
AGENDA
CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JUDGE E. MAURICE BRASWELL
CUMBERLAND COUNTY COURTHOUSE- ROOM 118
NOVEMBER 4, 2024
9:00 AM

INVOCATION - Commissioner Marshall Faircloth

PLEDGE OF ALLEGIANCE -

RECOGNITION

Cumberland County "Ignite" Internship Program

1. APPROVAL OF AGENDA
2. CONSENT AGENDA
 - A. Approval of Proclamation Recognizing Operation Greenlight in Cumberland County
 - B. Approval of Proclamation Proclaiming November 16, 2024 as Liberty Point Resolves Day in Cumberland County
 - C. Approval of Connection of the Godwin Subdivision Project to the NORCRESS Sewer System
 - D. Approval of Adoption of the Schedule of Values, Standards, and Rules for the 2025 Property Tax Evaluation
 - E. Approval of FY 2024-2025 JCPC Unallocated Funding
 - F. Approval of Proposed Additions to the State's Secondary Road System
 - G. Approval of Proposed Additions to the State's Secondary Road System
 - H. Correction of Section Heading in Vaping Regulations Ordinance
 - I. Approval of Budget Ordinance Amendments for the November 4, 2024 Board of Commissioners' Agenda
3. PUBLIC HEARINGS
 - A. Public Hearing for Edward Byrne Memorial Justice Assistance Grant
4. ITEMS OF BUSINESS
 - A. Consideration of Request for Proposals (RFP) for Employee Health Center Provider
 - B. Consideration of Construction Manager-at-Risk Contract for Homeless Support Center
5. NOMINATIONS
 - A. Fayetteville Area Convention and Visitor's Bureau Board of Directors (1) Vacancy

B. Library Board of Trustees (3) Vacancies

6. APPOINTMENTS

A. Fayetteville Area Convention and Visitor's Bureau Board of Directors (1) Vacancy

B. Transportation Advisory Board (4 Vacancies)

RECESS THE BOARD OF COMMISSIONERS' MEETING

CONVENE THE NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

7. NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD CONSENT AGENDA

A. Approval of Connection of the Godwin Subdivision Project to the NORCRESS Sewer System

ADJOURN THE NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

RECONVENE THE BOARD OF COMMISSIONERS MEETING

8. CLOSED SESSION

A. Attorney Client Matter Pursuant to NCGS 143-318.11(a)(3)

B. Real Property Acquisition Pursuant to NCGS 143.318.11(a)(5)

ADJOURN

REGULAR BOARD MEETINGS:

November 18, 2024 (Monday) 6:45 PM

December 2, 2024 (Monday) 9:00 AM

December 16, 2024 (Monday)6:45 PM



AMERICAN RESCUE PLAN

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: TYE VAUGHT, CHIEF OF STAFF

DATE: 10/28/2024

SUBJECT: CUMBERLAND COUNTY "IGNITE" INTERNSHIP PROGRAM

BACKGROUND

On September 13, 2024, Cumberland County launched the 2nd cohort of the "Ignite" Internship Program. The cohort consist of college students (undergraduate and graduate), and recent college graduates. The County received a total of 43 applications and ultimately hired and onboarded 18 interns.

The following interns are placed in various county departments to complete their ten-week fall internship:

- Narchadille Arbuckle, Public Library
- Connor Fisher, Solid Waste Management
- Andrea Gonzalez-Vallejo, Public Health
- Keturah Haynes, Social Services
- Carliyah Hudson, Social Services
- Shaliyah Jackson, Public Information Office
- Jared Libertelli, Employee Wellness
- Darrell McIver, Social Services
- Ny'Asia Michael, Public Library
- Sierra Paul, Social Services
- Tre' Richardson, Public Information Office
- Elijah Tijero, Human Resources
- Cedric Turner, Community Development
- Sean Underwood, Innovation Technology Services
- Nancy Velarde Ortiz, Innovation Technology Services
- Tiffany Warren, Tax Administration
- Dylan Wooster, Emergency Services
- Alyssa Young, Engineering & Infrastructure

RECOMMENDATION / PROPOSED ACTION

Recognize the 2nd cohort of the Cumberland County "Ignite" Internship Program.



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 9/4/2024

**SUBJECT: APPROVAL OF PROCLAMATION RECOGNIZING OPERATION
GREENLIGHT IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing Operation Greenlight in Cumberland County.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

ATTACHMENTS:

Description

Operation Green Light Proclamation

Type

Backup Material

Proclamation

WHEREAS, the residents of Cumberland County have profound respect, admiration and the utmost gratitude for all men and women who have selflessly served our County and this community in the Armed Forces; and

WHEREAS, the contributions and sacrifices of those who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, Cumberland County seeks to honor individuals who have made countless sacrifices for freedom by placing themselves in harm's way for the good of all; and

WHEREAS, veterans continue to serve our community in the American Legion, Veterans of Foreign Wars, religious groups, civil service, and by functioning as County Veterans Service Officers in twenty-nine states to help fellow former service members access more than \$52 billion in federal health, disability and compensation benefits each year; and

WHEREAS, approximately 200,000 services members transition to civilian communities annually and an estimated 20% increase of service members will transition to civilian life in the near future; and

WHEREAS, studies indicate that 44-72 % of service members experience elevated levels of stress during the transition from military to civilian life; and

WHEREAS, active military service members transitioning from military service are at a high risk for suicide during their first year after military service; and

WHEREAS, the National Association of Counties encourages all counties, parishes, and boroughs to recognize Operation Greenlight for Veterans; and

WHEREAS, Cumberland County appreciates the sacrifices of our United State military personnel and believes specific recognition should be granted.

NOW, THEREFORE BE IT RESOLVED, with designation as a Green Light for Veterans County, Cumberland County hereby declares Veterans Day, November 11th 2024, a time to salute and honor the service and sacrifices of our men and women in uniform transitioning from active service; therefore,

BE IT FURTHER RESOLVED, that in observance of Operation Green Light, We the Cumberland County Board of Commissioners encourage the citizens in patriotic tradition to recognize the importance of honoring all those who made immeasurable sacrifices to preserve freedom by displaying green lights in a window of their place of business or residence from November 4th through the 11th, 2024.

Adopted this 4th day of November 2024.

Glenn B. Adams, Chairman
Cumberland County Board of Commissioners



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 10/21/2024

**SUBJECT: APPROVAL OF PROCLAMATION PROCLAIMING NOVEMBER 16, 2024
AS LIBERTY POINT RESOLVES DAY IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing Liberty Point Resolves Day in Cumberland County.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

ATTACHMENTS:

Description	Type
Liberty Point Resolves Proclamation	Backup Material

Proclamation

WHEREAS, on June 20, 1775, leading citizens of Cumberland County resolved to support one another in resisting British oppression by affirming the Liberty Point Resolves, which are also known as the Cumberland Association; and

WHEREAS, the resolves were signed by fifty residents of Cumberland County, North Carolina early in the American Revolution; and

WHEREAS, the Patriots, who had formed themselves into a group known as the Association met at a tavern in Cross Creek to sign the document protesting the actions of Great Britain after the battles of Lexington and Concord: and

WHEREAS, many of the individuals who signed the Liberty Point Resolves in 1775 took leading places in the American Revolution in hopes of bringing about a more representative government; and

WHEREAS, the combined effort of those who signed the Liberty Point Resolves and the community assisted with independence for the United States of America; and

NOW THEREFORE, We, the Cumberland County Board of Commissioners, do hereby proclaim November 16, 2024 as Liberty Point Resolves Day in Cumberland County.

Adopted this 4th day of November 2024.

*Glenn B. Adams, Chairman
Cumberland County Board of Commissioners*



SOLID WASTE MANAGEMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: AMANDA LEE, P.E., GENERAL MANAGER FOR NATURAL RESOURCES

DATE: 10/18/2024

SUBJECT: APPROVAL OF CONNECTION OF THE GODWIN SUBDIVISION PROJECT TO THE NORCRESS SEWER SYSTEM

BACKGROUND

The Public Utilities Department received a request from Susan Tart Property, LLC to connect a 116-lot single family home subdivision on Washburn Road in Godwin to the NORCRESS sewer system. The project will consist of installation of approximately 4,854 feet of 8-inch sewer mains, 1,687 feet of 4-inch sewer force mains and 1 lift station, with all costs being paid by Susan Tart Property, LLC. The Utility Service Agreement is needed to set the guidelines between Susan Tart Property, LLC and the NORCRESS Water and Sewer District to ensure proper installation and connection to the system. Upon completion of construction of the sewer lines and lift station and written acceptance of the as-builts and certifications, the said utility mains shall be the property of NORCRESS Water and Sewer District and will be operated and maintained as part of the existing NORCRESS sewer system. The NORCRESS sewer system and the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility have the capacity to accept the 26,100 gallons per day projected flow.

RECOMMENDATION / PROPOSED ACTION

The Public Utilities Division, General Manager for Natural Resources and County Management recommend the following proposed actions for the Board of Commissioners and the NORCRESS Water and Sewer District Governing Board:

Approve the request from Susan Tart Property, LLC to connect the 116-lot Godwin Subdivision to the existing NORCRESS sewer system and the Agreement for Utility Services.

ATTACHMENTS:

Description

Agreement for Utility Services

Type

Backup Material

**NORTH CAROLINA
CUMBERLAND COUNTY**

AGREEMENT FOR UTILITY SERVICE(S)

THIS AGREEMENT, made this _____ day of _____, 2024 by and between the NORCRESS Water and Sewer District (hereinafter called "DISTRICT") and Susan Tart Property, LLC (hereinafter called "APPLICANT")

WITNESSETH

WHEREAS, APPLICANT desires public utility services from DISTRICT as selected below. (check all that apply)

- Water and/or Sewer Utility Extension
- Water Service
- Sewer Service

NOW THEREFORE, in consideration of the premises and of the mutual agreements hereinafter set forth, the parties hereby agree and contract as follows:

DEFINITION OF DISTRICT'S AGENTS. Throughout this Agreement, any reference to "Agent" or "DISTRICT'S Agent" shall mean any worker, employee, official, contractor, consultant or operator of DISTRICT'S water and sewer services or systems whether employed, hired, or contracted by DISTRICT or Cumberland County on behalf of DISTRICT.

