIAL USE PERMIT APPLICATION**

Date: 12/12/2022 Application No. 2-2023  
Property Owner/Petitioner: Pamela Anderson  
Address: 208 Williams Dr Kill Devil Hills, NC  
Telephone: 252-489-6224 Email: oceansandsk9@gmail.com  
Review Fee Paid: \_\_\_\_\_  
Project Description: Pet Crematory

**Property Description:**

LOT: A BLK: SEC: \_\_\_\_\_ WILLIAMS COLINGTON ESTATE  
Lot Phase/Section Block Subdivision  
Parcel: 018789000 PIN: 987310461996

**APPLICATION IS HEREBY** made to the Dare County Planning Department for consideration of a Special Use Permit in accordance with the provisions of the Dare County Zoning Ordinance

Section: 22-22.2 R-2B Special Use: Pet Crematory

A site plan and other documents as required for review of the special use permit application shall be submitted to the Planning Department with the application. A special use permit application shall not be processed by the Planning Department until such time that all review fees have been paid and all necessary documents have been submitted. Once the application is determined to be complete, the Planning Department shall schedule review of the application as established in Section 22-65 and Section 22-70 of the Zoning Ordinance.

Special use permits are subject to quasi-judicial procedures and an evidentiary hearing before the Dare County Board of Commissioners. The notice procedures of Section 22-72 of the Zoning Ordinance shall be implemented by the Planning Department. Reasonable and appropriate conditions may be applied by the Board of Commissioners as part of the evidentiary hearing process.

Applicant: Pamela Anderson Date: 12/13/22

February 6, 2023

MEMORANDUM

TO: DARE COUNTY BOARD OF COMMISSIONERS

FROM: Savannah Newbern, Planner

RE: Proposed Pet Crematory

A Special Use Permit application has been submitted by Pamela Anderson for a proposed pet crematory as an accessory use to the existing pet grooming and kennel facility, Ocean Sands K9 Resort. The property is located at 208 Williams Drive on Colington Island and is identified in the Dare County Tax Record as Parcel 018789000. The property is zoned R-2B, Alternative Medium Density Residential District. A text amendment, adopted by the Board of Commissioners on November 7, 2022, set conditions by which this use shall comply. These conditions have been incorporated in the draft Special Use Permit and include:

1. a 200-foot setback from residential dwellings,
2. the incinerator shall be contained inside a building,
3. a licensed/certified crematory operator shall be on staff,
4. cremation services shall be limited to domesticated animals, livestock shall not be permitted,
5. the use shall comply with all applicable Local, State and Federal laws and rules and all applicable licenses and permits shall be obtained and a copy provided to the Planning Department.

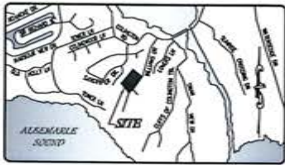
The applicant's proposed plan has been reviewed and approved by the Dare County Fire Marshall. The proposed plan complies with the applicable standards from the Dare County Code of Ordinances. The State of North Carolina does not regulate pet crematoriums, and the incinerator proposed does not require a permit from the North Carolina Department of Environmental Quality, per planning staff research.

The proposed hours of operation for the facility are 8AM to 5PM as needed. The pet crematory will be located inside a metal structure. The structure as proposed complies with the 200-foot setback from neighboring dwellings, as well as the applicable dimensional standards for the zoning district R-2B.

A draft SUP is attached to the memo for the Board's review. On January 3, 2023, the Planning Board reviewed the application for an accessory Pet Crematory and passed a motion finding these conditions to be reasonable and appropriate to apply to the proposed use.

The notice procedures for this evidentiary hearing established in Section 22-72 of the Dare County Code of Ordinance have been implemented.

Draft Motion: "I move that SUP #2-2023 for the proposed accessory pet crematory at Ocean Sands K9 Resort, Colington, NC be approved. "



VICINITY MAP  
N.T.S.



**PROP. LOT COVERAGE:**

BUILDINGS, DECKS, STEPS = 2,783 SQ. FT.  
 CONCRETE/COVERED CONCRETE = 4,332 SQ. FT.  
 SHEDS = 323 SQ. FT.  
 PROPOSED CONCRETE = 188 SQ. FT.  
 TOTAL = 7,354 SQ. FT. or 3.5% (MAX. 30%)

**LEGEND:**

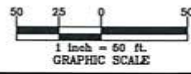
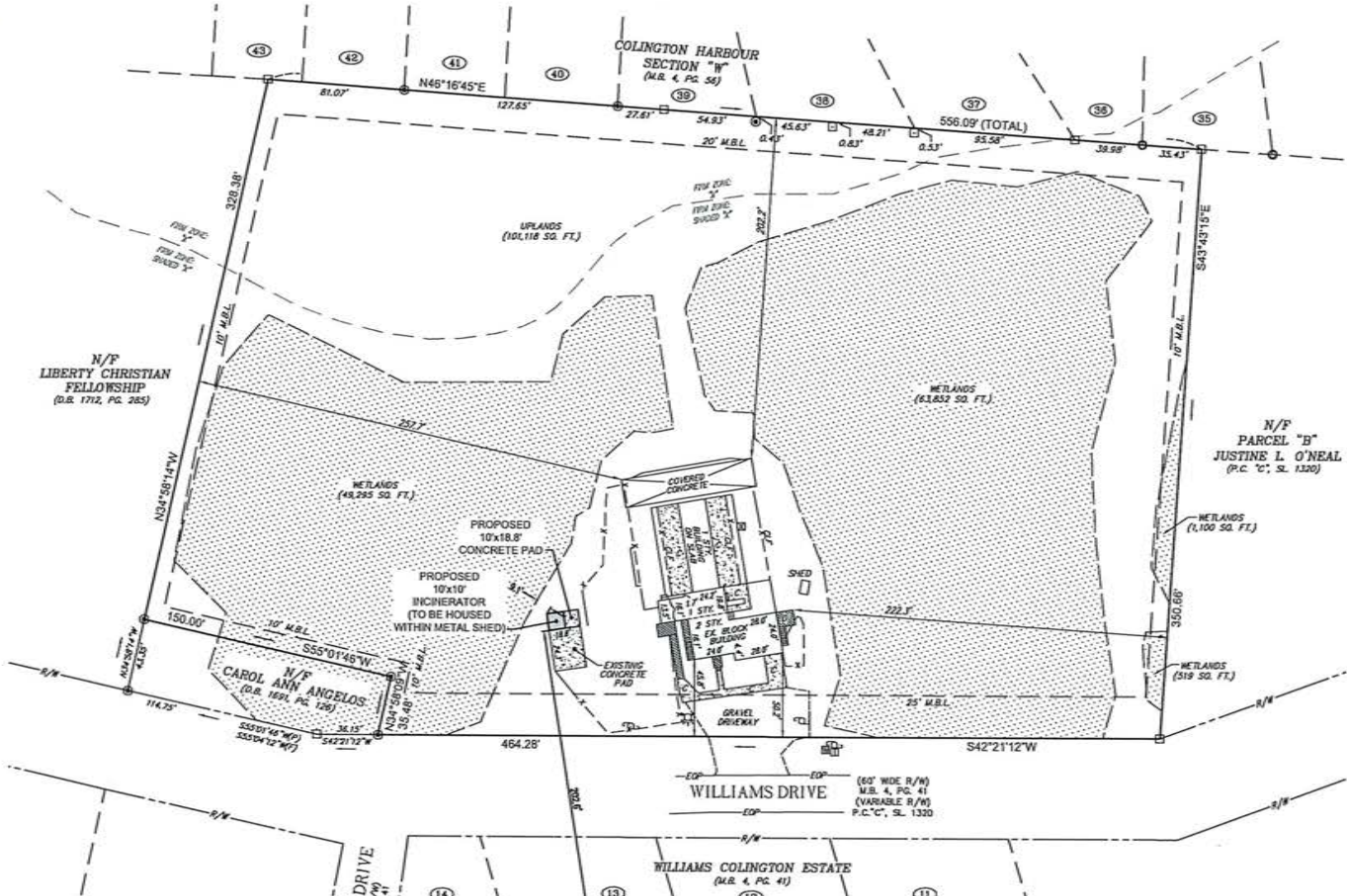
- CONCRETE
- CHAIN LINK FENCE
- DECK
- (○) FIELD MEASURED
- (○) PLAT P.C."C", S.L. 1320
- R/W - RIGHT OF WAY
- ST - STORY
- EXISTING CONCRETE MONUMENT
- EXISTING IRON ROD
- EXISTING IRON PIPE
- FIRE HYDRANT
- POWER POLE
- TELEPHONE PEDESTAL
- TRANSFORMER
- WATER METER
- LOT NUMBER

**NOTES:**

1. PROPERTY ADDRESS: 208 WILLIAMS DRIVE
2. PARCEL: 018785000, PAR: 887310461998
3. LOT ZONING: R-28 (RESIDENTIAL)
4. AREA = 209,518 SQ. FT. = 4.816 ACRES, AS CALCULATED BY COORDINATE METHOD.
5. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND THE PARCEL MAY BE SUBJECT TO EASEMENTS NOT SHOWN HEREON.
6. MINIMUM BUILDING LINES (M.B.L.) ARE PER COUNTY OF DARE CURRENT CODE AND MUST BE VERIFIED. SURVEYOR MAKES NO GUARANTEE AS TO SET BACKS.
7. LOT MAY BE IN AN AREA OF ENVIRONMENTAL CONCERN AND INDIVIDUAL PERMITS MAY BE REQUIRED. SUBDIVISION AS RECORDED IN P.C. "C", S.L. 1320, PER DARE COUNTY REGISTRY.
8. THE PROPERTY SHOWN HEREON IS LOCATED IN F.J.R.M. ZONES AS SHOWN, PER MAP NO. 3720987300K, DATED 06/19/2020. USE OF LAND WITHIN THE FLOODWAY OR FLOODPLAIN AND FLOOD ZONES ARE SUBJECT TO CHANGE BY FEMA.
9. INFORMATION SHOWN HEREON IS DERIVED FROM "METLANDS SURVEY FOR CAROL ANN ANGELOS" PREPARED BY SEABOARD SURVEYING & PLANNING, SHOWING A SURVEY DATE OF 12/05/07 AND PROJECT NUMBER 0704845, NOT OF RECORD. THIS SITE PLAN IS NOT INTENDED TO PORTRAY A SURVEY PERFORMED BY CEAS.
10. THERE ARE NO EXISTING BUILDINGS WITHIN 200' OF THE PROPOSED LOCATION OF THE INCINERATOR AND 500 GALLON PROPANE TANK.



12/13/2022



**Coastal**  
 ENGINEERING & SURVEYING, INC.  
 P.O. Box 1129  
 4425 N. CROATAN HWY.  
 KITTICHOQUY, N.C. 27949  
 (252)-261-1155  
 (252)-261-1333  
 C-0858 Civil - Structural Site Development

REVISIONS	
NO.	DATE
1	12/13/22
REVISION DESCRIPTION	
	REVISED TO REMOVE EX. SHED

SITE PLAN FOR  
**PAMELA ANDERSON**  
 DARE COUNTY NORTH CAROLINA  
 208 WILLIAMS DRIVE  
 ATLANTIC TRSP.

DATE:	SCALE:
12/13/2022	1"=50'
CHECKED:	DRAWN:
CFG	AKM
PROJECT NO:	
S3951.22	
CAD FILE:	
S3951SP	
SHEET:	
1 of 1	



**Special Use Permit No. #2-2023**

Dare County Sections 22-22.2, 22-65, & 22-70

**Application of:** Pamela Anderson

On February 06, 2023 the Dare County Board of Commissioners considered the application of the Petitioner above named which application is on file with the Dare County Planning Department, and the Board finds as follows:

1. That the written application of Petitioner with attachments has been duly submitted to the Dare County Planning Department as required by Section 22-65 of the Dare County Code (hereinafter referred to as "Code");
2. That the application substantially complies with the requirements of the Code in that it requests uses permitted by special use permit under the Code subject to the quasi-judicial procedures set forth in Section 22-70,
3. The subject property is zoned R-2B. This property is identified on the Dare County tax records as PARCEL 018789000 and located in the Colington Tax District.
4. That the Dare County Board of Commissioners is empowered under sections of the Code set out above to approve special uses and apply reasonable and appropriate conditions;
5. That the notice procedures of Section 22-72 of the Code have been implemented in the review of this Special Use Permit;
6. That upon the evidence received, the testimony presented, and the submitted written record, there are sufficient facts to support the issuance of this Special Use Permit according to the following terms and conditions:

**SPECIAL USE:** Pet Crematory as an accessory to an existing pet grooming and animal kennel, Ocean Sands K9 Resort, located at 208 Williams Drive in Colington, NC. A site plan depicting the proposed improvements identified Appendix B is included as part of this permit.

**CONDITIONS:**

1. The structure shall be located on the parcel in conformance with the setbacks of Section 22-22.2 of the Zoning Ordinance and the Dare County Flood Damage Prevention Ordinance.
2. Building permit for the structure shall be secured within 36 months from date of Board of Commissioners approval. An as-built survey for the property shall be submitted to the Planning Department upon the completion of the structure to confirm compliance with the terms of the Dare County Zoning Ordinance.
3. The structure shall be constructed in compliance with the requirements of the Dare County Fire Marshal and North Carolina Fire Code.
4. The crematory shall meet the 200-foot setback from residential dwellings.
5. The incinerator shall be contained inside of a building.
6. A licensed and/or certified crematory operator shall be employed by the business.
7. Cremation services shall be limited to domesticated animals. Livestock shall not be permitted.
8. The use shall comply with all applicable Local, State and Federal laws and rules and all applicable licenses and permits shall be obtained and a copy provided to the Planning Department.
9. No changes or deviation from the terms and conditions of the special use approval shall be made until written approval of the proposed changes or deviations has been obtained from Dare County. The quasi-judicial procedures set forth in the Code shall be followed for the review and approval of major modifications. Minor modifications as established in Section 22-70 of the Code may be authorized administratively by the Planning Director.
10. A violation of this Permit shall be a violation of the Code and the special use may be revoked by the Board of Commissioners. Special use approval shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any development regulation or any State law delegated to Dare County for enforcement purposes; or for false statements or misrepresentations made in securing special use approval. The same process for approval of a special use permit, including notice and hearing, shall be followed in the revocation of a special use permit.

11. All other terms and provisions of the Dare County Zoning Ordinance shall remain in full force and effect except as herein specifically permitted otherwise;

This 06th day of February 2023

SEAL:

COUNTY OF DARE

By: \_\_\_\_\_  
Robert L Woodard Sr.  
Dare County Board of Commissioners

ATTEST:

By: \_\_\_\_\_  
Cheryl Anby  
Clerk to the Board

**THIS PERMIT AND THE CONDITIONS HEREIN ARE ACCEPTED**

By: \_\_\_\_\_  
Pamela Anderson  
Ocean Sands K9 Resort

APPROVED AS TO LEGAL FORM

By: \_\_\_\_\_  
Robert L Outten  
County Attorney



*Community Care Clinic of Dare - Update*

**Description**

Community Care Clinic of Dare provides basic healthcare, medication assistance and wellness education for financially challenged and uninsured persons living or working in Dare County. Lyn Jenkins will present an update to request additional Board support for the clinic's efforts.

**Board Action Requested**

Presentation to the Board and Contribution Request

**Item Presenter**

Lyn Jenkins, RN BSN, Executive Director



*Dare County Department of Health and Human Services  
Public Health Division  
T-21 Resolution*

**Description**

Resolution requesting NC General Assembly to pass legislation to protect our kids from vaping and nicotine addiction.

One of every five deaths in NC is associated with cigarette smoking and for each death, 30 more people are sick or live with a disability; 95% of tobacco users start before the age of 21.

27.3% of NC high school students report tobacco use. Nicotine is harmful to developing brains and its use during adolescence can disrupt the formation of brain circuits that control attention, learning and susceptibility to addiction.

**Board Action Requested**

Adopt Resolution

**Item Presenter**

Sheila Davies, DHHS Director  
Theresa Beardsley, Tobacco Prevention Manager, Region 9



## **Resolution Requesting North Carolina General Assembly to Pass Legislation to Protect Our Kids from Vaping and Nicotine Addiction**

WHEREAS, one of every five deaths in North Carolina is associated with cigarette smoking,<sup>1</sup> and for each death, 30 more people are sick or live with a disability<sup>2</sup>; and

WHEREAS, 95% of tobacco users start before the age of 21<sup>3</sup>; and

WHEREAS, as of 2019, 27.3% of high school students in North Carolina report tobacco use. E-cigarette use has significantly increased among youth since 2011<sup>4</sup>; and

WHEREAS, nicotine is harmful to developing brains, and its use during adolescence can disrupt the formation of brain circuits that control attention, learning, and susceptibility to addiction<sup>5</sup>; and

WHEREAS, in a 2020 study among NC schools, a high proportion of school administrator and teacher respondents believed that e-cigarette use among students is somewhat or very problematic (91%), and that student e-cigarette use it is a somewhat or high priority issue for their school administration (90%)<sup>6</sup>; and

WHEREAS, most North Carolina young people obtain tobacco products, including e-cigarettes, from retailers. NC young people who get e-cigarettes from friends primarily get them from friends who are under 21<sup>7</sup>; and

WHEREAS, in 2019, Congress increased the federal minimum legal sales age of all tobacco products, including e-cigarettes, from 18 to 21. While a majority of states (41 states, as of September 2022) have increased their minimum tobacco sales age to 21 to match federal law, North Carolina's minimum sales age remains 18<sup>8</sup>; and

WHEREAS, having the same legal sales age at 21 for alcohol and tobacco products reduces the burden on retailers; and

WHEREAS, North Carolina is one of only 10 states in the country that do not require tobacco retailers to obtain a license or permit<sup>9</sup>; and

WHEREAS, the North Carolina ABC Commission is capable of implementing an efficient and effective tobacco retailer permitting system based on the system also in place for alcohol retailer permitting; and

WHEREAS, establishing a retailer permitting system AND raising the minimum legal sale age to 21 will:

- Allow the state to know where tobacco products are being sold
- Improve merchant education efforts
- Allow the state to inspect for responsible retail practices
- Protect law-abiding retailers by holding non-compliant retailers accountable
- Prevent and reduce youth use of highly addictive nicotine products

- Help eliminate the use of e-cigarette and other emerging nicotine products in schools
- Reduce any confusion among retailers and consumers by having one legal sales age for state and federal law<sup>10, 11</sup>; and

WHEREAS, Under the Federal Synar law, states are expected to reduce the illegal sale of tobacco products to individuals under the age of 21. NC could lose over \$4 million in annual funding from the Substance Abuse Prevention and Treatment Block Grant money (money NC uses to pay for drug treatment) through penalties under the federal Synar amendment if sales to underage youth are too high in required annual inspections<sup>12</sup>; and

WHEREAS, current NC state law G.S. 14-313 preempts local authority to adopt evidence-based regulations regarding the sale, distribution, display and promotion of tobacco products; this preemption should be removed to allow local governments to protect minors<sup>13</sup>; and

NOW, THEREFORE, BE IT RESOVED, that we, the Dare County Board of Commissioners strongly supports that North Carolina must protect our kids from vaping and nicotine addiction by establishing a tobacco retailer permitting system, raising the minimum age of sales from 18 to 21, restoring local authority, and adopting other needed provisions of legal sales of tobacco products to match federal law.

This the 6<sup>th</sup> day of February, 2023.

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Chair

Attest:

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Sources:

- 1) Centers for Disease Control and Prevention. Best Practices for Comprehensive Tobacco Control Programs—2014. 2014.  
[https://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/index.htm](https://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm).
- 2) National Center for Chronic Disease Prevention and Health Promotion (US) Office on Smoking and Health. Reports of the Surgeon General. The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General. 2014.
- 3) Source: U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention,

- National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.
- 4) Source: Tobacco Prevention and Control Branch, North Carolina Department of Health and Human Services. North Carolina Youth Tobacco Survey Middle & High School Fact Sheet.  
<https://tobaccopreventionandcontrol.dph.ncdhhs.gov/data/yts/docs/YouthTobaccoSurveyFactSheet-2019.pdf>.
  - 5) U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.
  - 6) Tanz, L., Heck, C., Herzig, C., Ranney, L., Herndon, S., Martin, J., Hast, M., McGowan, E., Baler, G., Shamout, M., King, B., Tynan, M., Kansagra, S. (2020). Rapid Assessment of the Impact of E-cigarettes on Schools as Reported by School Staff and E-cigarettes Confiscated by Schools — North Carolina, 2019. Unpublished manuscript.
  - 7) CDC Foundation. North Carolina Cross-Sectional, Online Survey Summary Tables. 2021: 1-104.
  - 8) Preventing Tobacco Addiction Foundation, Tobacco 21, (2021), <https://tobacco21.org/>.
  - 9) State Tobacco Activities Tracking and Evaluation (STATE) System Licensure Fact Sheet, Ctr. For Disease Control (last reviewed: May 18, 2021), [https://www.cdc.gov/statesystem/factsheets/licensure/Licensure.html#anchor\\_1562854161](https://www.cdc.gov/statesystem/factsheets/licensure/Licensure.html#anchor_1562854161).
  - 10) Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General, U.S. Dept of Health and Hum. Serv. (2014), [https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf\\_NBK99237.pdf](https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf).
  - 11) Roe L. Astor, et al., Tobacco Retail Licensing and Youth Product Use, Pediatrics (Jan. 7, 2019), <https://pediatrics.aappublications.org/content/pediatrics/143/2/e20173536.full.pdf>.
  - 12) Revision to SAMSHA Guidance on Tobacco Regulation, Substance Abuse and Mental Health Services Administration (June 13, 2022).
  - 13) N.C. Gen. Stat. § 14-313 (2014).



*Dare County Regional Airport  
Driftwood Drive*

**Description**

Stacy Ambrose and the Airport Authority will provide an update to propose double cul-de-sac on Driftwood Drive.

**Board Action Requested**

Approve the closure of the north end of Driftwood Drive and authorize the creation of double cul de sacs.

**Item Presenter**

Stacy Ambrose, Airport Director, and Airport Authority



*Island H Modifications Project*

**Description**

Previous work on Island H to elevate the berm has been completed. However, during construction, the Army Corps of Engineers and Coastal Protection Engineering found pre-existing slope stability issues due to erosion caused by soundside wave action that needs to be remedied before the channel which leads into Wanchese Harbor can be pipeline dredged. Improvements also need to be made to the water control structure. Instead of modifying the existing contract, a new contract will allow cost share be changed from 66% state match to 75% state match. An estimated \$500,000 is needed for the improvements, of which Dare County would be responsible for \$125,000.

**Board Action Requested**

Adopt Resolution and authorize the County Manager to execute the necessary budget amendment for the project upon award.

**Item Presenter**

Barton Grover, Grants & Waterways Administrator



## **Resolution to Sponsor the Island H Modifications Project**

**WHEREAS**, Dare County desires to sponsor the Island H Modifications Project to prepare the confined disposal facility for the upcoming U.S. Army Corps of Engineers dredging project.

**THEREFORE, BE IT RESOLVED THAT:**

- 1) Dare County requests the State of North Carolina provide financial assistance to Dare County for the Island H Modifications Project in the amount of \$375,000 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 6<sup>th</sup> day of February, 2023.

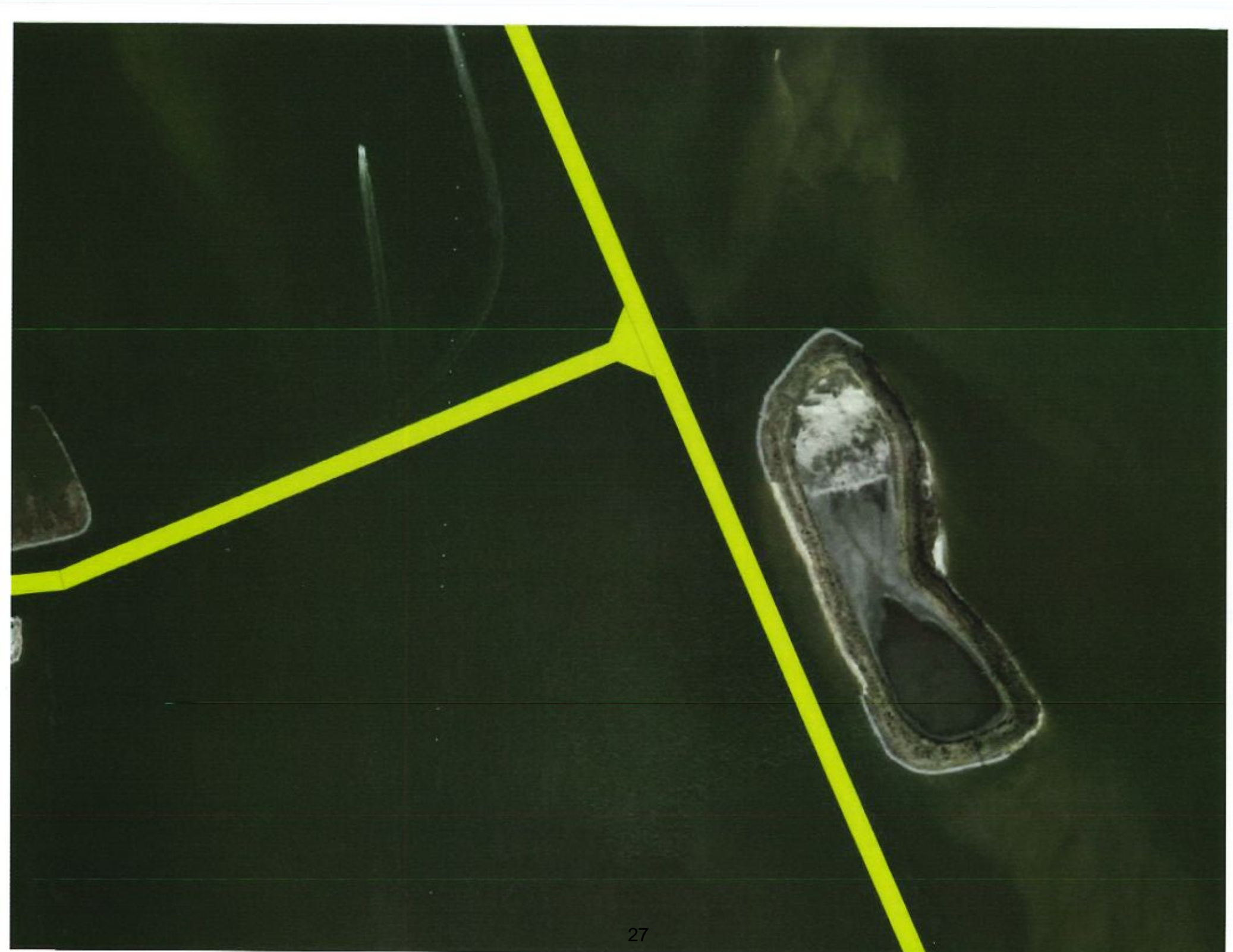
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Robert Woodard, Sr., Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board





*Avon Harbor Dredging Project*

**Description**

The Army Corps of Engineers has allocated \$1.6 million for the dredging of Avon Harbor and Channel. Dare County is responsible for dredged material disposal. An estimated \$160,000 is required for vibracore sampling and trucking costs to place dredged material near the Haulover and Kite Point to widen the beach and protect physical infrastructure in the area. DOT will assist in permitting the project and performing the soundside beach nourishment. A Shallow Draft Navigation Application will be submitted to receive 75% state match.

**Board Action Requested**

Adopt Resolution and authorize the County Manager to execute the necessary budget amendment upon award

**Item Presenter**

Barton Grover, Grants & Waterways Administrator





## **Resolution to Sponsor the Avon Harbor Dredging Project**

**WHEREAS**, Dare County desires to sponsor the Avon Harbor Dredging Project to perform vibracore sampling and trucking for the upcoming U.S. Army Corps of Engineers dredging project.

**THEREFORE, BE IT RESOLVED THAT:**

- 1) Dare County requests the State of North Carolina provide financial assistance to Dare County for the Avon Harbor Dredging Project in the amount of \$120,000 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 6<sup>th</sup> day of February, 2023.

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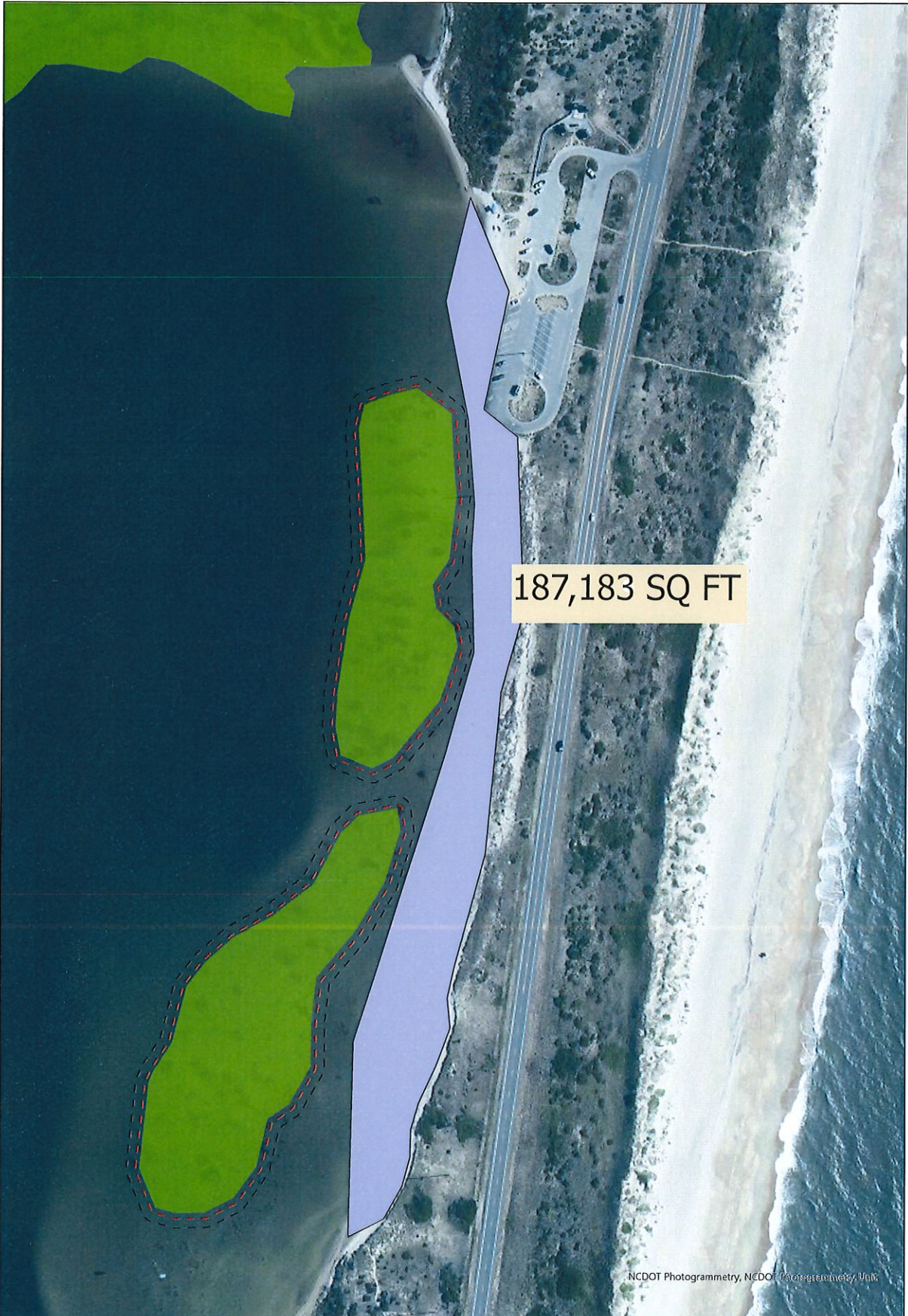
Robert Woodard, Sr., Chairman

Attest:

---

Cheryl C. Anby, Clerk to the Board

# NC 12 Canadian Hole Beach 1



0 250 500 1,000 Feet

30

# NC 12 Canadian Hole Beach 2



NCDOT Photogrammetry, NCDOT Photogrammetry Unit





*First Flight Elementary and Middle School Field Use*

**Description**

There are some unimproved areas behind First Flight Elementary and Middle Schools to be used for County Parks and Recreation purposes. The attached Memorandum of Understanding outlines the agreement between the Board of Education and the County.

**Board Action Requested**

Approve Memorandum of Understanding and Authorize the County Manager to sign the MOU

**Item Presenter**

Robert Outten, County Manager

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) made and entered the date of last execution by the parties, by and between The County of Dare (County) and the Dare County Board of Education (BOE).

### WITNESSETH:

**Whereas**, County desires to use the unimproved areas behind First Flight Middle School (FFMS) and First Flight Elementary School (FFES), and near First Flight High School (FFHS), for County Parks and Recreation proposes. The area to be used is outlined in blue on the map attached as Exhibit A (the "fields"); and

**Whereas**, the BOE has agreed to allow County to use the fields for Parks and Recreation purposes upon the following terms and conditions; and

**Whereas**, N.C. Gen. Stat. 160A-461 authorizes units of local government to enter into contracts or agreements with each other in order to execute any undertaking; and

**Whereas**, N.C. Gen. State. 115C-524(b) provides that local boards of education may enter into agreements permitting non-school groups to use school real and personal property for non-school purposes, and that no liability shall attach to any board of education or individual board member for personal injury suffered by reason of the use of school property pursuant to such agreements;

**Now therefore**, in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

1. FFMS, FFES, and FFHS shall have first priority in the use of the fields. County shall schedule their uses of the fields and the supporting facilities on the fields around scheduled uses by FFMS, FFES, and FFHS.
2. At the beginning of each school year and prior to the school start date, FFMS, FFES, and FFHS shall provide County with a schedule of school uses to allow County to schedule their activities and outside activities at times that are not in conflict with FFMS, FFES, and FFHS activities. Once scheduled, no changes may be made without the approval of the County Parks and Recreation Director and the Principal of the respective school impacted by the change. The parties will work together in good faith to accommodate the needs of each.
3. County shall have the use of the fields for recreation activities at all times that they are not in use for scheduled activities of FFMS, FFES, and FFHS. All inquiries for field use by outside entities will be directed to County. County will schedule field use with travel teams, club sports and others who desire to use the fields when not in use by the schools or by County. Such use by the County or outside entities shall be

considered use pursuant to this agreement within the scope of N.C. Gen. Stat. 115-524(b).

