



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

Tuesday, May 7th, 2024

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

- 9:00 AM CONVENE, PRAYER, PLEDGE OF ALLEGIANCE**
- ITEM 1** Opening Remarks - Chairman's Update
- ITEM 2** Service Pins - May
- ITEM 3** Employee of the Month – May
- ITEM 4** Public Comments
- ITEM 5** Governor’s Awards for Volunteer Service
- ITEM 6** Dare Arts Celebrates 50 Years on the Outer Banks in 2025
- ITEM 7** Proclamation – EMS Week May 19th – 25th
- ITEM 8** Proclamation – Older American’s Month 2024
- ITEM 9** Proclamation – June 15th to be Named as World Elders Abuse Awareness Day
- ITEM 10** DHHS – Public Health Opioid Settlement Funds Proposal Plan for FY 2025
- ITEM 11** Alliance Health Contract Agreement – EMS
- ITEM 12** Request from the Housing Task Force – Affordable Housing Grant
- ITEM 13** Presentation of Manager’s Fiscal Year 2025 Recommended Budget
- ITEM 14** Amendments to Capital Project Ordinances for EMS Projects Phase 1 & Phase 2 (Series 2024 LOBs & Series 2023A LOBs)
- ITEM 15** Capital Project Ordinance for Dare County Schools Early College
- ITEM 16** Early College Prep Design Contract
- ITEM 17** **Consent Agenda**
1. Approval of Minutes (4/2/24 & 4/9/24)
 2. Tax Collector's Report
 3. Budget Amendment – 911 Board PSAP Grant
 4. Budget Amendment – Oregon Inlet Administration
 5. Budget Amendment – Baum Center
 6. Budget Amendment – Sanitation Department
 7. Grant Certification – No Overdue Tax Debts
 8. DHHS – Public Health – ARHC Mini Grant
 9. Motorola Service Agreement – Sheriff
 10. Dropcounter Subscription for Water Use Customer Portal
 11. Cape Hatteras Electric Cooperative Contract for Burrus Field
 12. Systel Business Equipment Co., Inc. Statement of Work
 13. NC Governor’s Highway Safety Program – Local Government Resolution (Personnel Overtime)
 14. NC Governor’s Highway Safety Program – Local Government Resolution (Law Enforcement Liaison)
- ITEM 18** **Board Appointments**
1. Stumpy Point Community Center Board
 2. Veterans Advisory Council
 3. Zoning Board of Adjustment
 4. Upcoming Board Appointments
- ITEM 19** **Commissioners’ Business & Manager’s/Attorney’s Business**

ADJOURN UNTIL 9:00 A.M. ON, JUNE 3RD 2024.



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 - May, 2024

Description

Service pins for the month of May will be presented.

Board Action Requested

None

Item Presenter

Robert Outten, County Manager



Employee of the Month

Description

The Employee of the Month Certification for May will be presented.

Board Action Requested

None

Item Presenter

To Be Determined



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



Governor's Award for Volunteer Service

Description

Susan Lee nominated by Molly McGinnis, Lisa Minerich nominated by Kelly Lambroff, Colette Mainardi Walker nominated by Elaine Reed, Paul and Cathy Lesiewicz nominated by Taylor McConnell, Lee Goldman nominated by Bonnie Rowe, Karen DeBellis nominated by Jenniffer Albanese, Ginny Flowers nominated by Patty Bourexis, Mary Ann Toboz and Chris Sawin, Marvin Fred Parker nominated by William Walker, and Deborah Swick (Medallion Winner) nominated by Wanda Gail Sitterson, Latisa Head and Lisa Minerich.

Board Action Requested

None - Presentation

Item Presenter

Shannon Toler Glaser, Friends of Youth-Program Coordinator



Dare Arts Celebrates 50 Years on the Outer Banks in 2025

Description

Brief Recap of Dare Arts History & Overview of the 2025 Celebration Year Plans.

Board Action Requested

Endorse the proposed Year of the Arts with financial support.

Item Presenter

Jessica Sands, Executive Director of Dare Arts



ON THE
OUTER BANKS

**Celebrating 50 years
of encouraging the arts
in Dare County.**



DARE ARTS HISTORY

1975



Founded as Sea and Sounds Arts Council in October.

1988



Renamed Dare County Arts Council and established as a 501(c)(3) nonprofit organization.

1996



Hired first employee and opened first office space in Nags Head.



DARE ARTS HISTORY

2000



Moved the office and gallery to Manteo.

2010



Moved into the historic 1904 courthouse in downtown Manteo.

2024



Now known as Dare Arts, the organization is one of the oldest established nonprofits in Dare County.



WHO WE SERVE



Visual Artists

Gallery, Exhibits,
& Installations



Performing Artists

First Fridays, Rock the
Cape, Film Society



Youth

Artrageous, Classes,
Scholarships, & Camps



Underserved

Power of Art, Veterans,
& Pride Project

FRANK STICK MEMORIAL ART SHOW

ESTABLISHED 1978

Held in memory of Outer Banks preservationist and artist Frank Stick

The longest running visual arts exhibit in Dare County

Hosted at Glenn and Pat Eure's Ghost Fleet Gallery until 2017

Next year is the 47th year.



Held in memory of Mollie A. Fearing, one of the founders of Dare Arts

In 1975, a group gathered at Mollie's house and began the Sea and Sounds Arts Council.

Just this past Sunday, the 27th exhibit opened.

MOLLIE FEARING MEMORIAL ART SHOW

ESTABLISHED 1998

FIRST FRIDAYS...



DARE ARTS EXHIBITION OPENING
VAULT GALLERY: WOMEN & CLAY EXHIBIT

NONPROFIT OF THE MONTH
DARE EDUCATION FOUNDATION

Join us for the Manteo Stroll every First Friday.
Restaurants & Shops Open Late!

Thank you, April Oden, for sponsoring First Friday!



LIVE PERFORMANCES

- OLD TOM STREET: SCOTT FRANSON
- DARE ARTS COURTYARD: JONNY WATERS
- MAGNOLIA PAVILION: FFHS HONORS JAZZ BAND
- NOUVINES: TOOLAN & EVANS
- POOR RICHARDS: TIM & WOODY
- PIONEER THEATER: GRACE WATERS
- 1587 RESTAURANT AND LOUNGE: FLECK
- KILL DEVIL RUM: LITMUS TRIO



...a fun-filled, family-oriented, community event where the sidewalks pulse with live music, artisans, food, drinks and much more!



ARTRAGEOUS

ESTABLISHED 1989

This annual, free community event brings families together to paint, sculpt, dance, sing and be creative.

Proceeds support Artrageous Youth Scholarship Fund, which awards a scholarship to a Dare County high school senior intending to study the arts in college.



THE POWER OF ART...

a program designed to provide free art experiences to underserved groups including:

- Veterans
- Adults with developmental disabilities or delays
- Adults with cognitive decline or dementia
- Those touched by cancer



PARTNERS

One of the most cherished aspects of this work is the joint ventures with other community groups.

Some of the organizations we have recently collaborated with include:



- Don & Catharine Bryan Cultural Series
- Theatre of Dare
- Veterans Advisory Council
- Town of Manteo
- Dare County Schools
- Outer Banks Health
- Pea Island Preservation Society
- Children and Youth Partnership
- Dare Education Foundation
- Outer Banks Dementia Friendly Coalition
- GEM: Gentle Expert Memorycare
- Circle of Hope
- OBX Pridefest
- Peace Garden Project
- Chicamacomico Historical Association
- Outer Banks Forever
- The Pioneer Theater
- Frisco Native American Museum

THE YEAR OF THE ARTS

PAST

Commemorate our history, our founders, and our community.

PRESENT

Amplify & celebrate our longstanding programs & events.

FUTURE

Curate new exhibits, experiences, and partnerships.

CONNECTION



The arts are essential to a vibrant and healthy community.

Our 50th anniversary year will not only highlight the art and artists of the Outer Banks, but will continue to bring the Dare County community together in fun and engaging ways.

BUDGET

As you can imagine, taking on a year long project is a massive logistical and financial undertaking.

Our projected budget nears \$100,000 most of which is artist fees and marketing.

We have a robust plan for securing funds from various sources, and we thank Dare County for the consideration of support for a momentous 2025.

2025 Anniversary Working Budget

Expenses

Advertising and Marketing		
Advertising/Marketing	\$	30,000.00
Exhibits & Workshops		
Exhibit Panel Printing	\$	2,500.00
Video Production	\$	2,500.00
Plain Air Event	\$	2,000.00
Artist Fees	\$	2,000.00
Awards	\$	2,000.00
Courtyard	\$	5,000.00
Celebration		
Catering	\$	3,000.00
Artist Fees	\$	1,000.00
Decor	\$	1,000.00
Awards	\$	1,000.00
Venue rental	\$	1,500.00
Performing Arts		
Artist Fees - Special Events	\$	15,000.00
Aristst Fees - Established events	\$	15,000.00
Venue rentals	\$	5,000.00
Sound Support	\$	5,000.00
Other Event Touches		
Film Venue Rental	\$	1,500.00
Total Expenses	\$	95,000.00
Grand Total	\$	(95,000.00)



ON THE
OUTER BANKS

Thank you!





Proclamation for EMS Week: May 19-25, 2024

Description

To designate the week of May 19-25, 2024, as Emergency Medical Services Week

This year's national theme for the 50th Anniversary of EMS Week:
"Honoring Our Past. Forging Our Future."

Board Action Requested

Approve attached proclamation

Item Presenter

EMS Director, Chief Jennie Collins



2024 EMS WEEK PROCLAMATION

To designate the Week of May 19-25, 2024, as Emergency Medical Services Week

WHEREAS, emergency medical services is a vital public service; and

WHEREAS, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24-hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services is the community's medical care safety net, fills gaps and provides important out-of-hospital care, and performs life-saving and time-critical interventions; and

WHEREAS, emergency medical service personnel serve our community on the front-lines, often with personal sacrifices of being away from their families on nights, weekends, and holidays, in all types of weather environments, and face numerous personal risks and threats to ensure our community receives the best care possible; and

WHEREAS, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, administrators, emergency nurses, emergency physicians, and other out-of-hospital medical care providers; and

WHEREAS, the members of emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week; and

WHEREAS, with this year's national theme for the 50th Anniversary of Emergency Medical Services Week – "*Honoring Our Past. Forging Our Future.*"

NOW THEREFORE BE IT RESOLVED that the Dare County Board of Commissioners in recognition of this event do hereby proclaim the week of May 19-25, 2024, as **EMERGENCY MEDICAL SERVICES WEEK**.

This the 7th day of May, 2024.

Robert Woodard Sr., Chairman
Dare County Board of Commissioners

Attest: _____
Skyler Foley, Clerk to the Board



Proclamation - Older Americans Month 2024

Description

Every May, the Administration for Community Living (ACL) leads the celebration of Older American's Month (OAM). This year's theme, "Powered by Connection," focuses on the profound impact that meaningful connections have on the well-being and health of older adults — a relationship underscored by the U.S. Surgeon General's Advisory on the Healing Effects of Social Connection and Community.

Board Action Requested

Adopt Proclamation

Item Presenter

Robert Outten, County Manager



Older Americans Month 2024

A PROCLAMATION

- WHEREAS**, May is Older Americans Month, a time for us to recognize and honor Dare County's older adults and their immense influence on every facet of American society; and
- WHEREAS**, through their wealth of life experience and wisdom, older adults guide our younger generations and carry forward abundant cultural and historical knowledge; and
- WHEREAS**, older Americans improve our communities through intergenerational relationships, community service, civic engagement, and many other activities; and
- WHEREAS**, communities benefit when people of all ages, abilities, and backgrounds have the opportunity to participate and live independently; and
- WHEREAS**, Dare County must ensure that older Americans have the resources and support needed to stay involved in their communities — reflecting our commitment to inclusivity and connectedness; and
- THEREFORE**, we of the Dare County Board of Commissioners do hereby proclaim May 2024 as Older Americans Month. This year's theme, "Powered by Connection," emphasizes the profound impact of meaningful interactions and social connection on the well-being and health of older adults in our community.

We call upon all residents to join me in recognizing the contributions of our older citizens and promoting programs and activities that foster connection, inclusion, and support for older adults.

Dated on this day of May 7th, 2024.

Robert Woodard, Sr., Chairman

Attest:

Skyler Foley, Clerk to the Board



Proclamation for June 15th, 2024 to be named as World Elders Abuse Awareness Day

Description

Every year on June 15, World Elder Abuse Awareness Day (WEAAD) is commemorated in America and worldwide. Through WEAAD, awareness is raised about the millions of older adults who experience elder abuse, neglect, and financial exploitation.

Board Action Requested

Adopt Proclamation

Item Presenter

Robert Outten, County Manager



Proclamation for June 15th, 2024 to be named as World Elders Abuse Awareness Day

- WHEREAS:** Older adults deserve to be treated with respect and dignity to enable them to serve as leaders, mentors, volunteers and vital participating members of our communities;
- WHEREAS:** In 2006, the International Network for the Prevention of Elder Abuse, in support of the United Nations International Plan of Action, proclaimed a day to recognize the significance of elder abuse as a public health and human rights issue; and
- WHEREAS:** 2024 marks the 18th Annual World Elder Abuse Awareness Day. Its recognition will promote a better understanding of abuse and neglect of older adults; and
- WHEREAS:** The National Center on Elder Abuse (NCEA), Albemarle Commission Area Agency on Aging and Dare County recognize the importance of taking action to raise awareness, prevent and address elder abuse; and
- WHEREAS:** As our population lives longer, we are presented with an opportunity to think about our collective needs and future as a nation; and
- WHEREAS:** Ageism and social isolation are major causes of elder abuse in the United States; and
- WHEREAS:** Recognizing that it is up to all of us, to ensure that proper social structures exist so people can retain community and societal connections, reducing the likelihood of abuse; and
- WHEREAS:** Preventing abuse of older adults through maintaining and improving social supports like senior centers, human services and transportation will allow everyone to continue to live as independently as possible and contribute to the life and vibrancy of our communities; and
- WHEREAS:** Where there is justice there can be no abuse; therefore, NCEA urges all people to restore justice by honoring older adults.
- WHEREAS:** Join us in our engaging and empowering movement, and putting an end to abuse.
- THEREFORE;** The Dare County Board of Commissioners hereby proclaims June 15, 2024 as World Elder Abuse Awareness Day in Dare County and encourage all of our communities to recognize and celebrate older adults and their ongoing contributions to the success and vitality of our country.

Dated on this day of May 7th, 2024.

Robert Woodard, Sr., Chairman

Attest:

Skyler Foley, Clerk to the Board



THERE'S NO EXCUSE FOR ELDER ABUSE.

THE ALBEMARLE COMMISSION AREA AGENCY ON AGING PRESENTS...

9th Annual

WORLD ELDER ABUSE

Awareness


DAY (WEAAD) WALK

You must pre-register by May 10, 2024 to Bradley Yates (252) 404-7087

Event T-Shirts will be \$5.00 (Please pre-order, there will only be a few extras on hand!!)

- **Friday, June 7, 2024**
- **10:00 AM- 2:00 PM**
- **Elizabeth City**



Scan for more information OR to register! 



Walk will begin at the Pasquotank County Courthouse (206 E. Main St.) & ends at Mariner's Wharf Park (400 S. Water St.) on the waterfront.

*Lunch Provided *

Please wear purple to show your support!



*Health & Human Services-Public Health Division
Opioid Settlement Funds Proposal Plan for FY 2025*

Description

Roxana Ballinger will provide a presentation on the feedback from the use of opioid funds survey and the proposed Opioid Settlement Plan for fiscal year 2025

Board Action Requested

Approve proposed Opioid Settlement Plan for fiscal year 2025

Item Presenter

Roxana Ballinger



DARE COUNTY OPIOID SETTLEMENT FUNDING PLAN

May 2024 Update



Department of Health & Human Services

July 2021: Historic \$26 billion Agreement Reached



Distributors, Manufacturer & Settling Defendants

- McKesson
- Cencora
(AmerisourceBergen)
- Johnson & Johnson
- Walgreens, Teva, CVS,
Walmart, Allergan



Resolves

Litigation over the role of the companies in creating & fueling the opioid epidemic.



Requires

Significant industry changes that will help prevent this type of crisis from happening again.



North Carolina Funds

**\$750 million
goes to NC**

100 North Carolina counties

17 Municipalities:

- Asheville
- Canton
- Cary
- Charlotte
- Concord
- Durham
- Fayetteville
- Gastonia
- Greensboro
- Greenville
- Henderson
- Hickory
- High Point
- Jacksonville
- Raleigh
- Wilmington
- Winston-Salem

**85% of funds to
Local Governments**



North Carolina Memorandum of Agreement

Will help bring desperately
needed relief to communities
impacted by opioids by
supporting:



Treatment



Recovery Support



Harm Reduction

And Other Strategies to Address the Opioid Epidemic.



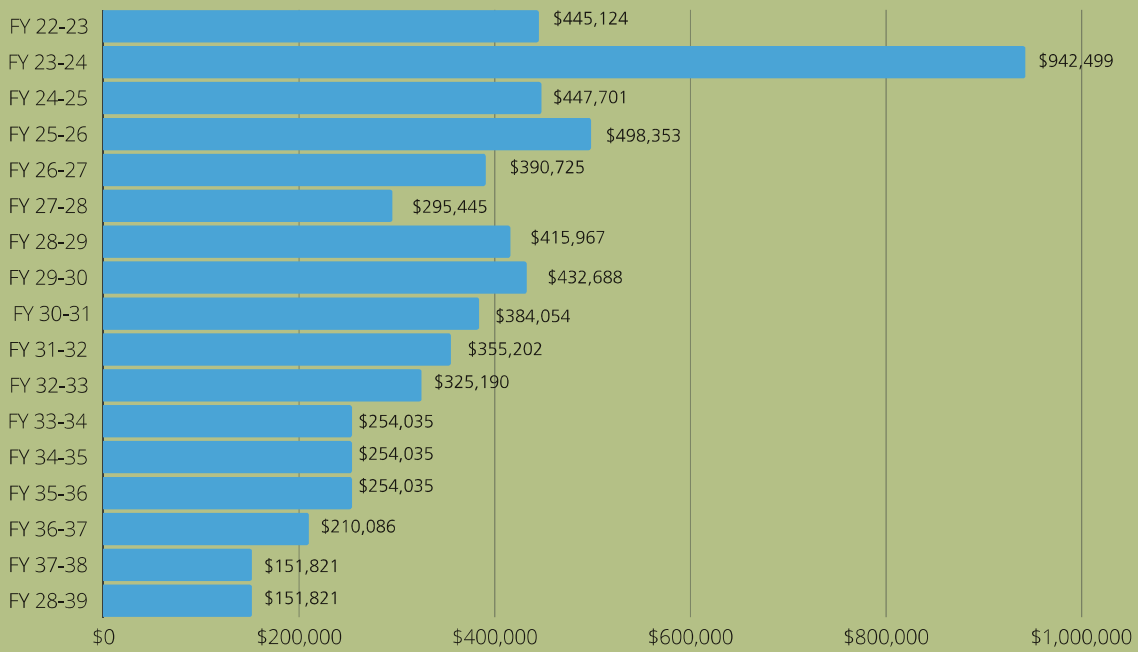


\$6,208,784.00

**Over 18 years paid
to Dare County**



Payment Schedule



Stakeholder Survey Details

75
Respondents

Survey Open
April 11, 2024 -
April 18, 2024

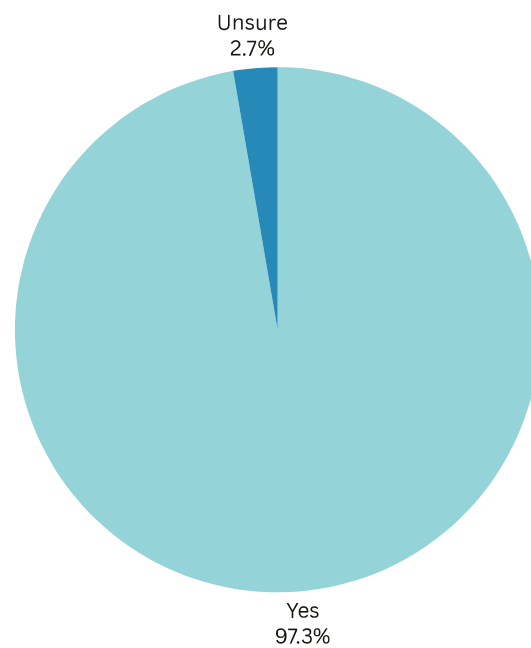
Must live, work, or worship in Dare County



Local Substance Use Disorder Treatment Programs

Is this a good use of funds?
Yes | No | Unsure

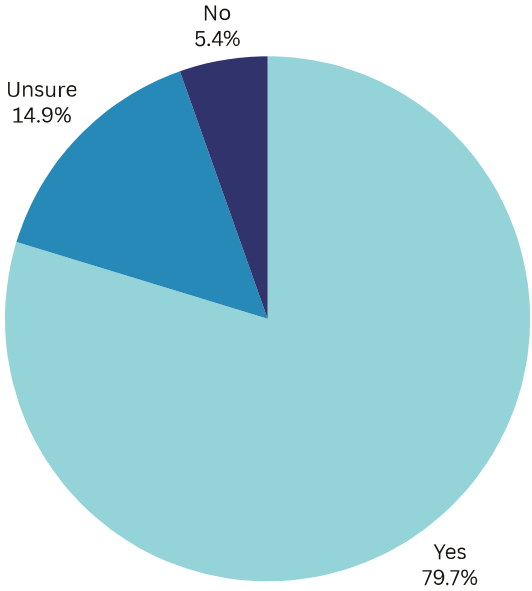
97.3%
Said YES



Social Determinants of Health

Is this a good use of funds?
Yes | No | Unsure

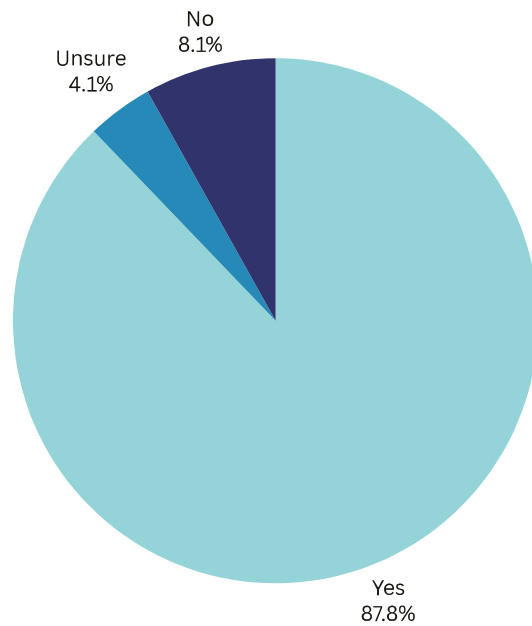
79.7%
Said YES



Naloxone Kits & Fentanyl Test Kits

**Is this a good
use of funds?
Yes | No | Unsure**

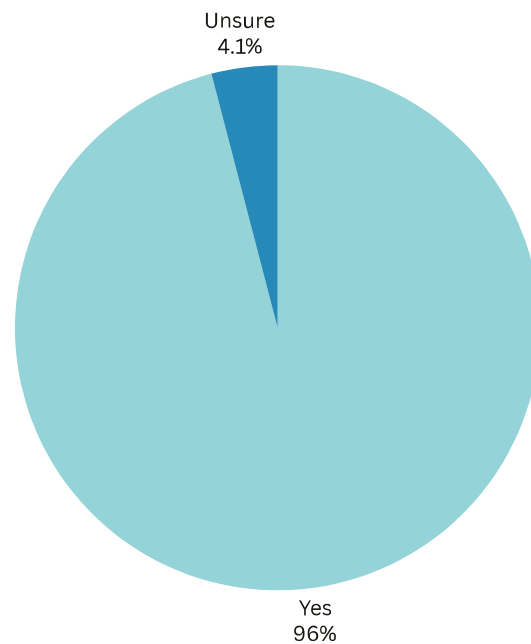
87.8%
Said YES



Dare County Detention Center Services

**Is this a good
use of funds?**
Yes | No | Unsure

95.9%
Said YES



Survey: Feedback & Comments



Prevention

- Prevention programs targeting youth
- Preventative educational, health, and social events
- Public awareness campaigns



Transportation

- Funds for programs that assist with physically getting individuals into treatment.



Treatment

- Ensure access to medications for opioid use disorder
- Comprehensive treatment
- Funds for Youth Addiction Treatment
- Training individuals to be substance use counselors
- Family counseling
- Funding for programs that non-profits are running that could help deter use or assist those in recovery

\$68,000

Peer Support Specialist

\$75,000

Recovery Court Case Manager

\$100,000

Naloxone/Test Strips for Community Distribution

\$12,000

Social Determinants of Health

\$50,000

Linkage to Care (Dare County Detention Center)

\$65,000

Community Initiatives (contract services & mini grants)

Fiscal Year 2025





CONTACTS

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252.475.5619

RESOURCES

<https://ncopioidsettlement.org>
<https://www.morepowerfulnc.org/opioid-settlements/>
<https://www.morepowerfulnc.org/opioid-settlements/purdue-mallinckrodt-bankruptcies/>



Department of Health & Human Services



Alliance Health Contract Agreement - EMS

Description

Attached please find a non-negotiable multi-year Alliance Health Contract.

Board Action Requested

Approve the Contract and give authorization to the County Manager to sign all future Managed Care Contracts.

Item Presenter

Jennie Collins, EMS Director
Robert Outten, County Manager



MEDICAID NETWORK PARTICIPATING PROVIDER CONTRACT

NOTE: THIS AGREEMENT IS BINDING UPON EACH PARTY AT THE TIME THAT THE PARTY SIGNS THIS AGREEMENT, PROVIDED THAT THIS AGREEMENT REMAINS SUBJECT TO THE APPROVAL OF THE STATE OF NORTH CAROLINA, AND MAY BE AMENDED BY THE PARTIES TO COMPLY WITH ANY REQUIREMENTS OF THE STATE OF NORTH CAROLINA. [PROVIDER] ACKNOWLEDGES THAT THE REQUIREMENTS OF THE STATE OF NORTH CAROLINA, THE STATE CONTRACT, AND APPLICABLE LAWS AND REGULATIONS, AS AMENDED FROM TIME TO TIME, ARE INCORPORATED.

THIS MEDICAID NETWORK PARTICIPATING PROVIDER CONTRACT (“Contract”) is made and entered into by and between Alliance Health , a political subdivision of the State of North Carolina and Prepaid Health Plan operating a Tailored Plan (hereinafter referred to as “Alliance” or “Tailored Plan”), and the Provider listed below (hereinafter referred to as “Provider” or “Participating Provider”), also individually referred to as “Party” and collectively as “Parties”, for Provider’s provision of Medicaid Covered health care items and Services to Alliance’s Tailored Plan Enrollees.

Provider Legal Name	DARE COUNTY ADMINISTRATIVE OFFICES dba DARE COUNTY EMS
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ARTICLE I: GENERAL TERMS AND CONDITIONS

1. CONSTRUCTION:

- a. This Contract is designed for use with a variety of Providers. Provisions specific to particular Providers are included and incorporated herein in Attachments to this Contract.
- b. The following rules of construction apply to this Contract: (i) all words used in this Contract will be construed to be of such gender or number as the circumstances require; (ii) references to specific statutes, regulations, rules or forms, include subsequent amendments or successors to them; and (iii) references to a government department or agency include any successor departments or agencies.
- c. The Paragraph headings used herein are for reference and convenience only, and shall not enter into the interpretation this Contract. Any appendices, exhibits, or schedules referred to herein or attached or to be attached hereto are incorporated to the same extent as if set forth in full herein.
- d. This Contract may be executed in two (2) or more counterparts and may be executed and transmitted by way of original signature, facsimile or electronic signature, and if so, shall be considered an original.

2. **DEFINITIONS:**

In addition to terms defined elsewhere in this Contract, the following capitalized terms when used in this Contract shall have the meanings set forth below. The use of the singular of any of these words, terms or acronyms herein shall be construed to include the plural and vice versa. Any term not otherwise specified herein shall have the same definition and meaning as in the Alliance Provider Manual or N.C.G.S. § 122C-

a. **1115 Demonstration Waiver:** As defined by Section 1115 of the Social Security Act, state demonstrations that give states additional flexibility to design and improve their programs by demonstrating and evaluating state-specific policy approaches to better serving Medicaid populations. Specifically, North Carolina's amended 1115 demonstration waiver application to the federal Centers for Medicare & Medicaid Services (CMS) focuses on the specific items of the Medicaid Managed Care transformation that require CMS waiver approval (waiver #11-W00313/4; <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/nc/nc-medicaid-reform-ca.pdf>).

b. **1915(c) Medicaid Waiver:** refers to the two (2) North Carolina Medicaid Section 1915(c) Home and Community-Based Services (HCBS) waivers: the North Carolina Innovations waiver for individuals with Intellectual and Developmental Disabilities (I/DD) and the (Traumatic Brain Injury (TBI) waiver for individuals with a TBI in limited geographies. The Innovations and TBI waivers provide a community-based alternative to institutional care for BH I/DD Tailored Plan Members who meet medical necessity for an institutional level of care.

c. **Advanced Medical Home (AMH)/Advanced Medical Home Plus (AMH+):** AMH shall refer to primary care practices certified by the Department, whose providers have experience delivering primary care services to the BH I/DD Tailored Plan eligible population, or can otherwise demonstrate strong competency to serve that population. AMH+ practices must be certified by the Department as AMH Tier 3 practices and pass a readiness review administered by the National Committee for Quality Assurance.

d. **Amendment:** means any change to the terms of a contract, including terms incorporated by reference, that modifies fee schedules. A change required by federal or State law, rule, regulation, administrative hearing, or court order is not an amendment.

e. **Behavioral Health and Intellectual /Developmental Disability Tailored Plan (BH I/DD Tailored Plan or Tailored Plan):** means a capitated prepaid health plan contract under the NC Medicaid transformation 1115 demonstration waiver that meets all of the requirements of Article 4 of Chapter 108D of the North Carolina General Statutes, including the requirements pertaining to BH I/DD tailored plans.

f. **Behavioral Health and Intellectual /Developmental Disability Tailored Plan Region (BH I/DD Tailored Plan Region or Tailored Plan Region or Region):** means the geographic portion of North Carolina as defined by the Division of Health Benefits (DHB) that is served by Alliance pursuant to contracts with the North Carolina Department of Health and Human Services (DHHS).

g. **Benefit Plan:** The specific plan of benefits for health care coverage for Medicaid Members that is provided, sponsored or administered by Alliance directly or through its contractors, and contains the terms and conditions of a Member's coverage for Services, including exclusions and limitations, and all other provisions applicable to the coverage of such Covered Services.

- h. **Beneficiary:** An individual who is enrolled in the North Carolina Medicaid or NC Health Choice programs but who may or may not be enrolled in the Medicaid Managed Care program.
- i. **Care Management Agency (CMA):** Provider organization with experience delivering BH, I/DD, and/or TBI services to the BH I/DD Tailored Plan eligible population that will hold primary responsibility for providing integrated, whole-person care management to BH I/DD Tailored Plan Members assigned to it, under the Tailored Care Management model as certified by the State. CMAs must be certified by the State and pass a readiness review administered by the National Committee for Quality Assurance.
- j. **Clean Claim:** means a claim submitted to Alliance for Covered Services that is (i) received timely by Alliance, (ii) can be processed without obtaining additional information from the provider or third party, (iii) includes all relevant information necessary to determine payor liability and to comply with applicable laws, regulations and N.C. Medicaid Program Requirements, including, but not limited to 42 C.F. R. § 447.45, (iv) is not under review for Medical Necessity. A Clean Claim does not include a claim from a Provider that is under investigation for fraud or abuse.
- k. **Closed Provider Network or Closed Network:** means the network of Providers that have contracted with Alliance or its Contractors to furnish mental health, intellectual or developmental disabilities, and substance abuse services to Members. Providers acknowledge and understand that Alliance has full authority to create and manage its Closed Provider Network.
- l. **Contract:** means this Medicaid Network Participating Provider Contract between Alliance and Provider, including any and all Appendices and Attachments and contract documents, which are incorporated herein as the embodiment of the agreement between Alliance and Provider for the provision of health care services in the Alliance BH I/DD Tailored Plan Network.
- m. **Contractor:** Entity contracted with Alliance through a Delegated Services Agreement to perform core Medicaid Tailored Plan Services operations.
- n. **Covered Services:** means Medically Necessary health care items and Services covered under Alliance's Medicaid Benefit Plan.
- o. **Credentialing Criteria:** means Alliance's criteria for the credentialing or re-credentialing of Providers.
- p. **Days:** shall mean calendar days unless otherwise specified. A "business" or "working" day is a day on which Alliance is officially open for business. Unless otherwise specified within the Contract, days are tracked as Calendar Days.
- q. **Department:** means the North Carolina Department of Health and Human Service (DHHS) and its Divisions, including but not limited to the Division of Health Benefits (DHB), Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), and Division of Health Service Regulation (DHSR).
- r. **Electronic Provider Portal Access/ User Addendum:** means the User Agreement to access Alliance's secure, web-based, electronic authorization, care coordination and billing system

required to be used by Provider, attached hereto as Appendix E and incorporated herein.

s. **Electronic Visit Verification System:** means, as set forth in Section 12006 of the 21st Century Cures Act, with respect to personal care services or home health care services, a system under which visits conducted as part of such services are electronically verified with respect to (i) the type of service performed, (ii) the individual receiving the service, (iii) the date of the service, (iv) the location of service delivery, (v) the individual providing the service and (vi) the time the service begins and ends.

t. **Emergency Services:** has the same meaning as defined in 42 CFR § 422.113 and § 438.114.

u. **Encounter Data:** means encounter information, data and reports for Covered Services provided to a Member who meets the requirements for Clean Claims.

v. **Federal Health Care Program:** means a Federal health care program as defined in section 1128B(f) of the Social Security Act, and includes Medicare, Medicaid, and CHIP.

w. **Governmental Authority:** means the United States of America, the States, or any department or agency thereof having jurisdiction over Alliance, a Provider or their respective affiliates, employees, subcontractors or agents. DHHS is a Governmental Authority as defined herein.

x. **Health System (also, Hospital System or System):** means a hospital and its designated affiliated physicians or health care practices, as the terms Health System and Hospital System are accepted by the Department. A Health System or Hospital System includes all facilities and sites enrolled with the Department and affiliated with the System in the Department's Medicaid Management Information System and all practitioners billing through the System's National Provider Identifier(s) on the effective date of this Contract.

y. **Health System Medicaid Contract Services:** (also, "Attachment A-1") refers to the medically necessary Mental Health, Intellectual/Developmental Disability, and/or Substance Abuse Services set forth in Attachment A-1 published on the Alliance Health website at <https://www.alliancehealthplan.org/document-library/65995> that a contracted Health System Provider is eligible and qualified to provide to Alliance's Members pursuant to the terms of this Contract. Attachment A-1 is incorporated herein by reference as an essential Contract document.

z. **Ineligible Person:** means an individual or entity who (a) is currently excluded, debarred, suspended or otherwise excluded from participating in (i) Federal Health Care Programs, as may be identified in the List of Excluded Individuals/Entities maintained by the OIG, or (ii) Federal procurement or non-procurement programs, as may be identified in the System for Award Management maintained by the General Services Administration, (b) has been convicted of a criminal offense subject to OIG's mandatory exclusion authority for Federal Health Care Programs described in section 1128 or 1128A of the Social Security Act, but has not yet been excluded, debarred or otherwise declared ineligible to participate in such programs, or (c) is currently excluded, debarred, suspended or otherwise ineligible to participate in State medical assistance programs, including Medicaid or CHIP, or State procurement or non-procurement programs as determined by a State Governmental Authority.

aa. **Innovations Waiver:** means the Medicaid Section 1915(c) Home and Community-Based Services (HCBS) waiver for eligible individuals with (I/DD) that Alliance operates in its Region.

bb. **Law:** means any and all applicable laws, rules, regulations, statutes, orders, standards, guidance and instructions of any Governmental Authority, as adopted, amended, or issued from time to time, including but not limited to (a) the Social Security Act, including Titles XVII (Medicare), XIX (Medicaid) and XXI (State Children's Health Insurance Program or CHIP) and North Carolina Medicaid Waivers 1915(c) and the 1115 Demonstration Waiver, (b) the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (c) Federal and State privacy laws other than HIPAA, (d) Federal and State laws regarding patients' advance directives, (e) State laws and regulations governing third party administrators or utilization review agents, and (f) State laws and regulations governing the provision of Medicaid health care services.

cc. **Local Management Entity/Managed Care Organization:** has the same meaning as in N.C.G.S. 122C-3 (20c).

dd. **Medical Record:** means a single complete record, maintained by the Provider, which documents all of the treatment plans developed for, and Covered Services received by a Member.

ee. **Medically Necessary or Medical Necessity:** Medical necessity is determined by generally accepted North Carolina community practice standards as verified by independent Medicaid consultants. As required by 10A NCAC 25A.0201, a medically necessary service may not be experimental in nature.

ff. **Member:** means a Medicaid beneficiary specifically enrolled in and receiving benefits through the North Carolina Medicaid Managed Care program.

gg. **NC Medicaid Program:** means the program operated by the Department for the provision of health care services to Medicaid beneficiaries based on the payment methods set forth in the State Plan for Medical Assistance and the applicable policies and procedures of DHB. Participation in the Alliance Network is distinct from Enrollment in the NC Medicaid Program.

hh. **NC Tracks:** means the multi-payer Medicaid Management Information System for the NC Department of Health and Human Services. It is a condition precedent of this Contract and payment hereunder that Provider be properly enrolled in NC Tracks.

ii. **Notice:** means a written communication between the Parties delivered by trackable mail, electronic means or facsimile to the Notice Contact listed in Article I. Paragraph 14 of the Contract.

jj. **Overpayment:** means the payments a Provider receives from Alliance to which the Provider is not entitled, including but not limited to payments (a) for items and services that are not Covered Services, (b) paid in error, (c) resulting from enrollment errors, (d) resulting from claims payment errors, data entry errors or incorrectly submitted claims, or (e) for claims paid when Alliance was the secondary payor and the Provider should have been reimbursed by the primary payor.

kk. **Participating Provider (Provider):** means an individual, entity or Health Care Provider, as that term is defined by N.C.G.S. §58-50-270(3a), that has entered into a Medicaid Network Participating Provider Contract with Alliance or with any of its Contractors for the provision of Covered Services to Alliance Members. Participating Providers must maintain a Network Participating Provider Contract with Alliance, comply with monitoring and oversight obligations, and provide consistent, timely services to Members pursuant to this Contract in order to request payment or reimbursement for those services.

ll. **Principal:** means a person with a direct or indirect ownership interest of five percent or more in Provider.

mm. **Program Requirements:** refers to collectively as the requirements of Governmental Authorities governing a Provider's participation in Alliance's provider network and rendering Covered Services to Tailored Plan Members pursuant to a Benefit Plan including, where applicable, the requirements of a contract between the Governmental Authority and Alliance.

nn. **Provider-based Care Management:** Care management where the care manager is affiliated with an AMH+ practice or Care Management Agency (CMA) and performs care management at the site of care, in the home, or in the community through in-person and other methods of interaction between Members and providers

oo. **Provider Manual:** means Alliance's most current Provider Manual, as approved by the Department, that offers information and education to providers about the Alliance Benefit Plan and Medicaid Managed Care. It sets forth Alliance's requirements, rules, policies and procedures applicable to Participating Providers, as adopted or amended by Alliance from time to time. An electronic version of the Provider Manual is accessible via the Alliance website or the Provider Web Portal, and in writing upon request of a Participating Provider at: <https://www.alliancehealthplan.org/providers/publications-forms-documents/>

pp. **Provider Network:** means the network of Providers that have contracted with Alliance or its Contractors for the provision of Covered Services to Alliance Members pursuant to a Medicaid Network Participating Provider Contract.

qq. **Provider Web Portal:** means an internet based portal that provides access to Program Requirements, and provider specific information. Providers may access training materials, submit appeals and grievances, and receive notices via the Provider Web Portal.

rr. **Service:** means medically necessary Covered Service(s) set forth in Attachment A that Provider is eligible and qualified to provide to Alliance's Members pursuant to the terms of this Contract.

ss. **Standard Plan:** has the same meaning as Standard Plan as defined in N.C. Gen. Stat. § 108D-1(36).

tt. **State:** whether capitalized or not, means the State of North Carolina or the Department as an agency or in its capacity as a Governmental Authority. Any references to state law, policies, procedures, regulations, controlling authority and/or other standards applicable to this Contract shall refer to North Carolina without regard to whether a Provider may have offices and/or deliver Services outside of North Carolina. Where a Provider is subject to the law, policies, procedures, regulations and/or other standards of different state(s), Provider must also adhere to authority of the State of North Carolina applicable to Services delivered under this Contract.

uu. **State Contract:** means the applicable contract or contracts between Tailored Plan and DHHS as in effect throughout the Term of this Contract pursuant to which Tailored Plan operates a managed care plan or plans in the Tailored Plan Region.

vv. **Tailored Care Management:** The care management model for BH I/DD Tailored Plan Members. Entities providing Tailored Care Management must be certified by the Department.

ww. **Traumatic Brain Injury Waiver (TBI Waiver):** means the Medicaid Section 1915(c) Home and Community-Based Services (HCBS) waiver for eligible individuals with traumatic brain injury (TBI) that the BH I/DD Tailored Plan operates in the geographic area covered by this Contract. The TBI Waiver may not operate in all geographic areas of the state. Contract requirements for the TBI Waiver apply for the BH I/DD Tailored Plan to the extent that the TBI Waiver is operational in its geographic area.

xx. **US DHHS:** means the U.S. Department of Health and Human Services, including its agency the Centers for Medicare and Medicaid Services (CMS) and its Office of Inspector General (OIG).

3. **RELATIONSHIP OF THE PARTIES:** Provider enters into this Contract with Alliance for the purpose of providing medically necessary Medicaid Services to Alliance Members. This Contract is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between the Parties, their employees, partners, or agents but rather Provider is an independent contractor of Alliance. Further, neither Party shall be considered an employee or agent of the other for any purpose including but not limited to, compensation for services, employee welfare and pension benefits, workers' compensation insurance, or any other fringe benefits of employment.

4. **ENTIRE AGREEMENT AND REVISIONS:** This Contract, including the Attachments and Appendices, each of which is made a part of and incorporated into this Contract and listed on the signature page of this Contract in the section entitled "REQUIRED ATTACHMENTS/APPENDICES", the Provider Manual and any addenda or amendments comprises the complete agreement between the Parties and supersedes all previous agreements and understandings, whether verbal or in writing, related to the subject matter of this Contract.

5. **CONTROLLING AUTHORITY:** Provider agrees to comply with Controlling Authority and any and all applicable federal, state and local laws, rules and regulations, or orders as amended, implemented, or supplemented. Provider shall be responsible for keeping abreast of changes to Controlling Authority and to provide education and training to its staff and employees as appropriate. Provider shall develop and implement a compliance program in accordance with 42 U.S.C. § 1396a (kk)(5). This Contract is required by 42 C.F.R. §438.214 and shall be subject to the following, including any subsequent revisions or amendments thereto, (hereinafter referred to as the "Controlling Authority"):

- a. Title XIX of the Social Security Act and its implementing regulations.
- b. Applicable provisions of North Carolina General Statutes Chapters 108A, 108D and 122C.
- c. The North Carolina State Plan for Medical Assistance.
- d. The North Carolina Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SA) health plan waiver authorized by the Centers for Medicare and Medicaid Services (CMS) pursuant to Section 1915(b) of the Act, and the N.C. Home and Community Based Services Innovations waiver authorized by CMS pursuant to Section 1915(c) of the Act.
- e. The federal anti-kickback statute, 42 U.S.C. § 1320a-7b(b) and its implementing regulations; the federal False Claims Act, 31 U.S.C. §§ 3729 – 3733 and its implementing regulations; and the North Carolina Medical Providers False Claims Act, N.C. Gen. Stat. § 108A-70-10 *et seq.*
- f. All federal and state Member's rights and confidentiality laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations, 45 CFR Parts 160, 162 and 164, as further expanded by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), adopted as part of

the American Recovery and Reinvestment Act of 2009, commonly known as "ARRA" (Public Law 111-5) and any subsequent modifications thereof; the Substance Abuse Confidentiality regulations codified at 42 U.S.C. § 290dd-2 and 42 CFR Part 2; N.C.G.S. § 122C-51, et seq.; N.C.G.S. § 108A-80; 10A NCAC Subchapter 26B; and DMH/DD/SAS Confidentiality Rules published as APSM 45-1 (effective January 2005).

g. Regulations concerning access to care, utilization review, clinical studies, utilization management, care management, quality management, disclosure and credentialing activities as set forth 42 CFR Parts 438, 441, 455, and 456.

h. State licensure and certification laws, rules and regulations applicable to Provider.

i. Medical or clinical coverage policies promulgated by the Department in accordance with N.C.G.S. § 108A-54.2.

j. The Alliance Provider Manual.

k. Applicable federal and state records retention, recordkeeping and reporting rules, regulations and requirements, including but not limited to the DMH/DD/SAS Records Management and Documentation Manual, APSM 45-2, effective April 1, 2009, and APSM 10-3 and all applicable revisions, amendments, and/or updates.

l. The Americans With Disabilities Act, Titles VI and VII of the Civil Rights Act of 1964, Sections 503 and 504 of the Vocational Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and subsequent amendments and regulations developed pursuant thereto, to the effect that no person shall, on the grounds of sex, age, race, religious affiliation, handicap, or national origin, be subjected to discrimination in the provision of any services or in employment practices.

m. The Drug Free Workplace Act of 1988.

n. Any other applicable federal or state Laws, rules or regulations, or orders in effect at the time the service is rendered.

6. **COMPLIANCE WITH LAWS:** Provider understands that applicable State and Federal requirements and Alliance policies and procedures may be changed or updated during the term of this Contract and that those changes will apply to this Contract in the same manner as the original authority. Alliance will post changes to the Alliance Provider Manual on the Alliance website at least thirty (30) days prior to the effective date of any changes to the Manual.

Providers shall cooperate with Alliance with respect to Alliance's compliance with Laws, accreditation and Program Requirements, including downstream requirements that are inherent to Alliance's responsibilities under Laws, accreditation or Program Requirements. Provider shall not knowingly take any action contrary to Alliance's obligations under Laws, accreditation or Program Requirements.

7. **ASSURANCE OF THE RIGHTS OF MEMBERS:** The Provider shall comply with the implementation of all policies and procedures, created by Alliance for the assurance of the rights of Members served by the Provider and all Laws, rules and/or regulations including Member grievance, appeal, and fair hearing procedures and timeframes as specified in 42 CFR 438.400 through 42 CFR 438.424 and Article 3, Part 1 of the North Carolina General Statutes Chapter 122C and rules promulgated thereunder. Provider's compliance with Member grievance, appeal and fair hearing procedures shall include Provider's cooperation with Member and Alliance, providing information, records or documents requested by Alliance and participating in the grievance/appeal process when applicable.

Provider shall protect the confidentiality of any and all Members and will not discuss, transmit, or narrate in any form other information, medical or otherwise, received in the course of providing Services hereunder, except as authorized by the individual, his legally responsible person, or as otherwise permitted or required by law. The Provider shall, in addition, meet all confidentiality requirements promulgated by any applicable

governmental authority. Further, Provider shall adhere to the Confidentiality laws set forth in N.C.G.S. Chapter 122C Article 3 Part 1.

8. **NON-DISCRIMINATION - EQUITABLE TREATMENT OF MEMBERS:** Providers shall not discriminate in their treatment of Members based on Members' health status, source of payment, cost of treatment or participation in Benefit Plan, genetic information or ethnicity. Further, Provider agrees that Lesbian, Gay, Bisexual, Transgender, or Questioning (LGBTQ) Members who obtain covered services shall not be subject to treatment or bias that does not affirm the member's identifying orientation.

Providers shall not bill Members for any items or services, such as missed appointments or administrative fees, where such billing is prohibited by Laws or Program Requirements. Provider shall not bill any Member for Covered Services. This provision shall not prohibit Provider and Member from agreeing to continue non-covered services at the Member's own expense, as long as Provider has notified Member in advance that the BH I/DD Tailored Plan may not cover or continue to cover specific services and the Member elects to receive the service with that understanding.

Providers may freely communicate with Members about their treatment regardless of Benefit Plan coverage limitations. Alliance does not dictate or control clinical decisions respecting a Member's medical treatment or care. Medical care is the responsibility of the treating Provider regardless of any coverage determination by Alliance. Nothing in this Contract shall be interpreted to permit interference by Alliance with communications between a Provider and a Member regarding the Member's medical condition or available treatment options.