Article 1: Water and/or Sewer Utility Extension

As selected above, APPLICANT hereby requests installation of water and/or sanitary sewer utility services as described in Exhibit "I", Project Summary, and is subject to the following terms and conditions:

- A. APPLICANT shall perform all work necessary to accomplish the proposed utility extension including, but not limited to, design, specifications, permitting and construction. Applicant will furnish all material, perform all labor, and pay all costs to construct, by a contractor licensed to perform utilities construction in North Carolina, to DISTRICT'S rules currently in effect and approved by the DISTRICT'S governing board, all applicable local codes and ordinances, the current service provider, and State regulations and laws for those utilities. The work shall be completed in accordance with this Agreement. The DISTRICT or its Agent will review and inspect work performed by APPLICANT to assure that the work meets the purpose for which it is intended and is in compliance with all requirements and conditions contained herein. Such review and approval will not relieve APPLICANT from complying with all said conditions and requirements.
- B. Such construction shall be undertaken and completed as soon as practicable, and not later than one year from date of this agreement, unless delayed or prevented by acts of God, or other things beyond APPLICANT's control. In the event that construction is not completed one year from date of this agreement, then DISTRICT, through the Director of the Cumberland County Public Utilities Department may extend the agreement upon such terms and conditions as the Director deems necessary.
- C. Fees shall be paid by APPLICANT for services provided by DISTRICT, the service provider, or its Agent for the following:
 - (1) review and approval of plans, specifications, and necessary documents, to include final review of the required documents to assure that DISTRICT has legal title to necessary rights-of-way and easements;
 - (2) review and approval of the Bill of Sale provided by APPLICANT, and acceptance of the utility extensions by DISTRICT;

- (3) and daily inspection of the construction in progress, as needed to ensure that construction of the utility extensions are in accordance with this Agreement, the Plans and Specifications, and any other DISTRICT requirements;
 - (4) conduction of pre-flush required pressure tests, any retesting which may be necessary, and sampling of the completed extension after flushing for submittal to the State, or a certified testing laboratory, for bacteriological examination;
 - (5) conduction of required pressure tests, after flushing, and any retesting of sewer system improvement which may be necessary;
 - (6) approval of the sewer video taping schedule, supervision of video taping and revisions/approval of the completed tape and log sheets;
 - (7) final inspection of the completed extension and preparation of the inspection report, which shall set forth any deficiencies that may exist;
 - (8) reinspection of any deficient work;
 - (9) review of the water and/or sewer as-built construction drawings; and
 - (10) reinspection at the end of the one-year warranty period.
- D. Materials and equipment shall be new and shall be as specified in this Agreement, the plans and specifications, the service providers standards, or if not specified, of a quality approved by DISTRICT. All materials and equipment furnished are warranted by APPLICANT as new and in accordance with this Agreement and the approved plans and specifications, and suitable for the intended purpose. In addition, APPLICANT, shall furnish DISTRICT copies of the supplier's warranty and shall adopt the same as the warranty of APPLICANT, and shall also be liable thereon to DISTRICT.
- E. Connection to DISTRICT's water and/or sanitary sewer system of buildings constructed after the date of this agreement on parcels of land that are subject to the Cumberland County's Subdivision Ordinance shall be governed by the requirements of Cumberland County's Subdivision Ordinance.
- F. Upon satisfactory completion of construction of said water and/or sanitary sewer mains and written acceptance of such construction by DISTRICT, said utility mains shall be the property solely of DISTRICT and DISTRICT will maintain same after the one (1) year warranty set forth below has expired. To accurately value the assets being transferred, APPLICANT shall complete and submit a preliminary Statement of Project Cost Form attached as Exhibit "II" to DISTRICT at time of submittal and a final certified form at project completion.
- G. Warranty: APPLICANT shall warrant that the water and/or sanitary sewer utilities to be owned by DISTRICT shall be free from any defects in materials and workmanship. APPLICANT also warrants that it shall be solely responsible for the repair of any damage caused by its agents or employees. Said warranties shall remain in full force and effect for a period of one (1) year from the date of final acceptance of the facilities by DISTRICT. In the event it becomes necessary to repair and/or replace any of the facilities during the initial one (1) year period, such repair and/or replacement shall be at APPLICANT's sole expense and the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one (1) year from the date of final acceptance by DISTRICT of those repairs and/or replacements. If DISTRICT must repair and/or replace said utilities during the warranty period due to response time requirements, DISTRICT shall bill APPLICANT for work completed and APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- H. Water and/or sanitary sewer connections to structures along said utility mains from service laterals installed by APPLICANT will not be made nor will such service be activated until all work to be performed by APPLICANT has been satisfactorily completed and written acceptance of such work is given by DISTRICT. Also, if a water main is extended pursuant to this agreement, it must be tested and sterilized by APPLICANT'S contractor before activation of any water service from said water main.

- I. Water and/or sanitary sewer service will be supplied to structures now or hereafter located along said utility mains in accordance with DISTRICT's rules, regulations, and rate schedules applicable to such structures and currently in effect at the time of application for service. If all normal DISTRICT fees and charges for installation and activation of such services have been paid by applicants for said services, DISTRICT will thereafter use its best efforts to supply water to said structures at good operating pressure, but in no event shall DISTRICT be liable for failure to do so, it being understood that all such original operating fees, charges, rates, etc., are, solely at DISTRICT's discretion, subject to change by DISTRICT.
- I. Any replacements or adjustments in elevations and grades of those water and/or sanitary sewer service laterals, including water meters and boxes and sanitary sewer cleanout stacks, which were originally installed by APPLICANT'S contractor in accordance with approved plans by APPLICANT's engineer, shall be at APPLICANT's expense; and the determination of DISTRICT that such replacements or adjustments are required shall be final and binding on APPLICANT.
- J. During construction of project, APPLICANT will be responsible and pay DISTRICT as invoiced for any and all damages to DISTRICT utilities and materials except when such damages are caused by DISTRICTS forces. APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- K. APPLICANT'S contractor shall be responsible for complying with any and all statutes, rules, regulations or ordinances, which may be imposed by other governmental agencies (local, state and federal), which have jurisdiction. APPLICANT shall hold harmless DISTRICT against any claims, fines or civil penalties resulting from APPLICANT'S contractor's failure to comply with said regulations.
- L. The Water and Sewer Utility Extension is further illustrated in Exhibit "III", Water and Sewer Utility Extension Map. APPLICANT shall be responsible for costs (engineering, materials, design, etc.) associated with major design changes that deviate from Exhibit "II" and the attached map as identified in Exhibit "III".

Article 2: General Terms and Conditions

AUTHORITY:

DISTRICT shall have general authority over the work to be accomplished under this Agreement, provided nothing contained in this Agreement shall be construed to require DISTRICT to direct the method or manner of performing any work by APPLICANT. Incident to this general authority, DISTRICT may engage engineers and contractors to observe construction, inspect, test, and evaluate any construction performed by APPLICANT's contractors and assist APPLICANT'S contractors with correcting or completing any construction if DISTRICT determines the construction by APPLICANT'S contractors creates a risk of harm to DISTRICT'S water or sewer system for which APPLICANT'S extension is permitted. APPLICANT shall be responsible for the costs incurred by DISTRICT for this purpose.

DISTRICT shall decide all questions pertaining to the interpretation of this Agreement and the approved plans and specifications prepared thereto, the quality or acceptability of materials furnished, and work performed under this Agreement on the part of APPLICANT. The decision of DISTRICT on such matters shall be final.

All work under this Agreement shall be performed to the satisfaction of DISTRICT, and the decision by DISTRICT as to whether the work has been performed in a satisfactory manner shall be final.

DISTRICT may stop work under this Agreement whenever, in its opinion, such stoppage is necessary to ensure proper performance of this Agreement. DISTRICT may also reject all work and materials which, in its opinion, do not conform to this Agreement.

DETERMINATION OF "OR EQUAL"

DISTRICT or its Agent shall be the sole judge of the questions of "or equal" of any supplies, materials or equipment proposed by APPLICANT. APPLICANT shall pay to DISTRICT the costs of test and evaluations needed to determine the acceptability of alternates proposed by APPLICANT.

STOPPAGE OF WORK

If APPLICANT performs any work contrary to this Agreement, laws, ordinances, rules, or regulations; or, prior to obtaining any necessary permits or other required permission, DISTRICT may order the work stopped.

INSPECTIONS AND TESTS

Inspection by DISTRICT or its Agent is required for various aspects of the utility system. Such aspects include, but are not limited to: water and/or sewer main pipe laying operations, installation of sleeves, couplers and adapters on pipe, pipe bedding and backfilling, casings, concrete encasement or other special installations, repairs to water and/or sewer utilities, all water main fittings with concrete blocking, pressure testing water mains, water main purity samples after flushing, main wet taps, any cut-in's on existing water mains, hydrant installations, water service installations, vault installations and appurtenances, hole cuts on sanitary sewer pipe, manhole installations and pipe connections, manhole vacuum testing, manhole core drilling, air testing sewer main and side sewer stubs, flushing/cleaning sewer mains and CCTV inspection, grease/oil-water separators, vehicle wash and dumpster area drains, tee locations and stub markers, sewer depth at right-of-way/easement line, sewer slope, fittings and clean-outs.

Inspection of the work by DISTRICT or its Agent shall be strictly for the benefit of DISTRICT or its Agent and no other person or agency.

DISTRICT staff or its Agent, at all times, will have access to the work area for the purpose of inspecting and testing. APPLICANT shall provide facilities for safe access, inspection, and testing.

If any work is covered without the approval or consent of DISTRICT or its Agent it shall be uncovered for inspection at APPLICANT'S expense, if required by DISTRICT or its Agent.

APPLICANT shall make reasonable tests of the work at APPLICANT'S expense upon DISTRICT'S or its Agent's request and shall maintain a record of such tests.

Before a performance test is to be observed by DISTRICT or its Agent, APPLICANT shall make such preliminary tests as are necessary to assure that the material and/or equipment are in accordance with the approved plans and specifications provided. If, for any reason, the test observed is unsatisfactory, APPLICANT shall pay all costs incurred for the inspection of further testing.

Should APPLICANT elect to work more than eight hours per weekday, all costs of inspection thus entailed may be charged to APPLICANT at the overtime billing rate.