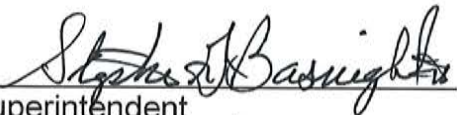
4. County will keep and maintain the fields, concession stands, bathrooms, if any, and the improvements located upon the fields, at a minimum to their condition at the time of this agreement.
5. County will mow and line the fields appropriately for FFMS and FFHS scheduled athletic activities. Schools will schedule their activities to allow sufficient time prior to an athletic event for County to prepare the fields.
6. County shall be authorized to make improvements to the fields, including, but not limited to, adding lights, bleachers, dugouts, storage facilities, fences, concession stands, irrigation, score boards, and other amenities for its recreation programs with prior approval of the BOE or its designee, which approval shall not be unreasonably withheld. County shall be responsible for all permits and approvals necessary for such improvements and for the costs of installation and maintenance of such improvements. County shall notify BOE before adding any such improvements to be certain there is no conflict with schools needs for fields or with any drainage plans or other plans or permits held by the schools.
7. FFMS, FFES, and FFHS shall be authorized to use the County improvements, with the exception of any new storage facilities which may constructed, during the times they have scheduled activities on the field.
8. FFMS, FFES, and FFHS shall be authorized to use the storage space in the existing concession stand for storage of school equipment and materials that are currently located in that facility.
9. FFMS, FFES, and FFHS shall be authorized to use the existing concession stand during the times they have activities scheduled on the fields.
10. After their respective use, each of the parties shall: (a) pick up all trash and debris on the fields, in the dugouts, around the bleachers, place it in a bag and place the bag in a receptacles located on the fields or in the school's dumpster (county shall empty the receptacle); (b) clean and sanitize the concession stand and all equipment and utensils used in the concession stand and return them to their appropriate storage area; (c) place all equipment used for any activity on the fields in the storage facility or designated storage space.
11. County and the schools shall have keys to all gates and facilities and shall not provide keys to anyone other than their designated personnel.
12. All use of the fields shall be supervised. The County shall provide staff or designated volunteers to supervise activities of county or scheduled by County and the schools shall provide staff to supervise school activities.

13. Those using the fields shall park in the paved school parking lots. No parking shall be allowed behind the schools.
14. This agreement sets forth all of the understandings of the parties and supersedes all other agreements or understandings, written or oral. This agreement may only be amended in writing with the consent of all parties.
15. This agreement may be terminated: (a) after 5 years by either party, for any reason or no reason, upon one year's written notice to the other party; or (b) at any time by either party for material breach upon written notice, provided that if the breach is curable the breaching party shall be provided a reasonable time to cure the breach.

**In witness whereof**, the parties have executed this agreement the date set forth below.

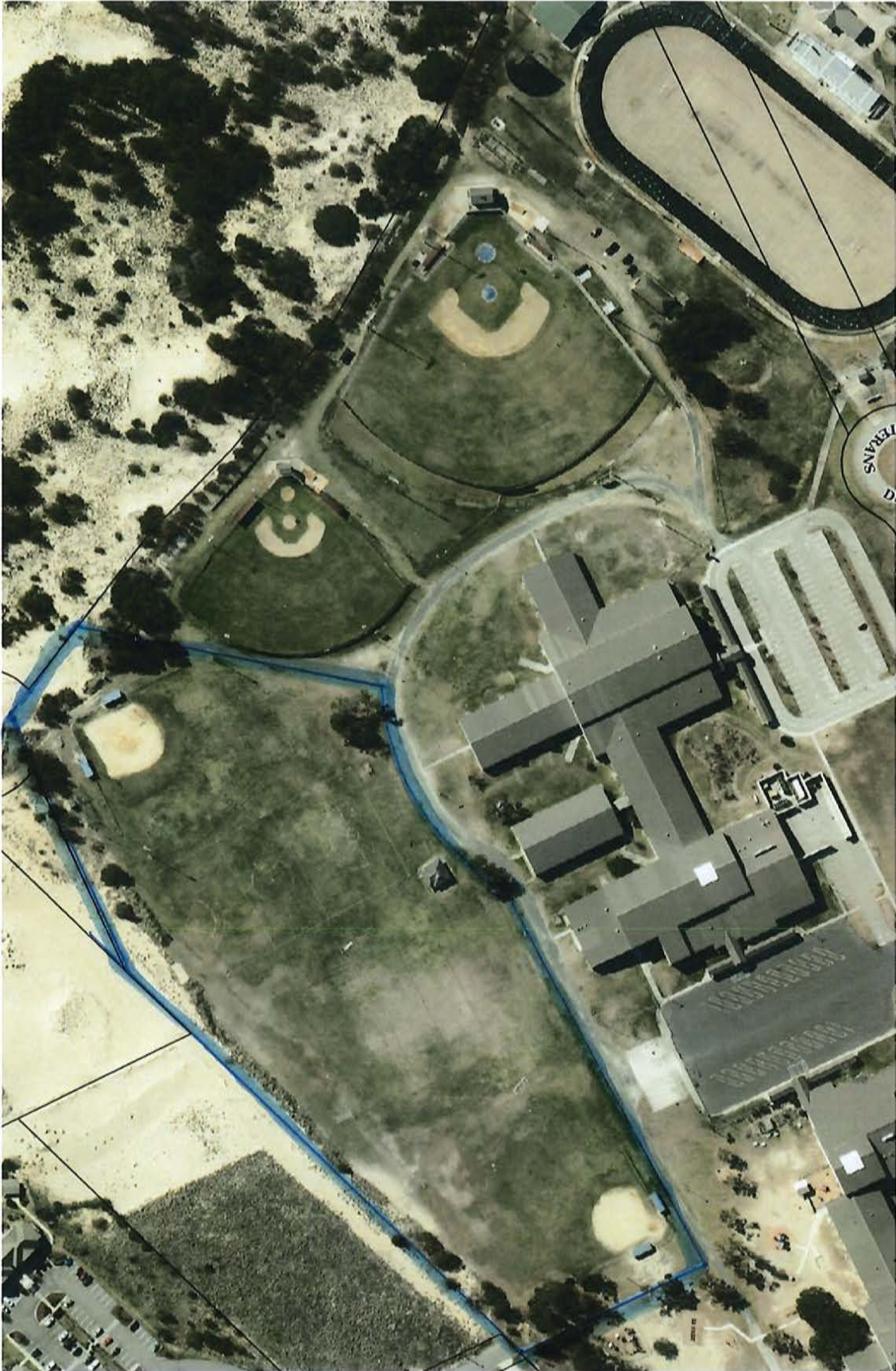
Dare County Board of Education

Dare County

  
\_\_\_\_\_  
Superintendent  
Date: 1/10/22

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

**Exhibit A**







*Audit Contract for Fiscal Year 2023*

**Description**

The Audit Committee has voted to recommend renewal of the County's audit services agreement with Potter & Company for four years at an annual increase of 3%.

The contract for the first year follows and is at \$72,100, a 3.0% increase from fiscal year 2022.

**Board Action Requested**

Approve the audit contract and authorize the Chairman and the Chairman of the Audit Committee (Commissioner Ross) to execute the same.

**Item Presenter**

David Clawson, Finance Director

The of and	Governing Board Board of Commissioners
	Primary Government Unit Dare County, North Carolina
	Discretely Presented Component Unit (DPCU) (if applicable) N/A

*Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)*

and	Auditor Name Potter & Company, P.A.
	Auditor Address 106 Welton Way, Mooresville, N. C. 28117

*Hereinafter referred to as Auditor*

for	Fiscal Year Ending	Date Audit Will Be Submitted to LGC
	06/30/23	10/31/23

*Must be within four months of FYE*

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.
2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards (GAGAS)* if the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period. The auditor shall perform a Single Audit if required by Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F (Uniform Guidance)* or the State Single Audit Implementation Act. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

Effective for audits of fiscal years beginning after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee based upon federal criteria in the Uniform Guidance §200.520(a), and (b) through (e) as it applies to State awards. In addition to the federal criteria in the Uniform Guidance, audits must have been submitted timely to the LGC. If in the reporting year, or in either of the two previous years, the unit reported a Financial Performance Indicator of Concern that the audit was late, then

the report was not submitted timely for State low-risk auditee status. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

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

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

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

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.
15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.
16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.
17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.
18. Special provisions should be limited. Please list any special provisions in an attachment.
19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.
20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.
21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.
22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

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

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

**FEES FOR AUDIT SERVICES**

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by:  Auditor  Governmental Unit  Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

<b>Name:</b> David Clawson, CPA	<b>Title and Unit / Company:</b> Dep Cty Mgr/Finance Director	<b>Email Address:</b> davec@darenc.com
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OR Not Applicable  (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

**PRIMARY GOVERNMENT FEES**

Primary Government Unit	Dare County, North Carolina
Audit Fee	\$ 72,100
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$ N/A
Writing Financial Statements	\$ N/A
All Other Non-Attest Services	\$ See Engagement Letter

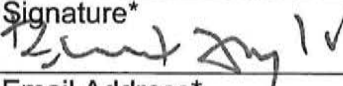
**DPCU FEES (if applicable)**

Discretely Presented Component Unit	N/A
Audit Fee	\$
<b>Additional Fees Not Included in Audit Fee:</b>	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$



**SIGNATURE PAGE**

**AUDIT FIRM**

Audit Firm* Potter & Company, P.A.	
Authorized Firm Representative (typed or printed)* Robert W. Taylor	Signature* 
Date* 01/24/23	Email Address* btaylor@gotopotter.com

**GOVERNMENTAL UNIT**

Governmental Unit* Dare County, North Carolina	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	✓
Mayor/Chairperson (typed or printed)* ✓	Signature* ✓
Date ✓	Email Address ✓

Chair of Audit Committee (typed or printed, or "NA") ✓	Signature ✓
Date ✓	Email Address ✓

**GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE**

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

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

Primary Governmental Unit Finance Officer* (typed or printed) David Clawson	Signature* ✓
Date of Pre-Audit Certificate* ✓	Email Address* davec@darenc.com

**SIGNATURE PAGE – DPCU  
(complete only if applicable)**

**DISCRETELY PRESENTED COMPONENT UNIT**

DPCU*	
N/A	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

**DPCU – PRE-AUDIT CERTIFICATE**

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

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

DPCU Finance Officer (typed or printed)*	Signature*
N/A	
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all required signatures prior to submission.

**PRINT**



**POTTER & COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS

January 23, 2023

To the Board of Commissioners  
Dare County  
Manteo, North Carolina

We are pleased to confirm our understanding of the services we are to provide for Dare County for the year ended June 30, 2023.

**Audit Scope and Objectives**

We will audit the financial statements of the governmental activities, the business-type-activities, each major fund, and the aggregate remaining fund information, including the disclosures, which collectively comprise the basic financial statements, of Dare County as of and for the year ended June 30, 2023. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Dare County's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Dare County's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. GASB Required Supplementary Pension, LEOSA and OPEB reporting.

We have also been engaged to report on supplementary information other than RSI that accompanies Dare County's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditors' report on the financial statements.

1. Introductory information.
2. Combining and individual fund statements.
3. Budgetary schedules.
4. Ad valorem tax schedules.
5. Statistical section.
6. Schedule of Expenditures of Federal and State awards.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditors' report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgement of a reasonable user made based on the financial statements. The objectives also include reporting on:

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

#### **Auditors' Responsibilities for the Audit of the Financial Statements and Single Audit**

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgement and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from 1) errors, 2) fraudulent financial reporting, 3) misappropriation of assets, or 4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports

required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

### **Audit Procedures – Internal Control**

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

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

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

### **Audit Procedures—Compliance**

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

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

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

### **Other Services**

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

### **Responsibilities of Management for the Financial Statements and Single Audit**

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

You are also responsible for making drafts of financial statements, schedule of expenditures of federal and state awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general subsidiary ledgers). You are also responsible for providing us with 1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters 2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform and audit under the Uniform Guidance; 3) additional information that we may request for the purpose of the audit, and 4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal and state awards; federal and state award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

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

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

You are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal and state awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and state awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal and state awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal and state awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that 1) you are responsible for presentation of the schedule of expenditures of federal and state awards in accordance with the Uniform Guidance; 2) you believe the schedule of expenditures of federal and state awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; 3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and 4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and state awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U. S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that 1) you are responsible for presentation of the supplementary information in accordance with GAAP; 2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; 3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and 4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendation. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit

Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant finding and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's view on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities for the financial statements, schedule of expenditures of federal and state awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, the schedule of expenditures of federal and state awards, and related notes and that you have reviewed and approved the financial statements, the schedule of expenditures of federal and state awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; to evaluate the adequacy and results of those services; and accept responsibility for them.

### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal and state awards, summary schedule of prior audit findings, auditors' report, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

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

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

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

Dan Morrow, CPA, the engagement partner and Bob Taylor, Consulting partner are responsible for supervising the engagement and signing the report or authorizing another individual to sign it. We expect to begin our audit in May 2023 and to issue our reports no later than October 31, 2023.



Our fee for these services will be \$72,100. The fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary for other audit procedures not anticipated, procedures of a bookkeeping nature, preparation of schedules or reconciliations for the audit, including adjusting journal entries or fixed asset reconciliations, we will discuss these procedures with Management and bill you at the following discounted hourly rates:

	<u>Discounted Hourly Rates</u>
Partner	\$275
Manager	195
Other Team Members	140
Clerical	55

### Reporting

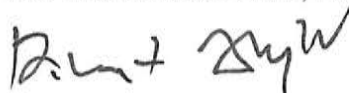
We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Board of Commissioners of Dare County. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter-paragraph to our auditors' report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

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

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

Very truly yours,

POTTER & COMPANY, P.A.



Robert W. Taylor, CPA/PFS

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RESPONSE:

This letter correctly sets forth the understanding of Dare County.

By: ✓ \_\_\_\_\_

Title: ✓ \_\_\_\_\_

Date: ✓ \_\_\_\_\_



## Report on the Firm's System of Quality Control

June 27, 2022

To the Owners of Potter & Company, P.A. and the Coastal Peer Review Committee:

We have reviewed the system of quality control for the accounting and auditing practice of Potter & Company, P.A., ("the firm") in effect for the year ended December 31, 2021. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants ("Standards").

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a system review, as described in the Standards, may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported on in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

### Firm's Responsibility

The firm is responsible for designing and complying with a system of quality control to provide the firm with reasonable assurance of performing and reporting in conformity with the requirements of applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported on in conformity with the requirements of applicable professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of, and compliance with, the firm's system of quality control based on our review.

### Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and audits of employee benefit plans.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

**Opinion**

In our opinion, the system of quality control for the accounting and auditing practice of Potter & Company, P.A., in effect for the year ended December 31, 2021, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)*, or *fail*. Potter & Company, P.A. has received a peer review rating of *pass*.

*DMQPS PLLC*

Certified Public Accountants  
Greensboro, North Carolina



*EMS Projects Capital Project Amendment to Split Budget into Three Phases*

**Description**

The budget adopted for the EMS projects was done in whole. The Board approved splitting the projects into three phases and the attached capital project ordinance amendment establishes budgets in those three phases by: 1) eliminating the original budgets; and 2) reducing the original budget by \$713,602 for Manteo Youth Center architect fees paid from the original renovations budget and by only budgeting what has been paid for phase three architectural fees.

**Board Action Requested**

Adopt the amendment to the capital project ordinance.

**Item Presenter**

David Clawson, Finance Director

Dare EMS Projects #60360, 60367, & 60368  
 Series 2023 & 2024 Limited Obligation Bonds  
 Budget/Capital Project Ordinances

Original Budget		9/7/2021	1/18/2022	7/18/2022	1/3/2023	2/6/2022	Total Project Budget	
<b>Revenues</b>								
613090	470318 98734	Debt proceeds	\$ 250,000	\$ 3,354,876	\$ 1,807,901	\$ 71,000	\$ (5,483,777)	\$ -
613090	422281 60360	Cost share KDH		770,544	(770,544)			-
613090	422281 60360	Cost share Rodanthe VFD		530,059	(530,059)			-
		Total revenues	\$ 250,000	\$ 4,655,479	\$ 507,298	\$ 71,000	\$ (5,483,777)	\$ -
<b>Expenditures</b>								
615531	710900 60360	Architectural services	\$ 250,000	\$ 4,454,300		\$ 61,000	\$ (4,765,300)	\$ -
615531	710912 60360	Architect expenses				\$ 10,000	\$ (10,000)	-
615531	710101 60360	Surveys & geotechnical		201,179			(201,179)	-
615531	737500 60360	CM at Risk preconstruction fee			507,298		(507,298)	-
		Total expenditures	\$ 250,000	\$ 4,655,479	\$ 507,298	\$ 71,000	\$ (5,483,777)	\$ -

**Split Into Three Phases**

<b>Phase 1</b>								
613090	470318 98734	Debt proceeds -S23A LOBs	\$ -	\$ -	\$ -	\$ -	\$ 3,445,015	\$ 3,445,015
		Total revenues	\$ -	\$ -	\$ -	\$ -	\$ 3,445,015	\$ 3,445,015
615531	710900 60360	Architectural services	\$ -	\$ -	\$ -	\$ -	\$ 3,082,429	\$ 3,082,429
615531	710912 60360	Architect expenses	-	-	-	-	10,000	10,000
615531	710101 60360	Surveys & geotechnical	-	-	-	-	98,937	98,937
615531	737500 60360	CM at Risk preconstruction fe	-	-	-	-	253,649	253,649
		Total expenditures	\$ -	\$ -	\$ -	\$ -	\$ 3,445,015	\$ 3,445,015

<b>Phase 2</b>								
613090	470318 98737	Debt proceeds - S23B LOBs	\$ -	\$ -	\$ -	\$ -	\$ 992,228	\$ 992,228
		Total revenues	\$ -	\$ -	\$ -	\$ -	\$ 992,228	\$ 992,228
615531	710900 60367	Architectural services	\$ -	\$ -	\$ -	\$ -	\$ 665,332	\$ 665,332
615531	710101 60367	Surveys & geotechnical	-	-	-	-	73,247	73,247
615531	737500 60367	CM at Risk preconstruction fe	-	-	-	-	253,649	253,649
		Total expenditures	\$ -	\$ -	\$ -	\$ -	\$ 992,228	\$ 992,228

<b>Phase 3</b>								
613090	470318 98738	Debt proceeds - S24A LOBs	\$ -	\$ -	\$ -	\$ -	\$ 332,932	\$ 332,932
		Total revenues	\$ -	\$ -	\$ -	\$ -	\$ 332,932	\$ 332,932
615531	710900 60368	Architectural services	\$ -	\$ -	\$ -	\$ -	\$ 332,932	\$ 332,932
615531	710101 60368	Surveys & geotechnical	-	-	-	-	-	-
615531	737500 60368	CM at Risk preconstruction fe	-	-	-	-	-	-
		Total expenditures	\$ -	\$ -	\$ -	\$ -	\$ 332,932	\$ 332,932

**County of Dare, North Carolina  
Capital Project Ordinance  
for  
Series 2022C  
LOBs**

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, for the planned Series 2023A LOBs, (formerly 2022C) originally adopted on 9/7/2021 and amended on 1/18/2022, 7/18/2022 and 1/3/2023, is hereby amended:

Section 1 This amendment is to eliminate the original project budgets and then re-establish the project budgets in three phases as planned.

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

Section 3 The following appropriations are reduced to zero:

EMS Facilities – architectural services	615531-710900-60360	\$4,765,300	decrease
EMS Facilities – architect expenses	615531-710912-60360	\$10,000	decrease
EMS Facilities – surveys & geotechnical	615531-710101-60360	\$201,179	decrease
EMS Facilities – CM preconstruction fee	615531-737500-60360	\$507,298	decrease

Section 4 The following revenues are anticipated to be available to complete the projects are reduced to zero:

Debt Proceeds S2022C LOBs	613090-470318-98734	\$5,483,777	decrease
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Section 5 The following appropriations are appropriated for **Phase One** of the projects:

EMS Phase 1 – architectural services	615531-710900-60360	\$3,082,429
EMS Phase 1 – architect expenses	615531-710912-60360	\$10,000
EMS Phase 1 – surveys & geotechnical	615531-710101-60360	\$98,937
EMS Phase 1 – CM preconstruction fee	615531-737500-60360	\$253,649

Section 6 The following appropriations are appropriated for **Phase One** of the projects:

Debt proceeds S2023A LOBs	613090-470318-98734	\$3,445,015
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Section 7 The following appropriations are appropriated for **Phase Two** of the projects:

EMS Phase 2 – architectural services	615531-710900-60367	\$665,332
EMS Phase 2 – surveys & geotechnical	615531-710101-60367	\$73,247
EMS Phase 2 – CM preconstruction fee	615531-737500-60367	\$253,649

Section 8 The following appropriations are appropriated for **Phase Two** of the projects:

Debt proceeds S2023B LOBs	613090-470318-98737	\$992,228
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Section 9 The following appropriations are appropriated for **Phase Three** of the projects:

EMS Phase 2 – architectural services	615531-710900-60368	\$332,932
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Section 10 The following appropriations are appropriated for **Phase Three** of the projects:

Debt proceeds S2024A LOBs	613090-470318-98738	\$332,932
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Section 11 The Finance Officer is directed to report the financial status of the project as a part of the normal ongoing financial reporting process.

Section 12 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 6<sup>th</sup> day of February, 2023.

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

\_\_\_\_\_  
Cheryl Arby, Clerk to the Board of Commissioners

[SEAL]

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*Capital Improvements Planning Committee Report*

**Description**

The Capital Improvements Planning Committee met on January 24, 2023 regarding County projects. Their recommendation will be provided by the County Manager.

**Board Action Requested**

Take appropriate action

**Item Presenter**

Robert Outten, County Manager



*Dare MedFlight and Southern Shores EMS Stations - Approval of GMP and Capital Project Ordinance;  
Update for Kill Devil Hills Station Estimate*

**Description**

Please see the following Item Summary.

**Board Action Requested**

Adopt amendment to capital project ordinance and authorize the County Manager to execute the Barnhill contract amendment for GMP.

**Item Presenter**

David Clawson, Finance Director

Item Summary: Dare MedFlight and Southern Shores EMS Stations – Approval of Guaranteed Maximum Price and Capital Project Ordinance; Updated Kill Devil Hills Station Estimate

Attached in order are:

1. CIF Model Update (2 pages). The update uses the Guaranteed Maximum Price (GMP) and budgets for the Southern Shores and Dare MedFlight stations and the updated estimate for the Kill Devil Hills station. The new costs are covered by the CIF Model as coverage is maintained at 1.0 times ending fund balance to annual debt service.
2. GMP & Budget for Dare MedFlight, Station #7 - The GMP is \$7,834,370 and the total budget is \$9,453,582. Items in green are estimates and will be updated.
3. GMP & Budget for Southern Shores, Station #4. The GMP is \$7,342,647 and the total budget is \$8,566,533. Items in green are estimates and will be updated.
4. Barnhill Contracting letter on sub-bid results and value engineering results (5 pages).
5. AIA Document #133 for the GMPs for Dare MedFlight and Southern Shores and \$68,700 for the demolition of the existing building at the Kill Devil Hills site (4 pages).
6. Kill Devil Hills, Station #1, update of total estimate and Barnhill update of cost estimate (2 pages). The items in green are estimates.
7. Capital Project Ordinance (budget) amendment for the above for Dare MedFlight and Southern Shores Stations and demolition cost at Kill Devil station site (2 pages).

Items to note:

Model pressure – any further reductions in land transfer tax revenue or project costs greater than estimates will require adjustments to the Capital Plan/CIF Model going forward.

Schedule:

- Kill Devil Hills sub-bids opening is 1/31
- Kill Devil Hills GMP to County on 2/15.
- Kill Devil Hills GMP to BOC on 3/6.
- Local Government approval of bond issue will be 4/4.
- Bond sale date is 4/20.

Actions Requested:

- Adopt amendment to capital project ordinance.
- Authorize County Manager to execute the Barnhill contract amendment #1 for the GMPs and demolition cost.



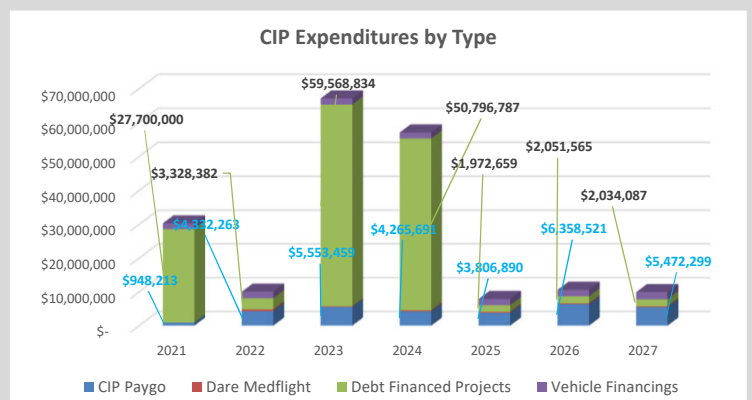
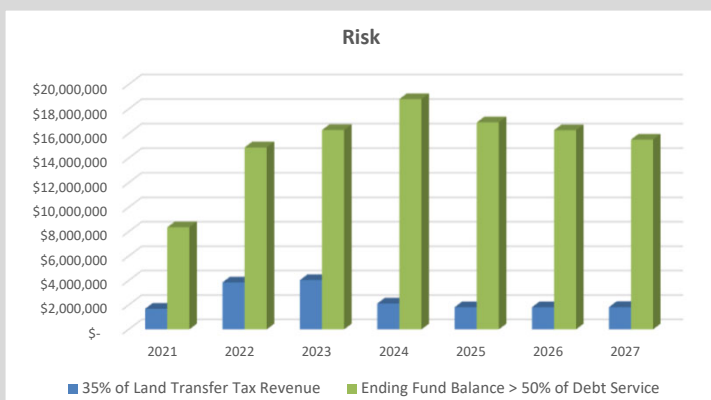
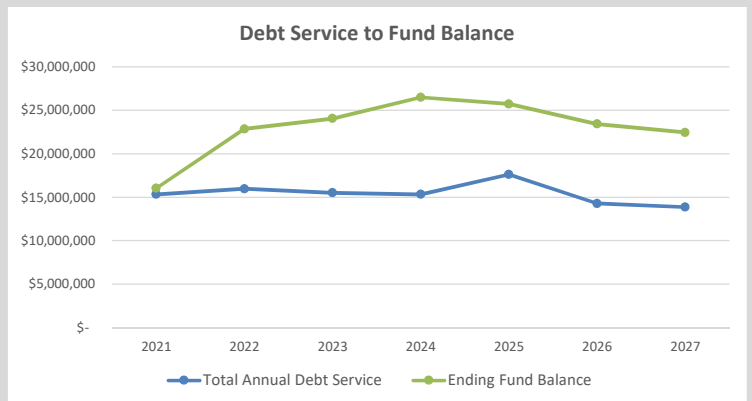
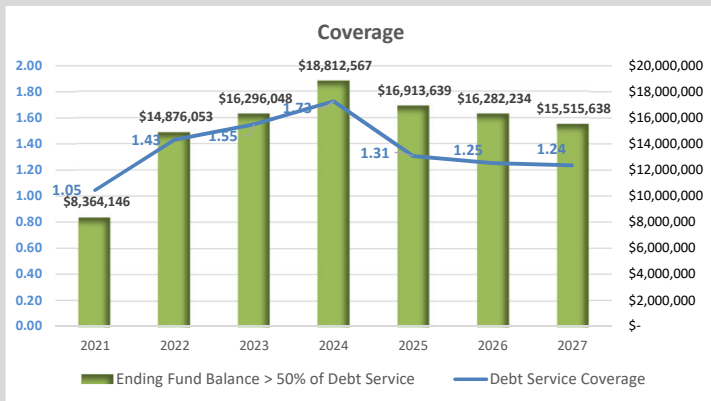
# County of Dare, North Carolina

## Financial Model for Capital Investment Fund



Financial Plan Summary	Actual	Estimated	Capital Improvements Plan				
	2021	2022	2023	2024	2025	2026	2027
Debt Service Coverage	1.05	1.43	1.55	1.73	1.31	1.25	1.24
Annual Revenue	\$ 27,747,916	\$ 30,465,207	\$ 24,252,458	\$ 24,038,129	\$ 24,820,128	\$ 24,945,849	\$ 25,075,365
Existing Annual Debt Service	\$ 15,330,908	\$ 15,966,338	\$ 15,345,649	\$ 12,383,721	\$ 11,443,899	\$ 6,961,739	\$ 6,592,141
New Annual Debt Service	\$ -	\$ -	\$ 164,350	\$ 2,944,480	\$ 6,167,256	\$ 7,307,628	\$ 7,258,275
Total Annual Debt Service	<u>\$ 15,330,908</u>	<u>\$ 15,966,338</u>	<u>\$ 15,509,999</u>	<u>\$ 15,328,200</u>	<u>\$ 17,611,155</u>	<u>\$ 14,269,367</u>	<u>\$ 13,850,416</u>
Ending Debt Outstanding	\$ 78,679,312	\$ 67,824,861	\$ 101,863,732	\$ 157,648,305	\$ 145,782,329	\$ 134,663,595	\$ 123,897,819
Paygo Capital & Vehicles and Equipment	\$ 1,668,153	\$ 7,202,047	\$ 7,377,293	\$ 6,015,470	\$ 5,644,158	\$ 8,287,654	\$ 7,605,927
Dare Medflight	\$ -	\$ 467,199	\$ 173,340	\$ 268,839	\$ 274,216	\$ 279,700	\$ 285,294
Ending Fund Balance	\$ 16,029,599	\$ 22,859,222	\$ 24,051,048	\$ 26,476,667	\$ 25,719,216	\$ 23,416,918	\$ 22,440,846
Ending Fund Balance Restricted for Schools	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 807,359	\$ 2,388,014
Debt Financed Projects (Note)	\$ 27,700,000	\$ 3,328,382	\$ 59,568,834	\$ 50,796,787	\$ 1,972,659	\$ 2,051,565	\$ 2,034,087
<b>Other Financial Metrics</b>							
Ending Fund Balance > 50% of Debt Service \$'s over minimum coverage	\$ 8,364,146	\$ 14,876,053	\$ 16,296,048	\$ 18,812,567	\$ 16,913,639	\$ 16,282,234	\$ 15,515,638
35% of Land Transfer Tax as a % of Annual Revenue Revenue % risk for largest annual % LTT decrease	14%	13%	17%	9%	7%	7%	7%

There will usually be differences between forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.



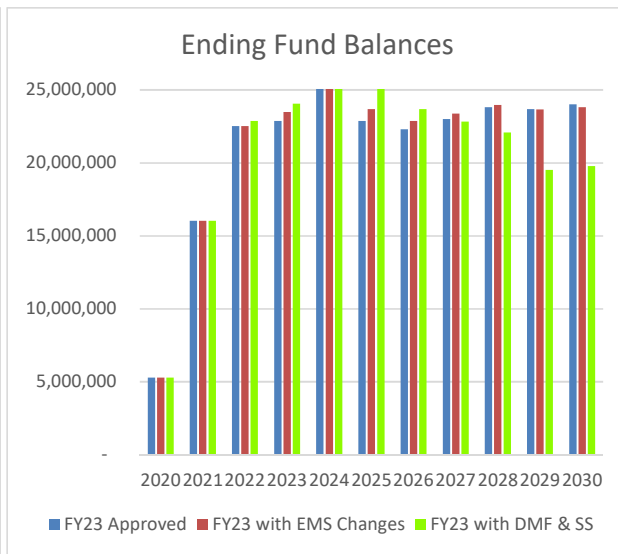
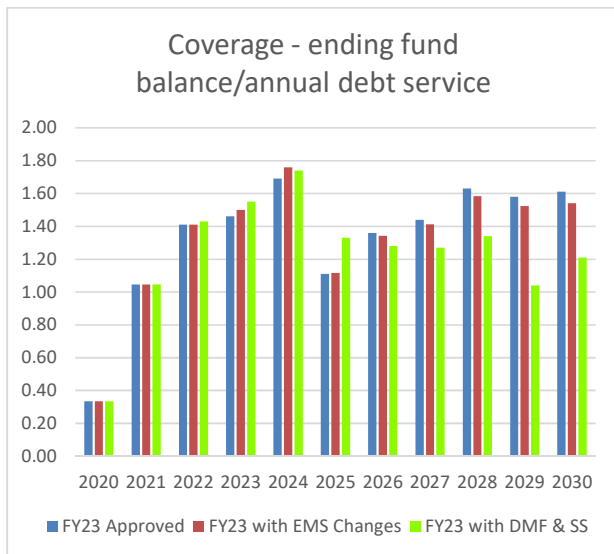
Note: Debt Financed Project amounts do not affect fund balances and do not include vehicles & equipment financed through lease purchases.