9. **TERM:** The Term of this Contract shall begin on the "**Official Launch Date**" of Alliance as a Behavioral Health and Intellectual/Developmental Disabilities Tailored Plan ("Tailored Plan") as that term is defined in N.C.G.S. Chapters 122C and 108D. "**Official Launch Date**" shall be defined as the date announced by the North Carolina Department of Health and Human Services ("NC DHHS") by official press release or by Tailored Plan Contract Amendment. The date starting the term of this Contract will also be referred to as the "**Effective Date**" throughout this Contract. The Contract term will continue for a period of one year, and thereafter shall renew for successive periods of one year each unless a Party provides notice of nonrenewal to the other at least 90 days before the end of the then current (initial or renewal) term, unless and until the Contract is terminated in accordance with the terms and conditions herein. Notwithstanding the above, the term of this Contract, including any renewal, may be limited to comply with Laws or an order by, or Alliance's contract with, a Governmental Authority.

10. **CHOICE OF LAW/ MANDATORY FORUM SELECTION:** This Contract shall be governed by and interpreted and enforced in accordance with the laws of the State of North Carolina, except where Federal law applies, without regard to principles of conflict of laws. Each of the Parties hereby agrees and consents to be subject to the exclusive jurisdiction and venue of the appropriate State or Federal court located in Wake County, North Carolina in any suit, action, or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with this Agreement. Where applicable, a Provider shall fully exhaust Alliance's reconsideration procedure as set forth in the Provider Manual before seeking any other remedy.

11. **NON-WAIVER:** No covenant, condition, or undertaking contained in the Contract may be waived except by the written agreement of the Parties. Forbearance or indulgence in any other form by either Party in regard to any covenant, condition or undertaking to be kept or performed by the other Party shall not constitute a waiver thereof, and until complete satisfaction or performance of all such covenants, conditions, and undertakings, the other Party shall be entitled to invoke any remedy available under the Contract, despite

any such forbearance or indulgence. A waiver by a Party of a breach or failure to perform this Contract shall not constitute a waiver of any subsequent breach or failure.

12. **DISPUTE RESOLUTION:** The Provider may request reconsideration of an administrative action or sanction imposed under this Contract or file a grievance in other matters as outlined in the Provider Manual and as set forth herein. A Network Participating Provider has the right to request reconsideration of certain actions taken by Alliance, including:

- a) Finding of or recovery of an overpayment by the BH I/DD Tailored Plan;
- b) Withhold or suspension of a payment related to waste or abuse concerns;
- c) Contract termination for cause or finding of contract violation
- d) Corrective action by the BH I/DD Tailored Plan; and
- e) Determination to de-certify an AMH+ or CMA (applicable to Medicaid providers only).

Provider must fully exhaust Alliance’s internal appeals process before seeking any other remedy.

13. **SEVERABILITY:** If any one or more provisions of this Contract are declared invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision of this Contract and such invalid or unenforceable provision(s) shall be limited or curtailed only to the extent necessary to make such provision valid and enforceable.

14. **NOTICE:** Any Notice to be given under this Contract including proposed amendments and other notices, pertaining to the contractual relationship between parties shall be in writing and addressed to the receiving Party as its Notice Contact is designated below, or at such other address as the Party may designate by prior written Notice to the other Party. Means for sending all notices provided under this Contract shall be one or more of the following, calculated as (i) on the day the notice is in hand or electronically delivered; (ii) for certified or registered mail, the date on the return receipt; or (iii) for commercial courier service, the date of delivery. Nothing in this section prohibits the use of an electronic medium for a communication other than an amendment if agreed to by Alliance and the Provider :

<p>DARE COUNTY ADMINISTRATIVE OFFICES dba DARE COUNTY EMS Enter Notice Contact Name Jennie Collins Enter Title Chief 1632 N CROATAN HWY KILL DEVIL HILLS, NC 27948-9258</p>	<p>Alliance Health ATTN: CONTRACTS 5200 West Paramount Parkway, Suite 200 Morrisville, NC 27560 Contracts@AllianceHealthPlan.org</p>
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15. **NOTICE OF CHANGE:** Provider agrees, understands and acknowledges that services delivered under this Contract are site and Service specific. Providers are required to notify Alliance when organizational changes occur, including but not limited to changes in ownership, personnel, address, and name /or and contact information. Providers are required to follow the Notice of Change requirements for contained in the Provider Manual utilizing the Alliance Notice of Change Form available on the Alliance website. Alliance will not process retroactive changes, and the effective date of any change will be no sooner than the effective date on the Notice of Change or the effective date shown in NC Tracks, whichever is later. Any changes must be reported in writing to Alliance pursuant to the Alliance Provider Manual.

16. **TERMINATION:** Alliance reserves the right, in its sole discretion, at any time during the term of the Contract to remove one or more services provided by Provider at one or more identified Site Addresses from the Contract for no reason or any reason, including, but not limited to, Network provider capacity maintenance, Member health and safety, Provider not meeting Member demand and/or needs,

Provider quality management, or any other reason Alliance deems necessary to manage its Network of Providers. Except for circumstances requiring immediate termination and/or suspension as set forth in subsection f. of this paragraph, Alliance shall provide thirty (30) days written notice prior to the removal of a Service. Termination of this Contract in whole or part under the terms set forth below shall not form the basis of any claim for loss of anticipated profits by either Party. The rights and remedies provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. Termination of this Contract in whole or part is not deemed a reduction, denial, termination, or suspension of a Provider's participation in or disenrollment from the NC Medicaid Program

a. **Non-Appropriation.** Funds used for Provider payments are government funds. Either Party may terminate the Contract or individual Services immediately if Federal, State or local funds allocated to Alliance are reduced, revoked or terminated in a manner beyond the control of the Alliance for any part of the Contract period. In such event, Alliance will reimburse Provider for timely submitted Clean Claims for Services provided which were authorized as necessary by the Alliance prior to the date of such change in Federal, State or local funding.

b. **Mutual Agreement.** This Contract may be terminated in whole or part at any time upon mutual consent of both Parties with mutually agreed upon Notice to Members or after thirty (30) days upon notice of termination by one of the contracting Parties. Alliance may withhold payment or impose other penalties or sanctions (up to and including termination of any other Contract(s) between Alliance and Provider) in the event that Provider fails to give at least thirty (30) days' notice of termination.

c. **Termination for Convenience.** This Contract may be terminated in whole or part after thirty (30) days' written Notice of termination by one of the contracting Parties.

d. **Termination for Cause.** Alliance may terminate the Contract in whole or part with cause upon thirty (30) days' written notice to Provider. Cause for termination of the Contract may include, but is not limited to:

i. Failure to implement or provide functions or services as specified in this Contract. Failure to provide timely, complete and accurate documentation of services as required by this Contract may also lead to withholding of funds or termination of the Contract; and/or

ii. The conduct of Provider or Provider's employees or agents or the standard of services provided threatens to place the health or safety of any Member in jeopardy. Conduct of Provider's employee(s) or agent(s) that threatens to place the health or safety of any Member in jeopardy shall not constitute grounds for termination of the entire Contract provided Provider takes appropriate action toward said employee(s) or agent(s). Alliance maintains its right to terminate this Contract should Provider fail to take appropriate action toward employees or agents whose conduct threatens to place the health or safety of any Member in jeopardy; and/or

iii. Failure of Provider to cooperate with any investigation authorized by Controlling Authority and deemed necessary by Alliance in regard to Alliance Members; and/or

iv. Failure of Provider to reimburse Alliance for final overpayments identified by Alliance or failure to comply with payment plans established by Alliance as outlined in Article IV, Billing and Reimbursement; and/or

v. Failure of Provider to accurately maintain enrollment in NC Tracks; and/or

vi. Failure of Provider to meet or maintain NC Medicaid Program Requirements

vii. Any other material breach of this Contract.

e. **Notice of Termination for Cause.** Written notice to Terminate for Cause shall include:

i. The reason for decision to terminate;

ii. The effective date of termination;

iii. The Provider's right to Appeal the decision; and

iv. How to request an Appeal.

f. **Immediate Terminations and Suspensions of Contract.** Provider acknowledges and

agrees that Alliance shall terminate all or a portion of this Contract immediately, without prior written Notice or opportunity to cure in the following circumstances:

- i. Loss of Provider's required facility or professional licensure;
- ii. Failure to meet or maintain Alliance's credentialing or re-credentialing standards;
- iii. Provider has been debarred, suspended, terminated, or is otherwise lawfully prohibited from participation in any federal or state government procurement activity;
- iv. The final substantiation and determination by The Department of Medicaid fraud and/or abuse.
- v. In accordance with 42 CFR § 455.416:
 - a) When any person with a five percent (5%) or greater direct or indirect ownership interest in the Provider agency does not submit timely and accurate information and cooperate with any screening methods required under this Contract;
 - b) When any person with a five percent (5%) or greater direct or indirect ownership interest in the Provider agency has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last ten (10) years, unless Alliance determines that termination is not in the best interests of the Alliance's Provider Network;
 - c) If Provider is terminated, under title XVIII of the Social Security Act or under the Medicaid Program or Children's Health Insurance Program of any State;
 - d) If the Provider or a person with an ownership or control interest or who is an agent or managing employee of the Provider agency fails to submit timely or accurate information, unless Alliance determines that termination is not in the best interests of the Alliance's Provider Network;
 - e) If the Provider, or any person with a five percent (5%) or greater direct or indirect ownership interest in the Provider agency fails to submit sets of fingerprints in the form and manner required by DHB within thirty (30) calendar days of request, unless Alliance determines that termination is not in the best interests of the Alliance's Provider Network; or
 - f) If the Provider fails to permit access to Provider locations for any site visits required under 42 CFR § 455.432, unless Alliance determines that termination is not in the best interests of the Alliance's Provider Network.

Provider further acknowledges and agrees that Alliance may also immediately suspend all or a portion of this Contract, without prior written Notice or opportunity to cure in the following circumstances:

- vi. Upon a confirmed finding of fraud, waste, or abuse by Provider by the Department or the Medicaid Investigations Division (MID) of the North Carolina Department of Justice;
- vii. The Department's finding of a credible allegation of fraud, waste, or abuse; or
- viii. A determination of serious quality of care concerns by Alliance or the Department.
- ix. Upon termination of Alliance's BH I/DD Tailored Plan contract with the Department;

The Parties understand, acknowledge and agree that enrollment in the NC Medicaid Program is distinct from enrollment in the Alliance Provider Network, that Alliance has the authority to terminate Provider's enrollment in its Provider Network, and that Alliance has *no* authority to suspend or terminate a Provider's enrollment in the NC Medicaid Program.

Nothing in this Section shall preclude Alliance from terminating this Contract, for any other reason, in whole or in part, or as otherwise authorized by law or this Contract.

- g. **Sanctions.** If the Provider fails to fulfill its duties and obligations pursuant to this

Contract, Alliance may impose Sanctions as set forth in the Provider Manual. Sanctions imposed by Alliance may be progressive or cumulative in order to address the specific area(s) of the Contract that are not being fulfilled by the Provider.

h. **Opportunity to Cure Not Required.** Alliance may, but is not required to, offer Provider the opportunity to cure by providing Provider with written Notice of a material breach specifying the breach and requiring it to be remedied within, in the absence of greater or lesser specification of time, seven (7) calendar days from the date of the Notice; and if the breach is not timely cured, terminate the Contract upon written Notice of Termination. Provider shall not be entitled to any form of injunctive relief if this Contract is terminated by Alliance in whole or in part.

17. **EFFECT OF TERMINATION:**

Alliance reserves the right to approve any Provider's participation in the Alliance Network or to terminate or suspend all or a portion of Provider's Contract. The obligations of both Parties under this Contract shall continue following termination only as to the terms and conditions that by their nature are intended to survive. In the event of termination for any reason hereunder, the Members served shall be of highest priority. The Parties shall work diligently together to provide for all necessary transition services, pursuant to the procedures set forth in the Provider Manual.

a. In the event Alliance terminates this Contract in whole or in part for cause, Alliance may: (1) deduct any and all expenses incurred by Alliance for damages caused by the Provider's breach; and/or (2) pursue any of its remedies at law or in equity, or both, including damages and specific performance.

b. In the event that Federal and State laws should be amended or judicially interpreted so as to render the fulfillment of the Contract on the part of either Party unfeasible or impossible, both the Provider and the Alliance shall be discharged from further obligation under the terms of this Contract, except for settlement of the respective debts and claims up to the date of termination.

c. Upon notice of termination, a post-payment review of billing, documentation and other fiscal records may be performed and any adjustments for amounts due or owed to either Party shall be added or deducted from the final Contract payments.

d. In the event that Alliance terminates this Contract due to BH I/DD Tailored Plan's insolvency:

i. Administrative duties and records will be transferred to the successor organization, appointed by the Secretary of the Department of Health and Human Services as set forth in NC General Statute §122C-125, and in compliance with the Records Management and Documentation Manual for LME-MCOs (ASPM 45-2).

ii. When inpatient care is ongoing, Provider shall continue to render inpatient care pursuant to the continuity of care provisions in section below g, until the patient is ready for discharge. If Alliance provides or arranges for the delivery of health care services on a prepaid basis, payment for Member's inpatient care shall be continued until the Member is ready for discharge.

e. In the event of termination the Provider shall submit all claims or registrations of putative Members within sixty (60) days of the date of termination.

f. In the event of any audit or investigation described in Article II, both Parties shall settle their debts and claims within thirty (30) days of the completion of such audit or investigation and receipt of all final billing and required documentation. All payments provided herein shall be adjusted so as not to exceed the amount due for services actually rendered prior to the date of termination. If advance payments have been made for services not provided as of the date of termination, the Provider shall promptly refund all excess funds paid within the above-referenced thirty (30) days.

g. **Continuity of Care.** Provider shall comply with Controlling Authority and provide Notice to Alliance with respect to the closing of a facility or site. Provider shall develop a transition plan

for each Member prior to being discharged and provide Alliance with a list of Enrollees with appointments scheduled with Provider at the time of termination or closure.

To ensure that a transition is undertaken in an orderly manner that maximizes Member safety and continuity of care, upon expiration or termination of this Contract for any reason except for immediate termination, Providers shall (a) continue providing Covered Services to Members through (1) the lesser of the period of active treatment for a chronic or acute medical condition or up to 90 days, (2) the postpartum period for Members in their second or third trimester of pregnancy, or (3) such longer period required by Laws or Program Requirements, and (b) cooperate with Alliance for the transition of Members to other Participating Providers. The terms and conditions of this Contract shall apply to any such post expiration or termination activities. The continuity of care provisions in this Contract shall survive expiration or termination of this Contract.

h. Prior Authorization is not a guarantee of payment and does not survive termination of this Contract.

17. **RECORDS FOLLOWING TERMINATION OR CLOSURE:** If the Provider's contract is terminated or expires or if the Provider closes its business in Alliance's Region (but continues to have operations elsewhere in the State), the Provider must within 30 days of termination/expiration/closure either provide copies of Medical records of Members to Alliance or submit a plan for maintenance and storage of all records for approval by the Alliance. Alliance has the sole discretion to approve or disapprove such plan.

Abandonment of records is a serious HIPAA and contractual violation and can result in sanctions and financial penalties. The following steps are required of Alliance as soon as Alliance is made aware of the abandonment of any Medical records of Members served pursuant to this Contract:

- a. Alliance is to notify the DHB Office of Compliance and Program Integrity (or other applicable Department Division based on funding source and licensure) about the abandonment;
- b. Alliance is to inform the Provider of the report to the Department regarding the abandonment via trackable mail; and
- c. Alliance is to use best efforts to secure the records and complete an inventory log of the records.

18. **NON-EXCLUSIVE ARRANGEMENT:** Alliance has the right to enter into a Contract with any other provider for Covered Services. Provider shall have the right to enter into other Contracts with any other BH IDD Tailored Plan or third Party payers to provide services. This is not an exclusive agreement for either Party, and there is no guarantee that Alliance will participate in any particular Program, or that any particular Benefit Plan will remain in effect.

19. **NO THIRD PARTY CONTRACT RIGHTS CONFERRED:** Nothing in this Contract shall be construed as creating or justifying any liability, claim or cause of action, however alleged or arising, by any third party, against Alliance, Provider or the Department.

20. **NOT RESPONSIBLE FOR EXPENSES INCURRED:** Alliance shall not be liable to Provider for any expenses paid or incurred by Provider, unless as specifically agreed upon in writing and signed by both Parties.

21. **EQUIPMENT:** Provider shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide Services hereunder, unless otherwise agreed in writing.

22. **ASSIGNMENT/SUBCONTRACTING:** Provider's duties and obligations under this Contract shall not be assigned, delegated, or transferred without the prior written consent of Alliance. Provider may

not assign or subcontract duties, rights, or interests under this Contract unless Alliance provides prior written consent. Both Parties shall ensure that any subcontractors performing any of the obligations of this Contract shall meet all requirements of this Contract and the standards of Alliance's National Accrediting Bodies. Alliance shall notify Provider in writing of any duties or obligations that are to be delegated or transferred before the delegation or transfer. Provider shall follow Alliance's procedures with respect to subcontractors.

23. **NO PRESUMPTION AGAINST DRAFTER:** If any ambiguity or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Contract.

24. **GOVERNMENTAL RESTRICTIONS:** Should Alliance notify the Provider that any program or activity in the scope of work under this Contract is no longer authorized by law (e.g., vacated by a court of law, CMS withdraws federal authority, or subject of a legislative repeal), the Provider shall do no work on that part of the Contract after the effective date identified in the Notice. Alliance shall remove costs that are specific to any program or activity under the Contract that is no longer authorized by law. If the Provider provides Services no longer authorized by law after the effective date identified in the notice, the Provider shall not be paid for that work. If Alliance paid the Provider in advance to provide Services no longer authorized by law and under the terms of this Contract the work was to be performed *after* the effective date identified in the notice, the payment for those Services shall be returned to Alliance. However, if the Provider provided a service no longer authorized by law *prior* to the effective date identified in the Notice, and Alliance included the cost of performing those services in its payments to the Provider, the Provider may keep the payment for those services even if the payment was made after the effective date identified in the Notice.

25. **SURVIVAL:** Any provision of this Agreement, including an Attachment, that requires or reasonably contemplates the performance or existence of obligations by a Party after expiration or termination of this Agreement shall survive such expiration or termination regardless of the reason for expiration or termination.

ARTICLE II: OBLIGATIONS OF THE PARTICIPATING PROVIDER

1. Provider is required to participate in Alliance's utilization management, care management, quality management, access, finance, qualification/accreditation, credentialing, and compliance processes as well as comply with all Network requirements for reporting, inspections, monitoring, and Member choice requirements as set forth herein and in the Provider Manual.

2. **SERVICES:**

a. **Delivery of Services.** Provider agrees to provide the Medically Necessary Service(s) to Members set forth in Attachment A at the approved sites, pursuant to the terms of this Contract. All Services shall be rendered in a manner consistent with Clinical Practice Guidelines and with applicable Controlling Authority. The Parties understand and agree that there is no guarantee of referrals provided under this Contract and that Alliance is not obligated to refer or assign a minimum number of Members to or maintain a minimum number of Members with a Provider. Provider is required to serve Members within sixty (60) calendar days from the date of execution of this Contract. If Provider has not accepted and delivered services to Members within sixty (60) calendar days from the date of execution of this Contract or within sixty (60) calendar days prior to the expiration of the term of this Contract, the Contract or the Services not rendered may be terminated.

- b. **For Providers of Care Management Services.** For Local Health Departments (LHD) providing Care Management Services, AMH+ Practices, CMAs, and Providers of prenatal, perinatal and postpartum care, Provider acknowledges and agrees to comply with the service-specific Program Requirements set forth in the applicable Contract Attachments, incorporated herein by reference and to with comply with Department Policy as published and revised by NC DHHS. Contracted LHDs shall also be required to conduct Refugee Health Assessments as outlined in NC Medicaid Clinical Coverage Policy 1D-1: Refugee Health Assessments Provided in Health Departments.
- c. **Outpatient Commitment.** Providers of Services provided under Outpatient Commitment to a Member are required to notify Alliance of the Outpatient Commitment order upon receipt or notice of Outpatient Commitment.
- d. **Primary Care Providers.** All In-Network Primary Care Providers must perform EPSDT (Early and Periodic Screening, Diagnostic and Treatment) screening for Alliance members less than twenty-one (21) years of age.
3. **PROVIDER ACCESSIBILITY:**
- a. **Interpreting and Translation Services.** When feasible under the circumstances, Provider must make language interpretation available by telephone and/or in person enabling Members to communicate with Provider. TDD (telecommunication devices for the deaf) must also be made available when feasible for persons who have impaired hearing or a communication disorder. The Provider must ensure the Provider's staff is trained to appropriately communicate with patients with various types of hearing loss. Provider shall report to Alliance in a format and frequency to be determined by Alliance, whether hearing loss accommodations are needed and provided, and the type of accommodation provided.
- b. **Hours of Operation.** Provider shall make Services covered under this Contract available twenty-four (24) hours a day, seven (7) days a week, including holidays, when medically necessary, and/or in accordance with the applicable Clinical Coverage Policy, and offer hours of operation to Alliance Members comparable to Medicaid Direct hours, if applicable, and that are no less than the hours offered to privately insured individuals, and Provider must arrange for call coverage or other back-up to provide access to Services in accordance with Alliance's Standards for Provider Accessibility, as set forth herein and in the Provider Manual.
- c. **Provider Accessibility Standards Related to Appointment Availability Requirements.** The Provider shall meet service availability and wait time standards as published on the Alliance Provider Manual, established in compliance with 42 C.F.R. § 438.206 and with Department requirements for Network Adequacy Standards for Medicaid. Provider acknowledges that:
- i. Alliance shall monitor Network Providers regularly to determine compliance with timely access requirements;
 - ii. Alliance shall take corrective action if Provider fails to comply with service availability and wait time standards;
 - iii. Provider's cooperation with Alliance's monitoring of compliance with service availability and wait time standards is a requirement of this Contract
- d. **No Reject Policy.** Provider shall have a "no-reject policy" for Members within capacity and parameters of their competencies. Provider agrees to accept all referrals meeting criteria for services they provide when there is available capacity.
4. **CARE COORDINATION:** Upon request by Alliance, Provider shall designate qualified care coordination staff to participate in interdisciplinary team meetings facilitated by Alliance that involve Member(s) served under this Contract.
- a. Provider shall provide information pertinent to the development of an Individual Service Plan (ISP) for persons with Intellectual or other Developmental Disabilities, and a Person Centered

Plan (PCP) for persons with Mental Health or Substance Use Disorder, or shall directly participate in the planning process.

b. Provider shall be responsible for the development of treatment and/or supports strategies to address assigned areas of responsibility from the PCP or ISP.

5. **CULTURAL COMPETENCE:** The Provider encouraged to participate in the Alliance Cultural Competency Plan. The Provider's Cultural Competence Plan should be consistent with Alliance's most current Cultural Competency Plan, posted at www.AllianceHealthPlan.org. The Provider shall develop procedures for the implementation of systems to evaluate and/or measure adherence to their Cultural Competence Plan, ensure that all staff are trained, and have training available for review by Alliance's Provider Network Department. Cultural competency shall be achieved within the strictures of State and Federal laws, which require equal opportunity in employment and bar illegal employment discrimination on the grounds of race, gender, religion, sexual orientation, gender identity, national origin or disability.

6. **DISCLOSURE:** Provider shall make those disclosures to Alliance as are required to be made to DHB pursuant to 42 C.F.R. § 455.104 and 106 and are required by Alliance's accrediting bodies and the Provider Manual. Alliance will share accrediting body requirements with Provider upon request.

Federal Law prohibits Alliance from contracting with Ineligible Persons, therefore this Contract shall be null and void if Alliance determines that Provider was an Ineligible Person at the execution of this Contract. Provider warrants and represents as of the Effective Date and throughout the term of the Contract and the duration of post expiration or termination transition activities described in this Contract, that none of it, its Principals or any individual or entity it employs or has contracted with to carry out its part of this Contract is an Ineligible Person

7. **LICENSES, ACCREDITATIONS, CREDENTIALING AND QUALIFICATIONS:**

a. Provider shall maintain all licenses, certifications, accreditations and registrations required for its facilities and staff providing services under the Contract as are required by Controlling Authority and that are sufficient to meet Alliance's network participation requirements pursuant to Alliance's Credentialing and Re-credentialing Policy (the Credentialing and Re-credentialing Policy is subject to amendment based upon Department review and approval, while awaiting approval of its Policy by the Department). Within five (5) days of receipt by Provider of notice of any sanction by any applicable licensing board, certification or registration agency, or accrediting body that affects the ability of Provider to bill Alliance for services, the Provider shall notify Alliance in writing.

b. Provider must notify Alliance of any changes in the status of any information relating to Provider's professional credentials.

c. Provider must be enrolled as a Medicaid provider and active in NC Tracks and satisfy the requirements of 42 C.F.R. §455.410, and is subject to termination of this Contract if such enrollment is not maintained.

d. Provider certifies that at the time of execution of this Contract, that neither Provider, nor any of its staff or employees, or principals is excluded from participation, suspended or debarred by any applicable governmental authority from conducting any business or activities contemplated by this Contract whether under current legal name, DBA or any additional name or former name, including the current or former name of a division, department, program or subsidiary. Within five (5) business days of notification of exclusion of Provider or any of its principals, staff or employees by the U.S. Office of Inspector General, CMS or any State Medicaid program, Provider shall notify Alliance of the exclusion and its plan for compliance.

e. Provider must complete re-credentialing pursuant to Alliance's Credentialing Criteria prior to contract renewal but, in any event, no less than the following time periods:

- i. During the Provider Credentialing Transition Period, no less frequently than every five (5) years;
- ii. After Provider Credentialing Transition Period, no less frequently than every three (3) years.

Failure to meet re-credentialing standards shall be deemed a material breach of this contract and shall result in the termination of this Contract.

f. Provider shall secure and maintain for themselves and their employees commercial general liability and professional liability insurance coverage for claims arising out of events occurring throughout the term of this Contract and any post-expiration or post-termination activities under this Contract in an amount acceptable to Alliance and sufficient to meet worker's compensation coverages as required by applicable State Law. Provider shall notify Alliance on a timely basis of any subsequent changes in status of coverage, as set forth in Appendix D, incorporated herein by reference. Provider shall provide Alliance upon request with certificates of insurance or other evidence of coverage reflecting satisfaction of the foregoing requirements of this paragraph and shall provide Alliance with no less than thirty (30) days advance written notice of any modification, cancellation or termination of their insurance.

g. The Provider shall not bill Alliance and Alliance will not pay:

- i. For any Services provided by Provider during any period of revocation or suspension of required licensure or accreditation of the Provider's approved site or facility;
- ii. For any Services provided by a member of the Provider's staff during any period of revocation or suspension of the staff member's required certification, licensure, or credentialing.
- iii. For any services provided by non-credentialed staff or staff not meeting requirements as specified by this Contract, or as specified in the NC Medicaid Plan Clinical Coverage Policies, Alliance Provider Manual, or Mental Health, Developmental Disabilities, and Substance Abuse Service Definitions or other applicable Controlling Authority.

h. Provider certifies that at the time of execution of this Contract, neither Provider, nor any of its staff, Principals, or employees, is excluded from participation in Federal Health Care Programs under Section 1128 of the Social Security Act and/or 42 CFR Part 1001. Within five (5) business days of notification of exclusion or termination of Provider or any of its staff or employees by the U.S. Office of Inspector General, CMS or any State Medicaid program, Provider shall notify the Alliance of the exclusion or termination and its plan for compliance.

i. Provider, upon written request by Alliance, shall provide written proof of Provider accreditation. Any changes to Provider accreditation shall be immediately reported to Alliance.

8. **EVENT REPORTING AND ABUSE/ NEGLECT/ EXPLOITATION:**

a. Provider shall use best efforts to ensure that Member(s) are not abused, neglected or exploited while in its care.

b. The Provider shall report all events or instances involving abuse, neglect or exploitation of Members as required by Controlling Authority.

c. The Provider shall not use restrictive interventions except as specifically permitted by the individual Member's treatment/habilitation plan or on an emergency basis in accordance with 10A NCAC 27E.

d. Provider shall timely report and comply with applicable Member incident, critical incident and death reporting Laws, regulations and policies and event reporting requirements of Provider's and Alliance's national accreditation organizations. Incidents shall be reported in the manner prescribed and on a form provided by the Secretary of the DHHS. Specifically, Providers are required to report Level II and Level III incidents, as those terms are defined at 10A NCAC 27G .0602, in the NC Incident Response Improvement System.

e. Alliance shall have the right to conduct its own investigation of any events reported to determine whether any claims were paid in error and to ensure compliance with Controlling Authority by the Provider. The Provider shall cooperate fully with all such investigative efforts. Alliance will provide the Provider a written summary of its findings within thirty (30) days. During such an investigation, if any issues are cited as out of compliance with this Contract or applicable federal or state Laws, rules or regulations, the Provider may be required to document and implement a plan of correction. Provider may request reconsideration of a determination that claims were paid in error as outlined in the Provider Manual.

9. **UTILIZATION MANAGEMENT:** The Provider shall comply with the Alliance's Utilization Management process, which may include requirements for pre-authorization, concurrent review and care management, credentialing review, and a retrospective utilization review of services provided for Members whose services are reimbursed by the I/DD Tailored Plan. The Provider shall provide the Alliance with all necessary clinical information for the Alliance's utilization management process. Provider shall also comply with Alliance's quality management programs, and provider sanctions programs with the proviso that none of these shall override the professional or ethical responsibility of the Provider or interfere with the Provider's ability to provide information or assistance to their patients.

10. **AUDITS, ACCESS AND DOCUMENTATION REQUIREMENTS:**

a. **Oversight Authority:** Provider explicitly acknowledges the authority of US DHHS, including the OIG, CMS, The Department and any of its Divisions, Alliance, and agents of these entities to inspect, monitor and audit Services performed under this Contract and the authority of the Department, Alliance and other State or Federal officials to inspect and audit Provider's financial records.

In accordance with 42 CFR §§ 420.300 – 420.304, for any contracts for services the cost or value of which is \$10,000 or more over a 12-month period, including contract for both goods and services in which the service component is worth \$10,000 or more over a 12-month period, the Comptroller General of the United States, HHS, and their duly authorized representative shall have access to Provider's books, documents, and records until the expiration of four (4) years after the Services are furnished under the contract.

Provider acknowledges that it is subject to audits, investigations, evaluations and post-payment reviews conducted by these entities, including, but not limited to audits and evaluations conducted by Alliance pursuant to 42 C.F.R. §2.53 involving Substance Use Disorder Services and records. Where records are subject to the provisions of 42 CFR § 2.53(b), Alliance agrees, in compliance with applicable Law, to maintain patient identifying information in accordance with the security requirements provided in 42 CFR § 2.16; destroy all patient identifying information upon completion of the audit or evaluation; and when applicable, comply with the limitations on disclosure and use as required by 42 CFR § 2.53 (d).

For all Services being provided pursuant to this Contract, Alliance shall have the right to inspect, examine, and make copies of any and all books, financial documents, accounts, invoices, records of staff who delivered or supervised the delivery of Services to Members, Members' clinical records, and any other clinical or financial items or documents related to the claims submitted for the delivery of Services to Members that Alliance deems necessary to ensure compliance with the Contract.

Provider agrees to cooperate with Alliance in its Oversight and Program Integrity activities and shall take such corrective action as is necessary to comply with State and Federal law and any

Accreditation Standards. Provider further agrees to provide timely, accurate, and appropriate data and information to enable Alliance to fulfill applicable accrediting organizations' and Federal and State regulatory filing requirements, provided the disclosure of such information is consistent with applicable State and Federal laws regarding confidentiality. Oversight and Program Integrity activities, including on-site inspections and investigations may occur at any time and do not have to be arranged in advance with Provider.

b. **Medical Records.** Providers shall maintain Member medical records in accordance with 42 CFR §438.208(b)(5) and shall:

- i. Maintain confidentiality of Member medical records and personal information and other health records as required by Law, including without limitation, the Health Insurance Portability and Accountability Act;
- ii. Maintain adequate medical and other health records according to industry and Alliance's standards;
- iii. Make copies of such records available to Alliance and the Department in conjunction with Department's regulation of the BH IDD Tailored Plan. Such records shall be made available and furnished immediately upon request in either paper or electronic form, at no cost to the requesting party; and
- iv. Adhere to the applicable state and federal record retention schedules for each Member served, either in original paper copy or an electronic/digital copy.

Provider shall maintain all documentation and records supporting Member's medical necessity for the Services and shall provide it upon request by Alliance for Program Integrity activities, including but not limited to audits, investigations or post-payment reviews. Alliance may, but is not required to, grant additional time to respond for good cause shown and depending upon the size and scope of the request.

c. **Access to Provider Records.** Provider agrees to provide Alliance access to all books, records, and documents maintained under the Contract during normal business hours so that Alliance may perform its audit obligations, provided that any such access shall be consistent with applicable State and Federal laws and regulations. Provider and Alliance agree that all such documents shall be kept confidential, consistent with applicable State and Federal laws and regulations and Controlling Authority. Provider further agrees that surveys, reviews and/or audits performed by accrediting or regulatory authorities of Provider utilized to confirm operational compliance of or require corrective action by Provider shall be provided to Alliance upon Provider's receipt.

d. **Provider Maintenance of Records.** Provider shall maintain all information and records reviewed or created in the performance of its duties under this Contract pursuant to the requirements of Alliance, Alliance's National Accrediting Body, and in accordance with applicable Controlling Authority. Documentation must support at a minimum the billing diagnosis, the number of units provided and billed, and the standards of the billing code. Provider's obligations to maintain records under this Paragraph shall continue following termination of the Contract.

Provider agrees to maintain necessary records and accounting related to the Contract, including personnel and financial records in accordance with Generally Accepted Accounting Procedures and Practices to assure a proper accounting of all funds.

Provider shall maintain detailed records of administrative costs and all other expenses incurred pursuant to the Contract including the provision of Services and all relevant information relating to individual Members as required by Controlling Authority. When an audit is in progress or audit findings are unresolved, records shall be kept minimally until all issues are finally resolved.

Provider shall provide specifically denominated clinical or encounter information required by Alliance to meet State and Federal monitoring requirements upon request, except that Alliance may grant additional time to respond for good cause shown and depending upon the size and scope of the request.

e. **Paid Claims Audits.** At a minimum of once every two (2) years, the Provider will participate in an audit of paid claims conducted by Alliance. Any paid claims determined to be out of compliance with Controlling Authority shall require a repayment to Alliance as required by Controlling Authority, subject to all of Participating Provider's right of appeal. Any underpayments to Provider shall require payment by the Alliance. The Provider will receive written documentation of findings within thirty (30) days following the audit. Based upon results of the audit the Provider may be subject to additional auditing and/or may be required to submit a plan of correction and/or may be required to remit funds back to the Alliance as required by Controlling Authority.

Provider agrees that Alliance may use statistically valid sampling and extrapolate audit results in accordance with Controlling Authority.

f. **Data Requests.** Provider shall use best efforts to provide data to Alliance in the implementation of any studies or improvement projects required of Alliance by the Department. Provider and Alliance will mutually agree upon the data to be provided and the format and time frame for provision of the data.

Provider may satisfy any request for information by either paper or electronic/digital means. The requirements of this Contract regarding Records, access, and audit shall survive expiration or termination of this Contract.

11. **FRAUD, ABUSE, OVER UTILIZATION AND FINAL OVERPAYMENTS, ASSESSMENTS OR FINES:**

a. Provider understands that whenever Alliance receives an allegation of fraud, abuse, overutilization or questionable billing practice(s), Alliance is required to provide the NC Medicaid with the provider name, type of provider, source of the complaint, and approximate dollars involved. Provider understands that the Medicaid Investigations Division of the North Carolina Attorney General's Office or DHB, at their discretion, may conduct preliminary or full investigations to evaluate the reported fraud, abuse, over utilization or questionable billing practice(s) and the need for further action, if any. Fraudulent billing may include, but is not limited to, unbundling services, billing for services by non-credentialed or non-licensed staff, or billing for a Service that Provider never rendered or for which documentation is absent or inadequate.

b. If Alliance determines Provider has failed to comply with Controlling Authority and has been reimbursed for a claim or a portion of a claim that Alliance determines should be disallowed or is the result of an error or omission, the claim shall be recouped as set forth in the Provider Manual.

c. If Alliance determines Provider has been paid for a claim that was fraudulently billed to Alliance, Alliance may provide thirty (30) days' Notice to the Provider of the intent to recoup funds. Such Notice shall identify the Member(s) name and date(s) of service in question, the specific determination made by Alliance as to each claim, and the requested amount of repayment due to Alliance. Provider shall have thirty (30) days from date of such notification to either request reconsideration in accordance with the Alliance Provider Manual or to remit the invoiced amount.

d. Provider understands and agrees that self-audits are encouraged by Alliance.

12. **FEDERALLY REQUIRED CERTIFICATIONS:** The Provider shall execute and comply with the attached federally required certifications, which shall be incorporated herein in Appendix A as follows:

- a. Environmental Tobacco Smoke – Certification for Contracts, Grants, Loans and Cooperative Agreements,
- b. Lobbying – Certification for Contracts, Grants, Loans and Cooperative Agreements,
- c. Drug-Free Workplace Requirements, and
- d. Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.

13. **MEMBER GRIEVANCES:**

- a. The Provider shall address all clinical concerns of the Member as related to the clinical Services provided to the Member pursuant to this Contract. Provider shall refer any unresolved concerns or requests for Services or provider change to the Alliance. The Provider shall have in place a Complaint and Grievance Process that is documented in written policy or procedures, and shall ensure that said process is accessible to all Members and that said process operates in a fair and impartial fashion.
- b. Alliance may receive complaints directly that involve the Provider. If a complaint is received by Alliance, State rules and regulations regarding the investigation and/or mediation of complaints will be followed. Based on the nature of the complaint, Alliance may choose to investigate the complaint, as authorized by Controlling Authority, in order to determine its validity. Provider is required to cooperate fully with all investigative requests as required by Controlling Authority.
- c. Alliance will maintain documentation on all follow up and findings of any complaint investigation. The Provider will be provided a written summary of Alliance's findings.
- d. During an investigation, if any issues are cited as out of compliance with this Contract or Controlling Authority, the Provider may be required to document and implement a plan of correction as required by Controlling Authority. The Provider will maintain a system to receive and respond timely to complaints received regarding the Provider. The Provider will maintain documentation on the complaint to include, at a minimum, date received, points of complaint, resolution/follow up provided, and date complaint resolved and will provide this documentation to Alliance upon request.

14. **CONTINUITY OF CARE AND ALLIANCE MEMBER CARE MONITORING:**

- a. Continuity of care is expected for all Recipients served under this Contract. Provider shall obtain appropriate client authorizations and consents to release or exchange information. The Provider shall participate in team meetings and/or community collaborations and communicate regularly with other Providers regarding mutual cases. A pattern of failure to coordinate services in a timely manner, without demonstrated corrections may be deemed a material breach of this Contract and result in Contract termination for cause.
- b. Provider shall provide information pertinent to the development of an Individual Service Plan (ISP) for persons with Intellectual or other Developmental Disabilities, and a Person Centered Plan (PCP) for persons with Mental Health or Substance Use Disorder, or shall directly participate in the planning process. Provider shall also allow appropriately credentialed Alliance staff direct access to any Member, if requested by Member, determined to be clinically appropriate by the Member's treating Provider, and requested in advance by Alliance.
- c. Providers of Residential Substance Use Disorder treatment services are required to provide medication assisted treatment (MAT) on-site or refer the Member to an in-network MAT Provider.
- d. Provider shall coordinate the discharge of Members with Alliance to ensure that appropriate post-discharge services are arranged and to link Member with other qualified providers or community assistance for continuity of care. For purposes of this Contract, discharge is considered any termination of service from the Provider, whether initiated by the Provider, the Member, Alliance, or the Department. The Provider shall notify Alliance of termination of service

within seven (7) days of the termination or planned discharge. Provider shall endeavor to provide at least twenty-four (24) hours prior notice to Alliance of the intended date and time of any discharge of a Member. Provider shall work and cooperate with the Alliance on coordination of care for any continuing services.

e. Provider must notify Alliance of any Member discharged from a high acuity clinical setting.

f. Alliance understands the importance of Member-Provider matching and that problems or incompatibilities can arise in the therapeutic relationship. Nevertheless, Provider shall, with the consent of the Member, collaborate with Member, Member's family members, and Alliance to assure continuity of care and that there is no disruption of service. Alliance will work collaboratively with the Provider to resolve any problem(s) of continuity of care or in transferring the Member to another provider.

15. **PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY:** Any documents, reports, or other products, with the exception of any and all proprietary business papers and documents, developed in connection with the performance of the Contract, shall be in the public domain and shall not be copyrighted or marketed for profit by the Provider, Alliance, any individual, or other entity; provided, however, that medical records, business records, and any other records related to the provision of care to and billing of Members' Services shall not be in the public domain. Alliance shall publish the name of Provider or Provider group in its provider directory. Provider authorizes such publication and consents to the use of its name, demographics, including practice specialties, phone numbers and addresses, in the Alliance provider directory listings for distribution to Alliance Enrollees.

16. **E-VERIFY:** Provider shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if Provider utilizes a subcontractor, Provider shall require the subcontractor to comply.

17. **INDEMNIFICATION:** Provider agrees to indemnify and hold Alliance harmless to the extent allowed by law from all third party liability, loss, damage, claim and expense of any kind, including costs of the defense which results from negligent or willful acts or omissions by the Provider or its agents or employees regarding the duties and obligations of the Provider under this Contract or otherwise, including the duty to maintain the legal standard of care applicable to the Provider. If this Contract is terminated, the obligations of the Provider regarding indemnification under this Contract shall survive the termination of this Contract regarding any liability for acts or omissions that occurred prior to the termination.

Provider hereby releases and agrees to indemnify and hold harmless Alliance and agrees that Alliance, and each officer, and employee of Alliance shall not be liable for, any liabilities, obligations, claims, damages, (including but not limited to any civil or criminal penalties, and the repayment of any funds which an audit might disclose are due to be repaid to the State or Federal government or to the agencies of either), litigation costs and expenses (including attorney's fees and expenses) imposed on, incurred by or asserted against the Alliance, or any officer, or employee thereof for any reason whatsoever arising out of the Provider's negligent or willful actions or omissions in connection with the performance of the Contract.

18. **PROVIDER'S RESPONSIBILITY FOR QUALITY ASSURANCE AND QUALITY IMPROVEMENT:** Provider shall comply with NC Department of Health Service Regulation – Office of Emergency Medical Services regulations and criteria and participate in Alliance's Quality Management Plan and, as a result of that participation, provide necessary performance data and cooperate with and participate in Quality Improvement projects and activities including but not limited to participation in the administration of surveys.

Provider will create a current Quality Improvement Plan (QI). Implementation of this plan will be reviewed during the Provider's monitoring reviews. Revisions/ updates to the Provider's QI shall be submitted to Alliance at the time of the Provider's implementation of the revised plan. Based upon information provided to the Provider by Alliance, the Provider will develop interventions to address needed areas of improvement and ensure that interventions are implemented and monitored for their level of effectiveness

Upon request, Provider shall cooperate fully with any investigation of Provider conducted by any Alliance department and particularly by the Quality Management Department and Provider Network Operations. Such cooperation shall include prompt and full response to Alliance. Participating Provider reserves all of its legal, equitable and constitutional rights hereunder.

ARTICLE III: OBLIGATIONS OF ALLIANCE

1. REIMBURSEMENT:

- a. Alliance shall timely reimburse Provider for duly authorized Services provided to Members and billed, contingent upon receipt of timely payments from the Department, according to the terms and conditions outlined in Article IV of this Contract and the Provider Manual.
- b. Alliance shall advise the Provider of any change in funding patterns that would affect reimbursement to the Provider based on availability of the various types of funds.
- c. All payments for Services to Providers shall be subject to review and audit for their conformity with applicable state and federal laws, rules and regulations and requirements contained in this Contract and the Provider Manual.
- d. Alliance may use different reimbursement methodologies or reimburse at amounts for different specialties or for different practitioners in the same specialty; and will establish measures that are designed to maintain quality of services and control cost consistent with its responsibilities to Recipients.
- e. Alliance may establish rates specific to a Provider, as Alliance determines necessary and appropriate. Alliance may offer different rates to different providers offering the same services according to Alliance's established reimbursement plan with criteria, such as paying enhanced rates for evidence-based practices or for positive outcomes.
- f. Alliance shall deny claims in the event and to the extent the claim is incomplete, does not conform to the applicable service authorization, or is otherwise incorrect. Any denied claims billed shall be returned to the Provider with an explanation for the denial.
- g. For State Owned and Operated Facilities, Alliance shall reimburse facilities that are State-owned and operated by the Division of State Operated Healthcare Facilities according to the rates established by the Department.

2. DATA TO PROVIDER: Alliance shall provide data to the Provider related to delivery of Services under this Contract such as:

- a. Performance feedback reports or information to the provider, if compensation is related to efficiency criteria;
- b. Information on benefit exclusions, where applicable;
- c. Administrative and utilization management requirements;
- d. Credential verification programs;
- e. Quality assessment programs; and

f. Provider sanction policies.

Notification of changes in these requirements shall also be provided by Alliance on the Alliance website, in advance of the effective date of any changes in order to allow Providers time to comply with such changes.

3. **REFERRALS TO PROVIDER:** Provider will be included on a list of Providers available on the Alliance website and offered to Members who call the Alliance Access and Information Center for referral. Alliance reserves the right to suspend referrals to Provider in its reasonable discretion and to refer Members to other Providers. No referrals or authorizations are guaranteed to take place under this Contract. Provider shall have a “no-reject policy” for referrals within capacity and parameters of their competencies. Provider agrees to accept all referrals meeting criteria for services they provide when there is available capacity.

4. **UTILIZATION MONITORING:** Alliance shall monitor and review service utilization data related to the Provider and the Alliance Provider Network to ensure that services are being provided in a manner consistent with Controlling Authority.

5. **QUALITY ASSURANCE AND QUALITY IMPROVEMENT:** Alliance shall establish a written program for Quality Assessment and Performance Improvement in accordance with 42 CFR § 438.240 that shall include Members, family members and providers through a Global Quality Assurance Committee. Provider shall participate in the compliance process and the Alliance Network continuous quality improvement process. Alliance shall also:

a. Provide Provider with a copy of the current program and any subsequent changes within thirty (30) days of changes to the Global Quality Assurance Plan.

b. Measure the performance of Provider and Member specific outcomes from service provisions based on the global CQI performance indicators. Examples include, but are not limited to, conducting peer review activities such as identification of practices that do not meet standards, recommendation of appropriate action to correct deficiencies, and monitoring of corrective action by Provider.

c. Measure Provider performance through medical record audits and clinical outcomes agreed upon by both Parties.

d. Monitor the quality and appropriateness of care furnished to Members.

e. Provide performance feedback to Providers including clinical standards and Alliance expectations.

f. Follow up with Provider concerning grievances reported to Alliance by Members.

6. **CARE MANAGEMENT AND COORDINATION OF CARE:**

a. Alliance shall ensure coordination of care and shall ensure that Tailored Care Management is available to all BH I/DD Tailored Plan members as set forth in Attachment I, regardless of geography, continuously throughout their enrollment, unless they are receiving duplicative Care Management services.

b. Alliance shall offer three (3) approaches to delivering Tailored Plan Care Management and shall adhere to the Program Requirements for each as set forth in the following Attachments, which are incorporated into this Contract by reference:

i. Advanced Medical Home (AMH+) Practices, as set forth in Attachment E – Advanced Medical Home Program Requirements for Medicaid and NC Health Choice Members; and

ii. Care Management Agency (CMA), as set forth in:

- (a) Attachment F -- Pregnancy Management Program Requirements for Medicaid and NC Health Choice Members; and
 - (b) Attachment G -- Care Management for High-Risk Pregnancy Program Requirements for Medicaid and NC Health Choice Members; and
 - (c) Attachment H -- Care Management for At-Risk Children Program Requirements for Medicaid and NC Health Choice Member; and
 - iii. BH I/DD Tailored Plan-based Care Managers.
 - c. Alliance shall coordinate the discharge of Members with Provider to ensure that appropriate services have been arranged following discharge and to link Member with other providers or community assistance.
 - d. Alliance shall provide follow up activities to high risk Members discharged from twenty-four (24) hour care.
 - e. If a Member requires medically necessary services, Alliance shall arrange for Medicaid-reimbursable services for the Member.
7. **AUTHORIZATION OF SERVICES:**
- a. Except for Emergency Services or where prior authorization is not required by the Provider Manual, Providers shall obtain prior authorization for Covered Services in accordance with the Provider Manual. Except where not permitted by Laws or Program Requirements, Alliance may deny payment for Covered Services where a Provider fails to meet Alliance's requirements for prior authorization.
 - b. Alliance shall determine whether Medical Necessity exists for those Services requiring prior authorization.
 - c. Alliance shall comply with the grievance and appeal requirements set forth in 42 CFR Part 438 and N.C. Gen. Stat. Chapter 108D.

ARTICLE IV: BILLING AND REIMBURSEMENT

1. Except for Emergency Services, Provider must verify the Member's Medicaid coverage in accordance with the Provider Manual prior to providing Covered Services or submitting claims to Alliance. Except for Emergency Services, Provider shall offer to assist any Member(s) who the Provider reasonably believes meet Medicaid eligibility requirements in applying for Medicaid. Alliance provides Member eligibility information through Alliance's provider website and other means.