Approval is required from DISTRICT or its Agent to work nights, weekends, and holidays. After-hours inspections may not be possible due to the lack of staff availability. APPLICANT shall submit its proposed schedule to work nights, weekends, or holidays at least five days in advance (not including weekends and holidays) for review. If APPLICANT elects to work on weekends, nights or holidays, and such work schedule is approved by DISTRICT or its Agent, all costs of inspection may be charged to the APPLICANT at the overtime billing rate.

Where this Agreement, approved plans and specifications, or laws, ordinances, rules, or regulations of any governmental authority require that any work be specially tested or inspected, APPLICANT shall give DISTRICT notice that such tests or completed work is ready for inspection. APPLICANT shall notify DISTRICT of the date, time, and location of the inspection. Required certificates of inspection shall be secured by APPLICANT.

Notice of deficiencies shall be given to APPLICANT upon completion of each inspection. APPLICANT shall correct such deficiencies within seven days of the notice and before final inspection is made by DISTRICT.

A representative of APPLICANT'S contractor shall arrange a time to accompany DISTRICT or its Agent on the final inspection and subsequent reinspection, if required. DISTRICT or its Agent will not make the final inspection until the physical work, including final clean-up and all extra work ordered by the Inspector has been completed.

Deficiencies discovered during the final inspection shall be corrected within seven days of notice thereof and, in no instance, shall service be provided until the deficiencies are corrected and the utility extensions pass reinspection.

AVAILABILITY OF PROJECT DOCUMENTS

APPLICANT shall keep at least one copy of the following project documents constantly available at the construction site: (1) approved construction plans and shop drawings, and (2) construction specifications.

MATERIALS AND EQUIPMENT LIST

APPLICANT shall file three copies of a materials and equipment list with DISTRICT prior to commencing construction. This list shall designate the quantity, manufacturer and model number of materials and equipment to be installed under this Agreement.

The materials and equipment list will be checked by DISTRICT or its Agent for conformity with this Agreement and the approved plans and specifications provided. DISTRICT will determine the conformity of the list with reasonable promptness. APPLICANT shall make any required corrections and file two correct copies with DISTRICT within one week after receipt of the required corrections. DISTRICT'S review of the list shall not relieve APPLICANT from the responsibility of providing materials and equipment suitable for their intended purpose nor for deviations from this Agreement or the plans and specifications without written approval from DISTRICT.

WATER METERS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the installation of water meters. APPLICANT shall not purchase and install water meters from a private supplier.

Single family meter applications shall not be submitted until after acceptance of the utility extensions.

SEWER TAPS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the connection of sewer taps to the mains. Elder valve installations may be required in addition to sewer taps.

Single family sewer connections shall not be submitted until after acceptance of the utility extensions.

SAFETY:

Safety in, on, or about the construction site is the sole and exclusive responsibility of APPLICANT. APPLICANT'S means and method of work performance, superintendent of APPLICANT'S employees and sequencing of construction are also sole and exclusive responsibilities of APPLICANT.

APPLICANT shall be responsible for the safety of any person, including but not limited to, any worker, DISTRICT'S Agent, Owner and/or Owner's representative, visitor or invitee on the site of the work at all times during the prosecution of the work, regardless of whether the individual is an employee of APPLICANT or APPLICANT'S Contractor or Sub-Contractor. APPLICANT is responsible for compliance with the rules, regulations and interpretations of the North Carolina Department of Labor relating to "North Carolina Occupational Safety and Health Standards (OSHA) for the Construction Industry" (Title 29 CFR Part 1926 and 29 CFR Part 1919 as adopted by 13 NCAC 7C.0101) and revisions as adopted by N.C.G.S. § 95-126 through 155 and additionally with normal industry safety practices or standards.

DISTRICT shall have the right to inspect the work for pay application compliance and compliance with DISTRICT'S standards and specifications but is not required to do so. DISTRICT shall further have the right to monitor the progress of the work, but no such inspection shall relieve APPLICANT of any duty or obligation it might have under the terms of this Agreement. Nothing in this Agreement shall relieve APPLICANT of any duty or obligation to direct the means and methods of the work.

INDEMNIFICATION:

APPLICANT shall indemnify and hold DISTRICT and DISTRICT'S Agents harmless from and against all liabilities, claims, demands, suits, losses, damages, costs, and expenses (including attorney's fees) for bodily injury to or death of any person, or damage to or destruction of any property proximately caused by the negligence of APPLICANT or any person for whom APPLICANT is legally responsible during the performance of services relative to this Agreement.

INDEPENDENT CONTRACTOR:

APPLICANT is an independent contractor and shall undertake performance of the services relative to this Agreement as an independent contractor. APPLICANT shall be wholly responsible for the methods, means, and techniques of performance. DISTRICT shall have no rights to supervise methods and techniques of performance employed by APPLICANT, but DISTRICT shall have the right to observe such performance.

COMPLIANCE WITH LAWS:

In performing services relative to this Agreement, APPLICANT shall comply with all applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards. APPLICANT shall be responsible for procuring all permits, certificates, and licenses necessary to allow APPLICANT to undertake activities and construction relative to this Agreement.

FINAL SEQUENCE FOR ACCEPTANCE OF PROJECTS

In order for DISTRICT to accept the utility extension as part of DISTRICT'S assets, APPLICANT must complete the following:

- (1) APPLICANT'S Contractor completes all utility work and makes an appointment for final inspection.
- (2) DISTRICT'S Inspector inspects, re-inspects "punch list" items, and signs off as "complete", provided there are no deficiencies.
- (3) All applicable requirements of this Agreement have been satisfied, including but not limited to, the Operation and Maintenance Manual approved and recordable, outstanding fees paid, easements verified & recordable, Bills of Sale for transfer of facilities to be owned by DISTRICT, Maintenance Bonds, if greater than original Performance Bonds, Certification of Construction Cost, and final as-builts hard copies, CAD and shapefiles received.

NOTICE:

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

APPLICANT: Name: Susan Tart Property, LLC
 Attention: Zachary Angle, Manager
 Address: 126 N. Ennis Street
 City, State, Zip: Fuquay-Varina, NC 27526

DISTRICT: Name: County of Cumberland
 Attention: NORCRESS Water and Sewer District
 Address: P.O. Box 1829
 Fayetteville, NC 28302

Nothing contained in this Article shall be construed to restrict the transmission of routine communication between representatives of APPLICANT and DISTRICT.

GOVERNING LAW:

This Agreement shall be governed by the laws of the State of North Carolina.

BREACH:

APPLICANT'S failure to observe or perform any of the terms, warranties, conditions, requirements, or provisions of this Agreement shall constitute a breach of this Agreement by APPLICANT. In the event of a breach of this Agreement by APPLICANT, DISTRICT, due to such breach, shall have the right to terminate this Agreement upon which DISTRICT shall have no further obligation to perform under this Agreement and APPLICANT shall have no right to perform any further work under this Agreement.

In the event of breach of this Agreement by APPLICANT and termination of this Agreement by DISTRICT, APPLICANT hereby shall reimburse DISTRICT for all expenditures made in relation to, and in furtherance of, this Agreement.

NONWAIVER OF BREACH:

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and, for any such breach or non-performance, each party shall be relegated to such remedies as provided by law.

SEVERABILITY:

The invalidity, illegality, or unenforceability of any portion or provision of this Agreement shall in no way affect the validity, legality, and/or enforceability of any other portion or provision of this Agreement. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of law with jurisdiction, then such provision shall be modified to the mutual satisfaction and agreement of the parties to reflect the parties' intent. In the event the parties cannot reach an agreement as to a modification of said provision, any invalid, illegal, or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal, or unenforceable.

ASSIGNMENT:

APPLICANT shall not assign, sublet, subcontract or transfer any rights under or interest in this Agreement without the written consent of DISTRICT.

BENEFITS LIMITED TO PARTIES:

Nothing herein shall be construed to give any right or benefits hereunder to any third parties other than DISTRICT and APPLICANT.

IN WITNESS WHEREOF, the parties hereto through their duly authorized officers has executed this instrument as to the date and year first above written.

Susan Tart Property, LLC

BY: 
Zachary Angle, Manager

WITNESS:


Name, Title

NORCRESS Water & Sewer District

BY: _____
Glenn Adams, Chairman

WITNESS:

Andrea Tebbe, Clerk to the Board

Approved for Legal Sufficiency
NORCRESS Water & Sewer District

Rickey L. Moorefield, County Attorney
Attorney for NORCRESS Water and Sewer District

EXHIBIT "I"
PROJECT SUMMARY

Project Name: Godwin Subdivision

Engineer: Donald Curry, PE

Project Location: 0 Washburn Rd., Godwin, NC

Developer: Susan Tart Property, LLC

Parcel Number: 0593-65-7760

Asset Summary

31.69 acres, see subdivision plan on Exhibit III.

Project Highlights

Project description/location goes here.

116-lot single family home subdivision in Godwin, NC; bounded by McLean Street, Julian Street and Dunn Road.

EXHIBIT "II"

STATEMENT OF TOTAL PROJECT COST

Developer/Applicant Susan Tart Property, LLC Contractor TBD
 Project Name/Loc Godwin Subdivision/Godwin, NC Pipe Supplier TBD
 Completion Date July 2027 Engineer Don Curry, PE

WATER

_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
_____	-	inch domestic water lateral(s)	
		Total water distribution*	\$ _____
Mains greater than 12"			
_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
		Total water transmission *	\$ _____

SEWER

_____	feet of _____	inch sewer mains	
4854	feet of 8"	inch sewer mains	
_____	-	inch sewer laterals	
		Total sanitary sewer collection*	\$ 174,744.00
Mains greater than 12"			
_____	feet of _____	inch sewer main	
_____	feet of _____	inch sewer main	
		Total sanitary sewer outfalls & interceptors*	\$ _____
1687	feet of 4"	inch sewer force mains	\$ 42,175.00
	-	1 lift station (s)	\$ 600,000.00

OFF-Site

_____	feet of _____	inch water mains*	\$ _____
_____	feet of _____	inch sewer mains*	\$ _____

*Value to include equipment, labor & materials (valves, fittings, fire mains & hydrants, manholes, etc.)

<u>Other Project Costs:</u>		
Engineering		\$ 5,000.00
<input type="checkbox"/> * Percentage of Project Cost		
Other (list detail)		
Total project cost		\$ 821,919.00

Comments: Supplied project costs are for installation of gravity feed and force main sewer lines.

I certify to my actual knowledge that the information provided herein is true and accurate cost for the project named above.