**County of Dare, North Carolina**  
**Financial Model for Capital Investment Fund**

**Coverage and Fund Balance History**

Coverage - ending fund balance/annual debt service							
	<u>6</u>	<u>8c3</u>	<u>9b</u>	<u>10c</u>	<u>11.1</u>	<u>11.4c</u>	
	<u>First Full Model FY20</u>	<u>Adopted FY22 CIP</u>	<u>EMS Update S2023 LOBs</u>	<u>FY23 Approved</u>	<u>FY23 with EMS Changes</u>	<u>FY23 with DMF &amp; SS</u>	
2020	0.05	0.34	0.34	0.34	0.34	0.34	0.34
2021	0.05	0.96	0.98	1.05	1.05	1.05	1.05
2022	0.19	0.94	1.10	1.41	1.41	1.41	1.43
2023	0.22	0.86	1.17	1.46	1.50	1.50	1.55
2024	0.48	1.00	1.00	1.69	1.76	1.76	1.74
2025	0.56	0.88	0.85	1.11	1.12	1.12	1.33
2026	0.53	1.07	0.91	1.36	1.34	1.34	1.28
2027	0.94	0.92	0.69	1.44	1.41	1.41	1.27
2028	1.65	1.12	0.75	1.63	1.58	1.58	1.34
2029	2.29	1.33	0.85	1.58	1.52	1.52	1.04
2030	3.99	2.14	1.36	1.61	1.54	1.54	1.21

Ending Fund Balances						
	<u>6</u>	<u>8c3</u>	<u>9b</u>	<u>10c</u>	<u>11.1</u>	<u>11.4c</u>
	<u>First Full Model FY20</u>	<u>Adopted FY22 CIP</u>	<u>EMS Update S2023 LOBs</u>	<u>FY23 Approved</u>	<u>FY23 with EMS Changes</u>	<u>FY23 with DMF &amp; SS</u>
2020	\$ 850,502	\$ 5,277,956	\$ 5,277,956	\$ 5,280,744	\$ 5,280,744	\$ 5,280,744
2021	\$ 932,981	\$ 14,719,850	\$ 15,036,328	\$ 16,029,599	\$ 16,029,599	\$ 16,029,599
2022	\$ 2,989,865	\$ 15,213,630	\$ 17,567,901	\$ 22,512,403	\$ 22,512,403	\$ 22,859,222
2023	\$ 3,585,701	\$ 14,951,256	\$ 18,682,924	\$ 22,864,052	\$ 23,492,374	\$ 24,051,048
2024	\$ 6,411,789	\$ 15,692,663	\$ 17,724,730	\$ 25,060,213	\$ 26,120,104	\$ 26,526,972
2025	\$ 8,422,798	\$ 15,079,235	\$ 15,648,243	\$ 22,860,873	\$ 23,672,820	\$ 25,880,931
2026	\$ 6,223,188	\$ 14,032,731	\$ 13,157,969	\$ 22,294,342	\$ 22,873,621	\$ 23,687,447
2027	\$ 10,838,487	\$ 13,041,430	\$ 10,742,114	\$ 23,007,458	\$ 23,369,379	\$ 22,817,591
2028	\$ 17,296,383	\$ 14,299,923	\$ 10,626,749	\$ 23,816,885	\$ 23,976,790	\$ 22,088,060
2029	\$ 23,582,515	\$ 16,762,752	\$ 11,735,924	\$ 23,680,276	\$ 23,653,541	\$ 19,503,454
2030	\$ 32,217,245	\$ 22,081,348	\$ 15,720,951	\$ 24,001,280	\$ 23,803,311	\$ 19,774,674



Dare County 2022 & 2023 Projects  
Station #7 - Dare Medflight

1/27/2023

= estimate

14,351 Square Feet

	OCA Estimate	Barnhill 30% Design Estimate	Barnhill Subbids	Barnhill GMP (Subbids & VE)	Barnhill GMP & Requested
Building demo/abatement	\$ -	\$ -			
Building renovations/new construction	3,878,667	5,342,824			
Sitework	292,600	616,212			
Subguard bonding	58,398	83,427			
Construction contingency	126,890	181,274			
Preconstruction contingency	208,563	120,849			
Escalation	500,552	181,274			
CM at Risk General Conditions	990,625	595,903			
CM fees		383,303			
Insurance & bonds	165,104	160,987			
Subtotal construction	6,221,399	7,666,053	7,921,064	7,834,370	7,834,370
Design fees	667,964	667,964	667,964	667,964	667,964
Survey & geotechnical	32,197	32,197	32,197	32,197	32,197
Special inspections & construction testing	85,000	85,000	85,000	85,000	85,000
FF&E @ 2%	331,400	153,500	158,500	156,750	156,750
	7,337,960	8,604,714	8,864,725	8,776,281	8,776,281
Barnhill did not include builders risk	-	15,000	15,000	15,000	15,000
Owner costs	35,000	35,000	35,000	35,000	35,000
Sales tax refunds at 1%	-	(78,196)	(80,796)	(79,911)	(79,911)
Fiber to building	-	72,000	72,000	72,000	72,000
Add Station alerting system	-	23,910	23,910	23,910	23,173
Add card reader/security system	-	27,000	27,000	27,000	63,751
Add network wiring	-	23,500	23,500	23,500	23,500
Add Dominion permanent power	-	35,000	35,000	35,000	35,000
Move fuel farm & pumps - County contract	-	226,500	226,500	226,500	226,500
Owner's contingency @ 3%	248,856	258,141	265,942	263,288	263,288
	\$ 7,621,816	\$ 9,242,570	\$ 9,507,781	\$ 9,417,568	\$ 9,453,582

Over Original Estimate	\$ 1,620,754	\$ 1,885,965	\$ 1,795,752	\$ 1,831,766
Over Original Estimate - %	21.26%	24.74%	23.56%	24.03%

Over 30% CM estimate	\$ 265,211	\$ 174,998	\$ 211,012
Over 30% CM estimate - %	2.87%	1.89%	2.28%

Dare County 2022 & 2023 Projects  
 Station #4 - Southern Shores

= estimate

1/27/2023  
 8,758 Square Feet

	OCA Estimate	Barnhill 30% Design Estimate	Barnhill Subbids	Barnhill GMP (Subbids & VE)	Barnhill GMP & Requested
Building demo/abatement	\$ 50,000	\$ 50,510			
Building renovations/new construction	3,290,918	4,322,109			
Sitework	253,920	349,632			
Subguard bonding	50,328	66,112			
Construction contingency	109,355	143,651			
Preconstruction contingency	179,742	95,767			
Escalation	179,742	143,651			
CM at Risk General Conditions	789,880	472,225			
CM fees		303,749			
Insurance & bonds	131,647	127,575			
Subtotal construction	5,035,532	6,074,981	7,409,226	7,342,647	7,342,647
Design fees	577,191	577,191	577,191	577,191	577,191
Survey & geotechnical	27,339	27,339	27,339	27,339	27,339
Special inspections & construction testin	50,000	50,000	50,000	50,000	50,000
FF&E @ 2%	160,901	121,500	148,250	147,000	147,000
	5,850,963	6,851,011	8,212,006	8,144,177	8,144,177
Barnhill did not include builders risk	-	15,000	15,000	15,000	15,000
Owner costs	25,000	25,000	25,000	25,000	25,000
Sales tax refunds at 1%	-	(61,965)	(75,575)	(74,896)	(74,896)
Add Station alerting system	-	25,711	25,711	25,711	25,465
Add card reader/security system	-	27,000	27,000	27,000	57,397
Add network wiring	-	23,500	23,500	23,500	23,500
Add Dominion permanent power	-	15,000	15,000	15,000	15,000
Add S Shores town storage building	-	-	-	-	91,565
Owner's contingency @ 3%	201,421	205,530	246,360	244,325	244,325
	\$ 6,077,384	\$ 7,125,788	\$ 8,514,002	\$ 8,444,817	\$ 8,566,533

Over Original Estimate	\$ 1,048,404	\$ 2,436,618	\$ 2,367,433	\$ 2,489,149
Over Original Estimate - %	17.25%	40.09%	38.95%	40.96%

Over 30% CM estimate	\$ 1,388,215	\$ 1,319,029	\$ 1,440,745
Over 30% CM estimate - %	19.48%	18.51%	20.22%



800 Tiffany Blvd, Suite 200  
P O Box 7948  
Rocky Mount, NC 27804  
252-823-1021 Fax 252-977-7512  
[www.barnhillcontracting.com](http://www.barnhillcontracting.com)

January 5, 2023

To: Mr. Dustin Peele  
Dare County  
954 Marshall C. Collins Drive  
Manteo, NC 27948

Ref: Dare County – EMS #4 and EMS #7 Post Bid Evaluation

Dear Mr. Peele,

We have completed bidding and scope reviews for EMS #4(Southern Shores) and EMS #7(Med Flight) projects. In addition, we have received post-bid value engineering cost saving ideas from the low bidders and have collaborated with Oakley Collier Architects to vet most of them.

Included with this letter, please find a bid summary with a cost variance and our current value engineering log that indicates approved, pending and rejected items. In summary, the bid overages are approximately nine (9) percent or \$1,305,404.00 over our September 2, 2022, budget estimate. The total project cost for these two EMS stations is now \$15,177,017.00 and does include the building demolition associated with the Kill Devil Hills Project.

While we understand this is not good news, we would like to shed some light on some reasoning to the cost overruns and our plan to better results going forward.

- Barnhill Contracting's budget estimate is based on OCA documents dated July 15, 2022, but the bid documents were not released until September 21, 2022. This delay in final documents is not abnormal and is why we always recommend carrying preconstruction contingency. However, the preconstruction contingency was not enough to overcome the amount of design changes that were required that ultimately increased bid costs. We have performed a design scope increase study and are willing to share upon request. Going forward, we anticipate having more time to evaluate the bid documents and provide cost feedback before having to expedite the documents out to bid.
- We understand that postponing Kill Devil Hills was necessary, but our budget estimates were based on bidding all three projects at the same time. The value of breaking out the Kill Devil Hills project to bid separately is hard to determine but we did find that numerous key subcontractors were only interested in bidding the two smaller projects in conjunction with the larger KDH's. This ultimately led some of the major bid packages such as framing, mechanical, plumbing, and electrical to receive less than three bidders. This could be defined as unintended consequences and unfortunately a lesson learned as we move forward to Phase II.
- The entire construction industry is seeing a shortage in trade labor due to current demand on the limited supply. This results in reducing subcontractor competition and incentivizing the available subcontractors to increase their bids. These dramatic price increases based on supply, demand and risk are very difficult, if not impossible to predict.



We will continue to leverage our subcontractor relationships and endeavor to find additional prequalified subcontractors on the projects moving forward.

- Finally, although we cannot predict with certainty that the construction market in 2023 will see price reductions or even stabilization, many economists are predicting the private sector will continue to see a slow-down because of the Federal Reserve's Interest Rate increases. If private commercial construction projects slow, we feel positive that this will provide some cost relief to Dare County and other public sector projects in general.

Please note, this letter is to serve as a snapshot of our current progress and an explanation of our plan moving forward. We will continue to work with our low bidders, OCA, and Dare County on finding additional VE's to consider for these two projects. We also plan to perform an in-depth constructability review of the recently received Kill Devil Hills bid documents prior to releasing documents out to bid.

We appreciate the opportunity to provide this post bid evaluation for you and if you have any questions about any of this evaluation feel free to contact me at (919)-710-9515.

Sincerely,



Joey Wilkins  
Director of Preconstruction  
Barnhill Contracting Company

Cc: File

Mr. John W. Smith – Vice President, Building Group - BCC  
Mr. Brad Martin - Director of Operations, Building Group – BCC  
Mr. Joey Wilkins – Director of Preconstruction, Building Group - BCC  
Mr. Arthur VanderAa – Senior Project Manager, Building Group - BCC



**DARE COUNTY EMS BID RESULTS**  
**PHASE 1 - EMS #4 and EMS #7**

1.5.23

Bid Packages
CM REIMBURSIBLE ALLOWANCES
BP100 - GENERAL TRADES
BP105 - FINAL CLEANING
BP205 - DEMOLITION
BP390 - TURNKEY CONCRETE
BP400 - TURNKEY MASONRY
BP500 - TURNKEY STRUCTURAL AND MISC.
BP505 - LIGHT GAUGE METAL TRUSSES
BP580 - TURNKEY PEMB
BP740 - ROOFING
BP790 - CAULKING AND WATERPROOFING
BP800 - TURNKEY DOORS/FRAMES/HARDWARE
BP833 - OVERHEAD DOOR
BP840 - GLASS & GLAZING
BP925 - DRYWALL, ACT AND FRAMING
BP960 - FLOORING
BP990 - PAINTING AND WALLCOVERINGS
BP1005 - TOILET SPECIALTIES / ACCESSORIES
BP1230 - FINISH CARPENTRY AND CASEWORK
BP1250 - WINDOW TREATMENT
BP2100 - FIRE PROTECTION
BP2200 - PLUMBING
BP2300 - HVAC SYSTEMS
BP2600 - TURNKEY ELECTRICAL
BP3100 - TURNKEY SITE
BP3213 - SITE CONCRETE
BP3290 - LANDSCAPING
<b>Bid Day Total</b>
Subguard
<b>Subcontract Costs with Bonds</b>
Construction Contingency
Precon Contingency
Escalation
<b>Total Cost of Work Total</b>
CM Bonds/Insurance
General Conditions
CM Fee
<b>Total</b>

EMS #4 - Southern Shores			
Bid Results + Approved Value Engineering			
Bid Results w/ VE's	Estimate	Variance	
\$ -	\$ 8,000	\$ (8,000)	
\$ 235,000	\$ 163,438	\$ 71,562	
\$ 8,000	\$ 4,379	\$ 3,621	
\$ 113,207	\$ 50,510	\$ 62,697	
\$ 234,500	\$ 216,279	\$ 18,221	
\$ 500,008	\$ 499,038	\$ 970	
\$ 95,895	\$ 58,900	\$ 36,995	
\$ 215,412	\$ 216,793	\$ (1,381)	
\$ -	\$ -	\$ -	
\$ 299,000	\$ 329,394	\$ (30,394)	
\$ 138,455	\$ 71,410	\$ 67,045	
\$ 116,800	\$ 110,425	\$ 6,375	
\$ 393,600	\$ 455,143	\$ (61,543)	
\$ 196,565	\$ 127,750	\$ 68,815	
\$ 805,500	\$ 434,224	\$ 371,276	
\$ 121,100	\$ 95,209	\$ 25,891	
\$ 58,490	\$ 67,230	\$ (8,740)	
\$ 6,825	\$ 10,550	\$ (3,725)	
\$ 35,131	\$ 44,585	\$ (9,454)	
\$ 13,025	\$ 35,200	\$ (22,175)	
\$ 98,884	\$ 65,948	\$ 32,936	
\$ 315,500	\$ 385,453	\$ (69,953)	
\$ 618,000	\$ 462,164	\$ 155,836	
\$ 890,855	\$ 484,236	\$ 406,619	
\$ 648,717	\$ 321,368	\$ 327,349	
\$ -	\$ -	\$ -	
\$ 18,500	\$ 28,264	\$ (9,764)	
<b>\$ 6,176,969</b>	<b>\$ 4,745,890</b>	<b>\$ 1,431,079</b>	
\$ 80,301	\$ 66,942	\$ 13,359	
<b>\$ 6,257,270</b>	<b>\$ 4,812,832</b>	<b>\$ 1,444,438</b>	
\$ 145,456	\$ 145,456	\$ -	
\$ -	\$ 96,971	\$ (96,971)	
\$ -	\$ 145,456	\$ (145,456)	
<b>\$ 6,402,726</b>	<b>\$ 5,200,715</b>	<b>\$ 1,202,011</b>	
\$ 154,196	\$ 129,178	\$ 25,018	
\$ 478,160	\$ 478,160	\$ -	
\$ 307,566	\$ 307,566	\$ -	
<b>\$ 7,342,647</b>	<b>\$ 6,115,619</b>	<b>\$ 1,227,028</b>	

EMS #7 - Med Flight			
Bid Results + Approved Value Engineering			
Bid Results w/ VE's	Estimate	Variance	
\$ -	\$ 10,000	\$ (10,000)	
\$ 238,000	\$ 155,365	\$ 82,635	
\$ 5,500	\$ 7,176	\$ (1,676)	
\$ -	\$ -	\$ -	
\$ 358,810	\$ 335,628	\$ 23,182	
\$ 204,800	\$ 199,166	\$ 5,634	
\$ 139,100	\$ 229,496	\$ (90,396)	
\$ 68,362	\$ 94,504	\$ (26,142)	
\$ 1,167,600	\$ 1,163,839	\$ 3,761	
\$ 135,000	\$ 131,207	\$ 3,793	
\$ 65,865	\$ 41,335	\$ 24,530	
\$ 168,750	\$ 150,400	\$ 18,350	
\$ -	\$ -	\$ -	
\$ 79,181	\$ 113,811	\$ (34,630)	
\$ 651,465	\$ 398,364	\$ 253,101	
\$ 174,100	\$ 154,095	\$ 20,005	
\$ 59,700	\$ 71,345	\$ (11,645)	
\$ 8,950	\$ 16,280	\$ (7,330)	
\$ 60,486	\$ 76,835	\$ (16,349)	
\$ 10,497	\$ 7,605	\$ 2,892	
\$ 95,237	\$ 88,976	\$ 6,261	
\$ 276,800	\$ 511,462	\$ (234,662)	
\$ 660,000	\$ 863,259	\$ (203,259)	
\$ 957,000	\$ 597,280	\$ 359,720	
\$ 606,665	\$ 395,632	\$ 211,033	
\$ 197,600	\$ 194,330	\$ 3,270	
\$ 11,025	\$ 26,250	\$ (15,225)	
<b>\$ 6,400,493</b>	<b>\$ 6,033,640</b>	<b>\$ 366,853</b>	
\$ 83,206	\$ 84,471	\$ (1,265)	
<b>\$ 6,483,699</b>	<b>\$ 6,118,111</b>	<b>\$ 371,622</b>	
\$ 194,683	\$ 183,543	\$ 11,140	
\$ -	\$ 122,362	\$ (122,362)	
\$ -	\$ 183,543	\$ (183,543)	
<b>\$ 6,678,382</b>	<b>\$ 6,607,559</b>	<b>\$ 76,857</b>	
\$ 164,522	\$ 163,003	\$ 1,519	
\$ 603,364	\$ 603,364	\$ -	
\$ 388,102	\$ 388,102	\$ -	
<b>\$ 7,834,370</b>	<b>\$ 7,762,028</b>	<b>\$ 78,376</b>	

Overall Variance
\$ (18,000)
\$ 154,197
\$ 1,945
\$ 62,697
\$ 41,403
\$ 6,604
\$ (53,401)
\$ (27,523)
\$ 3,761
\$ (26,601)
\$ 91,575
\$ 24,725
\$ (61,543)
\$ 34,185
\$ 624,377
\$ 45,896
\$ (20,385)
\$ (11,055)
\$ (25,803)
\$ (19,283)
\$ 39,197
\$ (304,615)
\$ (47,423)
\$ 766,339
\$ 538,382
\$ 3,270
\$ (24,989)
<b>\$ 1,797,932</b>
\$ 18,128
<b>\$ 1,816,060</b>
\$ 11,140
\$ (219,333)
\$ (328,999)
<b>\$ 1,278,868</b>
\$ 26,537
\$ 0
\$ 0
<b>\$ 1,305,404</b>

**Dare County - EMS#4 and EMS #7**

**Post Bid Value Management Log  
12.27.22 Update**

Item #	Description	Status	Pending Amount	Rejected Amount	Accepted Amount	Remarks
<b>Southern Shores</b>						
SSD 1	Light Gauge Metal Trusses - Reduce Minimum Gauge size and allow sizing based on calculated requirements	A	\$0	\$0	(\$15,843)	
SSD 2	Decking - reduce thickness from 20 to 22 gauge.	R	\$0	(\$7,723)	\$0	Need 20 ga for Wind Loading
SSD 3	Store Front Finish - Spec Calls for Paint - Use a Anodized Aluminum Finish Instead - Clear or Dark Bronze	A	\$0	\$0	(\$6,307)	
SSD 4	Door Hardware - Dorma now owns Best - Use lower cost Domarko hardware with the Best Cylinders	R	\$0	(\$2,238)	\$0	Oakley wants additional information they can show the owners maintenance crew for approval - UPDATE - Do not want to change door hardware
SSD 5	Alternate to 4 Fold Doors - Roll Up Doors	R	\$0	(\$320,431)	\$0	Roll Up Door are not acceptable - Need a different solution - Oakley to see what was used at other locations and advise
SSD 6	Exterior Walls - Remove sheet rock/framing from CMU Walls and paint walls	P	(\$31,260)	\$0	\$0	Current Pricing only includes removed scope. Doesn't include added scope for additional work. BCC working to obtain complete pricing - pricing complete, need approval of final pricing
SSD 7	Change 5/8" exterior sheathing to 1/2"	R	\$0	(\$6,710)	\$0	5/8" is needed for strength, 1/2" will not work
SSD 8	Architectural Masonry Siding - Use Architectural CMU in place of Cast Stone - potential 20% savings - Locally manufacture = cheaper frieght	P	(\$15,669)	\$0	\$0	BCC needs to obtain samples to show Oakley / owner
SSD 9	Reduce Fire Supression Branch Line Piping Wall thickness from Schedule 40 to Schedule 10. Meets code and is quicker/easier to install due to lighter weight.	A	\$0	\$0	(\$3,344)	Oakley to talk to engineer - <u>Still waiting for response</u> - APPROVED
SSD 10	Replace the Alarm Check Valve with easy riser check valve	A	\$0	\$0	(\$1,026)	Oakley to talk to engineer - Still waiting for response - APPROVED
SSD 11	Remove the building isolation vale - already have the backflow preventer and the alarm check valve - not needed unless there are multiple systems	A	\$0	\$0	(\$276)	Oakley to talk to engineer - Still waiting for response - APPROVED
SSD 12	Forward Backflow Testing Station - Can be inside of the building to reduce penetrations/piping/valves. Can just run 50 ft hoses out the door	A	\$0	\$0	(\$467)	Oakley to talk to engineer - Still waiting for response - APPROVED
SSD 13	Remove requirement for FR Plywood	A	\$0	\$0	(\$6,337)	
SSD 14	Flooring - Switch from floating planks that click together to glue down planks - 5 mm planks	A	\$0	\$0	(\$4,029)	BCC to send Data Sheet to Oakley to make sure the finish is similar to what is currently specified - UPDATE - Approved
SSD 15	External Doors - Hollow Metal Doors in place of Fiberglass doors	A	\$0	\$0	(\$10,633)	
SSD 16	Building Slab - Use sand as Structural Fill in place of stone	A	\$0	\$0	(\$9,849)	
SSD 17	Reduce Allowance #1 for Trench Excavation from 100 CY to 50 CY	A	\$0	\$0	(\$5,708)	
SSD 18	Reduce Allowance #2 for Trench Excavation from 150 CY to 100 CY	A	\$0	\$0	(\$2,759)	
SSD 19	Acoustic Ceiling Tile / Ceiling Grid - Alternate Tile and Grid	P	\$0	\$0	\$0	Oakley to verify it look similar enough and is acceptable - UPDATE - Keep tile at original - Change Grid to VE Option
<b>Southern Shores</b>			<b>(\$46,929)</b>	<b>(\$337,102)</b>	<b>(\$66,579)</b>	

Item #	Description	Status	Pending Amount	Rejected Amount	Accepted Amount	Remarks
<b>Med Flight</b>						
MFD 1	Light Gauge Metal Trusses - Reduce Minimum Gauge size and allow sizing based on calculated requirements	A	\$0	\$0	(\$9,290)	
MFD 2	Decking - reduce thickness from 20 to 22 gauge.	R	\$0	(\$3,582)	\$0	Need 20 ga for Wind Loading
MFD 3	Architectural Masonry Siding - Use Architectural CMU in place of Cast Stone - potential 20% savings - Locally manufacture = cheaper freight	P	(\$6,715)	\$0	\$0	BCC needs to obtain samples to show Oakley / owner
MFD 4	Store Front Finish - Spec Calls for Paint - Used a Anodized Aluminum Finish Instead - Clear or Dark Bronze	A	\$0	\$0	(\$3,603)	
MFD 5	Flooring - Switch from floating planks that click together to glue down planks - 5 mm planks	A	\$0	\$0	(\$5,148)	BCC to send Data Sheet to Oakley to make sure the finish is similar to what is currently specified - UPDATE - Approved
MFD 6	Building Slab - Use sand as Structural Fill in place of stone	A	\$0	\$0	(\$11,192)	
MFD 7	Remove requirement for FR Plywood	R	\$0	(\$6,962)	\$0	Fire Rated Sheathing is required due to Aviation useage
MFD 8	Change 5/8" exterior sheathing to 1/2"	R	\$0	(\$6,200)	\$0	5/8" is needed for strength, 1/2" will not work
MFD 9	Acoustic Ceiling Tile / Ceiling Grid - Alternate Tile and Grid	P	(\$7,432)	\$0	\$0	Oakley to verify it look similar enough and is acceptable - UPDATE - Keep tile at original - Change Grid to VE Option
MFD 10	Exterior Walls - Remove sheet rock/framing from CMU Walls and paint walls	P	(\$7,314)	\$0	\$0	Current Pricing only includes removed scope. Doesn't include added scope for additional work. BCC working to obtain complete pricing - pricing complete, need approval of final pricing
MFD 11	Air Barrier - Use Tyvek instead of Fluid Applied Air Barrier	A	\$0	\$0	(\$9,804)	
MFD 12	Reduce Allowance #1 for Trench Excavation from 100 CY to 50 CY	A	\$0	\$0	(\$5,708)	
MFD 13	Reduce Allowance #2 for Open Excavation from 250 CY to 150 CY	A	\$0	\$0	(\$7,364)	
MFD 14	Use rod bracing on PEMP in place of Kicker/Strut Bracing	P	(\$15,893)	\$0	\$0	Oakley awaiting response from structural Engineer
MFD 15	Reduce PEMB Insulation based on S-1 Occupancy - R-30 to R-19 for the roof and R-25 to R-11 for the walls	A	\$0	\$0	(\$23,951)	Oakley to verify compliance with code - still need to add cost of painting girts and purlins
MFD 16	Change the Quartz Countertops to a Group 3 Solid Surface by Wilsonart	A	\$0	\$0	(\$6,715)	Oakley to check with owner - APPROVED
MFD 17	Shop build cabinets vs. using pre-manufactured cabinets	A	\$0	\$0	(\$3,358)	
MFD 18	Remove the 1.5" returns on the window sills (horns)	A	\$0	\$0	(\$560)	
<b>Med Flight</b>			<b>(\$37,354)</b>	<b>(\$16,744)</b>	<b>(\$86,694)</b>	
<b>Alternates</b>						
ALT 1	KDH Generator and ATS - Supply only	R	\$0	\$168,500	\$0	
ALT 2	KDH Building Demo	A	\$0	\$0	\$68,700	
<b>Alternates Subtotal</b>			<b>\$0</b>	<b>\$168,500</b>	<b>\$68,700</b>	

VE Categories	Items	Pending	Rejected	Accepted
Southern Shores Subtotal	19	(\$46,929)	(\$337,102)	(\$66,579)
Med Flight Subtotal	18	(\$37,354)	(\$16,744)	(\$86,694)
VE Total	37	(\$84,283)	(\$353,845)	(\$153,272)
Alternates Subtotal	2	\$0	\$168,500	\$68,700

Dare County 2022 & 2023 Projects  
 Station #1 - Kill Devil Hills

= estimate

1/27/2023  
 36,000 Square Feet

	OCA Estimate	Barnhill 30% Design Estimate	Barnhill Prebid Estimate Update 1/18/2023		
Building demo/abatement	\$ 100,000	\$ 80,636	\$ 68,700		
Building renovations/new construction	11,290,855	13,051,336	15,298,846		
Sitework	1,651,816	2,106,860	1,997,740		
Subguard bonding	182,598	213,344	242,572		
Construction contingency	396,758	463,566	527,075		
Preconstruction contingency	652,134	309,043	312,854		
Escalation	1,565,122	463,566	469,282		
CM at Risk General Conditions	2,941,007	1,523,883	1,542,675		
CM fees		980,206	992,293		
Insurance & bonds	490,168	411,686	458,432		
Subtotal construction	19,270,458	19,604,126	21,910,469		
Design fees	1,776,274	1,776,274	1,776,274		
Design fees - KDH	-	-	61,000		
Architect expenses	-	-	10,000		
Survey & geotechnical	39,401	39,401	39,401		
Special inspections & construction testin	100,000	100,000	100,000		
FF&E @ 2%	599,094	392,083	438,209		
	21,785,227	21,911,884	24,335,353	-	-
Barnhill did not include builders risk	-	30,000	30,000		
Owner costs	50,000	50,000	50,000		
Sales tax refunds at 1%	-	(199,962)	(223,487)		
Add Station alerting system EMS	-	48,897	48,233		
Add card reader/security system	-	50,000	90,536		
Sewer Impact Fee	-	34,203	34,203		
Add network wiring	-	50,000	50,000		
Add Dominion permanent power	-	25,000	25,000		
Owner's contingency @ 3%	770,819	653,557	657,357		
	\$22,606,046	\$ 22,653,578	\$ 25,097,195	\$ -	\$ -

Over Original Estimate	\$ 47,532	\$ 2,491,149
Over Original Estimate - %	0.21%	11.02%

Over 30% CM estimate	\$ 2,443,617
Over 30% CM estimate - %	10.79%



**CD Estimate**  
 Dare County EMS (Phase 1)  
 Kill Devil Hills, Southern Shores, Med Flight  
 Dare County

Estimate Date:	01 - Site KDH	02 - Building KDH	Market Update 1.18.23	Total Project	
	September 7, 2022	September 7, 2022		Costs	Current update on Prequalified Subcontractor Bidding Participation
<b>Building Permits</b>					
BP0001 - Administrative	\$ -	\$ 30,000		\$ 30,000	
<b>Division 1: General Work</b>					
BP0100 - General Trades	\$ -	\$ 269,010	\$ -	\$ 269,010	
BP0105 - Final Cleaning	\$ -	\$ 18,000	\$ 7,500	\$ 25,500	Ajusted based on smaller EMS 4 & 7
<b>Division 2: Site Work</b>					
BP0205 - Demolition & Abatement	\$ 184,412	\$ -	\$ (184,412)	\$ -	Demo package included w/ EMS 4 & 7
<b>Division 3: Concrete</b>					
BP0390 - Turnkey Concrete	\$ -	\$ 636,292		\$ 636,292	Three bidders expected
<b>Division 4: Masonry</b>					
BP0400 - Turnkey Masonry	\$ -	\$ 915,325	\$ 50,000	\$ 965,325	Two bidders expected, suggest adding 5%
<b>Division 5: Steel</b>					
BP0500 - Structural and Misc Steel	\$ -	\$ 281,270		\$ 281,270	Three bidders expected
BP0505 - Light Gauge Metal Trusses	\$ -	\$ 937,856		\$ 937,856	
<b>Division 7: Thermal &amp; Moisture</b>					
BP0740 - Roofing	\$ -	\$ 1,148,816		\$ 1,148,816	5 Bidders Expected
BP0790 - Caulking / Sealants	\$ -	\$ 126,198		\$ 126,198	
<b>Division 8: Doors &amp; Glass</b>					
BP0800 - Turnkey Doors/Frames/Hardware	\$ -	\$ 388,175	\$ 75,000	\$ 463,175	Based on recent limited competition, suggest adjusting up
BP0833 - Overhead Doors	\$ -	\$ 1,081,230		\$ 1,081,230	
BP0840 - Curtainwall / Storefront / Glass & Glazing	\$ -	\$ 375,101		\$ 375,101	Three Bidders
<b>Division 9: Finishes</b>					
BP0925 - Drywall	\$ -	\$ 1,236,210	\$ 500,000	\$ 1,736,210	Two bidders. Based on EMS 4 and 7, suggest adjusting up
BP0930 - Ceramic Tile	\$ -	\$ 132,907	\$ 20,000	\$ 152,907	Based on recent limited competition, suggest adjusting up
BP0960 - Resilient Flooring / Carpet / Base / Epoxy	\$ -	\$ 240,240	\$ 30,000	\$ 270,240	Based on recent limited competition, suggest adjusting up
BP0980 - Acoustical Ceilings	\$ -	\$ 160,798	\$ 30,000	\$ 190,798	Two bidders. Based on EMS 4 and 7, suggest adjusting up
BP0990 - Painting / Wallcoverings	\$ -	\$ 186,500		\$ 186,500	
<b>Division 10: Specialties</b>					
BP1005 - Toilet Specialties / Accessories / Division 10	\$ -	\$ 45,000		\$ 45,000	
BP1010 - Identification Devices	\$ -	\$ 28,253		\$ 28,253	
<b>Division 11: Equipment</b>					
BP1148 - Athletic Equipment	\$ -	\$ 78,251	\$ (78,251)	\$ -	By Dare County
<b>Division 12: Furnishings</b>					
BP1230 - Finish Carpentry and Casework	\$ -	\$ 149,025		\$ 149,025	
BP1250 - Window Treatments	\$ -	\$ 26,817		\$ 26,817	
<b>Division 21: Fire Suppression</b>					
BP2100 - Fire Protection	\$ -	\$ 188,744		\$ 188,744	Three Bidders expected
<b>Division 22: Plumbing</b>					
BP2200 - Plumbing	\$ -	\$ 1,019,054		\$ 1,019,054	Should be a solid conservative budget, but only 2 bidders
<b>Division 23: Heating, Ventilating, Air Conditioning</b>					
BP2300 - HVAC	\$ -	\$ 1,779,176	\$ 300,000	\$ 2,079,176	Maybe only have one bidder. ZBZ is at bonding capacity
<b>Division 26: Electrical</b>					
BP2600 - Turnkey Electrical	\$ -	\$ 1,766,347	\$ 300,000	\$ 2,066,347	Pitt/LJ only bidders. Recommend adding 20%, my understanding is we are adding Alerting System, Ceullar Network too.
<b>Division 31: Earthwork</b>					
BP3100 - Turnkey Site	\$ 1,062,934	\$ -	\$ 700,000	\$ 1,762,934	Fred Smith & Whitehurst Bidding(both full of work) Recommend adding. Also, I understand the grade had to be raised.
<b>Division 32: Exterior Improvements</b>					
BP3213 - Site Concrete	\$ 838,158	\$ -	\$ 150,000	\$ 988,158	Fred Smith & Whitehurst Bidding(both full of work) Recommend adding
BP3290 - Landscaping	\$ 96,649	\$ -		\$ 96,649	
Subtotal Subcontract Costs	\$ 2,182,152	\$ 13,214,596	\$ 1,899,838	\$ 17,296,586	
SUBCONTRACTOR DEFAULT INSURANCE	\$ 30,550	\$ 185,424	\$ 26,598	\$ 242,572	
<b>Subcontract Costs with Bonds</b>	\$ 2,212,702	\$ 13,400,020	\$ 1,926,435	\$ 17,539,158	
CONSTRUCTION CONTINGENCY	\$ 66,381	\$ 402,901	\$ 57,793	\$ 527,075	
PRECONSTRUCTION CONTINGENCY	\$ 44,254	\$ 268,600	\$ -	\$ 312,854	Maintain for design changes
ESCALATION	\$ 66,381	\$ 402,901	\$ -	\$ 469,282	Maintain for market volatility and plumbing
<b>Cost of Work Subtotal</b>	\$ 2,389,718	\$ 14,474,422	\$ 1,984,228	\$ 18,848,369	
GENERAL CONDITIONS	\$ 218,215.00	\$ 1,324,460		\$ 1,542,675	
INSURANCES AND BONDS	\$ 58,952.21	\$ 357,811	\$ 41,669	\$ 458,432	
FEE	\$ 140,362.00	\$ 851,931		\$ 992,293	
<b>Totals</b>	\$ 2,807,247	\$ 17,008,624	\$ 2,025,897	\$ 21,841,769	

**County of Dare, North Carolina  
Capital Project Ordinance  
for  
Series 2023A LOBs**

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, for the planned Series 2023A LOBs, (formerly 2022C) originally adopted on 9/7/2021 and amended on 1/18/2022, 7/18/2022, 1/3/2023 and 2/6/2023, is hereby amended:

Section 1 This amendment is to eliminate the original project budgets in Phase 1 and establish the project budgets with the guaranteed maximum price for the Dare MedFlight Station (#7), the Southern Shores Station (#4), as well as the demolition budget for the Kill Devil Hills Station site (#1).