For Emergency Services, Providers shall verify Member eligibility no later than the next business day after the Member is stabilized or the Provider learning the individual may be a Member, whichever is later. Members' eligibility status is subject to retroactive disenrollment, and Alliance may, unless prohibited by Laws and Program Requirements, recoup payments for items or services provided to such individuals after the effective date of disenrollment even if such items and services were authorized by Alliance.

2. Provider shall comply with all terms of this Contract even though a third party agent may be involved in billing the claims to the Alliance. It is a breach of the Contract to assign the right to payment under this Contract to a third party in violation of Controlling Authority, specifically 42 C.F.R. § 447.10.

3. Provider acknowledges that this Contract allows Provider to bill Alliance only for those Medicaid-reimbursable Covered Services specifically identified in Attachment A and the Provider's credentialing approval letter that are medically necessary and provided to eligible Members at approved sites.

4. Provider understands and acknowledges there are circumstances that may cause a Member to be disenrolled from or by the BH I/DD Tailored Plan. If the disenrollment arises from Member's loss of Medicaid eligibility, Alliance shall be responsible for claims for the Member up to and including the Member's last day of eligibility. If the disenrollment arises from a change in the Member's Medicaid County of residence, Alliance shall be responsible for claims for Member up to the effective date of the change in Medicaid County of residence. In any instance of Member's disenrollment, preexisting authorizations will remain valid for any services actually rendered prior to the date of disenrollment.

5. The Allowed Amount for Ambulance Covered Services is 100% of the amount payable based on the Medicaid Managed Care Ambulance Fee Schedule set forth by the North Carolina Division of Health Benefits ("NCDHB") at the date of service. For non-Ambulance Covered Services, Alliance will pay the Provider the lesser of the Provider's current usual and customary charges or Alliance's established rate for Services. Provider understands and agrees that reimbursement rates paid under this Contract are established by Alliance. Alliance reserves the right to establish its own rates as permitted under its Contract with the Department. The reimbursement rate can be revised unilaterally by the Department at any time. Alliance shall communicate any changes to reimbursement rates via publication on the Alliance website and electronic newsletter at least thirty (30) days prior to such change. Should rates change during the Contract period, Provider may elect to accept the revised rate or terminate the Contract.

FOR PUBLIC AMBULANCE PROVIDERS: The allowed amount for ambulance Covered Services is 100% of the amount payable based on the Medicaid Managed Care Ambulance Fee Schedule set forth by the North Carolina Division of Health Benefits ("NCDHB") at the date of service.

(a) The BH I/DD Tailored Plan shall negotiate base reimbursement amounts to in-network public ambulance providers no lower than rates paid to non-public providers for similar services.

(b) In addition to base reimbursements, the BH I/DD Tailored Plan shall make additional utilization-based payments to in-network public ambulance providers for Medicaid members only, (not NC Health Choice beneficiaries) as defined by the Department and as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(B)).

(c) The BH I/DD Tailored Plan shall pay the negotiated base reimbursement to in-network public ambulance providers, which will serve as payment in full for NC Health Choice.

6. Alliance follows the Department's guidelines regarding modifiers and only reimburses modifiers reimbursed by North Carolina Medicaid. Alliance may apply current North Carolina Medicaid payment rules, policies and guidelines related to Provider's claims. In accordance with DHHS Policy, where applicable Alliance will comply with payment requirements to reimburse providers no less than one-hundred percent (100%) of any applicable rate floor, as set forth in Attachment C and the Provider Manual. However, when contracting with Indian Health Care Providers, Alliance will adhere to requirements set forth in Attachment D for Indian Health Care Providers.

Behavioral Healthcare Providers will be reimbursed in accordance with the Alliance fee schedule published at [Document Library - Alliance Health \(alliancehealthplan.org\)](https://alliancehealthplan.org).

Outpatient Specialized Therapies (Speech Therapy, Occupational Therapy, Physical Therapy, Respiratory Therapy) will be reimbursed in accordance with the rate schedule published at https://ncdhhs.servicenow.com/fee_schedules.

7. SUBMISSION AND PAYMENT OF CLAIMS:

The Provider shall submit all claims for processing and Alliance shall process and pay claims in accordance with the terms set forth in Attachments B and C, which are attached hereto and incorporated herein. Participating Providers shall not submit claim or encounter data for services covered by the Alliance Tailored

Plan directly to the Department.

- a. If Alliance denies payment of a claim, Alliance shall provide Provider the ability to electronically access the specific denial reason.
- b. Status of a claim shall be available within five to seven (5-7) days of Alliance's receipt of the claim.
- c. Alliance is not limited to approving a claim in full or requesting additional information for the entire claim. Rather, as appropriate, Alliance may approve a claim in part, deny a claim in part, and/or request additional information for only a part of the claim.
- d. Alliance will not reimburse Provider for services provided by staff not meeting licensure, certification or accreditation requirements.
- e. Provider agrees to send 837 HIPAA compliant transactions and to receive 835 Remittances or to participate in Alliance's web based billing process.
- f. Claims must be submitted electronically either through HIPAA Compliant Transaction Sets 820 – Premium Payment, 834 – Member Enrollment and Eligibility Maintenance, 835 – Remittance Advice, 837P – Professional claims, 837I – Institutional claims, or Alliance's secure web based billing system. Provider will notify Alliance if electronic submission is not possible for a particular claim, and the Parties will work cooperatively to facilitate manual submission of the claim if necessary.
- g. Provider's claims shall be compliant with the National Correct Coding Initiative effective on the date of service.
- h. Both Parties shall be compliant with the requirements of the National Uniform Billing Committee.
- i. Provider may submit claims beyond one-hundred-eighty (180) days in instances where the Member has been retroactively enrolled in the NC Medicaid Program or in the BH I/DD Tailored Plan, or where the Member has primary insurance which has not yet paid or denied its claim. In such instances, Provider should bill Alliance within thirty (30) days of receipt of notice by the Provider of the Member's eligibility, or within ninety (90) days of final action (including payment or denial) by the primary insurance or Medicare or the date of service or discharge (whichever is later).
- j. If Provider delays submission of the claims due to the coordination of benefits, subrogation of benefits or the determination of eligibility for benefits for the Member, Provider should submit such claims within thirty (30) days of the date of the notice of determination of coverage or payment by the third party.
- k. If a claim is denied, and the Provider wishes to resubmit the denied claim with additional information, Provider must resubmit the claim within ninety (90) days after Provider's receipt of the denial. If the Provider needs more than ninety (90) days to resubmit a denied claim, Provider must request and receive an extension from Alliance before the expiration of the ninety (90) day deadline, such extension not to be unreasonably withheld.
- l. All claims shall be adjudicated as outlined in the Alliance Provider Manual.
- m. Diagnosis submitted on claims must be consistent with the service provided.
- n. If a specific service (as denominated by specific identifying codes such as CPT or HCPCS) is rendered multiple times in a single day to the same Member, the specific service may be billed as the aggregate of the units delivered rather than as separate line items.
- o. Alliance shall not reimburse Provider for "never events" as that term is defined by the Centers for Medicare and Medicaid Services (CMS).
- p. Provider shall not require co-pays, deductibles, or other forms of cost sharing for Covered BH, I/DD and TBI Services delivered to Medicaid and NC Health Choice Members under the Contract or charge Members or bill Alliance for missed appointments. For other Covered Services, Provider shall adhere to the Medicaid Managed Care Cost Sharing amounts established by the Department and available on the Alliance website at

www.alliancehealthplan.org/TP (Website Active on 12/01/2022).

q. Provider shall comply with the requirements of 42 C.F.R. §438.3(g) including, but not limited to, the identification of provider-preventable conditions as a condition of payment, and appropriate reporting to Alliance.

r. Provider shall have policies and procedures that recognize and accept Medicaid as the payer of last resort.

8. **THIRD PARTY REIMBURSEMENT:**

a. Provider shall comply with N.C.G.S. § 122C-146, which requires the Provider and Alliance to make every reasonable effort to collect payments from third party payers. Each time a Member receives services Provider shall determine if the Member has third party coverage that covers the service provided. Provider shall report any third party coverage to the appropriate county Department of Social Services (DSS) within five (5) days of obtaining the information from a source other than DSS. Provider shall report any change in county of residence to Alliance.

b. Provider is required to bill all applicable third party payers prior to billing Alliance.

i. Medicaid benefits payable through Alliance are secondary to benefits payable by a primary payer, including Medicare, even if the primary payer states that its benefits are secondary to Medicaid benefits or otherwise limits its payments to Medicaid beneficiaries.

ii. Alliance makes secondary payments to supplement the primary payment if the primary payment is less than the lesser of the usual and customary charges for the service or the rate established by Alliance.

iii. Alliance does not make a secondary payment if the Provider is either obligated to accept, or voluntarily accepts, as full payment, a primary payment that is less than its charges.

iv. If Provider or Member receives a reduced primary payment because of failure to file a proper claim with the primary payer, Alliance's secondary payment may not exceed the amount that would have been payable if the primary payer had paid on the basis of a proper claim.

v. Provider must inform Alliance that a reduced payment was made, and the amount that would have been paid if a proper claim had been filed.

c. Provider shall bill Alliance for third party co-pays and/or deductibles only as permitted by Controlling Authority.

d. **Insurance.** If the Member has third party insurance for the services requested, but Provider does not have paneled staff, Provider must refer the Member to an eligible Network Provider or contact Alliance's Access Call Center for assistance in locating an eligible Network Provider. Alliance will not reimburse Provider for Covered Services provided to a Member with third party coverage by Provider's non-paneled staff. The third party payor reimbursement or denial information must be indicated on the claim submitted to Alliance. Claims submitted without third party information will be denied.

e. **Medicare.** If the Member has Medicare coverage for the services requested, but Provider does not have paneled staff, Provider must refer the Member to an eligible Network Provider or contact Alliance's Access Call Center for assistance in locating an eligible Network Provider. Alliance will not reimburse Provider for covered services provided to a recipient with Medicare coverage by Provider's non-paneled staff. Medicare reimbursement or denial information must be indicated on the claim submitted to Alliance. Medicaid claims submitted without Medicare information will be denied.

9. **FINANCIAL RECORDS:** Provider shall maintain detailed records of the administrative costs and expenses incurred pursuant to this Contract, including provision of Services and all relevant information relating to individual Members for the purpose of audit and evaluation by DHB and other Federal or State

personnel. Records shall be maintained by Provider in accordance with APSM 10-3 and/or DHHS Records Retention and Disposition Schedule for Grants. When records are subject to two or more sets of standards, records must be retained for the longest period identified. All records must be retained if there is a reason to believe that they may be subject to an audit, investigation, or litigation. All costs associated with this Contract and shared with other Provider activities, whether contracted by Alliance or otherwise, shall be auditable.

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Signature Page Between:

Alliance Health

and

DARE COUNTY ADMINISTRATIVE OFFICES dba DARE COUNTY EMS

IN WITNESS WHEREOF, each Party has caused this Contract to be executed in multiple copies, each of which shall be deemed an original, as the act of said Party. Each individual signing below on behalf of Participating Provider certifies that he or she has been granted the authority to bind Provider to the terms of this Contract and any Addendums or Attachments/Appendices thereto.

**DARE COUNTY ADMINISTRATIVE
OFFICES dba DARE COUNTY EMS**

Sign: _____
Print Name: Robert Otter
Title: County Manager/Attorney
Date: _____
Tax ID: **56-6000293**

Alliance Health

Sign: _____
Name: Sara Wilson
Title: COS or Designee
Date: _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, N.C. General Statute Chapter 159.

By: _____
Title: Alliance Health Finance Officer or Designee

Date: _____

REQUIRED ATTACHMENTS/APPENDICES: This Contract consists of this master document and the following Appendices and Attachments, all of which are incorporated herein by reference:

- Appendix A** Consolidated Federal Certifications and Disclosures
- Appendix D** Insurance Requirements
- Appendix E** Electronic Provider Portal Access/ User Addendum
- Attachment A** Contracted Site and Services Codes
- Attachment B** NC Medicaid Required Contract Terms
- Attachment C** Providers Subject to Rate Floors and/or Other Payment Directives
- Attachment J** Medicaid Direct Required Provider Contract Terms



APPENDIX A: CONSOLIDATED FEDERAL CERTIFICATIONS AND DISCLOSURES

The undersigned states that:

- (a) He or she is the duly authorized representative of the Provider named below;
 - (b) He or she is authorized to make, and does hereby make, the following certifications on behalf of the Provider, as set out herein:
 - The Certification Regarding Nondiscrimination;
 - The Certification Regarding Drug-Free Workplace Requirements;
 - The Certification Regarding Environmental Tobacco Smoke;
 - The Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions; and
 - The Certification Regarding Lobbying;
 - (c) He or she has completed the Certification Regarding Drug-Free Workplace Requirements by providing the addresses at which the Contracted Services will be performed;
 - (d) [Check the applicable statement]
 - He or she **has completed a Disclosure of Lobbying Activities** because the Provider **has made, or has an agreement to make**, a payment to a lobbying entity for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action;
 - OR**
 - He or she **has not completed a Disclosure of Lobbying Activities** because the Provider **has not made, and has no agreement to make**, any payment to any lobbying entity for influencing or attempting to influence any officer or employee of any agency, any Member of Congress, any officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action.
 - (e) The Provider shall require its subcontractors, if any, to make the same certifications and disclosure.
-

Signature

Title
Chief

DARE COUNTY ADMINISTRATIVE OFFICES dba DARE COUNTY EMS

Date

[This Certification Must Be Signed by the Same Individual Who Signed the Contract Execution Page]

I. Certification Regarding Nondiscrimination

The Provider certifies that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

II. Certification Regarding Drug-Free Workplace Requirements

- I. The Provider certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Provider’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing a drug-free awareness program to inform employees about:
 - i. The dangers of drug abuse in the workplace;
 - ii. The Provider’s policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

- c. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the agreement, the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- e. Notifying the Department within ten days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction;
- f. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(ii), with respect to any employee who is so convicted:
 - i. Taking appropriate personnel action against such an employee, up to and including termination; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

2. The sites for the performance of work done in connection with the specific agreement are listed in Attachment A.

3. Provider will inform the LME/MCO of any additional sites for performance of work under this Contract per the terms of the Contract.

4. False certification or violation of the certification may be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment. see 45 C.F.R. 82.510.

III. Certification Regarding Environmental Tobacco Smoke

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education,

or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day and/or the imposition of an administrative compliance order on the responsible entity.

Provider certifies that it will comply with the requirements of the Act. The Provider further agrees that it will require the language of this certification be included in any subawards that contain provisions for children's services and that all subgrantees shall certify accordingly.

IV. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions Instructions

[The phrase "prospective lower tier participant" means the Provider.]

1. By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originate may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant will provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 and 45 CFR Part 75. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

Certification

1. **The prospective lower tier participant certifies**, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

V. Certification Regarding Lobbying

Provider certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form SF-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) who receive federal funds of \$100,000.00 or more and that all subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

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APPENDIX D: INSURANCE REQUIREMENTS

INSURANCE: The Provider shall purchase and maintain insurance as listed below from a company, which is licensed and authorized to do business in the State of North Carolina by the North Carolina Department of Insurance. Should any of the described policies be reduced or canceled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Any loss of insurance shall be the basis of a payback to Alliance for services billed during this period and may result in the termination of this Contract. Provider shall provide Alliance upon request with certificates of insurance or other evidence of coverage reflecting satisfaction of the foregoing requirements of this paragraph and shall provide Alliance with no less than thirty (30) days advance written notice of any modification, cancellation or termination of their insurance. All insurance requirements of this Contract must be fully met unless specifically waived in writing by Alliance. The Provider shall purchase and maintain the following minimum coverage:

- a. **Professional Liability:** Professional Liability Insurance protecting the Provider and any employee performing work under the Contract for an amount of not less than \$1,000,000.00 per occurrence/\$3,000,000.00 annual aggregate.
- b. **Comprehensive General Liability:** Bodily Injury and Property Damage Liability Insurance protecting the Provider and any employee performing work under the Contract from claims of Bodily Injury or Property Damage arising from operations under the Contract for an amount of not less than \$1,000,000.00 per occurrence/\$3,000,000.00 annual aggregate.
- c. **Automobile Liability:** If Provider transports Enrollees, Automobile Bodily Injury and Property Damage Liability Insurance covering all owned, non-owned, and hired automobiles for an amount not less than \$500,000.00 each person and \$500,000.00 each occurrence. Policies written on a combined single limit basis shall have a minimum limit of \$1,000,000.00.
- d. **Workers' Compensation and Occupational Disease Insurance, Employer's Liability Insurance:** Workers' Compensation and Occupational Disease Insurance as required by the statutes of the State of North Carolina. And Employer's Liability Insurance for an amount not less than Bodily Injury by Accident \$100,000.00 each Accident/ Bodily Injury by Disease \$100,000.00 each Employee/Bodily Injury by Disease \$500,000.00 Policy Limit.
- e. **Tail Coverage:** Liability insurance may be on either an occurrence basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement (tail coverage) for a period of not less than three (3) years after the end of the contract term, or an agreement to continue liability coverage with a retroactive date on or before the beginning of the contract term, shall also be provided.
- f. Any Provider utilizing any model for self-directing Innovations services and/or Agency With Choice services for Innovations enrollees shall carry Workers Compensation Insurance in accordance with the requirements of the DHB and Alliance Tailored Plan Contract and Innovations Waiver §1915(c) rules.

- g. Provider shall:
- i. Submit new Certificate of Insurance (COI) no later than ten (10) business days after the expiration of any listed policy to ensure documentation of continual coverage without demand by Alliance;
 - ii. Notify Alliance in writing at least thirty (30) calendar days' before any coverage is suspended, voided, canceled or reduced;
 - iii. Provide evidence to Alliance of continual coverage at the levels stated above within two (2) business days if Provider changes insurance carriers during the Term of the Contract, including tail coverage as required for continual coverage; and
 - iv. Notify the Alliance in writing within two (2) business days of knowledge or notice of a claim, suit, criminal or administrative proceeding against Provider and/or Practitioner relating to the quality of services provided under this Contract. Upon notification, Alliance, in its sole discretion, shall determine within ten (10) days of receipt of notification whether termination of the Contract or other sanction is required; and
 - v. All insurance requirements of this Contract shall be fully met unless specifically waived in writing by both Alliance and Provider.

In accordance with NC law, Provider may self-insure provided that Provider's Self-Insurance program is currently licensed/approved by the Department of Insurance of the State of North Carolina and has been actuarially determined sufficient currently to pay the insurance limits required in the Contract. Evidence of such self-Insurance may be submitted to Alliance for review and approval in lieu of some or all of the insurance requirements above.

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**APPENDIX E: ELECTRONIC PROVIDER PORTAL ACCESS/ USER
ADDENDUM**

This Electronic Provider Portal Access/ User Addendum (“Agreement”), is made and entered as of the Effective Date of the Network Participating Provider Agreement by and between Alliance Health, (hereinafter “Alliance”) and the Provider (hereinafter “Provider”) named in the Network Participating Provider Agreement.

WITNESSETH:

WHEREAS, this Agreement is ancillary to the Network Participating Provider Agreement (“Contract”) executed between the Parties, and the terms of the Contract are fully incorporated herein;

WHEREAS, any capitalized term not otherwise defined in this Agreement shall have the same meaning and definitions as set forth in the Contract;

WHEREAS, Alliance engages in the electronic transmission of data through use of Secured Technology Platforms (“Platforms”) that include the Alliance Claims System (ACS) and Jiva platforms. Both ACS and Jiva maintain Provider Portals that allow access to a database of sensitive information, which is confidential by law, regulation, or policy, or which is proprietary in nature (collectively, the “Data”). These Provider Portals are accessed by login credentials including as unique User Identifications (“User ID”) and password;

WHEREAS, Provider desires to enter into an Agreement with Alliance to obtain access to Data within the Platforms utilized by Alliance, including ACS and Jiva Provider Portals for treatment, payment, or healthcare operations purposes that are related to Provider’s obligations under the Contract;

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, Alliance and Provider (hereinafter individually referred to as a “Party” and collectively as “Parties”) agree to the following terms, obligations, and conditions, which are incorporated into and form a part of the Contract to which they are attached:

ARTICLE I: RIGHTS AND OBLIGATIONS OF ALLIANCE

- 1.1 Provision of Access. Subject to Provider’s compliance with the obligations set forth in this Agreement, Alliance agrees to provide Provider with one or more User IDs for Provider and its authorized employees, agents, and subcontractors (collectively, “Agents”) to access certain Data residing in the Platforms such as the Alliance Claims System (ACS) and Jiva system databases that relates to the individuals receiving MH/DD/SA services from Provider pursuant to the Contract.

- 1.2 Access to Secured Technology Platforms. Alliance shall use its best efforts to facilitate Provider's access to Platforms, including the Alliance Claims System (ACS) and Jiva systems; however, Provider acknowledges and agrees that its access to the Platforms and the Data shall be limited by and subject to scheduled computer system downtime and unanticipated software and hardware maintenance issues.
- 1.3 No Warranty. ALLIANCE EXPRESSLY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE OPERATION OF ALLIANCE CLAIMS SYSTEM (ACS) AND JIVA AND THE ACCURACY AND COMPLETENESS OF THE DATA MAINTAINED IN THE ALLIANCE CLAIMS SYSTEM (ACS) AND JIVA DATABASES, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF TITLE, OR MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.
- 1.4 Costs. Alliance shall not charge Provider or its Agents for access to the Platforms, including Alliance Claims System (ACS) or Jiva systems unless charges are imposed upon Alliance by ACS, Wellsky Corporation or Jiva, ZeOmega or any other third party for such access. In such event, Alliance shall provide thirty (30) days' written notice of the intent to impose an access fee.
- 1.5 Expense Reimbursement. Alliance shall not be liable to Provider or any agent for any expenses paid or incurred by Provider or any agent in connection with the Provider's or Agents' access to the Platforms, including, the Alliance Claims System (ACS) and Jiva systems.
- 1.6 Periodic Review. Periodically a Platform report may be run by Alliance to identify User IDs that have not logged into the Provider Portals for ninety (90) days. User IDs identified as not having accessed the Platforms within the last ninety (90) days may be made inactive. Provider must contact Alliance to request that User IDs be reactivated.

ARTICLE II: RIGHTS AND OBLIGATIONS OF PROVIDER

- 2.1 Account Management.
- a. Provider shall determine which of its Agents shall need a User ID for access to the Platforms, which access shall be only for purposes related to Provider's obligations under the Contract.
 - b. Provider shall successfully complete and ensure that all Agents have successfully completed training on the Provider Portals before Alliance will issue a User ID.
 - c. Provider shall ensure that each Agent: Understands and complies with the terms of this Agreement; protects his or her User ID and password from disclosure; and does not share the assigned User ID and password with any other person.
 - d. Provider shall request issuance of User IDs for its Agents by completing the Provider Portal Access and Deactivation Request form located on the Alliance website.
 - e. Provider shall notify the Alliance Helpdesk to terminate or disable an Agent's User ID within one business day from the occurrence of any termination of employment, contract, or subcontract between Provider and such Agent, or upon the extended leave of an Agent for more than ninety (90) days, or at least five (5) business days prior to cessation of all or any part of Provider's business operations.
 - f. Alliance will periodically generate a list of Provider's Agents with User IDs, and Provider will confirm with Alliance whether the User IDs are to remain active within five (5) business days of Providers' receipt of the list, in accordance with the instructions provided by Alliance. Provider shall maintain records of User IDs for a period of six (6) years from the date of termination of an Agent's User ID.
 - g. Provider shall ensure that it and its Agents shall access only minimally necessary information in the Provider Portals as needed for the fulfillment of Provider's obligations under the Contract as those obligations directly relate to individuals receiving services from Provider pursuant to the Contract.

- h. Provider shall ensure that it and its Agents shall not corrupt any Data in the Provider Portals and shall not damage or sabotage any Data or the Platforms.
- i. Provider shall identify a security contact within its organization for Alliance to contact regarding any User ID issued under this Agreement. The security contact must be able to validate which of Provider's Agents shall have a User ID. Provider shall notify Alliance of any changes to the security contact within one (1) business day of such change.

2.2 Title to Intellectual Property. Provider understands, acknowledges, and agrees that title, rights, and interest in and to the Alliance Claims System (ACS) and Jiva software and Data and other intellectual property shall be vested in Alliance and/or in ACS and Jiva or other third parties and shall not be vested in Provider or any Agent.

2.3 Suspension of Connectivity. Provider understands, acknowledges and agrees that in the event of any incidents that Alliance determines in good faith present an unacceptably high risk to the Alliance information systems infrastructure, including, but not limited to, any Alliance data and information, that Alliance shall notify, and shall have the right to immediately suspend Provider's electronic access to the Alliance network and data until Alliance determines that the risk has been acceptably mitigated. Provider further understands, acknowledges and agrees that in the event that access is suspended, Alliance will not be liable for any losses resulting from Provider's loss of electronics access to Alliance's network and data.

ARTICLE III: TERM AND TERMINATION

3.1 Effective Date and Term. This Agreement shall become effective upon complete execution of the Network Participating Provider Contract and this Agreement by all Parties and shall continue thereafter until termination or expiration of the Contract or until termination of this Agreement as set forth herein, whichever is earlier.

3.2 General. Termination or suspension of Provider Portal access under the terms set forth below shall not form the basis of any claim for loss of anticipated profits by either Party. The rights and remedies provided in this Article III shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

3.3 Voluntary Termination. A voluntary termination of the Contract shall automatically result in a simultaneous voluntary termination of this Agreement and its accompanying access. This Agreement may be voluntarily terminated at any time upon the mutual consent of both Parties.

3.4 Involuntary Termination; Suspension of Access. Alliance may immediately, without prior notice, suspend Provider's and all or some associated Agents' User IDs, or terminate the Contract and this Agreement, if Alliance determines, in its sole discretion, that:

- a. Provider or any Agent has breached a material term of this Agreement, or of the Contract between Alliance and Provider;
- b. Alliance is no longer utilizing the Provider Portals on the Alliance Claims System (ACS) or Jiva platforms;
- c. Provider's Contract with Alliance is terminated or expired;
- d. Provider or any Agent has shared its login with any person, even if such person is another Agent of Provider;
- e. Provider or any Agent has abused or sabotaged the Alliance Claims System (ACS) and/or Jiva platform or corrupted any data within the Alliance Claims System (ACS) or Jiva database;
- f. Provider fails to timely provide and/or satisfactorily perform any requirement under this Agreement, including, but not limited to, timely submission of User ID deactivation requests, or required reports, records, or documentation;

- g. Provider or an Agent is not compliant with federal or state confidentiality laws, rules, or regulations;
- h. Provider has dissolved or ceased operations; or
- i. Provider has been convicted of any felony, or of any crime involving health care.

3.5 Opportunity to Cure Not Required. Upon a determination that Provider meets a condition specified in Section 3.4, Alliance may, but is not required to, offer Provider the opportunity to cure by providing Provider with written notice of the material breach, specifying the breach and requiring it to be remedied within, in the absence of greater or lesser specification of time, fifteen (15) calendar days from the date of the notice; and if the breach is not timely cured, Alliance may terminate the Contract and this Agreement effective upon written notice of termination. If Provider and or its Agent(s) breaches any provision of this Agreement, Alliance shall have the right to withhold any payments due to Provider under any contract or agreement with Alliance, including but not limited to the Contract, until such breach has been fully cured.

3.6 Effect of Termination or Expiration. Upon termination or expiration of the Contract or of this Agreement pursuant to this Article III, Alliance shall disable any User IDs provided to Provider. In the event that Alliance terminates the Contract or suspends or terminates this Agreement in whole or in part pursuant to Section 3.4, Alliance may: (1) deduct any and all expenses incurred by Alliance for damages caused by the Provider and/or Agent's breach; and/or (2) pursue any of its remedies at law or in equity, or both, including damages, injunctive relief, and specific performance.

3.7 Incorporation of Recitals. The recitals set forth above are an integral part of this Agreement and shall have the same contractual significance as any other language herein.

SIGNATURE PAGE

IN WITNESS WHEREOF, each Party intends this ELECTRONIC PROVIDER PORTAL ACCESS/ USER ADDENDUM to be under seal and has caused it to be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument, as the act of said Party. Each individual electronically signing below certifies that he or she has been granted the authority to bind said Party to the terms of this Contract and any attachments, appendices, schedules or exhibits thereto.

By: _____
Provider DULY AUTHORIZED OFFICIAL

Name: Robert Outten _____

Title: County Manager/Attonrey _____

Date: _____

Alliance Health:

By: _____
Sara Wilson, Chief of Staff or Designee

Date: _____



ATTACHMENT A: CONTRACTED SITES AND SERVICES CODES

DARE COUNTY ADMINISTRATIVE OFFICES dba DARE COUNTY EMS

- **Additional required contracting documents will be collected from the provider prior to designating provider as “Active Status” in the Alliance billing and authorization system (ACS).**
- **Site and service information will be issued as an Amendment prior to the effective date of the contract.**
 - **Services will be added based upon enrollment designation in NC Tracks**
 - **Sites to be enrolled will include all sites in NC Tracks for all identified NPI numbers**

IN PROCESS



ATTACHMENT B: NC MEDICAID REQUIRED PROVIDER CONTRACT TERMS

In accordance with the Alliance's Managed Care Contract with NC DHHS and the Department's instructions, the following required language is incorporated into the terms of this Medicaid Network Participating Provider Contract (Contract):

a. Compliance with state and federal laws

The Provider understands and agrees that it is subject to all state and federal laws, rules, regulations, waivers, policies and guidelines, and court-ordered consent decrees, settlement agreements, or other court orders that apply to the Contract and Alliance's managed care contract with the North Carolina Department of Health and Human Services (NC DHHS), and all persons or entities receiving state and federal funds. The Provider understands and agrees that any violation by a provider of a state or federal law relating to the delivery of services pursuant to this Contract, or any violation of Alliance's contract with NC DHHS could result in liability for money damages, including liquidated damages, and/or civil or criminal penalties and sanctions under state and/or federal law.

b. Hold Member Harmless

The Provider agrees to hold the Member harmless for charges for any covered service. The Provider agrees not to bill a Member for medically necessary services covered by the Alliance BH I/DD Tailored Plan so long as the member is eligible for coverage.

c. Liability

The Provider understands and agrees that the NC DHHS does not assume liability for the actions of, or judgments rendered against Alliance, its employees, agents or subcontractors. Further, the Provider understands and agrees that there is no right of subrogation, contribution, or indemnification against NC DHHS for any duty owed to the Provider by Alliance or any judgment rendered against Alliance.

d. Non-discrimination
Equitable Treatment of Members

The Provider agrees to render Provider Services to members with the same degree of care and skills as customarily provided to the Provider's patients who are not members, according to generally accepted standards of medical practice. The Provider and Alliance agree that members and non-members should be treated equitably. The Provider agrees not to discriminate against members on the basis of race, color, national origin, age, sex, gender, LGBTQ status, or disability.

e. Department authority related to the Medicaid program

The Provider agrees and understands that in the State of North Carolina, the Department of Health and

Human Services is the single state Medicaid agency designated under 42 C.F.R. § 431.10 to administer or supervise the administration of the state plan for medical assistance. The Division of Health Benefits is designated with administration, provision, and payment for medical assistance under the Federal Medicaid (Title XIX) and the State Children's Health Insurance (Title XXI) (CHIP) programs. The Division of Social Services (DSS) is designated with the administration and determination of eligibility for the two programs.

f. Access to provider records

The Provider agrees to provide at no cost to the following entities or their designees with prompt, reasonable, and adequate access to the Contract and any records, books, documents, and papers that relate to the Contract and/or the Provider's performance of its responsibilities under this Contract for purposes of examination, audit, investigation, contract administration, the making of copies, excerpts or transcripts, or any other purpose NC DHHS deems necessary for contract enforcement or to perform its regulatory functions:

- i. The United States Department of Health and Human Services or its designee;
- ii. The Comptroller General of the United States or its designee;
- iii. The North Carolina Department of Health and Human Services (NC DHHS), its Medicaid Managed Care program personnel, or its designee;
- iv. The Office of Inspector General;
- v. North Carolina Department of Justice Medicaid Investigations Division ;
- vi. Any independent verification and validation contractor, audit firm, or quality assurance contractor acting on behalf of NC DHHS;
- vii. The North Carolina Office of State Auditor, or its designee;
- viii. A state or federal law enforcement agency.
- ix. And any other state or federal entity identified by NC DHHS, or any other entity engaged by NC DHHS.

The Provider shall cooperate with all announced and unannounced site visits, audits, investigations, post-payment reviews, or other Program Integrity activities conducted by the NC Department of Health and Human Services.

Nothing in this Attachment shall be construed to limit the ability of the federal government, the Centers for Medicare and Medicaid Services, the U.S. Department of Health and Human Services Office of Inspector General, the U.S. Department of Justice, or any of the foregoing entities' contractors or agents, to enforce federal requirements for the submission of documentation in response to an audit or investigation.

g. Pursuant to N.C.G.S 108D-65.(6)(g):

- i. G.S. 58-3-200(c), Coverage Determinations. If Health Plan or its authorized representative determines that services, supplies, or other items are covered under its Benefit Plan, including any determination under G.S. 58-50-61, Alliance shall not subsequently retract its determination after

the services, supplies, or other items have been provided, or reduce payments for a service, supply, or other item furnished in reliance on such a determination, unless the determination was based on a material misrepresentation about the Member's health condition that was knowingly made by the Member or the Provider of the service, supply, or other item.

ii. G.S. 58-3-225, Prompt claim payments under health benefit plans. The Provider shall submit all claims to Alliance for processing and payments within one-hundred-eighty (180) calendar days from the date of covered service or discharge (whichever is later). However, the Provider's failure to submit a claim within this time will not invalidate or reduce any claim if it was not reasonably possible for the Provider to submit the claim within that time. In such case, the claim should be submitted as soon as reasonably possible, and in no event, later than one (1) year from the time submittal of the claim is otherwise required.

a. For Medical claims (including BH):

1. Alliance shall within eighteen (18) Calendar Days of receiving a Medical Claim notify the provider whether the claim is clean or pend the claim and request from the provider all additional information needed to process the claim.
2. Alliances shall pay or deny a clean medical at lesser of thirty (30) Calendar Days of receipt of the claim or the first scheduled provider reimbursement cycle following adjudication.
3. A medical pended claim shall be paid or denied within thirty (30) Calendar Days of receipt of the requested additional information.

b. For Pharmacy Claims:

1. Alliance shall within fourteen (14) Calendar Days of receiving a pharmacy claim pay or deny a clean pharmacy claim or notify the provider that more information is needed to process the claim.
2. A pharmacy pended claim shall be paid or denied within fourteen (14) Calendar Days of receipt of the requested additional information.
- c. If the requested additional information on a medical or pharmacy pended claim is not submitted within ninety (90) days of the notice requesting the required additional information, Alliance shall deny the claim per § 58-3-225 (d).

1. Alliance shall reprocess medical and pharmacy claims in a timely and accurate manner as described in this provision (including interest and penalties if applicable).

d. If Alliance fails to pay a clean claim in full pursuant to this provision, the Alliance shall pay the Provider interest and penalties. Late Payments will bear interest at the annual rate of eighteen (18) percent beginning on the date following the day on which the claim should have been paid or was underpaid.

e. Failure to pay a clean claim within thirty (30) days of receipt will result in Alliance paying the Provider penalties equal to one (1) percent of the total amount of the claim per day beginning on the date following the day on which the claim should have been paid or was underpaid.

f. Alliance shall pay the interest and penalties from subsections (d.) and (e.) as provided in that subsection and shall not require the Provider to request the interest or the liquidated damages.

iii. G.S. 58-3-227, Health plans fee schedules. When Alliance offers a contract to a Provider, Alliance shall also make available its schedule of fees associated with the top 30 services or procedures most commonly billed by that class of Provider. Upon the request of a provider, Alliance shall also make available the full schedule of fees for services or procedures billed by that class of Provider or for each class of Provider in the case of a contract incorporating multiple classes of Providers. If a Provider requests fees for more than 30 services and procedures, Alliance may require the Provider to specify the additional requested services and procedures and may limit the Provider's access to the additional schedule of fees to those associated with services and procedures performed by or reasonably expected to be performed by the Provider.

iv. 58-50-270. Definitions. Unless the context clearly requires otherwise, the following definitions apply to Part 7 of Chapter 58. (1) "Amendment" – Any change to the terms of a contract, including terms incorporated by reference, that modifies fee schedules. A change required by federal or State law, rule, regulation, administrative hearing, or court order is not an amendment. (2) "Contract" – An agreement between an insurer and a health care provider for the provision of health care services by the provider on a preferred or in-network basis. (3) "Health benefit plan" – A policy, certificate, contract, or plan as defined in G.S. 58-3-167. (3a) "Health care provider" – An individual who is licensed, certified, or otherwise authorized under Chapter 90 or Chapter 90B of the General Statutes or under the laws of another state to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program and a facility that is licensed under Chapter 131E or Chapter 122C of the General Statutes or is owned or operated by the State of North Carolina in which health care services are provided to patients. (4) "Insurer" – An entity as defined in G.S. 58-3-227(a)(4). (2009-352, s. 1; 2009-487, s. 2(a).)

v. G.S. 58-50-275, Notice contact provision. Each party has designated its Notice Contact in Article I, Paragraph 13 of this Contract.

vi. § 58-50-280. Contract amendments. Health Plan shall send any proposed contract Amendment to Provider's Notice Contact of pursuant to G.S. 58-50-275 and as designated in Article I, Paragraph 13 of this Contract. The proposed Amendment shall be dated, labeled "Amendment," signed by Alliance, and include an effective date for the proposed Amendment. Provider shall have sixty (60) days from the date of receipt of a proposed Amendment to object to the proposed Amendment. The proposed Amendment shall be effective upon Contracted Provider failing to object in writing within 60 days.

If Provider timely objects to a proposed Amendment, then the proposed Amendment is not effective and Health Plan shall be entitled to terminate the Agreement upon sixty (60) days' written notice to Contracted Provider.

Nothing in this Agreement prohibits Provider and Health Plan from negotiating contract terms that provide for mutual consent to an Amendment, a process for reaching mutual consent, or alternative Notice Contacts.

vi. § 58-50-285. Policies and Procedures. Health Plan shall provide a copy of its applicable policies and procedures to Provider prior to execution of a new or amended Contract and annually thereafter. Such policies and procedures may be provided in hard copy, CD, or other electronic format, and may also be provided by posting the policies and procedures on the Health Plan website. The policies and procedures of Health Plan shall not conflict with or override any term of a Contract, including Contract fee schedules. In the event of a conflict between a policy or procedure and the language in a Contract, the Contract language shall prevail.

h. Contract Effect Date: The effective date of any Provider added under this Contract shall be the later of the effective date of this Contract or the date by which the Provider's enrollment as a Medicaid enrolled provider is effective within NC Tracks or successor NC Medicaid provider enrollment system(s).

i. Tobacco-free Policy:

1. The contract with a provider shall at a minimum include the following in relation to the implementation of a tobacco-free policy unless Provider is a residential provider facility described below.

2. Provider shall develop and implement a tobacco-free policy covering any portion of the property on which Provider operates that is under its control as owner or lessee, to include buildings, grounds, and vehicles. A tobacco-free policy includes a prohibition on smoking combustible tobacco products and the use of non-combustible tobacco products, including electronic cigarettes, as well as prohibiting Provider from purchasing, accepting as donations, and/or distributing tobacco products (combustible and non-combustible products including electronic cigarettes) to the clients Provider serves.

3. Contracts with facilities that are owned or controlled by Provider and which provide ICF-IID services or IDD residential services that are subject to the Home and Community Based Services (HCBS) final rule shall at a minimum include the following in relation to the implementation of a tobacco-free policy. In these settings, the following policies shall be required:

4. Provider shall develop and implement a tobacco-free policy that includes at a minimum the following requirements:

(1) Indoor use of tobacco products shall be prohibited in all settings that are owned/operated by Provider.

(2) For outdoor areas of campus, Provider shall:

- i. Ensure access to common outdoor space(s) that are free from exposure to tobacco products/use; and
- ii. Prohibit staff/employees from using tobacco products anywhere on campus.

j. Amendment of Previous Authorizations for Outpatient Procedures: Health Plan shall accept retroactive requests for authorization of outpatient procedures in those instances where, in accordance with generally accepted North Carolina community practice standards and meeting the North Carolina Medicaid Medical Necessity Standard, an authorized outpatient procedure was modified or supplemented as a results of clinical findings or outcomes arising during the authorized outpatient procedure. Provider shall submit such retroactive requests for authorization within three (3) business days of concluding the authorized outpatient procedure.

k. Physician Advisor Use in Claims Dispute: Health Plan shall accept Provider's designated, North Carolina licensed, physician advisor with knowledge of the unit and care of the Member as Provider's approved representative for a claim or prior authorization in review or dispute.



ATTACHMENT C: PROVIDERS SUBJECT TO RATE FLOORS AND/OR OTHER PAYMENT DIRECTIVES

In accordance with DHHS Policy, where applicable Alliance will comply with payment requirements to reimburse providers no less than one-hundred percent (100%) of any applicable rate floor, as set forth in in this Attachment.

1. Physician and Physician Extender Payments

(a) The BH I/DD Tailored Plan shall reimburse all in-network primary and specialty care physicians, as well as physician extenders (e.g., nurse practitioners and physician assistants) no less than one hundred percent (100%) of their respective Medicaid Fee for Service Fee Schedule rate or bundle, as set by the Department, unless the BH I/DD Tailored Plan and provider have mutually agreed to an alternative reimbursement arrangement.

(b) The BH I/DD Tailored Plan shall reimburse all in-network physicians and physician extenders providing obstetric services no less than one hundred percent (100%) of the Medicaid Fee for Service rate for obstetrics services, which includes an enhanced rate for all vaginal deliveries (equal to the Medicaid Fee for Service rate for caesarian deliveries) unless the BH I/DD Tailored Plan and provider have mutually agreed to an alternative reimbursement arrangement.

(1) This includes reimbursement for the pregnancy risk screening and post-partum visit as defined in the Department's Clinical Coverage Policy 1E-6.

(c) The BH I/DD Tailored Plan shall make additional, utilization-based, directed payments to certain faculty physicians affiliated with the teaching hospitals for each University of North Carolina medical school as prescribed by the Department and as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(B)).

(d) The BH I/DD Tailored Plan shall not refuse to reimburse for a covered service provided by a physician assistant in accordance with N.C. Gen. Stat. § 58-50-26.

2. Hospital Payments (Excluding BH Claims)

(a) The BH I/DD Tailored Plan shall reimburse all in-network hospitals no less than the applicable Medicaid Fee for Service rate specified below for inpatient and outpatient services (as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(A)) and utilize the applicable Medicaid Fee for Service payment methodology, unless the BH I/DD Tailored Plan and hospital have mutually agreed to an alternative reimbursement amount or methodology.

(b) The applicable rate floor and methodology for inpatient hospital services shall be one hundred percent (100%) of the hospital specific Medicaid Fee for Service rate using the Medicaid Fee for Service case weights and outlier methodology.

(c) The applicable rate floor and methodology for outpatient hospital services, including emergency department, shall be the hospital charges multiplied by the hospital-specific Medicaid cost-to-charge ratio published on the Department's website.

(d) The hospital rate floors shall apply for the following defined time periods, after which the BH I/DD Tailored Plan will have flexibility to negotiate reimbursement arrangements with the hospitals:

(1) The first four (4) contract years for critical access hospitals and hospitals in economically depressed counties defined as Tier 1 or Tier 2 counties as designated by the North Carolina Department of Commerce for 2019 (https://files.nc.gov/nccommerce/documents/files/2019-Tiers-memo_asPublished.pdf).

- (2) The first two (2) contract years for all other hospitals.
 - (e) The BH I/DD Tailored Plan shall make additional, utilization-based, directed payments to in-network hospitals owned by UNC Health Care or Vidant as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(B))
 - (f) The Department shall reimburse hospitals directly for any graduate medical education payments due under the State Plan (as allowed under 42 C.F.R. § 438.60).
 - (g) The Department shall reimburse hospitals directly for Disproportionate Share Hospital Payments.
- 3. **Hospital Payments for BH Claims**
 - (a) The BH I/DD Tailored Plan shall negotiate inpatient and outpatient hospital rates with hospitals for BH claims to be defined by the Department.
- 4. **Federally-Qualified Health Centers (FQHCs)/Rural Health Centers (RHCs) Payments**
 - (a) The BH I/DD Tailored Plan shall reimburse FQHCs and RHCs for covered services at no less than the following rates:
 - (1) All ancillary services (i.e. radiology, etc.) shall be based on the North Carolina Medicaid Physician Fee Schedule.
 - (2) All core services shall be based on each FQHC's or RHC's respective North Carolina Medicaid Fee Schedule, which is defined as each FQHC or RHC's respective core rate or T-1015 code.
 - (b) The BH I/DD Tailored Plan shall provide the necessary data to the Department to enable the Department's payment of federally mandated wrap payments to FQHCs and RHCs using a template to be provided by the Department on a schedule to be defined by the Department.
- 5. **Indian Health Care Provider (IHCP) Payments**
 - (a) In accordance with 42 C.F.R. § 438.14(c) and consistent with 42 C.F.R. § 438.14(b), the BH I/DD Tailored Plan shall reimburse IHCPs as follows:
 - (1) Those IHCPs that are not enrolled as an FQHC, regardless of whether they participate in the BH I/DD Tailored Plan's Network;
 - (2) The applicable encounter rate published annually in the Federal Register by the Indian Health Service; or
 - (3) The Medicaid Fee for Service rate for services that do not have an applicable encounter rate.
 - (4) Those IHCPs that are enrolled as FQHCs, but do not participate in the BH I/DD Tailored Plan's network, an amount equal to the amount the BH I/DD Tailored Plan would pay a network FQHC that is not an IHCP.
 - (b) The BH I/DD Tailored Plan shall not reduce payments owed to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care IHCP through cost sharing or other similar charges levied on the Tribal member.
- 6. **Local Health Department (LHD) Payments**
 - (a) The BH I/DD Tailored Plan shall reimburse in-network LHDs no lower than base rates specified in the North Carolina Medicaid LHD Fee Schedule. The BH I/DD Tailored Plan shall reimburse the LHDs in accordance with this schedule for EPSDT well child exams, low-risk family planning and obstetrical services or sexually transmitted disease (STD) exams provided by enhanced role nurses.
 - (b) For Contract Year 1 or until June 2023, whichever is earlier, the BH I/DD Tailored Plan shall pay in-network LHDs for Care Management for At-Risk Children services an amount substantially similar to or no less than the amount paid in NC Medicaid Direct (Fee for Service) prior to the start of the BH I/DD Tailored Plan contract (\$4.56 PMPM for all enrolled children ages zero (0) to five (5)).
 - (c) For Contract Year 1 or until June 2023, whichever is earlier, the BH I/DD Tailored Plan shall pay in-network LHDs for Care Management for High Risk Pregnant Women services an

amount substantially similar to or no less than the amount paid in Medicaid Fee-for-Service prior to the start of the BH I/DD Tailored Plan contract (\$4.96 PMPM for all enrolled women, ages fourteen (14) to forty-four (44)).

(d) The BH I/DD Tailored Plan shall negotiate base reimbursement amounts to in-network LHDs that are no lower than rates paid to non-public providers for similar services.

(e) In addition to base reimbursements, the BH I/DD Tailored Plan shall make additional, utilization-based, directed payments to in-network LHDs as defined by the Department and as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(B).

(f) The BH I/DD Tailored Plan shall reimburse in-network LHDs providing lab services, as defined by the Department's Laboratory Fee Schedule, at no less than 100% of the Medicare Fee Schedule (as allowed under 42 C.F.R. § 438.6(c)), unless the BH I/DD Tailored Plan and LHD have mutually agreed to an alternative reimbursement arrangement.

7. **Public Ambulance Provider Payments**

(a) The BH I/DD Tailored Plan shall negotiate base reimbursement amounts to in-network public ambulance providers no lower than rates paid to non-public providers for similar services.

(b) In addition to base reimbursements, the BH I/DD Tailored Plan shall make additional utilization-based payments to in-network public ambulance providers for Medicaid members only, (not NC Health Choice beneficiaries) as defined by the Department and as allowed under 42 C.F.R. § 438.6(c)(1)(iii)(B)).

(c) The BH I/DD Tailored Plan shall pay the negotiated base reimbursement to in-network public ambulance providers, which will serve as payment in full for NC Health Choice.

8. **State Owned and Operated Facilities Payments**

(a) The BH I/DD Tailored Plan shall reimburse facilities that are state-owned and operated by the Department's Division of State Operated Healthcare Facilities (DSOHF) according to the rates established by the Department (as allowed under 42 C.F.R. § 438.6(c)).

(b) At such time that the BH I/DD Tailored Plan is required to cover services provided by Veterans Homes operated by the DMVA, the BH I/DD Tailored Plan shall reimburse Veterans Homes according to the rates established by the Department in collaboration with DMVA (as allowed under 42 C.F.R. § 438.6(c)).