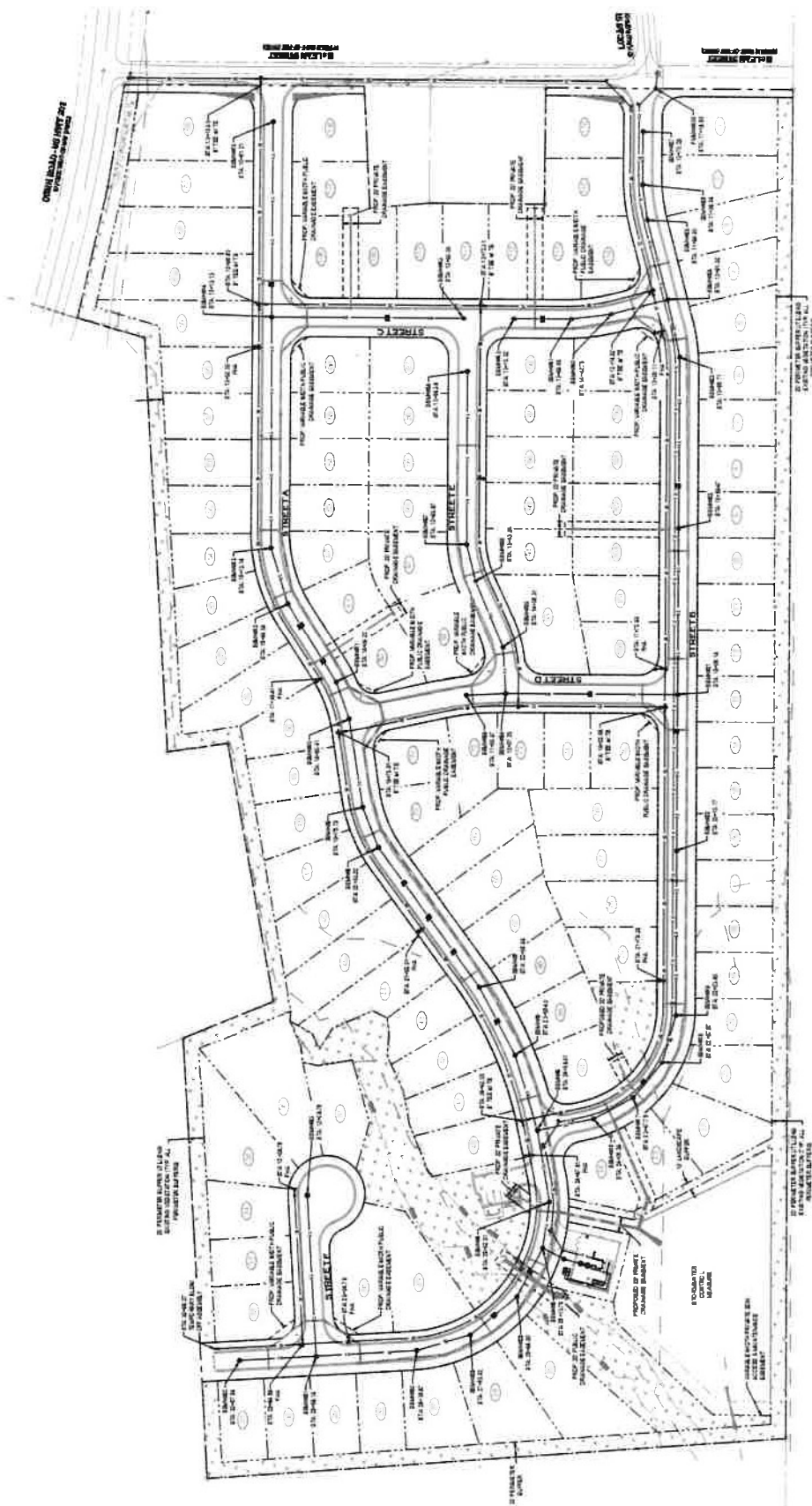
Signature:  Date: 4/15/2024

* Signature of Legal Authorized Representative of the "Applicant" as identified in the Agreement with District

Attach all supporting documents such as final contractor's invoice, material invoices/receipts, engineer's invoice(s), if available.

EXHIBIT "III"

WATER AND SEWER UTILITY EXTENSION MAP



FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
INSTRUCTIONS FOR FORM: FTA 10-23 & SUPPORTING DOCUMENTATION

This application is for sewer extensions involving gravity sewers, pump stations and force mains, or any combination that has been certified by a professional engineer and the applicant that the project meets the requirements of [15A NCAC 02T](#) and the Division's Minimum Design Criteria ([Gravity Sewer](#) & [Pump Stations/Force Mains](#)) and that **plans, specifications and supporting documents have been prepared in accordance with [15A NCAC 02T](#), [15A NCAC 02T .0300](#), Division policies, and [good engineering practices](#).**

While no upfront engineering design documents are required for submittal, in accordance with 15A NCAC 02T .0305(b), design documents must be prepared prior to submittal of a fast track permit application to the Division. This would include plans, design calculations, and project specifications referenced in [15A NCAC 02T .0305](#) and the applicable minimum design criteria. **These documents shall be immediately available upon request by the Division.**

Projects that are deemed permitted (do not require a permit from the Division) are explained in [15A NCAC 02T.0303](#).

Projects not eligible for review via the fast track process (must be submitted for full technical review):

- Projects that do not meet any part of the minimum design criteria (MDC) documents;
 - Projects that involve more than one variance from the requirements of 15A NCAC 02T;
 - Pressure sewer systems utilizing simplex septic tank-effluent pumps (STEPs) or simplex grinder pumps;
 - Simplex STEP or simplex grinder pumps connecting to pressurized systems (e.g. force mains);
 - Vacuum sewer systems.
-

General – When submitting an application, please use the following instructions as a checklist in order to ensure all required items are submitted. Adherence to these instructions and checking the provided boxes will help produce a quicker review time and reduce the amount of requested additional information. **Failure to submit all required items will necessitate additional processing and review time, and may result in return of the application.** Unless otherwise noted, the Applicant shall submit one original and one copy of the application and supporting documentation.

A. One Original and One Copy (second copy may be digital) of Application and Supporting Documents

- Required unless otherwise noted. Signatures on original must be “wet ink” or secure digital signatures. Please do not submit engineering design plans with the application unless specifically requested.

B. Cover Letter/Narrative Description (Required for All Application Packages):

- List all items included in the application package, as well as a brief description of the requested permitting action.
 - Be specific as to the system type, number of homes served, flow allocation required, etc.
 - Include the permit number/status of any other required sewer permits (downstream/upstream)
 - If necessary for clarity, include attachments to the application form.

C. Application Fee (All New and Modification Application Packages):

- Submit a check or money order in the amount of **\$600.00**, dated no more than 90 days prior to application submittal.
 - Payable to North Carolina Department of Environmental Quality (NCDEQ)

D. Fast Track Application (Required for All Application Packages, Form FTA 10-23):

- Submit the completed and appropriately executed application.
 - If necessary for clarity or due to space restrictions, attachments to the application may be made.
- If the Applicant Type in Item I.2 is a corporation or company, provide documentation it is registered for business with the [North Carolina Secretary of State](#).
- If the Applicant Type in Item I.2 is a partnership or d/b/a, enclose a copy of the certificate filed with the Register of Deeds in the county of business.
- The Project Name in Item II.1 shall be consistent with the project name on the flow acceptance letters, agreements, etc.
- The Professional Engineer's Certification on Page 5 of the application shall be signed, sealed and dated by a [North Carolina licensed Professional Engineer](#).
- The Applicant's Certification on Page 5 of the application shall be signed in accordance with [15A NCAC 02T .0106\(b\)](#). Per 15A NCAC 02T .0106(c), an alternate person may be designated as the signing official if a delegation letter is provided from a person who meets the criteria in 15A NCAC 02T .0106(b).

E. Flow Tracking/Acceptance Form (Form: FTSE 10-23) (If Applicable):

- Submit the completed and executed FTSE form from the owners of the downstream sewers and treatment facility.
- Multiple forms maybe required where the downstream sewer owner and wastewater treatment facility are different.
- The flow acceptance indicated in form FTSE must not expire prior to permit issuance and must be dated less than one year prior to the application date.
- Submittal of this application and form FTSE indicates that owner has adequate capacity and will not violate [G.S. 143-215.67\(a\)](#).
- Intergovernmental agreements or other contracts will not be accepted in lieu of a project-specific FTSE.

F. Site Maps (All Application Packages):

- Submit an 8.5-inch x 11-inch color copy of a USGS Topographic Map of sufficient scale to identify the entire project area, including the closest surface waters.
- General location of the project components (gravity sewer, pump stations, & force main)
- Downstream connection points and permit number (if known) for the receiving sewer
- Include an aerial location map showing general project area (such as street names or latitude/longitude) so that Division staff can easily locate it in the field.

G. Existing Permit (Application Packages for Modifications to an Existing Permit):

- Submit a copy of the most recently issued existing permit.
- Include a descriptive and clear narrative identifying the previously permitted items to remain in the permit, items to be added, and/or items to be modified** (the application form itself should include only include items to be added/modified). The narrative should also include whether any previously permitted items have been certified.
- The narrative should clearly identify the requested permitting action and accurately describe the sewers to be listed in the final permit.**

H. Power Reliability Plan (Required if portable reliability option utilized for Pump Station):

- Per [15A NCAC 02T .0305\(h\)\(1\)](#), submit documentation of power reliability for pumping stations.
- This alternative is only available for average daily flows less than 15,000 gallons per day
- It shall be demonstrated to the Division that the portable source is owned or contracted by the applicant and is compatible with the station. The Division will accept a letter signed by the applicant (see 15A NCAC 02T .0106(b)) or proposed contractor, stating that “the portable power generation unit or portable, independently-powered pumping units, associated appurtenances and personnel are available for distribution and operation of this pump station.”
- **If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided in the case of a multiple station power outage. (Required at time of certification)**

I. Certificate of Public Convenience and Necessity (All Application Packages for Privately-Owned Public Utilities):

- Per [15A NCAC 02T .0115\(a\)\(1\)](#) provide the Certificate of Public Convenience and Necessity from the [North Carolina Utilities Commission](#) demonstrating the Applicant is authorized to hold the utility franchise for the area to be served by the sewer extension, or
- Provide a letter from the [North Carolina Utilities Commission's Water and Sewer Division Public Staff](#) stating an application for a franchise has been received and that the service area is contiguous to an existing franchised area or that franchise approval is expected.