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

Section 3 The following existing appropriations are reduced by the amounts indicated:

EMS Facilities – architectural services	615531-710900-60360	\$1,245,155	decrease
EMS Facilities – surveys & geotechnical	615531-710101-60360	\$59,536	decrease
EMS Facilities – CM preconstruction fee	615531-737500-60360	\$213,065	decrease

Section 4 The following revenues are anticipated to be available to complete the projects are increased as indicated:

Debt Proceeds S2022C LOBs	613090-470318-98734	\$16,571,059	increase
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Section 5 The following amounts are appropriated for **Dare MedFlight Station #7**:

Architectural services	615535-710900-60380	\$667,964
Surveys & geotechnical	615535-710101-60380	\$32,197
Inspections & construction testing	615535-710911-60380	\$85,000
FF&E	615535-737406-60380	\$156,750
Network wiring	615535-737409-60380	\$23,500
Station alerting & card security systems	615535-737409-60380	\$86,924
Builders risk insurance	615535-525401-60380	\$15,000
Utilities installation	615535-737517-60380	\$35,000
Owner’s costs	615535-737002-60380	\$35,000
Fiber	615535-737526-60380	\$72,000
Fuel farm & pumps	615535-737520-60380	\$226,500
Owner’s contingency	615535-750000-60380	\$263,288
GMP – guaranteed maximum price	615535-737504-60380	\$7,834,370
Sales tax refunds	615535-737001-60380	(\$79,911)

Section 6 The following amounts are appropriated for **Southern Shores Station #7**:

Architectural services	615531-710900-60381	\$577,191
Surveys & geotechnical	615531-710101-60381	\$27,339
Inspections & construction testing	615531-710911-60381	\$50,000
FF&E	615531-737406-60381	\$147,000
Network wiring	615531-737409-60381	\$23,500
Station alerting & card security systems	615531-737409-60381	\$82,862
Builders risk insurance	615531-525401-60381	\$15,000
Utilities installation	615531-737517-60381	\$15,000
Owner's costs	615531-737002-60381	\$25,000
Town of Southern Shores storage building	615531-737520-60381	\$91,565
Owner's contingency	615531-750000-60381	\$244,325
GMP – guaranteed maximum price	615531-737504-60381	\$7,342,647
Sales tax refunds	615531-737001-60381	(\$74,896)

Section 7 The following amounts are appropriated for **Kill Devil Hills Station #1**:

Demolition	615531-737008-60382	\$68,700
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Section 8 The legal level of budget control for EMS Phase 1, #'s 60380, 60381, and 60382, is the total budgeted for all projects. Per the bond documents, to close in April 2023, all borrowed funds and non-arbitrage interest earnings may be used for any Phase 1 project or for EMS Phase 2 projects. Per the annual budget ordinance, the County Manager is authorized to execute change orders or amendments to construction contracts in amounts up to \$50,000, and to amend the related capital project ordinance using the project or owner's contingency or budget amounts available from other project line items. For EMS Phase 1 projects that authority is extended to budget movement between projects/project numbers.

Section 9 The Finance Officer is directed to report the financial status of the project as a part of the normal ongoing financial reporting process.

Section 10 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 6<sup>th</sup> day of February, 2023.

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Chairman, Board of Commissioners

[SEAL]

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Cheryl Anby, Clerk to the Board of Commissioners



# AIA® Document A133™ – 2019 Exhibit A

## **Guaranteed Maximum Price Amendment**

This Amendment dated the 5th day of January in the year 2023, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the 5th day of January in the year 2023 (the "Agreement")  
*(In words, indicate day, month, and year.)*

for the following **PROJECT**:  
*(Name and address or location)*

Dare County EMS Stations (EMS Station 4 Southern Shores and EMS Station 7 Med Flight)

**THE OWNER:**  
*(Name, legal status, and address)*

Dare County  
954 Marshall C. Collins Drive  
Manteo, NC 27948

**THE CONSTRUCTION MANAGER:**  
*(Name, legal status, and address)*

Barnhill Contracting Company  
800 Tiffany Blvd., Suite 200  
Rocky Mount, NC 27804

### TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

### ARTICLE A.1 GUARANTEED MAXIMUM PRICE

#### § A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

#### ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Fifteen Million Six Hundred Eighty-Four Thousand Three Hundred Fifteen Dollars (\$ 15,684,315.00 ), subject to additions and deductions by Change Order as provided in the Contract Documents.

Contract Total Includes the Following Cost:

1. Preconstruction Contract - \$507,298.00
2. EMS Station 4 (Southern Shores) and EMS Station 7 (Med Flight) – GMP Summary \$15,177,017.00

\*\*\* Any Changes made to how payment is received must be done via official change order. Payment for Pay Application #1 will be issued by Dare County to Barnhill Contracting Company via check. Payment for remaining apps will be issued by ACH.\*\*\*

\*\*\* Due to the project locations, the CM shall vet out costs associated with Builder’s Risk and reconcile these costs with the owner via change order to the GMP once formal quotations have been received\*\*\*

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

*(Provide itemized statement below or reference an attachment.)*

See Attached (Dare County Post-bid Update 01.05.23) Post Bid Evaluation Letter, GMP Summary and Value Management Log

§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
EMS Station #4 – Southern Shores	
1. Alternate P-1 A,B,C – Best Hardware	\$0.00
2. Alternate CMR-1 – BDA System	\$38,000.00
3. Alternate #01 – Demolition of KDHEMS-1 / FS-14	\$61,382.00
EMS Station #7 – MedFlight	
1. Alternate P-1 A,B,C – Best Hardware	\$0.00
2. Alternate CMR-1 – BDA System	\$60,000.00

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.

*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
None		

§ A.1.1.6 Unit prices, if any:  
*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
EMS Station #4 (Southern Shores)		
BP2600		
1. Data Outlet and Conduit	Each	\$425.00
2. Duplex Receptacle and Circuit	Each	\$425.00
BP3100		
1. Undercut / Trench Excavation	CY	\$88.25
2. Demo and Dispose of Undercut / Trench Excavation	CY	\$31.75
3. Undercut / Open Excavation	CY	\$34.00
4. Undercut / Open Excavation Disposal	CY	\$24.00
EMS Station #7 (Med Flight)		
BP2600		
1. Data Outlet and Conduit	Each	\$175.00
2. Duplex Receptacle and Circuit	Each	\$460.00
BP3100		
1. Undercut / Trench Excavation	CY	\$88.25
2. Demo and Dispose of Undercut / Trench Excavation	CY	\$31.75
3. Undercut / Open Excavation	CY	\$45.65
4. Undercut / Open Excavation Disposal	CY	\$31.75

**ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ A.2.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

- The date of execution of this Amendment.
- Established as follows:  
*(Insert a date or a means to determine the date of commencement of the Work.)*  
 February 2023 (Pending Permit Approvals)

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

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

**§ A.2.3 Substantial Completion**

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

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

- Not later than ( 301 (Southern Shores) and 354 (Med Flight ) calendar days from the date of commencement of the Work. Pending Permit Approvals
- By the following date:

Other identifying information:

(Paragraph deleted)  
 (Table deleted)  
 (Paragraphs deleted)  
 (Table deleted)  
 (Paragraphs deleted)  
 (Table deleted)  
 (Paragraphs deleted)  
 (Table deleted)  
 (Paragraphs deleted)  
 (Table deleted)  
 (Paragraph deleted)

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:  
 (Identify each allowance.)

Item	Price
EMS Station 4 (Southern Shores)	
1. Trench Excavation – 50CY	\$5,100.00
2. Open Excavation – 50CY	\$2,465.00
3. Liquid Asphalt Escalation	\$5,000.00
EMS Station 7 (Med Flight)	
1. Trench Excavation – 50CY	\$5,100.00
2. Open Excavation – 150CY	\$9,870.00
3. Liquid Asphalt Escalation	\$5,000.00

(Paragraphs deleted)

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
 (List any other documents or information here, or refer to an exhibit attached to this Amendment.)

Dare County Bid Manual (Includes Drawings and Specification Log) – 10/17/22, Addendum #1 – 10/20/22, Addendum #2 – 10/27/22, Addendum #3 – 11/1/22, Addendum #4 – 11/7/22, Addendum #5 – 11/9/22, Addendum #6 – 11/11/22, BCC VE Log – 12/27/22

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

\_\_\_\_\_  
 OWNER (Signature)  
 \_\_\_\_\_  
 (Printed name and title)

\_\_\_\_\_  
 CONSTRUCTION MANAGER (Signature)  
 John Smith Jr. Vice President Building Group  
 \_\_\_\_\_  
 (Printed name and title)



***RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO***

**Description**

Please see the attached Item Summary.

**Board Action Requested**

Adopt Resolution

**Item Presenter**

David Clawson, Finance Director

**ITEM SUMMARY: RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

The attached Resolution is the first step to issue the Series 2023A Limited Obligation Bonds. The debt will be an issue of twenty-year, publically sold, bonds on April 20, 2023.

The debt issuance will provide financing for:

- New construction of a Dare EMS and Kill Devil Hills Fire Station;
- New construction of a Southern Shores EMS Station; and
- New construction of a Dare MedFlight hangar and crew quarters.

The County will execute an MOA with the Town of Kill Devil Hills and the Town will annually pay its share of debt service. That payment is shown as a revenue in the Capital/Debt Affordability Model.

The Board resolutions and documents will be worded so that if needed, debt proceeds may be used between projects, and any project savings and/or interest income greater than budgeted may later be used for Phase Two projects.

The Resolution uses a not to exceed amount of \$49,250,000 which allows for a margin of safety for the final Kill Devil Hills project cost and a 5% original issue discount at the bond sale (the bonds could be sold at less than par value if preferred by institutional buyers).

The Public Hearing for the bonds will be on March 6 and bond approval will be on the LGC April 4 agenda for approval. The bond sale date is April 20 with the closing on April 27. The Dare County Public Facilities Corporation will also meet and adopt a Resolution on March 6.

The Resolution states:

- It is in the best interest of the County to enter into an installment financing contract to finance the Projects, and that the Kill Devil Hills property will be pledged under the deed of trust;
  - Pledging other project properties if necessary is allowed;
- The Projects are essential to the County, and the County can finance them at favorable interest rates;
- The financed amount will not exceed \$49,250,000;
- The use of an installment financing contract for the financing vehicle is preferred and is the more cost and time efficient option;
- An increase in property taxes, if any, will not be excessive - *there is no property tax increase necessary to finance the projects per the debt affordability model*;
- The County's taxing power is not pledged for the financing;
- The County is not in default under any of its debt service obligations;
- The County's budget process is in compliance with the Local Government Budget and Fiscal Control Act;
- Per past audit reports, the County has been in compliance with the law and has not been censured by the LGC, external auditors, or other regulatory agencies; and
- A public hearing will be held on the financing on March 6, 2023.

The Resolution:

- Authorizes the County Manager and Finance Director or designees to proceed with the Contract for a principal amount of not to exceed \$49,250,000 under NCGS 160A-20;
- Directs the Finance Director or designee to file an application with the LGC;
- Authorizes and directs the Finance Director to retain Parker Poe Adams & Bernstein as bond counsel and DEC Associates as financial advisor, the Bank of New York Mellon trust Company as trustee, and Piper Sandler & Co. as underwriter; and
- Sets a Public Hearing on March 6, 2023 on the contract, the deed of trust, and the projects and directs the Clerk to the Board to publish a notice at least 10 days prior.

**Board Action Requested:** Adopt the Resolution.

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

*WHEREAS*, the County of Dare, North Carolina (the “*County*”) is a validly existing political subdivision of the State of North Carolina (the “*State*”), existing as such under and by virtue of the Constitution, statutes and laws of the State;

*WHEREAS*, the County has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

*WHEREAS*, the Board of Commissioners of the County (the “*Board of Commissioners*”) hereby determines that it is in the best interest of the County to engage in a long-term plan to finance (a) the construction of a new youth center in the Town of Manteo (the “*Youth Center*”), (b) the construction of a replacement County EMS station in the Town of Kill Devil Hills and a fire station on behalf of the Town of Kill Devil Hills (the “*KDH Facility*”), (c) the construction, renovation, and improvements to various EMS stations throughout the County (collectively, the “*EMS Stations*”), (d) the construction of a new airport hangar for Dare MedFlight, including crew quarters (the “*Hangar*”), and (e) other projects that may be identified as part of the County’s future capital improvement plans (collectively, the “*Projects*”);

*WHEREAS*, the Corporation will assist the County by the issuance of its Limited Obligation Bonds in one or more series (the “*Bonds*”) to finance the Projects;

*WHEREAS*, as part of its plan to finance the Projects, the Board of Commissioners hereby determines that it is in the best interest of the County to finance a portion of the Projects by (1) entering into an Installment Financing Contract (the “*Contract*”) with Dare County Public Facilities Corporation (the “*Corporation*”) in order to finance the capital costs of the KDH Facility, the County EMS Station in the Town of Southern Shores, and the Hangar (collectively, the “*2023A Projects*”), and (2) entering into a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) related to the County’s fee simple interest in certain real property on which the KDH Facility will be located (the “*Mortgaged Property*”), that will provide security for the County’s obligations under the Contract;

*WHEREAS*, the County hereby determines that the 2023A Projects are essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2023A Projects will provide an essential use and will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

*WHEREAS*, the County hereby determines that the Contract allows the County to finance the 2023A Projects and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

*WHEREAS*, the County hereby determines that the estimated cost of financing the 2023A Projects is an amount not to exceed \$49,250,000, and that such cost of the 2023A Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;



*WHEREAS*, although the cost of financing the 2023A Projects pursuant to the Contract is expected to exceed the cost of financing the 2023A Projects pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the 2023A Projects pursuant to the Contract and the Deed of Trust and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the 2023A Projects; and (3) no revenues are produced by the 2023A Projects so as to permit a revenue bond financing;

*WHEREAS*, the County has determined and hereby determines that the estimated cost of financing the 2023A Projects pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

*WHEREAS*, the County anticipates that any property tax increase, if necessary, to pay installment payments falling due under the Contract will not be excessive;

*WHEREAS*, Parker Poe Adams & Bernstein LLP, as bond counsel ("*Bond Counsel*"), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

*WHEREAS*, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

*WHEREAS*, the County is not in default under any of its debt service obligations;

*WHEREAS*, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

*WHEREAS*, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

*WHEREAS*, a public hearing on the Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

*WHEREAS*, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the Contract and the Deed of Trust and the 2023A Projects to be financed.

*NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NORTH CAROLINA, AS FOLLOWS:*

Section 1. **Authorization to Negotiate the Contract.** That the County Manager and the Deputy County Manager/Finance Director, individually and collectively, with advice from Bond Counsel, are hereby authorized and directed to proceed and negotiate on behalf of the County for the financing of the 2023A Projects for a principal amount not to exceed \$49,250,000 under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and to provide in connection with the Contract, as security for the County's obligations thereunder, a Deed of Trust conveying a lien and interest in the Mortgaged Property, including the improvements thereon, as may be required by the entity, or its assigns, providing the funds to the County under the Contract.

Section 2. **Application to LGC.** That the Deputy County Manager/Finance Director, or his designee, is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 3. **Direction to Retain Professionals.** That the Deputy County Manager/Finance Director is hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, as bond counsel; DEC Associates, Inc., as financial advisor; The Bank of New York Mellon Trust Company, N.A., as trustee, and Piper Sandler & Co., as underwriter. The Deputy County Manager/Finance Director is hereby authorized to retain such other professionals as he deems necessary in his judgment to carry out the transaction contemplated in this Resolution.

Section 4. **Public Hearing.** That a public hearing (the "*Public Hearing*") shall be conducted by the Board of Commissioners on March 6, 2023 at 9:00 a.m. in the Board of Commissioners' Meeting Room, Dare County Administration Building, 954 Marshall C. Collins Drive, Manteo, North Carolina 27954, concerning the Contract and the proposed 2023A Projects.

Section 5. **Notice of Public Hearing.** That the Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the County no fewer than 10 days prior to the Public Hearing.

Section 6. **Repealer.** That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 7. **Effective Date.** That this Resolution is effective on the date of its adoption.

Adopted this the 6<sup>th</sup> day of February, 2023.

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Robert Woodard, Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board

STATE OF NORTH CAROLINA            )  
  )  
COUNTY OF DARE                    )        SS:

I, *Cheryl C. Anby*, Clerk to the Board of Commissioners of the County of Dare, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” duly adopted by the Board of Commissioners of the County of Dare, North Carolina at a meeting held on the 6<sup>th</sup> day of February, 2023.

**WITNESS** my hand and the corporate seal of the County of Dare, North Carolina, this the \_\_\_ day of February, 2023.

(SEAL)

\_\_\_\_\_  
Cheryl C. Anby  
Clerk to the Board of Commissioners  
County of Dare, North Carolina

**EXHIBIT A**  
**NOTICE OF PUBLIC HEARING**

The County of Dare (the “*County*”) is considering entering into an installment financing contract (as may be amended or supplemented from time to time, the “*Contract*”) in order to finance (a) the construction of a new youth center in the Town of Manteo (the “*Youth Center*”), (b) the construction of a replacement County EMS station in the Town of Kill Devil Hills and a fire station on behalf of the Town of Kill Devil Hills (the “*KDH Facility*”), (c) the construction, renovation, and improvements to various EMS stations throughout the County (collectively, the “*EMS Stations*”), and (d) the construction of a new airport hangar for Dare MedFlight, including crew quarters (the “*Hangar*” and collectively with the Youth Center, the KDH Facility, and the EMS Stations, the “*Projects*”).

The County, as grantor, will secure its obligations under the Contract by entering into a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) under which the real property on which all or a portion of the Projects will be located (the “*Mortgaged Property*”) will be mortgaged by the County to create a lien thereon for the benefit of the entities, or its assigns, providing the funds to the County under the Contract.

The EMS Stations will be located at 515 Bowsertown Road Manteo, NC 27954; 50346 Highway 12 Frisco, NC 27936; 28 East Dogwood Trail Southern Shores, NC 27949; and 6677 Highway 64/264 Manns Harbor, NC 27953. The KDH Facility will be located at 1630 North Croatan Highway Kill Devil Hills NC 27948. The Hangar will be located at 410 Airport Road Manteo NC 27954.

As part of its plan to finance the Projects, the Board of Commissioners of the County adopted a resolution at its February 6, 2023 meeting which authorized the County to (1) finance a portion of the Projects, including the KDH Facility, a County EMS Station in Southern Shores, and the Hangar (collectively, the “*2023A Projects*”) pursuant to the Contract in a principal amount not to exceed \$49,250,000, and (2) grant a security interest in the KDH Facility pursuant to the Deed of Trust for the benefit of the entity, or its assigns, providing the funds to the County under the Contract.

The Contract and the Deed of Trust permit the County to enter into amendments to finance the remainder of the Projects or other additional projects and refinance projects using the Mortgaged Property as collateral and the County may or may not grant additional collateral in connection with such amendments. The County currently plans to finance the remainder of the Projects pursuant to the Contract and the Deed of Trust at a later time. On the County’s payment of all installment payments due under the Contract, including any future amendments to finance the Projects or other additional projects or refinance projects, the lien created in the Mortgaged Property will terminate and any security interest granted under the Deed of Trust will be released.

*NOTICE IS HEREBY GIVEN*, pursuant to Sections 160A-20 of the General Statutes of North Carolina, that on March 6, 2023 at 9:00 a.m., or as soon thereafter as practicable, in the Board of Commissioners’ Meeting Room, Dare County Administration Building, 954 Marshall C. Collins Drive, Manteo, North Carolina 27954, a public hearing will be conducted concerning the approval of the execution and delivery of the Contract and the County’s financing of the 2023A Projects. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the 2023A Projects to be financed thereby. Any person wishing to comment in writing should do so between the date of publication of this notice and the start of the public hearing by submitting comments to the County of Dare, Dare County Administration Building, 954 Marshall C. Collins Drive, Manteo, North Carolina 27954, Attention: Clerk to the Board of Commissioners, or [cheryl.anby@darenc.com](mailto:cheryl.anby@darenc.com).

/s/ Cheryl C. Anby  
Clerk to the Board of Commissioners  
County of Dare, North Carolina

Published: February \_\_, 2023



*Resolution Supporting Step Pay and Compression Increases for Division of Juvenile Justice and Delinquency Prevention Secure Detention, Youth Development Center, and Court Services Staff*

**Description**

See attached resolution for consideration

**Board Action Requested**

Adopt resolution

**Item Presenter**

Commissioner Steve House



**Resolution Supporting Step Pay and Compression Increases for  
Division of Juvenile Justice and Delinquency Prevention  
Secure Detention, Youth Development Center, and Court Services Staff**

**WHEREAS**, the Division of Juvenile Justice and Delinquency Prevention provides secure confinement in Juvenile Detention Centers and commitment services in the State’s Youth Development Centers that are essential to the protection of the community and rehabilitation of juveniles; and

**WHEREAS**, the lack of adequate staffing constrains effective implementation of the therapeutic and rehabilitative model of care in the state’s juvenile facilities; and

**WHEREAS**, the Juvenile Crime Prevention Councils are charged with ensuring the availability of appropriate dispositional alternatives, up to and including “confinement” for justice-involved youth that are both therapeutic and conducive to rehabilitation; and

**WHEREAS**, the staff within the State’s juvenile facilities have been passed over for step-pay plan and compression relief that would recognize and reward experience, and make compensation more competitive, as well as ensure qualified staff recruitment and retention; and

**WHEREAS**, the Division of Juvenile Justice and Delinquency Prevention is contending with an overwhelming vacancy rate, largely due to the impact of the pandemic which has driven salaries and wages higher across the board; and

**WHEREAS**, the Step Pay and Compression relief for Division of Juvenile Justice and Delinquency Prevention facility staff and court services staff were removed from the state’s budget prior to final approval; and

**WHEREAS**, similar salary adjustments or increases WERE approved for staff in the State’s adult correctional facilities and community corrections employees.

**THEREFORE, BE IT RESOLVED**, that the Dare County Board of Commissioners supports the adequate and timely increase of the salaries of juvenile facility and court service staff across the State of North Carolina to make those positions competitive and to ensure qualified staff are compensated adequately for years of experience for the purposes of retention, as well as lay the groundwork for recruitment of qualified staff for youth facilities which will ensure the immediate and ongoing protection of the community and strengthen rehabilitative services for those juveniles most in need.

This the 6<sup>th</sup> day of February, 2023.

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Robert Woodard, Sr., Chairman

Attest:

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Cheryl C. Anby, Clerk to the Board



*Consent Agenda*

**Description**

1. See attached Summary

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager



## **Consent Summary**

1. Approval of Minutes (01.03.23 and 01.18.23)
2. Monarch Beach Club of Dare Lease Renewal
3. DHHS - Community Child Protection Team and Child Fatality Prevention Team Annual Report
4. Dare County Older Adult Fire Alarm Proposal
5. Water Dept. NCDOT Three Party Right of Way Encroachment Agreement - Airport Road
6. Tax Collector's Report
7. Updates to County Financial Policies and Travel Policy
8. Capital Project Ordinance for Frisco-Buxton Pathway
9. Capital Project Ordinance for the Soundside Boardwalk Improvements Project
10. Use and Occupancy Permit – NCDOT Slash Bridge Project - Water Line Agreement



*Approval of Minutes*

**Description**

The Board of Commissioners will review and approve their previous minutes (1/3/23 and 1/18/23) 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., January 3, 2023**

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

Commissioners absent: Jim Tobin

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 Anby

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

At 9:04 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited George Lurie to share a prayer, and then he led the Pledge of Allegiance to the flag.

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

Following is a brief outline of the items mentioned by Chairman Woodard:

- The Board would hold a town hall special meeting at the Rodanthe Waves Salvo Community Center to discuss beach nourishment at 6:00 p.m.
- State of the County address would be on January 25<sup>th</sup> at Captain George’s Restaurant.
- The Board had received a thank you from Carol Ann, owner of The Jolly Roger’s. She was recognized for her contributions to the County at the last meeting.
- He wished everyone a Happy New Year for 2023.

#### **ITEM 2 – SWEARING IN CEREMONY – (ATT.# 1)**

The oath of office for re-elected Commissioner Ervin Bateman was administered by the Clerk.

#### **ITEM 3 – PRESENTATION OF COUNTY SERVICE PINS- none present**

#### **ITEM 4 – EMPLOYEE OF THE MONTH – January, 2023**

Dare County’s 911 Communications Center Director Jack Scarborough, received the Employee of the Month award from Sheriff Doug Doughtie who described the many ways he is an asset to the Sheriff’s Department and had transitioned into his new position.

## **ITEM 5 – PUBLIC COMMENTS**

At 9:30 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:

*The following comment was made in Manteo*

1. Kathryn Fagan applauded the responsiveness of Sheriff Doug Doughtie's office. She presented to the Board the need to preserve green space on Roanoke and suggested Dare purchase a three-acre tract near the Sound and develop it for a sound-side beach. It would give locals a place to go for recreation without leaving Roanoke Island.

*There was no comment from Buxton, and Mr. Outten closed Public Comments at 9:36 a.m.*

## **ITEM 6 – PRESENTATION OF FISCAL YEAR 2022 AUDIT REPORT**

Full comments may be viewed on the County's archived website video. Mr. Bob Taylor and Mr. Dan Morrow, auditors of Potter & Company, presented the June 30, 2022 audit and Annual Comprehensive Financial Report. Mr. Taylor congratulated and commended the County on their successful economic year. He highlighted the 247-page financial report and stated the General Fund Unassigned fund balance was at 34.53 % and the County's target policy was 21%. Last year it was right at 30%. Mr. Clawson provided additional details as to the five new funds added in 2022. He explained the 10 Fund was the operating expenditures. The County reduced the net OPEB liability by \$54 million or 31%. He shared the ten year history of revenue changes. Government debt went down to 0.73% of assessed property value. He explained anything under 1% was good. He also gave the water system automated meter system update. It was a clean audit opinion. There were no grant findings and no grant questioned costs. Mr. Taylor commented that all county governments needed to sustain good fiscal spending in order to have the resources for future spending purposes.

## **ITEM 7 – REVIEW OF 2023-24 GRANT APPLICATION FROM THE ECONOMIC IMPROVEMENT COUNCIL**

The Board was presented with the 2023-24 grant application from the Economic Improvement Council. The federal grant helps support a wide range of community-based activities to reduce poverty. No action was required of the Board

## **ITEM 8 – DARE COUNTY COASTAL STORM DAMAGE MITIGATION GRANT CONTRACTS**

Dustin Peele's summary indicated there were three grants from NCDEQ to address coastal storm damage mitigation efforts in the towns, Avon and Buxton. These funds would offset some expenses incurred in the recent beach nourishment. Avon contract would be reduced from the original amount of \$5,576,639 to \$4,714,231.60. The reduction is a result of a more accurate accounting of the eligible expenses under the grant program.

### **MOTION**

Commissioner House motioned to approve the contracts from NCDEQ and authorize the County Manager to sign each contract.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

**ITEM 9 – NCDOT RESOLUTION FOR AIRPORT ROAD MULTI-USE PATH (Att. #2)**

Barton Grover presented a resolution, which would be part of a requirement towards submission of an application to obtain a feasibility study grant for sidewalk and improvements on Airport Road.

**MOTION**

Vice-Chairman Overman motioned to adopt the resolution.

Commissioner House seconded the motion.

VOTE: AYES unanimous

**ITEM 10 – DCM LOCAL PLANNING AND MANAGEMENT GRANT PROGRAM**

Barton Grover's summary explained there was a grant for beach, shoreline and water management projects. It was proposed to update the 2013 feasibility report for Rodanthe beach to determine the minimum beach volume necessary for a five-year storm protection plan. The State would provide up to a 75% match for the study. The resurvey would furnish an estimated cost for any beach nourishment project along with maintenance costs and would take approximately six months to complete.

**MOTION**

Commissioners Couch and House motioned to approve the application, the budget amendment and authorize the County Manager to enter into a contract with DEQ.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

**ITEM 11 – BUDGET AMENDMENT FOR DC SCHOOLS LOCAL CURRENT EXPENSE**

David Clawson presented the updated calculation for the Dare County Schools using the funding formula established. There were two changes to the original calculation after the State approved their budget. It included a COLA of 4%, rather than the estimated 2%. The employee retirement system, estimated at 24.19% was actually 24.50%. These two changes resulted in an increase of \$199,775, which required a County budget amendment.

**MOTION**

Commissioner House motioned to adopt the budget amendment.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

**ITEM 12 – DARE COUNTY MARINE SAND SEARCH INVESTIGATION AND BORROW AREA DESIGN**

Dustin Peele stated Dare County had been awarded a \$1,000,000 grant from NCDEQ to aid in the mitigation of storm water damage and erosion control. The Board was presented with a proposal from Coastal Protection and Engineering with three tasks to be completed within two years to mitigate the costs of coastal storm damage to the ocean beaches and dune systems. The proposal would also provide offshore sand search to identify future borrow pit areas with a final geo-technical report. Mr. Outten stated there be enough sand for the next project, but there was a need to research for future long-term projects.

**MOTION**

Commissioner Bateman motioned to approve both the budget amendment and the proposal, and to authorize the County Manager to sign the Coastal Protection proposal.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

**ITEM 13 – EMS STATION 1 CAPITAL PROJECT ORDINANCE AND ARCHITECT CONTRACT AMENDMENT (Att. #3)**

Mr. Peele explained the Town of Kill Devil Hills had asked for the design of EMS Station 1 to be changed. The cost increase in the amount of \$61,000 was due to design changes and the architect's travel expenses. Mr. Outten explained when the plan was flipped it changed the water and sewer. Mr. Clawson said the project would now be scheduled for bid on January 24, 2023. The final contract approval for the GMP and the LGC would now be in April. Mr. Clawson added the delay could result in lower interest rates.

**MOTION**

Commissioner House motioned to approve both the Capital Project Ordinance and contract amendment and authorize the County Manager to sign the amendment.

Commissioners Bateman and Ross seconded the motion.

VOTE: AYES unanimous

**ITEM 14– 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 (12.05.22) **(Att. #4)**
- 2) Baldwin Aviation Safety Management System Contract
- 3) Mutual Aid Agreement for Fuel Pump Use by Outside Entities **(Att.#5)**
- 4) Tax Collector's Report
- 5) Stumpy Point Disposal Site Modification Budget Amendment
- 6) Budget Amendment – Coronavirus Relief - Transportation

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

**ITEM 15 – BOARD APPOINTMENTS**

- 1) Stumpy Point Community Center Board

Vice-Chairman Overman motioned to reappoint Johnny Midgett, Tammi Perry-Inscore, Naomi Midgett and Jeff Griffith

Commissioner House seconded the motion.

VOTE: AYES unanimous

- 2) Library Board – Regional East Albemarle Regional Library

Commissioner Ross motioned to appoint Mary Lou Hoffert.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

- 3) Older Adult Services Advisory Council

Vice-Chairman Overman motioned to appoint Don Berg and Beulah Ashby.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

- 4) Commission for Working Watermen

Commissioner Bateman motioned to reappoint Jaimie Reibel, Joe Wilson, Dewey Hemilright and Steve House.

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

5) Airport Authority

Commissioner Couch motioned to appoint James R. Kenny to complete the term of William Pope.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

6) Upcoming Board Appointments

The upcoming Board appointments for February, March and April, 2023 were announced.

**ITEM 16 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS**

The remarks of the Commissioners and the County Manager may be viewed in their entirety in a video on the Dare County website. Following is a brief summary:

Commissioner Bateman

- He wished everyone a Happy New Year.
- He highlighted the accomplishments of John Cain, who had recently raised \$14,000 for the local food pantry.

Commissioner Couch

- He stated the attraction of our area by others should not be taken for granted.
- Deputy Stephen Hickman passed away on December 23<sup>rd</sup>. He was a Hatteras native and a good deputy.
- He added remembrances of Jazania Herbert O’Neal of Rodanthe, Karen Sue Kraft and Lovey Elizabeth Selby who had each recently passed.
- He and the Chairman mentioned the Buxton Fire station needed a flashing light especially due to their blind corner. The County Manager stated he would follow up with NCDOT.

Commissioner Ross

- Congratulated Commissioner Bateman on his re-election and today’s ceremony.
- He complimented the Elizabethan Gardens Christmas for their holiday light show
- He recognized and highlighted just a few of the coordinated events made possible by Dare County EMS and other public safety agencies in the area to collect Toys for Tots. He also described their Lights of Christmas program.

Commissioner House

- Jeep Charities Group had received a call from the Virginia Tillett Center regarding Christmas gifts. The group went out shopping for the extra presents needed to make sure there was no shortage for Dare County’s children.
- The Wounded Warriors in Action group (Purple Heart recipients) would be in Dare sometime in February to participate in some area outdoor sporting activities.
- He covered several events for the “day in history”: In 1496 Leonardo da Vinci tried his flying machine without success. In 1925, Benito Mussolini dissolved the Italian parliament and became dictator. In 1972, the Apple computer was incorporated.
- He wished everyone a happy 2023.

Vice-Chairman Overman

- Recognized the employee of the month, Jack Scarborough. He stated we were very fortunate to have him.
- Wished everyone a happy new year and added we would have a challenging year ahead both locally and as a country.

Commissioner Bateman invited the Board and others to join him on February 25, 2023 for the “polar plunge” at Jennette’s Pier. It would benefit Dare County’s Special Olympics.

Chairman Woodard stated Jim Clark, who had served on the A.B.C. Board had passed away last month and he would be missed.

**MANAGER’S/ATTORNEY’S BUSINESS\***

(\*Note: At the 12/5/22 Board Meeting, a resolution requesting rulemaking for the request of a No Wake Zone located at Motts Creek, Dare County was approved. A hard copy resolution was not provided at 12/6/22 meeting and is referenced here to be recorded with the Register of Deeds as part of the 1/3/2023 board packet)

Mr. Outten provided an update on the affordable housing projects. Several meetings ago the Board had discussed moving forward with the purchase of the Schiffman property. The wetlands delineation report had been completed with the opinion that the wetlands located would not impede the development of the property. He asked the Board to move forward with the property purchase.

**MOTION**

Commissioner House motioned to approve the County’s purchase the Schiffman property  
Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

A full account of the Board’s discussion of this item, the map review and ingress/egress are archived on a video available for viewing on the Dare County website.

**ITEM 17 – CLOSED SESSION**

The Manager asked for a Closed Session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the County in order to preserve the attorney-client privilege as to the ongoing opioid litigation; and to approve the minutes of the last Closed Session.

**MOTION**

Chairman Woodard motioned to go into Closed Session pursuant to the provisions of the North Carolina General Statutes cited by the County Manager.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

At 11:24 a.m., the Commissioners exited the room to meet in Closed Session. They reconvened at 11:46 a.m. Mr. Outten reported the Board approved previous Closed Session minutes, provided guidance to the County Attorney regarding the opioid litigation, and took no further action.



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

**MOTION**

Commissioner House motioned to adjourn the meeting.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

At 11:47 a.m., the Board of Commissioners adjourned until 6:00 p.m., January 18, 2023 for the Special Meeting in Rodanthe relative to a discussion on erosion.

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 at this meeting are on file in the office of the Clerk.



# County of Dare

P.O. Box 1000 | Manteo, NC 27954

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## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS SPECIAL MEETING

Rodanthe-Waves-Salvo Community Building, Rodanthe, NC

**6:00 p.m., January 18, 2023**

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

Commissioners absent: Jim Tobin - excused

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 Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website: [www.darenc.gov](http://www.darenc.gov)**

At 6:01 p.m. Chairman Woodard called to order the meeting and thanked everyone for coming. In addition to a packed room of more than 100, there were approximately 160 people attending virtually. Chairman invited Commissioner Couch to lead in an invocation, and then he led the Pledge of Allegiance to the flag. Chairman Woodard acknowledged the attendance of Trey Lewis representing U.S. Senator Thom Tillis, and Leslie Ginski on behalf of U.S. Representative Greg Murphy, along with Superintendent Dave Hallac.

### **RODANTHE EROSION DISCUSSION**

County Manager Robert Outten said there would be a three-minute limit for speakers in attendance and those online after the presentation concluded. He began with a detailed history of how the issue of beach nourishment had been discussed in the late 1980's. A ten-mile project in Nags Head had been designed by the Corps of Engineers. It was designed for the federal government to pay 70% of the cost, the state 20%, and the county 10%. An occupancy tax had been designed to pay the 10% share for the federal project. No federal appropriation was ever made. Regardless of politics and countless requests, federal funding was not forthcoming.

In the late 1990's, Nags Head and the County worked together to finance a beach nourishment project for Nags Head. The town paid for half and the other fifty percent was paid through the Dare County Beach Nourishment Fund.