10. **Nursing Facility Payments**

(a) For Contract Year 1, the BH I/DD Tailored Plan shall reimburse in-network nursing facilities (excluding those owned and operated by the State) a rate that is no less than the Medicaid Fee for Service rate in effect the first day of each quarter (e.g., January 1, April 1, July 1 and October 1), unless the BH I/DD Tailored Plan and provider have mutually agreed to an alternative reimbursement arrangement.

11. **Hospice Payments**

(a) The BH I/DD Tailored Plan shall reimburse for hospice services in accordance with section 1902(a)(13)(B) of the Social Security Act and state requirements, including but not limited to the following:

(1) Rates shall be no less than the annual federal Medicaid hospice rates (updated each federal fiscal year (FFY)).

(2) For hospice services provided to members residing in nursing facilities, the BH I/DD Tailored Plan shall reimburse the hospice provider:

i. Hospice rate, and

ii. Ninety-five percent (95%) of the Medicaid Fee-for-Service nursing home room and board rate in effect at the time of service.

12. **Pharmacy Payments**

(a) The BH I/DD Tailored Plan shall adhere to the Department's pharmacy claims payments requirements.

13. **Payments to Certified Advanced Medical Home Plus (AMH+) Practices and Care**

Management Agencies (CMAs) for Tailored Care Management

(a) For Tailored Care Management, the BH I/DD Tailored Plan shall pay AMH+ practices and CMAs each of the following components:

(1) Tailored Care Management payment for each month in which the AMH+ practice or CMA performed Tailored Care Management for each member. The Tailored Care Management payment shall be a fixed rate prescribed by the Department and acuity-tiered. These fixed rates shall apply for both Medicaid and CHIP members. This Tailored Care Management payment shall not be placed at risk. Management payment for any month in which the member is assigned to the AMH+/CMA and engaged in care management.

(2) Performance incentive payment, if earned by the AMH+ or CMA. The performance incentive payment shall be based on the metrics included as the AMH+ and CMA metrics in the Department's Technical Specifications Manual, once released.

14. **Payments of Medical Home Fees to Advanced Medical Homes**

(a) In addition to the payment for services provided, the BH I/DD Tailored Plan shall pay all AMH practices a Medical Home Fee. "AMH practices" means all practices participating in the AMH program for the purposes of contracting with Standard Plans and BH I/DD Tailored Plans, including, but not limited to, AMH practices also certified as AMH+ practices for the purposes of Tailored Care Management.

(b) The BH I/DD Tailored Plan shall pay Medical Home Fees to AMH Tiers 1 – 3 practices for any month in which the member is assigned to that AMH practice as their PCP. Medical Home Fees for AMH Tiers 1 –3 practices may be prorated for partial months and shall be no less than the following amounts for Contract Years 1 and 2:

i. \$1.00 PMPM for Tier 1 practices (consistent with Carolina ACCESS I in the Medicaid Fee for Service program) (Tier 1 shall continue to exist only for the first year of BH I/DD Tailored Plan, or until the end of contract year two (2) of Standard Plans, whichever is sooner);

ii. \$5.00 PMPM for all BH I/DD Tailored Plan members in Tier 2 and 3 practices (consistent with Age, Blind, and Disabled (ABD) beneficiaries under Carolina ACCESS II in the Medicaid Fee for Service program, and increasing the level of PMPM to \$5.00 for every BH I/DD Tailored Plan member, regardless of ABD status).

15. **Mutually agreed alternative reimbursement arrangement.** If the BH I/DD Tailored Plan and Provider have mutually agreed to an alternative reimbursement arrangement, the contractual provision should so indicate here:



**ATTACHMENT J
MEDICAID DIRECT REQUIRED PROVIDER CONTRACT TERMS**

In accordance with the Alliance's State Contract with NC DHHS and the Department's instructions, the following language is incorporated into the terms of this Medicaid Direct Network Participating Provider Contract (Provider Contract) *verbatim*. In the event of a conflict between the terms set forth in this Attachment J and the Provider Contract, this Attachment shall control:

1. Compliance With State And Federal Laws

The Provider understands and agrees that it is subject to all state and federal laws, rules, regulations, waivers, policies and guidelines, and court-ordered consent decrees, settlement agreements, or other court orders that apply to the Contract and Alliance's managed care contract with the North Carolina Department of Health and Human Services (NC DHHS), and all persons or entities receiving state and federal funds. The Provider understands and agrees that any violation by a provider of a state or federal law relating to the delivery of services pursuant to this Contract, or any violation of Alliance's contract with NC DHHS could result in liability for money damages, including liquidated damages, and/or civil or criminal penalties and sanctions under state and/or federal law.

2. Hold Member Harmless

The Provider agrees to hold the Member harmless for charges for any covered service. The Provider agrees not to bill a Member for medically necessary services covered by the Medicaid Direct Benefit Plan so long as the member is eligible for coverage.

3. Liability

The Provider understands and agrees that the NC DHHS does not assume liability for the actions of, or judgments rendered against Alliance, its employees, agents or subcontractors. Further, the Provider understands and agrees that there is no right of subrogation, contribution, or indemnification against NC DHHS for any duty owed to the Provider by Alliance or any judgment rendered against Alliance.

4. Non-discrimination Equitable Treatment of Members

The Provider agrees to render Provider Services to members with the same degree of care and skills as customarily provided to the Provider's patients who are not members, according to generally accepted standards of medical practice. The Provider and Alliance agree that members and non-members should be treated equitably. The Provider agrees not to discriminate against members on the basis of race, color, national origin, age, sex, gender, LGBTQ status, or disability.

5. Department authority related to the Medicaid program

The Provider agrees and understands that in the State of North Carolina, the Department of Health and Human Services is the single state Medicaid agency designated under 42 C.F.R. § 431.10 to administer or supervise the administration of the state plan for medical assistance. The Division of Health Benefits is designated with administration, provision, and payment for medical assistance under the Federal Medicaid (Title XIX) and the State Children's Health Insurance (Title XXI) (CHIP) programs. The Division of Social Services (DSS) is designated with the administration and determination of eligibility for the two programs.

6. Access to Provider Records

The Provider agrees to provide at no cost to the following entities or their designees with prompt, reasonable, and adequate access to the Contract and any records, books, documents, papers, and video recordings that relate to the Contract and/or the Provider's performance of its responsibilities under this Contract for purposes of examination, audit, investigation, contract administration, the making of copies, excerpts or transcripts, or any other purpose NC DHHS deems necessary for contract enforcement or to perform its regulatory functions:

- i. The United States Department of Health and Human Services or its designee;
- ii. The Comptroller General of the United States or its designee;
- iii. The North Carolina Department of Health and Human Services (NC DHHS), its Medicaid Managed Care program personnel, or its designee;
- iv. The Office of Inspector General;
- v. North Carolina Department of Justice Medicaid Investigations Division;
- vi. Any independent verification and validation contractor, audit firm, or quality assurance contractor acting on behalf of NC DHHS;
- vii. The North Carolina Office of State Auditor, or its designee;
- viii. A state or federal law enforcement agency.
- ix. And any other state or federal entity identified by NC DHHS, or any other entity engaged by NC DHHS.

The Provider shall cooperate with all announced and unannounced site visits, audits, investigations, post-payment reviews, or other Program Integrity activities conducted by the NC Department of Health and Human Services.

Nothing in this Attachment shall be construed to limit the ability of the federal government, the Centers for Medicare and Medicaid Services, the U.S. Department of Health and Human Services Office of Inspector General, the U.S. Department of Justice, or any of the foregoing entities' contractors or agents, to enforce federal requirements for the submission of documentation in response to an audit or investigation.

7. Prompt Claim Payments.

- i. The Provider shall submit all claims to Alliance for processing and payments within one-hundred-eighty (180) calendar days from the date of covered service or discharge (whichever is later). However, the Provider's failure to submit a claim within this time will not invalidate or reduce any claim if it was not reasonably possible for the Provider to submit the claim within that time. In such case, the claim should be submitted as soon as reasonably possible, and in no event, later than one (1) year from the time submittal of the claim is otherwise required.
- ii. Alliance shall within eighteen (18) Calendar Days of receiving a Medical Claim notify the provider whether the claim is clean or pend the claim and request from the provider all additional information needed to process the claim.
- iii. Alliance shall pay or deny a clean claim the lesser of thirty (30) Calendar Days of receipt of the claim or the first scheduled provider reimbursement cycle following adjudication.
- iv. A pended claim shall be paid or denied within thirty (30) Calendar Days of receipt of the requested additional information. If the requested additional information on claim is not submitted within ninety (90) days of the notice requesting the required additional

information, Alliance shall deny the claim.

- v. Alliance shall reprocess claims in a timely and accurate manner as described in this provision (including interest and penalties if applicable).
- vi. If Alliance fails to pay a clean claim in full pursuant to this provision, the Alliance shall pay the Provider interest and penalties. Late Payments will bear interest at the annual rate of eighteen (18) percent beginning on the date following the day on which the claim should have been paid or was underpaid.
- vii. Failure to pay a clean claim within thirty (30) days of receipt will result in Alliance paying the Provider penalties equal to one (1) percent of the total amount of the claim per day beginning on the date following the day on which the claim should have been paid or was underpaid.
- viii. Alliance shall pay the interest and penalties from subsections vi. and vii. as provided in that subsection and shall not require the Provider to request the interest or the liquidated damages.

8. Contract amendments.

PIHP shall send any proposed contract Amendment to Provider's Notice Contact as designated in Article I., Paragraph 13 of this Contract. The proposed Amendment shall be dated, labeled "Amendment," signed by Alliance, and include an effective date for the proposed Amendment. Provider shall have sixty (60) days from the date of receipt of a proposed Amendment to object to the proposed Amendment. The proposed Amendment shall be effective upon Contracted Provider failing to object in writing within 60 days. If Provider timely objects to a proposed Amendment, then the proposed Amendment is not effective and PIHP shall be entitled to terminate the Agreement upon sixty (60) days' written notice to Contracted Provider.

Nothing in this Contract prohibits Provider and PIHP from negotiating contract terms that provide for mutual consent to an Amendment, a process for reaching mutual consent, or alternative Notice Contacts.

9. Policies and Procedures. The policies and procedures of PIHP shall not conflict with or override any term of a Contract, including Contract fee schedules. In the event of a conflict between a policy or procedure and the language in a Contract, the Contract language shall prevail. PIHP's policies and procedures applicable to Providers shall be incorporated into PIHP's Provider Manual or posted to the PIHP website.

10. When Alliance offers a contract to a Provider, Alliance shall also make available its schedule of fees associated with the top 30 services or procedures most commonly billed by that class of Provider.



Request from the Housing Task Force-Affordable Housing Grant

Description

During their meeting on April 9th, 2024, the Board of Commissioners unanimously voted to return the Affordable Housing Grant of \$35 million to Raleigh. However, during the Housing Task Force meeting on April 16th, 2024, the Task Force requested that the Board of Commissioners reconsider their decision and urge the Legislature to reallocate these funds to address housing needs in alternative ways rather than constructing new buildings.

Board Action Requested

Consider Item Presented

Item Presenter

Robert Outten, County Manager



Presentation of Manager's 2025 Recommended Budget

Description

The County Manager will present the recommended fiscal year 2025 budget.

Board Action Requested

Set Public Hearing on the recommended budget for June 3rd, 2024.

Item Presenter

David Clawson, Finance Director



Amendments to Capital Project Ordinances for EMS Projects Phase 1 and Phase 2 (Series 2024 LOBs and Series 2023A LOBs)

Description

Please see the following Item Summary.

Board Action Requested

Adopt the two capital project ordinance amendments.

Item Presenter

David Clawson, Finance Director

Item Summary: Amendments to Capital Project Ordinances for EMS Projects Phase 1 and Phase 2 (Series 2023A LOBs and Series 2024 LOBs)

The Board is asked to adopt an amendment to the capital project ordinance for the EMS Phase One projects & the Series 2023A LOBs. The amendment increases the projects amount under budget by \$245,000, from \$830,000 (February estimate) to \$1,075,000 (current estimate of 4.3%). Interest income over budget and budgeted on March 4, of \$125,000 is the remainder of the \$1,200,000 to be used for the Phase Two projects.

The Board is asked to adopt an amendment to the EMS Phase Two projects & the Series 2024 LOBs to amounts shown in the latest debt service numbers run, which follows this summary. The amendment changes the following:

- Sources:
 - Decrease debt proceeds by \$3,158,617 to \$23,830,000.
 - Increase original issue premiums on bonds sold by \$2,666,443 (from \$0).
 - These two changes reduces the amount provided from the bond sale by \$492,174.
 - Increase interest earned on the Series 2024 LOBs construction fund by \$175,242 to \$616,826.
 - Increase the amount being used from the 2023A LOBs (see above) by \$245,000.

- Uses:
 - Increase costs of issuance by \$1,778 for rounding/additional proceeds.
 - Increase the Manns Harbor EMS project by \$29,290 for:
 - A \$106,290 increase to paint the fire department & the community building and to replace & upgrade the overhead doors of the fire department.
 - A \$77,000 decrease for estimated project sales tax refunds.
 - Decrease the Manteo Youth Center project by \$35,000 for estimated project sales tax refunds.
 - Decrease the Kitty Hawk EMS project by \$68,000 for estimated project sales tax refunds.

Phase Two/Series 2024 LOBs total project sources and project uses are each decreased by \$71,932.

Requested Board Action: Adopt the amendments to the Series 2023A LOBs capital project ordinance and to the Series 2024 LOBs capital project ordinance.

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Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

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SOURCES AND USES OF FUNDS

County of Dare, North Carolina
Series 2024 LOBs PRELIMINARY
Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Dated Date 05/29/2024
Delivery Date 05/29/2024

Sources:

Bond Proceeds:	
Par Amount	23,830,000.00
Premium	2,666,442.85
	26,496,442.85
Other Sources of Funds:	
Project Fund - Investment Earnings	616,826.14
Project Fund - 23A County Funds	1,200,000.00
	1,816,826.14
	28,313,268.99

Uses:

Project Fund Deposits:	
Project Fund - Cost of Investments	23,055,560.86
Project Fund - Drawn at Close	3,068,911.00
Project Fund - Investment Earnings	616,826.14
Project Fund - 23A County Funds	1,200,000.00
	27,941,298.00
Delivery Date Expenses:	
Cost of Issuance	250,000.00
Underwriter's Discount	119,150.00
	369,150.00
Other Uses of Funds:	
Additional Proceeds	2,820.99
	28,313,268.99

Notes:

Project Fund Investment Earnings per Kensington Capital Advisors 4/19/24 Quote. Subject to Change.

\$250,000 Preliminary COI

\$5/Bond Preliminary UWD

BOND PRICING

County of Dare, North Carolina
 Series 2024 LOBs PRELIMINARY
 Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

<i>Bond Component</i>	<i>Maturity Date</i>	<i>Amount</i>	<i>Rate</i>	<i>Yield</i>	<i>Price</i>	<i>Yield to Maturity</i>	<i>Call Date</i>	<i>Call Price</i>	<i>Premium (-Discount)</i>	<i>Principal Cost</i>
Bond Component:										
	06/01/2025	1,195,000	5.000%	3.430%	101.538				18,379.10	1,213,379.10
	06/01/2026	1,195,000	5.000%	3.270%	103.331				39,805.45	1,234,805.45
	06/01/2027	1,195,000	5.000%	3.090%	105.441				65,019.95	1,260,019.95
	06/01/2028	1,195,000	5.000%	2.980%	107.573				90,497.35	1,285,497.35
	06/01/2029	1,195,000	5.000%	2.960%	109.426				112,640.70	1,307,640.70
	06/01/2030	1,195,000	5.000%	2.950%	111.206				133,911.70	1,328,911.70
	06/01/2031	1,190,000	5.000%	2.940%	112.956				154,176.40	1,344,176.40
	06/01/2032	1,190,000	5.000%	2.970%	114.369				170,991.10	1,360,991.10
	06/01/2033	1,190,000	5.000%	2.990%	115.766				187,615.40	1,377,615.40
	06/01/2034	1,190,000	5.000%	3.000%	117.176				204,394.40	1,394,394.40
	06/01/2035	1,190,000	5.000%	3.080%	116.424	C 3.216%	06/01/2034	100.000	195,445.60	1,385,445.60
	06/01/2036	1,190,000	5.000%	3.150%	115.771	C 3.390%	06/01/2034	100.000	187,674.90	1,377,674.90
	06/01/2037	1,190,000	5.000%	3.290%	114.478	C 3.596%	06/01/2034	100.000	172,288.20	1,362,288.20
	06/01/2038	1,190,000	5.000%	3.360%	113.837	C 3.723%	06/01/2034	100.000	164,660.30	1,354,660.30
	06/01/2039	1,190,000	5.000%	3.440%	113.111	C 3.842%	06/01/2034	100.000	156,020.90	1,346,020.90
	06/01/2040	1,190,000	5.000%	3.570%	111.942	C 3.984%	06/01/2034	100.000	142,109.80	1,332,109.80
	06/01/2041	1,190,000	5.000%	3.690%	110.876	C 4.105%	06/01/2034	100.000	129,424.40	1,319,424.40
	06/01/2042	1,190,000	5.000%	3.760%	110.260	C 4.183%	06/01/2034	100.000	122,094.00	1,312,094.00
	06/01/2043	1,190,000	5.000%	3.840%	109.561	C 4.261%	06/01/2034	100.000	113,775.90	1,303,775.90
	06/01/2044	1,190,000	5.000%	3.920%	108.867	C 4.333%	06/01/2034	100.000	105,517.30	1,295,517.30
									2,666,442.85	26,496,442.85

Dated Date	05/29/2024	
Delivery Date	05/29/2024	
First Coupon	12/01/2024	
Par Amount	23,830,000.00	
Premium	2,666,442.85	
Production	26,496,442.85	111.189437%
Underwriter's Discount	-119,150.00	-0.500000%
Purchase Price	26,377,292.85	110.689437%
Accrued Interest		
Net Proceeds	26,377,292.85	

BOND SUMMARY STATISTICS

County of Dare, North Carolina
Series 2024 LOBs PRELIMINARY
Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Dated Date	05/29/2024
Delivery Date	05/29/2024
Last Maturity	06/01/2044
Arbitrage Yield	3.320733%
True Interest Cost (TIC)	3.699489%
Net Interest Cost (NIC)	3.981643%
All-In TIC	3.818509%
Average Coupon	5.000000%
Average Life (years)	10.497
Weighted Average Maturity (years)	10.590
Duration of Issue (years)	8.169
Par Amount	23,830,000.00
Bond Proceeds	26,496,442.85
Total Interest	12,506,869.44
Net Interest	9,959,576.59
Total Debt Service	36,336,869.44
Maximum Annual Debt Service	2,393,119.44
Average Annual Debt Service	1,816,338.93

<i>Bond Component</i>	<i>Par Value</i>	<i>Price</i>	<i>Average Coupon</i>	<i>Average Life</i>	<i>Duration</i>	<i>PV of 1 bp change</i>
Bond Component	23,830,000.00	111.189	5.000%	10.497	8.186	16,967.70
	23,830,000.00			10.497		16,967.70

	<u>TIC</u>	<u>All-In TIC</u>	<u>Arbitrage Yield</u>
Par Value	23,830,000.00	23,830,000.00	23,830,000.00
+ Accrued Interest			
+ Premium (Discount)	2,666,442.85	2,666,442.85	2,666,442.85
- Underwriter's Discount	-119,150.00	-119,150.00	
- Cost of Issuance Expense		-250,000.00	
- Other Amounts			
Target Value	26,377,292.85	26,127,292.85	26,496,442.85
Target Date	05/29/2024	05/29/2024	05/29/2024
Yield	3.699489%	3.818509%	3.320733%

Notes:
\$250,000 Preliminary COI
\$5/Bond Preliminary UWD

BOND DEBT SERVICE

County of Dare, North Carolina
Series 2024 LOBs PRELIMINARY
Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Dated Date 05/29/2024
Delivery Date 05/29/2024

<i>Period Ending</i>	<i>Principal</i>	<i>Coupon</i>	<i>Interest</i>	<i>Debt Service</i>
06/30/2025	1,195,000	5.000%	1,198,119.44	2,393,119.44
06/30/2026	1,195,000	5.000%	1,131,750.00	2,326,750.00
06/30/2027	1,195,000	5.000%	1,072,000.00	2,267,000.00
06/30/2028	1,195,000	5.000%	1,012,250.00	2,207,250.00
06/30/2029	1,195,000	5.000%	952,500.00	2,147,500.00
06/30/2030	1,195,000	5.000%	892,750.00	2,087,750.00
06/30/2031	1,190,000	5.000%	833,000.00	2,023,000.00
06/30/2032	1,190,000	5.000%	773,500.00	1,963,500.00
06/30/2033	1,190,000	5.000%	714,000.00	1,904,000.00
06/30/2034	1,190,000	5.000%	654,500.00	1,844,500.00
06/30/2035	1,190,000	5.000%	595,000.00	1,785,000.00
06/30/2036	1,190,000	5.000%	535,500.00	1,725,500.00
06/30/2037	1,190,000	5.000%	476,000.00	1,666,000.00
06/30/2038	1,190,000	5.000%	416,500.00	1,606,500.00
06/30/2039	1,190,000	5.000%	357,000.00	1,547,000.00
06/30/2040	1,190,000	5.000%	297,500.00	1,487,500.00
06/30/2041	1,190,000	5.000%	238,000.00	1,428,000.00
06/30/2042	1,190,000	5.000%	178,500.00	1,368,500.00
06/30/2043	1,190,000	5.000%	119,000.00	1,309,000.00
06/30/2044	1,190,000	5.000%	59,500.00	1,249,500.00
	23,830,000		12,506,869.44	36,336,869.44

BOND DEBT SERVICE

County of Dare, North Carolina
 Series 2024 LOBs PRELIMINARY
 Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Dated Date 05/29/2024
 Delivery Date 05/29/2024

<i>Period Ending</i>	<i>Principal</i>	<i>Coupon</i>	<i>Interest</i>	<i>Debt Service</i>
12/01/2024			602,369.44	602,369.44
06/01/2025	1,195,000	5.000%	595,750.00	1,790,750.00
12/01/2025			565,875.00	565,875.00
06/01/2026	1,195,000	5.000%	565,875.00	1,760,875.00
12/01/2026			536,000.00	536,000.00
06/01/2027	1,195,000	5.000%	536,000.00	1,731,000.00
12/01/2027			506,125.00	506,125.00
06/01/2028	1,195,000	5.000%	506,125.00	1,701,125.00
12/01/2028			476,250.00	476,250.00
06/01/2029	1,195,000	5.000%	476,250.00	1,671,250.00
12/01/2029			446,375.00	446,375.00
06/01/2030	1,195,000	5.000%	446,375.00	1,641,375.00
12/01/2030			416,500.00	416,500.00
06/01/2031	1,190,000	5.000%	416,500.00	1,606,500.00
12/01/2031			386,750.00	386,750.00
06/01/2032	1,190,000	5.000%	386,750.00	1,576,750.00
12/01/2032			357,000.00	357,000.00
06/01/2033	1,190,000	5.000%	357,000.00	1,547,000.00
12/01/2033			327,250.00	327,250.00
06/01/2034	1,190,000	5.000%	327,250.00	1,517,250.00
12/01/2034			297,500.00	297,500.00
06/01/2035	1,190,000	5.000%	297,500.00	1,487,500.00
12/01/2035			267,750.00	267,750.00
06/01/2036	1,190,000	5.000%	267,750.00	1,457,750.00
12/01/2036			238,000.00	238,000.00
06/01/2037	1,190,000	5.000%	238,000.00	1,428,000.00
12/01/2037			208,250.00	208,250.00
06/01/2038	1,190,000	5.000%	208,250.00	1,398,250.00
12/01/2038			178,500.00	178,500.00
06/01/2039	1,190,000	5.000%	178,500.00	1,368,500.00
12/01/2039			148,750.00	148,750.00
06/01/2040	1,190,000	5.000%	148,750.00	1,338,750.00
12/01/2040			119,000.00	119,000.00
06/01/2041	1,190,000	5.000%	119,000.00	1,309,000.00
12/01/2041			89,250.00	89,250.00
06/01/2042	1,190,000	5.000%	89,250.00	1,279,250.00
12/01/2042			59,500.00	59,500.00
06/01/2043	1,190,000	5.000%	59,500.00	1,249,500.00
12/01/2043			29,750.00	29,750.00
06/01/2044	1,190,000	5.000%	29,750.00	1,219,750.00
	23,830,000		12,506,869.44	36,336,869.44

FORM 8038 STATISTICS

County of Dare, North Carolina
 Series 2024 LOBs PRELIMINARY
 Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Dated Date 05/29/2024
 Delivery Date 05/29/2024

<i>Bond Component</i>	<i>Date</i>	<i>Principal</i>	<i>Coupon</i>	<i>Price</i>	<i>Issue Price</i>	<i>Redemption at Maturity</i>
Bond Component:						
	06/01/2025	1,195,000.00	5.000%	101.538	1,213,379.10	1,195,000.00
	06/01/2026	1,195,000.00	5.000%	103.331	1,234,805.45	1,195,000.00
	06/01/2027	1,195,000.00	5.000%	105.441	1,260,019.95	1,195,000.00
	06/01/2028	1,195,000.00	5.000%	107.573	1,285,497.35	1,195,000.00
	06/01/2029	1,195,000.00	5.000%	109.426	1,307,640.70	1,195,000.00
	06/01/2030	1,195,000.00	5.000%	111.206	1,328,911.70	1,195,000.00
	06/01/2031	1,190,000.00	5.000%	112.956	1,344,176.40	1,190,000.00
	06/01/2032	1,190,000.00	5.000%	114.369	1,360,991.10	1,190,000.00
	06/01/2033	1,190,000.00	5.000%	115.766	1,377,615.40	1,190,000.00
	06/01/2034	1,190,000.00	5.000%	117.176	1,394,394.40	1,190,000.00
	06/01/2035	1,190,000.00	5.000%	116.424	1,385,445.60	1,190,000.00
	06/01/2036	1,190,000.00	5.000%	115.771	1,377,674.90	1,190,000.00
	06/01/2037	1,190,000.00	5.000%	114.478	1,362,288.20	1,190,000.00
	06/01/2038	1,190,000.00	5.000%	113.837	1,354,660.30	1,190,000.00
	06/01/2039	1,190,000.00	5.000%	113.111	1,346,020.90	1,190,000.00
	06/01/2040	1,190,000.00	5.000%	111.942	1,332,109.80	1,190,000.00
	06/01/2041	1,190,000.00	5.000%	110.876	1,319,424.40	1,190,000.00
	06/01/2042	1,190,000.00	5.000%	110.260	1,312,094.00	1,190,000.00
	06/01/2043	1,190,000.00	5.000%	109.561	1,303,775.90	1,190,000.00
	06/01/2044	1,190,000.00	5.000%	108.867	1,295,517.30	1,190,000.00
		23,830,000.00			26,496,442.85	23,830,000.00

	<i>Maturity Date</i>	<i>Interest Rate</i>	<i>Issue Price</i>	<i>Stated Redemption at Maturity</i>	<i>Weighted Average Maturity</i>	<i>Yield</i>
Final Maturity	06/01/2044	5.000%	1,295,517.30	1,190,000.00		
Entire Issue			26,496,442.85	23,830,000.00	10.5895	3.3207%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	369,150.00
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	0.00

PROOF OF ARBITRAGE YIELD

County of Dare, North Carolina
Series 2024 LOBs PRELIMINARY
Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

<i>Date</i>	<i>Debt Service</i>	<i>PV Factor</i>	<i>Present Value to 05/29/2024 @ 3.3207326773%</i>
12/01/2024	602,369.44	0.983487550	592,422.84
06/01/2025	1,790,750.00	0.967424755	1,732,415.88
12/01/2025	565,875.00	0.951624306	538,500.40
06/01/2026	1,760,875.00	0.936081917	1,648,323.24
12/01/2026	536,000.00	0.920793373	493,545.25
06/01/2027	1,731,000.00	0.905754530	1,567,861.09
12/01/2027	506,125.00	0.890961308	450,937.79
06/01/2028	1,701,125.00	0.876409697	1,490,882.45
12/01/2028	476,250.00	0.862095749	410,573.10
06/01/2029	1,671,250.00	0.848015584	1,417,246.04
12/01/2029	446,375.00	0.834165383	372,350.57
06/01/2030	1,641,375.00	0.820541390	1,346,816.12
12/01/2030	416,500.00	0.807139910	336,173.77
06/01/2031	1,606,500.00	0.793957310	1,275,492.42
12/01/2031	386,750.00	0.780990015	302,047.89
06/01/2032	1,576,750.00	0.768234508	1,211,313.76
12/01/2032	357,000.00	0.755687330	269,780.38
06/01/2033	1,547,000.00	0.743345078	1,149,954.84
12/01/2033	327,250.00	0.731204406	239,286.64
06/01/2034	13,417,250.00	0.719262022	9,650,518.36
	33,064,369.44		26,496,442.85

Proceeds Summary

Delivery date	05/29/2024
Par Value	23,830,000.00
Premium (Discount)	2,666,442.85
Target for yield calculation	26,496,442.85

PROOF OF ARBITRAGE YIELD

County of Dare, North Carolina
Series 2024 LOBs PRELIMINARY
Based on Market Rates as of 4/22/2024 (Assumes AA/Aa2 Rating)

Assumed Call/Computation Dates for Premium Bonds

<i>Bond Component</i>	<i>Maturity Date</i>	<i>Rate</i>	<i>Yield</i>	<i>Call Date</i>	<i>Call Price</i>	<i>Yield To Call/Maturity</i>
BOND	06/01/2035	5.000%	3.080%	06/01/2034	100.000	3.0800717%
BOND	06/01/2036	5.000%	3.150%	06/01/2034	100.000	3.1500471%
BOND	06/01/2037	5.000%	3.290%	06/01/2034	100.000	3.2900071%
BOND	06/01/2038	5.000%	3.360%	06/01/2034	100.000	3.3600944%
BOND	06/01/2039	5.000%	3.440%	06/01/2034	100.000	3.4400483%
BOND	06/01/2040	5.000%	3.570%	06/01/2034	100.000	3.5700897%
BOND	06/01/2041	5.000%	3.690%	06/01/2034	100.000	3.6901000%
BOND	06/01/2042	5.000%	3.760%	06/01/2034	100.000	3.7600821%
BOND	06/01/2043	5.000%	3.840%	06/01/2034	100.000	3.8400641%
BOND	06/01/2044	5.000%	3.920%	06/01/2034	100.000	3.9200827%

Rejected Call/Computation Dates for Premium Bonds

<i>Bond Component</i>	<i>Maturity Date</i>	<i>Rate</i>	<i>Yield</i>	<i>Call Date</i>	<i>Call Price</i>	<i>Yield To Call/Maturity</i>	<i>Increase to Yield</i>
BOND	06/01/2035	5.000%	3.080%			3.2161378%	0.1360661%
BOND	06/01/2036	5.000%	3.150%			3.3899836%	0.2399364%
BOND	06/01/2037	5.000%	3.290%			3.5963943%	0.3063872%
BOND	06/01/2038	5.000%	3.360%			3.7231733%	0.3630789%
BOND	06/01/2039	5.000%	3.440%			3.8421520%	0.4021037%
BOND	06/01/2040	5.000%	3.570%			3.9837216%	0.4136319%
BOND	06/01/2041	5.000%	3.690%			4.1051342%	0.4150342%
BOND	06/01/2042	5.000%	3.760%			4.1831985%	0.4231164%
BOND	06/01/2043	5.000%	3.840%			4.2609616%	0.4208975%
BOND	06/01/2044	5.000%	3.920%			4.3327509%	0.4126682%

REQUIRED REGULATORY DISCLAIMER

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**County of Dare, North Carolina
Capital Project Ordinance
for
Series 2024A 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 capital project ordinance for the Series 2024A LOBs, originally adopted on December 4, 2023, and amended on March 4, 2024, is hereby amended.

Section 1 This amendment is to budget changes to bond sources, additional construction fund interest, and additional savings amounts from Phase One/Series 2023A LOBs. This amendment also adds \$106,690 of costs to the Manns Harbor project and establishes budgets for project sales tax refunds.

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

Section 3 Sources and Uses for the projects are updated to:

Sources:

Bond par amount	\$23,830,000
Bond premium	\$2,666,443
Phase 1 projects savings & interest	\$1,200,000 (see Phase 1/S2023A amendment)
Phase 2 interest	<u>\$616,826</u>
Total	\$28,313,269

Uses:

Manns Harbor EMS	\$11,767,524
Manteo Youth Center	\$5,627,863
Kitty Hawk EMS	\$10,545,910
Costs of Issuance	<u>\$371,972</u>
Total	\$28,313,269

Section 4 The following revenues for Phase 2 are hereby changed as indicated:

Debt proceeds S2024 LOBs – Phase 2	613090-470318-98737	\$3,158,617	decrease
Original issue premium	613090-471005-98737	\$2,666,443	increase
S2024 LOBs interest	613040-450100-98737	\$175,242	increase

Section 5 The following appropriations for Phase 2 are hereby changed as indicated:

Manns Harbor EMS #8:

Guaranteed maximum price CMAR	615531-737504-60385	\$106,290	increase
Sales tax refunds	615531-737001-60385	(\$77,000)	increase credit
Costs charged to Phase 1/S2023A LOBs	615531-737550-60385	(\$245,000)	increase credit

Manteo Youth Center:

Sales tax refunds	615531-737001-60386	(\$35,000)	increase credit
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Kitty Hawk EMS #9:

Sales tax refunds	615531-737001-60387	(\$68,000)	increase credit
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Costs of Issuance:

Costs of issuance & underwriters' discount	615490-545300-98737	\$1,778	increase
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Section 6 The legal level of budget control for EMS Phase 2 is the total budgeted for all projects. Per the bond documents all borrowed funds and non-arbitrage interest earnings may be used for any Phase 1, 2, or 3 project. Per the annual budget ordinance, the County Manager is authorized to execute change orders and/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 & 2 projects that authority is extended to budget movement between projects/project numbers.

Section 7 The Finance Officer is directed to report the financial status of the project as a part of the normal ongoing financial reporting process.

Section 8 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 7th day of May 2024.

Chairman, Board of Commissioners

[SEAL]

Skyler Foley, Clerk to the Board of Commissioner



Capital Project Ordinance for Dare County Schools Early College

Description

Capital project ordinance to establish an initial budget for architectural services for the Dare County Schools Early College project.

Board Action Requested

Adopt the capital project ordinance.

Item Presenter

David Clawson

County of Dare, North Carolina
Capital Project Ordinance
for
Series 2025B 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 Series 2025B LOBs, is hereby adopted.

Section 1 This ordinance is to establish an initial budget for architectural services for the Dare County Schools Early College project.

Section 2 The following budget shall be conducted within the School Capital Projects Fund (fund #63).

Section 3 The following amount is appropriated for the project:

Early College – architectural services	635675-710900-98661	\$2,500,000
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Section 4 The following revenues are anticipated to be available to complete the project:

Debt Proceeds S2025B LOBs	633090-470318-98661	\$2,500,000
---------------------------	---------------------	-------------

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

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

Adopted this 7th day of May 2024.

Chairman, Board of Commissioners

[SEAL]

Skyler Foley, Clerk to the Board of Commissioners



Early College Prep Design Contract

Description

During the April 2nd Board meeting, Oakley Collier Architects out of Rocky Mount NC was selected to be the design firm of choice. Attached is their design contract for services related to the design and programming of the early college project.

Board Action Requested

Approve the design contract and authorize the County Manager to sign.

Item Presenter

Dustin Peele - Project and Procurement Manager

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Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 3rd day of April in the year 2024

BETWEEN the Architect's client identified as the Owner:

Dare County
PO Box 1000
Manteo, NC 27954

and the Architect:

Oakley Collier Architects, PA
109 Candlewood Road
Rocky Mount, NC 27804

for the following Project:

Dare County Early College OCA Project # 24016

This project consists of constructing a new Early College Preparatory building on the Roanoke Island Campus of College of the Albemarle. This new building will include the construction of a new 28,715 SF building (as defined in the Feasibility Study dated December 2023, pages 24-25) and will include approximately 17 academic classrooms, a media center, a food service center, administration offices, and other guidance and support rooms. The new building will be located at 205 South Business Highway 64/264, Manteo, NC 27954.

The Owner and Architect agree as follows.

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.

Init.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(Paragraph deleted)

§ 1.1.1 The Owner's program for the Project:

(Paragraph deleted)

As defined in the Feasibility Study for Dare County dated December 2023, pages 24-25,

§ 1.1.2 The Project's physical characteristics:

(Paragraph deleted)

The Owner desires the facility to complement the Academic Building completed in approximately 2022.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

Twenty-Five Million Dollars (\$25,000,000), Total Project Cost

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Construction Documents September 2024

.2 Construction commencement date:

December 2024

.3 Substantial Completion date or dates:

Init.

(Paragraphs deleted)

June 2026

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

Robert Outten, David Clawson, Dustin Peele

Dare County

PO Box 1000

Manteo, NC 27954

(252) 475-5731

Email: davocer@darenc.com, dustin.peele@darenc.com, outten@darenc.com

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

N/A

§ 1.1.9 As an additional service the Architect shall retain the following consultants and contractors:

.1 Geotechnical Engineer:

Southern Engineering
5400 Old Poole Road
Raleigh, NC 27610

.2 Surveyor:

Timmons Group
5410 Trinity Road

(Paragraphs deleted)

Raleigh, NC 27607

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

Timothy Oakley, Principal , Ann Collier, Principal, Franki Joyner, Construction Administrator
Oakley Collier Architects, PA
109 Candlewood Road
Rocky Mount, NC 27804

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(252) 937-2500

Email: foakley@oakleycollier.com, acoffler@oakleycollier.com, brovner@oakleycollier.com

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

(Paragraph deleted)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Stewart Engineering
223 S West Street, Suite 1100
Raleigh, NC 27603
(919) 380-8750

.2 Mechanical Engineer:

Atlantec Engineers, PA
3221 Blue Ridge Road # 113
Raleigh, NC 27612
(919) 571-1111

.3 Electrical Engineer:

Atlantec Engineers, PA
3221 Blue Ridge Road # 113
Raleigh, NC 27612
(919) 571-1111

.4 Civil Engineer:

Timmons Group
5410 Trinity Road
Raleigh, NC 276007
(919) 866-4951

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

§ 1.1.12 Other Initial Information on which the Agreement is based:

The program square footage is based on Dare County Feasibility Study dated December 2023.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set

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forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000) for each occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million dollars (\$ 2,000,000) per claim and two million dollars (\$ 2,000,000) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

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§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding or Construction Manager at Risk

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

(Paragraphs deleted)

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

1. conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
2. issue Certificates of Substantial Completion;
3. forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
4. issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Paragraph deleted)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect (Basic Services)
§ 4.1.1.2 Multiple preliminary designs	Architect (Basic Services)
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Architect (Basic Services)
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering / Topographic Survey/ Geotechnical Report	Architect (Basic Services)
§ 4.1.1.9 Landscape design	Architect (Basic Services)
§ 4.1.1.10 Architectural interior design	Architect (Basic Services)
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Architect (Basic Services)
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Architect (Basic Services)
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Architect (Basic Services)
§ 4.1.1.21 Telecommunications/data design	Owner / Architect
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Owner / Architect
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

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See Exhibit A

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

See Exhibit B

(Paragraph deleted)

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

(Paragraph deleted)

- .8 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .9 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 **Weekly** () visits to the site by the Architect / Architect's Representative during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty-four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

(Paragraph deleted)

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as

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the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other:

Init.

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

(Paragraphs deleted)

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

N/A

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of

Init.

compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum

(Paragraphs deleted)

Two Million Five Hundred Thousand Dollars (\$2,500,000)

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

See Exhibit C

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

Hourly Bill Rates:

Principal		\$325
Sr. Designer		\$275
Project Manager	\$225	
Construction Administrator		\$200
Sr. BIM Tech		\$175
Jr. BIM Tech		\$150
Administrative		\$120

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus

(Paragraphs deleted)

twenty percent (20 %), or as follows:

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	twenty	percent (20	%)
Design Development Phase	twenty	percent (20	%)
Construction Documents Phase	forty	percent (40	%)
Procurement Phase	five	percent (5	%)
Construction Phase	fifteen	percent (15	%)
<hr/>				
Total Basic Compensation	one hundred	percent (100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

Hourly Bill Rates:

Principal	\$325
Sr. Designer	\$275
Project Manager	\$225
Construction Administrator	\$200
Sr. BIM Tech	\$175
Jr. BIM Tech	\$150
Administrative	\$120

(Row deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

.1

(Paragraphs deleted)

Permitting and other fees required by authorities having jurisdiction over the Project;

(Paragraphs deleted)

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent (20 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

N/A

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

(Paragraph deleted)

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

1.5 % monthly

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

N/A

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 Other documents:

(Paragraphs deleted)

AIA D401: Certification of Document's Authenticity
Certificate of Insurance
Exhibit A- Summary of Architect's Supplemental Services

(Paragraphs deleted)

Exhibit B- Summary of Owner's Supplemental Services

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



OWNER (Signature)

Robert Outten

(Printed name and title)

ARCHITECT (Signature)

Timothy D Oakley Principal

(Printed name, title, and license number, if required)

Additions and Deletions Report for AIA® Document B101® – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:20:03 ET on 04/04/2024.

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AGREEMENT made as of the ~~day of~~ in the year
(In words, indicate day, month and year.) 3rd day of April in the year 2024

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Dare County
PO Box 1000
Manteo, NC 27954

...

(Name, legal status, address and other information)
Oakley Collier Architects, PA
109 Candlewood Road
Rocky Mount, NC 27804

...

(Name, location and detailed description)

Dare County Early College OCA Project # 24016

This project consists of constructing a new Early College Preparatory building on the Roanoke Island Campus of College of the Albemarle. This new building will include the construction of a new 28,715 SF building (as defined in the Feasibility Study dated December 2023, pages 24-25) and will include approximately 17 academic classrooms, a media center, a food service center, administration offices, and other guidance and support rooms. The new building will be located at 205 South Business Highway 64/264, Manteo, NC 27954.

PAGE 2

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

...

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

As defined in the Feasibility Study for Dare County dated December 2023, pages 24-25.

...

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The Owner desires the facility to complement the Academic Building completed in approximately 2022.

...

(Provide total and, if known, a line item breakdown.)

Twenty-Five Million Dollars (\$25,000,000), Total Project Cost

...

Construction Documents September 2024

...

December 2024

...

4 — Other milestone dates:

June 2026

PAGE 3

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

TBD

...

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

...

(List name, address, and other contact information.)

Robert Outten, David Clawson, Dustin Peele

Dare County

PO Box 1000

Manteo, NC 27954

(252) 475-5731

Email: robert.outten@dmcc.com, dustin.peele@dmcc.com, outten@darenc.com

...

(List name, address, and other contact information.)

N/A

...

§ 1.1.9 ~~The Owner~~ As an additional service the Architect shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

...

Southern Engineering
5400 Old Poole Road
Raleigh, NC 27610

~~.2 Civil Engineer: Surveyor:~~

Timmons Group
5410 Trinity Road

~~.3 Other, if any:~~

~~(List any other consultants and contractors retained by the Owner.)~~ Raleigh, NC 27607

...

(List name, address, and other contact information.)

Timothy Oakley, Principal, Ann Collier, Principal, Franki Joyner, Construction Administrator
Oakley Collier Architects, PA
109 Candlewood Road
Rocky Mount, NC 27804
(252) 937-2500

Email: toakley@oakleycollier.com, acollier@oakleycollier.com, fjoyner@oakleycollier.com

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(List name, legal status, address, and other contact information.)

...

Stewart Engineering
223 S West Street, Suite 1100
Raleigh, NC 27603
(919) 380-8750

...

Atlantec Engineers, PA
3221 Blue Ridge Road # 113
Raleigh, NC 27612
(919) 571-1111

...

Atlantec Engineers, PA
3221 Blue Ridge Road # 113
Raleigh, NC 27612
(919) 571-1111

.4 Civil Engineer:

Timmons Group
5410 Trinity Road
Raleigh, NC 27607
(919) 866-4951

...

N/A

...

The program square footage is based on Dare County Feasibility Study dated December 2023.
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§ 2.5.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000) for each occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million dollars (\$ 2,000,000) per claim and two million dollars (\$ 2,000,000) in the aggregate.

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§ 3.5.2 **Competitive Bidding or Construction Manager at Risk**

...

~~§ 3.5.3 Negotiated Proposals~~

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:~~

- ~~1—facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;~~
- ~~2—organizing and participating in selection interviews with prospective contractors;~~
- ~~3—preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,~~
- ~~4—participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

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(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

...

§ 4.1.1.1	Programming	<u>Architect (Basic Services)</u>
§ 4.1.1.2	Multiple preliminary designs	<u>Architect (Basic Services)</u>
§ 4.1.1.3	Measured drawings	<u>Not Provided</u>
§ 4.1.1.4	Existing facilities surveys	<u>Not Provided</u>
§ 4.1.1.5	Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.6	Building Information Model management responsibilities	<u>Architect (Basic Services)</u>
§ 4.1.1.7	Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.8	Civil engineering / <u>Topographic Survey/ Geotechnical Report</u>	<u>Architect (Basic Services)</u>
§ 4.1.1.9	Landscape design	<u>Architect (Basic Services)</u>
§ 4.1.1.10	Architectural interior design	<u>Architect (Basic Services)</u>
§ 4.1.1.11	Value analysis	<u>Not Provided</u>
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	<u>Not Provided</u>
§ 4.1.1.13	On-site project representation	<u>Not Provided</u>
§ 4.1.1.14	Conformed documents for construction	<u>Architect (Basic Services)</u>
§ 4.1.1.15	As-designed record drawings	<u>Not Provided</u>
§ 4.1.1.16	As-constructed record drawings	<u>Architect (Basic Services)</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>Not Provided</u>
§ 4.1.1.18	Facility support services	<u>Not Provided</u>
§ 4.1.1.19	Tenant-related services	<u>Not Provided</u>
§ 4.1.1.20	Architect's coordination of the Owner's consultants	<u>Architect (Basic Services)</u>
§ 4.1.1.21	Telecommunications/data design	<u>Owner / Architect</u>
§ 4.1.1.22	Security evaluation and planning	<u>Not Provided</u>
§ 4.1.1.23	Commissioning	<u>Not Provided</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.25	Fast-track design services	<u>Not Provided</u>
§ 4.1.1.26	Multiple bid packages	<u>Not Provided</u>
§ 4.1.1.27	Historic preservation	<u>Not Provided</u>
§ 4.1.1.28	Furniture, furnishings, and equipment design	<u>Owner / Architect</u>
§ 4.1.1.29	Other services provided by specialty Consultants	<u>Not Provided</u>
§ 4.1.1.30	Other Supplemental Services	<u>Not Provided</u>

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~~(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)~~

~~See Exhibit A~~

...

~~(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)~~

~~See Exhibit B~~

~~§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.~~

...

- ~~.7~~ Preparation for, and attendance at, a public presentation, meeting or hearing;
- ~~.8~~ Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- ~~.9~~ Evaluation of the qualifications of entities providing bids or proposals;
- ~~.10~~ .8 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- ~~.11~~ .9 Assistance to the Initial Decision Maker, if other than the Architect.

PAGE 13

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Weekly () visits to the site by the Architect / Architect's Representative during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

...

~~§ 4.2.5 If the services covered by this Agreement have not been completed within twenty-four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.~~

...

~~§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement.~~

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(Check the appropriate box.)

...

- [X] Litigation in a court of competent jurisdiction
- [] Other: *(Specify)*

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~~§ 8.3 Arbitration~~

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

...

N/A

...

N/A

PAGE 19

(Insert amount)

~~2~~ — Percentage Basis

— *(Insert percentage value)*

— () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

~~3~~ — Other

— *(Describe the method of compensation)*

Two Million Five Hundred Thousand Dollars (\$2,500,000)

...

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

See Exhibit C

...

(Insert amount of, or basis for, compensation.)

Hourly Bill Rates:

<u>Principal</u>	<u>\$325</u>
<u>Sr. Designer</u>	<u>\$275</u>
<u>Project Manager</u>	<u>\$225</u>
<u>Construction Administrator</u>	<u>\$200</u>
<u>Sr. BIM Tech</u>	<u>\$175</u>

Jr. BIM Tech	\$150
Administrative	\$120

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ~~percent (—%), or as follows:~~
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

twenty percent (20 %), or as follows:

...

Schematic Design Phase	twenty	percent (20	%)
Design Development Phase	twenty	percent (20	%)
Construction Documents Phase	forty	percent (40	%)
Procurement Phase	five	percent (5	%)
Construction Phase	fifteen	percent (15	%)

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~~(If applicable, attach an exhibit of hourly billing rates or insert them below.)~~

~~Hourly Bill Rates:~~

Principal	\$325
Sr. Designer	\$275
Project Manager	\$225
Construction Administrator	\$200
Sr. BIM Tech	\$175
Jr. BIM Tech	\$150
Administrative	\$120

~~Employee or Category~~

~~Rate (\$0.00)~~

...