J. Operational Agreements (Applications from HOA/POA and Developers for lots to be sold):

- Home/Property Owners' Associations
 - Per [15A NCAC 02T .0115\(c\)](#), submit the properly executed [Operational Agreement \(FORM: HOA\)](#).
 - Per 15A NCAC 02T .0115(c), submit a copy of the Articles of Incorporation, Declarations and By-laws.
- Developers of lots to be sold
 - Per [15A NCAC 02T .0115\(b\)](#), submit the properly executed [Operational Agreement \(FORM: DEV\)](#).

For more information, visit the Division's collection systems [website](#)

THE COMPLETED APPLICATION PACKAGE INCLUDING ALL SUPPORTING INFORMATION AND MATERIALS, SHOULD BE SENT TO THE [APPROPRIATE REGIONAL OFFICE](#):

REGIONAL OFFICE	ADDRESS	COUNTIES SERVED
Asheville Regional Office Water Quality Section	2090 US Highway 70 Swannanoa, North Carolina 28778-8211 (828) 296-4500 (828) 299-7043 Fax	Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey
Fayetteville Regional Office Water Quality Section	225 Green Street Suite 714 Fayetteville, North Carolina 28301-5095 (910) 433-3300 (910) 486-0707 Fax	Anson, Bladen, Cumberland, Harnett, Hoke, Montgomery, Moore, Robeson, Richmond, Sampson, Scotland
Mooresville Regional Office Water Quality Section	610 E. Center Avenue Mooresville, North Carolina 28115 (704) 663-1699 (704) 663-6040 Fax	Alexander, Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, Union
Raleigh Regional Office Water Quality Section	3800 Barrett Drive Raleigh, North Carolina 27609 (919) 791-4200 (919) 571-4718 Fax	Chatham, Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Lee, Nash, Northampton, Orange, Person, Vance, Wake, Warren, Wilson
Washington Regional Office Water Quality Section	943 Washington Square Mall Washington, North Carolina 27889 (252) 946-6481 (252) 975-3716 Fax	Beaufort, Bertie, Camden, Chowan, Craven, Currituck, Dare, Gates, Greene, Hertford, Hyde, Jones, Lenoir, Martin, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wayne
Wilmington Regional Office Water Quality Section	127 Cardinal Drive Extension Wilmington, North Carolina 28405 (910) 796-7215 (910) 350-2004 Fax	Brunswick, Carteret, Columbus, Duplin, New Hanover, Onslow, Pender
Winston-Salem Regional Office Water Quality Section	450 W. Hanes Mill Road Suite 300 Winston-Salem, North Carolina 27105 (336) 776-9800 (336) 776-9797 Fax	Alamance, Alleghany, Ashe, Caswell, Davidson, Davie, Forsyth, Guilford, Rockingham, Randolph, Stokes, Surry, Watauga, Wilkes, Yadkin



Application Number: _____ (to be completed by DWR)

All items must be completed or the application will be returned

I. APPLICANT INFORMATION:

1. Applicant's name: Norcross Water and Sewer District (company, municipality, HOA, utility, etc.)
2. Applicant type: Individual Corporation General Partnership Privately-Owned Public Utility
 Federal State/County Municipal Other
3. Signature authority's name: Glenn Adams per [15A NCAC 02T .0106\(b\)](#)
Title: Chairman
4. Applicant's mailing address: 130 Gillespie Street, Suite 214
City: Fayetteville State: NC Zip: 28301-____
5. Applicant's contact information:
Phone number: (910) 678-7637 Email Address: ahall@cumberlandcountync.gov

II. PROJECT INFORMATION:

1. Project name: Godwin Subdivision
2. Application/Project status: Proposed (New Permit) Existing Permit/Project
If a modification, provide the existing permit number: WQ00____ and issued date: _____
For modifications, also attach a detailed narrative description as described in Item G of the checklist.
If new construction, but part of a master plan, provide the existing permit number: WQ00____
3. County where project is located: Cumberland
4. Approximate Coordinates (Decimal Degrees): Latitude: 35.219073° Longitude: -78.677011°
5. Parcel ID (if applicable): 0593-65-7760 (or Parcel ID to closest downstream sewer)

III. CONSULTANT INFORMATION:

1. Professional Engineer: Donald L. Curry, PE License Number: 026970
Firm: The Curry Engineering Group, PLLC
Mailing address: 205 S. Fuquay Ave.
City: Fuquay-Varina State: NC Zip: 27526-____
Phone number: (919) 552-0849 Email Address: don@curryeng.com

IV. WASTEWATER TREATMENT FACILITY (WWTF) INFORMATION:

1. Facility Name: Cross Creek WWTF Permit Number: Permit NC 0023957
Owner Name: Fayetteville PWC

V. RECEIVING DOWNSTREAM SEWER INFORMATION:

1. Permit Number(s): WQ____
2. Downstream (Receiving) Sewer Information: 10 inch Gravity Force Main
3. System Wide Collection System Permit Number(s) (if applicable): WQCS00353
Owner Name(s): NORCRESS Water and Sewer District

VI. GENERAL REQUIREMENTS

1. If the Applicant is a Privately-Owned Public Utility, has a Certificate of Public Convenience and Necessity been attached?
 Yes No N/A
2. If the Applicant is a Developer of lots to be sold, has a [Developer's Operational Agreement \(FORM: DEV\)](#) been attached?
 Yes No N/A
3. If the Applicant is a Home/Property Owners' Association, has an [HOA/POA Operational Agreement \(FORM: HOA\)](#) and supplementary documentation as required by 15A NCAC 02T.0115(c) been attached?
 Yes No N/A
4. Origin of wastewater: (check all that apply):

<input checked="" type="checkbox"/> Residential (Individually Owned)	<input type="checkbox"/> Retail (stores, centers, malls)	<input type="checkbox"/> Car Wash
<input type="checkbox"/> Residential (Leased)	<input type="checkbox"/> Retail with food preparation/service	<input type="checkbox"/> Hotel and/or Motels
<input type="checkbox"/> School / preschool / day care	<input type="checkbox"/> Medical / dental / veterinary facilities	<input type="checkbox"/> Swimming Pool/Clubhouse
<input type="checkbox"/> Food and drink facilities	<input type="checkbox"/> Church	<input type="checkbox"/> Swimming Pool/Filter Backwash
<input type="checkbox"/> Businesses / offices / factories	<input type="checkbox"/> Nursing Home	<input type="checkbox"/> Other (Explain in Attachment)
5. Nature of wastewater : 100 % Domestic _____ % Commercial _____ % Industrial ([See 15A NCAC 02T .0103\(20\)](#))
 If Industrial, is there a Pretreatment Program in effect? Yes No
6. Has a flow reduction been approved under [15A NCAC 02T .0114\(f\)](#)? Yes No
 ➤ **If yes, provide a copy of flow reduction approval letter with this application**
7. Summarize wastewater generated by project:

Establishment Type (see 02T.0114(f))	Daily Design Flow ^{a,b}	No. of Units	Flow
Single Family Residential Dwelling Units	225 gal/3 bedroom home	116	26,100 GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
		<i>Total</i>	26,100 GPD

- a See [15A NCAC 02T .0114\(b\), \(d\), \(e\)\(1\) and \(e\)\(2\)](#) for caveats to wastewater design flow rates (i.e. proposed unknown non-residential development uses; public access facilities located near high public use areas; and residential property located south or east of the Atlantic Intracoastal Waterway to be used as vacation rentals as defined in [G.S. 42A-4](#)).
 - b Per 15A NCAC 02T .0114(c), design flow rates for establishments not identified [in table [15A NCAC 02T.0114](#)] shall be determined using available flow data, water using fixtures, occupancy or operation patterns, and other measured data.
8. Wastewater generated by project: 26,100 GPD (per [15A NCAC 02T .0114 and G.S. 143-215.1](#))
 ➤ Do not include future flows or previously permitted allocations

If permitted flow is zero, please indicate why:

- Pump Station/Force Main or Gravity Sewer where flow will be permitted in subsequent permits that connect to this line. Please provide supplementary information indicating the approximate timeframe for permitting upstream sewers with flow.
- Flow has already been allocated in Permit Number: _____ Issuance Date: _____
- Rehabilitation or replacement of existing sewers with no new flow expected
- Other (Explain): _____

VII. GRAVITY SEWER DESIGN CRITERIA (If Applicable) - [02T .0305](#) & [MDC \(Gravity Sewers\)](#):

1. Summarize gravity sewer to be permitted:

Size (inches)	Length (feet)	Material
8"	4854	PVC

- Section II & III of the MDC for Permitting of Gravity Sewers contains information related to design criteria
- Section III contains information related to minimum slopes for gravity sewer(s)
- **Oversizing lines to meet minimum slope requirements is not allowed and a violation of the MDC**

VIII. PUMP STATION DESIGN CRITERIA (If Applicable) - [02T .0305](#) & [MDC \(Pump Stations/Force Mains\)](#):

PROVIDE A SEPARATE COPY OF THIS PAGE FOR EACH PUMP STATION INCLUDED IN THIS PROJECT

1. Pump station number or name: 1
2. Approximate Coordinates (Decimal Degrees): Latitude: 35.223454° Longitude: -78.675302°
3. Total number of pumps at the pump station: 2
3. Design flow of the pump station: .1044 millions gallons per day (firm capacity)
 - This should reflect the total GPM for the pump station with the largest pump out of service.
4. Operational point(s) per pump(s): 100 gallons per minute (GPM) at 38 feet total dynamic head (TDH)
5. Summarize the force main to be permitted (for this Pump Station):

Size (inches)	Length (feet)	Material
4"	1687	C900 PVC

If any portion of the force main is less than 4-inches in diameter, please identify the method of solids reduction per MDCPSFM Section 2.01C.1.b. Grinder Pump Mechanical Bar Screen Other (please specify) _____

6. Power reliability in accordance with [15A NCAC 02T .0305\(h\)\(1\)](#):

Standby power source or Standby pump

- Must have automatic activation and telemetry - [15A NCAC 02T.0305\(h\)\(1\)\(B\)](#);
- Required for all pump stations with an average daily flow greater than or equal to 15,000 gallons per day
- **Must be permanent to facility** and may not be portable

Or if the pump station has an average daily flow less than 15,000 gallons per day [15A NCAC02T.0305\(h\)\(1\)\(C\)](#):

Portable power source with manual activation, quick-connection receptacle and telemetry -

or

Portable pumping unit with plugged emergency pump connection and telemetry:

- Include documentation that the portable source is owned or contracted by the applicant and is compatible with the station.
- If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided as part of this permit application in the case of a multiple station power outage.