Mr. Outten stated that 2% of the 6% occupancy tax was designated for the Beach Nourishment Fund. This tax generated \$14.6 million for fiscal year ending June, 2021, and \$15.7 million the following fiscal year. He cautioned, however, those two years were unusual

growth rates and should not be used for reliable budgeting purposes. He outlined the criteria used for the beach nourishment financial model. It projected the future costs, revenues, and included maintenance over five-year intervals. The policy to best leverage the funds on hand required that the model would also set aside one year's debt service.

Nags Head completed their project a few days before Hurricane Irene hit the area. An inspection of the beach after the storm evidenced the beach nourishment project did what it was intended to do. It protected the infrastructure and homes in the area. The other towns created special service districts to benefit and fund their future beach nourishment projects.

Mr. Outten moved forward with a discussion of Rodanthe's current situation. Before the completion of the bridge, NCDOT protected the roads, which in turn, helped the oceanside. Now Rodanthe was not protected by DOT road work. He provided a scenario for a Rodanthe project that would be approximately 2.25 miles (roughly the same size project completed in Avon and Buxton). The last engineer study was in 2013, and a new study was being done. A new study would provide information to compute the cubic yards of sand needed to better estimate a project. The 2013 study indicated the cost would be approximately \$20 million. With the passage of ten years, price increases, and an increased erosion rate, it would obviously cost more today. There was currently \$6 million dollars available for a new beach project. Based upon the model, Dare County would need \$30 million dollars of new money plus the \$6 million for a new project. The fund would not grow fast enough and a special service district established in Rodanthe would not make up the difference. Another source of funds, either state or federal would be necessary. There were currently no appropriations of federal funds for nourishment projects. There were Department of the Interior funds and Superintendent Dave Hallac had some requests in for funding projects. He was, however, competing with funds needed by every other national park in the country. Mr. Outten stated he and Chairman Woodard had discussed nourishment issues with the coastal legislative delegation today in Currituck. We need a recurring North Carolina fund for nourishment projects. He urged the audience to contact their state legislature to help.

Dare County did not have money to support a project. If there were funds available, Mr. Outten explained there would have to be consideration to the priority of all beach projects, such as the Canal Zone, Rodanthe and Isabel Inlet. All of those locations were currently experiencing high risk erosion rates. Dare would like DOT to take responsibility for the Canal Zone and Isabel Inlet issues so Dare could make Rodanthe a priority. He praised the continued efforts of DOT; but reminded the group that DOT had limited resources and typically acted when a road was lost.

Mr. Outten summarized and provided answers to many questions submitted in advance of the meeting. (See video for full responses).

He reiterated that North Carolina did not give authority to use any of the alternative methods to protect the oceanfront. Only nourishment or temporary sandbags were currently permitted. Discussions were needed now to authorize other "tools" to combat ocean erosion.

Mr. Outten explained possible next steps. After the study was completed, it would help determine a more accurate price tag on any Rodanthe project. Once a cost was determined, it would be possible to pursue state and federal funding.

One question concerned sound side erosion. Mr. Outten explained Dare County had no plans for the sound side, but reminded the group the sound side owners had numerous options available to them such as bulkheads, not permitted on the oceanside.

At 6:67 p.m. the Manager invited public comments. A summary follows:

### **PUBLIC COMMENTS**

1. Peter Shepherd asked if the \$6 million currently in the county's fund could be used for a buyout program and Mr. Outten responded that it could not per state statute.
2. Kyle Banniak said it was a Hatteras Island issue. Ocean over wash will come to the jug handle circle and will close the road. It was important to explore all funding options.
3. Kathleen Kosman asked if any smaller projects could be done at Ocean Drive and Corbina such as sand bags or dune backup. Mr. Outten offered to look into smaller projects with NCDOT.
4. Amy Cramer stated the issue impacted everyone, including Outer Banks tourism, especially when national and local media groups report on the erosion Rodanthe.
5. Jett Ferebee stated it was a federal issue and should have a federal solution. He proposed that when the entire national seashore in front of Rodanthe was lost, it was an impairment of the national park system. He added Rodanthe did not have enough representation and needed federal help in order to save Rodanthe.
6. Matt King questioned the model and asked if the County would consider a potential working group of homeowners, NCDOT, and park officials to try to create a different model that would work for the villages.

Chairman Woodard addressed an earlier comment regarding Hatteras representation. Commissioner Danny Couch worked hard for the area and the Board had gone to DC numerous times without success for funding. Dave Hallac commented that it was true there were "lots of pots available" but there were also 424 national parks in the system competing for the same funds. He stated it was unlikely the park service would allocate funds for beach nourishment for several reasons. They had asked for funds for NC12 hot spots such as the Canal Zone and Pea Island Visitor Center (two of seven hot spots) to aid with transportation solutions. He acknowledged the need but added beach nourishment was a short-term solution compared to other projects that would solve issues for a longer term.

Mr. Outten opened the floor to those with online questions. The deficiency in ban width, however, prevented clear communication. Mr. Outten apologized and explained their questions and County answers would be added to the website if emailed to the County. He returned to anyone with in-person questions or comments.

Matt Story stated three homes were lost in 2022 and they were all on Ocean Drive. The beach was still not clean and presented an immense safety issue.

Jett Ferebee stated it was a federal beach with a federal problem. He stated the park service, the largest landowner in Dare County, paid \$60,000 a year in lieu of taxes.

Ann Cramer asked Dave Hallac where Rodanthe was in the list of priorities. He replied Rodanthe was one of the hot spots, but explained threatened homes were not part of the task force conversation. It was safety and transportation. Mr. Hallac said the beach was eroding fast everywhere. In Rodanthe, where homes intersected with the ocean, it was bad. They were focused on maintaining sustainable transportation solutions as a priority.

John Kuster suggested an increase in the tourism tax. Mr. Outten explained the legislature behind the occupancy tax in North Carolina and how it is imposed on those who rent hotel and vacation residences. All 100 counties have that authority with a six-cent cap. The Tourism lobbyists were adamantly opposed to any increase and they had a lot of influence in the legislature. As one of the top four tourist destinations in the state, Dare did well with collected occupancy and sales taxes. With an area that grows to over 300,000 each summer, those funds were needed for services and could not be risked for reduction.

Rick Chapman asked Dave Hallac about sustainable transportation solutions and wanted the Rodanthe traffic removed. Mr. Outten responded that it was part of a NCDOT project and did not involve the park service.

At 7:49 p.m. Chairman Woodard thanked the civic center for the refreshments and the use of their building for the meeting. In closing comments, he reminded the group the Board cared about what was happening and would continue to do everything to find solutions.

At 7:51 p.m., the meeting adjourned with the Board scheduled to have their regular meeting on February 6, 2023, at 9:00 a.m.

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 supporting material are on file in the office of the Clerk. Attempts have been made to accurately reflect the spelling of each name as spoken at the podium or based on the legibility of the sign-in sheet.



*Monarch Beach Club of Dare Lease Renewal*

**Description**

The Monarch Beach Club of Dare leases a portion of a space located at 715 N. Hwy 64/264, Manteo, NC.

NCGS 160A-272 authorizes counties to enter into leases of up to 10 years upon resolution of the county commissioners at a regular meeting after public notice. The required thirty (30) day notice has been properly advertised.

Attached is the proposed lease renewal for three years.

**Board Action Requested**

Approve the renewal lease agreement with the Monarch Beach Club of Dare for a period of three years, adopt the resolution and authorize the County Manager to execute the lease.

**Item Presenter**

Robert Outten, County Manager



## **RESOLUTION APPROVING LEASE AGREEMENT BETWEEN DARE COUNTY AND MONARCH BEACH CLUB OF DARE**

**WHEREAS**, the County of Dare owns 715 N. Highway 64/264, Manteo, NC;

**WHEREAS**, the County of Dare and the Monarch Beach Club of Dare have agreed upon a renewal lease under which the Monarch Beach Club of Dare will lease of portion of that certain building located at 715 N. Hwy 64/264, Manteo, NC 27954, commonly known as “the Old Kellogg Supply building”, containing approximately 3,600 square feet, together with adjacent parking and signage, for a term of three years beginning on the date of execution of the lease, for the purpose of a day activity program for adults with intellectual and developmental disabilities; and

**WHEREAS**, North Carolina General Statute 160A-272 authorizes the County to enter into leases of up to 10 years upon resolution of the County Commissioners adopted at a regular meeting after 30 days public notice; and

**WHEREAS**, the required notice has been published and the Dare County Board of Commissioners is convened in a regular meeting;

**THEREFORE, BE IT RESOLVED**, that the Dare County Board of Commissioners approves renewal lease of the county property described above to the Monarch Beach Club of Dare for three years, and directs the County Manager to execute any instruments necessary to the lease.

Adopted this the 6<sup>th</sup> day of February, 2023.

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Robert Woodard, Sr., Chairman  
Dare County Board of Commissioners

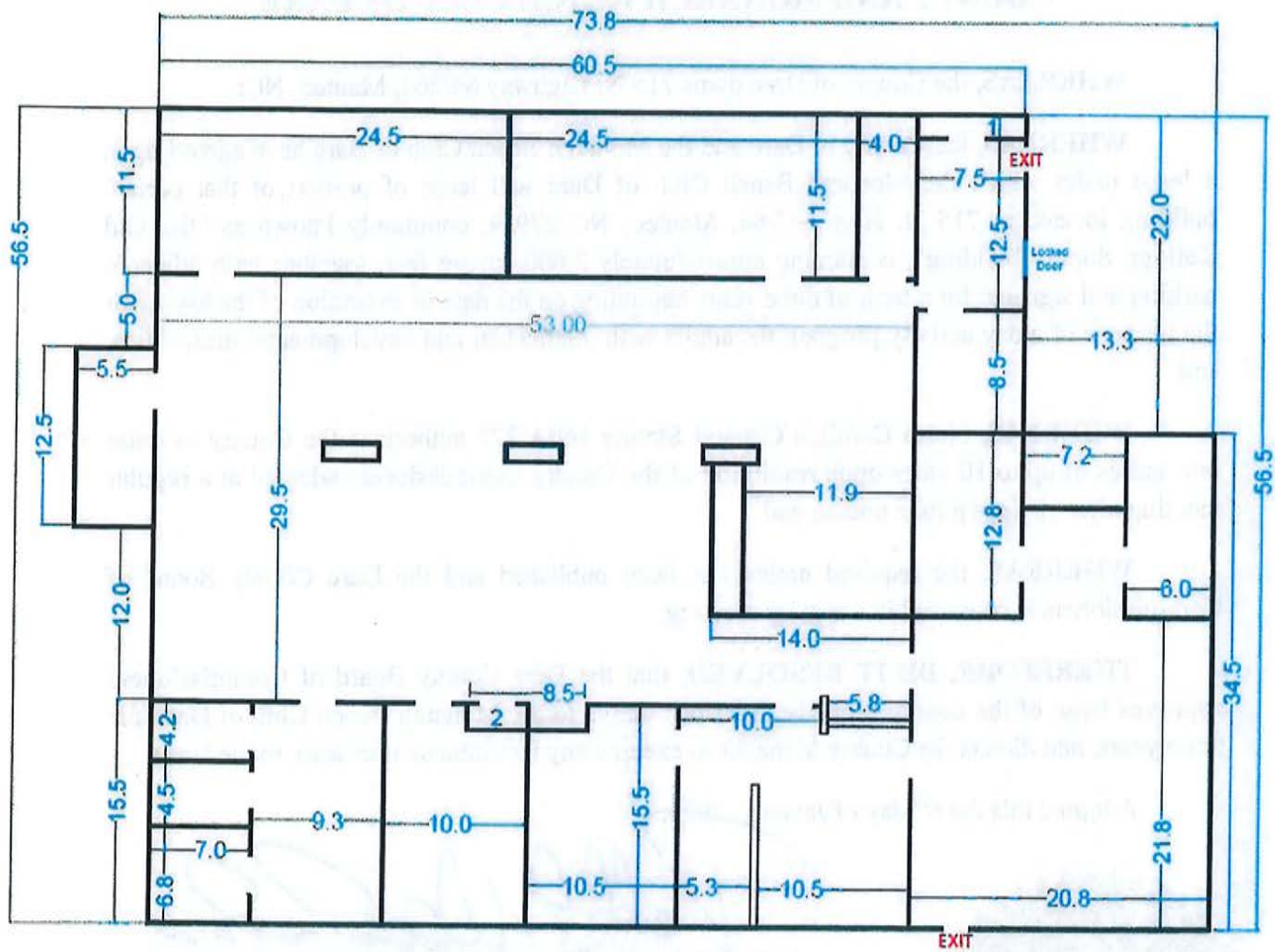
Attest: \_\_\_\_\_  
Clerk to the Board







REPORT ON THE PROGRESS OF THE WORK DURING THE YEAR 1954



AFFIDAVIT OF PUBLICATION

*This is not an Invoice*

**THE COASTLAND TIMES**

Post Office Box 400  
Manteo, North Carolina 27954

IN ACCOUNT WITH

Description	Ad Number
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Attorneys placing legal advertising are held responsible for payment.

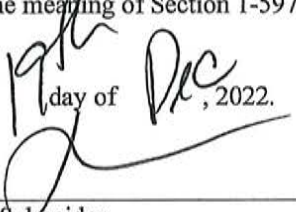
**NORTH CAROLINA  
DARE COUNTY**

**AFFIDAVIT OF PUBLICATION**

Before the undersigned, a Notary Public, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared the undersigned representative who being duly sworn, deposes and says that he (she) is an employee or other officer authorized to make this affidavit of Outer Banks Newsmedia, LLC, engaged in the publication of a newspaper known as The Coastland Times, issued and entered as second class mailing in the Town of Manteo, N.C., in said county and state; that he (she) is authorized to make this affidavit and sworn statement; and the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Coastland Times on the following date(s):

Dec. 18, 2022

And that the said newspaper in which such notice, paper, document or legal advertisement was published was at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This the 19<sup>th</sup> day of Dec, 2022.  


Theresa Schneider  
*(Signature of representative making affidavit)*

Sworn to and subscribed before to me this 18 th day of Dec, 2022.

Hannah C. Russ  
*(Notary Public)*




**PUBLIC NOTICE  
LEASE OF  
COUNTY PROPERTY**

The Dare County Board of Commissioners intends to renew the lease agreement between Dare County and Monarch. The leased space is located at 715 Highway 64/264, Manteo, North Carolina 27954 and is approximately 3,600 square feet. The County intends to lease the property to Monarch for a term of three (3) years beginning on January 6 th , 2023 and ending on January 6 th , 2026 with an annual payment of \$1.00. The Dare County Board of Commissioners intends to authorize the lease agreement at the regularly scheduled meeting to be held Monday, February 6, 2023, at 9:00 AM at the Dare County Administration Building located at 954 Marshall C. Collins Drive, Manteo, NC.

12-18c



*DHHS - Community Child Protection Team and Child Fatality Prevention Team (CCPT/CFPT) Annual Report*

**Description**

2022 Annual CCPT and CFPT Report

**Board Action Requested**

None

**Item Presenter**

n/a

Dare County Community Child Protection Team and  
Child Fatality Prevention Team (CCPT/CFPT)

2022 Report to

Dare County Board of Commissioners

And

Dare County Department of Health and Human Services Board

Meetings: The team met four times this past year: February 21, May 16, August 15, and November 14, 2022.

Participation: An average of 12 (67%) of the members attended the meetings. Due to COVID, the February meeting was held online and the other three meetings were held in person.

The Child Fatality Prevention Team reviewed the two child fatalities that resulted from the residential fire on Hatteras. Due to an ongoing investigation, limited information was provided. The cause of the fire has not been determined. The team made no recommendations.

The Community Child Protection Team reviewed three cases and identified the following issues:

- Children with mental health needs whose parents have private insurance cannot access in-home therapeutic services as they are Medicaid funded services.
- There are not enough therapists in Dare County who accept Medicaid. Almost all therapists who accept Medicaid are not accepting new clients.
- Systemic poverty is a major issue for some families. For these families, it is not simply that the income does not cover the monthly expenses. There are the compounding effects of marginal housing, inefficient home weatherization, probation costs, etc.
- Access to Medicaid dental providers who provide more than a general cleaning for children in Dare County is limited.

Attachment - Membership Roster

COMMUNITY CHILD PROTECTION TEAM  
CHILD FATALITY PREVENTION TEAM  
TEAM COMPOSITION  
2022

<u>Person</u>	<u>Representing</u>
Jeff Gard	Law enforcement
Stephanie Webb	Trillium
Wendy Furlough	Outer Banks Hospital - Member at Large
Jodi Wyant	Member at Large
Hannah Gilroy	District Attorney's Office
Chuck Lycett	Social Services Director – CCPT Coordinator
Sally Laws	DHHS – DSS
Kathleen Foreman	Guardian Ad Litem
L'Tanya Murray	DHHS Board
Jeff Mitchell	EMS
Christina Stafford	County Medical Examiner
Susan Trueblood	Local Health Care Provider
Judge Edgar Barnes	Chief District Court Judge
Ashley Jackson	Board of Education
Sheila Davies	Health Director
Nancy Griffin	Member at Large
Irina Langanke	CFPT Coordinator
Beth Storie	Parent who lost a child before the age of 18



*Dare County Older Adults Fire Alarm Proposal*

**Description**

Planned service agreement for Baum Senior Center fire alarm system. There is no effect on the county budget. This is an ongoing contract and we have a contract line that we have been paying this out of.

**Board Action Requested**

Approve proposed agreement.

**Item Presenter**

Brandi Bohanan, Director

# Dare County Older Adult - Fire Alarm Proposal

## Planned Service Agreement



**Johnson Controls Fire Protn LP**  
3750 Progress Road  
Norfolk VA23502  
US

**Proposal Presented On:**  
11-21-2022



## SERVICE SOLUTION

**Customer #:**  
 County of Dare, NC  
**Date:** 21-Nov-22  
**Proposal #:** CPQ-330110  
**Term:** 1-Jan-23 to 31-Dec-27  
**External Contract #:**  
**Subscription ERP #:**

**Billing Customer:**  
 Dare County Older Adult Services  
 Po Box 1000  
 MANTEO, DARE NC 27954-1000

**Service Location:**  
 Dare County Older Adult Services  
 300 S Mustian St, 300 S Mustian St  
 Kill Devil Hills, NC 27948-8453

**Johnson Controls Fire Protection LP**  
**Sales Representative:**  
 Irene Stalcup  
 3750 Progress Road  
 Norfolk VA 23502  
 irene.stalcup@jci.com  
 7574486143

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### INVESTMENT SUMMARY

*(Service Solution Valid for 30 Days)*

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SERVICE/PRODUCT DESCRIPTION	QUANTITY	FREQUENCY	INVESTMENT
<b>SYSTEM-FA-SIMPLEX 4006</b>			
<b>SIMPLEX 4006 SYSTEM</b>			
	<b>Est. First Inspection: January</b>		
Main Fire Alarm Panel	1	Annual	
Pull Station	6	Annual	
Audio-Visual Notification Conventional	5	Annual	
<b>FIRE ALARM ESSENTIAL SERVICE OFFER Total:</b>			<b>\$658.32</b>

To the extent applicable, Johnson Controls has included an estimate for all state and local sales tax for this quote. The actual sales tax due will be calculated and billed upon issuance of an invoice, unless a valid exemption and/or resale certificate is received by Johnson Controls.





## SERVICE SOLUTION

### SUMMARY OF SERVICES

The summary of services is intended to cover the following locations:

Location	Address	City	State	Zip	Fire Alarm
Dare County Older Adult Services	300 S Mustian St,300 S Mustian St	Kill Devil Hills	NC	27948-8453	\$658.32

#### FIRE ALARM ESSENTIAL SERVICE OFFER

##### SYSTEM-FA-SIMPLEX 4006

###### TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible peripheral devices listed and currently connected to the facility fire alarm system. Tests will be scheduled in advance. Unless otherwise specified herein, batteries installed within wireless initiating and notification peripheral devices are not covered under this agreement. Replacement of such batteries will be at an additional cost.

###### DOCUMENTATION:

Accessible components and devices logged for:

- Location of each device tested, including system address or zone location
- Test results and applicable voltage readings
- any discrepancies found noted

Inspection documentation provided to Customer's representative. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted services are in compliance with these requirements.

#### Smoke Detector Sensitivity Testing

##### SYSTEM-FA-SIMPLEX 4006

###### SENSITIVITY TESTING FOR CONVENTIONAL SMOKE DETECTORS:

Smoke detector sensitivity testing will be performed on smoke detectors. Testing will be performed using UL/ULC approved sensitivity testing equipment. Devices performing outside the listed sensitivity range will be re-cleaned and re-tested, and, if necessary, noted and recommended for replacement. NOTE: Certain types of analog smoke sensors automatically satisfy this testing requirement through sensitivity reports printed from the fire alarm panel. Ex cludes duct smoke detectors.

#### Customer Portal (Basic)

##### SYSTEM-FA-SIMPLEX 4006

Basic Customer Portal functionality will be provided.



## SERVICE SOLUTION

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by Johnson Controls Fire Protection LP ("Company") to **County of Dare, NC** and is effective **1-Jan-23** (the "Effective Date") to **31-Dec-27** (the "Initial Term"). Customer agrees that initial inspections may be performed within 45 days from the Effective Date.

**PAYMENT FREQUENCY:** Annual after Inspection is performed.

Initials

**PAYMENT TERMS:** Net 30

*For applicable taxes, please see Section 3 of the Terms & Conditions*

**PAYMENT AMOUNT:** \$658.32 - **Proposal #:** CPQ-330110

**PAYMENT SUMMARY:**

Year	Term	PSA Charges
1	01/01/2023 - 12/31/2023	\$658.32
2	01/01/2024 - 12/31/2024	\$658.32
3	01/01/2025 - 12/31/2025	\$658.32
4	01/01/2026 - 12/31/2026	\$658.32
5	01/01/2027 - 12/31/2027	\$658.32

**CUSTOMER ACCEPTANCE:** In accepting this Agreement, Customer agrees to the Terms and Conditions on the following pages and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes in the system requested by Customer after the execution of Agreement shall be paid for by Customer and such changes shall be authorized in writing.

**ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.**



## SERVICE SOLUTION

### Multi Year Contract Rider AGREEMENT

Acknowledgement of Multi-Year Term. Customer agrees that issuance of a Purchase Order does not amend any provision of the service agreement, including without limitation the duration/term of the service agreement. Customer agrees to issue Purchase Orders sufficient to satisfy its obligations under the multi-year service agreement. Should Customer fail to issue additional Purchase Orders, Company will still be permitted to invoice Customer for services performed, and Customer shall not dispute the validity of such invoices.

Customer Initials:

Unless otherwise agreed to by the parties, pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment is due upon receipt, and invoices are to be paid via ACH/EFT bank transfer. Johnson Controls ACH/EFT bank transfer details will be forth coming upon contractual agreement.

This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.

To ensure that JCI is compliant with your company's billing requirements, please provide the following information:

- PO is required to facilitate billing:  NO: This signed contract satisfies requirement  
 YES: Please reference this PO Number: \_\_\_\_\_
- AR Invoices are accepted via e-mail:  YES: E-mail address to be used: \_\_\_\_\_  
 NO: Please submit invoices via mail  
 NO: Please submit invoices via \_\_\_\_\_



## SERVICE SOLUTION

County of Dare, NC	Johnson Controls Fire Protection LP
Signature: _____	Authorized Signature: _____
Print Name: <u>Robert L. Outten</u>	Print Name: _____
Title: <u>County Mgr/Atty.</u>	Title: _____
Phone #: <u>252-475-5800</u>	Phone #: _____
Fax #: <u>252-473-1817</u>	Fax #: _____
Email: <u>outten@darenc.gov</u>	License #: _____ (if applicable)
Date: _____	Date: _____

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act. 12/16/2022

*Sally Detesse*

## TERMS AND CONDITIONS

**1. Term.** The Initial Term of this Agreement shall commence on the date of this Agreement and continue for the period indicated in this Agreement. At the conclusion of the Initial Term, this Agreement shall automatically extend for successive terms equal to the Initial Term (subject to Section 3) unless either party gives written notice to the other party at least thirty (30) days prior to the end of the then-current term (each a "Renewal Term").

**2. Payment and Invoicing.** Unless otherwise agreed by the parties in writing, fees for Services to be performed shall be paid annually in advance. Unless otherwise agreed to by the parties, amounts are due upon receipt of the invoice by Customer. Invoices shall be paid by Customer via electronic delivery via EFT/ACH. Invoicing disputes must be identified in writing within 21 days of the invoice date. Payments of any disputed amounts are due and payable upon resolution. Payment is a condition precedent to Company's obligation to perform Services under the Agreement. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement. Customer acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and Customer's failure to make payment in full when due is a material breach of this Agreement. Customer further acknowledges that if there is any amount outstanding on an invoice, it is material to Company and will give Company, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any Services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend Company's obligations under or terminate this Agreement; and (ii) charge Customer interest on the amounts unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. Company's election to continue providing future services does not, in any way diminish Company's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. Company shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of Services for non-payment. In the event that there are exigent circumstances requiring services or the Company otherwise performs Services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Customer disputes any late payment notice or Company's efforts to collect payment, Customer shall immediately notify Company in writing and explain the basis of the dispute. Customer agrees to pay all of Company's reasonable collection costs, including legal fees and expenses.

**3. Pricing.** The pricing set forth in this Agreement is based on the number of devices and services to be performed as set forth in this Agreement. If the actual number of devices installed or services to be performed is greater than that set forth in this Agreement, the price will be increased accordingly. Company may increase prices upon notice to Customer to reflect increases in material and labor costs. All stated prices are exclusive of and Customer agrees to pay any taxes, fees, duties, tariffs, false alarm assessments, installation or alarm permits and levies or other similar charges imposed and/or enacted by a government, however designated or imposed, including but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under this Agreement. Prices in any quotation or proposal from Company are subject to change upon notice sent to Customer at any time before the quotation or proposal has been accepted. Company will provide Customer with notice of any pricing adjustments applicable to any Renewal Term no later than 45 days prior to the commencement of that Renewal Term. Unless Customer terminates the Agreement at least thirty (30) days prior to the start of such Renewal Term, the adjusted price shall be the price for the Renewal Term. Prices for products covered by this Agreement may be adjusted by Company, upon notice to Customer at any time prior to shipment and regardless of Customer's acceptance of the Company's proposal or quotation, to reflect any increase in Company's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements.

**4. Code Compliance.** Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in this Agreement. Customer acknowledges that the Authority Having Jurisdiction (e.g. Fire Marshal) may establish additional requirements for compliance with local codes. Any additional services or equipment required will be provided at an additional cost to Customer.

**5. Limitation of Liability; Limitations of Remedy.** Customer understands that Company offers several levels of protection services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. It is understood and agreed by Customer that Company is not an insurer and that insurance coverage shall be obtained by Customer and that amounts payable to Company hereunder are based upon the value of the services and the scope of liability set forth in this Agreement and are unrelated to the value of Customer's property and the property of others located on the premises. Customer agrees to look exclusively to Customer's insurer to recover for injuries or damage in the event of any loss or injury. Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no

guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its obligations under this Agreement. Accordingly, Customer agrees that Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability for Services performed on-site at Customer's premises shall be limited to an aggregate amount equal to the Agreement price (as increased by the price for any additional work) or, where the time and material payment term is selected, Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Company's liability with respect to Monitoring Services is set forth in Section 18 of this Agreement. Such sum shall be complete and exclusive. **IN NO EVENT SHALL COMPANY BE LIABLE, FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY CUSTOMER OR ANY THIRD PARTY.** To the maximum extent permitted by law, in no event shall Company and its affiliates and their respective personnel, suppliers and vendors be liable to Customer or any third party under any cause of action or theory of liability, even if advised of the possibility of such damages, for any (a) special, incidental, consequential, punitive or indirect damages of any kind; (b) loss of profits, revenues, data, customer opportunities, business, anticipated savings or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyberattacks or failures or interruptions to network systems. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

**6. Reciprocal Waiver of Claims (SAFETY Act).** Certain of Company's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum extent permitted by law, Company and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

**7. Indemnity. Please see Rider.**

**8. General Provisions.** Customer has selected the service level desired after considering and balancing various levels of protection afforded and their related costs. All work to be performed by Company will be performed during normal working hours of normal working days (8:00 a.m. - 5:00 p.m., Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement. All work performed unscheduled unless otherwise specified in this Agreement. Appointments scheduled for fourhour window. Additional charges may apply for special scheduling requests (e.g. working around equipment shutdowns, after hours work). Company will perform the services described in the Service Solution ("Services") for one or more system(s) or equipment as described in the Service Solution or the listed attachments ("Covered System(s)"). **UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT**

DOES NOT COVER SYSTEMS, EQUIPMENT, COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING, AND PIPING.

**9. Customer Responsibilities.** Customer shall regularly test the System(s) in accordance with applicable law and manufacturers' and Company's recommendations. Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes any existing system(s) are in operational and maintainable condition as of the Agreement date. If, upon inspection, Company determines that repairs are recommended, repair charges will be submitted for approval by Customer's on-site representative prior to work. Should such repair work be declined, Company shall be relieved from any and all liability arising therefrom.

Customer further agrees to:

- provide Company clear access to Covered System(s) to be serviced including, if applicable, lift trucks or other equipment needed to reach inaccessible equipment;
- supply suitable electrical service, heat, heat tracing adequate water supply, and required system schematics and/or drawings;
- notify all required persons, including but not limited to authorities having jurisdiction, employees, and monitoring services, of scheduled testing and/or repair of systems;
- provide a safe work environment;
- in the event of an emergency or Covered System(s) failure, take reasonable precautions to protect against personal injury, death, and/or property damage and continue such measures until the Covered System(s) are operational; and
- comply with all laws, codes, and regulations pertaining to the equipment and/or Services provided under this Agreement.

Customer represents and warrants that it has the right to authorize the Services to be performed as set forth in this Agreement. Customer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply Company secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access. Customer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

**10. Repair Services.** Where Customer expressly includes repair, replacement, and emergency response services in the Service Solution section of this Agreement, such Services apply only to the components or equipment of the Covered System(s). Customer agrees to promptly request repair services in the event the System becomes inoperable or otherwise requires repair. The Agreement price does not include repairs to the Covered System(s) recommended by Company as a result of an inspection, for which Company will submit independent pricing to Customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, is not included under this Agreement.

**11. System Equipment.** The purchase of equipment or peripheral devices, (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) from Company shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company, Customer or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Failure of Customer to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

**12. Reports.** Where inspection and/or test services are selected, such inspection and/or test shall be completed on Company's then current report form, which shall be given to Customer, and, where applicable, Company may submit a copy thereof to the local authority having jurisdiction. The report and recommendations by Company are only advisory in nature and are intended to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected and/or tested. They are not intended to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

**13. Availability and Cost of Steel, Plastics & Other Commodities.** Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other

commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination.

**14. Confined Space.** If access to confined space by Company is required for the performance of Services, Services shall be scheduled and performed in accordance with Company's then-current hourly rate.

**15. Hazardous Materials.** Customer represents that, except to the extent that Company has been given written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no:

- Space in which work must be performed that, because of its construction, location, contents or work activity therein, accumulation of a hazardous gas, vapour, dust or fume or the creation of an oxygen-deficient atmosphere may occur;
- "permit confined space," as defined by OSHA for work Company performs in the United States;
- risk of infectious disease;
- need for air monitoring, respiratory protection, or other medical risk; or
- asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement.

All of the above are hereinafter referred to as "Hazardous Conditions."

Company shall have the right to rely on the representations listed above. If Hazardous Conditions are encountered by Company during the course of Company's work, the discovery of such materials shall constitute an event beyond Company's control, and Company shall have no obligation to further perform in the area where the Hazardous Conditions exist until the area has been made safe by Customer as certified in writing by an independent testing agency, and Customer shall pay disruption expenses and re-mobilization expenses as determined by Company. This Agreement does not provide for the cost of testing involving a discharge or release, capture, containment, transport, removal, or disposal (collectively, the "Discharge Services") of any hazardous waste materials, hazardous materials, firefighting materials including without limitation any firefighting foam encountered in and/or discharged from any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Customer shall be responsible for any Discharge Services associated with such materials, including all discharged firefighting foam in accordance with all applicable law. Company shall not be responsible for the testing, removal or disposal of such hazardous materials. Customer shall indemnify and hold Company harmless from and against any and all claims, demands and/or damages arising in whole or in part from the use of or any Discharge Services associated with any hazardous waste, hazardous materials, or firefighting materials including without limitation firefighting foam encountered or discharged during performance of the Services.

**16. Covid-19 Vaccination.** Company expressly disclaims any requirement, understanding or agreement, express or implied, included directly or incorporated by reference, in any Customer purchase order, solicitation, notice or otherwise, that any of Company's personnel be vaccinated against Covid-19 under any federal, state/provincial or local law, regulation or order applicable to government contracts or subcontracts, including, without limitation, Presidential Executive Order 14042 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors") and Federal Acquisition Regulation (FAR) 52.223-99 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors"). Any such requirement shall only apply to Company's personnel if and only to the extent contained in a written agreement physically signed by an authorized officer of Company.

**17. Other Services.**

**A. Remote Service.** If Customer selects Remote Service, Company shall provide support for the Customer's system by way of education, remote assistance and triage that does not require programming changes to the Customer's panel. In addition, Remote Service does not include service to address physical damage to the system or a device; troubleshoot wiring issues; programming changes and/or relocating, remounting, reconnecting, or adding a device to the system. Customer understands and agrees that, while Remote Service provides for communication regarding Customer's fire alarm system to Company via the Internet, Remote Service does not constitute monitoring of the system, and Customer understands that Remote Service does not provide for Company to contact the fire department or other authorities in the event of a fire alarm. Customer understands that if it wishes to receive monitoring of its fire alarm system and notification of the fire department or other authorities in the event of a fire alarm, it must select monitoring services as a separate Service under this Agreement.