- ~~1 Transportation and authorized out-of-town travel and subsistence;~~
- ~~2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~
- ~~3 Permitting and other fees required by authorities having jurisdiction over the Project;~~
- ~~4 Printing, reproductions, plots, and standard form documents;~~
- ~~5 Postage, handling, and delivery;~~
- ~~6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;~~
- ~~8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~
- ~~9 All taxes levied on professional services and on reimbursable expenses;~~
- ~~10 Site office expenses;~~
- ~~11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,~~
- ~~12 Other similar Project-related expenditures.~~

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus twenty percent (20 %) of the expenses incurred.

...

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

N/A

...

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

1.5 % monthly

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(Include other terms and conditions applicable to this Agreement.)

N/A

...

~~2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below: Other documents:
(Insert the date of the E203-2013 incorporated into this agreement.)~~

~~3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)~~

~~[] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below: AIA D401: Certification of Document's Authenticity
(Insert the date of the E204-2017 incorporated into this agreement.) Certificate of Insurance
Exhibit A- Summary of Architect's Supplemental Services~~

~~[] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.) Exhibit B- Summary of Owner's Supplemental Services~~

~~4 Other documents:
(List other documents, if any, forming part of the Agreement.)~~

...

Robert Outten

Timothy D Oakley Principal

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, TIMOTHY D OAKLEY, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:20:03 ET on 04/04/2024 under Order No. 4104241437 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Principal

(Title)

04/04/2024

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/04/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Management Consultants, Inc. P.O. Box 2490 Davidson NC 28036		CONTACT NAME: PHONE (A/C, No, Ext): (704) 799-1600 FAX (A/C, No): (704) 799-2955 E-MAIL ADDRESS: cert@imcipls.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: RLI Insurance Company	NAIC # 13056
		INSURER B: Liberty Insurance Underwriters	19917
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	
INSURED Oakley Collier Architects, PA 109 Candlewood Road Rocky Mount NC 27804			

COVERAGES**CERTIFICATE NUMBER:** 23/24 All Lines Renewal**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PSB0003333	04/19/2023	04/19/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			PSA0001740	04/19/2023	04/19/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			PSE0001959	04/19/2023	04/19/2024	COMBINED SINGLE LIMIT EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	PSW0002542	04/19/2023	04/19/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			AEX100675-0007	04/19/2023	04/19/2024	Per Claim \$2,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Dare County 954 Marshall C. Collins Drive Room 286 Manteo NC 27954	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Karen McCabe</i>

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AIA Document B101-2017: Exhibit A
Description of Supplemental Services

SUMMARY OF ARCHITECT'S SUPPLEMENTAL SERVICES

AIA Contract Document B101-2017

Article 4.1.2 – Description of Supplemental Services: The following descriptions apply to the services identified in Article 4.1.1 – Supplemental Services, & as identified as being provided by the “Architect”.

4.1.1.1 - Programming: (Included in Basic Services)

Programming services shall include the following items:

- Meeting with owner and staff to determine functionality requirements for project;
- Preparation of a Space Planning Summary, to include all spaces required by Owner & User group, with anticipated square footages associated with each space. Space Planning Summary shall also assign a grossing factor (%) to the total net square footage to accommodate support services for the building. Support services include items such as toilets, circulation, wall thicknesses, mechanical / electrical rooms, etc.
- Project Budget development based on square footages determined by Space Planning Summary and anticipated site development costs. Project budget development shall also include estimated costs associated with project development and completion. Estimated costs include design fees, contingency, furniture & equipment, and other project associated soft costs.
- All provided programming information developed will be reviewed and approved by Owner prior to moving forward with the preliminary design concept.

4.1.1.2- Multiple Preliminary Designs: (Included in Basic Services)

The architect shall provide preliminary design options as necessary to satisfy the Owner’s program. Multiple options may be required based on Owner’s feed back during Schematic Design phase.

4.1.1.6 – Building Information Modeling (BIM) Management Responsibilities: (Included in Basic Services)

The architect will utilize building information modeling (BIM) through REVIT software and shall be responsible for providing models to the consulting engineering firms, for their use in production of final construction plans.

4.1.1.8 – Civil Engineering: Topographic Survey/Geotechnical Report (Included in Basic Services)

Civil engineering shall include site design, stormwater design, site grading and drainage design, site utilities design and appropriate details required for each. Civil engineering does include topographical surveys, geotechnical engineering or payment of state & local permits that may be required by regulatory agencies. See below for description of these supplemental services.

4.1.1.9- Landscape Design: (Included in Basic Services)

Landscape Design shall include the design of and specifications for landscaping on the project site to meet the requirements of local jurisdictions and zoning ordinances. The Landscape design shall be included in the bid documents.

4.1.1.10- Architectural Interior Design: (Included in Basic Services:

Interior finish selection shall be prepared by the Architect. These selections will be limited to: Flooring, walls, ceilings, paint, millwork, hardware, exterior wall finishes, storefront and roofing.

4.1.1.14- Conformed Documents for Construction: (Included in Basic Services)

The Architect will provide drawings that shall include all addendums and Value Engineering items into the construction documents for the Contractor's use.

4.1.1.16 -As-constructed Record Drawings: (Included in Basic Services)

The Architect will provide these drawings based on the verified marked up drawings provided by the contractor at the substantial completion of the construction phase.

4.1.1.20- Architect's Coordination of the Owner's Consultants: (Included in Basic Services)

The Architect will coordinate with the Owner's provided consultants/vendors to include Surveying, Geotechnical Investigations, Telecommunications/data design, and furniture/equipment.

4.1.1.21 – Telecommunications/Data Design: (Owner/Architect)

The architect shall provide raceway, data wiring and electrical outlet design for all IT-related items and coordination with Owner's consultant as part of their basic services.

4.1.1.28 – Furniture, Furnishings, and Equipment Design: (Owner/Architect)

The Owner shall select and employ furniture / equipment vendor(s) as necessary for the project. The architect shall provide coordination with the Owner's furniture / equipment vendor as part of their basic services.

AIA Document B101-2017: Exhibit B
Description of Supplemental Services

SUMMARY OF OWNER'S SUPPLEMENTAL SERVICES

AIA Contract Document B101-2017

Article 4.1.2 – Description of Supplemental Services: The following descriptions apply to the services identified in Article 4.1.1 – Supplemental Services, & as identified as being provided by the “Owner”.

4.1.1.21 – Telecommunications/Data Design: (Owner/Architect)

The architect shall provide raceway, data wiring, and electrical outlet design for all IT-related items and coordination with Owner’s consultant as part of their basic services.

4.1.1.28 – Furniture, Furnishings, and Equipment Design: (Owner/Architect)

The Owner shall select and employ furniture / equipment vendor(s) as necessary for the project. The architect shall provide coordination with the Owner’s furniture / equipment vendor as part of their basic services.



Consent Agenda

Description

See attached summary.

Board Action Requested

Approval

Item Presenter

Robert Outten, County Manager

Consent Agenda

1. Approval of Minutes (April 2nd & April 9th 2024)
2. Tax Collector's Report
3. Budget Amendment - 911 Board PSAP Grant
4. Budget Amendment - Oregon Inlet Administration
5. Budget Amendment - Baum Center
6. Budget Amendment - Sanitation Department
7. Grant Certification - No Overdue Tax Debts
8. DHHS - Public Health - ARHC Mini Grant
9. Motorola Service Agreement - Sheriff
10. Dropcounter Subscription for Water Use Customer Portal
11. Cape Hatteras Electric Cooperative Contract for Burrus Field
12. Systel Business Equipment Co., Inc. Statement of Work
13. NC Governor's Highway Safety Program – Local Government Resolution (Personnel Overtime)
14. NC Governor's Highway Safety Program – Local Government Resolution (Law Enforcement Liaison)



Approval of Minutes

Description

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

Board Action Requested

Approve Previous Minutes

Item Presenter

Robert Outten, County Manager



County of Dare

P.O. Box 1000 | Manteo, NC 27954

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

9:00 a.m., April 2nd 2024

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

Commissioners absent: Rob Ross (unexcused)

Others present: County Manager/Attorney, Robert Outten
Deputy County Manager/Finance Director, David Clawson
Master Public Information Officer, Dorothy Hester
Clerk, Skyler Foley

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website www.darenc.gov.

At 9:01 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Dr. Wayne Berry to share a prayer, and then he led the Pledge of Allegiance to the flag.

Chairman Woodard recognized Susan Bothwell and Mary Ellon Ballance from the Board of Education and National Park Service Superintendent Dave Hallac.

The Chairman asked for a motion to amend the agenda to add Item 4A – Presentation from the National Park Service Superintendent Dave Hallac.

MOTION

Vice-Chairman Overman motioned to amend the agenda to add Item 4A.

Commissioner Bateman and Commissioner House seconded the motion.

VOTE: AYES unanimous

ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE

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

- Commended the Community Foundation for their annual meeting that was held on Tuesday, March 12th, stated that it was a very uplifting meeting.
- Announced that the State of the Children Conference on March 14th, was a very informative meeting.
- Stated that the Southern Shores EMS and Fire Station ribbon cutting took place on March 15th
- Announced that the Senior Games are beginning on April 19th starting at 10:30 a.m.

- Focused on the situation in Hatteras concerning the petroleum on the beach in Buxton. It was explained that out of the 75 miles of beach, only 2/10th of it is affected. Real estate and property management firms are receiving daily inquiries and experiencing some cancellations. This is a federal government issue, and they have not acted. He mentioned that he, Vice-Chairman Overman, Commissioner Couch, and the County Manager traveled to Washington D.C. for three days to discuss this matter with Senator Tillis and Senator Budd. He noted that feedback had been received from both offices. In addition, they also discussed the possibility of obtaining more funds for elevating homes in Dare County, a list of the eight priority issues on NC 12 to potentially help find solutions, a Jetty in Oregon Inlet, and lastly, they asked for assistance in the length of time in processing permits for the Miss Katie Dredge.
- He stated while in D.C., they had the opportunity to attend the American Shore and Beach Preservation Association Conference, which is a leading force in D.C. for our nation's beaches. He shared the following facts:
 - Travel and tourism is the largest employer in the United States
 - In 2022 U.S. Travel and tourism generated \$2.6 trillion in economic output, with survey data indicating that beaches are the leading tourism attraction in the U.S.
 - Annually Beach Tourism generated \$520 billion in direct spending and \$36 billion in taxes to the federal, state, and local governments.
 - Beaches are not only magnets for tourism, but they also perform a double duty in protecting land infrastructure during storms.
 - For every \$1 spent on beach nourishment annually, beach tourist generates about \$3,000 in economic output, \$1,400 in indirect spending, and \$200 in taxes.
 - Stated that we have to keep our beaches nourished because it is Dare County's economic engine.
- Identified housing as one of the most challenging issues this Board had dealt with over the past four years. He mentioned that the county received a \$35 million grant from the State of North Carolina, but unfortunately, no progress has been made in constructing any housing units. Two organizations, Woda Cooper, which was selected for the county's \$12 million, and Coastal Affordable Housing, which was selected for the states \$35 million were both hired. However, Woda Cooper faced difficulties in collaborating with local municipalities, and Coastal Affordable Housing has also been unsuccessful. He believes that it is clear that the public does not support housing and called for a Special Meeting on Tuesday, April 9th, at 9:00 a.m. to discuss where the county started, the current position of the county, and the next steps moving forward.
- Lastly, he and the Board dedicated the Board of Commissioners Meeting Room to Mr. Bobby Owens, the longest serving Commissioner and Chairman of the Dare County Board of Commissioners.

ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Matt Hester received a 10-year pin.
- 2) William Laricos, received a 10-year pin.
- 3) Matthew Stankavich, received a 10-year pin.
- 4) Shelia Hassell, received a 20-year pin.

ITEM 3 – EMPLOYEE OF THE MONTH – JANUARY, MARCH, & APRIL 2024

Dustin Waltson received the January Employee of the Month award from Sheriff Doughtie who described the many ways that he is an asset to the Sheriff's Department.

James Basnight received the March Employee of the Month award from Dave Stupka who described the many ways that he is an asset to the Buildings & Grounds Department.

Misty Parnell received the April Employee of the Month award from Sheila Davies who described the many ways that she is an asset to the Environmental Health Department.

ITEM 4 – PUBLIC COMMENTS

At 9:57 a.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Following is a summary of all citizen remarks, which may be viewed in their entirety in a video on the County website:

The following comments were made in Manteo – There were no comments made in Manteo

1. Mary Ellon Ballance gave an update on the Cape Hatteras Shooting Team which has three teams (First Flight, Manteo, & Hatteras) with 140 kids participating each year. She stated that they participate in the NC Wildlife Resource Commission Youth Hunter Safety Skills District Tournament each year and announced all of the winnings. She announced that there is a fundraiser at Jennette's Pier on May 10th.
2. Aida Havel expressed concerns about Buxton and asked the Commissioners to send a letter with the seven following questions:
 1. Why is the Army Corp continuing to study and assess the situation instead of taking action? They have been studying and assessing it for six months.
 2. Why does the Army Corp of Engineers say that they are working with the NC Department of Environmental Equality, the National Park Service and the Coast Guard, but not with the EPA?
 3. One of the Army Corp of Engineers stated missions is to "Reduce Disaster Risk" Why have they not started work in the last six months to reduce the risk from this disaster?
 4. The Army Corp of Engineers website says they have a Rapid Response Center of Expertise which is capable of providing time critical remediation and removal project execution. Why are they not doing that here?
 5. I know the Army Corp of Engineers can move quickly when they want to because they already have a picture of the Baltimore Bridge on their website as well as a copy describing what immediate action they are taking. Why are they not moving that quickly on Buxton Beach?
 6. Under the FUDS Program there is something known as interim risk management procedures. Has the Army Corp of Engineers implemented any interim risk management procedures? If not, why?
 7. Why has the Army Corps of Engineers not come before you to explain what they are doing, what their timetable is, and give you an opportunity to ask them
3. Brian Harris inform the Board that Buxton has formed the Buxton Civic Association which is made up of nine citizens. He asked if anyone heard of the Restoration

- Advisory Board and why has the EPA or Army Corp of Engineers never established it with the local Buxton community. He stated that it is required at all FUDS sites.
4. Sawyer Harris expressed that he spends a lot of his time at the beach in Buxton and is ready for the beach to be put back together. He stated he is concerned about the old Navy Base and all of the hazards that it presents. He recommended that some of the school students write letters and emails to show how many children want the beach to go back to normal.
 5. Justin Bateman emphasized the importance of conducting thorough research on the topic of housing in Dare County. He defended the county and discussed the state grant money, stating that it comes from all counties and not just Dare County. He also commended how responsive Chairman Woodard and the Board is, and that every time he has reached out he has been responded to.
 6. Katie Morgan stated that she was the only person at the last housing task force meeting that said that Dare County should give the money back to the state. She noted that the contract is written so that Jordan Hennessey will receive \$5 million even if the money is giving back to the state and that the RFQ was written so the bidders had to have been in a contract with a municipality that had previously had a public private partnership with a forgivable loan, which disqualifies a lot of companies. She also stated that there is proof that Mr. Hennessey is behind developing and revising the legislation for the House Bill 259. She referred to the County Manager/Attorney and expressed that it is concerning how one individual has been allowed to simultaneously hold both roles for such an extended period of time and feels that it is a conflict of interest.
 7. Paul Outten commented on Item 8 and stated he would like for it to be addressed as Highway 12 like it was at one time and the access should come off of Hwy 12 instead of Midgett's Mobile Court.
 8. Kathryn Fagan addressed Item 9 and expressed the following. She questioned how the Evans Trust could sell a road, as well as issues related to stormwater management and ingress/egress. She also noted that there would be no impediment issues if the road were to be closed. Fagan mentioned that the speed limit on Airport Rd. is 35 mph, but observed that drivers often accelerate quickly when turning onto Airport Rd. She emphasized that the subdivision is being constructed in the important bird migratory path. Additionally, Fagan expressed worries about flooding and heat due to the lack of shade in the area.

The following comments were made in Buxton – There were no comments made in Buxton

The County Manager closed Public Comments at 10:28 a.m.

ITEM 4A – NATIONAL PARK SERVICE PRESENTATION

Superintendent Dave Hallac gave a presentation on the “Recent Observations of Petroleum Contamination at the Historic Site of Naval Facility Cape Hatteras.” He highlighted the following topics: Who is involved, the history, the location of the Old Navy and Coastguard Facilities, and provided multiple images and videos of the current state of the site which showed concrete, steel, cables, exposed septic drain field parts, and other debris. He also gave information on the observations of contaminated sediments over time throughout the site.

The Board recessed at 10:47a.m. and reconvened at 10:59a.m.

ITEM 5 – PROCLAMATION - CHILD ABUSE PREVENTION MONTH

Molly McGinnis and Leigh Brinkley addressed the Board and stated to kick off Child Abuse Prevention month they urge everyone to wear blue on Friday, April 5th and share photos on Social Media. They also stated that displays supporting child abuse prevention can be found at three locations: KDH Fire Department, COA, and the Fessenden Center. Community members are encouraged to participate in the Pinwheels for Prevention Campaign by planting a Pinwheel and a prevention yard sign, both of which are available at the CYP Office. Parents are advised to explore the resources available at CYP and register for some of the programs offered.

MOTION

Commissioner House motioned to adopt the Proclamation declaring April as Child Abuse Prevention Month in Dare County.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

ITEM 6 – NATIONAL ALLIANCE FOR MENTAL ILLNESS PRESENTATION

Phil Cooper and Stephanie Baker from the National Alliance on Mental Illness Outer Banks discussed the importance of NAMI, NAMI's goals, key statistics, the organization's origins, its growth over time, detailed descriptions of the classes offered, support groups available, programs like Ending the Silence and Sharing Hope, Crisis Intervention Training, and the importance of forming partnerships.

MOTION

Vice-Chairman Overman motioned to adopted the Proclamation declaring May as Mental Health Awareness Month in Dare County.

Commissioner Bateman & Commissioner Basnight seconded the motion.

VOTE: AYES unanimous

Commissioner House inquired about them being approved for Nationals like the Proclamation reads, they answered that they have not yet been approved but plan to be shortly.

AMENDED MOTION

Commissioner House motioned to adopt the Proclamation with the changed language.

Commissioner Bateman and Commissioner Basnight seconded the motion.

VOTE: Unanimous

ITEM 7 - DARE COUNTY TOURISM BOARD REQUEST CONSENT EXPENDITURE FROM SHORT TERM RESTRICTED FUND LINE ITEM 5160

Lee Neetles stated that this year, they have received four applications, which is consistent with previous years. The Avon Property Association applied for \$14,875, the Town of Kill Devil Hills requested \$12,400, the Town of Manteo asked for \$19,000, and the Town of Nags Head applied for \$13,750, totaling \$60,025.

MOTION

Commissioner House motioned to consent for expenditures totaling \$60,025.00 from line item 5160 for July 4th Fireworks Grant Awards.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

ITEM 8 - QUASI-JUDICIAL HEARING FOR SPECIAL USE PERMIT APPLICATION #1-2024

This agenda item was handled as a quasi-judicial proceeding. Planner Morgan Potts, Planning Director, Noah Gillam, and the Engineer, Rick House were all duly sworn by the Clerk before offering any testimony.

Ms. Potts addressed the Board and stated that the SUP and site plan was submitted by Derek Hence and House Engineering, with Mr. House representing the applicant. She explained that the proposed development is a cluster home project and will have a 31-day rental requirement. It will consist of eight three-bedroom wood frame dwellings, each measuring 1,200 square feet. The homes meet all the necessary criteria specified in the ordinance. The parcel of land is around 1.3 acres, and it exceeds the required minimum lot size for a cluster home development. The homes will be spaced 16 feet apart, slightly more than the minimum requirement. It was noted that the Planning Board had previously reviewed and recommended approval for this project.

Chairman Woodard asked if the applicant would be willing to consider an annual lease. Mr. House suggested that Mr. Hence might consider it, but pointed out that the ordinance specifies a minimum of 31 days and asked for clarification. Chairman Woodard expressed concerns about the definition of "long term" in the ordinance and stated his intention to discuss this issue with the Planning Board in the future. He believes that a lease of 31 days is not truly long term, and he views a year as a more appropriate definition. Mr. House indicated that he would need to discuss the possibility of an annual lease with the applicant before being able to provide an answer. Commissioner Bateman agreed with Chairman Woodard's perspective, and suggested the option of having someone sign a month-to-month lease for a year, it makes it easier to evict tenants who fail to pay rent.

Mr. Outten explained that the Board has the authority to make changes to the leases with the applicant's agreement. If the applicant does not agree, they must follow the statute. Mr. Gillam noted that the requirement of 31 days or longer is based on the N.C. Building Code's definition of transient versus non-transient occupancy.

The County Manager asked the applicant if he agrees to the admission into evidence of the material submitted by the Planner, which is on file in the Planning Department, the facts presented by the Planner, and the terms and conditions outlined in the SUP. Mr. Rick House indicated his agreement.

Commissioner Couch inquired about using a NC 12 address and to have the access off of NC 12 instead. Mr. House explained that the main concern was the proximity of the two entrances to Hwy 12, as they wanted to avoid traffic congestion. He also noted that they preferred to allocate the necessary right-of-way next to Mobile Court Way due to its limited size.

Commissioner House asked if this proposed development was exceeding the lot coverage limitation. Mr. House stated no and Ms. Potts clarified that the lot coverage was at a total of 28%.

Mr. Outten explained that if the Board elects to move forward, and they would like to move forward as suggested then in the motion to approve include language that allows us to modify the SUP to include that if the applicant will consent to it. Then we do not have to come back to include an annual lease.

MOTION

VOTE: AYES unanimous

Chairman Woodard discussed the option of an individual signing a yearly lease with a stipulation that they must give a 30-day notice in order to be released from the contract. This is to account for renters who may only be staying for a short period of six months due to seasonal work.

ITEM 9 - A REQUEST TO PERMANENTLY CLOSE AN UNIMPROVED PORTION OF ROOSEVELT ST. ON ROANOKE ISLAND (Att. #1)

Mr. Jeff Maloney addressed the Board and stated that he is part of the ownership group that has an interest in the Shady Pines Subdivision on the North End. He stated that they purchased the parcel with the paper roads in it for future development and consideration of the initial site plan.

Chairman Woodard asked Mr. Maloney if they would consider creating a pathway instead of paving the road. Mr. Maloney replied that he could not speak on behalf of the group but would be able to give an answer at a later time.

Mr. Outten explained that the statute dictates that if an individual request that you abandon a public road, the Board has the authority to do so. In this case, the ownership of the road transfers to the two property owners situated on either side. Each owner receives 50% ownership, making it their private property.

MOTION

Failed for a lack of a motion.

Vice-Chairman Overman left the room at 11:50 a.m., he returned at 11:53 a.m.

ITEM 10 - EARLY COLLEGE PREP DESIGN RFQ RECOMMENDATION

Dustin Peele addressed the Board and stated that six responses were received for the RFQ that was advertised in March. The submissions came from various locations including Raleigh, Greensboro, Rocky Mount, Wilmington, and Virginia Beach. After careful evaluation by the staff and discussions with the County Manager and Finance Director, he suggested that the Board should move forward with Oakley Collier Architects as the preferred designer for the Early College Project.

MOTION

Commissioner House motioned to approve Oakley Collier as the architect for the Early College Project.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

ITEM 11 - RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DARE, NC, APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING

CONTRACT & THE DELIVERY THEREOF & PROVIDING FOR CERTAIN OTHER RELATED MATTERS (Att. #2)

Mr. Clawson addressed the Board and clarified that this Resolution is the last step needed for the Board to approve the bonds that will fund the Manteo Youth Center, Manns Harbor EMS, and Kitty Hawk EMS Station. He explained that the Resolution contains findings of fact regarding the Board's decision to finance these projects and others in the CIP through a Deed of Trust on the Kill Devil Hills EMS Property. He also mentioned that due to Dare County's high bond rating, any leftover funds from these projects can be reallocated to other projects in the CIP if necessary.

MOTION

Commissioner House & Vice-Chairman Overman motioned to adopt the Resolution of the Board of Commissioners of the County of Dare, NC, Approving an Amendment to an Installment Financing Contract & the Delivery thereof & Providing for Certain Other Related Matters.

Commissioner Basnight seconded the motion.

VOTE: AYES unanimous

ITEM 12– CONSENT AGENDA

The Manager announced the items as they were visually displayed in the meeting room. He elaborated on Item 5 and explained that the Easement Agreements involve allowing carriers to install towers on some of our properties. He noted that discussions are currently taking place with Matt Hester and the carrier regarding the placement of underground lines leading to these towers. It is anticipated that this issue will be resolved within the next few days. He requested approval from the Board to proceed with the Easements, with the provision of granting him the authority to make changes to the language and sign them without waiting for the next Board meeting. He further explained that Item 10 pertains to a technical task that Mr. Clawson must complete for his bookkeeping needs. This involves transferring funds from one-line item to another.

MOTION

Commissioner Bateman motioned to approve the Consent Agenda with Item 5 as amended.

- 1) Approval of Minutes (03.04.24) **(Att. #3)**
- 2) Tax Collector's Report
- 3) Advertise 2023 Tax Year Liens
- 4) Operative IQ Licensing Agreement - EMS
- 5) Easement Agreements (As Amended)
- 6) Shallow Draft Cost Share Resolutions – FY25 **(Att. #4)**
- 7) Cintas Corporation Facility Services Rental Service Agreement
- 8) Dare County P&R Advisory Board By-Laws Revision
- 9) Budget Amendment – Emergency Management – Reimbursable Homeland Security Grant Awards
- 10) Budget Amendment – Re-establish the Budget for State Affordable Housing Grant in FY 2024
- 11) Budget Amendment – American Rescue Plan Fund & the Local Assistance & Tribal Consistency Grant
- 12) DHHS – Division of Social Services – Energy Programs Budget Amendment
- 13) DHHS – Public Health Division – Public Health Services Grant

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

ITEM 13 – BOARD APPOINTMENTS

- 1) A.B.C. Board
Commissioner Couch motioned to appoint Earl Shearin
VC Overman seconded the motion.
VOTE: AYES unanimous
- 2) Aging Advisory Council for the Albemarle Commission
Commissioner House motioned to appoint Jenna Wienert.
Commissioner Basnight seconded the motion.
VOTE: AYES unanimous
- 3) Airport Authority
Vice-Chairman Overman motioned to appoint Ervin Bateman and Tony Bruno.
Commissioner Basnight and Commissioner Couch seconded the motion.
VOTE: AYES unanimous
- 4) Juvenile Crime Prevention Council
Commissioner House motioned to reappoint Jamie Koch.
Vice-Chairman Overman seconded the motion.
VOTE: AYES unanimous
- 3) Manns Harbor Marina Commission
Vice-Chairman Overman motioned to reappoint Jeff James and Paul Mann, V and to appoint Audra Shackelford.
Commissioner Basnight seconded the motion.
VOTE: AYES unanimous
- 5) Upcoming Board Appointments
The upcoming Board appointments for May, June and July, 2024 were announced.

At this time, Chairman Woodard took time to respond to the Public Comments that were previously stated from Mary Ellen Balance, Aida Havel, Brian and Sawyer Harris, Justin Bateman, and Katie Morgan. The Board formed a consensus to send a letter to the Governor and the Army Corps of Engineers in regards to Buxton Beach.

ITEM 14 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS

Following is a brief summary outline of the items mentioned by Commissioners and the County Manager during this segment:

County Manager

The Manager asked for a Closed Session pursuant to NCGS 143-318.11(a)(3) and 11(a)(5) to consult with an attorney employed or retained by the County in order to preserve the attorney-client privilege; and to approve the minutes of the last Closed Session and to instruct the County Staff, or negotiating agents, concerning the position to be taken by or on behalf of the County in negotiating the price and other material terms of a contract, or proposed contract, for the acquisition of real property in the matter of the Kitty Hawk EMS Station.

MOTION

Commissioner Couch 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 12:20 p.m., the Commissioners exited the room to meet in Closed Session. They reconvened at 12:31 p.m. Mr. Outten reported that during the Closed Session the Board approved previous Closed Session Minutes, and gave the County Attorney instructions with regard to the material terms for the action of real property, and took no other action.

Commissioner Basnight

- Stated that she had the opportunity to attend the Dare County Cooperative Extension Advisory Board Meeting and elaborated on all of the different programs.
- Enjoyed delivering with Meals on Wheels with the Virginia Tillett Center throughout Colington Harbor.
- Expressed that the State of the Child Conference was enlightening.
- She attended the last Board of Education Meeting and was impressed that they are turning an old bus into a tiny house/moving mobile home in Hatteras.
- Commended Spencer Gregory on how informative he is. She stated that he took her on a tour to show her all of the Public Services Facilities.

Commissioner House

- Stated that the South Atlantic Fisheries Management Council hosted four Mackerel Port Meetings in NC – April 3rd was in Hatteras Village and April 4th was in the Board of Commissioners Meeting Room.
- Attended the Kitty Hawk Town Council Meeting where they approved the Special Use Permit for the new EMS Station, he announced that the Kitty Hawk Council could not be happier with this project.
- Our Day in History: In 1931 Jackie Mitchell became the first woman to play in the all-male Pro-Baseball league. In 1917 Jeanette Rankin was sworn in as the first woman to serve in the U.S. House of Representatives and Woodrow Wilson presented the declaration of war against Germany to Congress which started the American Forces into World War I.
- Pet of the Week: Nadja, a two-year-old black domestic shorthair cat is available for adoption at the OBX SPCA.

Vice-Chairman Overman

- Applauded the Service Pin recipients and the Employee of Month for January, March, and April.
- Enjoyed volunteering with Meals on Wheels and enjoyed having conversations with the individuals he delivered meals to.
- Expressed that great information was presented at the State of the Child Conference.
- Attended the Southern Shores EMS Ribbon Cutting and had the opportunity to meet with two EMS Employees from Chowan County who both loved the facility.
- Responded to Katie Morgan's Public Comment and stated that he has worked with the Country Manager, Bobby Outten, since October of 2013 and that he is selfless, hard-working, and that any response from him has been factual and legal.

Commissioner Bateman

- Participated in the Polar Plunge and the event raised over \$50,000 for a great cause.
- Attended the Friends of Jockey's Ridge Dedication and Ribbon Cutting for the Baum Center which had a great turn out.
- Also attended the Buxton Meeting and recognized that there are some upset individuals out there in regards to the old Coast Guard Station. He expressed that he appreciated the efforts of Chairman, Vice-Chairman, Commissioner Couch, and the County Manager for in Washington D.C. and hopes that a solution is found to alleviate the issue.
- Announced that Jersey Mikes raised \$27,000 for the Outer Banks Relief Foundation.
- He explained that having a County Manager/Attorney is a good business move and he backs the idea as long as he remains on the Board. He also emphasized that this choice was made before any of the current Board members were part of the decision-making process. He then discussed a situation from years ago in the Town of Kitty Hawk and how high the attorney fees were.

Chairman Woodard

- Echoed Commissioner Bateman's comment and stated that if the county would have had to hire an attorney to work with Coastal Affordable Housing and Woda Cooper the amount of money it would have costed would have been astronomical.
- Stated that the County Manager has an extensive background in Local Government and the county is fortunate to have someone with his knowledge for the amount he's paid.

Commissioner Couch

- Echoed Chairman Woodard's opening comments and discussed the trip to D.C. which included conversations about Oregon Inlet, Hwy 12, Buxton, Dredge Permits, etc.
- Acknowledged the life of Mr. Walton Fulcher (94), Chesley Midgett, and a two-time cancer survivor, Mary.
- Stated that the Chamber of Commerce and the Beach Buggy Association have weighed in on the Buxton Beach issue, and expressed that he appreciates their involvement.
- Shared a story about Tucker Carrol, and explained that he has an extremely rare blood type. A national hospital contacted Mr. Carrol because they had a leukemia patient in need of his blood type. He immediately flew out to the hospital to make a life-saving donation for the patient.
- Congratulated the Employee of the Month Recipients and the Service Pin Recipients.

Dorothy Hester

- Recognized that April is Volunteer Appreciation Month and gave recognition to all of the volunteers that help keep Dare County going.
- Announced that there is a site on the Dare County website that lists volunteer opportunities. darenc.gov/volunteer
- Stated that the County Trails Committee would celebrate the Marshall Gussy Collins Trail on April 5th at the VTCC.

Dave Clawson - None

County Manager

In abundance of caution the County Manager asked for a motion to authorize him to record the Deed to the Kitty Hawk Property for the EMS Station and to execute the lease with the Town of Kitty Hawk to lease back the fire bay that they received as a portion of that project.

MOTION

Steve House motioned to authorize the County Manager to record the Deed to the Kitty Hawk Property for the EMS Station and to execute the lease with the Town of Kitty Hawk to lease back the fire bay.

Vice-Chairman Overman seconded.

Vote: AYES unanimous

ITEM 15 – CLOSED SESSION

This Item was handled during Managers Business in Item 14.

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

MOTION

Commissioner House motioned to adjourn the meeting.

Commissioner Basnight seconded the motion.

VOTE: AYES unanimous

At 12:55p.m., the Board of Commissioners adjourned until 9:00 a.m., May 7th, 2024.

Respectfully submitted,

[SEAL]

By: _____
Skyler Foley, Clerk to the Board

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

Note: Copies of attachments (Att.), ordinances, resolutions, contracts, presentations, and supporting material considered by the Board of Commissioners at this meeting are on file in the office of the Clerk. Attempts have been made to accurately spell each podium speaker.



County of Dare

P.O. Box 1000 | Manteo, NC 27954

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

9:00 a.m., Tuesday, April 9, 2024

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

Commissioners absent: None

Others present: County Manager/Attorney, Robert Outten
Master Public Information Officer, Dorothy Hester
Clerk, Skyler Foley

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website www.darenc.gov.

At 9:06 a.m. Chairman Woodard called to order the special scheduled meeting with appropriate prior public notice having been given. He invited Rev. Thomas Wilson 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:

- Chairman stated that Dare County has approximately 37,000 full-time residents and many various types of businesses that need employees.
- Expressed that the Board has done what they have felt was in the best interest of the citizens.
- Stated that the Board had accomplished a lot in the past decade. They provided \$250 million towards beach nourishment, built a new COA Campus in Manteo, created the Dare Guarantee Scholarship, will be constructing an Early College facility at the COA Campus in 2025, building a new Youth Center in Manteo, provided land for parking in Manteo, gave the old Courthouse to the Arts Council, constructed multiple new EMS Facilities throughout the county, constructed a 911 Center that services Dare, Tyrrell, and Hyde, built a new SPCA facility and dog park, renovated ball parks and soccer fields, increased employee salaries, funded Recovery Court and the Saving Lives Task Force, advocated for lower taxes, supported the Oregon Inlet Task Force, funded schools, lobbied for a new Alligator River Bridge, lobbied for a public-private partnership to build a dredge, and lobbied in D.C. to address environmental concerns in Buxton.

- He concluded by saying Board's accomplishments are directly tied to the goal of offering essential workforce housing by demonstrating the Board's ongoing commitment to enhancing the well-being of the community's residents and workers.

ITEM 2 – PUBLIC COMMENT

At 9:18 a.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Following is a summary of all citizen remarks, which may be viewed in their entirety in a video on the County website:

1. Abbi Siler asked the Board to invest in Dare County's future generations and felt that the current circumstances are not the right scenarios and they are just slowing the county down from finding a real solution to the long-term housing issues.
2. Elizabeth Newman expressed her concern that the Board is not being good stewards of NC taxpayer money and discussed her involvement in day-to-day ownership and property management of Tax Credit Workforce Section 8. She stated she has never seen a pre-development contract like the one with Coastal Affordable Housing.
3. Cynthia Holda spoke on behalf of the Manns Harbor Civic Association and stated how they have had a lifetime of experience watching the housing issue become a larger problem for our workforce. She recommended multiple suggestions that could help this issue and expressed that she does not support the \$35 million grant.
4. Michelle Hall stated that she does not support the \$35 million that was allocated for affordable housing. She also expressed concern over the legislation that took away the municipalities zoning rights and the primary owner of Coastal Affordable Housing, Jordan Hennessey's involvement.
5. Jeanine Emery stated that in her opinion the "not in my backyard" statement is impeding the progress that the county needs to move forward. She expressed that it is the Boards job to do what is in the best interest of the community and not just the loudest people in the room.
6. Robert Zampardy feels that a multi-step approach is needed to begin addressing this issue. He suggested repurposing unused public buildings, using property that is not utilized to its best method, implementing mixed-use zoning, raising occupancy taxes to alleviate vacation rentals, and encouraged living aboard in marinas.
7. Susan Bothwell expressed that housing is essential for the workforce and without it the community will not survive.
8. Asher Daniels announced that he is a cook in a local restaurant and expressed that wants Dare County to be affordable for people who actually work in Dare County, most people he works with commute from Elizabeth City or Columbia. He is now looking to move to Raleigh due to the high cost of living.
9. Bob Muller suggested that the Board should take a new approach with the \$35 million and to go back to the legislature and ask them if they are sincerely interested in solving the workforce housing issue in Dare County. Additionally, he mentioned the

possibility of allocating some of the funds to organizations such as the hospital, YMCA, or the Dare Education Foundation.

Commissioner Ross left the room at 9:51 a.m., he returned at 9:54

10. Clifford Barron, a resident of Kitty Hawk Estates, reported on existing flooding issues in the area. He is worried that the proposed high density and paving projects in his neighborhood might exacerbate the flooding problems.
11. Aida Havel provided a timeline of Coastal Affordable Housing LLC. with Dare County and discussed the contract. She inquired about the whereabouts of the principals and contractors and the reason they have never attended a meeting. Additionally, she addressed the invoices that Dare County had received from CAH. Aida suggested that the Board consider using the \$35 million to purchase the 14-acre old abandoned water park in Rodanthe and transform it into essential housing.
12. Harbor McDaniel shared her deep affection for her community and the wildlife that inhabits it. She emphasized that she does not want Dare County to become overcrowded and full of massive skyscrapers. McDaniel also pointed out that decisions made by the Board have a direct impact on the residents, urging them to preserve their community.
13. Amy Phillips stated that when the COVID pandemic hit, many individuals sold their homes for inflated prices. This led to a lack of affordable housing in our community, and now we have an abundance of Airbnb properties taking up available housing options. She elaborated that the county needs to focus on the people and support and live in the county and not the people who visit it.
14. Jason Fleck urged the Board to refund the state funds. He emphasized the importance of preserving nature and ensuring that no harm comes to Jockey's Ridge or Nags Head Woods. Additionally, he pointed out the difficulty in obtaining appointments with eye doctors while highlighting the ongoing construction of Marshall's, Target, and WaWa facilities.
15. Olivia Pratt is advocated for the protection of natural resources, specifically in regards to the decision to strip Jockey's Ridge. She believes this decision is unacceptable and is urged for the \$35 million dollars to be returned. She emphasizes the need to shift the conversation towards platforms like Airbnb and VRBO, as well as addressing the issue of empty houses being turned into vacation rentals.
16. Eddie Goodrich stated we must consider the key aspects of who, what, when, and where. The only missing piece at the moment is where – he suggested reaching out to alter the legislation to allow property to be purchased in Dare County.
17. Karen Blose stated that she used to work in Construction and Development and is familiar with private-public partnerships, which aim to provide communities with what they need. Stated that typically, there is transparency in the bidding process, but the

source of funding in this case is unconventional. Expressed that the county should require achievements before reimbursements continue.

18. Alan Creech reiterated what other individuals stated and feels that the timeline and contract details with Coastal Affordable Housing are suspicious. He explained that he is a realtor and does not necessarily believe in the legislature telling people what they can do with their property. Noted that lot of people buy homes and use Airbnb to help afford to live in Dare County. He hopes that the housing situation is addressed in a more economic way and that it does not hurt the environment.
19. Brittany Slaughter agreed that housing is an issue in Dare County, but the county should cut ties with Coastal Affordable Housing and return the \$35 million to the state, or have it amended to serve the community better.
20. Josh Caffee believes there may be a conflict of interest in the \$35 million grant in regards to Coastal Affordable Housing and Jordan Hennessey, and wants the money to be returned.
21. Anne Deornellis expressed that there is a lack of transparency around the housing topic. She stated she was in the business of approving multi-million-dollar projects and her husband is in commercial construction, and they found the information they have heard to be surprising. She added that she has never experienced a construction company where money was paid out for invoices like the ones associated with Coastal Affordable Housing.
22. Griffin Glover expressed that it is time to progress and acknowledges that most of the county consists of water, with only one-third being land. He then noted that the land is mostly protected or already developed. Glover suggested deregulating zoning laws and implementing tax incentives to promote long-term rentals. Stated that it is also important to consider that the more we relocate resources to other counties, the more likely Raleigh will become involved.
23. Dock Sawyer believes that Hyde and Tyrrell Counties possess land that could address the housing needs in Dare County. He suggests that the county consider forming a partnership with them. Additionally, Sawyer discussed the potential benefits of constructing a four-lane highway from Columbia to Manteo to improve transportation infrastructure.
24. Katie Morgan strongly recommended that Dare County should either return the state funds or seek to amend the legislation to eliminate any restrictions on the money. She stressed the importance of severing connections with Coastal Affordable Housing and Jordan Hennessey. It was emphasized that Dare County leadership must prioritize honesty and transparency in their actions.
25. Breynn Bailey shared that she and her sons were recently evicted from their home of 8 years and were homeless for a year, they are now living in Tyrell County. Bailey emphasized that what people truly need are homes, a place to sleep, rather than getting caught up in conspiracy theories and drama. She pointed out that the issue of housing has been a longstanding problem on the Outer Banks, with discussions going

on for over 40 years. She urged for action to be taken to address the housing crisis rather than endless discussions.

The Board recessed at 10:50 a.m. and reconvened at 10:55 a.m.

26. Willo Ray explained that the community recognizes the necessity of affordable housing, but believes that the current proposal is not the most effective solution. The community does not want to compromise the natural beauty of the Outer Banks that we cherish. It was suggested that Airbnb rentals be restricted, although not all, as some residents rely on them to afford living in this area. She also recommended tiny homes, or the possibility of trailers being put on lots for people to live in.
27. John Robbins emphasized that the funds should not necessarily be returned to Raleigh. Instead, he highlighted the need to revise the legislation in order to expand the scope of workforce housing solutions. He elaborated on the importance of zoning throughout the county, stating that it should promote appropriate development.
28. Rev. Dr. Michelle Lewis recommended that more working groups that are made up of just everyday people who want to see some real solutions to the housing problem could be beneficial and stated that the housing issue needs to be addressed with creative solutions by creative people and everyone should have a seat at the table.

Dorothy Hester, Public Information Officer left the room. She returned at 11:03 a.m.

29. Ruth Stetson stated that she has been praying about this issue for over two years. She prays that every leader, as we are supposed to, will pray that the Lord speaks through our citizens. She encouraged giving money to the Education Foundation to help solve issues, such as teacher housing and if teachers do not occupy the housing, it can be utilized by other municipal and government employees. Ruth stressed the need to work within the law and lobby legislation to find the best solution for the housing issues. Ultimately, she urged the Board to be mindful of who they serve and to prioritize solving the current housing issue.
30. Malcolm Fearing expressed that the issue at hand dates back 20. The North Carolina General Assembly allocated funds to address the housing problem, and no other Board has shown the same level of dedication as the current one. Currently, there is 47 million dollars available to tackle the housing crisis, and various approaches have been proposed to make a difference. Rather than rejecting these ideas outright, perhaps we should consider alternative ways to utilize the allocated funds. Can the legislation be adjusted to better suit our requirements? One crucial aspect that seems to be overlooked is identifying the individuals who are in need of housing. It is likely that many of them are not present in this room, but rather scattered across county offices, schools, or out on the water. Their voices are not heard, yet their needs are pressing. He expressed that the real solution lies in establishing a pathway to homeownership. He was grateful that under Bob's leadership, a Housing Task Force was established to address these pressing issues. He stated that this issue is far too critical to be neglected or dismissed.

The following comments were made in Buxton – There were no comments made in Buxton

The following individuals shared Public Comments via email: Linda Sharp, Kevin Coyle, Shelly Blackstone, David Rhodes, Natalie Dutt, Susan Blackwell, and Carl Classen.

The County Manager closed Public Comments at 11:20 a.m.

ITEM 3- HOW DID WE GET HERE?

Mr. Outten explained that counties and local governments do not have the authority to construct houses. Therefore, developers must be brought in to build houses at below market rate. Despite previous efforts to address the housing issue by exploring various options there has been no success over the years. A few years ago, an economic study by NC State emphasized the urgent need to address the housing shortage, and it is affecting individuals across all income levels. In October 2019, the Board attended the NC Housing Conference in Raleigh and met with individuals that do this kind of work every day to try to begin moving forward. However, initial attempts to attract developers were unsuccessful due to the lack of attractive incentives. At the same NC Housing Conference, the Board learned about a group called DFI from UNC, specializing in affordable housing solutions statewide. Subsequently, an agreement was reached for DFI to become Dare County's consultants without charging fees upfront. Their compensation would come from developers if the project proves successful. During their research, a survey was conducted to determine the amount of housing needed. Following this, efforts were made to attract developers. Dare County allocated \$12 million for subsidies to support housing initiatives, and Woda Cooper was selected. Subsequently, the news arrived from Raleigh that \$35 million had been included in the budget. However, this funding came with certain stipulations, a Request for Qualifications (RFQ) was required, as well as the involvement of a private-public partnership. The selected applicant would receive a forgivable loan with certain requirements and reduced rental rates had to be offered. Also, the housing project had to be new construction and located in Dare County. In summary, the county received two responses from the RFQ, Woda Cooper and Coastal Affordable Housing. He explained that Coastal Affordable Housing was selected to complete the state-funded grant project based on their expertise in similar endeavors and referenced one of the entities MetCon. Additionally, Woda Cooper was chosen at that time for the \$12 million funded project because of their outstanding track record. (Bowsertown or the Nags Head project.) Ultimately, Woda Cooper did not achieve success due to the Town of Nags Head changing its zoning policies and the sewage hook-up was not possible in the Town of Manteo. As a result, they decided to redirect their efforts to other areas where they could generate profits.

Mr. Outten then made it clear that the county played no role in the drafting of the legislation involving the \$35 million. He explained that in the beginning stages of being awarded the money, discussions were held with the School of Government and individuals from the Office of Management and Budget in Raleigh to find a way to make the ARP Money work despite federal restrictions. Eventually, the legislature had to amend the appropriation of funds to classify it as state funds, which removed the federal constraints. This process was time-consuming, but the money was finally deposited into the county's account in the Spring of 2023. From that point, CAH stated that they were going to invest \$65 million, and with the states \$35 million, there was \$100 million for the housing project. CAH was then tasked with finding an area to develop.

He then elaborated on the pre-development agreement, mentioning that up to \$5 million was set aside as they were uncertain about the number of sites to be considered. Under this agreement, payments could be made for land evaluation, wetland analysis, surveying, access determination, engineering plans, and zoning updates, etc. Additionally, a market analysis and approval from a bank were necessary to ensure the feasibility of building units and renting them out to repay the loan. It was pointed out that lenders were not comfortable about investing in outlying areas where maintaining the required rental rate might be challenging. He explained that the tax ramifications are important due to the loan being structured as a grant to Dare County that did not have to be repaid down the road if the guidelines were met. If the loan was taxed as a grant, the developer would be responsible for paying taxes on it, if it was taxed as a forgivable loan then the tax ramifications are smaller. This posed a significant issue for us, as having to pay taxes on the 35 million dollars would have lessened the number of units that could have been constructed. We had to carefully navigate through these exercises, to find out how much money had to be spent to know what could be done and what housing needs could be met. He ended by stating that anything that needed to be completed on whichever potential site had to be done upfront in order to make sure it could be completed prior to investing the \$100 million.

Vice-Chairman Overman left at room at 11:36 a.m., he returned at 11:39 a.m.

Finally, Mr. Outten informed that the county has spent approximately \$389,000 so far. There is an outstanding invoice for \$274,000 that has not been paid or reviewed by staff. Additionally, there is \$600,000 in an escrow account earmarked for land acquisition when opportunities arise. All expenses incurred thus far have been related to predevelopment costs and under his knowledge no profits have gone to the developer. The focus over the past year has been on identifying potential sites and crafting a development plan, which is the second phase of the process. Once a site is secured, a development agreement will be entered into detailing the specifics of the project, such as the number of units and affordability requirements. It's imperative that the units remain affordable in perpetuity, and it will be outlined in the covenants or the ground lease depending on who owns the land. At the moment, the development agreement with CAH has not been finalized due to the absence of a confirmed site. Rent caps are mandatory, ensuring that the \$35 million allocated can only benefit individuals with incomes of 80% of the Area Median Income or lower, roughly \$40,000 a year. The developer is bound to provide a third of the rentals to individuals within this income bracket, with the remaining units offered at below-market rates. Compliance with these requirements is non-negotiable in order to receive the forgivable loan.

He announced that the Board has pivoted with CAH at this time from trying to do one large site, to look at the possibility of doing multiple smaller sites, by doing that you lessen the impact in any one area but you also increase the time and the money.

Chairman Woodard left the room at 11:43 a.m., he returned at 11:47 a.m.

In reference to the comments that had been made prior, Commissioner House inquired about the possibility of giving the \$35 million to the Dare Education Foundation. Mr. Outten responded that it would require legislation. Commissioner Ross inquired about the construction of a 4-lane highway from Colombia into Dare County. Mr. Outten responded that the county cannot build highways.