IX. SETBACKS & SEPARATIONS – (02B .0200 & 15A NCAC 02T .0305(f)):

1. Does the project comply with all separations/alternatives found in [15A NCAC 02T .0305\(f\) & \(g\)](#)? Yes No

15A NCAC 02T.0305(f) contains minimum separations that shall be provided for sewer systems:

Setback Parameter*	Separation Required
Storm sewers and other utilities not listed below (vertical)	18 inches
² Water mains (vertical - water over sewer preferred, including in benched trenches)	18 inches
² Water mains (horizontal)	10 feet
Reclaimed water lines (vertical - reclaimed over sewer)	18 inches
Reclaimed water lines (horizontal - reclaimed over sewer)	2 feet
**Any private or public water supply source, including any wells, WS-I waters of Class I or Class II impounded reservoirs used as a source of drinking water, and associated wetlands.	100 feet
**Waters classified WS (except WS-I or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands associated with these waters (see item IX.2)	50 feet
**Any other stream, lake, impoundment, or ground water lowering and surface drainage ditches, as well as wetlands associated with these waters or classified as WL.	10 feet
Any building foundation (horizontal)	5 feet
Any basement (horizontal)	10 feet
Top slope of embankment or cuts of 2 feet or more vertical height	10 feet
Drainage systems and interceptor drains	5 feet
Any swimming pools	10 feet
Final earth grade (vertical)	36 inches

- If noncompliance with [02T.0305\(f\) or \(g\)](#), see Section X.1 of this application
- *[15A NCAC 02T.0305\(g\)](#) contains alternatives where separations in [02T.0305\(f\)](#) cannot be achieved. Please check “yes” above if these alternatives are used and provide narrative information to explain.
- **Stream classifications can be identified using the Division’s [NC Surface Water Classifications webpage](#)

2. Does this project comply with the minimum separation requirements for water mains? Yes No N/A
- If no, please refer to 15A NCAC 18C.0906(f) for documentation requirements and submit a separate document, signed/sealed by an NC licensed PE, verifying the criteria outlined in that Rule.
3. Does the project comply with separation requirements for wetlands? Yes No N/A
- Please provide supplementary information identifying the areas of non-conformance.
 - See the Division’s [draft separation requirements](#) for situations where separation cannot be met.
 - No variance is required if the alternative design criteria specified is utilized in design and construction.
4. Is the project located in a river basin subject to any State buffer rules? Yes Basin name: _____ No
- If yes, does the project comply with setbacks found in the river basin rules per [15A NCAC 02B .0200](#)? Yes No
- This includes Trout Buffered Streams per [15A NCAC 2B.0202](#)
5. Does the project require coverage/authorization under a 404 Nationwide/individual permits or 401 Water Quality Certifications? Yes No
- Please provide the permit number/permitting status in the cover letter if coverage/authorization is required.
6. Does project comply with [15A NCAC 02T.0105\(c\)\(6\)](#) (additional permits/certifications)? Yes No
- Per [15A NCAC 02T.0105\(c\)\(6\)](#), directly related environmental permits or certification applications must be being prepared, have been applied for, or have been obtained. Issuance of this permit is contingent on issuance of dependent permits (erosion and sedimentation control plans, stormwater management plans, etc.).
7. Does this project include any sewer collection lines that are deemed “high-priority?” Yes No
- Per [15A NCAC 02T.0402](#), “high-priority sewer” means any aerial sewer, sewer contacting surface waters, siphon, or sewers positioned parallel to streambanks that are subject to erosion that undermines or deteriorates the sewer.
- Siphons and sewers suspended through interference/conflict boxes require a variance approval.**
- If yes, include an attachment with details for each line, including type (aerial line, size, material, and location).

High priority lines shall be inspected by the permittee or its representative at least once every six-months and inspections documented per 15A NCAC 02T.0403(a)(5) or the permittee’s individual System-Wide Collection permit.

X. CERTIFICATIONS:

1. Does the submitted system comply with 15A NCAC 02T, the Minimum Design Criteria for the Permitting of Pump Stations and Force Mains (latest version), and the Gravity Sewer Minimum Design Criteria (latest version) as applicable?

Yes No

If no, for projects requiring a single variance, complete and submit the Variance/Alternative Design Request application (VADC 10-14) and supporting documents for review to the Central Office. **Approval of the request will be issued concurrently with the approval of the permit, and projects requiring a variance approval may be subject to longer review times. For projects requiring two or more variances or where the variance is determined by the Division to be a significant portion of the project, the full technical review is required.**

2. Professional Engineer's Certification:

I, DONALD L. CURRY, PE, attest that this application for GODWIN SUBDIVISION
(Professional Engineer's name from Application Item III.1.) (Project Name from Application Item II.1)

has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the proposed design has been prepared in accordance with the applicable regulations, Minimum Design Criteria for Gravity Sewers (latest version), and the Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains (latest version). Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

NOTE – In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000, as well as civil penalties up to \$25,000 per violation. Misrepresentation of the application information, including failure to disclose any design non-compliance with the applicable Rules and design criteria, may subject the North Carolina-licensed Professional Engineer to referral to the licensing board. (21 NCAC 56.0701)

North Carolina Professional Engineer's seal, signature, and date:



3. Applicant's Certification per 15A NCAC 02T .0106(b):

I, _____, attest that this application for _____
(Signature Authority Name from Application Item I.3.) (Project Name from Application Item II.1)

attest that this application has been reviewed by me and is accurate and complete to the best of my knowledge. I understand that if all required parts of this application are not completed and that if all required supporting documentation and attachments are not included, this application package is subject to being returned as incomplete. I understand that any discharge of wastewater from this non-discharge system to surface waters or the land will result in an immediate enforcement action that may include civil penalties, injunctive relief, and/or criminal prosecution. I will make no claim against the Division of Water Resources should a condition of this permit be violated. I also understand that if all required parts of this application package are not completed and that if all required supporting information and attachments are not included, this application package will be returned to me as incomplete.

NOTE – In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000 as well as civil penalties up to \$25,000 per violation.

Signature: _____

Date: _____

RONNA ROWE GARRETT, COMMISSIONER
DONALD L. PORTER, COMMISSIONER
CHRISTOPHER G. DAVIS, COMMISSIONER
RICHARD W. KING, COMMISSIONER
TIMOTHY L. BRYANT, CEO/GENERAL MANAGER



FAYETTEVILLE PUBLIC WORKS COMMISSION
955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302-1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

September 13, 2024

TO WHOM IT MAY CONCERN:

SUBJECT: Flow Acceptance – Godwin Subdivision

This letter is in response to the inquiry regarding the availability of sanitary sewer to serve the proposed Godwin Subdivision project located on the parcel with PIN 0593-65-7760 bordered by Julian Road, McLean Street, and Dunn Road in the Town of Godwin, Cumberland County NC.

NORCRESS Water and Sewer District will be submitting a permit application for a public sewer main extension on this project. The Public Works Commission does have an operation and maintenance (O&M) agreement with NORCRESS Water and Sewer District. Per the conditions of the O&M agreement, the downstream capacity analysis and FTSE form will be completed, as part of the design review, by the PWC Water Resources Engineering department once authorized by NORCRESS.

The sewage and wastewater collected by this system shall be treated in the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility (NPDES Permit No. NC0023957) prior to being discharged into the receiving stream. The projected flow for this development is 26,100 gallons per day. The Cross Creek Wastewater Treatment Facility has the capacity to accept the flow generated by this project. Reservation of the capacity for this project will be made upon execution of the FTSE form by PWC as required by NCDEQ for permitting of this sewer main extension.

If you have any questions concerning this letter, please call me at (910) 223-4736.

Very truly yours,

FAYETTEVILLE PUBLIC WORKS COMMISSION

A handwritten signature in blue ink that reads 'Misty Manning'.

Misty M. Manning, P.E.
Deputy Water Resources Officer

cc: Project File
Amy Hall, Cumberland County

BUILDING COMMUNITY CONNECTIONS SINCE 1905

AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER



OFFICE OF THE TAX ADMINISTRATOR

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JOSEPH R. UTLEY, JR., TAX ADMINISTRATOR

DATE: 10/24/2024

**SUBJECT: APPROVAL OF ADOPTION OF THE SCHEDULE OF VALUES,
STANDARDS, AND RULES FOR THE 2025 PROPERTY TAX
EVALUATION**

BACKGROUND

N.C. General Statute 105-317(b)(1) requires that uniform schedules of values, standards, and rules be prepared for each revaluation of real property, one for appraising property at market value and one for appraising agricultural, horticultural, and forest land at its present-use value. The Board of Commissioners shall review and approve these values, standards, and rules before January 1 of the year they are applied. Before final approval, notice must be published, and the public must be given an opportunity to comment on the proposed schedules. Once the Board of Commissioners adopt the schedule of values, there is a 30-day appeal period to the North Carolina Property Tax Commission.

Notice was published on October 8, 2024, notifying the public that the Schedule of Values were available for public inspection in the Tax Administrator's office, and also that a Public Hearing concerning the Schedule of Values would be held on October 21, 2024.

The Board held a public hearing on the proposed 2025 Schedule of Values on October 21, 2024. No speakers appeared at the hearing. Further, the statutes require the Board of Commissioners to wait at least seven (7) days after the public hearing before adopting the Schedule of Values.

RECOMMENDATION / PROPOSED ACTION

Approve and adopt the proposed Schedules, Standards, and Rules for the 2025 Revaluation (in one motion)

- Approve and adopt the proposed Use-Value Manual for the 2025 Revaluation (separately from the above motion)

- Direct the Tax Administrator to publish, under his name and for the Board of Commissioners, a statement in a newspaper having general circulation in the county stating:

1. The Schedules, Standards, and Rules and the Use-Value Manual to be used in the 2025 revaluation have been adopted and are open for examination in the Office of the Tax Administrator located in the Cumberland County Courthouse, 117 Dick Street, 5th floor, Room 570.