**CUSTOMER FURTHER UNDERSTANDS AND AGREES THAT THE TERMS OF SECTION 18.F OF THIS AGREEMENT APPLY TO REMOTE SERVICE.**

**B. Connected Fire Sprinkler Services; Connected Fire Alarm Services.** Connected Fire Sprinkler Services and Connected Fire Alarm Services each means a data-analytics and software platform that uses a cellular or network connection to gather equipment performance data about a Customer's

Covered Equipment for Customer's sprinkler system or fire alarm system, as applicable, to assist JCI in advising Customer on such equipment's health, performance or potential malfunction. Connected Fire Sprinkler Services and Connected Fire Alarm Services are collectively, the Connected Equipment Services. If Customer has purchased Connected Fire Sprinkler Services and/or Connected Fire Alarm Services on any Covered Equipment, Customer agrees to allow Company to install diagnostic sensors and communication hardware ("Gateway Device") or Customer will supply a network connection suitable to enable communication with Customer's Covered Equipment in order for Company to deliver the connected services. For more information on whether your particular equipment includes Connected Fire Sprinkler Services and/or Connected Fire Alarm Services, a subscription to such services and the cost, if any, of such subscription, please see your applicable order, quote, proposal or purchase documentation or talk to your JCI sales representative. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using the service's mobile or web app. The Gateway Device will be used to access, store, and trend data for the purposes of providing Connected Fire Sprinkler Services. Company will not use Connected Fire Sprinkler Services or the Connected Fire Alarm Services to remotely operate or make changes to Customer's Equipment. If the connection is disconnected by Customer, and a technician needs to be dispatched to the Customer site, then the Customer will pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for such services. Company makes no warranty or guarantee relating to the Connected Fire Sprinkler Services or Connected Fire Alarm Services. Customer acknowledges that, while Connected Fire Alarm Services or Connected Sprinkler Services generally improve equipment performance and services, these services do not prevent all potential malfunction, insure against all loss or guarantee a certain level of performance and that JCI shall not be responsible for any injury, loss, or damage caused by any act or omission of JCI related to or arising from the proactive health notifications of the equipment under Connected Equipment Services. Customer understands that if it wishes to receive monitoring of its fire alarm system or sprinkler system and notification of the fire department or other authorities in the event of an alarm, it must select monitoring services as a separate Service under this Agreement. CUSTOMER FURTHER UNDERSTANDS AND AGREES SECTION 20 (SOFTWARE AND DIGITAL SERVICES) APPLY TO CONNECTED FIRE ALARM SERVICES AND CONNECTED SPRINKLER SERVICES. In the event of a conflict between these terms and the Software Terms, the Software Terms will control.

**C. Dashboards and Mobility Applications for Connected Fire Sprinkler Services and Connected Fire Alarm Services.** If Customer has purchased Connected Fire Sprinkler Services and/or Connected Fire Alarm Services, Customer may utilize Company's Dashboard(s) and Mobility Application(s), as applicable, during the term of the Agreement, pursuant to the then applicable Terms of Use Agreement. Terms for the Dashboard are located at <https://www.johnsoncontrols.com/buildings/legal/digital/general/tos>.

**18. Monitoring Services.** If Customer has selected Monitoring Services, the following shall apply to such Services:

**A. Alarm Monitoring Service.** Customer agrees and acknowledges that Company's sole and only obligation under this Agreement shall be to provide alarm monitoring, notification, and/or Runner Services as set forth in this Agreement and to endeavor to notify the party(ies) identified by Customer on the Contact/Call List ("Contacts") and/or Local Emergency Dispatch Numbers for responding authorities. Upon receipt of an alarm signal, Company may, at our sole discretion, attempt to notify the Contacts to verify the signal is not false. If we fail to notify the Contacts or question the response we receive, we will attempt to notify the responding authority. In the event Company receives a supervisory signal or trouble signal, Company shall endeavor to promptly notify one of the Contacts. Company shall not be responsible for a Contact's or responding authority's refusal to acknowledge/respond to Company's notifications of receipt of an alarm signal, nor shall Company be required to make additional notifications because of such refusal. The Contacts are authorized to act on Customer's behalf and, if so designated on the Contact/Call List, are authorized to cancel an alarm prior to the notification of authorities. Customer understands that local laws, ordinances or policies may restrict Company's ability to provide the alarm monitoring and notification services described in this Agreement and/or necessitate modified or additional services and related charges to Customer. Customer understands that Company may employ a number of industry-recognized measures to help reduce occurrences of false alarm signal activations. These measures may include, but are not limited to, implementation of industry-recognized default settings; implementation of "partial clear time bypass" procedures at our alarm monitoring center and other similar measures at our sole discretion from time to time. THESE MEASURES CAN RESULT IN NO ALARM SIGNAL BEING SENT FROM AN ALARM ZONE IN CUSTOMER'S PREMISES AFTER THE INITIAL ALARM ACTIVATION UNTIL THE ALARM SYSTEM IS MANUALLY RESET. Upon receiving notification from Company that a fire or gas detection (e.g. carbon monoxide) signal has been received, the responding authority may forcibly enter the premises. Cellular radio unit test supervision, if provided under this Agreement, provides only the status of the cellular radio unit's current signaling ability at the time of the test communication based on certain programmed intervals and does not serve to detect the potential loss of radio service at the time of an actual emergency event. Company shall not be

responsible to provide monitoring services under this Agreement unless and until the communication link between Customer's premises and Company's Monitoring Center has been tested. **SUCH SERVICES ARE PROVIDED WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**B. Limitation of Liability; Limitations of Remedy.** Customer understands that Company offers several levels of Monitoring Services and that the level described has been chosen by Customer after considering and balancing various levels of protection afforded and their related costs. It is understood and agreed by Customer that Company is not an insurer and that insurance coverage shall be obtained by Customer and that amounts payable to Company hereunder are based upon the value of the Monitoring Services and the scope of liability set forth in this Agreement and are unrelated to the value of Customer's property and the property of others located on the premises. Customer agrees to look exclusively to Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or Services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or Service was designed to detect or avert. It is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from failure on the part of Company to perform any of its monitoring obligations under this Agreement. Accordingly, Customer agrees that Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or Service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or Service in any respect, Company's liability with respect to Monitoring Services shall be the lesser of the annual fee for Monitoring Services allocable to the site where the incident occurred or two thousand five hundred (\$2,500) dollars, as agreed upon damages and not as a penalty, as Customer's sole remedy. Such sum shall be complete and exclusive. **IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S), AS HEREINAFTER DEFINED, OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY.** In no event shall JCI and its affiliates and their respective personnel, suppliers and vendors be liable to Customer or any third party under any cause of action or theory of liability, even if advised of the possibility of such damages, for any (a) special, incidental, consequential, punitive or indirect damages of any kind, including but not limited to damages; (b) loss of profits, revenues, data, customer opportunities, business, anticipated savings or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems **CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM.** The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, and each of their employees, agents, officers and directors.

**C. Indemnity, Insurance.** Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third-party claims for personal injury, death, property damage or economic loss, arising in any way from any act or omission of Customer or Company relating in any way to the Monitoring Services provided under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

**D. No modification.** Modification to Sections 18 B or C may only be made by a written amendment to this Agreement signed by both parties specifically referencing Section 18 B and/or C, and no such amendment shall be effective unless approved by the manager of Company's Central Monitoring Center.

**E. Customer's Duties.** In addition to Customer's duty to indemnify, defend, and hold Company harmless pursuant to this Section 18:

i. Customer agrees to furnish the names and telephone numbers of all persons authorized to enter or remain on Customer's premises and/or that should be notified in the event of an alarm (the Contact/Call List) and Local Emergency Dispatch Numbers and provide all changes, revision and modifications to the above to Company in writing in a timely manner. Customer must ensure that all such persons are authorized and able to respond to such notification.

ii. Customer shall carefully and properly test and set the system immediately prior to the securing of the premises and carefully test the system in a manner prescribed by Company during the term of this Agreement. Customer agrees

that it is responsible for any losses or damages due to malfunction, miscommunication or failure of Customer's system to accurately handle, process or communicate data. If any defect in operation of the System develops, or in the event of a power failure, interruption of telephone service, or other interruption at Customer's premises of signal or data transmission through any media, Customer shall notify Company immediately. If space/interior protection (i.e. ultrasonic, microwave, infrared, etc.) is part of the System, Customer shall walk test the system in the manner recommended by Company.

iii. When any device or protection is used, including, but not limited to, space protection, which may be affected by turbulence of air, occupied airspace change or other disturbance, forced air heaters, air conditioners, horns, bells, animals and any other sources of air turbulence or movement which may interfere with the effectiveness of the System during closed periods while the alarm system is on, Customer shall notify Company

iv. Customer shall promptly reset the System after any activation.

v. Customer shall notify Company regarding any remodeling or other changes to the protected premises that may affect operation of the system.

vi. Customer shall cooperate with Company in the installation, operation and/or maintenance of the system and agrees to follow all instructions and procedures which may be prescribed for the operation of the system, the rendering of services and the provision of security for the premises.

vii. Customer shall pay all charges made by any telephone or communications provider company or other utility for installation, leasing, and service charges of telephone lines connecting Customer's premises to Company. Customer acknowledges that alarm signals from Customer's premises to Company are transmitted over Customer's telephone or other transmission service and that in the event the telephone or other transmission service is out of order, disconnected, placed on "vacation," or otherwise interrupted, signals from Customer's alarm system will not be received by Company, during any such interruption in telephone or other transmission service and the interruption will not be known to Company. Customer agrees that in the event the equipment or system continuously transmits signals reasonably determined by Company to be false and/or excessive in number, Customer shall be subject to the additional costs and fees incurred by Company in the receiving and/or responding to the excessive signals and/or Company may at its sole discretion terminate this Agreement with respect to Monitoring services upon notice to Customer.

#### F. Communication Facilities.

i. **Authorization.** Customer authorizes Company, on Customer's behalf, to request services, orders or equipment from a telephone company, wireless carrier or other company providing communication facilities, signal transmission services or facilities under this Agreement (referred to as "Communication Company"). Should any third-party service, equipment or facility be required to perform the Monitoring Services set forth in this Agreement, and should the same be terminated or become otherwise unavailable or impracticable to provide, Company may terminate Monitoring Services upon notice to Customer.

ii. **Digital Communicator.** Customer understands that a digital communicator (DACT), if installed under this Agreement, uses traditional telephone lines for sending signals which eliminate the need for a dedicated telephone line and the costs associated with such dedicated lines.

iii. **Derived Local Channel.** The Communication Company's services provided to Customer in connection with the Services may include Derived Local Channel service. Such service may be provided under the Communication Company's service marks or service names. These services include providing lines, signal paths, scanning and transmission. Customer agrees that the Communication Company's liability is limited to the same extent Company's liability is limited pursuant to this Section 18.

iv. **CUSTOMER UNDERSTANDS THAT COMPANY WILL NOT RECEIVE ALARM SIGNALS WHEN THE TELEPHONE LINE OR OTHER TRANSMISSION MODE IS NOT OPERATING OR HAS BEEN CUT, INTERFERED WITH OR IS OTHERWISE DAMAGED OR IF THE ALARM SYSTEM IS UNABLE TO ACQUIRE, TRANSMIT OR MAINTAIN AN ALARM SIGNAL OVER CUSTOMER'S TELEPHONE SERVICE FOR ANY REASON INCLUDING NETWORK OUTAGE OR OTHER NETWORK PROBLEMS SUCH AS CONGESTION OR DOWNTIME, ROUTING PROBLEMS, OR INSTABILITY OF SIGNAL QUALITY. CUSTOMER UNDERSTANDS THAT OTHER POTENTIAL CAUSES OF SUCH A FAILURE OVER CERTAIN TELEPHONE SERVICES (INCLUDING BUT NOT LIMITED TO SOME TYPES OF DSL, ADSL, VOIP, DIGITAL PHONE, INTERNET PROTOCOL BASED PHONE OR OTHER INTERNET INTERFACE-TYPE SERVICE OR RADIO SERVICE, INCLUDING CELLULAR OR PRIVATE RADIO, ETC. ("NON-TRADITIONAL TELEPHONE SERVICE")) INCLUDE BUT ARE NOT LIMITED TO: (1) LOSS OF NORMAL ELECTRIC POWER TO CUSTOMER'S PREMISES (THE BATTERY BACK-UP FOR THE ALARM PANEL DOES NOT POWER TELEPHONE SERVICE); AND (2) ELECTRONIC FAILURES SUCH AS A MODEM MALFUNCTION. CUSTOMER UNDERSTANDS THAT COMPANY WILL ONLY REVIEW**

**THE INITIAL COMPATIBILITY OF CUSTOMER'S ALARM SYSTEM WITH NONTRADITIONAL TELEPHONE SERVICE AT THE TIME OF INITIAL CONNECTION TO COMPANY'S MONITORING CENTER AND THAT CHANGES IN CUSTOMER'S TELEPHONE SERVICE'S DATA FORMAT AFTER THE INITIAL REVIEW OF COMPATIBILITY COULD MAKE CUSTOMER'S TELEPHONE SERVICE UNABLE TO TRANSMIT ALARM**

**SIGNALS TO COMPANY'S MONITORING CENTERS. IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT IT IS COMPATIBLE, COMPANY WILL PERMIT CUSTOMER TO USE NON-TRADITIONAL TELEPHONE SERVICE AS THE SOLE METHOD OF TRANSMITTING ALARM SIGNALS, ALTHOUGH CUSTOMER UNDERSTANDS THAT COMPANY RECOMMENDS THE USE OF AN ADDITIONAL BACKUP METHOD OF COMMUNICATION TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER REGARDLESS OF THE TYPE OF TELEPHONE SERVICE USED. CUSTOMER ALSO UNDERSTANDS THAT IF COMPANY DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER'S NON-TRADITIONAL TELEPHONE SERVICE IS OR LATER BECOMES NON-COMPATIBLE, OR IF CUSTOMER CHANGES TO ANOTHER NON-TRADITIONAL TELEPHONE SERVICE THAT IS NOT COMPATIBLE, THEN COMPANY REQUIRES THAT CUSTOMER USE AN ALTERNATE METHOD OF COMMUNICATION ACCEPTABLE TO COMPANY AS THE PRIMARY METHOD TO CONNECT CUSTOMER'S ALARM SYSTEM TO THE MONITORING CENTER. CUSTOMER UNDERSTANDS THAT TRANSMISSION OF FIRE ALARM SIGNALS BY MEANS OTHER THAN A TRADITIONAL TELEPHONE LINE MAY NOT BE IN COMPLIANCE WITH FIRE ALARM STANDARDS OR SOME LOCAL FIRE CODES, AND THAT IT IS CUSTOMER'S OBLIGATION TO COMPLY WITH SUCH STANDARDS AND CODES. CUSTOMER ALSO UNDERSTANDS THAT IF THE ALARM SYSTEM HAS A LINE CUT FEATURE, IT MAY NOT BE ABLE TO DETECT IF A NON-TRADITIONAL TELEPHONE SERVICE LINE IS CUT OR INTERRUPTED, AND THAT COMPANY MAY NOT BE ABLE TO PROVIDE CERTAIN AUXILIARY MONITORING SERVICES THROUGH A NON-TRADITIONAL TELEPHONE LINE OR SERVICE. CUSTOMER FURTHER UNDERSTANDS THAT THE ALARM PANEL MAY BE UNABLE TO SEIZE THE PHONE LINE TO TRANSMIT AN ALARM SIGNAL IF ANOTHER CONNECTION IS OFF THE HOOK DUE TO IMPROPER CONNECTION OR OTHERWISE.**

**G. Verification; Runner Service.** Some jurisdictions may require alarm verification by telephone or on-site verification ("Runner Service") before dispatching emergency services. In the event that a requirement of alarm verification becomes effective after the date of this Agreement, such services may be available at an additional charge. Company shall not be held liable for any delay or failure of dispatch of emergency services arising from such verification. Where Runner Service is indicated, such services may be provided by a third party.

COMPANY WILL NOT ARREST OR DETAIN ANY PERSON.

**H. Personal Emergency Response Service.** If Customer has selected Personal Emergency Response Services, Customer agrees that the very nature of Personal Emergency Response Services, irrespective of any delays, involves uncertainty, risk and possible serious injury, disability or death, for which Company should not under any circumstances be held responsible or liable; that the equipment furnished for Personal Emergency Response Services is not foolproof and may experience signal transmission failures or delays for any number of reasons, whether or not our fault or under Company's control; that the actual time required for medical emergency providers to arrive at the premises and/or to transport any person requiring medical attention is unpredictable and that many contributing factors, including but not limited to such things as telephone network operation, distance, weather, road and traffic conditions, alarm equipment function and human factors, both with responding authorities and with Company, may affect response

**19. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL, EXCLUDING MONITORING SERVICES, FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. No warranty is provided for third-party products and equipment installed or furnished by Company. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and Company will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER.**

Company makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, treat, or mitigate the spread transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

**20. Software and Digital Services.** Use, implementation, and deployment of the software and hosted software products ("Software") offered under these terms shall be subject to, and governed by, Company's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, Company and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms



herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto. Notwithstanding any other provisions of this Agreement and unless otherwise agreed to by the parties in writing, the following terms apply to Software that is provided to Customer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"): Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted herein. At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term. To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable. Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof. Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at JCI's then applicable list price for that Software offering. Any use of Software that exceeds the scope, metrics or volume set forth in this Agreement will be subject to additional fees based on the date such excess use began.

**21. Taxes, Fees, Fines, Licenses, and Permits.** Customer agrees to pay all sales tax, use tax, property tax, utility tax and other taxes required in connection with the equipment and Services listed, including telephone company line charges, if any. Customer shall comply with all laws and regulations relating to the equipment and its use and shall promptly pay when due all sales, use, property, excise and other taxes and all permit, license and registration fees now or hereafter imposed by any government body or agency upon the equipment or its use. Company may, without notice, obtain any required permit, license or registration for Customer at Customer's expense and charge a fee for this service. If Customer fails to maintain any required licenses or permits, Company shall not be responsible for performing the services and may terminate the services without notice to Customer.

**22. Outside Charges.** Customer understands and accepts that Company specifically disclaims any responsibility for charges associated with the notification or dispatching of anyone, including but not limited to fire department, police department, paramedics, doctors, or any other emergency personnel, and if there are any charges incurred as a result of said notification or dispatch, said charges shall be the responsibility of Customer.

**23. Insurance.** Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insureds on Customer's general liability and auto liability policies.

**24. Waiver of Subrogation.** Customer does hereby for itself and all other parties claiming under it release and discharge Company from and against all hazards covered by Customer's insurance, it being expressly agreed and understood that no insurance company or insurer will have any right of subrogation against Company.

**25. Force Majeure, Exclusions.** Company shall not be liable, nor in breach or default of its obligations under this Agreement, for delays, interruption, failure to render services, or any other failure by Company to perform an obligation under this Agreement, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of Company, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of Company. If Company's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, Company shall be excused from performance under the Agreement. Without limiting the generality of the foregoing, if Company is delayed in achieving one or more of the scheduled milestones set forth in the Agreement due to a Force Majeure Event, Company will be entitled to extend the relevant completion date by the amount of time that Company was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. To the extent that the Force Majeure Event directly or indirectly increases Company's cost to perform the services, Customer is obligated to reimburse Company for such increased costs, including, without limitation, costs incurred by Company for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by Company in connection with the Force Majeure Event.

**26. Exclusions.** This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-JCI installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and JCI shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by JCI at JCI's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

**27. Delays.** Company shall have no responsibility or liability to Customer or any other person for delays in the installation or repair of the System or the performance of our Services regardless of the reason, or for any resulting consequences.

**28. Termination.** Company may terminate this Agreement immediately at its sole discretion upon the occurrence of any Event of Default as hereinafter defined. Company may also terminate this Agreement at its sole discretion upon notice to Customer if Company's performance of its obligations under this Agreement becomes impracticable due to obsolescence of equipment at Customer's premises or unavailability of parts.

**29. No Option to Solicit.** Customer shall not, directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit or employ any Company employee, or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

**30. Default.** An Event of Default shall include (a) any full or partial termination of this Agreement by Customer before the expiration of the then-current Term, (b) failure of Customer to pay any amount when due and payable, (c) abuse of the System or the Equipment, (d) failure by Customer to observe, keep or perform any term of this Agreement; (e) dissolution, termination, discontinuance, insolvency or business failure of Customer. Upon the occurrence of an Event of Default, Company may pursue one or more of the following remedies, (i) discontinue furnishing Services, (ii) by written notice to Customer declare the balance of unpaid amounts due and to become due under this Agreement to be immediately due and payable, (iii) receive immediate possession of any equipment for which Customer has not paid, (iv) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement, and (v) recover all costs and expenses, including without limitation reasonable attorneys' fees, in connection with enforcing or attempting to enforce this Agreement.

**31. One-Year Limitation on Actions; Choice of Law.** For Customers located in the United States, the laws of Wisconsin shall govern the validity, enforceability, and interpretation of this Agreement, without regard to conflicts of law. For Customers located in Canada, this agreement shall be governed by and be construed in accordance with the laws of Ontario. The parties agree that any disputes arising under this Agreement shall be determined exclusively by the Ontario courts and that no action or legal proceedings of any nature shall be filed or commenced in any other court pertaining to any dispute arising out of or in relation to this Agreement. The parties also hereby waive any objection to the exclusive jurisdiction of the Ontario courts, including any objection based on *forum non conveniens*. No claim or cause of action, whether known or unknown, shall be brought against Company more than one year after the claim first arose. Except as provided for herein, Company's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.

**32. Assignment.** Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement without obtaining Customer's consent.

**33. Entire Agreement.** The parties intend this Agreement, together with any attachments or Riders (collectively the "Agreement") to be the final, complete and exclusive expression of their Agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions relating to the Services. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an Authorized Representative of Company.

**34. Headings.** The headings in this Agreement are for convenience only.

**35. Severability.** If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

**36. Electronic Media.** Customer agrees that Company may scan, image or otherwise convert this Agreement into an electronic format of any nature.

Customer agrees that a copy of this Agreement produced from such electronic format is legally equivalent to the original for any and all purposes, including litigation. Customer agrees that Company's receipt by fax of the Agreement signed by Customer legally binds Customer and such fax copy is legally equivalent to the original for any and all purposes, including litigation.

**37. Legal Fees.** Company shall be entitled to recover from Customer all reasonable legal fees incurred in connection with Company enforcing the terms and conditions of this Agreement.

**38. Lien Legislation.** Notwithstanding anything to the contrary contained herein, the terms of this Agreement shall be subject to the lien legislation applicable to the location where the work will be performed, and, in the event of conflict, the applicable lien legislation shall prevail.

**39. Privacy.** A. **Company as Processor:** Where Company factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at [www.johnsoncontrols.com/dpa](http://www.johnsoncontrols.com/dpa) shall apply. B. **Company as Controller:** Company will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with Company's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges Company's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by Company is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent.

**40. License Information (Security System Customers):** AL Alabama Electronic Security Board of Licensure 7956 Vaughn Road, PMB 392, Montgomery, Alabama 36116 (334) 264-9388: AR Regulated by: Arkansas Board of Private Investigators and Private Security Agencies, #1 State Police Plaza Drive, Little Rock 72209 (501)618-8600: CA Alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, CA, 95814. Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act: NY Licensed by the N.Y.S. Department of the State: TX Texas Commission on Private Security, 5805 N. Lamar Blvd., Austin, TX 78752-4422, 512424-7710. License numbers available at [www.johnsoncontrols.com](http://www.johnsoncontrols.com) or contact your local Johnson Controls office.



*Water Department NCDOT Three Party Right of Way Encroachment Agreement*

**Description**

The Dare County Water Department is requesting that the NCDOT Three Party Right of Way Encroachment Agreement be approved for Old North End Subdivision water line connection.

**Board Action Requested**

Approval of NCDOT Three Party Right of Way Encroachment Agreement and authority to County Manager to sign

**Item Presenter**

Pat Irwin, Public Utility Director

ROUTE NCSR 1116 Airport Rd. PROJECT \_\_\_\_\_ COUNTY OF Dare STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION  
-AND-  
Old North End, LLC  
P.O. Box 2405 Manteo, NC 27954

THREE PARTY RIGHT OF WAY  
ENCROACHMENT AGREEMENT ON  
PRIMARY AND SECONDARY SYSTEM

-AND-  
Dare County Water Department  
600 Mustian St., Kill Devil Hills, NC 27948

THIS AGREEMENT, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 20 23, by and between the Department of Transportation, party of the first part; and Old North End, LLC party of the second part; and County of Dare, North Carolina party of the third part,

WITNESSETH

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route(s) NCSR 1116 Airport Rd., located approximately 0.56 mile south of the intersection of N US Hwy 64/264 and Airport Rd. (NCSR 1116)

with the construction and/or erection of: (2) separate 6" dia. watermain connections to the existing 8" dia. watermain along the western extents of Airport Rd. (NCSR 1116)

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest UTILITIES ACCOMMODATIONS MANUAL, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Division Engineer or State Utilities Manager of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

During the performance of this contract, the second party, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

- a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,
  - (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

That when title to the subject that constitutes the aforesaid encroachment passes from the party of the second part and vests in the party of the third part, the party of the third part agrees to assume all responsibilities and rights and to perform all obligations as agreed to herein by the party of the second part.

R/W (166) : Party of the Second Part certifies that this agreement is true and accurate copy of the form R/W (166) incorporating all revisions to date.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
DIVISION ENGINEER

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Derek Hatchell  
Old North End, LLC

Second Party

WITNESS:

Dare County

Dare County

Cheryl C Anby, Clerk to the Board of Commissioners

Robert Otten, County Manager

Third Party



*Tax Collector's Report*

**Description**

December 2022 Releases over \$100  
December 2022 Refunds over \$100  
December 2022 NCVTS Refunds over \$100

**Board Action Requested**

Approved

**Item Presenter**

Becky Huff, Tax Collector

Release Report for REAL ESTATE and PERSONAL PROPERTY  
 (Releases over \$ 100 )

**MONTH: DECEMBER**

**DATE RANGE: 12/1/2022 - 12/31/2022**

**Submitted By: Becky Huff**

<b>Taxpayer Name</b>	<b>Parcel #</b>	<b>Bill Year</b>	<b>AR</b>	<b>Reason</b>	<b>Released Value</b>	<b>Released Tax</b>
LUNCEFORD, DARRELL S	022994000	2022	20	PREV OWNER'S PP	(37,421.00)	(221.08)
DANIELS TRAWL AND TRADE CORP.	961239000	2022	25	DUPLICATE LISTING	(43,650.00)	(244.10)
<b>Totals:</b>					<b>(\$81,071.00)</b>	<b>(\$465.18)</b>

# Refund Report for Real Estate and Personal Property

(Refunds over \$100)

**MONTH: DECEMBER**

**DATE RANGE: 12/1/2022 - 12/31/2022**

**Submitted By: Becky Huff**

Taxpayer Name	Parcel	Bill#	Bill Yr	Refund Amt	Reason	Date
BEREZOWSKI, WENDY	003551000	4504	2022	\$ (825.33)	Overpayment	12/16/2022
GEISLER, KARLA M	013182000	16960	2022	\$ (769.18)	Overpayment	12/19/2022
CLUPPER, DENNIS M	016386005	21794	2022	\$ (463.79)	Overpayment	12/19/2022
ZAEPFEL, ROBERT A	000411000	648	2022	\$ (2,487.54)	Overpayment	12/16/2022
ANGELOS, CAROL A	001125000	1706	2022	\$ (2,509.50)	Overpayment	12/19/2022
FRIED, HARRY C	001389000	1972	2022	\$ (525.95)	Overpayment	12/19/2022
BONZANO, DARRELL G	003464000	4406	2022	\$ (597.29)	Overpayment	12/16/2022
ROSE, JAMES M JR	004503000	5743	2022	\$ (2,130.52)	Overpayment	12/16/2022
FOGG, KARRIE	004631037	5934	2022	\$ (2,523.19)	Overpayment	12/19/2022
LILLEY, JAMES P	005757000	7283	2022	\$ (1,212.71)	Overpayment	12/19/2022
CAHILL, EDWARD A III	005956000	7515	2022	\$ (2,396.59)	Overpayment	12/19/2022
SAPPAH, ROBERT J	006349000	7994	2022	\$ (1,729.29)	Overpayment	12/16/2022
ALUND, JOHN	006749030	8395	2022	\$ (2,158.70)	Overpayment	12/19/2022
AKERS, CATHERINE B	008075095	10059	2022	\$ (708.98)	Overpayment	12/16/2022
BRALEY, PETER A	008075618	10114	2022	\$ (360.97)	Overpayment	12/16/2022
OTZELBERGER, NICHOLAS G	008164158	10391	2022	\$ (1,705.42)	Overpayment	12/16/2022
LEVESQUE INC	010067049	12774	2022	\$ (5,383.39)	Overpayment	12/16/2022
BLAYLOCK, LARRY P	010069009	12867	2022	\$ (775.72)	Overpayment	12/16/2022
FUSTE-DAW, KAREN D	010168005	13051	2022	\$ (2,903.85)	Overpayment	12/19/2022
JONES, STEPHEN L	010911000	14114	2022	\$ (5,031.94)	Overpayment	12/19/2022
HENCH, DERECK	011442000	14747	2022	\$ (2,033.88)	Overpayment	12/19/2022
BALLINGER, WALKER R	011622022	14944	2022	\$ (2,172.78)	Overpayment	12/16/2022
DANIEL, JEAN C TTEE	014442000	18703	2022	\$ (1,039.16)	Overpayment	12/19/2022
LAZAR, WILLIAM B	014822614	19585	2022	\$ (3,122.12)	Overpayment	12/19/2022
PALMA, ADRIENNE	016266000	21652	2022	\$ (1,319.66)	Overpayment	12/16/2022
JENNETTE, RUTH M	016963000	22613	2022	\$ (256.25)	Overpayment	12/19/2022
THOR, JENNIFER ANNE	017220008	22879	2022	\$ (1,735.66)	Overpayment	12/16/2022
ST LEGER, JONATHAN	018307000	24677	2022	\$ (1,040.66)	Overpayment	12/19/2022



# Refund Report for Real Estate and Personal Property

(Refunds over \$100)

**MONTH: DECEMBER**

**DATE RANGE: 12/1/2022 - 12/31/2022**

**Submitted By: Becky Huff**

Taxpayer Name	Parcel	Bill#	Bill Yr	Refund Amt	Reason	Date
DAIL, HUBERT L JR	019692000	26658	2022	\$ (559.34)	Overpayment	12/19/2022
CLARK, ROSE M	020504000	27449	2022	\$ (2,205.39)	Overpayment	12/16/2022
ENTERPRISE INVESTORS, LLC	021285000	28331	2022	\$ (2,852.11)	Overpayment	12/19/2022
HARGIS, RANDY D	022866000	30627	2022	\$ (199.99)	Overpayment	12/19/2022
ANDERSON, MICHAEL S	025694255	35169	2022	\$ (572.17)	Previous Owner's PP	12/16/2022
CONNOR, THOMAS E	025694405	35314	2022	\$ (1,408.83)	Overpayment	12/16/2022
MARYOTT, MARYANN	026364119	36422	2022	\$ (124.94)	Overpayment	12/16/2022
LYONS, GEOFFREY W	027174000	37586	2022	\$ (461.13)	Overpayment	12/19/2022
BERGERON BENDICION LLC	027839079	38854	2022	\$ (4,860.34)	Overpayment	12/16/2022
BRINK, TAMMY LYNN	029718000	41637	2022	\$ (1,376.37)	Overpayment	12/19/2022
COHEN, MARTIN R	031069012	43377	2022	\$ (265.72)	Overpayment	12/16/2022
<b>Total Refunds:</b>				<b>\$ (64,806.35)</b>		



# North Carolina Vehicle Tax System

## NCVTS Pending Refund report

December 2022

Payee Name	Primary Owner	Address 1	Address 3	Change	Interest Change	Total Change
FELTS, DIANE	FELTS, DIANE	171	SOUTHERN	(\$209.24)	\$0.00	(\$209.24)
YVONNE	YVONNE	CLAMSHELL	SHORES, NC	(\$102.30)	\$0.00	(\$102.30)
		TRL	27949	(\$20.90)	\$0.00	(\$20.90)
					<b>Refund</b>	<b>\$332.44</b>
					<b>Refund Total</b>	<b>\$332.44</b>



*Updates to County Financial Policies and Travel Policy*

**Description**

Based on a recent compliance and proficiency review by NCDOT, the County needs updates to the Financial Policies related to Federal awards and an update to the Travel Policy regarding travel covered by grant funding.

**Board Action Requested**

Approve updates to policies.

**Item Presenter**

None.

Updates to County of Dare Financial Policies:

**Revenue Policy**, Item V. Grant Funding, add sentence to the last bullet item:

“The grant manager will comply with the Cost Allowability for Charges Against Federal Awards Policy section.”

**Expenditure Policy** Item IV.:

Delete the sentence regarding non-capital operating leases. (*Due to GASB 87, there is no longer an operating versus capital lease classification*).

Replace with: “The County will comply with 2 CFR Part 200.305 of the Code of Federal Regulations regarding the timely distribution of Federal funds as it relates to payments made by the County for which Federal funds will be used and expended.”

Add new section titled “**Cost Allowability for Charges Against Federal Awards Policy**”

- I. All costs incurred under a Federal grant award shall be subject to the cost allowability standards articulated in OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- II. Prior to entry in the financial records, the grant manager shall determine the nature of the expense and evaluate:
  - *Allowability* - meets the general requirements established in 2 CFR § 200.403(a) through §200.403(g). Departments will maintain a system of internal controls over Federal expenditures to provide reasonable assurance that Federal awards are expended only for allowable activities and that the costs of goods and services charged to Federal awards are allowable and in accordance with the above referenced cost principles. Costs will meet the following general criteria:
    - Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
    - Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
    - Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the County.
    - Be accorded consistent treatment.
    - Be determined in accordance with generally accepted accounting principles.
    - Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.
    - Be adequately documented.
  - *Selected Items of Costs* - is consistent with one of the allowability factors for selected items of costs articulated in 2 CFR § 200.420 through § 200.475
  - *Grant Budget* - is consistent with the allowable expenses provided for in the grant agreement.
- III. These procedures will be employed regardless of whether the Department classifies the expense as direct or indirect (F&A) cost.

- IV. If deemed allowable, the grant manager shall code the expense in accordance with the account code established for the Federal grant and have the Finance Department record the amount in the financial records.
- V. If the grant manager cannot establish the allowability of an expense, consultation with the Finance Director shall be required to make the determination before any cost is entered in the financial records. If unable to be resolved by the Finance Director, the grant manager shall seek clarification with the Federal awarding agency or pass-through agency.
- VI. If deemed ineligible for reimbursement under the Federal award, the Finance Department will record the item as an “Ineligible Cost”.

Update to County of Dare Travel Policy:

Under Section 5.3 Other, add Item 5.3.2:

“When using grant funding for travel expenses, County employees shall comply with granting agency travel reimbursement policies.”



*Capital Project Ordinance for Frisco-Buxton Pathway*

**Description**

Dare County Tourism Board has awarded Dare County a Tourism Impact Grant in the amount of \$200,000 for the Frisco-Buxton Pathway Project. See attached award letter and contract.

**Board Action Requested**

Adopt Capital Project Ordinance and authorize County Manager to sign contract

**Item Presenter**

Barton Grover, Grants & Waterways Administrator

January 18, 2023

Mr. Robert Outten  
County Manager  
County of Dare  
PO Box 1000  
Manteo, NC 27954

Dear Bobby:

The Dare County Tourism Board has awarded the County of Dare a Tourism Impact Grant for Fiscal Year 2022/2023 (RFTIG2223-01) for the Frisco-Buxton Pathway project in the amount of \$200,000.00. The Board awarded the grant at their October 20, 2022 meeting and the Dare County Board of Commissioners gave consent at their November 7, 2022 meeting.

Tourism Impact Grants are reimbursable grants and will not be distributed until completion of the project and required paperwork is turned in and reviewed by the Grants Administrator. The County's grant award is a shared funding grant and requires a 50% match.