ITEM 4 – WHERE DO WE GO FROM HERE?

Commissioner Basnight emphasized that she is actively listening as both a taxpayer and citizen. She acknowledged the challenges of the housing situation, recognizing the need for housing while observing businesses closing and teachers facing waitlists. Having served on the School Board for 12 years, she has seen firsthand the struggles that many teachers face with housing. She highlighted the dedication of the Chairman and the Board in addressing this issue on a daily basis. She emphasized the importance of finding solutions and expressed commitment to doing what is best for the residents of Dare County. She expressed appreciation for those who have offered solutions and stressed the ongoing need to continue to address the housing issue.

Commissioner Ross expressed that he was enthusiastic in the Fall of 2019 when the Board started working on this issue. After meeting with the Development Finance Initiative group from UNC, they performed a study that showed the need for housing and they began working on plans to construct over 400 units with the possibility of partnering with Woda Cooper. In October 2020, they identified a property on Roanoke Island off of Bowsertown Road that was owned by the county and the county had zoning and ordinance authority over. After months of meetings and discussions with the Town of Manteo about various issues, including hookup fees and traffic studies, etc., it became clear that the project was not feasible because it was simply not the Manteo way. He then discussed the similar issue that was faced with the project in the Town of Nags Head. He explained that in about three months prior to this special meeting, he met with the President of Woda Cooper in Ohio, and the President explained to him that they had put out multiple efforts to build affordable housing units to address the community's needs, they faced opposition and they ultimately decided to withdraw. He expressed disappointment that despite years of effort, no projects have come to fruition. He addressed multiple public comments and pointed out that according to the census data, the number of full-time residents has consistently been between 35,000 and 37,000. Additionally, the student population in the schools has remained fairly stable. He concluded by highlighted the importance of finding homes for the workforce, citing examples of educators and service providers struggling to afford housing in the area. He reassured the community that their intentions were not to disrupt or harm the communities, towns, or county but to address a pressing need for workforce housing.

Commissioner House stated he was eager to address the housing situation in Dare County. With 35 years of experience in Emergency Services, and while working in Dare County, he faced challenges in finding suitable housing himself. From living in a one-room space beneath a house to spending six months in a hotel due to lack of available housing, and then trying to raise a family in a run-down trailer because that was all they could afford. He understands the importance of having a home for essential workers like police officers and firefighters. The shortage of housing has made the ability to recruit and retain essential personnel such as police officers, IV technicians, nurses, physical therapists, and EMS providers difficult. He pointed out that there is a nationwide shortage of EMS workers, including in Dare County, but at least in other areas they have a place to live. He also elaborated on the fisherman of Dare County and that the regulations they are facing has cut their income drastically and on top of that there is nowhere for them to live.

Commissioner Couch expressed that the county should send the money back and see if the legislation can be rewritten, it is not currently working.

Commissioner Bateman stated that as an employer he supplies six rental units for employees, and have for a while with the most expensive one at \$1,100 a month. He expressed that they are valued employees and they provide a service to him and does not want to have to replace. He stated that his restaurant is now open seven days a week, which is not a common for a lot of restaurants on this beach. He announced that he has made a commitment to ensure that every employee earns a minimum of \$15 per hour starting from their first day of work. He believes it is important to be responsible with his finances and take care of his employees. He also mentioned the Task Force set up by the Chairman and expressed hope that they can address important issues. Regarding the unexpected \$35 million, he mentioned that he was surprised when he received a phone call from an individual in the Governor's Office informing him about the funds. Neither the Chairman nor the County Manager were aware of it either. Despite the unexpected nature of the news, the Board was enthusiastic about using the money to benefit the citizens of Dare County. He stated that their efforts were unsuccessful with the Town of Manteo and Town of Nags Head, and he went on to criticize House Bill 259 for portraying the Board in a negative light. He emphasized his own integrity, passion for his job, and love for Dare County, acknowledging that the Board is committed to making a positive impact on the community. In conclusion, he expressed that it is time to cut our loses and move forward in a positive way.

The Vice-Chairman reassured everyone that the Board had the best intentions when it started the process of providing housing for people in their county. As mentioned several times, this issue has been present for over 30 years. He emphasized the Chairman's opening statements, that the Board had been successful in proactively addressing various issues in the county. They have taken proactive steps in wanting to address housing concerns, as stated. The Board followed proper procedures and processes outlined by the School of Government to ensure they did things correctly and avoided any missteps. Two developers, Woda Cooper and Coastal Affordable Housing, were considered for projects. Woda Cooper attempted a project in Nags Head and in the Town of Manteo but faced public opposition, leading to denial by the Towns Commissioners. Similarly, Coastal faced public resistance for a project in Kill Devil Hills and their Board stepped away from it. He hoped that the County Manager's presentation clarified any misunderstandings about affordable housing, public-private partnerships, and the necessary procedures to address these issues. He highlighted that gaining public acceptance for essential housing is a challenging task in every area examined so far. He stressed that without action, this issue will persist for decades. He stated that this issue requires the public to shift away from the NIMBY (Not in My Backyard) attitudes to find solutions.

Chairman Woodard acknowledged the concerns surrounding CAH, particularly with Mr. Hennessey. He clarified that Mr. Hennessey is one of five principals, including Mr. Robbie Ferris, Mr. Green, Eric Lindstrom, and Evan Thomas, who are highly respected individuals. He emphasized that the County has not provided \$5 million to Mr. Hennessey. Chairman Woodard mentioned the challenges of NIMBYism in constructing housing and discussed the County's stance on HB 259. He declared that it is not the right time to address workforce

housing and announced that he will not proceed with CAH and will return the funds to the state. The Dare County Housing Task Force will remain active in hopes of finding solutions.

Commissioner Basnight stated that she agreed with Chairman Woodard that it may be best to terminate contract with Coastal Affordable Housing and potentially return the \$35 million allocated for the project back to the state.

Commissioner House stated that Dare County is unique as 88% of the county is owned by the state or federal governments, and the housing projects started out as a great idea in response to a tremendous problem and an outcry from our community within the past three years. He presented seventeen headline articles all in regards to the housing issues of the county.

MOTION

Commissioner House made a motion that the county halts this project and give the County Manager the authority to take the appropriate steps to unwind it.

Commissioner Basnight seconded.

Commissioner Ross clarified that the money would be returned to the General Assembly, Mr. Outten responded yes, he would go to the Office of Management and Budget and get instructions on what to do with the money and how to return it.

Commissioner Basnight inquired if the motion included canceling the contract with CAH and is there anyway the Board can negotiate the \$35 million with the state. Mr. Outten stated that if he is understanding the motion correctly, the Board is stopping their efforts on affordable housing and he is going to reach out to the OMB and find out what to do with the money. He clarified if the Board elects to try to get new legislation then there is nothing that stops them from doing that.

VOTE: AYES unanimous

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

MOTION

Commissioner Ross motioned to adjourn the meeting.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

At 12:39 p.m., the Board of Commissioners adjourned until 9:00 a.m., May 7th, 2024

Respectfully submitted,

[SEAL]

By: _____
Skyler Foley, Clerk to the Board

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

Note: Copies of attachments (Att.), ordinances, resolutions, contracts, presentations, and supporting material considered by the Board of Commissioners at this meeting are on file in the office of the Clerk. Attempts have been made to accurately spell each podium speaker.



Tax Collector's Report

Description

March 2024 Releases Over \$100
March 2024 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: MARCH

DATE RANGE: 3/1/2024 - 3/31/2024

Submitted By: Becky Huff

Taxpayer Name	Parcel #	Bill Year	Reason	Released Value	Released Tax
BARBOSA, FREDDIE	936953000	2023	TRAILER IN CHOWAN COUNTY	(2,083.00)	(161.83)
MENKE, KATHY	936472000	2023	TAGGED YEARLY BY DMV	(48,500.00)	(293.03)
ALLIGOOD, CLYDE	938110000	2023	TAGGED YEARLY BY DMV	(20,362.00)	(135.34)
AVIATION MANAGEMENT LLC	939655000	2023	AIRPLANE IN GUILFORD COUNTY	(101,850.00)	(557.23)
DONAHUE, FRANCIS L.	831234238	2023	BOAT LOCATED IN TN	(16,659.00)	(104.80)
VERNON, ROBERT ANDREW	937943000	2023	NO LONGER OWNS BOATS	(15,440.00)	(128.31)
WALSH, JOHN A	938418000	2023	BOAT SOLD IN 2021	(12,646.00)	(105.09)
MARSHALL, PATRICK	938769000	2023	PP SITUS NY	(43,626.00)	(192.19)
ROTHERMEL, DAN	939536000	2023	TAGGED YEARLY BY DMV	(43,650.00)	(263.74)
FLETCHER, ERICK T	015744002	2023	BOAT PREV OWNERS	(17,760.00)	(125.71)
Totals:				(\$322,576.00)	(\$2,067.27)



North Carolina Vehicle Tax System

NCVTS Pending Refund report

March 2024

Payee Name	Address 1	Address 3	Bill #	Levy Type	Change	Interest Change	Total Change
AUSTIN, DEBRA JOYCE	2619 S ANCHOR LN	NAGS HEAD, NC 27959	0041419983	Tax	(\$141.77)	\$0.00	(\$141.77)
				Tax	(\$116.82)	\$0.00	(\$116.82)
				Refund			\$258.59
EPPS, SKYLAR SINCLAIR	803 BURTON DR	SMITHFIELD, VA 23430	0065463250	Tax	(\$122.87)	\$0.00	(\$122.87)
				Tax	(\$108.91)	\$0.00	(\$108.91)
				Refund			\$231.78
WHITMORE, CAROL MARIE	3275 CAPEVILLE DR	CAPE CHARLES, VA 23310	0058015841	Tax	(\$54.81)	\$0.00	(\$54.81)
				Tax	(\$48.59)	\$0.00	(\$48.59)
				Refund			\$103.40
Refund Total							\$593.77



Budget Amendment - 911 Board PSAP Grant

Description

Budget amendment for 911 Board PSAP Grant for portable radios approved by BOC on 2/5/2024.

Board Action Requested

Approve budget amendment.

Item Presenter

None.

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023- 2024

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department:</u> Emergency Telephone Sys					
<u>Revenues:</u>					
Grant Proceeds	213527	422015		74,978	
 <u>Expenditures:</u>					
Capital Outlay	214527	537400		74,978	

Explanation:

Budget amendment for 911 Board PSAP Grant for portable radios approved by BOC on 2/5/2024.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



North Carolina 911 Board Portable Radio PSAP Grant.

Description

The Dare County Sheriff's Office requests to receive a zero match, reimbursable grant for nine portable radios at the 911 Center.

Board Action Requested

Approval.

Approved

Item Presenter

Sheriff J. D. "Doug" Doughtie

Amylve Foley, Clerk to the Board

215124



2023 Portable Radio PSAP Grant Application

PSAP Name: Regional Communications Dare, Hyde, Tyrrell

PSAP Contact Name: Captain Jack Scarborough

PSAP Contact Email: jacks@darenc.gov

PSAP Contact Phone Number: 252-475-5705

PSAP Address: 370 Airport Rd Manteo NC 27954

Date: 8/28/2023

Number of Board-approved seats: 9

*Please double click in the cell to open the table. Once complete, close out the table to transfer data. ***The number of radios requested cannot exceed the number of Board-approved seats in the Primary PSAP.*

Types of Radio Requested	Number of Radios	Per Radio Cost	Total funds requested
Motorola APX6000 700/800mhz	0	\$5,846.15	\$0.00
Motorola APX8000 700/800mhz/VHF/UHF Multiband	9	\$8,330.89	\$74,978.01
Tait TP9400 700/800mhz/VHF/UHF Multiband	0	\$3,154.50	\$0.00
Tait TP9600 700/800mhz/VHF/UHF Multiband	0	\$3,627.75	\$0.00
EF Johnson-Kenwood VP5000 700/800mhz	0	\$2,756.66	\$0.00
EF Johnson-Kenwood VP6000 700/800mhz	0	\$3,603.71	\$0.00
EF Johnson-Kenwood VP8000 700/800mhz/ VHF/UHF Multiband	0	\$5,498.91	\$0.00
Harris XL-45 700/800mhz	0	\$2,486.25	\$0.00
Harris XL-95 700/800mhz	0	\$3,874.25	\$0.00
Harris XL-150 700/800mhz	0	\$3,574.25	\$0.00
Harris XL-185 700/800mhz	0	\$4,729.00	\$0.00
Harris XL-200 700/800mhz	0	\$6,506.75	\$0.00
Harris XL-400 700/800mhz	0	\$10,991.75	\$0.00

By submitting this application, the above-named PSAP acknowledges and agrees to the following:



Budget Amendment - Oregon Inlet Administration

Description

Due to additional agency coordination and engineering associated with several new dredging permits received this fiscal year, additional funds are necessary to provide those services until June 30, 2024. Coastal Protection Engineering estimates an additional \$75,000 in costs. These expenses will be cost shared by the DEQ Shallow Draft Navigation Fund. Dare County Match: \$18,750. State Match: \$56,250. Available funds in the Oregon Inlet appropriated fund balance totals approximately \$877,000.

Board Action Requested

Approve Budget Amendment

Item Presenter

Barton Grover, Grants & Waterways Administrator

DARE COUNTY

BUDGET AMENDMENT

F/Y **2023- 2024**

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Revenues:</u>					
NCDEQ OI Maintenance	253571	427013	00773	56,250	
Appropriated Fund Balance	253571	499900		18,750	
 <u>Expenditures:</u>					
NCDEQ OI Maintenance	254571	559911	00773	75,000	

Explanation:

Additional costs associated with engineering and agency coordination as a result of new permits received. DEQ Shallow Draft Navigation Fund will match 75%.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



Budget Amendment-Baum Center

Description

A Budget Amendment is needed to account for increase in expected revenue for the 2024 Senior Games.

Board Action Requested

Approve Budget Amendment

Item Presenter

Robert Outten

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023- 2024

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department:</u>					
<u>Revenues:</u>					
Outer Banks Senior Games	103660	441135		7,000	
 <u>Expenditures:</u>					
Outer Banks Senior Games	104660	551605		7,000	

Explanation:

The sponsorship money from local businesses and residents was more than anticipated for the 2024 games. In addition, the registration fees increased from 2023 due to the 26% increase in older adult community participation.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



Sanitation Department - Budget Amendment

Description

Increase the container sales and container purchases by \$20,000 to allow for the purchase of 16 dumpsters.

Board Action Requested

Approve Budget Amendment

Item Presenter

Shanna Fullmer, Public Works Director

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023- 2024

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Sanitation</u>					
<u>Revenues:</u>					
Container Sales	243720	441301		20,000	
<u>Expenditures:</u>					
Container Purchases	244720	515500		20,000	

Explanation:

Increase the container sales and container purchases by \$20,000 to allow for the purchase of 16 dumpsters. This is the estimated number of dumpsters that we anticipate will be needed for the remainder of this fiscal year.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



Grant Certification - No Overdue Tax Debts

Description

North Carolina Department of Environmental Quality requires the attached No Overdue Tax Debt certification be submitted with grant applications, including applications for the Shallow Draft Navigation Fund. This form was previously signed in 2022 and NCDEQ has asked that an updated form be provided.

Board Action Requested

Approve

Item Presenter

Barton Grover, Grants & Waterways Administrator



County of Dare

Office of the Board of Commissioners

P.O. Box 1000 | Manteo, North Carolina 27954 | 252.475.5700

Robert Woodard
Chairman

Wally Overman
Vice Chairman

Rob Ross
Steve House
Bea Basnight
Danny Couch
Ervin Bateman

Robert L. Outten
County Manager / Attorney

Skyler Foley
Clerk to the Board

State Grant Certification – No Overdue Tax Debts¹

Dare County

May 7, 2024

To: State Agency Head and Chief Fiscal Officer

Certification:

We certify that the Dare County does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23(c) is guilty of a criminal offense punishable as provided by N.C.G.S.) 143C-10-1b.

Sworn Statement:

Robert Woodard Sr. and David Clawson being duly sworn, say that we are the Board Chair and Finance Director, respectively, of Dare County in the State of North Carolina; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

Board Chair Signature

Second Authorizing Official Signature

Board Chair Printed Name

Second Authorizing Official Printed Name

Date Signed

Date Signed

Notary: Sworn to and subscribed before me on the day of the date of said certification.

(Notary Signature and Seal)

My Commission Expires: _____

¹ G.S. 105-243.1 defines: Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement."



*Health & Human Services - Public Health Division
Partnership to Improve Community Health – Increasing Healthy Food Access Grant*

Description

The Public Health Division has received a mini-grant from Albemarle Regional Health Center titled Partnership to Improve Community Health-Youth Involvement in Increasing Healthy Food Access in Northeastern North Carolina. The goal for this mini-grant is to develop, implement, and evaluate healthy food access projects and to incorporate youth perspectives into action-oriented projects that improve healthy food access. The Peer Power program educators and high school students will work together to improve two community gardens. The high school students will mentor elementary & middle school student in developing and tending to the gardens. Funding will be used to purchase soil, seeds, fertilizer, gardening tools, building materials for garden beds and other necessary items for the community gardens.

Board Action Requested

Approve Budget Amendment

Item Presenter

N/A

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023-2024

	G/L Account Number			INCREASE	DECREASE
	Org	Object	Project		
Department: Human Services - Public Health					
<u>Revenues:</u>					
ARHC-PICH	103052	- 464724	- 53000	\$	5,000
<u>Expenses:</u>					
Supplies	104600	- 513300	- 53000	\$	5,000

Explanation:

Albemarle Regional Health Center Mini-Grant for Increasing Healthy Food Access. Funding will be used to purchase soil, seeds, fertilizer, gardening tools, building materials for garden beds and other necessary items for the community gardens.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____

From: **Emily Lewis** <emily.lewis@arhs-nc.org>

Date: Wed, Mar 20, 2024 at 1:02 PM

Subject: Dare County Mini Grant Proposal

To: Kelly Fleming <kelly.fleming@darenc.gov>

CC: Sheila Davies <Sheila.Davies@darenc.gov>, Roxana Ballinger <roxana.ballinger@darenc.gov>,

Michelle Wagner <michelle.wagner@darenc.gov>, Delrene Seegott <delrene@darenc.gov>

Hello,

I am happy to inform you that we have decided to fund your proposal request for the mini grant of \$5,000.

Please send me your W9 by no later than Monday 3/25 at 5pm so I can proceed to work on getting the check to you. Once that has been received, we will notify you when the check has been mailed out.

Congratulations! We look forward to seeing the outcome of the project.

Best,

Emily Lewis, MPH, RD, LDN, CHES

Nutritionist II/ Healthy Foods Coordinator

Albemarle Regional Health Services

Emily.Lewis@arhs-nc.org

Dare County Department of Health & Human Services Mini Grant Proposal

Rationale: Our project will help to increase healthy food access for students, their families, & community members by increasing food harvests at pre-existing community gardens. Students will learn the skills & knowledge necessary so they may also grow & cook their own food.

Youth involvement: High school students will take the lead and mentor elementary & middle school-aged students in developing/tending the gardens throughout the fall. Students will be responsible for creating recipe cards, using ingredients they have grown, to share with others.

Current healthy food access: According to Feeding America, in 2022 there were an estimated 6,000 individuals and children in Dare County who were considered food insecure. Data also shows that, when mentored, younger students are more likely to engage in healthier behaviors. This project will serve to not only increase youths' access to healthy foods, but also their desire.

Evaluating the success of the project: Tracking how many seeds are planted, what types of plants are growing and how many food items are harvested and distributed.

Agency leader's support: By providing the required staff and resources to the instructors.

Timeline for proposed project: *July/Early August:* Purchase soil, seeds, plants, mulch & fertilizer; building materials for garden beds, gardening tools, recipe cards; *Mid-August:* Garden prep at First Flight Elementary School; *Mid-August to Mid-September:* Planting; *Late October to Early November:* Harvesting and the creation of recipe cards

Budget and budget justification: Soil, seeds/plants, mulch, fertilizer- \$2,000; Building materials for garden beds- \$1,400; Gardening tools - \$500; Recipe card materials and printing - \$100; Transportation to Peace Garden - \$500; Contribution to Peace Garden materials during visit - \$500; Total- \$5,000

Partnership to Improve Community Health – Youth Involvement in Increasing Healthy Food Access in Northeastern North Carolina

Overall Goal:

Do you have innovative ideas for involving youth in your area in increasing healthy food access? This request for proposals (RFP) is requesting project proposals to fund up to 15 mini-grants (maximum of \$5000) to northeastern North Carolina agencies to develop, implement, and evaluate healthy food access projects. For the purposes of this RFP, youth are defined as any children residing in the counties of interest who are 0 – 18 years of age.

The goal is to incorporate youth perspectives into action-oriented projects that improve healthy food access in northeastern North Carolina.

Types of Projects:

This funding opportunity would support the following types of activities, all of which must have a youth component:

- Projects on the individual-level such as culinary courses or local conferences on healthy food access.
- Projects on a policy and environmental-level, such as local county government involvement, advocacy, and policy change to improve healthy food access.
- Projects related to school or community gardens that involve youth.
- Projects related to enhancing local farmers' markets that involve youth.
- Provision of healthy food boxes or community-supported agriculture shares to local youth, along with recipes describing how to prepare the food.

Eligible Agencies:

- Any non-profit or for-profit agency in the following 18 Northeastern North Carolina counties: Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, Washington.
- There must be a youth component to all projects. This includes youth involvement in data collection, project planning, project evaluation, or other youth involvement.
- Individuals may not apply for this funding opportunity.

Funding Restrictions:

- Printing, postage, supplies, and small equipment purchase may be eligible for funding.
- Salaries, construction, large equipment, and paying off debt generally are not eligible for funding.

Process and Deadline for Applying:

- Interested agencies should submit a 1-page description of their project proposal.
- The proposal should be formatted as follows: 1-page, double-spaced, 12-point Calibri font, 1-inch margins.

- The proposal must include the following sections:
 - Rationale for the project (2-3 sentences)--Describe the reasons this project should be completed and how it will improve healthy food access in your area.
 - Description of youth involvement (2-3 sentences)--Describe how youth (any child ages 0 – 18 years) will be involved in the project.
 - A brief overview of current healthy food access, including data if possible.
 - Description of how the agency will evaluate the success of the project--Describe any ways you will evaluate the project, such as surveys or focus groups to determine impact, counts of numbers of individuals receiving services, or records of types of produce grown in a garden.
 - Description of agency leader's support (1 sentence)—Describe how the agency leader will support the proposed project.
 - Timeline for proposed project: Explain the planned timeline for completing the project.
 - Budget and budget justification – Include a line item budget and include the final amount requested, up to \$5000.
 - 1-page proposals must be submitted via email to Emily Lewis at emily.lewis@arhs-nc.org.
- Projects will be funded on a first come, first serve basis. However, all applications must be received by March 15, 2024.
- A review board will make funding decisions. Applicants will be notified of funding decisions within 3-weeks of submission.
- There will be an outside evaluation conducted by East Carolina University. Agencies must be willing to work with the outside evaluation project throughout the project period.
- All funding must be spent by November 30, 2024.
- A 1-page final report will be required by December 15, 2024.

Review Criteria:

- Funded projects must have a youth component.
- Funded projects must be from an agency located in one of the 18 counties of focus.
- Funded projects must address healthy food access.
- **Activities that promote systems and policy changes to improve healthy food access will receive funding priority.

Questions:

- Please contact Emily Lewis at emily.lewis@arhs-nc.org or call 252-338-4460 (this is a front desk number – ask for Emily Lewis and leave a voicemail and your call will be returned as promptly as possible).

In order to receive the funds, grantees will need to submit a completed W-9 form for their organization and a signed grant agreement (that ARHS will provide).



Motorola Service Agreement

Description

The Dare County Communications Division is requesting to continue the service agreement with Motorola Solutions.

Board Action Requested

Approval

Item Presenter

County Manager



500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-2502480
Contract Number:
Contract Modifier:

Date:01/26/2024

Company Name: DARE COUNTY NORTH CAROLINA
Attn:
Billing Address: PO BOX 1000
City, State, Zip: MANTEO , NC, 27954
Customer Contact: Jack Scarborough
Phone:

Required P.O. :
PO # :
Customer # :1011696286
Bill to Tag # :
Contract Start Date :01-Jul-2024
Contract End Date :30-Jun-2025
Payment Cycle :ANNUALLY

Qty	Service Name	Service Description	Extended Amt	
	SVC02SVC0201A	ASTRO SUA II UO IMPLEMENTATION SERVICES		
	SVC02SVC0344A	RELEASE IMPLEMENTATION TRAINING		
	SVC02SVC0007C	SITE MANAGEMENT-CUSTOM SOW		
	SVC02SVC0343A	RELEASE IMPACT TRAINING		
	SVC02SVC0021C	TOWER STRUCTURE MAINTENANCE-CUSTOM SOW		
	SVC04SVC0169A	SYSTEM UPGRADE AGREEMENT II		
	SVC02SVC0433A	ASTRO SUA II FIELD IMPLEMENTATN SVC		
	SVC02SVC0661A	SMARTNET/CONVENTIONAL INFRASTRUCTURE REPAIR		
	SVC01SVC1405C	NETWORK PREVENTATIVE MAINTENANCE-LEGACY		
	SVC02SVC0658A	SMARTNET/CONVENTIONAL TECH SUPPORT		
	SVC02SVC0659A	SMARTNET/CONVENTIONAL DISPATCH		
	SVC02SVC0667A	SMARTZONE ONSITE INFRA RESPONSE		
	SVC02SVC0350A	REPAIR 1 ADDL YR		
	SVC01SVC1105C	ASTRO CUSTOMER TECHNICIAN DISPATCH		
	SVC01SVC0032C	ASTRO NETWORK MONITORING-CTD		
	MSV01S02786A	ACS MANAGED SERVICES		
	SVC01SVC1410C	ONSITE INFRASTRUCTURE RESPONSE-STANDARD		
	SVC01SVC1102C	ASTRO DISPATCH SERVICE		
	LSV01S00712A	SUS REBOOT SUPPORT		
	LSV01S01109A	ASTRO SYSTEM ADVANCED PLUS PACKAGE		
		Subtotal - Recurring Services	\$49,795.95	597,551.43
		Subtotal - One-Time Event Services	\$0.00	\$0.00
		Total		597,551.43
				THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA

SPECIAL INSTRUCTIONS:



SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-2502480
Contract Number:
Contract Modifier:

I have received Applicable Statements of Work which describe the Services and cybersecurity services provided on this Agreement. Motorola's Terms and Conditions, including the Cybersecurity Online Terms Acknowledgement, are attached hereto and incorporate the Cyber Addendum (available at https://www.motorolasolutions.com/en_us/managed-support-services/cybersecurity.html) by reference. By signing below Customer acknowledges these terms and conditions govern all Services under this Service Agreement.

AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
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CUSTOMER (PRINT NAME)

MOTOROLA REPRESENTATIVE(SIGNATURE)	TITLE	DATE
------------------------------------	-------	------

Richard Lawson 3854979222

MOTOROLA REPRESENTATIVE(PRINT NAME)	PHONE
-------------------------------------	-------

Company Name : DARE COUNTY NORTH CAROLINA
Contract Number :
Contract Modifier :
Contract Start Date : 01-Jul-2024
Contract End Date : 30-Jun-2025



SERVICE AGREEMENT

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Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-2502480
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Service Terms and Conditions

Motorola Solutions Inc. ("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

Section 1. APPLICABILITY

These Maintenance Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION

2.1 "Agreement" means these Maintenance Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Maintenance Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2 "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3 "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE

Customer accepts these Maintenance Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES

4.1 Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2 If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3 If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4 All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5 Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6 If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7 Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this.

Section 5. EXCLUDED SERVICES

5.1 Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.

5.2 Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.



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(888) 325-9336

Quote Number : QUOTE-2502480
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Contract Modifier:

Section 6. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for those charges and expenses.

Section 7. CUSTOMER CONTACT

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

Section 8. INVOICING AND PAYMENT

8.1 Customer affirms that a purchase order or notice to proceed is not required for the duration of this service contract and will appropriate funds each year through the contract end date. Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date.

8.2 Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity. The Customer will pay all invoices as received from Motorola. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

8.3 For multi-year service agreements, at the end of the first year of the Agreement and each year thereafter, a CPI percentage change calculation shall be performed using the U.S. Department of Labor, Consumer Price Index, all Items, Unadjusted Urban Areas (CPI-U). Should the annual inflation rate increase greater than 3% during the previous year, Motorola shall have the right to increase all future maintenance prices by the CPI increase amount exceeding 3%. All items, not seasonally adjusted shall be used as the measure of CPI for this price adjustment. Measurement will take place once the annual average for the new year has been posted by the Bureau of Labor Statistics. For purposes of illustration, if in year 5 the CPI reported an increase of 8%, Motorola may increase the Year 6 price by 5% (8%-3% base).

Section 9. WARRANTY

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION

10.1 If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2 Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

10.3 If the Customer terminates this Agreement before the end of the Term, for any reason other than Motorola default, then the Customer will pay to Motorola an early termination fee equal to the discount applied to the last three (3) years of Service payments for the original Term.

Section 11. LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement.



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ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1 This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.

12.2 Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order, acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

13.1 Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2 Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3 This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property, including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

Section 15. COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

Section 16. MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

Section 17. GENERAL TERMS

17.1 If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2 This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed.

17.3 Failure to exercise any right will not operate as a waiver of that right, power, or privilege.



SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
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17.4 Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5 Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6 Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event.

17.7 THIS AGREEMENT WILL RENEW, FOR AN ADDITIONAL ONE (1) YEAR TERM, ON EVERY ANNIVERSARY OF THE START DATE UNLESS EITHER THE COVER PAGE SPECIFICALLY STATES A TERMINATION DATE OR ONE PARTY NOTIFIES THE OTHER IN WRITING OF ITS INTENTION TO DISCONTINUE THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. At the anniversary date, Motorola may adjust the price of the Services to reflect its current rates.

17.8 If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

17.9 This Agreement may be executed in one or more counterparts, all of which shall be considered part of the Agreement. The parties may execute this Agreement in writing, or by electronic signature, and any such electronic signature shall have the same legal effect as a handwritten signature for the purposes of validity, enforceability and admissibility. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document.

Revised Sept 03, 2022



SERVICE AGREEMENT

500 W Monroe Street
Chicago, IL. 60661
(888) 325-9336

Quote Number : QUOTE-2502480
Contract Number:
Contract Modifier:

Cybersecurity Online Terms Acknowledgement

This Cybersecurity Online Terms Acknowledgement (this "Acknowledgement") is entered into between Motorola Solutions, Inc. ("Motorola") and the entity set forth in the signature block below ("Customer").

1. Applicability and Self Deletion. This Cybersecurity Online Terms Acknowledgement applies to the extent cybersecurity products and services, including Remote Security Update Service, Security Update Service, and Managed Detection & Response subscription services, are purchased by or otherwise provided to Customer, including through bundled or integrated offerings or otherwise.

NOTE: This Acknowledgement is self deleting if not applicable under this Section 1.

2. Online Terms Acknowledgement. The Parties acknowledge and agree that the terms of the *Cyber Subscription Renewals and Integrations Addendum* available at <http://www.motorolasolutions.com/cyber-renewals-integrations> are incorporated in and form part of the Parties' agreement as it relates to any cybersecurity products or services sold or provided to Customer. By signing the signature block below, Customer certifies that it has read and agrees to the provisions set forth and linked on-line in this Acknowledgement. To the extent Customer is unable to access the above referenced online terms for any reason, Customer may request a paper copy from Motorola. The signatory to this Acknowledgement represents and warrants that he or she has the requisite authority to bind Customer to this Acknowledgement and referenced online terms.

3. Entire Agreement. This Acknowledgement supplements any and all applicable and existing agreements and supersedes any contrary terms as it relates to Customer's purchase of cybersecurity products and services. This Acknowledgement and referenced terms constitute the entire agreement of the parties regarding the subject matter hereof and as set out in the referenced terms, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter.

4. Execution and Amendments. This Acknowledgement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Acknowledgement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The Parties hereby enter into this Acknowledgement as of the last signature date below.

Revised Sept 03, 2022



Dropcounter Subscription for Water User Customer Portal

Description

Customer Portal will allow customers to interact directly with their water accounts and be alerted to leaks or troubles with their water services.

Board Action Requested

Approve Dropcounter subscription

Item Presenter

William Nash



**DROPCOUNTR, INC.
PLATFORM SERVICES AGREEMENT**

Order Form

Utility: Dare County	Primary Contact: William Nash
	Phone / Email: (252) 475-5606 / william.nash@darenc.gov
Address: 954 Marshall C. Collins Drive	Billing Contact: Jessica King
PO Box 1000	Phone / Email: (252) 475-5601 / jessica.king@darenc.gov
Manteo, NC 27954	

Start Date: July 1, 2024

Initial Subscription Term: 36 months

Implementation Services	One-time Fee*
Base Platform Implementation (Exhibit D Phases 1-2)	\$9,400

* Implementation Fees will be invoiced at the Start Date of the Agreement.

Platform Services Subscription Plan	Fee Per-Metered Connection	Metered Connections	Annual Fees**
Base Platform: Subscription (Exhibit D Phase 3)	\$1.30	20,500	\$26,650
API Maintenance	NA	NA	\$3,200
Irrigation INSIGHT: Subscription	\$0.30	20,500	\$6,150

**The Annual Fees will be invoiced on the Go-Live Date of the Services

Agreement

This Order Form, together with the attached Dropcountr, Inc. Terms of Service and other attachments listed below, form the Platform Services Agreement ("**Agreement**") between Dropcountr, Inc., with an address of 40 E Rio Salado Parkway #535, Tempe, AZ 85281 ("**Dropcountr**"), and the customer identified above ("**Utility**"). This Agreement contains, among other things, warranty disclaimers, liability limitations and use limitations. This Agreement is effective upon signature of the parties. Utility's subscription will begin on the start date indicated above or, if later, on the date of signature. Any conflicting or additional terms in any purchase order or similar form not expressly incorporated into this Agreement will be without effect.

Attachments Made Part of Agreement

- **Exhibit A:** Dropcountr, Inc. Terms of Service
- **Exhibit B:** Service Level Agreement
- **Exhibit C:** Support Terms
- **Exhibit D:** Statement of Work

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act. 3/6/2024

Sally Detosse

Dropcountr

County of Dare

By: _____
 Print Name: _____
 Title: _____
 Date: _____

By: _____
 Print Name: _____
 Title: _____
 Date: _____

EXHIBIT A

DROPCOUNTR, INC.

Terms of Service

(last updated March 26, 2020)

1. DEFINITIONS. Any capitalized terms used but not defined in these Dropcountr, Inc. Terms of Service (“**Terms of Service**”) will have the meanings (if any) specified in the Order Form or SOW (each as defined below). In addition, the following definitions apply.

1.1. “**Authorized User**” means an individual employee of Utility who has been assigned unique credentials to access and use the Platform Services, whether or not that individual is accessing or using the Platform Services at any particular time.

1.2. “**CLEAR Platform**” means the Dropcountr water analytics software platform designed for commercial use by water utilities.

1.3. “**Customer**” means a customer that has a water utility account serviced by Utility.

1.4. “**Customer Data**” means any data associated with a Customer, including as may be inputted or uploaded to the Platform Services.

1.5. “**Fees**” means the Set-up Fee and Subscription Fee.

1.6. “**HOME Application**” means Dropcountr’s end-user facing application that provides water usage and other information to customers of a water utility.

1.7. “**Order Form**” means the order form executed by Utility and Dropcountr that specifies the subscription plan being purchased by the Utility and incorporates these Terms of Service.

1.8. “**Platform Services**” means the CLEAR Platform and HOME Application included in the Utility’s subscription plan, as specified in the Order Form and any SOW.

1.9. “**SOW**” means a statement of work or other service addendum that may be agreed upon by the parties in reference to this Agreement, including as may be attached hereto as **Exhibit D**.

1.10. “**Utility**” means the water utility identified on the Order Form.

1.11. “**Utility Data**” means (i) Utility’s proprietary data, if any, that its Authorized Users upload or input into the CLEAR Platform or HOME Application, and (ii) as applicable, Customer Data and other data obtained by

Utility from third parties in connection with this Agreement.

2. PLATFORM SERVICES SUBSCRIPTION

2.1. Authorization. Subject to Utility’s compliance with the terms and conditions of this Agreement, including Utility’s obligation to pay all applicable Fees, Dropcountr will (i) permit Utility to access and use the CLEAR Platform, solely for Utility’s internal business purposes, and (ii) permit Utility to access and use the HOME Application, and to offer and make available the HOME Application to its Customers, in accordance with any SOW or relevant Dropcountr end-user documentation.

2.2. Authorized Users. Authorized Users may exercise the rights granted to Utility hereunder on Utility’s behalf; provided, however, that Utility will ensure that all Authorized Users comply with the applicable terms and conditions of these Terms of Service, and Utility will be responsible for the Authorized Users’ acts or omissions in relation to the Platform Services as if they were Utility’s own acts or omissions. Authorized Users may not share their access credentials with any other individuals.

2.3. Service Capacity. Utility’s and its Authorized Users’ use of the Platform Services, and Utility’s right to offer and make available the HOME Application to its Customers, is limited to that number of metered connections indicated on the Order Form (the “**Service Capacity**”), and is subject to such other usage limitations as may be set forth therein or in the SOW.

2.4. Utility Responsibilities. Utility is responsible for (i) maintaining the confidentiality of any user IDs, passwords and other credentials associated with Utility’s account, (ii) all activities that occur with respect to Utility’s account, and (iii) its and its Authorized Users’ use of the Platform Services and compliance with this Agreement, SOW, Dropcountr’s relevant end user documentation, and all applicable laws, regulations, and rights of third parties. Except for resources that Dropcountr expressly agrees to provide under the Order Form or SOW, Utility is responsible for procuring and maintaining all computer hardware and software, equipment, internet connectivity, and other ancillary services and resources necessary for it and its Authorized Users to connect to and make use of

the Platform Services, and for ensuring the security of the foregoing.

2.5. **Restrictions.** Utility will not, and shall ensure that its Authorized Users do not: (i) copy, reproduce, modify, decompile, disassemble, or reverse engineer the Platform Services or any associated software or materials (except to the extent that applicable law prohibits or restricts reverse engineering restrictions); (ii) except as expressly authorized herein with respect to making the HOME Application available to Customers, provide any third parties with access to any of the Platform Services, lease, distribute, sublicense, sell or otherwise commercially exploit the Platform Services, or use any of the Platform Services for time sharing or similar purposes for the benefit of any third party; (iii) remove any copyright or proprietary notices contained in the Platform Services or any output thereof; (iv) breach, disable or tamper with, or develop or use (or attempt) any workaround for, any security or authentication measures provided or used by the Platform Services; (v) access the Platform Services via any bot, web crawler or non-human user; (vi) access or use (or permit a third party to access or use) the Platform Services for any unlawful purpose or for purposes of monitoring the availability, performance or functionality of the Platform Services or for any other benchmarking or competitive purposes; or (vii) upload or process any data or content that infringes the intellectual property rights, rights of privacy or publicity, or other proprietary rights of any third party, or that contains any malware, viruses, Trojan horses, spyware, worms, or other malicious or harmful code.

2.6. **Monitoring.** Although Dropcountr has no obligation to monitor Utility's or any Customer's use of the Platform Services or any portion thereof, Dropcountr may do so and may prohibit any use of the Platform Services that it believes may be, or is reasonable likely to be, in violation of the provisions of Section 2.5.

2.7. **Technical Support.** Subject to the terms and conditions of this Agreement, Dropcountr will provide Utility with technical support services in accordance with the terms set forth in **Exhibit C**.

3. PLATFORM AND DATA SECURITY

3.1. **Security Measures.** Dropcountr will employ commercially reasonable data security procedures and other safeguards to protect against the unauthorized accessing, use, destruction, corruption, loss or alteration of the Platform Services and any Utility Data or Customer Data stored on Dropcountr's servers.

3.2. **Notification.** Dropcountr will use commercially reasonable efforts to promptly notify Utility of any material breach of security with respect to any Utility Data or Customer Data.

4. IMPLEMENTATION

4.1. **Implementation of Platform Services.** Subject to Utility's compliance with the terms and conditions of this Agreement, including its obligations under this Section 4, Dropcountr shall use commercially reasonable efforts to promptly implement and make available the Platform Services to Utility and to provide such implementation services as may be set forth in any SOW (collectively, the "**Implementation Services**").

4.2. **Utility Obligations.** To facilitate Dropcountr's performance of the Implementation Services, Utility shall promptly provide to Dropcountr all information, resources and access as set forth on the Order Form or an applicable SOW, or as may be otherwise requested by Dropcountr in its reasonable discretion. Additionally, Utility agrees to provide such further cooperation and assistance as Dropcountr may reasonably request from time to time. Utility shall designate in writing an individual who will be Dropcountr's primary point of contact for matters relating to the implementation of the Platform Services. The parties agree that Dropcountr shall not be liable for any failure to perform its obligations under this Agreement to the extent it is caused by a breach of this Section 4.2.

4.3. **End User License Agreement.** Utility acknowledges that any use of or access to the HOME Application, including by Utility and its Customers, is subject to the terms of Dropcountr's then-current HOME End User License Agreement (the "**EULA**"), which must be accepted by users prior to access.

5. TERM AND TERMINATION

5.1. **Duration and Renewal.** Unless terminated as provided below, this Agreement will remain in effect throughout the initial subscription term specified in the Order Form (the "**Initial Term**") and may be renewed upon mutual agreement of the parties (a "**Renewal**").

5.2. **Termination.** A party may terminate this Agreement for a material breach by the other party, which remains uncured more than 30 days after receiving written notice of the breach, except that, where such material breach is the nonpayment of Fees by Utility, Dropcountr may terminate immediately upon notice. Either party may also terminate this Agreement immediately upon notice to the other party in the event that that Utility's governing body

does not appropriate funds to make the payments hereunder in a Utility's fiscal year budget.

5.3. Effect of Termination. Upon the expiration or termination of this Agreement: (i) all rights and platform subscriptions granted to Utility under this Agreement will terminate and Utility will cease using any and all components of the Platform Services; (ii) Dropcountr will cease making the HOME Application accessible to Customers; (iii) each party will, upon request, promptly return to the other party all Confidential Information of the other party in its possession or control; and (iv) Utility will, within thirty (30) days after receipt of Dropcountr's invoice, pay all accrued and unpaid fees and expenses. Upon any termination of this Agreement, Dropcountr will make all Utility Data and Customer Data on Dropcountr's servers available to Utility for electronic retrieval for a period of thirty (30) days, but thereafter Dropcountr may, but is not obligated to, delete all such stored Utility Data or Customer Data.

5.4. Survival. The following provisions will survive expiration or termination of this Agreement: Sections 2.2, 2.4, 2.5, 4.2 (last sentence only), 5.4, 5.4, 6 (to the extent of any outstanding payments), 7, 8, 10, 11, 12, and 13.

6. FEES AND PAYMENT

6.1. Fees. In consideration for Dropcountr providing the Implementation Services and Platform Services, Utility shall pay to Dropcountr the corresponding fees set forth in the Order Form, which shall include a one-time implementation fee (the "**Set-up Fee**") and an annual subscription fee (the "**Subscription Fee**"). In the event Utility use of the Platform Services is in excess of the Service Capacity, Utility shall be billed for such additional usage and agrees to pay, upon invoice by Dropcountr and in the manner provided herein, such additional charges.

6.2. Invoices; Payment. All Fees accruing hereunder will be billed in advance. The one-time Set-Up Fee will be billed on the Effective Date. The Subscription Fee will be first billed on the Effective Date, and thereafter will be billed annually on each anniversary of the Effective Date occurring in the term of this Agreement. Dropcountr may choose to bill through invoices, in which case full payment for any invoice must be received by Dropcountr within thirty (30) days after the mailing date of such invoice. Overdue payments will accrue interest at the rate of 1.5% per month or the highest rate of interest allowed by law, whichever is lower. Utility will further be liable for, and shall to pay to Dropcountr promptly upon demand, all expenses of collection. Failure to timely pay any amounts

due hereunder may result in immediate termination of the Agreement.

6.3. Taxes. The Fees and any other charges specified in this Agreement are exclusive of taxes, duties, levies, tariffs, and other governmental charges (including, without limitation, VAT) (collectively, "**Taxes**"). Utility shall be responsible for payment of all Taxes and any related interest and/or penalties resulting from any payments made hereunder, other than any taxes based on Dropcountr's net income.

7. OWNERSHIP

7.1. Dropcountr IP. As between Dropcountr and Utility, Dropcountr shall own all right, title and interest in and to (i) the Platform Services and all software and other technologies embodied in or used to provide the Platform Services, including all improvements, enhancements, or modifications thereto, (ii) any updates, improvements, enhancements, derivative works, other materials, processes, or know-how based on or relating to the Platform Services, or as otherwise may be utilized or created by Dropcountr in performance of its obligations hereunder, and (iii) all intellectual property rights relating to any of the foregoing. If Dropcountr performs any development work in relation to the Platform Services, whether or not pursuant to a SOW, and including any customizations or modifications that Dropcountr may make in response to Utility's requests or suggestions, Dropcountr solely retains all intellectual property rights arising from such development work.

7.2. Utility Data. As between Dropcountr and Utility, the Utility Data, and all intellectual property rights therein or relating thereto, are and shall remain the exclusive property of Utility.

7.3. Customer Data. Utility agrees to (i) obtain all third-party consents or approvals that may be necessary for the collection, use and transmission of the data, including Customer Data and Utility Data, sent to or used in the operation of the Platform Services and for all of Dropcountr's activities contemplated by this Agreement in relation to such data; and (ii) comply with all applicable laws and regulations with respect to Utility's use of the Platform Services and provision of data with respect thereto, including without limitation those pertaining to privacy, data security, and publicity. As between Utility and Dropcountr, Utility will be solely responsible for the foregoing matters.

7.4. Use of Utility Data. Notwithstanding anything herein or in the Order Form or any SOW to the contrary,

Utility grants to Dropcountr the perpetual right to, among other things, examine, use, extract, model, manipulate, collate, analyze, create analysis using, reproduce and otherwise use any data (including Utility Data and Customer Data) or other information which it learns, acquires or obtains in connection with the performance of its obligations hereunder, within the scope of its regular business operations, including developing or operating data sets, algorithms or other analytical tools, or testing, implementing, integrating, developing or improving its products and services, and distributing or otherwise making available Dropcountr products and services to its customers.

7.5. Feedback. To the extent that Utility provides Dropcountr with any suggestions, feature requests, evaluation results, feedback, or other input in relation to any aspect of the Platform Services (collectively, “**Feedback**”), Utility hereby assigns and agrees to assign to Dropcountr all right, title and interest in and to such Feedback, including any intellectual property rights therein, and agrees that Dropcountr will be free to use such Feedback in any manner, including by implementing such Feedback in the Platform Services and/or Dropcountr’s other technologies, products and services, without compensation or other obligations to Utility.

8. CONFIDENTIALITY

8.1. Obligations. “**Confidential Information**” means (subject to the exclusions below) any non-public information relating to or disclosed in the course of the Agreement that should be reasonably understood to be confidential. The receiving party will use the same care to protect Confidential Information as it uses for its own similar information, but no less than reasonable care, will not disclose Confidential Information to any third party without prior written authorization, and will use Confidential Information only for the purpose of fulfilling its obligations or exercising its rights expressly granted under this Agreement. Except as otherwise provided herein, including with respect to Dropcountr’s use of Utility Data and Customer Data consistent with Section 7.4, the receiving party will promptly return or destroy the other party’s Confidential Information upon request.

8.2. Exclusions. Confidential Information does not include information that: (i) is or becomes publicly available through no fault of the receiving party; (ii) was already in possession of the receiving party without confidentiality restrictions at the time of receipt from the other party, as evidenced by written records; or (iii) was independently developed by the receiving party without

violation of this Section 8. If a receiving party is required to disclose Confidential Information by law, the receiving party will promptly notify the disclosing party and reasonably cooperate with its efforts to limit or protect the required disclosure, but will otherwise not be in violation of this Section on account of making the required disclosure.

9. SERVICE LEVEL AGREEMENT. If Utility’s subscription includes service-level commitments, and the Order Form or SOW accordingly specifies that Dropcountr’s Service Level Agreement is part of this Agreement, Utility will be entitled to the commitments and remedies set forth in such Service Level Agreement as attached hereto as **Exhibit B**. The remedies expressly provided in the Service Level Agreement are Utility’s sole and exclusive remedy, and Dropcountr’s entire obligation, with respect to any service-level violation.

10. DISCLAIMER.

10.1. Data Accuracy. The parties acknowledge and agree that the quality, accuracy and completeness of results obtained from the use of the Platform Services is dependent upon the quality, accuracy and completeness of available data, including Utility Data and Customer Data and other data that may be provided by third parties. Unless otherwise agreed to in the Order Form or SOW, Utility shall be solely responsible for providing or otherwise securing from third parties (including AMI Vendors, as defined in Exhibit D) all data necessary for the proper operation of the Platform Services. Notwithstanding the foregoing or anything herein to the contrary, Dropcountr shall have no obligation or liability whatsoever with respect to any error, incompleteness or other deficiencies with respect to such data obtained from Utility or any third party, or any results generated by the Platform Services on the basis thereof.