2. A property owner who asserts that the Schedules, Standards and Rules or the 2025 Use-Value Manual are invalid may take exception thereto and appeal to the Property Tax Commission within 30 days of the date this notice was first published, November 5, 2024.

- Publish notice on November 5, 2024; November 12, 2024; November 19, 2024; November 26, 2024

ATTACHMENTS:

Description	Type
SOV BOC Signature Page	Backup Material
BOC UVAB Signature Page	Backup Material

II. GENERAL INFORMATION

Board of County Commissioner's Adoption Statement

In accordance with section 105-317(c) of the Machinery Act of North Carolina, the Tax Administrator's Office, County of Cumberland, does hereby request that the Schedules, Standards and Rules submitted to the Board be adopted for the 2025 Revaluation of all real property.

COMMISSIONER NAME	SIGNATURE	DATE
Glenn B. Adams, Chairman		
Dr. Toni Stewart, Vice Chairwoman		
Dr. Jeannette M. Council		
Michael C. Boose		
W. Marshall Faircloth		
Jimmy Keefe		
Veronica B. Jones		

ACKNOWLEDGEMENT: _____

Andrea Tebbe, Clerk to the Board

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1. Board of County Commissioner's Adoption Statement

In accordance with section 105-317(c) of the Machinery Act of North Carolina, the Tax Administrator's Office, County of Cumberland, does hereby request that the 2025 Use-Value Manual for Agricultural, Horticultural, and Forest Land submitted to the Board be adopted for the 2025 Revaluation of all real property.

COMMISSIONER NAME	SIGNATURE	DATE
Glenn B. Adams, Chairman		
Dr. Toni Stewart, Vice Chairwoman		
Dr. Jeannette M. Council		
Michael C. Boose		
W. Marshall Faircloth		
Jimmy Keefe		
Veronica B. Jones		

ACKNOWLEDGEMENT: _____

Andrea Tebbe, Clerk to the Board

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PRE-TRIAL SERVICES

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: NICHELLE GAINES, JCPC COORDINATOR

DATE: 10/15/2024

SUBJECT: APPROVAL OF FY 2024-2025 JCPC UNALLOCATED FUNDING

BACKGROUND

The North Carolina Division of Adult Correction and Juvenile Justice (DACJJ) Office approved Cumberland County funds in the amount of \$1,119,291 to disperse to county youth-focused programs through a formal Request for Proposal (RFP) process. The JCPC approved nine (9) youth-focused programs (including administrative funding) to receive funding for FY 2024-2025, in the amount of \$1,110,471, unallocating \$8,820. The Cumberland County Board of Commissioners approved the FY 2024-2025 JCPC funding recommendations at the June 17, 2024, meeting.

The JCPC met on October 9, 2024 and approved the unallocated funding recommendation submitted from the Finance Committee as follows:

Build Your Self	\$8,820
Total:	\$8,820

As per the North Carolina Department of Public Safety (NCDPS) guidelines, this funding must be awarded and approved in NCALLIES by December 31, 2024.

RECOMMENDATION / PROPOSED ACTION

Request the Board of County Commissions approve the funding recommendations of the JCPC to the program as listed above to meet the NCDPS deadline of December 31, 2024.

ATTACHMENTS:

Description

Type

Nichelle D. Gaines
Misdemeanor Diversion Program/
JCPC Coordinator



Mike Fiala
JCPC Chair

Dr. Antonio Jones
JCPC Vice Chair

Juvenile Crime Prevention Council

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COMMISSIONERS

FROM: NICHELLE GAINES, JUVENILE CRIME PREVENTION COUNCIL (JCPC) COORDINATOR NG

DATE: OCTOBER 15, 2024

SUBJECT: APPROVAL OF FY 2024-2025 JCPC UNALLOCATED FUNDING

BACKGROUND

The North Carolina Division of Adult Correction and Juvenile Justice (DACJJ) Office approved Cumberland County funds in the amount of \$1,119,291 to disperse to county youth-focused programs through a formal Request for Proposal (RFP) process. The JCPC approved nine (9) youth-focused programs (including administrative funding) to receive funding for FY 2024-2025, in the amount of \$1,110,471, unallocating \$8,820. The Cumberland County Board of Commissioners approved the FY 2024-2025 JCPC funding recommendations at the June 17, 2024, meeting.

The Finance Committee provided recommendations from its September 24, 2024 meeting to the full JCPC on October 9, 2024. The JCPC approved the funding recommendations as follows for submission to the November 4, 2024, Board of Commissioners Meeting for final approval:

Build Your Self	\$8,820
Total:	\$8,820

As per the North Carolina Department of Public Safety (NCDPS) guidelines, this funding must be awarded and approved in NCALLIES by December 31, 2024.

RECOMMENDATION/PROPOSED ACTION

Approve the funding recommendations of the JCPC to the programs as listed above to meet the NCDPS deadline of December 31, 2024.



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 10/21/2024

**SUBJECT: APPROVAL OF PROPOSED ADDITIONS TO THE STATE'S
SECONDARY ROAD SYSTEM**

BACKGROUND

The North Carolina Department of Transportation has received a petition requesting that the following streets be placed on the State's Secondary Road System. NCDOT has investigated the streets, and their findings are that the below listed streets are eligible for addition to the State's Secondary Road System. (See attachment.)

- Ennismore Road
- Revelstroke Road
- Redbout Court
- Ramsdale Road
- Ragsdale Road

RECOMMENDATION / PROPOSED ACTION

Based on NCDOT's recommendation that the above-named streets be placed on the State's Secondary Road System, the action being requested is for approval.

ATTACHMENTS:

Description

Cypress Pointe

Type

Backup Material



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER

J.R. "JOEY" HOPKINS

GOVERNOR

SECRETARY

October 22, 2024

Dr. Toni Stewart
Chairman
Cumberland County Board of Commissioners
Post Office Box 1829
Fayetteville, North Carolina 28302

Subject: Secondary Road Addition

To Whom It May Concern:

This is in reference to a petition submitted to this office requesting street(s) in Cumberland County be placed on the State's Secondary Road System. Please be advised that these street(s) have been investigated and our findings are that the below listed street(s) are eligible for addition to the State System.

- Ennismore Rd
- Revelstroke Rd
- Redbout Ct
- Ramsdale Rd
- Ragsdale

It is our recommendation that the above-named street(s) be placed on the State's Secondary Road System. If you and your Board concur in our recommendation, please submit a resolution to this office.

Sincerely,

DocuSigned by:
Christopher L Jones
E64693771D55486...

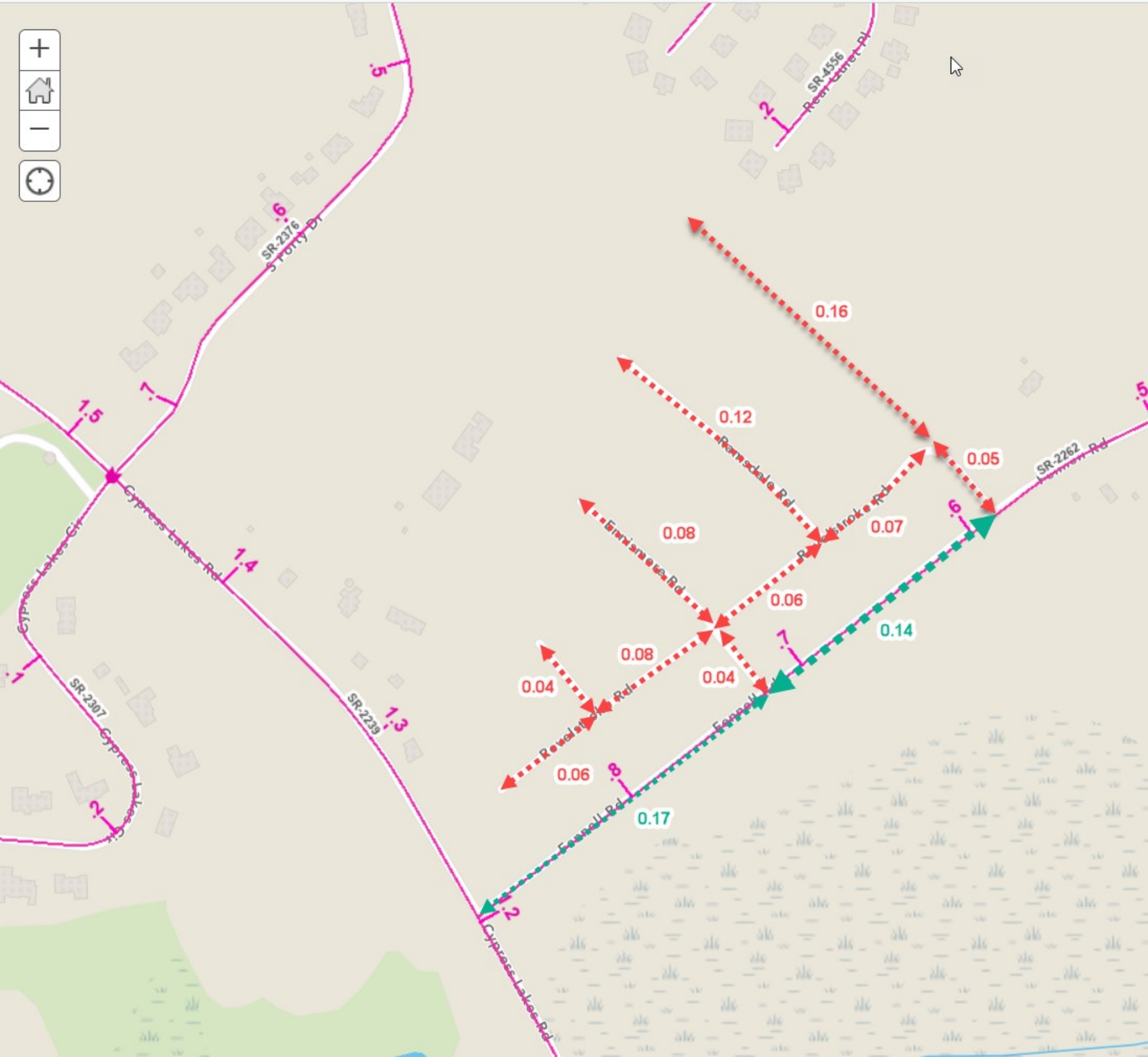
Christopher Jones
Engineering Specialist I

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION SIX / DISTRICT TWO
POST OFFICE BOX 1150
FAYETTEVILLE, NC 28302

Telephone: (910) 364-0601
Fax: (910) 437-2529
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
600 SOUTHERN AVENUE
FAYETTEVILLE, NC 28306





CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 10/23/2024

**SUBJECT: APPROVAL OF PROPOSED ADDITIONS TO THE STATE'S
SECONDARY ROAD SYSTEM**

BACKGROUND

The North Carolina Department of Transportation has received a petition requesting that the following streets be placed on the State's Secondary Road System. NCDOT has investigated the streets, and their findings are that the below listed streets are eligible for addition to the State's Secondary Road System. (See attachment.)