Enclosed are two copies of the contracts between the County of Dare and the Dare County Tourism Board for the Tourism Impact Grant. **Once you have signed and had all copies notarized, please return all copies to the Grant Administrator at the Outer Banks Visitors Bureau** for the signature of the Dare County Tourism Board Chair. One copy will be mailed back to you. A copy of our logo will be emailed. Also enclosed are the Guidelines for you to review and sign.

As explained in the Tourism Impact Grant Reimbursement Criterion (enclosed for signature), financial contribution of the Dare County Tourism Board will be made upon completion of the project and on the last day of each quarter. If an extension is needed, please send, in writing, a request for an extension (to include length of extension and reason why extension is necessary) and the Tourism Board will act accordingly. Also, the Tourism Board requests a written update for the project every six months.

Your reimbursement package will need to be turned in at least fourteen (14) working days prior to the reimbursement date. This will give staff the time necessary to go over the package and ensure that everything is in order for reimbursement.

I would like to thank the County of Dare for participating in the Tourism Impact Grant program, and for its dedication to making the Outer Banks a safer place for its residents and visitors.

Best Regards,



Diane Bognich  
Grants Administrator, Outer Banks Visitors Bureau

enc: contract, reimbursement criteria, guidelines



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

Finance Officer, Dare County Tourism Board

*Adopted 06/21/2019*

Contract Number: RFTIG2223-01

Project Location/Title: *Frisco-Buxton Pathway Project*

**AGREEMENT**

**THIS AGREEMENT** entered into this 7<sup>th</sup> day of November 2022, by and between the Dare County Tourism Board, d/b/a Outer Banks Visitors Bureau (hereinafter called the BOARD) and the County of Dare (hereinafter called the GRANTEE).

**WITNESSETH THAT:**

**WHEREAS**, the BOARD strives to enhance tourism and tourism opportunities for Dare County; and

**WHEREAS**, the BOARD wishes to support projects that are consistent with the basic goals and objectives of the Dare County Tourism Board; and

**WHEREAS**, the BOARD has determined that certain grants are appropriate to local governmental entities and non-profit organizations for public projects needed due to the impacts of tourism; and

**WHEREAS**, the GRANTEE hereby agrees to administer this contract in accordance with the Tourism Impact Grant Rules and Qualifications, Application, Reimbursement Criterion, and the applicable laws and regulations promulgated by local, State and Federal Governmental agencies.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

**I. PROJECT IDENTIFICATION**

A. Name and address of GRANTEE and principal contact person:

County of Dare  
c/o Robert Outten, County Manager  
PO Box 1000  
Manteo, NC 27954

B. Project Title: Frisco-Buxton Pathway Project

C. Period Covered by this Agreement: Fiscal Year 2022-2023. Project work to be done under this contract shall commence on or before November 7, 2022 and shall be completed no later than June 30, 2024 unless the completion date is extended in writing by an amendment to this contract.

D. Project Description: Construct a 5' wide, 4.41 mile, concrete sidewalk along Highway 12 from Cape Hatteras Secondary School to Piney Ridge Road.

E. Project Stage Covered by this Agreement: This agreement is in effect until the project is 100% completed, inspected and a closeout letter is received by the GRANTEE from the BOARD or term has expired whichever comes first.

F. Project Funding:

Board Amount \$ 200,000.00

Total Project Cost \$2,483,800.00

G. Project Conditions (Conditions are all equal and must be complied with):

1. This project shall be consistent with the goals and objectives of the Dare County Tourism Board.
2. No construction shall occur prior to the receipt of all required local, state and federal permits. Including, but not limited to, sign recognition on project of contributions by the Dare County Tourism Board. Burden rests on GRANTEE to comply. No reimbursement to be made prior to the erection of proper signage.
3. Authorized improvements, work, etc., and costs will comply with the grant application submitted to and approved by the BOARD (which are incorporated herein by reference) and are limited to the above stated project and location (if applicable).
4. Without limitation, unauthorized changes in the project from the approved site plan, budget and other material submitted with the final grant application will be sufficient cause for the reduction in or complete withdrawal of grant funds at the sole discretion of the BOARD without recourse.
5. No grant payments will be made by the BOARD prior to its receipt of itemized documentation as set forth in Section III, Paragraph A herein, evidencing all charges incurred and the dates work was accomplished, or materials delivered.
6. Project will be completed fully and closed out prior to the project termination date as set forth in Section I, Paragraph C herein.
7. Requirement for reimbursement for approved project must have the following:
  - (a) Appropriate sign recognition of contribution made by the Dare County Tourism Board.
  - (b) Wording to be pre-approved by the Board's Grant Administrator. Examples would be: "This project funded in part by the Dare County Tourism Board," "This project commissioned by Dare County Tourism Board," or "This project paid in part by the Dare County Tourism Board."
  - (c) Logo of the Dare County Tourism Board must be included in signage, unless written request to wave requirement is approved by the Dare County Tourism Board.

8. The following items are non-reimbursable: Including but not limited to inkind services, staff wages, professional services such as architectural and engineering and any local, state or federal tax.

## **II. PROJECT EXECUTION**

- A. The BOARD and the GRANTEE mutually enter into this agreement to comply with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps and assurances submitted in conjunction with the project proposal above referenced and as set forth in GRANTEE's Application dated September 6, 2022.
- B. The GRANTEE agrees to execute and complete the approved project in accordance with the approved plan.
- C. Construction contracted for or performed by the GRANTEE shall meet the following requirements:
  1. Construction contracts shall comply with all local, state and federal requirements.
  2. Amendments to contracts for construction shall be made by written change order only. Such change orders shall be made a part of the project file and shall be kept available for audit.
  3. The GRANTEE agrees to incorporate or cause to be incorporated into all construction contracts the following provisions:

"During the performance of this contract, the Contractor agrees as follows:

    - (a) The Contractor will not discriminate against any employee, applicant for employment or subcontractor because of any protected class or status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their protected class or status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Contractor setting forth the provisions of this non-discrimination clause.
    - (b) The Contractor will, in all solicitation or advertisements of employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to protected class or status."
- D. The GRANTEE agrees to complete the work in accordance with the approved construction plans and specifications, and to comply with all applicable Federal, State and local laws and regulations, including the North Carolina Building Code.
- E. The GRANTEE agrees to permit periodic site visits by the BOARD and its agents to ensure work progress in accordance with the approved project, including a final inspection upon project completion. The GRANTEE may request within fourteen days after project completion, in writing, that the BOARD make its final inspection.

- F. This project shall be completed so as to be fully independent, self-sufficient and/or stand-alone without the need for future phases, improvements, additions, or work. In no way does funding of phase projects obligate the BOARD to fund any future phases.
- G. Deviations from any part of the approved project, including, but not limited to, any terms of this agreement, shall be submitted to the Board's Grant Administrator for review. Final approval rests with a majority vote of Dare County Tourism Board of Directors.**
- H. Development plans and specifications shall be available for review by the BOARD upon request.
- I. No grant funds are to be used for the acquisition of real property unless specifically included as a part of the proposal submitted to and approved by the BOARD. Any real property purchased or improved using BOARD grant funds shall be owned by the GRANTEE in fee subject to liens and encumbrances specifically approved by the Tourism Board.
- J. Project Administration
  - 1. The GRANTEE shall promptly submit such reports as the BOARD may request.
  - 2. The GRANTEE shall fund all costs of the project until its completion and shall submit paid invoices for all materials, labor and other costs at the time it requests the BOARD to make its final inspection as set forth in Section II, Paragraph E herein.

### **III. REIMBURSEMENT OF PROJECT COSTS**

- A. The GRANTEE agrees to maintain and make available at reasonable times to the BOARD all bid documents and accurate records of all expenditures for costs applicable to the project agreement and to submit properly certified paid billings for such costs on forms prescribed by the BOARD, supported by detailed data sheets which will facilitate an audit, at the GRANTEE's expense, of the GRANTEE's records. Complete accounting records, including, but not limited to, original invoices, contracts and other documents clearly showing the nature and propriety of all costs incurred under this agreement, shall be retained by the GRANTEE for a period of seven years following project completion or until a compliance audit has been completed, whichever is later. All accounting records and supporting documents will clearly show the number of the project to which they are applicable.
- B. The BOARD agrees to reimburse the GRANTEE only for costs actually incurred by the GRANTEE under terms of this Project Agreement. Should the total costs of the project exceed the Project Cost as set forth in Section I, Paragraph F, those excess costs shall be the sole responsibility of the GRANTEE.
- C. Project costs eligible for reimbursement shall be determined solely by the BOARD by referral to the proposal as approved by the BOARD.
- D. Applicant is forewarned that, several years ago, the North Carolina Legislature considered proposed legislation which would limit or altogether terminate the Dare County Tourism Board's legal ability to expend funds under agreements such as this. So far, those efforts have failed, but the Dare County Tourism Board believes there may be continued future efforts in this vein. The Dare County Tourism Board shall have no obligation to fulfill the terms and obligations of this agreement including funding and reimbursement of applicant's

expenditures in the event local, state or federal laws prohibit the Dare County Tourism Board's performance or disband the Dare County Tourism Board altogether. Applicant enters this agreement understanding and accepting the risk that it may not be reimbursed. If the Dare County Tourism Board's authority hereunder is limited or terminated, then this Agreement shall be void as of the effective date of said ordinance, law or regulation and the Dare County Tourism Board shall be forgiven all performance obligations that are its responsibility under this agreement that is or are made contrary to law.

#### **IV. PROJECT TERMINATION**

- A. This agreement may be rescinded, modified or amended only by written agreement executed by all parties hereto, except as such changes are authorized in the sole discretion of the BOARD herein.
- B. Failure of the GRANTEE to comply with the terms of this agreement shall be deemed sufficient grounds for the termination of all obligations of the BOARD hereunder.
- C. Failure by the GRANTEE to comply with the terms of this agreement shall not be the cause for the termination of all obligations of the BOARD hereunder if, in the judgement of the BOARD, such failure was due to no fault of the GRANTEE. Furthermore, if said failure of compliance causes or creates additional monetary expenses or obligations then the BOARD can, but need not, reimburse the GRANTEE for these expenses so long as reimbursement can be made within the total sum of the BOARD's grant.

#### **V. RETENTION, OPERATION, MAINTENANCE AND USE**

The standards which apply to the retention operation, maintenance and use of properties and facilities acquired or developed with this grant assistance are contained in this section.

- A. The GRANTEE agrees to operate and maintain solely at its own expense, insofar as it is legally empowered to do so, for as long as they exist, the facilities, sign recognition of the BOARD and areas covered by this agreement.
- B. Property (real or personal) purchased and/or developed with this grant assistance shall be retained for use of the public and the applicant agrees to either (a) return the amount of the grant to the Tourism Board or (b) convey the real property title to the Dare County Tourism Board should the property or facility be converted to some other use or ownership changed by the applicant. The Board, in its sole discretion, may require certain restrictions or easements be recorded in the public registry to evidence this requirement and obligation of the applicant or property owner. This restriction shall run with the land.
- C. Property developed with the assistance of this grant shall be operated and maintained as follows:
  - 1. The property shall be maintained so as to appear attractive and inviting to the public. Sanitation and safety standards shall be those reasonably appropriate to public use.
  - 2. Buildings, roads and other structures and facilities shall be kept open for public use at reasonable hours and times of year, according to the type of area or facility.

- D. Property or facilities developed with assistance of this grant shall be open to entry and use by all persons, regardless of their protected class or status, who are otherwise eligible according to reasonable, published rules consistent with and applicable to the uses of the property or facility involved.
- E. The GRANTEE may impose reasonable limits on the type and extent of use of the areas and facilities developed with assistance of this grant when such limitation is necessary for maintenance or preservation of the facility or to protect the health, safety and welfare of the users, abutting property owners and the general public.

## VI. GENERAL PROVISIONS

- A. Conflict of Interest:
  - 1. No official or employee of the GRANTEE who is authorized in his official capacity to negotiate, make, accept, approve, or take part in such decisions regarding any contract or subcontract in connection with this project shall have any financial or other personal interest in such contract or subcontract.
  - 2. No person or firm performing services for the GRANTEE in connection with this project shall have a financial or other personal interest other than those directly derived through his employment or retention by the GRANTEE in any contract or subcontract in connection with this project.
  - 3. The GRANTEE shall be responsible for enforcing the above conflict of interest provisions.
- B. Liability: The BOARD's sole liability under this agreement is to furnish the stated funding for the project in accordance with this agreement.

Furthermore, the GRANTEE agrees to indemnify and hold the BOARD and its individual directors, employees and agents, harmless from any and all monetary liability, loss or damage which the BOARD or its directors may suffer as a result of claims, demands, costs or judgments against them or any nature whatsoever resulting from or related to this project, including, but not limited to, those arising out of the contracting for, construction, use or existence of the property or facility, whether present or future, and for third-party personal injuries suffered as a result of any of the above.

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

*Sally DeRoose 2/4/23*

**Grantee Signature:** \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

\_\_\_\_\_, North Carolina

I certify that the following person personally appeared before me, acknowledging that (s)he signed the foregoing document: \_\_\_\_\_

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

\_\_\_\_\_ (notary signature)

\_\_\_\_\_  
(notary printed name) Notary Public

My commission expires:

**Dare County Tourism Board Signature:** \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_, Chair

Dare County, North Carolina

I certify that the following person personally appeared before me, acknowledging that (s)he signed the foregoing document: \_\_\_\_\_

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

\_\_\_\_\_ (notary signature)

Amy S. Wood, Notary Public  
(notary printed name)

My commission expires: February 12, 2024



## TOURISM IMPACT GRANT REIMBURSEMENT CRITERION

Before requesting project reimbursement, the below items must be completed. A project is complete once the following items have been executed:

**Signage or  
Pre-approved  
Recognition:**

On appropriate capital projects the Dare County Tourism Board encourages alternative to basic signage, for example – bench on multi-use path. All signage must include the official Dare County Tourism Board logo and the following recognition to the benefactor “*Project Funded in Part by The Dare County Tourism Board*” or other similar language approved by the Grant Administrator, and the name of the project. A photo of the installed sign must be included in the Reimbursement Package.

**Accounting:**

Provide complete accounting records, including a summary of all related project expenses, copies of invoices and checks or other payments, and contracts.

**Site Inspection:**

A site inspection will be made in order to verify signage and completion of project.

**Reimbursement:**

Assuming continued project approval by the Dare County Tourism Board, financial contribution of the Dare County Tourism Board will be made to organization, upon completion of project – and on the last day of each quarter (September, December, March, June).

Among any other reason determined by the Dare County Tourism Board at its sole discretion, reimbursement will be **DENIED** if the official logo of the Dare County Tourism Board, the following recognition to the benefactor “*This Project Funded in Part by The Dare County Tourism Board*” or other similar language approved by the Grant Administrator, and project name is not included on all signage. Camera-ready logo will be provided free of charge to all grantees.

Name and title of person making application: \_\_\_\_\_

Name of Local Government or Non-Profit: \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**



**DARE COUNTY TOURISM BOARD  
(DBA OUTER BANKS VISITORS BUREAU)  
TOURISM IMPACT GRANT  
RULES & QUALIFICATIONS**

Created 6/21/2019  
Modified 10/21/2021

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Program Intent

Dare County Tourism Board's Tourism Impact Grant (TIG) program was established to financially assist Dare County Governmental Units and other Non-profit Organizations with programs or services needed due to the impact of tourism on the County.

The Dare County Tourism Board (hereinafter "Tourism Board" or "Board") makes funding for TIG grants available by an annual appropriation as approved by the Board from short-term unappropriated funds. Short-term funds accrue from 30% of the ¼ of the 1% occupancy tax and 1% prepared meal tax revenues generated annually in the Special Revenue Fund.

Qualified applicants must submit an application containing an outline of the project, the impact of the project on tourism, a statement of need, a copy of the most recent balance sheet, and a budget overview of the entire project's funding and expenditures; which shall include other grants or secured funding services.

Applicant Assumes This Risk

Should local, state or federal laws prohibit the Dare County Tourism Board's performance, disband the Dare County Tourism Board or repeal the Board's enabling legislation, then the Dare County Tourism Board shall have no obligation to fulfill the terms and obligations of this agreement, including, but not limited to funding and reimbursement of applicant's expenditures. If the Dare County Tourism Board's authority hereunder is limited or terminated, then this Agreement shall be void as of the effective date of said ordinance, law or regulation and the Dare County Tourism Board shall be forgiven all performance obligations that are its responsibility under this agreement that is or are made contrary to law. All applicants must agree to this tremendous limitation to the Dare County Tourism Board's performance obligations, assume the risks associated therewith, including the risk that the Applicant may not be reimbursed for expenditures under this program.

Grant Criteria

- A. Applicants shall be Dare County Local Governments or a non-profit entity with its principal place of business in Dare County and having its non-profit status conferred in writing under Section 501 of the U.S. Internal Revenue Code.
- B. Project must be located in Dare County

**DARE COUNTY TOURISM BOARD  
(DBA OUTER BANKS VISITORS BUREAU)  
TOURISM IMPACT GRANT  
RULES & QUALIFICATIONS**

- C. Match required for the Tourism Impact Grant shall be based on the amount awarded, as follows:

AWARDED AMOUNT	REQUIRED MATCH AMOUNT
Below \$50,000	No match required
\$50,000 - \$125,000	At least 25% match required from applicant
Over \$125,000	At least 50% match required from applicant

- D. Tourism Impact Grant Projects must be completed by the end of one full fiscal year from the date of the award. Project extensions must be approved in writing by the Board or staff if the Board has granted that authority to the staff.
- E. The Tourism Board will monitor the progress of each project. Should a project not materialize, or should it progress at a rate which would limit its viability (in the sole discretion of the Board), then the Board shall terminate or withdraw the award and grant itself, and the funds will be unencumbered and revert to the Tourism Impact Grant fund for future projects.
- F. Matching funds and expenditures must be related to the project covered by this application and not incurred prior to the date of grant submission.
- G. Grants will be paid as a reimbursement once the project is complete and all paid receipts (for both grant and match) presented as described under the terms of the Contract Agreement.
- H. Expenditures shall not be used for operations customarily funded by Governmental entities (including but not limited to repairs and maintenance).
- I. **The following items are ineligible:** The purchase of interests in real property, preliminary architectural, engineering, surveying and other forms of professional services, in-kind services (ex. Administrative salaries of public employees) and any local, state or federal tax.
- J. Real property developed or improved under this grant program must be lien and encumbrance free (except as to liens and/or encumbrances that are specifically approved by the Tourism Board in writing). Applicant may be required to provide the Tourism Board with a written "opinion on title" by a North Carolina licensed attorney. The scope and form of the opinion will be determined by the Tourism Board on a case-by-case basis.

**DARE COUNTY TOURISM BOARD  
(DBA OUTER BANKS VISITORS BUREAU)  
TOURISM IMPACT GRANT  
RULES & QUALIFICATIONS**

- K. Personal property purchased and/or real property improvements funded through this grant assistance shall be retained for use of the public and the applicant agrees to return the amount of the grant to the Tourism Board should the personal or real property be converted to some other use. The Board, in its sole discretion, may require certain restrictions or easements be recorded in the public registry to evidence this requirement and obligation of the applicant or property owner.
- L. Grants cannot be transferred or assigned to a third party, unless approved by the Dare County Tourism Board in writing.
- M. Requirement for reimbursement for approved project must have the following:
1. Approvals from all organizations directly or indirectly involved in proposed project must agree with all terms and conditions outlined. Burden of compliance rests with the applying organization.
  2. Appropriate sign recognition of contribution made by the Dare County Tourism Board. To include Board logo and "Project Funded In Part By The Dare County Tourism Board" or other similar language approved by the Grant Administrator.
  3. If not a physical capital project, appropriate recognition of contribution made by the Dare County Tourism Board, including logo, must be in press releases and all associated publicity materials.
  4. Approved signage or other appropriate recognition must be maintained permanently.
  5. Copies of all invoices and payments related to the project.
- N. Applicant may only apply for one TIG grant per project, per Fiscal Year.
- O. Funding of phase projects does not obligate the Dare County Tourism Board to funding of any future phases of the same project.
- P. **Approved organization must come to the Outer Banks Visitors Bureau to meet with the Grant Administrator prior to submitting an application.** The purpose of this process is to jointly review the application and answer any questions the applicant may have.

**DARE COUNTY TOURISM BOARD  
(DBA OUTER BANKS VISITORS BUREAU)  
TOURISM IMPACT GRANT  
RULES & QUALIFICATIONS**

- Q. Applications may be requested at any time; however, complete applications must be submitted between **September 1 and September 30** by U.S. Postal Service. Personal hand-delivery of applications will be accepted during this period, Monday through Friday 9:00 AM – 4:30 PM (excluding any holiday). A receipt must be signed by a Bureau employee and the delivery person as evidence of delivery within the allotted application period. One original and 15 copies clipped together (**NOT STAPLED**) of the application and any collateral material is required.
  
- R. Applications will be reviewed by the Grant Administrator as they are received. The applicant will be notified within seven days of receiving the application if it does not meet the requirements of the grant. The applicant will have a chance to modify, adjust and correct the application before it is submitted to the Steering Committee. The Grant Administrator and the Executive Director, or his/her designee will be available to assist the applicants.
  
- S. All proposals that meet mechanical guidelines will be forwarded to the Steering Committee for consideration. The Steering Committee will make its recommendations to the full Board of Directors at a regularly scheduled Board meeting. Recommended Tourism Impact Grant projects will then be forwarded to the Dare County Board of Commissioners for consensus.
  
- T. Applying organization will be notified within seven days following presentation to the Dare County Board of Commissioners as to acceptance or rejection of Tourism Impact Grant awards.

I have read and reviewed the documents and understand that our organization bears the responsibility to understand and comply with all terms and conditions. This application vests applicant with no rights or expectations of approval and certainly not receipt of funds.

Name and title of person making application: \_\_\_\_\_

Name of Local Government or Non-Profit: \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**County of Dare, North Carolina  
Capital Project Ordinance**

**for  
Frisco-Buxton Pathway Project**

BE IT ORDAINED 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 is hereby adopted:

Section 1 The project is the Frisco-Buxton Pathway Project, initial phase, on behalf of Outer Banks National Scenic Byway which will construct 4.41 miles of pathway. No obligation of project funds will be made until anticipated grants have been awarded and donation funds have been acquired.

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

Section 3 The following amount is appropriated for the project:

Frisco-Buxton Pathway Construction	615570-737620-60010	\$2,483,800
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Section 4 The following revenues are anticipated to be available to complete the project:

Grant proceeds – NCDOT/FHWA	613025-427550-60004	\$1,987,040
Grant proceeds – DCTB	613050-427550-60004	\$ 400,000
Donations	613050-465020-60004	\$ 96,760

Section 5 The Finance Officer is directed to report as a part of the normal financial reporting process currently in place, the financial status of the project.

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

Adopted this 6<sup>th</sup> day of February, 2023

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

[SEAL]

\_\_\_\_\_  
Clerk to the Board of Commissioners



*Capital Project Ordinance for the Soundside Boardwalk Improvements Project*

**Description**

The Division of Water Resources awarded Dare County \$200,000 for improvements to the boardwalk at the Event Site in Nags Head. The Board of Commissioners previously approved the application for this grant and the County has entered into a MOU with the Tourism Board for this project. Matching funds will be provided by the Tourism Board.

**Board Action Requested**

Adopt Capital Project Ordinance and authorize County Manager to sign contract

**Item Presenter**

Barton Grover, Grants & Waterways Administrator

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, 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. Grantee's Award Letter (Attachment D)
  - e. Notice of Certain Reporting and Audit Requirements (Attachment E)
  - f. Grantee's No Conflict of Interest Certification (Attachment F)
  - g. Certification of No Overdue Tax Debts (Attachment G)

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 prior to the contract expiration date.

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 the Date of Last Signature to **February 1, 2025**, 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. CW34185**  
**Dare County – Southside Boardwalk Improvements**

- 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 E, 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 **TWO HUNDRED THOUSAND DOLLARS (\$200,000)** (the "Total Award Amount"). This amount consists of:

*Funding:*

Type of Funds	Funding Source	CFDA No.
Appropriations	NC General Assembly	N/A

*Account Coding Information:*

Dollars	GL Company	GL Account	GL Center
\$200,000	1602	536990	2R01



*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 **\$200,000**, which shall consist of:

	In-Kind	\$
X	Cash	\$200,000
	Cash and In-Kind	\$
	Other / Specify:	\$

- d. The Grantee is committing to an additional **\$4,274,450** to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is **\$4,674,450**.

- 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.

Grantee Contract Administrator	Department's Contract Administrator
Robert Woodard, Chairman, Board of Commissioners Dare County P.O. Box 1000 Manteo, NC 27954 Telephone: 252-475-5800 Fax: Email: <a href="mailto:woodard@darenc.com">woodard@darenc.com</a>	Amin Davis, State and Local Projects Manager Division of Water Resources 1617 Mail Service Center Raleigh, NC 27699-1617 Telephone: 919-707-9132 Fax: Email: <a href="mailto:amin.davis@ncdenr.gov">amin.davis@ncdenr.gov</a>

Grantee Principal Investigator or Key Personnel
Barton Grover, Grants & Waterway Administrator Dare County P.O. Box 1000 Manteo, NC 27954 Telephone: 252-475-5628 Fax: Email: <a href="mailto:barton.grover@darenc.com">barton.grover@darenc.com</a>

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. CW34185  
Dare County – Southside Boardwalk Improvements**

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

\_\_\_\_\_  
Date

**ORIGINAL**

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

*Sally DeRose 2/6/23*

**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 patient services.
- (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.”

K:\Projects\2022\The Soundside Event Site\Drawings\Drawings\2022\2022-03-25\2022-03-25.dwg



**THE SOUNDSIDE EVENT SITE  
SOUNDFRONT IMPROVEMENT PROJECT**

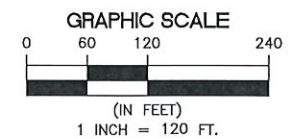
- NOTES:**
1. ADDRESS: 6813 S CROATAN HIGHWAY, NAGS HEAD, DARE COUNTY, NORTH CAROLINA
  2. APPLICANT: DARE COUNTY
  3. TOTAL AREA: 1,115,065 SF (25.6 ACRES) (TO SHORELINE)  
 UPLAND AREA: 675,877 SF (15.5 ACRES)  
 404 WETLAND AREA: 439,188 SF (10.1 ACRES)

**LEGEND**

- PROJECT BOUNDARY
- - - SHORELINE
- - - WETLANDS LINE
- EASEMENTS
- ORTHOGRAPHICS
- EXISTING FACILITIES
- PROPOSED WOOD WALKWAYS
- PROPOSED SIDEWALKS
- FUTURE EVENT CENTER BLDG
- FUTURE PARKING/SIDEWALKS

**Albemarle**  
 & ASSOCIATES, LTD.  
 Engineering - Environmental - Land Planning

115 West Saint Clair St. Phone: (252) 441-2113  
 P.O. Box 3989 Fax: (252) 441-0965  
 Kill Devil Hills, NC 27948 www.AlbemarleAssociates.com  
 Certificate of Licensure No. C-1027



REVISED ON APRIL 8, 2022  
 PREPARED ON MARCH 25, 2022

**County of Dare, North Carolina  
Capital Project Ordinance**

**for  
Soundside Boardwalk Improvements Project**

BE IT ORDAINED 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 is hereby adopted:

Section 1 The project is the Soundside Boardwalk Improvements Project for the construction of approximately 2,000 linear feet of boardwalk, platforms, a gazebo, and boat slips along the Roanoke Sound at the Soundside Event Site in Nags Head owned by the Dare County Tourism Board. No obligation of project funds will be made until anticipated grants have been awarded and all funding agreements have been executed.

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

Section 3 The following amount is appropriated for the project:

Soundside Boardwalk Improvements	615570-737620-60010	\$4,674,450
----------------------------------	---------------------	-------------

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

Grant proceeds - DWR	613025-422015-60010	\$ 200,000
Grant proceeds - PARTF	613025-427003-60010	\$ 500,000
Local Match from Tourism Board	613050-440200-60010	\$3,974,450

Section 5 The Finance Officer is directed to report as a part of the normal financial reporting process currently in place, the financial status of the project.

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

Adopted this 6<sup>th</sup> day of February, 2023

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Chairman, Board of Commissioners

[SEAL]

---

Clerk to the Board of Commissioners



*Use and Occupancy Permit  
NCDOT Slash Bridge Project Water Line Agreement*

**Description**

Attached is an agreement between Dare County and NCDOT authorizing the County Water Department to take ownership of the new bridge's water line once it is completed. Construction is proposed to begin September 25, 2023.

**Board Action Requested**

Approve and authorize the County Manager to sign the Use and Occupancy Agreement

**Item Presenter**

Pat Irwin, Utilities Director



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

J. ERIC BOYETTE  
SECRETARY

DATE: January 30, 2023  
WBS ELEMENT: 45565.3.1  
TIP: B-5610  
COUNTY: Dare  
DESCRIPTION: Replace Bridge No. 8 on NC 12 over The Slash Creek  
SUBJECT: Use and Occupancy Agreement

ATTN: Pat Irwin  
Utilities Director  
Dare County Water Department  
6000 Mustian Street  
Kill Devil Hills, NC 27948

Dear Mr. Irwin

The proposed improvement of Bridge No. 8 is scheduled to be let to contract on July 18, 2023, with construction beginning around the 25th of September 2023. The construction of this project will require the relocation and adjustment of certain water and/or sewer lines owned by Dare County. As discussed with you previously, the design for the relocation work will be handled by our engineers and the construction will be included in the Roadway Contract. This work will be done at the expense of the Department of Transportation in accordance with General Statute 136-27.1.

I am sending for your approval, Special Provisions, and Plans showing proposed water and sewer line relocations. In accordance with State and Federal Regulations, it will be necessary for the Dare County Water Department and the Department of Transportation to agree in writing as to the terms of use and occupancy for the water and sewer lines to remain within the highway right of way. Accordingly, the following conditions will apply with regards to the water and/or sewer lines:

(1) The water and/or sewer lines will be located and accommodated in a manner that will not impair the planned highway or the construction or maintenance or interfere with the safe operation in accordance with the attached plans which are made apart hereof.

(2) The Dare County Water Department will be responsible for maintenance and service of the water and/ or sewer lines to be retained within the Department of Transportation's right of way limits in accordance with the mandate of the statutes and such other laws, rules, and regulations that have been or may be validly enacted or adopted now or hereafter.

(3) That upon satisfactory completion of the water and/or sewer line work, the Dare County Water Department agrees that it shall release the Department of Transportation from any and all claims for damage in connection with relocation made to the water and/or sewer lines, and further, that it shall release the Department of Transportation of any further responsibility for the cost of maintenance to the water and/or sewer lines. This release shall be deemed to be given by the Dare County Water Department upon

*Mailing Address:*  
NC DEPARTMENT OF TRANSPORTATION  
1555 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1555

*Utilities Unit Fax:* (919) 250-4151  
*Customer Service:* 1-877-368-4968

*Website:* [www.ncdot.gov](http://www.ncdot.gov)

*Location:*  
1000 BIRCH RIDGE DRIVE  
RALEIGH, NC 27610

completion of construction of the project and its acceptance by the Department of Transportation from the Roadway Contractor unless the Dare County Water Department notifies the Department of Transportation in writing to the contrary prior to the Department's acceptance of the project.

(4) The Department's Special Provisions binds the contractor to guarantee materials and workmanship against latent and patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve months following the date of final acceptance of the work for maintenance and shall replace such defective materials and workmanship without cost to the Department. The highway contractor will not be responsible for damage due to faulty design, normal wear and tear, for negligence on the part of the Department, and/or for use in excess of the design. Where items of material carry a manufacturer's guarantee for any period in excess of twelve months, then the manufacturer's guarantee shall apply for that particular piece of material. Appropriate provisions of the payment and/or performance bonds shall cover this guarantee for the project. Should any failure result from the conditions found in line item (4) the Department would then enter into a Contract with the Dare County Water Department for reimbursement to be made to the Dare County Water Department for necessary repairs performed by the Dare County Water Department and/or its contractor. The Utility Relocation Agreement would be issued by the NCDOT Utilities Unit and the repairs would be coordinated between the Dare County Water Department and the Department's assigned Resident Engineer.

Please indicate your concurrence in these conditions and attached plans by signing in the appropriate space provided below and return for our file no later February 8, 2023. If our office has not received this agreement by the due date, the highway project will be delayed by the Department of Transportation.

Sincerely,

Bryon Sanders, PE  
State Utilities Manager

By: Tyron W. Stallings  
Utility Coordinator

BS: TWS  
Attachment

Approved and Accepted For:

\_\_\_\_\_  
BY: \_\_\_\_\_  
\_\_\_\_\_ 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.



*Board Appointments*

**Description**

The following Boards have appointments this month:

1. Senior Tar Heel Legislative Delegates
2. Aging Advisory Council for the Albemarle Commission
3. Community Child Protection and Child Fatality Prevention Team
4. A.B.C. Board
5. Upcoming Board Appointments

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager



*Senior Tar Heel Legislative Delegates*

**Description**

See Attached Summary

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager



February, 2023

**BOARD APPOINTMENTS**

**SENIOR TAR HEEL LEGISLATIVE DELEGATES**

(Two Year Term)

The Senior Tar Heel Legislature was created by the State Legislature to provide information to senior citizens on the legislative process and matters being considered by the North Carolina General Assembly. Delegates from all 100 counties serve on committees and meet with the Governor and are a spokesperson for the county they represent. Position requires the ability to keep the County Commissioners informed of the Senior Tar Heel Legislative Agenda and to report to other seniors and groups regarding advocacy activities.

**The terms for Kaye White and Susanne Kelly expire February 2023. They are both recommended for reappointment by Jasmine S. Wilson, Aging Program Contract Specialist of the Albemarle Commission Area Agency on Aging for another two-year term.**



December 29, 2022

Robert Outten, County Manager  
County of Dare  
PO Box 1000  
Manteo, NC 27954

Dear Mr. Robert Outten,

**Senate Bill 479 (G.S. 143 B-181.55)** enacted on July 24, 1993 authorized creation of the Senior Tar Heel Legislature to provide information and education to senior citizens on the legislative process and matters being considered by the NC General Assembly. This body of individuals is made up a Delegate and Alternate from each of the 100 counties in the State of North Carolina. The STHL meets three (3) times per year within North Carolina to discuss and advocate for issues or legislation effecting the senior population in North Carolina, additionally, they receive updates from the Governor's office and the Division of Aging and Adult Services (DAAS) on special initiatives or programs throughout the state.

I am requesting that **Dare County** would reappoint Kaye White (Delegate) and Susanne "Sue" Kelly (Alternate) to continue serving on the Senior Tar Heel Legislature representing **Dare County**.

Kaye White  
423 W. Villa Dunes Drive  
Nags Head, NC 27959  
(252)256-1375

Susanne "Sue" Kelly  
PO Box 743  
Kitty Hawk, NC 27949  
(252)441-7795

Travel expenses are paid by the county, which includes mileage, hotel stay for one night and meals, three times per year. The Area Agency on Aging will transport members from our Hertford office as needed. If this poses a problem for the county, please feel free to contact me to discuss further.