10.2. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT (AND WITHOUT LIMITING REMEDIES TO WHICH UTILITY MAY BE ENTITLED UNDER THE SERVICE LEVEL AGREEMENT, IF APPLICABLE), DROPCOUNTR HEREBY DISCLAIMS, TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PLATFORM SERVICES AND IMPLEMENTATION SERVICES, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE AND TRADE USAGE. DROPCOUNTR DOES NOT MAKE ANY REPRESENTATIONS RELATING TO UTILITY’S OR ANY

CUSTOMER'S USE OF THE PLATFORM SERVICES SUCH AS ANY REPRESENTATIONS THAT THE USE OF THE PLATFORM SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE, OR THAT THE PLATFORM SERVICES WILL MEET UTILITY'S OR ANY CUSTOMER'S REQUIREMENTS, OR THAT ALL ERRORS IN THE PLATFORM SERVICES WILL BE CORRECTED OR THAT ANY THIRD PARTY SYSTEM THAT MAKES THE PLATFORM SERVICES AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT (AND WITHOUT LIMITING REMEDIES TO WHICH UTILITY MAY BE ENTITLED UNDER THE SERVICE LEVEL AGREEMENT, IF APPLICABLE), THE PLATFORM SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED TO UTILITY ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ARE FOR INTERNAL COMMERCIAL USE ONLY. UTILITY ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE PLATFORM SERVICES ARE ACCURATE OR SUFFICIENT FOR UTILITY'S PURPOSES.

11. Intentionally Omitted.

12. LIMITATION OF LIABILITY

12.1. Waiver of Certain Damages. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BUT EXCEPT WITH RESPECT TO ANY BREACH OF THE PARTIES' OBLIGATIONS UNDER SECTION 8 OR BREACH OF UTILITY'S OBLIGATIONS UNDER SECTION 2.5, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES, OR FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS OR INFORMATION, OR COSTS OF PROCURING SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE PLATFORM SERVICES TO BE PROVIDED HEREUNDER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2. Liability Cap. EXCEPT FOR THE SPECIFIC SITUATIONS OUTLINED BELOW, THE TOTAL LIABILITY OF DROPCOUNTR FOR DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FEES PAID BY UTILITY TO DROPCOUNTR UNDER THIS AGREEMENT IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. FOR DAMAGES ARISING FROM OR RELATED TO (I) DROPCOUNTR'S BREACH OF ITS SECURITY OBLIGATIONS UNDER SECTION 3; (II) CONFIDENTIALITY OBLIGATIONS UNDER SECTION 8.1; OR (III) ANY CLAIMS THAT THE PLATFORM SERVICES INFRINGE ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS; DROPCOUNTR'S LIABILITY SHALL NOT EXCEED FIVE TIMES (5X) THE AMOUNT OF FEES PAID BY UTILITY TO DROPCOUNTR

UNDER THIS AGREEMENT IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

13. MISCELLANEOUS

13.1. Assignment. Utility may not assign this Agreement without Dropcountr's prior written consent, which will not be unreasonably withheld. Any attempt by Utility to assign this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

13.2. Force Majeure. Neither party shall be liable for any delay or failure in performance (other than non-payment of amounts owing) due to causes beyond its reasonable control.

13.3. Export Compliance. Utility agrees to comply fully with all relevant export laws and regulations of the United States and other applicable jurisdictions to ensure that neither the Platform Services, nor any direct product thereof, are: (i) exported or re-exported directly or indirectly in violation of such export laws and regulations; or (ii) used for any purposes prohibited by the such export laws and regulations.

13.4. Government Rights. If Utility is the U.S. government or any agency or other division thereof, Dropcountr's services are furnished under this Agreement as a "commercial item," as that term is defined and used in the U.S. Code of Federal Regulations (48 C.F.R. § 2.101) and other applicable regulations, and the government's rights with respect to the services (and to any associated software, technical data or other materials) are limited to those expressly granted in this Agreement.

13.5. Severability. If any part of this Agreement is held to be unenforceable or invalid, in whole or in part, by a court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect, and the provision affected will be construed so as to be enforceable to the maximum extent permissible by law.

13.6. Waiver. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach of that or any other provision.

13.7. Notices. All notices permitted or required under this Agreement shall be in writing, will reference this Agreement, and shall be delivered in person, by overnight courier or express delivery service, or by first class, registered or certified mail, postage prepaid, or by

confirmed email delivery, to the address of the party specified on the Order Form or such other address as either party may specify in writing. Such notice shall be deemed to have been given upon receipt.

13.8. Governing Law. This Agreement will be governed by both the substantive and procedural laws of North Carolina, excluding its conflict of law rules and the United Nations Convention for the International Sale of Goods.

13.9. Entire Agreement. Any amendment or modification to the Agreement must be in writing signed by both parties. This Agreement constitutes the entire agreement and supersedes all prior or contemporaneous oral or written agreements regarding the subject matter hereof.

13.10. Counterparts. This Agreement may be executed in counterparts, including by electronic transmission, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

EXHIBIT B

Service Level Agreement

This Service Level Agreement (“SLA”) pertains to the Platform Services Agreement to which it is attached between Dropcountr and Utility. All capitalized terms not defined herein shall have the meanings given to them in the Platform Services Agreement.

Scheduled Maintenance

Dropcountr may conduct maintenance and upgrades at any time upon forty-eight (48) hours’ notice to Utility (“**Scheduled Maintenance**”), which may cause the Platform Services to be temporarily unavailable. If Dropcountr anticipates that downtime will occur during any Scheduled Maintenance, Dropcountr will use commercially reasonable efforts to notify Utility in advance. Dropcountr will use commercially reasonable efforts to perform all Scheduled Maintenance during non-peak hours in an effort to limit disruption to Utility. Notwithstanding the foregoing, Dropcountr shall not be required to give advance notice of, or delay to non-peak hours, any maintenance required to address critical time-sensitive issues, where waiting to perform maintenance may pose a risk to Dropcountr’s platforms, systems, or data.

Service Availability

Dropcountr will use commercially reasonable efforts to make the Platform Services available 99.9% of the time as measured on a monthly basis, excluding downtime for Scheduled Maintenance.

Service Credits

For any month in which the service availability (calculated as described above) falls below the commitment of 99.9%, Dropcountr will owe Utility an availability credit in accordance with the schedule below:

Service Availability	% of Imputed Monthly Fee to be Credited Against Next Monthly Fee**
99.9% or greater	0%
99.5% up to 99.9%	5%
99.0% up to 99.5%	10%
98.0% up to 99.0%	20%
97.0% up to 98.0%	30%
95.0% up to 97.0%	40%
Less than 95.0%	50%

** Credit will be calculated by (a) dividing the annual Subscription Fee paid by 12 months; and (b) applying the indicated percentage to the resulting imputed monthly fee.

EXHIBIT C

Support Terms

These Support Terms pertain to the Platform Services Agreement to which it is attached between Dropcountr and Utility. All capitalized terms not defined herein shall have the meanings given to them in the Platform Services Agreement.

Technical Support

Dropcountr will provide technical support to Utility via email during weekdays between 8:00am and 5:00pm Pacific Time, with the exclusion of Federal Holidays (“**Support Hours**”).

Utility may initiate a helpdesk ticket during Support Hours by emailing support@dropcountr.com.

Dropcountr will use commercially reasonable efforts to respond to all helpdesk tickets within two (2) business days.

EXHIBIT D

Statement of Work

This Statement of Work (“**SOW**”) pertains to the Platform Services Agreement to which it is attached between Dropcountr and Utility. All capitalized terms not defined herein shall have the meanings given to them in the Platform Services Agreement.

This SOW includes three key phases: (1) Program Setup, (2) Program Implementation and (3) Program Management.

Program Setup (Phase 1)

Data Transfer

Dropcountr will engage with Utility staff to review and select from among Dropcountr’s preferred data specification, format, transfer interval, and transfer options.

Dropcountr will ingest up to two (2) years of Customer Data, including hourly usage data, to develop historical trends and spatial comparisons for water usage. Dropcountr will ingest up to five (5) years of Customer Data, if the usage data interval is monthly or less. Customer Data shall include, but may not be limited to, account information, account type, and rebate program participation.

If Utility has contracted with an Advanced Meter Infrastructure vendor which can provide Dropcountr with secure access to Customer usage data via API (“**AMI Vendor**”), Dropcountr will coordinate with the AMI Vendor to receive hourly usage data, leak flags, and other relevant data that supports the SOW.

Training and Pre-Launch Testing

Dropcountr will create Authorized User accounts for Utility’s access and use of the Platform Services. Utility is entitled to an unlimited number of Authorized User accounts, and each account may have different administrative privileges due to differences in Authorized User roles and authority.

Using actual Customer Data, Dropcountr will conduct initial Authorized User training on the Platform Services using Zoom or a similar online webinar application. Training conducted using relevant Customer Data increases the efficacy of training, and also allows for QA/QC of data prior to public launch.

Detailed training materials will be provided to Utility, and are accessible online at any time. These materials include product guides, GIF tutorials, answers to frequently asked questions, and project manager contact information.

Marketing Outreach Consultation

Where permitted to do so, Dropcountr will provide recommendations and examples of marketing outreach campaigns used by other Dropcountr utility accounts. Dropcountr also grants to Utility, during the term of the Platform Services Agreement and for the sole and exclusive purpose of supporting Utility’s internal outreach efforts, a limited, revocable, non-transferable (except as otherwise expressly

agreed to in writing by Dropcountr), non-exclusive licenses to use, modify and display such key Dropcountr image assets and copy (e.g. event brochures, bill stuffers, webpage placement) as Dropcountr may provide to Utility from time to time, including as the same may include Dropcountr trademarks, trade names, services marks and logos (collectively, “**Dropcountr Materials**”). All use of Dropcountr Materials by Utility shall be in accordance with such trademark use and other policies as may be provided to Utility by Dropcountr from time to time, and subject to Dropcountr review and approval.

Program Implementation (Phase 2)

Email Marketing Engagement

Using Customer email and other contact information provided by Utility, Dropcountr will conduct three (3) Customer email campaigns.

These campaigns will consist of unique, account-specific emails which summarize monthly water use, provide a social norms-based comparison, present a call to action to sign up for the Dropcountr HOME program, and legitimize the relationship between Utility and Dropcountr. Each email will include the account name and account number for Customer convenience, and a direct link to the Dropcountr sign-up page.

Program Management (Phase 3)

Status Meetings

In order to ensure that the project remains on track, and to provide ample opportunity for feedback and insight from Utility, Dropcountr anticipates conducting bi-monthly status meetings. These meetings may be held by phone or webinar.

Supplemental Training

The Dropcountr project manager will provide supplemental training to Utility as reasonably requested, or when material updates to Platform Services are developed and deployed.



Cape Hatteras Electric Cooperative Contract for Burrus Field

Description

Contract to install and service two security lights at Burrus Field in Buxton, NC on existing light poles.

Board Action Requested

Approve Contract

Item Presenter

Bobby Outten, County Manager

Cape Hatteras Electric Cooperative

Security Light Agreement

Cape Hatteras EC agrees to the following terms:

- A. To purchase and install automatic security light system
- B. To bill the member for this service monthly per the existing rate schedule for the duration of the service
- C. To service the Security light during normal working hours

Member agrees to the following terms:

- A. To pay the monthly charge per the existing rate schedule for the duration of the security light service (minimum term 24 months), if service is discontinued during the 24 month period the member will be billed the remainder of their agreement charges with their next billing.
- B. To notify Cape Hatteras EC when any trouble develops with the security light

Mutually agreed the undersigned parties, this the 13 day of March, 2024

X

Member

Cape Hatteras Electric Cooperative

47059 Hwy 12
Buxton

Address

Jackie Jr

CHEMC Agent

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act. 4/8/2024

Sally Detesse

776-012

Account No.

2 - 44W SL on existing poles



SYSTEL BUSINESS EQUIPMENT CO., INC STATEMENT OF WORK

Description

Approval requested for five-year copier lease between Systel Business Equipment and Dare County Library.

Board Action Requested

Approval

Item Presenter

Meaghan Leenaarts Beasley - Dare County Librarian

Managed Print Services

Statement of Work (SOW)

Section I. Statement of Work Purpose

Systel Business Equipment Co., Inc. ("Systel") will provide to Dare County a Managed Print Services program. The program will provide office printing devices, all consumables (excluding paper), onsite service to install & configure devices, operational support of devices, receive and monitor service calls, provide consumables for replacement by agency, perform all maintenance and support, and provide reporting of usage per device. The goal of the program is to provide economical printing through device optimization while meeting departmental printing requirements. The Systel Project Team, including your locally assigned account manager, Eric Pritchard. The program is being offered based on GOVMVMT Contract Number: 0022025.

Section II. Responsibilities Expected of the Selected Vendor

Systel will provide Dare County with subject matter experts as needed to complete all required Project Management requirements as defined in Section VI.

Section III. Process Schedule

Release DRAFT SOW 3/8/2024

Final SOW TBD

Decision Date TBD

Install Date _____ Scheduled immediately after PO and signed SOW

Purchase order referencing the month in terms, price per page for mono and color, and pre-audit certification guidelines are required before equipment may be ordered by Systel.

Section IV. Proposal Contents and Organization

This Statement of Work (SOW) is between Dare County and Systel Business Equipment Co. Inc. ("Vendor" or "Contractor").

Solution Offering Overview

The Systel Solution offered will provide the county with multi-function devices to support your business needs.

Systel's team (identified below) will meet all requirements specified herein

Eric Pritchard	Account Manager
Ralph Autry	Regional Sales Manager
Justin Helmer	Service Manager
Shane Jordan	Primary Assigned Service Technician
Travis Pangle	Secondary Assigned Service Technician

Dare County will be assigned one primary technician to handle and resolve open issues on the devices offered under this contract on a priority basis as reported. Additional resources are available on an as needed basis and will be provided and coordinated through the Primary Assigned Technician and/or by the Service Manager.

Meter collection is required with this program. Systel will provide a data collection agent for the agency to utilize. If at any time the meter collection program is not reporting meters, the agency agrees that meters will be submitted to Systel in a timely manner to ensure billing accuracy.

Genuine manufacturer supplies will be provided for the term of this agreement based on manufacturer yields.

Proposed Future Fleet Strategy

Ricoh IM C3010 with fax & cabinet	Quantity of 3
Ricoh IM2500A with fax & cabinet	Quantity of 2

Cost Per Item per Device Type and Recommended Future State

Systel will provide Dare County with new devices configured as indicated above, all parts, consumables and labor to support copy and print capabilities, except for paper for the term of this agreement.

60-month Payment Terms

Payment amount of \$459 per month will be invoiced to cover the cost of equipment and will include 6,000 b/w pages to be shared across all 5 devices per month.

Overages will be billed at .007 b/w and color will be billed at .06 per page

Devices that fail or become unserviceable during the contracted term will be replaced with a device that has the same capabilities and is similar in speed, age, and condition or better at no additional cost to Dare County. Systel will add equipment as necessary for new needs that arise during the term of the contract. Devices relocations should be scheduled with **adequate notice*** with Systel. **Adequate notice*** is 48 hours prior to the move. Emergency relocations required during the term of the contract may be chargeable by Systel, not to exceed \$79 per hour, and Systel will discuss and specify charges to be incurred at the time that the time the relocation is scheduled. Systel will request a purchase order number for any such service.

Temporary equipment may be supplied as necessary in the event of a disaster, there will be a flat \$150 delivery and pick-up fee if this should be necessary.

End of Life/Failure/Replacement Device Requirements

Upon request, all devices equipped with hard drives, placed as part of this agreement will be erased using factory procedures by trained Systel Representatives. Alternatively, for a fee of \$150 per hard drive, Systel will remove the hard drive and turn it over to Dare County for disposal when required. Upon request, Systel will provide Dare County a certificate to prove that all hard drives have been wiped to include serial number of each device.

Section V. Agency Requirements

1.0 Term of the Statement of Work

1.1 Effective Date

This contract is effective _____, or the date the Dare County obtains all required signatures.

1.2 Expiration Date

Contract expires **60 months** from the above effective date, or until obligations have been satisfactorily fulfilled, whichever is first. The contract expiration date is _____. The county may extend the term of the contract to month-to-month once the initial term has expired.

2.0 Vendor's Duties

The Vendor, will perform all duties as specified in Section III.

3.0 Vendor's Project Manager and Authorized Representative:

Name, Title	Eric Pritchard
Address	2801 North Croatan Hwy, Kill Devil Hills, NC 27949
Phone	252-489-8511
Email	eric.pritchard@systemloa.com

4.0 Dare County's Project Manager - Dare County's Project Manager for this SOW:

Name, Title	
Address	
Phone	
Fax	
Email	

Dare County's Project Manager, or his/her successor, will sign progress reports, review billing statements, make recommendations to Dare County's Authorized Representative for acceptance or rejection of Vendor's goods or services and make recommendations to Dare County's Authorized Representative for certification of payment of each Invoice submitted by Vendor.

5.0 Dare County's Authorized Representative for this Work Order Contract will be:

Name, Title	
Address	
Phone	
Fax	
Email	

Dare County's Authorized Representative or his/her successor, will monitor Vendor's performance and has the authority to accept or reject the services provided under this SOW.

6.0 Payment:

Invoices: Dare County will promptly pay the Vendor after the Vendor presents an itemized invoice for the services actually performed in an excel format by device. Each device will be assigned a departmental code, provided by Dare County. Systel will work with Dare County to identify the field level data to create a file compatible with the County financial system. Dare County will also receive master and departmental billing. Invoices must be submitted timely and according to the following schedule.

Notwithstanding any provision in this Agreement to the contrary, Systel and the Customer agree that in the event that the Customer has not appropriated sufficient funds for the services provided under this Agreement (and such appropriation was specifically required to pay the payments herein) and the funds are not otherwise available to Customer to pay for the services under this Agreement; and there is no other legal procedure by which payment can be made to Systel and the non-appropriation of funds did not result from any act or failure to act on the part of the Customer, Customer shall have the right to return the equipment to Systel (at Systel's expense, to a destination that Systel directs, in good working condition less normal wear and tear); and cancel this Agreement by notice to such effect served not less than thirty (30) days prior to the end of the Customer's fiscal year.

Upon such early cancellation Customer may not thereafter acquire functionally similar equipment or services for the full original term of this Agreement. In the event, subsequent to such early cancellation funds are made available to Customer for equipment and services which will provide services and functions which are in whole or part the same or similar to which the equipment and services was provided under this Agreement than Customer agrees at Systel's option to again acquire such services and equipment from Systel.

Systel will be the exclusive provider and servicer of multi-function equipment for Dare County for the contracted term herein. The county agrees that all equipment placed by Systel will remain in normal business use for the full term of the contract. Dare County will not enter into agreements for multi-function devices outside of this agreement with any other company besides Systel for the term. Systel will work with the county to add devices based upon departmental needs analysis as new requirements arise during the term of the agreement.

E-VERIFY. Vendor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if Vendor utilizes a subcontractor, Vendor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Pursuant to North Carolina General Statute § 143-133-3.(c)(2), contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment are exempt from this provision.

7.0 Agency Locations:

Dare County Locations to be covered under the Work Order are as follows:

Dare County Library

Systel Business Equipment Co., Inc.

Signature

Signature

Printed Name of Signatory

Printed Name of Signatory

Title

Title

Date

Date

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act, 4/8/2024

Sally DeRose



*North Carolina Governor's Highway Safety Program (G.H.S.P.)
Local Government Resolution*

Description

The Dare County Sheriff's Office requests to be approved to receive an award for the 2025 fiscal year for the Law Enforcement Traffic Safety Grant. [Personnel Overtime]

Board Action Requested

Approval

Item Presenter

Sheriff J. D. "Doug" Doughtie

North Carolina Governor's Highway Safety Program LOCAL GOVERNMENTAL RESOLUTION

WHEREAS, the Dare County Sheriff's Office (herein called the "Agency")

(The Applicant Agency)

has completed an application contract for traffic safety funding; and that Dare County Board of Commissioners

(The Governing Body of the Agency)

_____ (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE Dare County Board of Commissioners IN OPEN
(Governing Body)

MEETING ASSEMBLED IN THE CITY OF Manteo, NORTH CAROLINA,

THIS ____ DAY OF _____, 20 ____, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Edward Jack Scarborough is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ 25,000 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
(Name and Title of Representative)
(Federal Dollar Request)
3. That the Governing Body has formally appropriated the cash contribution of \$ 0.0 as required by the project contract; and
(Local Cash Appropriation)
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____
(Chairperson/Mayor)

ATTESTED BY _____
(Clerk)

SEAL

DATE _____

North Carolina Governor's Highway Safety Program
Agreement of Conditions

This Agreement is made by and between the North Carolina Department of Transportation, hereinafter referred to as the "Department", to include the Governor's Highway Safety Program, hereinafter referred to as "GHSP"; and the applicant agency, for itself, its assignees and successors in interest, hereinafter referred to as the "Agency". During the performance of this contract, and by signing this contract, the Agency agrees as follows:

A. Federal Provisions

1. **Equal Opportunity/Nondiscrimination.** The Agency will agree to comply with all Federal statutes and implementing regulations relating to nondiscrimination concerning race, color, sex, religion, national origin, handicaps, and age. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252);
 - (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601)
 - (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686);
 - (d) Non-Discrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), hereinafter referred to as "USDOT", as amended;
 - (e) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, and 49 CFR Part 27; and
 - (f) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.);
 - (g) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209);
 - (h) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) and 49 CFR parts 37 and 38;
 - (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
 - (j) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
2. **Drug Free Workplace.** The Agency agrees to comply with the provisions cited in the Drug-Free Workplace Act of 1988 (41 U.S.C. 8103).
3. **Federal Grant Requirements and Contracts.** The Agency shall comply with the following statutes and implementing regulations as applicable:
 - (a) Highway Safety Act of 1966 (23 U.S.C. Chapter 4 -), as amended;
 - (b) Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94;
 - (c) Uniform Procedures for State Highway Safety Grant Programs (23 CFR part 1300);
 - (d) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 1201);
 - (e) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and all other relevant Federal regulations covering the Highway Safety Program;
 - (f) NHTSA Highway Safety Grant Funding Guidance, as revised, July 2015 (www.nhtsa.gov) and additions or amendments thereto.
4. **Political Activity (Hatch Act)** The Agency will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
5. **Lobbying.**
 - (a) **Certification Regarding Federal Lobbying.** The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (iii) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. Audits.

- (a) **Audit Required.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR, Subpart F, §200.500. Guidance on determining Federal awards expended is provided in 2 CFR, Subpart F, §200.502.
- (b) **Single Audit.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit conducted in accordance with 2 CFR, Subpart F, §200.501, except when they elect to have a program-specific audit conducted in accordance with 2 CFR, Subpart F, §200.501, paragraph (c).
- (c) **Non-Governmental Entities.** Non-governmental entities (not-for-profit and for-profit entities) must adhere to North Carolina General Statute 143C-6.22 and 09 NCAC Subchapter 03M.

7. Instructions for Lower Tier Certification.

- (a) By signing and submitting this proposal, the prospective lower tier participant (the Agency) is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
- (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (d) The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- (e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (f) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
 - (g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
 - (h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - (i) Except for transactions authorized under paragraph 7(e) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies including suspension or debarment.
 - (j) **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.**
 - (i) The prospective lower tier participant (the Agency) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency.
 - (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this contract proposal.
8. **Buy America Act.** The Agency and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.
9. **Prohibition On Using Grant Funds To Check For Helmet Usage.** The Agency and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
10. **Conditions for State, Local and Indian Tribal Governments.** State, local and Indian tribal government Agencies shall adhere to the standards established by 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments and additions or amendments thereto, for principles for determining costs applicable to grants and contracts with state, local and Indian tribal governments.
11. **Conditions for Institutions of Higher Education.** If the Agency is an institution of higher education, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR 220 Cost Principles for Educational Institutions for determining costs applicable to grants and contracts with educational institutions.

12. **Conditions for Non-Profit Organizations.** If the Agency is a non-profit organization, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR Part 230 Cost Principles for Non-Profit Organizations for determining costs applicable to grants and contracts with non-profit organizations.
13. **Conditions for Hospitals.** If the Agency is a hospital, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

B. General Provisions

1. **Contract Changes.** This document contains the entire agreement of the parties. No other contract, either oral or implied, shall supercede this Agreement. Any proposed changes in this contract that would result in any change in the nature, scope, character, or amount of funding provided for in this contract, shall require a written addendum to this contract on a form provided by the Department.
2. **Subcontracts Under This Contract.** The Agency shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this contract without the prior written concurrence of the Department. Any subcontract under this contract must include all required and applicable clauses and provisions of this contract. Subcontracting does not relieve the Agency of any of the duties and responsibilities of this agreement. The subcontractor must comply with standards contained in this agreement and provide information that is needed by the Agency to comply with these standards. The Agency must submit any proposed contracts for subcontracted services to the Governor's Highway Safety Program for final approval no less than 30 days prior to acceptance.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Agency 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 Agency of the Agency's obligations under this contract. Additionally, Agencies making purchases or entering into contracts as provided for by this contract must adhere to the policies and procedures of 2 CFR Part 200 and North Carolina General Statute 143-128.4. Historically underutilized business defined; statewide uniform certification as it pertains to Historically Underutilized Businesses.
4. **Incorporation of Provisions in Subcontracts.** The Agency shall include the provisions of section A-1 through A-13 of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the regulations, or directives issued pursuant thereto. The Agency shall take such action with respect to any subcontract or procurement as the Department, the State of North Carolina, hereinafter referred to as the "State", the National Highway Traffic Safety Administration, hereinafter referred to as "NHTSA", or the Federal Highway Administration, hereinafter referred to as "FHWA", may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Agency may request the Department or the State to enter into such litigation to protect the interests of the Department or the State. In addition, the Agency may request the NHTSA or FHWA to enter into such litigation to protect the interests of the United States.
5. **Outsourcing.** All work shall be performed in the United States of America. No work will be allowed to be outsourced outside the United States of America.
6. **Property and Equipment.**
 - (a) **Maintenance and Inventory.** The Agency shall maintain and inventory all property and equipment purchased under this contract.
 - (b) **Utilization.** The property and equipment purchased under this contract must be utilized by the Agency for the sole purpose of furthering the traffic safety efforts of the Agency for the entire useful life of the property or equipment.
 - (c) **Title Interest.** The Department and NHTSA retain title interest in all property and equipment purchased under this contract. In the event that the Agency fails or refuses to comply with the provisions of this Agreement or terminates this contract, the Department, at its discretion, may take either of the following actions:
 - (i) Require the Agency to purchase the property or equipment at fair market value or other mutually agreed to amount; or

- (ii) Require the Agency to transfer the property or equipment and title of said property or equipment, if any, to the Department or to another Agency, as directed by the Department.
- (d) **Non-expendable Property.** Non-expendable property is defined as property or equipment having a value of \$5000 or more with a life expectancy of more than one year. Non-expendable property purchased under this contract cannot be sold, traded, or disposed of in any manner without the expressed written permission of the Department.
7. **Educational or Other Materials.** If allowed, any educational or other materials developed using funds from this contract must be reviewed and approved by the GHSP prior to their production or purchase. The cost of these materials is generally limited to a maximum of \$5.00 per item. The purchase of promotional items and memorabilia are not an allowable cost.
8. **Review of Reports and Publications.** Any reports, papers, publications, or other items developed using funds from this contract must be reviewed and approved by the GHSP prior to their release.
9. **Reimbursement.**
- (a) **General.** Payments are made on a reimbursement basis. There is no schedule of advance payments. Only actual allowable costs are eligible for reimbursement. Claims for reimbursement must be made a minimum of quarterly and no more than once a month via the Grants Management System. Claims for reimbursement not made within the three month threshold are subject to denial. The itemized invoice shall be supported by documentation of costs as prescribed by the Department. Reimbursements will not be processed if other required reports are incomplete or have not been submitted. Failure to submit complete reports by the required deadline may result in denial of reimbursement.
- (b) **Approval.** The Governor's Highway Safety Program and the Department's Fiscal Section shall approve the itemized invoice prior to payment.
- (c) **Unapproved Costs.** Any rejected or unaccepted costs shall be borne by the Agency. The Agency agrees that in the event the Department determines that, due to Federal or State regulations that grant funds must be refunded, the Agency will reimburse the Department a sum of money equal to the amount of Federal and State participation in the rejected costs.
- (d) **Final Claims for Reimbursement.** Final claims for reimbursement must be received by the GHSP within 30 days following the close of the approved contract period. Project funds not claimed by this date are subject to reversion.
- (e) **Expending Funds Under This Contract.** Under no circumstances will reimbursement be made for costs incurred prior to the contract effective date or after the contract ending date.
10. **Project Costs.** It is understood and agreed that the work conducted pursuant to this contract shall be done on an actual cost basis by the Agency. The amount of reimbursement from the Department shall not exceed the estimated funds budgeted in the approved contract. The Agency shall initiate and prosecute to completion all actions necessary to enable the Agency to provide its share of the project costs at or prior to the conclusion of the project.
11. **Program Income.** The Agency shall account for program income related to projects financed in whole or in part with federal funds in accordance with 2 CFR 200.307. Program income earned during the contract period shall be retained by the Agency and deducted from the federal funds committed to the project by the GHSP unless approved in advance by the Federal awarding agency as an addition to the project. Program income must be accounted for separately and the records made available for audit purposes.
12. **Project Directors.** The Project Director, as specified on the signature page of this Agreement, must be an employee of the Agency or the Agency's governing body. Any exception to this provision must have the expressed written approval of GHSP.
13. **Reports Required.**
- (a) **Quarterly Progress Reports.** Unless otherwise directed, the Agency must submit Quarterly Progress Reports to the GHSP, on forms provided by the Department, which reflect the status of project implementation and attainment of stated goals. Each progress report shall describe the project status by quarter and shall be submitted to GHSP no later than fifteen (15) days after the end of each quarter. If the Agency fails to submit a Quarterly Progress Report or submits an incomplete Quarterly Progress Report, the Agency will be subject to having claims for reimbursement withheld. Once a Quarterly Progress Report that substantiates adequate progress is received, cost reimbursement requests may be processed or denied at the discretion of GHSP.
- (b) **Final Accomplishments Report.** A Final Accomplishments Report must be submitted to the GHSP within fifteen (15) days of completion of the project, on forms provided by the Department, unless otherwise directed. If the Agency fails to submit a Final Accomplishments Report or submits an

incomplete Final Accomplishments Report, the Agency will be subject to having claims for reimbursement withheld. Once a Final Accomplishments Report that substantiates adequate progress is received, claims for reimbursement may be processed or denied at the discretion of GHSP.

- (c) **Audit Reports.** Audit reports required in Section A-6 above shall be provided to the Department within thirty (30) days of completion of the audit.
- 14. Out-of-State Travel.**
- (a) **General.** All out-of-state travel funded under this contract must have prior written approval by the Governor's Highway Safety Program.
- (b) **Requests.** Requests for approval must be submitted to the GHSP, on forms provided by the Department, no less than thirty (30) days prior to the intended departure date of travel.
- (c) **Agency Travel Policy Required.** For Agencies other than state agencies, out-of-state travel requests must include a copy of the Agency's travel policy, to include allowances for lodging, meals, and other travel-related expenses. For state agencies, maximum allowable subsistence is limited to the prevailing per diem rates as established by the North Carolina General Assembly.
- (d) **Agenda Required.** Out-of-state travel requests must include a copy of the agenda for the travel requested.
- 15. Conditions for Law Enforcement.** In addition to the other conditions provided for in this Agreement, grants to law enforcement agencies are subject to the following:
- (a) **Certifications Required.**
- (i) **In-car Camera or Video System.** For any in-car camera or video system purchased under this contract, it is required that the operator of that equipment has successfully completed Standardized Field Sobriety Testing training (SFST). A copy of this certificate must be filed with GHSP prior to reimbursement of in-car camera or video systems.
- (ii) **Radar.** For any radar equipment purchased under this contract, it is required that the operator of that equipment has successfully completed Radar Certification Training. A copy of this certificate must be filed with GHSP prior to reimbursement of radar equipment.
- (iii) **Alcohol Screening Devices.** For any preliminary alcohol screening devices purchased under this contract, it is required that the operator of that equipment has successfully completed the Alcohol Screening Test Device training offered by the Forensic Test for Alcohol Branch.
- (b) **Report Required - Monthly Enforcement Data Report.** In addition to the reports mentioned above, law enforcement agencies engaging in enforcement activities must submit a Monthly Enforcement Data Report on the form provided by the Department no later than fifteen (15) days after the end of each month. If the Agency fails to submit a Monthly Enforcement Data Report or submits an incomplete Monthly Enforcement Data Report, the Agency will be subject to having cost reimbursement requests withheld. Once a Monthly Enforcement Data Report that substantiates adequate progress is received, cost reimbursement requests will be processed. The agency head must sign the form. However, the agency head may assign a designee to sign the form by providing written signature authority to the GHSP.
- 16. Conditions for Local Governmental Agencies.**
- (a) **Resolution Required.** If the Agency is a local governmental entity, a resolution from the governing body of the Agency is required on a form provided by the Department.
- (b) **Resolution Content.** The resolution must contain a commitment from the governing body to provide the local funds as indicated in this contract. Additionally, the resolution is required even if the funding is one hundred percent from federal sources, as it serves as recognition by the governing body of federal funding for purposes of Section A-6 above.
- 17. Seat Belt Policy and Use.** Agency must adopt and enforce a seat belt use policy required for all seating positions unless exempted by state law.
- 18. Text Messaging Policy.** Agency must adopt and enforce a policy banning text messaging while driving unless exempted by state law.
- 19. Prohibited Interests.** No member, officer, or employee of the Agency during his or her tenure, and for at least one (1) year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof or therefrom.
- 20. Continued Federal and State Funding.**
- (a) **Federal Funding.** The Agency agrees and understands that continuation of this project with Federal funds is contingent upon Federal funds being appropriated by the United States Congress specifically for that purpose. The Agency further agrees and understands that in the event funds originally

- appropriated by Congress for these grants are subsequently reduced by further acts of Congress, funding to the Agency may be proportionately reduced.
- (b) **State Funding.** The Agency agrees and understands that continuation of this project with funds from the State of North Carolina is contingent upon State funds being appropriated by the General Assembly specifically for that purpose. The Agency also agrees that any state funds received under this contract are subject to the same terms and conditions stated in this Agreement.
21. **Performance.** All grants provided by the Governor's Highway Safety Program are performance-based and, as such, require that continual progress be made toward the reduction of the number and severity of traffic crashes. Any agency, whose performance is deemed unsatisfactory by the GHSP, shall be subject to the sanctions as provided for in this contract. Additionally, unsatisfactory performance shall be cause for the Department to reduce or deny future funding.
22. **Resolution of Disputes.** Any dispute concerning a question of fact in connection with the work not disposed of by contract by and between the Agency and the Department, or otherwise arising between the parties to this contract, shall be referred to the Secretary of the North Carolina Department of Transportation and the authorized official of the Agency for a negotiated settlement. In any dispute concerning a question of fact in connection with the project where such negotiated settlement cannot be resolved in a timely fashion, the final decision regarding such dispute shall be made by the Secretary of the North Carolina Department of Transportation, with the concurrence of the Federal funding agency, and shall be final and conclusive for all parties.
23. **Department Held Harmless.**
- (a) **For State Agencies.** Subject to the limitations of the North Carolina Tort Claims Act, the Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- (b) **For Agencies Other Than State Agencies.** The Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
24. **Records Access and Retention.** The Agency 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, the State, NHTSA, or FHWA, as appropriate, to be pertinent to ascertain compliance with such regulations, orders and instructions. Furthermore, the Agency shall maintain such materials during the contract period, and for five (5) years from the date of final payment from the Department or until all audit exceptions have been resolved, for such inspection and audit. Where any information required of the Agency is in the exclusive possession of another who fails or refuses to furnish this information, the Agency shall so certify to the Department, State, NHTSA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information. Pursuant to N.C.G.S. §147-64.7, the Department, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Agency insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement.
25. **Sanctions for Non-Compliance.** The applicant Agency agrees that if it fails or refuses to comply with any provisions and assurances in this contract, the Department may take any or all of the following actions:
- (a) Cancel, terminate, or suspend this contract in whole or in part;
- (b) Withhold reimbursement to the Agency until satisfactory compliance has been attained by the Agency;
- (c) Refrain from extending any further funding to the Agency under this contract with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency;
- (d) Refer the case to the United States Department of Justice for appropriate legal proceedings.
26. **Cancellation, Termination, or Suspension of Contract.**
- (a) **By the Department.** For noncompliance with any of the said rules, regulations, orders or conditions, due to management deficiencies or criminal activity this contract may be immediately canceled, terminated, or suspended in whole or in part by the Department. For noncompliance not indicative of management deficiencies or criminal activity the Department shall give sixty (60) days written notice



to take corrective action. If the Agency has not taken the appropriate corrective action after sixty (60) days the Department may cancel, terminate, or suspend this contract in whole or in part.

- (b) **By mutual consent.** The Agency or the Department may terminate this contract by providing sixty (60) days advanced written notice to the other party.
- (c) **Unexpended funds.** Any unexpended funds remaining after cancelation or termination will revert to the Department.

27. **Completion Date.** Unless otherwise authorized in writing by the Department, the Agency shall commence, carry on, and complete the project as described in the approved Highway Safety Project Contract by September 30 of the Federal fiscal year for which it was approved.



28. **E-Verify requirements.** If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.

29. **Certification of Eligibility Under the Iran Divestment Act.** Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 et seq. requires that each Agency, prior to contracting with the State certify, and the undersigned Agency Authorizing Official on behalf of the Agency does hereby certify, to the following:

- (a) that the Agency is not now and was not at the time of the execution of the Contract dated below identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
- (b) that the Agency shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
- (c) that the undersigned Agency Authorizing Official is authorized by the Agency to make this Certification.

30. **Agency Fiscal Year.** The end date for the Agency's fiscal year is June 30.

31. **Signature.** By signing below, the Agency agrees to adhere to the terms and conditions of this Agreement.

AGENCY PROJECT DIRECTOR		
NAME <i>Edward J. Scarborough</i>	TITLE <i>Captain</i>	ADDRESS <i>962 Marshall C. Collins Dr Manteo NC 27954</i>
SIGNATURE 	DATE <i>3/22/24</i>	TELEPHONE NUMBER <i>252-475-5705</i>
AGENCY AUTHORIZING OFFICIAL		
NAME <i>Robert Outten</i>	TITLE <i>County Manager</i>	ADDRESS <i>Po Box 1000 Manteo NC 27954</i>
SIGNATURE	DATE	TELEPHONE NUMBER <i>252-475-5811</i>
AGENCY OFFICIAL AUTHORIZED TO RECEIVE FUNDS		
NAME <i>Jeff Deringer</i>	TITLE <i>Chief Deputy</i>	ADDRESS <i>962 Marshall C. Collins Dr Manteo NC 27954</i>
SIGNATURE 	DATE <i>04-17-2024</i>	TELEPHONE NUMBER <i>252-475-9176</i>

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023- 2024

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Sheriff's Office</u>					
<u>Revenues:</u>					
Grant Proceeds - GHSP	103510	422130	00030	25,000	
<u>Expenditures:</u>					
Salaries Overtime- GHSP Grant	104510	500207	00030	25,000	

Explanation:

NC GHSP Local Law Enforcement Personnel Overtime Traffic Safety Grant.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



*North Carolina Governor's Highway Safety Program (G.H.S.P.)
Local Government Resolution*

Description

The Dare County Sheriff's Office requests to be approved to receive an award for the 2025 fiscal year for the Law Enforcement Traffic Safety Grant. [Regional Law Enforcement Liaison (L.E.L.)]

Board Action Requested

Approval

Item Presenter

Sheriff J. D. "Doug" Doughtie

North Carolina Governor's Highway Safety Program LOCAL GOVERNMENTAL RESOLUTION

WHEREAS, the Dare County Sheriff's Office (herein called the "Agency")
(The Applicant Agency)

has completed an application contract for traffic safety funding; and that Dare County Board of Commissioners
(The Governing Body of the Agency)
_____ (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE Dare County Board of Commissioners IN OPEN
(Governing Body)
MEETING ASSEMBLED IN THE CITY OF Manteo, NORTH CAROLINA,

THIS ____ DAY OF _____, 20 ____, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Edward Jack Scarborough is authorized to file, on behalf of the Governing
(Name and Title of Representative)
Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$ 30,000 to be made to the Governing Body to assist in defraying
(Federal Dollar Request)
the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$ 0.0 as
(Local Cash Appropriation)
required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____
(Chairperson/Mayor)

ATTESTED BY _____
(Clerk)

SEAL

DATE _____

9

**North Carolina Governor's Highway Safety Program
Agreement of Conditions**

This Agreement is made by and between the North Carolina Department of Transportation, hereinafter referred to as the "Department", to include the Governor's Highway Safety Program, hereinafter referred to as "GHSP"; and the applicant agency, for itself, its assignees and successors in interest, hereinafter referred to as the "Agency". During the performance of this contract, and by signing this contract, the Agency agrees as follows:

A. Federal Provisions

1. **Equal Opportunity/Nondiscrimination.** The Agency will agree to comply with all Federal statutes and implementing regulations relating to nondiscrimination concerning race, color, sex, religion, national origin, handicaps, and age. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252);
 - (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601)
 - (c) Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686);
 - (d) Non-Discrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR Part 21), hereinafter referred to as "USDOT", as amended;
 - (e) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, and 49 CFR Part 27; and
 - (f) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.);
 - (g) The Civil Rights Restoration Act of 1987, (Pub. L. 100-209);
 - (h) Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) and 49 CFR parts 37 and 38;
 - (i) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
 - (j) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
2. **Drug Free Workplace.** The Agency agrees to comply with the provisions cited in the Drug-Free Workplace Act of 1988 (41 U.S.C. 8103).
3. **Federal Grant Requirements and Contracts.** The Agency shall comply with the following statutes and implementing regulations as applicable:
 - (a) Highway Safety Act of 1966 (23 U.S.C. Chapter 4 -), as amended;
 - (b) Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94;
 - (c) Uniform Procedures for State Highway Safety Grant Programs (23 CFR part 1300);
 - (d) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 1201);
 - (e) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and all other relevant Federal regulations covering the Highway Safety Program;
 - (f) NHTSA Highway Safety Grant Funding Guidance, as revised, July 2015 (www.nhtsa.gov) and additions or amendments thereto.
4. **Political Activity (Hatch Act)** The Agency will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
5. **Lobbying.**
 - (a) **Certification Regarding Federal Lobbying.** The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (iii) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

- (b) **Restriction on State Lobbying.** None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. Audits.

- (a) **Audit Required.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR, Subpart F, §200.500. Guidance on determining Federal awards expended is provided in 2 CFR, Subpart F, §200.502.
- (b) **Single Audit.** Non-Federal entities that expend \$750,000 or more in a year in Federal awards shall have a single audit conducted in accordance with 2 CFR, Subpart F, §200.501, except when they elect to have a program-specific audit conducted in accordance with 2 CFR, Subpart F, §200.501, paragraph (c).
- (c) **Non-Governmental Entities.** Non-governmental entities (not-for-profit and for-profit entities) must adhere to North Carolina General Statute 143C-6.22 and 09 NCAC Subchapter 03M.

7. Instructions for Lower Tier Certification.

- (a) By signing and submitting this proposal, the prospective lower tier participant (the Agency) is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
- (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (d) The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- (e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- (f) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
 - (g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).
 - (h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - (i) Except for transactions authorized under paragraph 7(e) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies including suspension or debarment.
 - (j) **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions.**
 - (i) The prospective lower tier participant (the Agency) certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any Federal department or agency.
 - (ii) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this contract proposal.
8. **Buy America Act.** The Agency and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.
9. **Prohibition On Using Grant Funds To Check For Helmet Usage.** The Agency and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.
10. **Conditions for State, Local and Indian Tribal Governments.** State, local and Indian tribal government Agencies shall adhere to the standards established by 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments and additions or amendments thereto, for principles for determining costs applicable to grants and contracts with state, local and Indian tribal governments.
11. **Conditions for Institutions of Higher Education.** If the Agency is an institution of higher education, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR 220 Cost Principles for Educational Institutions for determining costs applicable to grants and contracts with educational institutions.

12. **Conditions for Non-Profit Organizations.** If the Agency is a non-profit organization, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and 2 CFR Part 230 Cost Principles for Non-Profit Organizations for determining costs applicable to grants and contracts with non-profit organizations.
13. **Conditions for Hospitals.** If the Agency is a hospital, it shall adhere to the standards established by 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

B. General Provisions

1. **Contract Changes.** This document contains the entire agreement of the parties. No other contract, either oral or implied, shall supercede this Agreement. Any proposed changes in this contract that would result in any change in the nature, scope, character, or amount of funding provided for in this contract, shall require a written addendum to this contract on a form provided by the Department.
2. **Subcontracts Under This Contract.** The Agency shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this contract without the prior written concurrence of the Department. Any subcontract under this contract must include all required and applicable clauses and provisions of this contract. Subcontracting does not relieve the Agency of any of the duties and responsibilities of this agreement. The subcontractor must comply with standards contained in this agreement and provide information that is needed by the Agency to comply with these standards. The Agency must submit any proposed contracts for subcontracted services to the Governor's Highway Safety Program for final approval no less than 30 days prior to acceptance.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Agency 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 Agency of the Agency's obligations under this contract. Additionally, Agencies making purchases or entering into contracts as provided for by this contract must adhere to the policies and procedures of 2 CFR Part 200 and North Carolina General Statute 143-128.4. Historically underutilized business defined; statewide uniform certification as it pertains to Historically Underutilized Businesses.
4. **Incorporation of Provisions in Subcontracts.** The Agency shall include the provisions of section A-1 through A-13 of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the regulations, or directives issued pursuant thereto. The Agency shall take such action with respect to any subcontract or procurement as the Department, the State of North Carolina, hereinafter referred to as the "State", the National Highway Traffic Safety Administration, hereinafter referred to as "NHTSA", or the Federal Highway Administration, hereinafter referred to as "FHWA", may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Agency may request the Department or the State to enter into such litigation to protect the interests of the Department or the State. In addition, the Agency may request the NHTSA or FHWA to enter into such litigation to protect the interests of the United States.
5. **Outsourcing.** All work shall be performed in the United States of America. No work will be allowed to be outsourced outside the United States of America.
6. **Property and Equipment.**
 - (a) **Maintenance and Inventory.** The Agency shall maintain and inventory all property and equipment purchased under this contract.
 - (b) **Utilization.** The property and equipment purchased under this contract must be utilized by the Agency for the sole purpose of furthering the traffic safety efforts of the Agency for the entire useful life of the property or equipment.
 - (c) **Title Interest.** The Department and NHTSA retain title interest in all property and equipment purchased under this contract. In the event that the Agency fails or refuses to comply with the provisions of this Agreement or terminates this contract, the Department, at its discretion, may take either of the following actions:
 - (i) Require the Agency to purchase the property or equipment at fair market value or other mutually agreed to amount; or

- (ii) Require the Agency to transfer the property or equipment and title of said property or equipment, if any, to the Department or to another Agency, as directed by the Department.
- (d) **Non-expendable Property.** Non-expendable property is defined as property or equipment having a value of \$5000 or more with a life expectancy of more than one year. Non-expendable property purchased under this contract cannot be sold, traded, or disposed of in any manner without the expressed written permission of the Department.
7. **Educational or Other Materials.** If allowed, any educational or other materials developed using funds from this contract must be reviewed and approved by the GHSP prior to their production or purchase. The cost of these materials is generally limited to a maximum of \$5.00 per item. The purchase of promotional items and memorabilia are not an allowable cost.
8. **Review of Reports and Publications.** Any reports, papers, publications, or other items developed using funds from this contract must be reviewed and approved by the GHSP prior to their release.
9. **Reimbursement.**
- (a) **General.** Payments are made on a reimbursement basis. There is no schedule of advance payments. Only actual allowable costs are eligible for reimbursement. Claims for reimbursement must be made a minimum of quarterly and no more than once a month via the Grants Management System. Claims for reimbursement not made within the three month threshold are subject to denial. The itemized invoice shall be supported by documentation of costs as prescribed by the Department. Reimbursements will not be processed if other required reports are incomplete or have not been submitted. Failure to submit complete reports by the required deadline may result in denial of reimbursement.
- (b) **Approval.** The Governor's Highway Safety Program and the Department's Fiscal Section shall approve the itemized invoice prior to payment.
- (c) **Unapproved Costs.** Any rejected or unaccepted costs shall be borne by the Agency. The Agency agrees that in the event the Department determines that, due to Federal or State regulations that grant funds must be refunded, the Agency will reimburse the Department a sum of money equal to the amount of Federal and State participation in the rejected costs.
- (d) **Final Claims for Reimbursement.** Final claims for reimbursement must be received by the GHSP within 30 days following the close of the approved contract period. Project funds not claimed by this date are subject to reversion.
- (e) **Expending Funds Under This Contract.** Under no circumstances will reimbursement be made for costs incurred prior to the contract effective date or after the contract ending date.
10. **Project Costs.** It is understood and agreed that the work conducted pursuant to this contract shall be done on an actual cost basis by the Agency. The amount of reimbursement from the Department shall not exceed the estimated funds budgeted in the approved contract. The Agency shall initiate and prosecute to completion all actions necessary to enable the Agency to provide its share of the project costs at or prior to the conclusion of the project.
11. **Program Income.** The Agency shall account for program income related to projects financed in whole or in part with federal funds in accordance with 2 CFR 200.307. Program income earned during the contract period shall be retained by the Agency and deducted from the federal funds committed to the project by the GHSP unless approved in advance by the Federal awarding agency as an addition to the project. Program income must be accounted for separately and the records made available for audit purposes.
12. **Project Directors.** The Project Director, as specified on the signature page of this Agreement, must be an employee of the Agency or the Agency's governing body. Any exception to this provision must have the expressed written approval of GHSP.
13. **Reports Required.**
- (a) **Quarterly Progress Reports.** Unless otherwise directed, the Agency must submit Quarterly Progress Reports to the GHSP, on forms provided by the Department, which reflect the status of project implementation and attainment of stated goals. Each progress report shall describe the project status by quarter and shall be submitted to GHSP no later than fifteen (15) days after the end of each quarter. If the Agency fails to submit a Quarterly Progress Report or submits an incomplete Quarterly Progress Report, the Agency will be subject to having claims for reimbursement withheld. Once a Quarterly Progress Report that substantiates adequate progress is received, cost reimbursement requests may be processed or denied at the discretion of GHSP.
- (b) **Final Accomplishments Report.** A Final Accomplishments Report must be submitted to the GHSP within fifteen (15) days of completion of the project, on forms provided by the Department, unless otherwise directed. If the Agency fails to submit a Final Accomplishments Report or submits an

incomplete Final Accomplishments Report, the Agency will be subject to having claims for reimbursement withheld. Once a Final Accomplishments Report that substantiates adequate progress is received, claims for reimbursement may be processed or denied at the discretion of GHSP.