I hope that you will agree that both Ms. White and Ms. Kelly would serve as great advocates for older adults residing in your county. I am requesting that the Board of Commissioners consider appointing both Ms. White and Ms. Kelly as the Senior Tar Heel Legislature representative for **Dare County** for a two-year term.

I truly believe that both would serve the county well in this capacity. Should you have any questions, please feel free to contact me via e-mail at [jwilson@accog.org](mailto:jwilson@accog.org) or via telephone at (252)426-8244.

Most sincerely,

Jasmine S. Wilson, Aging Program Contract Specialist  
Albemarle Commission Area Agency on Aging

- CAMDEN
- CHOWAN
- CURRITUCK
- DARE
- GATES
- HYDE
- PASQUOTANK
- PERQUIMANS
- TYRRELL
- WASHINGTON
- COLUMBIA
- CRESWELL
- DUCK
- EDENTON
- ELIZABETH CITY
- GATESVILLE
- HERTFORD
- KILL DEVIL HILLS
- KITTY HAWK
- MANTEO
- NAGS HEAD
- PLYMOUTH
- ROPER
- SOUTHERN SHORES
- WINFALL

**NC Senior Tar Heel Legislative Delegates**  
**(Two Year Term)**

**The Senior Tar Heel Legislative Delegates provides information to senior citizens on the legislative process and matters being considered by the NC General Assembly. Must be at least 60 years of age to serve.**

<b><u>MEMBER</u></b>	<b><u>TERM EXPIRATION</u></b>	<b><u>ACTION</u></b>
Kaye White 423 W. Villa Dunes Dr. Nags Head, NC 27959 252-441-7062 <a href="mailto:obxkaye@earthlink.net">obxkaye@earthlink.net</a>	3/23	Apptd. 2/11 Reapptd 2/13,15,17,19 21
Susanne D. Kelly, Alternate 211 Sea Village Lane Kill Devil Hills, NC 27948 252-441-7795 <a href="mailto:Sdkelly927@aol.com">Sdkelly927@aol.com</a>	3/23	Apptd. 5/19, 21

NOTES:

- Enacted by Senate Bill 479 (G.S. 143B-181.55)
- Delegates must be 60 yrs. of age or older
- Each county has one delegate and one alternate
- Delegates from all 100 counties serve on committees and meet regularly with the Governor and are a spokesperson for the county they represent. Position requires the ability to keep the County Commissioners informed of Senior Tar Heel Legislative Agenda and to report to other seniors/groups regarding advocacy activities.
- Per Albemarle Commission email 12/29/22, Terms begin in March of odd years

Susanne D. Kelly appointed to fill unexpired term of Mary Ellen Hawthorne who could no longer serve due to health reasons 5/19

Kaye White and Susanne D. Kelly reappointed for another term.5/ 2021

**REVISED 1/23**



*Aging Advisory Council for the Albemarle Commission*

**Description**

See attached summary

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager

February, 2023

**AGING ADVISORY COUNCIL FOR THE ALBEMARLE COMMISSION**

**(Two Year Term)**

The following have terms to expire this month:

**Brandi Bohanan**

(Current Term 2/21 – 2/23)

(Originally Apptd. 2/01)

**Kaye White**

(Current Term 2/21 – 2/23)

(Originally Apptd. 2/11)

Both would like to be reappointed for another term.

Additional applications are attached.

Other members:

See attached list

**AGING ADVISORY COUNCIL FOR THE ALBEMARLE COMMISSION**  
(Two Year Term)

**The Aging Advisory Council advocates on behalf of the senior population in their counties by reviewing and commenting on the laws, policies, actions and programs that affect older adults.**

<b><u>MEMBER</u></b>	<b><u>TERM EXPIRATION</u></b>	<b><u>ACTION</u></b>
Brandi Bohanan Older Adult Services Director P.O. Box 1000 Manteo, NC 27954 475-5636 Nags Head Township	2/23	Apptd. 2/01 Reapptd.2/03,05,07,09, 11,13,15,17,19, 21
Kaye White 423 W. Villa Dunes Dr. Nags Head, NC 27959 441-7062 Atlantic Township	2/23	Apptd. 2/11 Reapptd.2/13,15,17,19 21

**NOTES:** Meeting Date – Quarterly on a called basis  
Albemarle Commission  
Hertford, NC

**CONTACT PERSON:**  
Jasmine S. Wilson, Aging Program & Contracts Specialist  
Albemarle Commission Area Agency on Aging  
512 South Church Street  
Hertford, NC 27944

Emma Jane McDermott replaced Clinton Crawford 2/93.  
Brandi Rheubottom replaced Jay Burrus 2/01.  
Bel Pitcher filled the unexpired term of Emma Jane McDermott 9/03.  
Kaye White filled vacant seat (Bel Pitcher) 2/11.  
Brandi Bohanan and Kaye White reappointed 1/21

**REVISED 1/23**



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**1st Choice** Aging Advisory Council

**2nd Choice** Health and Human Services Board

**3rd Choice** Nursing Home Community Advisory Council/DC Joint Comm. Advisory Committee

**Name** Nancy Elizabeth (Beth) Moore

**Address** 121B Colington Pointe Drive

**City/State/Zip** Kill Devil Hills, NC 27948

**Email** beth.moore@patientadvocate.org

**Personal Phone** (757)303-9443

**Business Phone** (800)532-5274

**Business Address** 421 Butler Farm Road Hampton, VA 23666

**Occupation** Executive Vice President, Corporate Communications

**Dare County Resident**  YES  
 NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background** Ms. Moore joined Patient Advocate Foundation in 2000, a national nonprofit organization that provides case management & financial aid services to patients with chronic and life-threatening illnesses. She has served in multiple positions including EVP of Corporate Communications, and prior to her relocation to North Carolina in 2014, President of Mission Delivery. A graduate of Hampton High School she studied political science at Chowan College

**Business and civic experience and skills** Proactive, visionary leader for external initiatives involving multi-sector stakeholders who share the mission to improve healthcare access. Instrumental in obtaining national grants & cooperative agreements delivering & directing services across a multitude of nationally recognized programs in the fields of case management and financial assistance. Highly effective advocate with deep expertise surrounding healthcare access obstacles & solutions.

**Other boards, Committees, Commissions on which you presently serve** Extensive service as expert reviewer and/or advisory board member to numerous and diverse organizations, agencies and coalitions have included: Centers of Disease Control and Prevention Advisory Committee on Breast Cancer in Young Women, Duke University Clinical Trials Advisory Panel for the project on the Impact of Third-Party Payment on Clinical Trials Accrual & Retention, Virginia Cancer Plan Action Coalition (CPAC)

## REFERENCE #1

**Name** Bill Nason, MBA, Chief Financial Officer

**Business** Patient Advocate Foundation  
**Address** 421 Butler Fam Road Hampton, VA 23666  
**Phone** (757)474-5451

**REFERENCE #2**

**Name** Erica Cobb  
**Business** International Taxation  
**Address** 15 Sailfish Drive Manteo, NC 27954  
**Phone** (919)606-0059

**REFERENCE #3**

**Name** Rebekah Angove, PhD  
**Business** Executive Vice President, Research and Evaluation  
**Address** 421 Butler Farm Road Hampton, VA 23666  
**Phone** (757)390-9486

**Signature** 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.

A rectangular box containing a handwritten signature in cursive script that reads "Beth Moore".

**Date** 7/11/2022





# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice            Aging Advisory Council

2nd Choice

3rd Choice

Name                    Kristina Ward

Address                5125 Winsor Place

City/State/Zip        Kitty Hawk, NC, 27949

Email                    kristinamward.20@gmail.com

Personal Phone      (757)971-8462

Business Phone

Business Address

Occupation            Registered Nurse

Dare County          YES  
Resident                NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background**            I began by education with an Associates of Science in Nursing degree in 2006 from Tidewater Community College. I then went on to complete a bridge program to earn my Bachelors of Nursing degree from the University of Texas at Arlington in 2013. In 2020 I completed my Master of Science in Health Informatics degree from Jacksonville University and in Oct 2021, I began my Master of Business Administration degree, also from Jacksonville University.

**Business and civic experience and skills**        I am from Virginia Beach, Va and while there, have served as a PICU and NICU nurse at CHKD as well as Portsmouth Naval Medical Center. Once I moved to the Outer Banks in 2016, I became a Case Manager, assisting adults and elderly to manage their day to days lives, meds, appointments and health. I now work for Blue Cross as a corporate auditor for their commercial plans, CHIP and Medicare.

**Other boards, Committees, Commissions on which you presently serve**        Since moving to the Outer Banks in 2016, I have done random volunteer activities, however, I have been searching for a committee and/or commission to serve on. I feel this commission would be a great fit.

## REFERENCE #1

Name                    Cindy Owens

Business                Conifer Health Solutions

Address 1596 Whitehall Road, Annapolis, MD 21409  
Phone (901)552-6294

REFERENCE #2

Name Kimberly Rowell  
Business Carolina Community Tracing Collaborative  
Address  
Phone (828)320-8384

REFERENCE #3

Name Elizabeth Barnes  
Business Conifer Health Solutions  
Address 1596 Whitehall Road, Annapolis, MD 21409  
Phone (816)714-8516

Signature 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.

*KRISTINA WARD*

Date 1/10/2022



*Community Child Protection Team  
Child Fatality Prevention Team*

**Description**

The Community Child Protection Team is a group of community representatives who promote a community wide approach to the problem of child abuse and neglect. The Child Fatality Prevention Team seeks to identify and reduce preventable child fatalities. See attached summary and roster.

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Charles Lycett, Director, Division of Social Services  
Dept. of Health and Human Services

February, 2023

**BOARD APPOINTMENT**  
**DARE COUNTY COMMUNITY CHILD PROTECTION TEAM (CCPT)**  
**AND**  
**CHILD FATALITY PREVENTION TEAM (CFPT)**

The Health and Human Services Board voted to recommend the appointment of Sara Sampson to replace Nancy Griffin and the appointment of Stephen Burritt to replace Jeff Mitchell.

Their applications are attached.

Other Members:  
See attached list



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

The Dare County Board of Commissioners believes all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member on one of the county's advisory boards or committees. If you would like to be considered for appointment to an advisory board or committee, please complete the form below.

## Advisory Board or Committee you are interested in:

- |             |  |   |
|-------------|--|---|
| 1st Choice* | Dare County Community Child Protective Team / community Fatality Prevention Team | ✓ |
| 2nd Choice  |  | ✓ |
| 3rd Choice  |  | ✓ |

## Your Personal Information

- |                  |  |
|------------------|--|
| Name*            | Sara Sampson   |
| Address*         | 4733 Vista Lane, Kitty Hawk, NC 27949  |
| City/State/Zip*  | Kitty Hawk, NC 27949   |
| Email*           | ssampson@darekids.org  |
| Personal Phone*  | Enter 9 digit number. Do not enter any spaces or special characters.<br>(252)256 2073  |
| Business Phone   | Enter 9 digit number. Do not enter any spaces or special characters.<br>(252) 441 0614 |
| Business Address | 534 Ananias Dare Street, manteo 27954  |
| Occupation*      | Executive Director, Children & Youth Partnership for Dare County                       |

Residency\*

Are you a resident of Dare County?

YES

NO

## Your Background

\*Due to limited space, please complete in paragraph format. The text boxes are limited to 450 characters

Education\*

Educational Background - please write in paragraph form, not as a list

Bachelor of Education in Child and Youth Education.  
Completed the NC Nonprofit management Institute.  
Certified parent educator through Parents as Teachers  
and the Triple P Positive Parenting Program.

Experience\*

Business and civic experience and skills - please write in paragraph form, not as a list

Executive Director of CYP, and I have almost 20 years of  
non-profit experience. Educational background and 30+  
years of experience working with children, youth and families.

Current Services\*

Other boards/Committees/Commissions on which you presently serve - please write in  
paragraph form, not as a list

I am currently a member of the Dare County JCPC Board  
and the NC Parents as Teachers Board. I'm also serving  
on various local committees and taskforces that concern  
family support issues, such as the Dare County Community  
Services Collaborative and Local Interagency Coordinating Council.

## 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.

### REFERENCE #1

Name\*

Leigh Brinkley

Business\*

Dare County Dept. of Health and Human Services

Address\*

107 Exeter St., Manteo, NC 27954

Phone\*

Enter 9 digit number. Do not enter any spaces or special characters.

(252) 475 5566

### REFERENCE #2


Name\* Tristan Roderick  
Business KidsFirst  
Address 4333 Ridge Rd. Kitty Hawk, NC 27949  
Phone\* Enter 9 digit number. Do not enter any spaces or special characters.  
(252) 489 9750

REFERENCE #3

Name\* Jennifer Schwartzberg  
Business The Outer Banks Hospital  
Address 4800 S. Croatan Hwy, Nags Head NC 27959  
Phone\* Enter 9 digit number. Do not enter any spaces or special characters.  
(252) 449 5933

Signature\* 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.

Sign

 1/9/2023

Date Date will be captured on form submission

I'm not a robot

reCAPTCHA  
Privacy - Terms

Submit



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

The Dare County Board of Commissioners believes all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member on one of the county's advisory boards or committees. If you would like to be considered for appointment to an advisory board or committee, please complete the form below.

## Advisory Board or Committee you are interested in:

1st Choice \*

Community child Protection team / Child fatality Prevention Team  
Value is required.

2nd Choice

3rd Choice

## Your Personal Information

Name \*

Stephen Burritt

Address \*

140 Fearing Place

City/State/Zip \*

Manteo NC 27954

Email \*

stephenb@darenc.gov

Personal Phone \*

Enter 9 digit number. Do not enter any spaces or special characters.

(252)489-0845

Business Phone

Enter 9 digit number. Do not enter any spaces or special characters.

(252)475-5741

Business Address

1632 N Croatan Hwy Kill Dvil Hills NC 27949

Occupation \*

Captain/Paramedic



**Residency \***

Are you a resident of Dare County?

- YES
- NO

## Your Background

\*Due to limited space, please complete in paragraph format. The text boxes are limited to 450 characters

---

**Education \***

Educational Background - please write in paragraph form, not as a list

HS diploma, Some College (working on AAS currently), Have NC Paramedic Credential.

**Experience \***

Business and civic experience and skills - please write in paragraph form, not as a list

Paramedic for 13 years, 8 years on Dare Medflight some as the LT over the program and now a Captain.

**Current Services \***

Other boards/Committees/Commissions on which you presently serve - please write in paragraph form, not as a list

NA

## 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.

---

**REFERENCE #1**

**Name \***

**Business \***

**Address \***

**Phone \***

Enter 9 digit number. Do not enter any spaces or special characters.

**REFERENCE #2**

**Name \***

**Business**

**Address**

**Phone \*** Enter 9 digit number. Do not enter any spaces or special characters.

**REFERENCE #3**

**Name \***

**Business**

**Address**

**Phone \*** Enter 9 digit number. Do not enter any spaces or special characters.

**Signature \*** 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.

**Date** Date will be captured on form submission

I'm not a robot reCAPTCHA  
Privacy - Terms

COMMUNITY CHILD PROTECTION TEAM  
CHILD FATALITY PREVENTION TEAM  
TEAM COMPOSITION

<u>Person</u>	<u>Representing</u>
Jeffrey Sherman Gard	Law enforcement
Keith Letchworth	Trillium
Jodi Wyant	CFPT Coordinator
Lisa Weatherly	District Attorney's Office
Chuck Lycett	Social Services Director – CCPT Coordinator
Sally Laws	DHHS – SSD
Kathleen Foreman	Guardian Ad Litem
Theresa Forward	Economic Improvement Council
L'Tanya Murray	DHHS Board
Kathy Spencer	Roanoke Is. Pres. Day Care
<b>Jeff Mitchell</b>	<b>EMS</b>
	County Medical Examiner
Cara Sumners	Local Health Care Provider
Judge Edgar Barnes	Chief District Court Judge
Ashley Jackson	Board of Education
Sheila Davies	Health Director
<b>Nancy Griffin</b>	<b>Children and Youth Partnership – Member at Large</b>
Michael Lewis	Hotline - Member at Large
Robin Cudworth	DHHS - PHD



*A.B.C. Board*

**Description**

See Attached Summary

**Board Action Requested**

Take Appropriate Action

**Item Presenter**

Robert Outten, County Manager

February, 2022

**BOARD APPOINTMENT**

**A.B.C. BOARD**

(Three Year Term)

The A.B.C. Board retains authority to set policy and adopt rules in conformity with A.B.C. laws and Commission rules and can hire and fire local Board personnel.

**The A.B.C. Board recommends the following applicants for consideration to fill the vacancy left by James Clark:**

**Pat Hudspeth, Don Twyne, Jr., Jimmy Pierce and Michael Andrews**

**The Board requests that the new member's term expire August 2023 and then be considered for reappointment in order to better stagger term limits**

Applications have been received from:

Michael Andrews  
Mark Ballog  
Tod Clissold  
Jeffrey Dowdy  
Pat Hudspeth  
Chris Parker  
Earl Shearin, Jr.  
Don Twyne, Jr.  
Amber Younce

Other Members:  
See attached list

**A.B.C. BOARD**  
(Three Year Term)

**This Board manages the sale of distilled spirits by promoting excellence in customer service, fiscal responsibility, operational effectiveness and compliance with laws that govern the sale and use of alcoholic beverages in Dare County. They retain authority to set policy and adopt rules in conformity with ABC laws and Commission rules.**

<b><u>MEMBER</u></b>	<b><u>TERM EXPIRATION</u></b>	<b><u>ACTION</u></b>
Bea Basnight 177 Scuppernong Road Manteo, NC 27954 252-473-3856 <a href="mailto:beabasnight@aol.com">beabasnight@aol.com</a>	8/25	Apptd. 7/18/22
Robert "Bobby" Owens, II P.O. Box 505 Manteo, NC 27954 252-256-0668 (H) <a href="mailto:bowens@manteonc.gov">bowens@manteonc.gov</a>	8/24	Apptd. 6/11 Reapptd. 8/12, 15, 18, 7/21
Fields Scarborough, Sr.CH P.O. Box 1691 Manteo, NC 27954 252-473-0944 <a href="mailto:fscarborough1@gmail.com">fscarborough1@gmail.com</a>	8/23	Apptd. 8/14 Reapptd 8/17, 7/20
Joe Tauber 205 Eagle Dr. Kill Devil Hills, NC 27948 410-491-9735 <a href="mailto:joetauberlaw@yahoo.com">joetauberlaw@yahoo.com</a>	8/24	Apptd. 9/15 Reapptd. 8/18, 7/21
<b>James Clark</b> 1508 Small Ct. Kill Devil Hills, NC 27948 252-715-0602 (H) 252-207-2912 (O) <a href="mailto:loditrivr@charter.net">loditrivr@charter.net</a>	<b>8/24</b>	<b>Apptd. 9/15</b> Reapptd. 8-18, 7/21

**NOTES: MEETING INFO:** 3<sup>rd</sup> Tuesday each month, 9:00 a.m., ABC Store in Manteo  
**MEMBERS COMPENSATED:** Chairman \$400/mo. and members \$300/mo.

**CONTACT INFO:** Fields Scarborough, Sr., Chairman  
Ted Toler, ABC General Manager (252-473-9492 ext. 20)

Rondall Tillett replaced David Mizelle & Aubrey Heath appointed to fill term of Leon Daniels 8/94. Carl Hayes replaced Aubrey Heath 8/98; Guy Midgett replaced Ray White 8/07.

Ray White appointed to fill unexpired term of Guy Midgett 5/08.

Bobby Owens appointed to fill unexpired term of Rondall Tillett 6/11.

Fields Scarborough, Sr. replaced Carl Hayes 8/14.

**\*\*On 8/3/15, the Dare County Board of Commissioners voted to increase the size of the ABC Board from three to five members.**

Joe Tauber and James Clark were appointed 9/8/15.

Ray White was reappointed 8/5/19.

Robert "Bobby Owens, II, Joe Tauber, and James Clark reappointed 7/21

Fields Scarborough, Sr. appointed as Chairman by Dare BOC and Bea Basnight appointed as new member to replace retiring W. Ray White 7/18/22

James Clark passed away 12/22

**REVISED 02/2023**



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**1st Choice**                    ABC Board

**2nd Choice**

**3rd Choice**

**Name**                         Michael Andrews

**Address**                      P O Box 12

**City/State/Zip**               Manteo, NC 27954

**Email**                         obxwaterman@yahoo.com

**Personal Phone**              (252)202-3121

**Business Phone**              (252)202-3121

**Business Address**          P O Box 12 Manteo, NC 27954

**Occupation**                 Marine Surveyor / Adjuster

**Dare County Resident**       YES  
    NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background**                    I graduated from Manteo High School in 1983. I have completed numerous courses pertaining to my occupation over the last 30 years. I annually submit continuing education for all of my current licenses.

**Business and civic experience and skills**                I am self employed and have owned my own business, Andrews Marine Enterprises, Inc, for roughly 30 years. I work throughout Dare County along with traveling to many different locations throughout the country. I have been active in the past coaching baseball from T Ball to High School. I was Booster President at Manteo for 5 years. I am currently a trustee of Manteo Lodge # 521 and contribute time towards the Dare County Boatbuilders Foundation.

**Other boards, Committees, Commissions on which you presently serve**                    I do not serve on any boards or committee's for Dare County. I am a trustee for Manteo Masonic Lodge # 521 and current officer.

## REFERENCE #1

**Name**                         Jim Tobin

**Business**                     Owner Pirates Cove Marina

**Address**                      Pirates Cove, Manteo



Phone (252)256-0629

**REFERENCE #2**

Name Michael Glover

Business Doctor

Address Pirates Cove, Manteo

Phone (252)314-9376

**REFERENCE #3**

Name Sammy Midgett

Business Dare County Water Dept

Address Manteo, NC

Phone (252)256-1721

Signature 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.

*Michael Andrews*

Date 7/23/2022



APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**Advisory Board or Committee interested in:**

1<sup>st</sup> choice: ABC Board

2<sup>nd</sup> choice:

3<sup>rd</sup> choice:

**Name:** MARK BALLOG

**Address:** 2625 SOUTH BRIDGE LANE

**City/State/Zip:** NAGS HEAD, NC 27959

**Email Address:** markballog@aol.com

**Telephone:** Home: (252)573-9756 Business: (252)-2555

**Resident of Dare County:** YES

**Occupation:** RESTAURANT OWNER

**Business Address:** 3308 S VIRGINIA DARE TRAIL

**Educational background:**

Bachelor of Science degree in Marketing form Indiana University of Pennsylvania 1994.

**Business and civic experience and skills:**

I have worked in restaurants for the past 32 years here in Dare County. Involved with Outer Banks Restaurant association, served on the Planning board for the town of Nags Head for a 2 year term. Currently own a Lucky 12 Tavern in Nags Head since 2006.

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

I currently serve on the Outer Banks Tourism board representing the the restaurants of Dare and Currituck County.

**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	MICHAEL SIERS
Business/Occupation	OWNER HOWARD HANNAH KILL DEVIL HILLS BRANCH
Address	4638 SOUTH BLUE MARLIN WAY NAGS HEAD, NC 27959
Telephone	(252)489-3861

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APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name JEFFREY DOWDY  
Business/Occupation CPA DOWDY & OSBORNE  
Address 105 WEIR POINT DR, MANTEO NC 27954  
Telephone (252)202-3324

---

Name JASON WAUGHTEL  
Business/Occupation SENIOR VP SOUTHERN BANK  
Address 108 WEIR POINT DR, MANTEO, NC 27954  
Telephone (252)619-6801

---

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:

*Mark Ballog*

Date: 12/27/2022



APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**Advisory Board or Committee interested in:**

1<sup>st</sup> choice: ABC Board

2<sup>nd</sup> choice:

3<sup>rd</sup> choice:

**Name:** TOD CLISSOLD

**Address:** 221 COMPTON ST

**City/State/Zip:** MANTEO

**Email Address:** tod.clissold@gmail.com

**Telephone:** Home: (252)305-4963 Business:

**Resident of Dare County:** YES

**Occupation:** SELF EMPLOYED

**Business Address:** 303 QUEEN ELIZABETH AVE

**Educational background:**

Attended Brevard College and UNC Charlotte

**Business and civic experience and skills:**

Business Owner of Poor Richards's

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

Served Vice Chair or Roanoke Island Commission 2001-2017

Chair of The Friends Of Elizabeth II from 2001 til 2020

Still Serve on the Board of E II

Manteo Health Care Task Force

Manteo Town Commissioner

**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	MALCOLM FEARING
Business/Occupation	SELF EMPLOYED
Address	PO BOX 759 MANTEO 27954
Telephone	(252)305-8596

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APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name                               FIELDS SCARBOURGH  
Business/Occupation    RETIRED  
Address                         MANTEO  
Telephone                 (252)473-0944

---

Name                               BOBBY OWENS  
Business/Occupation    RETIRED  
Address                         MANTEO  
Telephone                 (252)473-2721

---

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:

*Tod Clissold*

Date: 1/30/2023



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**1st Choice** ABC Board  
**2nd Choice** Tourism Board  
**3rd Choice**  
**Name** Jeffrey B Dowdy  
**Address** 105 Weir Point Dr  
**City/State/Zip** Manteo, NC 27954  
**Email** dowdy@dowdyosbornecpa.com  
**Personal Phone** (252)202-3324  
**Business Phone** (252)449-4404  
**Business Address** P O Box 9 Nags Head NC 27959  
**Occupation** Accountant/CPA  
**Dare County Resident**  YES  
 NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background** I have a Bachelor of Business Administration in Accounting from Campbell University. And I Have had been a Certified Public Accountant since 1990.

**Business and civic experience and skills** I have owned my own Accounting/Advisory business here on the Outer Banks for over 32 years. In this business I help local businesses with budgeting/cost controls, expansion and management decisions and Tax planning. I have also served as a past board member of the Outer Banks Chamber of Commerce (Treasurer) .

**Other boards, Committees, Commissions on which you presently serve** I do not current serve on any Town or County Boards or Committees.  
I do current serve on the Nonprofit Board The Dare County Boat Builders Foundation

## REFERENCE #1

**Name** Myra Ladd-Bone  
**Business** Realtor / Past owner of Atlantic Realty  
**Address** 3053 Creek Road Kitty Hawk NC 27949  
**Phone** (252)202-5689

## REFERENCE #2

**Name** Teresa Osborne  
**Business** CPA  
**Address** P O Box 1101 Nags Head NC 27949  
**Phone** (252)202-1570

**REFERENCE #3**

**Name** Jason Waughtel  
**Business** Senior V P/Regional Executive Southern Bank  
**Address** 108 Weir Point Dr Manteo NC 27954  
**Phone** (252)619-6801

**Signature** 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.

*Jeffrey B DOWDY*

**Date** 5/16/2022



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

**1st Choice** ABC Board

**2nd Choice**

**3rd Choice**

**Name** Pat Hudspeth

**Address** 8 Ginguite Trail

**City/State/Zip** Southern Shores, NC 27949

**Email** phudspeth@twiddy.com

**Personal Phone** (252)256-0871

**Business Phone** (252)457-1177

**Business Address** 1181 Duck Rd., Duck, NC

**Occupation** Attorney

**Dare County Resident**  YES  
 NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background** I graduated from Manteo High School in 1997. I received a BA in Economics from UNC-Chapel Hill in 2001. I completed law school at UNC-Chapel Hill in 2004.

**Business and civic experience and skills** Aldridge, Seawell, Spence & Hudspeth ('04-'17); Law Office of Pat Hudspeth ('17-'19); Twiddy & Company (in-house General Counsel, '19-present); former Dare Co. DSS attorney; former chair of Dare Co. Juvenile Crime Prevention Counsel; former OB Chamber of Commerce Board member; former Duck Woods Country Club Board member; Dare Co. Emergency Management Advisory Committee member

**Other boards, Committees, Commissions on which you presently serve** OBX Baseball Board of Directors (VP); Southern Bank Local Advisory Board; Community Care Clinic of Dare Board of Directors

## REFERENCE #1

**Name** Bobby Outten

**Business** Dare County Manager

**Address** P.O. Box 1000, Manteo, NC 27954

**Phone** (252)202-9540



**REFERENCE #2**

**Name** Jim Tobin  
**Business** Dare County Board of Commissioners  
**Address** P.O. Box 1000, Manteo, NC 27954  
**Phone** (252)256-0629

**REFERENCE #3**

**Name** Tess Judge  
**Business** Wilbur Wright Associates, Inc.  
**Address**  
**Phone** (252)216-6105

**Signature** 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.

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Tess Judge' written in a cursive style.

**Date** 12/22/2022



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

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**1st Choice** ABC Board  
**2nd Choice** Northeastern Workforce Development Board  
**3rd Choice** Oregon Inlet Task Force  
**Name** Chris Parker  
**Address** 106 Airport Rd  
**City/State/Zip** 27954  
**Email** cparker@baylissboatworks.com  
**Personal Phone** (757)773-3823  
**Business Phone** (252)473-9797  
**Business Address** Bayliss Boatworks, 600 Harbor Road, Wanchese, NC 27954  
**Occupation** CPA  
**Dare County Resident**  YES  
 NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background** I hold a bachelors degree in commerce from the University of Virginia. I held a CPA license in Virginia from 2004 to 2016 and in North Carolina since 2017.

**Business and civic experience and skills** I am a CPA with 10 years of public accounting experience and 10 years of experience working as a Controller and CFO for family owned businesses.

**Other boards, Committees, Commissions on which you presently serve** None

## REFERENCE #1

**Name** Nancy Brown  
**Business** Bayliss Boatworks  
**Address** 600 Harbor Rd, Wanchese, NC 27954  
**Phone** (252)202-6696

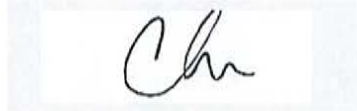
## REFERENCE #2

**Name** Judd Beatty  
**Business** Bayliss Boatworks  
**Address** 600 Harbor Rd, Wanchese, NC 27954  
**Phone** (252)455-7011

**REFERENCE #3**

**Name** Kathy Carden  
**Business** Bayliss Boatworks  
**Address** 600 Harbor Road, Wanchese, NC 27981  
**Phone** (252)216-8790

**Signature** 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.

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'K. Carden'.

**Date** 1/2/2023



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

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**1st Choice**                      Tourism Board

**2nd Choice**                      ABC Board

**3rd Choice**                      Airport Authority

**Name**                              Earl C Shearin, Jr. (Tim)

**Address**                           136 Cannon Trail

**City/State/Zip**                 Manteo, NC 27954

**Email**                              tim.shearin3@gmail.com

**Personal Phone**                (252)216-0260

**Business Phone**                (252)475-5980

**Business Address**

**Occupation**                      Retired

**Dare County**                       YES

**Resident**                              NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background**                 BSBA East Carolina University

**Business and civic experience and skills**         Manager, Belk Dept. Store 36 years

**Other boards, Committees, Commissions on which you presently serve**         Dare County Health/Human Services Board Chairman

## REFERENCE #1

**Name**                              Mr. Brown Douglas

**Business**                              Retired

**Address**                              112 Lidia Lane, Manteo, NC 27954

**Phone**                              (252)216-8294

## REFERENCE #2

**Name** Mr. Robert Woodard  
**Business** Towne Bank  
**Address** 2305 Bay Dr., Kill Devil Hills NC 27948  
**Phone** (252)702-7219

**REFERENCE #3**

**Name** Mr. Jay Burrus  
**Business** Retired  
**Address** 134 Cannon Trail, Manteo, NC 27954  
**Phone** (252)473-7148

**Signature** 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.

*Earl C. Shearin, Jr.*

**Date** 7/11/2022

APPLICATION FOR APPOINTMENT TO  
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

The Dare County Board of Commissioners believes all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member on one of the county's advisory boards or committees. If you would like to be considered for appointment to an advisory board or committee, please complete the form below and mail to Cheryl Anby, P.O. Box 1000, Manteo, N.C. 27954 or fax it to her at 473-1817, or send it by email to cheryl.anby@darenc.com

Advisory Board or Committee interested in:

1<sup>st</sup> choice ABC Board

2<sup>nd</sup> choice \_\_\_\_\_

3<sup>rd</sup> choice \_\_\_\_\_

Name Don Twyne Jr.

Address 116 Fort Hugar Way

City/State/Zip Manteo NC 27954

Email Address donovan.twyne @ncdenr.gov

Telephone Home: 252-473-6345

Business: 252-423-0036

Resident of Dare County:  yes  no

Occupation: Law Enforcement - NC Marine Patrol - Captain District 1

Business Address: 1021 Driftwood Drive - Manteo

Educational background:

High School - some college - NC Certified Public Manager  
BLET certified.

Business and civic experience and skills:

License Contractor, LE certified, CDL driver

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

n/a

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	Business/Occupation	Address	Telephone
<u>GG Bonner</u>	<u>Retired PostMaster</u>	<u>Mantua</u>	<u>252-473-2379</u>
<u>Jeff Landreft</u>	<u>Retired DoD</u>	<u>Mantua/Raleigh</u>	<u>252-489-9636</u>
<u>Jeff Malarney</u>	<u>Lawyer</u>	<u>Wanchese</u>	<u>252-202-4040</u>

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.

Date: 8/27/2020 Signature of applicant: [Signature]

FOR OFFICE USE ONLY:

Date received: 8/27/2020



# APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

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**1st Choice** Juvenile Crime Prevention Council (JCPC)  
**2nd Choice** Jury Commission  
**3rd Choice** ABC Board  
**Name** Amber Younce  
**Address** 205 E. Archdale Street  
**City/State/Zip** Kill Devil Hills, NC 27849  
**Email** amber.l.younce@nccourts.org  
**Personal Phone** (252)996-0785  
**Business Phone** (252)475-5267

**Business Address**

**Occupation** Assistant District Attorney

**Dare County Resident**  YES  
 NO

The text boxes for Education, experience and other should only be 6 lines in order to format nicely on final application form. Text box is limited to 450 characters, but you may have to delete the line breaks.

**Educational Background** I have a Bachelor's Degree from the University of North Carolina at Wilmington in Liberal Arts. I have a Juris Doctorate Degree from Campbell University School of Law.

**Business and civic experience and skills** I took a year-long course in juvenile delinquency in law school. Additionally, I served as a judge for Wake County Teen Court for 3 years.

I am currently the primary ADA for all juvenile matters in Dare County. I also handle juvenile sessions in other counties, such as Currituck and Camden.

**Other boards, Committees, Commissions on which you presently serve** None at this time.

**REFERENCE #1**

**Name** Laura Twitchell  
**Business** Assistant District Attorney  
**Address** PO Box 579, Manteo, NC 27954  
**Phone** (252)305-9770



**REFERENCE #2**

**Name** Jeffrey Cruden

**Business**

**Address**

**Phone** (252)475-5266

**REFERENCE #3**

**Name** Lauren Bailey

**Business**

**Address**

**Phone** (252)475-5260

**Signature** 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.

*Amber L. Younce*

**Date** 2/21/2022



*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.**

**March, 2023 -** None

**April, 2023 -** Airport Authority – 1 term expiring  
Manns Harbor Marina Commission – 4 terms expiring

**May, 2023 -** Veterans Advisory Council – 2 terms expiring  
Zoning Board of Adjustment – Dare County – 2 terms 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