- (c) **Audit Reports.** Audit reports required in Section A-6 above shall be provided to the Department within thirty (30) days of completion of the audit.
- 14. Out-of-State Travel.**
- (a) **General.** All out-of-state travel funded under this contract must have prior written approval by the Governor's Highway Safety Program.
- (b) **Requests.** Requests for approval must be submitted to the GHSP, on forms provided by the Department, no less than thirty (30) days prior to the intended departure date of travel.
- (c) **Agency Travel Policy Required.** For Agencies other than state agencies, out-of-state travel requests must include a copy of the Agency's travel policy, to include allowances for lodging, meals, and other travel-related expenses. For state agencies, maximum allowable subsistence is limited to the prevailing per diem rates as established by the North Carolina General Assembly.
- (d) **Agenda Required.** Out-of-state travel requests must include a copy of the agenda for the travel requested.
- 15. Conditions for Law Enforcement.** In addition to the other conditions provided for in this Agreement, grants to law enforcement agencies are subject to the following:
- (a) **Certifications Required.**
- (i) **In-car Camera or Video System.** For any in-car camera or video system purchased under this contract, it is required that the operator of that equipment has successfully completed Standardized Field Sobriety Testing training (SFST). A copy of this certificate must be filed with GHSP prior to reimbursement of in-car camera or video systems.
- (ii) **Radar.** For any radar equipment purchased under this contract, it is required that the operator of that equipment has successfully completed Radar Certification Training. A copy of this certificate must be filed with GHSP prior to reimbursement of radar equipment.
- (iii) **Alcohol Screening Devices.** For any preliminary alcohol screening devices purchased under this contract, it is required that the operator of that equipment has successfully completed the Alcohol Screening Test Device training offered by the Forensic Test for Alcohol Branch.
- (b) **Report Required - Monthly Enforcement Data Report.** In addition to the reports mentioned above, law enforcement agencies engaging in enforcement activities must submit a Monthly Enforcement Data Report on the form provided by the Department no later than fifteen (15) days after the end of each month. If the Agency fails to submit a Monthly Enforcement Data Report or submits an incomplete Monthly Enforcement Data Report, the Agency will be subject to having cost reimbursement requests withheld. Once a Monthly Enforcement Data Report that substantiates adequate progress is received, cost reimbursement requests will be processed. The agency head must sign the form. However, the agency head may assign a designee to sign the form by providing written signature authority to the GHSP.
- 16. Conditions for Local Governmental Agencies.**
- (a) **Resolution Required.** If the Agency is a local governmental entity, a resolution from the governing body of the Agency is required on a form provided by the Department.
- (b) **Resolution Content.** The resolution must contain a commitment from the governing body to provide the local funds as indicated in this contract. Additionally, the resolution is required even if the funding is one hundred percent from federal sources, as it serves as recognition by the governing body of federal funding for purposes of Section A-6 above.
- 17. Seat Belt Policy and Use.** Agency must adopt and enforce a seat belt use policy required for all seating positions unless exempted by state law.
- 18. Text Messaging Policy.** Agency must adopt and enforce a policy banning text messaging while driving unless exempted by state law.
- 19. Prohibited Interests.** No member, officer, or employee of the Agency during his or her tenure, and for at least one (1) year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof or therefrom.
- 20. Continued Federal and State Funding.**
- (a) **Federal Funding.** The Agency agrees and understands that continuation of this project with Federal funds is contingent upon Federal funds being appropriated by the United States Congress specifically for that purpose. The Agency further agrees and understands that in the event funds originally

appropriated by Congress for these grants are subsequently reduced by further acts of Congress, funding to the Agency may be proportionately reduced.

- (b) **State Funding.** The Agency agrees and understands that continuation of this project with funds from the State of North Carolina is contingent upon State funds being appropriated by the General Assembly specifically for that purpose. The Agency also agrees that any state funds received under this contract are subject to the same terms and conditions stated in this Agreement.
21. **Performance.** All grants provided by the Governor's Highway Safety Program are performance-based and, as such, require that continual progress be made toward the reduction of the number and severity of traffic crashes. Any agency, whose performance is deemed unsatisfactory by the GHSP, shall be subject to the sanctions as provided for in this contract. Additionally, unsatisfactory performance shall be cause for the Department to reduce or deny future funding.
22. **Resolution of Disputes.** Any dispute concerning a question of fact in connection with the work not disposed of by contract by and between the Agency and the Department, or otherwise arising between the parties to this contract, shall be referred to the Secretary of the North Carolina Department of Transportation and the authorized official of the Agency for a negotiated settlement. In any dispute concerning a question of fact in connection with the project where such negotiated settlement cannot be resolved in a timely fashion, the final decision regarding such dispute shall be made by the Secretary of the North Carolina Department of Transportation, with the concurrence of the Federal funding agency, and shall be final and conclusive for all parties.
23. **Department Held Harmless.**
- (a) **For State Agencies.** Subject to the limitations of the North Carolina Tort Claims Act, the Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
- (b) **For Agencies Other Than State Agencies.** The Agency shall be responsible for its own negligence and holds harmless the Department, its officers, employees, or agents, from all claims and liability due to its negligent acts, or the negligent acts of its subcontractors, agents, or employees in connection with their services under this contract.
24. **Records Access and Retention.** The Agency 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, the State, NHTSA, or FHWA, as appropriate, to be pertinent to ascertain compliance with such regulations, orders and instructions. Furthermore, the Agency shall maintain such materials during the contract period, and for five (5) years from the date of final payment from the Department or until all audit exceptions have been resolved, for such inspection and audit. Where any information required of the Agency is in the exclusive possession of another who fails or refuses to furnish this information, the Agency shall so certify to the Department, State, NHTSA, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information. Pursuant to N.C.G.S. §147-64.7, the Department, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Agency insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement.
25. **Sanctions for Non-Compliance.** The applicant Agency agrees that if it fails or refuses to comply with any provisions and assurances in this contract, the Department may take any or all of the following actions:
- (a) Cancel, terminate, or suspend this contract in whole or in part;
- (b) Withhold reimbursement to the Agency until satisfactory compliance has been attained by the Agency;
- (c) Refrain from extending any further funding to the Agency under this contract with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency;
- (d) Refer the case to the United States Department of Justice for appropriate legal proceedings.
26. **Cancellation, Termination, or Suspension of Contract.**
- (a) **By the Department.** For noncompliance with any of the said rules, regulations, orders or conditions, due to management deficiencies or criminal activity this contract may be immediately canceled, terminated, or suspended in whole or in part by the Department. For noncompliance not indicative of management deficiencies or criminal activity the Department shall give sixty (60) days written notice

to take corrective action. If the Agency has not taken the appropriate corrective action after sixty (60) days the Department may cancel, terminate, or suspend this contract in whole or in part.

- (b) **By mutual consent.** The Agency or the Department may terminate this contract by providing sixty (60) days advanced written notice to the other party.
- (c) **Unexpended funds.** Any unexpended funds remaining after cancelation or termination will revert to the Department.

27. Completion Date. Unless otherwise authorized in writing by the Department, the Agency shall commence, carry on, and complete the project as described in the approved Highway Safety Project Contract by September 30 of the Federal fiscal year for which it was approved.

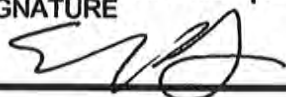
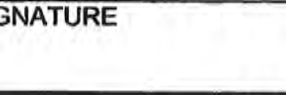

28. E-Verify requirements. If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.

29. Certification of Eligibility Under the Iran Divestment Act. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 et seq. requires that each Agency, prior to contracting with the State certify, and the undersigned Agency Authorizing Official on behalf of the Agency does hereby certify, to the following:

- (a) that the Agency is not now and was not at the time of the execution of the Contract dated below identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
- (b) that the Agency shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
- (c) that the undersigned Agency Authorizing Official is authorized by the Agency to make this Certification.

30. Agency Fiscal Year. The end date for the Agency's fiscal year is _____.

31. Signature. By signing below, the Agency agrees to adhere to the terms and conditions of this Agreement.

AGENCY PROJECT DIRECTOR		
NAME	TITLE	ADDRESS
Edward J. Scarborough	Captain	962 Marshall C. Collins Dr Manteo NC 27954
	DATE 3/22/24	TELEPHONE NUMBER 252-475-5705
AGENCY AUTHORIZING OFFICIAL		
NAME	TITLE	ADDRESS
Robert Outten	County Manager	Po Box 1000 Manteo NC 27954
	DATE	TELEPHONE NUMBER 252-475-5811
AGENCY OFFICIAL AUTHORIZED TO RECEIVE FUNDS		
NAME	TITLE	ADDRESS
Jeff Deringer	Chief Deputy	962 Marshall C. Collins Dr Manteo NC 27954
	DATE 04-17-2024	TELEPHONE NUMBER 252-475-9176

DARE COUNTY

BUDGET AMENDMENT

F/Y 2023- 2024

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Sheriff's Office</u>					
<u>Revenues:</u>					
Grant Proceeds - GHSP	103510	422130	00030	30,000	
<u>Expenditures:</u>					
Misc Equipment - GHSP Grant	104510	513325	00030	30,000	

Explanation:

NC GHSP Local Law Enforcement Liaison Traffic Safety Grant.

Approved by:

Board of Commissioners: _____

Date: _____

County Manager: _____

Date: _____

Finance only:

Date entered: _____ Entered by: _____ Reference number: _____



Board Appointments

Description

The following Boards have appointments or actions this month:

1. Stumpy Point Community Center Board
2. Veterans Advisory Council
3. Zoning Board of Adjustment - Dare County

Board Action Requested

Take Appropriate Action

Item Presenter

Robert Outten, County Manager



Stumpy Point Community Center Board

Description

See Attached Summary

Board Action Requested

Take Appropriate Action

Item Presenter

Robert Outten, County Manager

May, 2024

Stumpy Point Community Center Board

(Three Year Term)

**Tammie Perry-Inscore has resigned from The Stumpy Point Community Center.
The Board recommends Charles Herold to be appointed to fill the unexpired
term.**

Applications on file: Charles Peter Herold, Joseph Walters

Other Members:
See attached list

STUMPY POINT COMMUNITY CENTER

(Three Year Term)

This Board operates and maintains the Stumpy Point Community Center facility and amenities for the use and benefit of all members of the Stumpy Point community.

<u>MEMBER</u>	<u>TERM EXPIRATION</u>	<u>ACTION</u>
Johnny Midgett 136 Bayview Dr. Stumpy Point, NC 27978 midgettoni@yahoo.com 252-216-6830	8-25	Apptd. 3/19 Reapptd 8/19 1/23
Dabni Shelton 291 Bayview Dr. Stumpy Point, NC 27979 stumpypointds@gmail.com 252-216-6540	12/26	Apptd. 12/23
Tammi Perry-Inscore 143 Bayview Drive Stumpy Point, NC 27978 mailto:tammie@ob hotline.org 252-261-8164 business	8-25	Apptd. 01/22 Reapptd 1/23
Naomi Midgett 178 Bayview Dr. Stumpy Point, NC 27978 windybayhorsegirl@gmail.com 252-473-1641	8-25	Apptd. 10/00 Reapptd. 8/01, 04,07,10,13,16 19,23
Jeff Griffith 212 Bayview Dr. Stumpy Point, NC 27978 252-473-3390	8-25	Apptd. 10/00 Reapptd. 8/01, 04,07,10,13,16, 19, 23

MEETING INFO: No set date, meet as needed

CONTACT INFO: Johnny Midgett

MEMBERS COMPENSATED: NO

County Attorney informed 12-5-86 that this Board has a three year term rather than the two year term listed in the Board file. This is according to the 1965 Session Laws of Dare County.

Dick Best resigned 1988., Ginger Midgett and H.O. Golden were replaced 8/86.

Douglas Hooper was not reappointed 8/89, Calvin Gibbs replaced Ben Barbee 4/91.

John Calvin Midgett was reappointed 8/89, but did not wish to serve. He was replaced by John Receveur.

Calvin Gibbs resigned, replaced by Jim Meekins, Sr.

Roger Best did not wish to serve again, replaced by Roy Midgett.

Roger Best filled unexpired term of Roy Midgett and Jeff Griffith filled unexpired term of John Receveur 10/00.

Linda Barbee filled unexpired term of Louise Hooper 3/07.

Shelia Golden filled unexpired term of Linda Barbee 10/09.

Johnny Midgett filled unexpired term of Roger Best who passed away 3/19.

Sheila Golden, Jeff Griffith, Johnny Midgett and Naomi Midgett all reappointed 08/19.

David Midgett moved out of state leaving a vacancy 2021; Sheila Golden resigned (12/21)

Tammy Perry-Inscore appointed to fulfill term of resigning Sheila Golden (01/22)

Johnny Midgett, Tammi Perry-Inscore, Naomi Midgett and Jeff Griffith reappointed (01/23)

Dabni Shelton was appointed to fill the vacancy. (12/23)

REVISED 12/23



Skyler Foley <skyler.foley@darenc.gov>

(no subject)

1 message

Tammie Perry-Inscore <tammieperryinscore@gmail.com>

Wed, May 1, 2024 at 9:31 AM

To: "skyler.foley@darenc.gov" <skyler.foley@darenc.gov>

Good morning Skylar my name is Tammie Perry Inscore I would like to resign my position from board of trustees for Stumpy Point community building as I am relocating to Florida.

thank you and have a great day



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Stumpy Point Community Center Board

2nd Choice Stumpy Point Community Center Board

3rd Choice Stumpy Point Community Center Board

Name Charles Peter Herold

Address 259 Bayview Dr

City/State/Zip Stumpy Point, North Carolina, 27978

Email pedroherold@gmail.com

Personal Phone (717)645-7122

Business Phone

Business Address

Occupation Retired Naval Officer and Department of the Navy Civilian

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 Bachelor's degree is Business and Accounting Sailsbury University, Salisbury MD. Master's Degree in Business Administration, Chapman University, Orange County CA. Completed Internal Controls and Management Accounting, Naval Post Graduate School, Monterey CA.

Business and civic experience and skills Lead numerous divisions, departments and organizations on shore commands, ships and submarines. Prior to retirement was deputy director for NAVSUP Naval Logistics Center responsible for the global management and positioning of all Navy and Marine Corps Air to Air and Air to Ground munitions valued at \$46B. Until April 2023 was Chair of the Leadership Council and Financial director for Grace United Methodist Church, Mechanicsburg, PA.

Other boards, Committees, Commissions on which you presently serve Retired in Central Pennsylvania April 2023 and moved to Stumpy Point North Carolina in May 2023. I transitioned all responsibilities in Pennsylvania and I'm currently not a part of any boards or commissions. I am active in the Stumpy Point Station 19 volunteer fire company.

REFERENCE #1

Name Phil York

Business Retired

Address 286 Bayview Dr. Stumpy Point, North Carolina, 27978

Phone (704)677-3176

REFERENCE #2

Name Mr. R. D. Price

Business Retired

Address 290 Bayview Dr. Stumpy Point, North Carolina, 27978

Phone (252)473-3357

REFERENCE #3

Name Mrs. Martha Keener

Business Retired

Address 263 Bayview Dr. Stumpy Point, North Carolina, 27978

Phone (828)342-4235

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.

Charles P. Herold

Date 10/5/2023



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Stumpy Point Community Center Board

2nd Choice

3rd Choice

Name Joseph Walters

Address 187 Bayview Dr

City/State/Zip Stumpy Point NC 27978

Email joewalters@gmail.com

Personal Phone 3368481781

Business Phone

Business Address

Occupation Software/DevOps Engineer

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 Bachelors of Science in Computer Science from UNC Chapel Hill and a Masters in Executive Leadership from Gardener Webb.

Business and civic experience and skills I was a high school math teacher for about 10 years and served as department chair as well as the school improvement team. I am also licensed to be a school principal. I am currently the lead for my department as a DevOps engineer at Storable/SiteLink. For the past two years I have been the chair of the Democratic Party of Stumpy Point. At UNC I was Area Governor for the residence hall association as a senior.

Other boards, Committees, Commissions on which you presently serve I am the current Chair of the Democratic Party of Stumpy Point, but we are in the process of reorganizing into cluster precincts.

REFERENCE #1

Name Luke Midget

Business NSeine Seafood

Address 184 Bayview Dr Stumpy Point NC 27978

Phone 2524758817

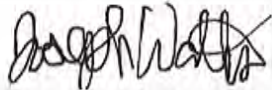
REFERENCE #2

Name Buddy Shelton
Business Retired
Address 291 Bayview Dr Stumpy Point NC 27978
Phone 2524238659

REFERENCE #3

Name Andy Ennis
Business Old North State Fishing Charters
Address 139 Bayview Dr Stumpy Point NC 27978
Phone 2524895298

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 handwritten signature in black ink, appearing to read "Joseph Watts", is written over a light gray rectangular background.

Date 3/7/2024



Veterans Advisory Council

Description

See Attached Summary

Board Action Requested

Take Appropriate Action

Item Presenter

Robert Outten, County Manager

April, 2024

VETERANS ADVISORY COUNCIL
(Staggered Three Year Terms)

The Veterans Advisory Council serves as a liaison with the community in coordinating services and activities benefiting Veterans and their families. Members of the Veterans Advisory Council solicit information and provide updates about community-based activities honoring veterans.

The following terms expire this month:

Dr. Kevin Wallace
Justin O'Sullivan

Both wish to be reappointed for another term.

Applications on file from:

Terry Buchanan, Christian Hayman, Mary Jernigan, Lisa Lloyd, Jennifer Reardon, and John Watkins

Other members:
See attached list

VETERANS ADVISORY COUNCIL
(Staggered/Three Year Term)

The Veterans Advisory Council serves as a liaison with the community in coordinating services and activities benefiting veterans and their families. Members of the Veterans Advisory Council solicit information and provide updates about community-based activities honoring Veterans.

<u>MEMBER</u>	<u>TERM EXPIRATION</u>	<u>ACTION</u>
Richard A. Probst, Chair 1806 Upper Dune Road Kill Devil Hills, NC 27948 502-592-7659 rprobs60@yahoo.com	5/26	Apptd. 5/19 Reapptd. 6/20 4/23
James Scroggin 50210 Cedar Court Frisco, NC 27936 703-201-4812 jscroggin@mac.com	5/25	Apptd. 5/22
Dr. Kevin P. Wallace 25 Crotan Ct. Manteo, NC 27954 208-590-5766 okinawawallace@gmail.com	5/24	Apptd. 7/21
Lisa Lloyd 4117 Tamarac Ct. Nags Head, NC 27959 415-246-4790 Lloyds5forlife@gmail.com	5/26	Apptd. 02/24 (Appt. to fill unexpired term)
Ellen Aidock 521 Canal Drive Kill Devil Hills, NC 27948 919-815-0977 ell2clif@yahoo.com	5/25	Apptd. 4/19 Reapptd. 5/22
Justin O'Sullivan, (Chair) 900 C W Corrigan St Kill Devil Hills, NC 27948 856-298-8078 justin.p.osullivan@gmail.com	5/24	Apptd. 7/21

Anthony Imperiale, (Co-Chair)
4210 West Vansciver Drive
Nags Head, NC 27959
(609) 707-0250
tonyimp1949@gmail.com

11/25

Apptd. 11/22

Jack Shea (Ex-Officio)
Dare County Commissioner
290 Wax Myrtle Trail
Southern Shores, NC 27949
252-261-4158 (H)

Apptd. 2/17

NOTES:

Veterans Advisory Council was formed on 5/7/12.

MEETING INFO: 4th Thursday of each month, 6 p.m., Rm. 168, Dare County Administration Building, 954 Marshall C. Collins Dr., Manteo, NC

CONTACT INFO: Patty O'Sullivan - 252-475-5604 Justin O'Sullivan (Chair) 856-298-8078
P.O. Box 669 900 C W Corrigan St
Manteo, NC 27954 Kill Devil Hills, NC 27948

MEMBERS COMPENSATED: No

Lynda Hester replaced Punk Daniels 6/13, Billy Brown replaced Clarence Skinner 7/13
Joshua Turner filled unexpired term of Pete Groom 3/14
Jack Leonard filled vacant seat previously held by Joe Pope 4/15
Gary Kierney replaced Josh Turner 4/15; Charles Read, Jr. replaced Lynda Hester 6/16
Russell Laney filled unexpired term of Dale Draper 6/16
Carl Reiber filled unexpired term of Billy Brown 8/16
Jeff Slaker filled unexpired term of Clarence Lewis who resigned 12/16
Jack Shea added as Ex-Officio member from the DCBC 2/17.
Kelli Rose Harmon filled unexpired term of Charles B. Read, Jr. who resigned 5/17.
Frederick W. Lamm filled unexpired term of Jeff Slaker who resigned 10/17.
Norman St. Laurent replaced Frederick Lamm whose term expired and did not want to be reappointed 5/18; Blake Salmon replaced Gary Kierney 6/18
Steve Goodheart replaced Carl Reiber who resigned 7/18
The Veteran's Advisory Council requested that Jack Shea be appointed as "Counselor" to the Veteran's Advisory Council upon his retirement. Approved by the DCBC – 11/18
Ellen Aidock replaced Kelli Harmon who resigned 4/19;
Richard Probst replaced Jack Leonard who resigned 5/19
Robert Yanacek replaced Russell Laney who resigned 5/19
Norman St. Laurent resigned 6/19; Barry L. Holt replaced him 10/19
Kevin P Wallace & Justin O'Sullivan appointed to replace Robert Yanacek & Blake Salmon 7/21
Ellen Aidock reappointed, James Scroggin apptd. to replace Steve Goodheart 5/22
Anthony Imperiale apptd. to replace Barry L. Holt 11/22
Robert Probst and Marsha Brown reappointed 4/23
Marsha Brown resigned effective 12/31/23
Lisa Lloyd was appointed to fill Marsha Brown's expired term. 2/5/24

REVISED 2/24



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 *	<input type="text" value="Veterans Board."/>	▼
2nd Choice	<input type="text"/>	▼
3rd Choice	<input type="text"/>	▼

Your Personal Information

Name *	<input type="text" value="Terry Buchanan"/>
Address *	<input type="text" value="4305 Worthington Lane"/>
City/State/Zip *	<input type="text" value="Kitty Hawk NC 27949"/>
Email *	<input type="text"/>
Personal Phone *	Enter 9 digit number. Do not enter any spaces or special characters. <input type="text"/>
Business Phone	Enter 9 digit number. Do not enter any spaces or special characters. <input type="text"/>
Business Address	<input type="text"/>
Occupation *	<input type="text" value="Law Enforcement"/>
Residency *	Are you a resident of Dare County? <input checked="" type="radio"/> YES <input type="radio"/> NO

Your Background

*Due to limited space, please complete in paragraph format. The text boxes are limited to 450 characters

Education *

Educational Background - please wright in paragraph form, not as a list

Masters Certification.

Experience *

Business and civic experience and skills - please wright in paragraph form, not as a list

Former Sheriff

Current Services *

Other boards/Committees/Commissions on which you presently serve - please wright in paragraph form, not as a list

None

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 *

Melanie Buchanon

Business *

Address *

Phone *

Enter 9 digit number. Do not enter any spaces or special characters.

REFERENCE #2

Name *

Doug Doughtie

Business

Dare Sheriff

Address

Phone *

Enter 9 digit number. Do not enter any spaces or special characters.

REFERENCE #3

Name *

Matt Beickert

Business

Currituck Sheriff

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.

Sign

Date

Date will be captured on form submission



I'm not a robot

reCAPTCHA
Privacy - Terms

Submit

4/2022



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Advisory Board or Committee interested in:

1st choice: Game and Wildlife Commission

2nd choice: Oregon Inlet Task Force

3rd choice: Veterans Advisory Council

Name: CHRISTIAN THOMAS HAYMAN

Address: 120 HICKORY RIDGE CT.

City/State/Zip: 27948

Email Address: christian_hayman@yahoo.com

Telephone: Home: 7854923815 Business:

Resident of Dare County: YES

Occupation: SHIFT MANAGER AT MANTEO JERSEY MIKE'S

Business Address:

Educational background:

I graduated from First Flight High school then joined the Army and graduated from the United States Military Police school and got further education from the Fort Riley Military Police Academy I also became an ordained minister from the Universal Life Church Ministries.

Business and civic experience and skills:

I was a Military Police officer as well as the Operations Non Commissioned Officer in charge of day to day operations for the Headquarters Detachment of the 97th Military Police Battalion. I was the personal driver for the battalion commander and served 4 years as a well trained and experienced soldier and I have been awarded an Army Commendation Medal for going above and beyond in my basic duties of a soldier.

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

None

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	BOB WOODARD
Business/Occupation	DARE COUNTY COMMISSIONER
Address	706 HARMONY LN, KILL DEVIL HILLS NC 27948
Telephone	(252) 216-8240



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name LINWOOD BRYANT SR.
Business/Occupation
Address
Telephone (252) 578-1818

Name JEFF ELINBURG
Business/Occupation RETIRED ARMY VETERAN
Address
Telephone (334) 379-4088

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:

Date: 4/2/2024

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:

1st choice Veteran's Board

2nd choice _____

3rd choice _____

Name Mary Teruigan

Address PO Box 345

City/State/Zip KH NC 27948

Email Address maryj@clarenc.com

Telephone Home: 252-305-1005

Business: 252-475-5657

Resident of Dare County: yes no

Occupation: leisure: Activity Poor

Business Address: 300 Blunkin St KH NC 27948

Educational background: BS work on MS

Business and civic experience and skills:

CAC Board 8 years (12 yrs Military)

BWV 4 yrs

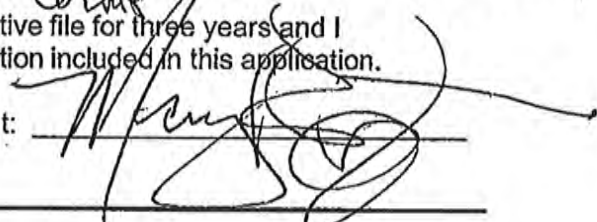
Other Boards/Committees/Commissions on which you presently serve:

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
Debbie Houdry	G. Emp	252-489-3661	
Emily Gould	G. Emp	757-576-4948	
Dancy Wilkerson	Retired Co Emp	252-256-1706	

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: 4/22/21 Signature of applicant: 

FOR OFFICE USE ONLY:

Date received: 4/22/2021



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Veterans Advisory Council

2nd Choice

3rd Choice

Name Lisa Lloyd

Address 4117 Tamarac Court

City/State/Zip Nags Head, NC 27959

Email lloyds5forlife@gmail.com

Personal Phone 4152464790

Business Phone

Business Address

Occupation Home Manager

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 Bachelor of Education, University of South Alabama, Mobile, AL (1989)

Business and civic experience and skills Management within Pregnancy Resource Centers (2021-2022; 2007-2013)
Served on Virginia Military Institute Parent Council (2012-2015)
Mentor Coach (2017-2020)

Other boards, Committees, Commissions on which you presently serve None

REFERENCE #1

Name Patricia O'Sullivan

Business Dare County

Address PO Box 669, Manteo, NC 27954

Phone 2524755604

REFERENCE #2

Name Lori Wilson
Business Accountant
Address 50 E Dogwood Trail, Southern Shores, NC 27949
Phone 7573831265

REFERENCE #3

Name Kay Costulis
Business Retired
Address 4201 13th St, Nags Head, NC 27959
Phone 7578800411

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.

Lisa Lloyd

Date 1/24/2024



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Advisory Board or Committee interested in:

- 1st choice: Juvenile Crime Prevention Council (JCPC)
2nd choice: Jury Commission
3rd choice: Veterans Advisory Council

Name: JENNIFER REARDON

Address: 180 S DOGWOOD TRL

City/State/Zip: KITTY HAWK NC 27949

Email Address: jlynnereardon@gmail.com

Telephone: Home: (252)469-0692 Business:

Resident of Dare County: YES

Occupation: PRIOR US ARMY PARALEGAL

Business Address:

Educational background:

My bachelors education is in criminal justice from NC Wesleyan Univeristy in Rocky Mount, NC with heavy emphasis on leadership training and teaching

Business and civic experience and skills:

My business experience is in active duty and National Guard military justice as a criminal justice paralegal preparing documents for commanders, trial judges and courts-martials. I also served as a claims analyst in Iraq and an English language instructor with a heavy emphasis on cultural immersion with Romanian Air Force.

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

I am not currently or actively serving on a board/Committee/Commission.

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	KELLI REARDON
Business/Occupation	CVS
Address	180 S DOGWOOD TRL KITTY HAWK NC 27949
Telephone	(252)883-8722



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name LISA JOHNSON
Business/Occupation
Address
Telephone (334)524-7090

Name JACQUE WADE
Business/Occupation
Address
Telephone (910)619-9809

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:

Date: 5/2/2023



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Advisory Board or Committee interested in:

- 1st choice: Library Board - Dare
2nd choice: Veterans Advisory Council
3rd choice: College of the Albemarle Board of Trustees

Name: JOHN F. WATKINS, JR.

Address: 404 SEXTANT CT

City/State/Zip: MANTEO, NC 27954

Email Address: jwatkins1319@gmail.com

Telephone: Home: (252)213-3645 Business:

Resident of Dare County: YES

Occupation: RETIRED

Business Address:

Educational background:

I am a graduate of the University of Southern Mississippi with a B.S. in Business Administration, and also a graduate of the UNC Chapel Hill Executive Program. My professional education/studies include certification as a CPM (Certified Purchasing Manager) and licensing as a USCG Captain.

Business and civic experience and skills:

I am a veteran, U.S. Army officer, Airborne-Ranger. My business experience is in the corporate world, first in the casualty insurance business and later in the textile industry. I have been a small business owner (engineered wood products), have worked for a non-profit, managed a Sea Tow franchise, and am a past president of a local home builders association in Vance County

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

I was serving on the Board of Trustees for the Perry Memorial Library in Henderson, NC prior to relocating to Manteo in February, 2023. My strong points are with budgeting and finances (approximately a \$1,000,000 operating budget), as well as overall business operations of the library.

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	PATTI MCANALLY
Business/Occupation	LIBRARY DIRECTOR, PERRY MEMORIAL LIBRARY
Address	205 BRECKENRIDGE STREET, HENDERSON, NC 27536
Telephone	(252)438-3316



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name STEVE CHOBOT
Business/Occupation
Address VANCE COUNTY, NC
Telephone (919)89-0334

Name CYNTHIA WALKER
Business/Occupation
Address HENDERSON, NC
Telephone (252)492-2269

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:

John P. Watkins, Jr.

Date: 3/28/2023



Dare County Board of Adjustment

Description

See Attached Summary

Board Action Requested

Take Appropriate Action

Item Presenter

Robert Outten, County Manager

May, 2024

DARE COUNTY BOARD OF ADJUSTMENT

(Three Year Term)

The Board of Adjustment meets to hear variances and appeals related to land use issues in the unincorporated areas of Dare County. The Chair is appointed by the Board of Commissioners and the Planning Department serves as administrative staff for this Board.

The following term expires this month:

Jay Hart

Mr. Hart would like to be reappointed.

Applications have been received from:

Mark Ballog, Justin Bateman, Brian Harris, Jason Hathcock, Michelle Lewis, Edward J. O'Brien, Jr., Raymond G. Pate, and Stephen Smith

Other Members:
See attached list

DARE COUNTY BOARD OF ADJUSTMENT

(Initial Staggered Term/Three Year Term)

The Board of Adjustment meets to hear variances and appeals related to land use issues in the unincorporated areas of Dare County. The Chair is appointed by the Board of Commissioners and the Planning Department serves as administrative staff for this Board.

<u>MEMBER</u>	<u>TERM EXPIRATION</u>	<u>ACTION</u>
Jay Hart, Chairman P.O. Box 1782 Kill Devil Hills, NC 27948 207-7900 Colington Area	5-30-24	Apptd. 4-05 Reapptd. 5/06,09,12,15 18, 21
Edward Mann, Jr. 415 Highway 64 Manteo, NC 27954 423-1215 eddiemann86@gmail.com Roanoke Island	5-30-26	Apptd. 5/17 Reapptd 6/20, 4/23
Patricia S. Weston 41105 Channel Ct P.O. Box 976 Avon, NC 27915 252-305-1705 obxblondie@aol.com Hatteras Island	5-30-25	Apptd. 5/22
Shelly R. Jones 5013 Martins Point Road Kitty Hawk, NC 27949 261-8878 shellyjones@gmail.com Martins Point Area	5-30-25	Apptd. 10/17 Reapptd. 5/19, 5/22
Anna Creef 5297 Mashoes Rd. Manns Harbor, NC 27953 473-3339 Dare Mainland	5-30-26	Apptd. 6/03 Reapptd.5/05,08,11,14, 17, 20, 4/23

ALTERNATES

Vacant
Vacant

NOTES:

CONTACT INFO: Noah Gillam, Planning Director MEETING DATE: No Set Date

Jay Hart filled unexpired term of Jacob Maestas 4/05.
Andrew Keeney replaced David Overton (alternate) 4/05.
Patricia Austin appointed to fill unexpired term of Michael Egan 5/06.
Roland Bowser replaced Patricia Austin 5/08
Edward Mann, Jr replaced Roland Bowser 5/17

Shelly Jones filled unexpired term of David Jones who resigned 10/17.

Jay Hart appointed Chairman 11/17

Thomas Murphy died 8/16/20 – leaving Hatteras position vacant

Patricia Weston filled Hatteras vacancy and Shelly R. Jones was reappointed 5/22

Edward Mann, Jr. and Anna Creef reappointed 4/23

REVISED 4/23



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Tourism Board

2nd Choice ABC Board

3rd Choice Zoning Board of Adjustment - Dare County

Name Mark Ballog

Address 2625 S Bridge Ln

City/State/Zip Nags Head, NC 27959

Email markballog@aol.com

Personal Phone (252)573-9756

Business Phone (252)255-5825

Business Address 3308 S Va Dare Trail nags Head, Nc 27959

Occupation Restaurant Owner

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 BS Marketing Indiana University of Pennsylvania

Business and civic experience and skills I have lived in Dare County every Summer since 1991 working in Restaurants. I have lived in the County full time since 1996. I have owned and operated Lucky 12 Tavern in Nags Head since 2006. In addition to the restaurant I served a 3 year term for the Town of Nags Head planning board. I have been very active in community with charity work with Artrageous, Hotline, Dare County motorcycle toy run etc.

Other boards, Committees, Commissions on which you presently serve Member Outer Banks restaurant association.

REFERENCE #1

Name Jeffrey Dowdy
Business Dowdy and Osbourne Public Accountants
Address 105 Weir Point Dr. Manteo, NC 27954
Phone (252)449-4404

REFERENCE #2

Name Michael Siers
Business Owner Howard Hannah Real Estate Branch Kill Devil Hills
Address 4638 S Blue Marlin Way Nags Head, NC 27959
Phone (252)489-3861

REFERENCE #3

Name Jason Waughtel
Business Senior VP Southern Bank
Address 108 Weir Point Drive 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.

Mark Ballog

Date

11/15/2021



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Advisory Board or Committee interested in:

1st choice: Zoning Board of Adjustment - Dare County

2nd choice:

3rd choice:

Name: JUSTIN BATEMAN

Address: 72 CUDWORTH CEMETERY RD. PO BOX 87

City/State/Zip: WANCHESE, NC 27981

Email Address: highway345south@gmail.com

Telephone: Home: (252)256-3252 Business:

Resident of Dare County: YES

Occupation: MARKETING EXECUTIVE/PODCAST HOST

Business Address:

Educational background:

High School Diploma - Manteo High School Class of 2003, AA from Santa Fe College - Gainesville, Florida 2010.

Business and civic experience and skills:

Active member and Wanchese precinct chair for Wanchese to the Dare County Republican Party.

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

Dare County Parks and Rec. Advisory Board, Wanchese Community Building Board of Directors.

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	EDWARD LEE MANN
Business/Occupation	RETIRED COAST GUARD AND FORMER DIRECTOR OF DARE COUNTY PUBLIC WORKS
Address	THE LANE, WANCHESE, NC 27981
Telephone	(252)455-3290



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name JOHN BAYLISS
Business/Occupation OWNER AND OPERATOR OF BAYLISS BOATWORKS
Address 600 HARBOR RD. WANCHESE, NC 27981
Telephone (252)202-3700

Name DOUG DOUGHTIE
Business/Occupation DARE COUNTY SHERIFF
Address 404 FIRST FLIGHT LANE KILL DEVIL HILLS, NC 27948
Telephone (252)216-9898

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:

Austin Bateman

Date: 3/15/2023



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Zoning Board of Adjustment - Dare County

2nd Choice

3rd Choice

Name Brian Harris

Address 46201 Diamond Shoals Dr.

City/State/Zip Buxton

Email sushibrian@gmail.com

Personal Phone (252)489-9669

Business Phone (252)995-5646

Business Address 46813 hwy 12

Occupation NC State auto inspector/ business owner

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 South River High School. Edgewater MD 21037 class of 95. Anne Arundel Community College. Severna Park MD.. Wor-Wic Community College Ocean City MD. Colorado Mountain College. Breckenridge CO. South Lake Tahoe Community College. Lake Tahoe CA. I attended several community colleges across the US while actively participating in snowboarding studying political science, business, and meteorology.

Business and civic experience and skills Currently help run Lighthouse Service Center/ Carquest in Buxton. I also own a seafood business in MD, specializing in seafood from the OBX to be sold at farmers markets across the DC/Baltimore area. I participated in the action sports industry sponsoring & managing the careers of extreme sports athletes. Through this time & travel I worked in various sushi chefs became a certified sushi chef and owned a sushi bar that is now closed.

Other boards, Committees, Commissions on which you presently serve presently none. I want to get involved in all aspects of Hatteras Island to help preserve its legacy, heritage and make sure the future generations here understand who came before them.

REFERENCE #1

Name Danny Couch

Business Hatteras Realty

Address Dipping Vat Rd. Buxton

Phone (252)475-4477

REFERENCE #2

Name John Couch

Business Red Drum Properties/ Lighthouse Service Center/ Carquest

Address 47270 Lost Tree Trail, Buxton 27920

Phone (252)216-8231

REFERENCE #3

Name Steve Kovacs

Business Dare County Fire Marshall

Address KDH ?

Phone (252)475-0141

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.

Brian Harris

Date 11/23/2021



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Advisory Board or Committee interested in:

- 1st choice: Zoning Board of Adjustment - Dare County
2nd choice: Planning Board
3rd choice: Albemarle Region Resource Conservation and Development
Council (RC&D)

Name: JASON HATHCOCK

Address: 120 LEE CT

City/State/Zip: KILL DEVIL HILLS, NC 27948

Email Address: jhathcoc@yahoo.com

Telephone: Home: (252)564-4604 Business:

Resident of Dare County: YES

Occupation: SR. PROJECT DEVELOPMENT MANAGER

Business Address: 120 LEE CT KILL DEVIL HILLS, NC 27948

Educational background:

I received a Bachelors Degree from the Pamplin School of Business at Virginia Tech in Blacksburg, VA.

Business and civic experience and skills:

Worked for Dominion Energy as an Electric Distribution Project Designer for 13 years, currently working for Strata Clean Energy managing the development of utility scale renewable energy projects in the PJM market.

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

None at this time. Served as the Commodore of the Colington Yacht Club in 2022.

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	MIKE LANCSEK
Business/Occupation	REAL ESTATE BROKER
Address	93 POTESKEET TRAIL SOUTHERN SHORES, NC
Telephone	(252)207-0305



APPLICATION FOR APPOINTMENT TO
DARE COUNTY ADVISORY BOARDS AND COMMITTEES

Name FRANK SOLES
Business/Occupation BUILDER
Address 400 DA VINCI LANE KITTY HAWK, NC
Telephone (757)448-8162

Name MIKE JOHNSON
Business/Occupation LAND DEVELOPMENT/MANAGEMENT
Address 105 PRINCE CHARLES CT KILL DEVIL HILLS, NC
Telephone (252)473-8262

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:

Jason Hathcock

Date: 1/11/2023



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Nursing Home Community Advisory Council/DC Joint Comm. Advisory Committee

2nd Choice Waterways Commission

3rd Choice Zoning Board of Adjustment - Dare County

Name Michelle Lewis

Address 514 Sir Walter Raleigh Street

City/State/Zip Manteo, NC, 27954

Email Michelle.E.Lewis@duke.edu

Personal Phone 2038237478

Business Phone

Business Address

Occupation Educator/Nonprofit Executive/Pastor

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 After completing joint master's degrees at Yale University (Master of Environmental Science/Master of Divinity), Michelle earned her Doctorate from Emory University. She holds a Master of Arts in Communication from Regent University and a Bachelor of Arts from Elizabeth City State University. She also has a Leadership, Organizing, and Action certificate from the Harvard Kennedy School.

Business and civic experience and skills Michelle is the founder and executive director of the Peace Garden Project, the pastor of Roanoke Island Presbyterian Church, and an adjunct faculty member at Duke Divinity School.

Other boards, Committees, Commissions or which you presently serve Michelle serves on the Board of the Don and Catharine Bryan Cultural Series and the Dare County Children and Youth Partnership (one of the former board chairs). She is vice chair of the Town of Manteo's Community Police Advisory Board and Mainstreet Manteo Committee.

REFERENCE #1

Name Spottswood Graves

Business Retired Clergy

Address 811 W. First Street, KDH, NC 27948

Phone 2522166863

REFERENCE #2

Name Stephanie McKoy

Business

Address

Phone 2525739746

REFERENCE #3

Name David Gilmore

Business

Address

Phone 8162554453

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.

Michelle Estelle Lewis

Date 1/5/2024

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:

1st choice Fessenden Center Advisory Board

2nd choice Zoning Board of Adjustment

3rd choice PLANNING BOARD

Name Edward J. O'Brien Sr.

Address 41193 CARONADE CT., P.O. Box 805

City/State/Zip AVON, NC 27915

Email Address EDOBRIEN41193@GMAIL.COM

Telephone ^{Cell} Home: (610) 842-9065

Business: _____

Resident of Dare County: yes no

Occupation: RETIRED

Business Address: _____

Educational background:
SOME COLLEGE

Business and civic experience and skills:

FORMER PUBLIC WORKS DIRECTOR

FORMER WASTEWATER TREATMENT PLANT SUPERINTENDENT

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

REFERENCES

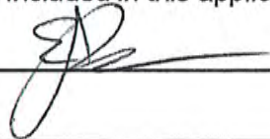
List three persons who are not related to you and who have definite knowledge of your qualifications for the position for which you are applying.

Name Business/Occupation Address Telephone

ROMAN PROJEZAK, Whitpain Twp. Mgr., Whitpain, Pa.

others upon request

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: 5/18/21 Signature of applicant: 

FOR OFFICE USE ONLY:

Date received: 5/18/21



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Airport Authority

2nd Choice Zoning Board of Adjustment - Dare County

3rd Choice Planning Board

Name Raymond G Pate

Address POB 350

City/State/Zip Kill Devil Hills, NC 27948

Email rgpatepepls@gmail.com

Personal Phone (252)435-8785

Business Phone (252)435-8785

Business Address POB 228, Point Harbor, NC, 27964, United States

Occupation Professional Engineer & Professional Land Surveyor

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 Attended Louisburg College in Louisburg , NC from August 1972 to August 1974 studying general college with an emphasis on English literature. Attended the University of North Carolina at Wilmington from January 1975 to May 1977 receiving a BA degree in earth sciences with an emphasis on global positioning/geology. Attended North Carolina State University from 1978 to May 1981 receiving a BS degree in Civil Engineering-Construction Option.

Business and civic experience and skills Received Private Pilot single engine land certification with flight training in Bessemer Alabama and glider certification in 1992 with flight training in Hampton County NC.

Other boards, Committees, Commissions on which you presently serve Member of St. Andrews Episcopal by the Sea, Nags Head, NC.

REFERENCE #1

Name Dr. Charles Davidson

Business 3618 Old Nags Head Woods

Address 3618 Old Nags Head Woods, Nags Head, NC, 27959

Phone (252)548-9141

REFERENCE #2

Name Mr. George Henderson
Business POB 606 Manteo, NC 27954
Address 153 Dogwo0od Circle, Manteo, NC 27954
Phone (252)473-2791

REFERENCE #3

Name Mrs. Lib Fearing
Business POB 184, Manteo, NC 27954
Address 337 Ariport Rd., Manteo, NC, 27954
Phone (252)473-3307

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.

Raymond G Pate

Date 12/31/2021



APPLICATION FOR APPOINTMENT

TO DARE COUNTY ADVISORY BOARDS AND COMMITTEES

1st Choice Tourism Board

2nd Choice Equalization and Review Board

3rd Choice Zoning Board of Adjustment - Dare County

Name Stephen Smith

Address 1002 Run Hill Ct Unit 114

City/State/Zip Kill Devil Hills, NC 27948

Email stephensmithobx@gmail.com

Personal Phone 2522169230

Business Phone

Business Address

Occupation Realtor

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 HS graduate, some college

Business and civic experience and skills I've had 5 careers - first as a grocery store manager in Wilson, NC and then as a document imaging programmer traveling to 48 out of 50 states, then a political campaign director in western NC, and then I moved to Hatteras Island and was the IT director for Hatteras Realty for several years before doing IT consulting on my own up the beach. A few years ago I converted to real estate and would love to serve the community!

Other boards, Committees, Commissions on which you presently serve n/a

REFERENCE #1

Name Bob Leavitt

Business Seaside Realty

Address 3900 N Croatan Hwy Kitty Hawk NC 27949

Phone 5712280577

REFERENCE #2

Name Joe Thompson
Business Spa Koru
Address 40920 NC 12 Hwy Avon NC 27915
Phone 2529960565

REFERENCE #3

Name John Hooper
Business Lighthouse View Motel
Address 46677 NC 12 Hwy Buxton NC 27920
Phone 2524754342

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.

Stephen Smith

Date 1/2/2024



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.

There are also several boards with vacancies. Please check the website.

June 2024

College of the Albemarle Board of Trustees – 1 term expiring
Extra Territorial Jurisdiction District (Town of SS) – 1 term expiring
Fessenden Center Advisory Board – 4 terms expiring
Hatteras Community Center Board – 2 terms expiring
Juvenile Crime Prevention Council – 5 terms expiring
Manns Harbor Community Center Board – 2 terms expiring
Roanoke Island Community Center Board – 2 terms expiring
Rodanthe, Waves, Salvo Community Center Board – 2 terms expiring
Waterways Commission – 4 terms expiring

July 2024

East Lake Community Center Board – 1 term expiring
Game and Wildlife Commission – 4 terms expiring
Older Adult Services Board – 1 term expiring
Parks and Recreation Advisory Council - 8 terms expiring
Wanchese Community Center Board – 2 terms expiring

August 2024

A.B.C. Board – 2 terms expiring
Parks and Recreation Advisory Council – 1 term expiring
Virginia S. Tillett Community Center Advisory Board – 4 terms expiring

~~~~~Instructions for Obtaining and Submitting Applications~~~~~

An application must be submitted to the Clerk in order for your name to be considered for a board or committee appointment. Applications are kept on file for three years.

The application form is available on the Dare County website

(Please see Board of Commissioners under Advisory Boards and Committees for link)

Skyler Foley, Clerk to the Board at 252-475-5700



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