- Tree Ring Court
- Pine Bark Court

RECOMMENDATION / PROPOSED ACTION

Based on NCDOT's recommendation that the above-named streets be placed on the State's Secondary Road System, the action being requested is for approval.

ATTACHMENTS:

Description	Type
Dalton ridge	Backup Material



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER

J.R. "JOEY" HOPKINS

GOVERNOR

SECRETARY

October 23, 2024

Dr. Toni Stewart
Chairman
Cumberland County Board of Commissioners
Post Office Box 1829
Fayetteville, North Carolina 28302

Subject: Secondary Road Addition

To Whom It May Concern:

This is in reference to a petition submitted to this office requesting street(s) in Cumberland County be placed on the State's Secondary Road System. Please be advised that these street(s) have been investigated and our findings are that the below listed street(s) are eligible for addition to the State System.

- Tree Ring Court
- Pine Bark Court

It is our recommendation that the above-named street(s) be placed on the State's Secondary Road System. If you and your Board concur in our recommendation, please submit a resolution to this office.

Sincerely,

DocuSigned by:
Christopher L Jones
E64693771D55486...

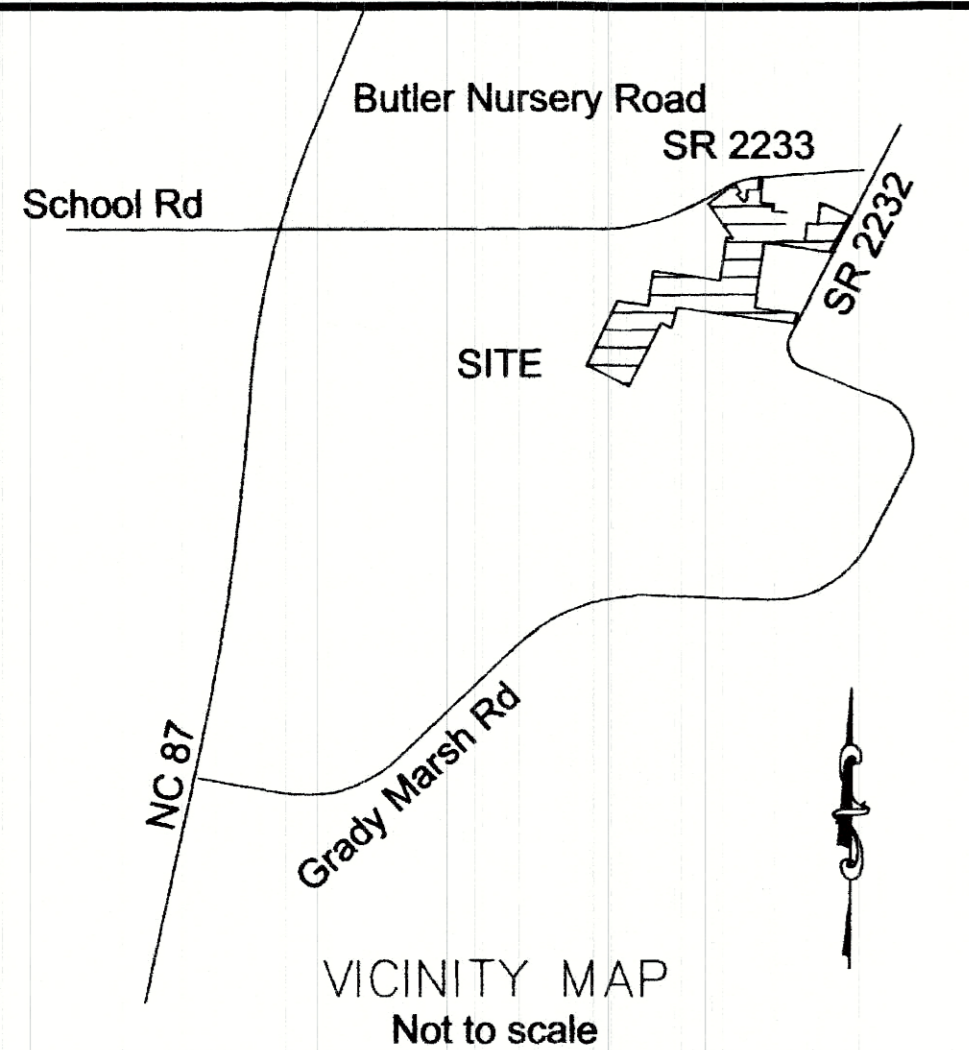
Christopher Jones
Engineering Specialist I

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION SIX / DISTRICT TWO
POST OFFICE BOX 1150
FAYETTEVILLE, NC 28302

Telephone: (910) 364-0601
Fax: (910) 437-2529
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

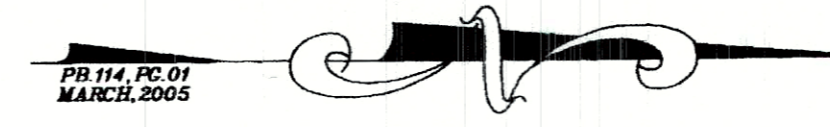
Location:
600 SOUTHERN AVENUE
FAYETTEVILLE, NC 28306



CURVE	CHORD	ARC	ANGLE	AREA	PERCENT
C1	118.83	27.11	12.92	1.12	0.01
C2	118.83	27.11	12.92	1.12	0.01
C3	118.83	27.11	12.92	1.12	0.01
C4	118.83	27.11	12.92	1.12	0.01
C5	118.83	27.11	12.92	1.12	0.01
C6	118.83	27.11	12.92	1.12	0.01
C7	118.83	27.11	12.92	1.12	0.01
C8	118.83	27.11	12.92	1.12	0.01
C9	118.83	27.11	12.92	1.12	0.01
C10	118.83	27.11	12.92	1.12	0.01
C11	118.83	27.11	12.92	1.12	0.01
C12	118.83	27.11	12.92	1.12	0.01
C13	118.83	27.11	12.92	1.12	0.01
C14	118.83	27.11	12.92	1.12	0.01
C15	118.83	27.11	12.92	1.12	0.01
C16	118.83	27.11	12.92	1.12	0.01
C17	118.83	27.11	12.92	1.12	0.01
C18	118.83	27.11	12.92	1.12	0.01
C19	118.83	27.11	12.92	1.12	0.01
C20	118.83	27.11	12.92	1.12	0.01
C21	118.83	27.11	12.92	1.12	0.01
C22	118.83	27.11	12.92	1.12	0.01
C23	118.83	27.11	12.92	1.12	0.01
C24	118.83	27.11	12.92	1.12	0.01
C25	118.83	27.11	12.92	1.12	0.01
C26	118.83	27.11	12.92	1.12	0.01
C27	118.83	27.11	12.92	1.12	0.01
C28	118.83	27.11	12.92	1.12	0.01
C29	118.83	27.11	12.92	1.12	0.01
C30	118.83	27.11	12.92	1.12	0.01

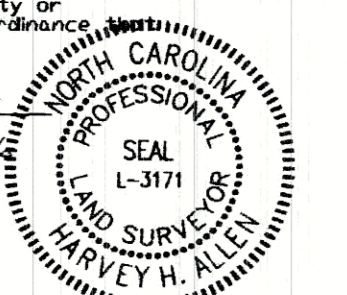
170

Kathleen Story
PIN 0441-71-5254
Deed Book 2884, Page 4



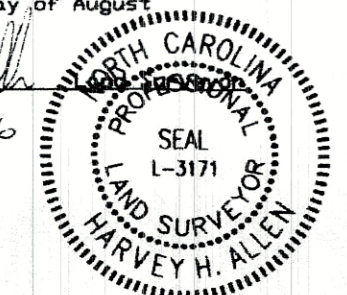
I, HARVEY H. ALLEN, Professional Land Surveyor, hereby certify in accordance with G.S. 47-30 (f) (1) a that this survey creates a subdivision of land within the area of a county or municipality that has an ordinance regulating parcels of land.

Harvey H. Allen, PLS
3/9/06



NORTH CAROLINA CUMBERLAND COUNTY I, HARVEY H. ALLEN, certify that this map was drawn under my supervision from an actual survey made under my supervision, deed and description recorded in Book 3939, Page 737, that the ratio of precision as calculated by latitudes and departures is 1/10000, that the boundaries not surveyed are shown as broken lines plotted from information found in books referenced, that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this 09th day of August, A.D. 2006.

Harvey H. Allen
3/9/06



NOTES:
1. There is no horizontal control within 2000 feet.
2. Nonconforming structures have not been created by this subdivision.
3. Acreage determined by coordinate computation.
4. Iron stakes at all property corners.
5. Deed references: 6240/445.
6. Plat references: 113/115, 114/1.
7. 24 Lots were created by this subdivision.
8. The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private water wells as of the date of this recording.
9. The property or neighboring property may be subject to inconvenience, discomfort, and the possibility of injury to property and health, arising from normal and accepted farming and agricultural practices and operations, including but not limited to noise, odors, dust, the operation of any kind of machinery, the storage and disposal of manure, and the application of fertilizers, soil amendments and pesticides.

THE UNDERSIGNED HERE ACKNOWLEDGES THAT THE LAND SHOWN ON THIS PLAN IS WITHIN THE SUBDIVISION REGULATION JURISDICTION OF CUMBERLAND COUNTY AND THAT THIS PLAT AND ALLOTMENT IS IN FULL ACCORDANCE WITH FOREVER ALL AREAS SO SHOWN OR INDICATED ON SAID PLAT.

D. Franklin Johnson II
OWNER/AGENCY

NORTH CAROLINA CUMBERLAND COUNTY I, Dennis A. Gilbert, a Notary Public of the County and State aforesaid, certify that I have personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 9th day of August, 2006.

Dennis A. Gilbert
Notary Public

My Commission expires 8 APRIL 2011



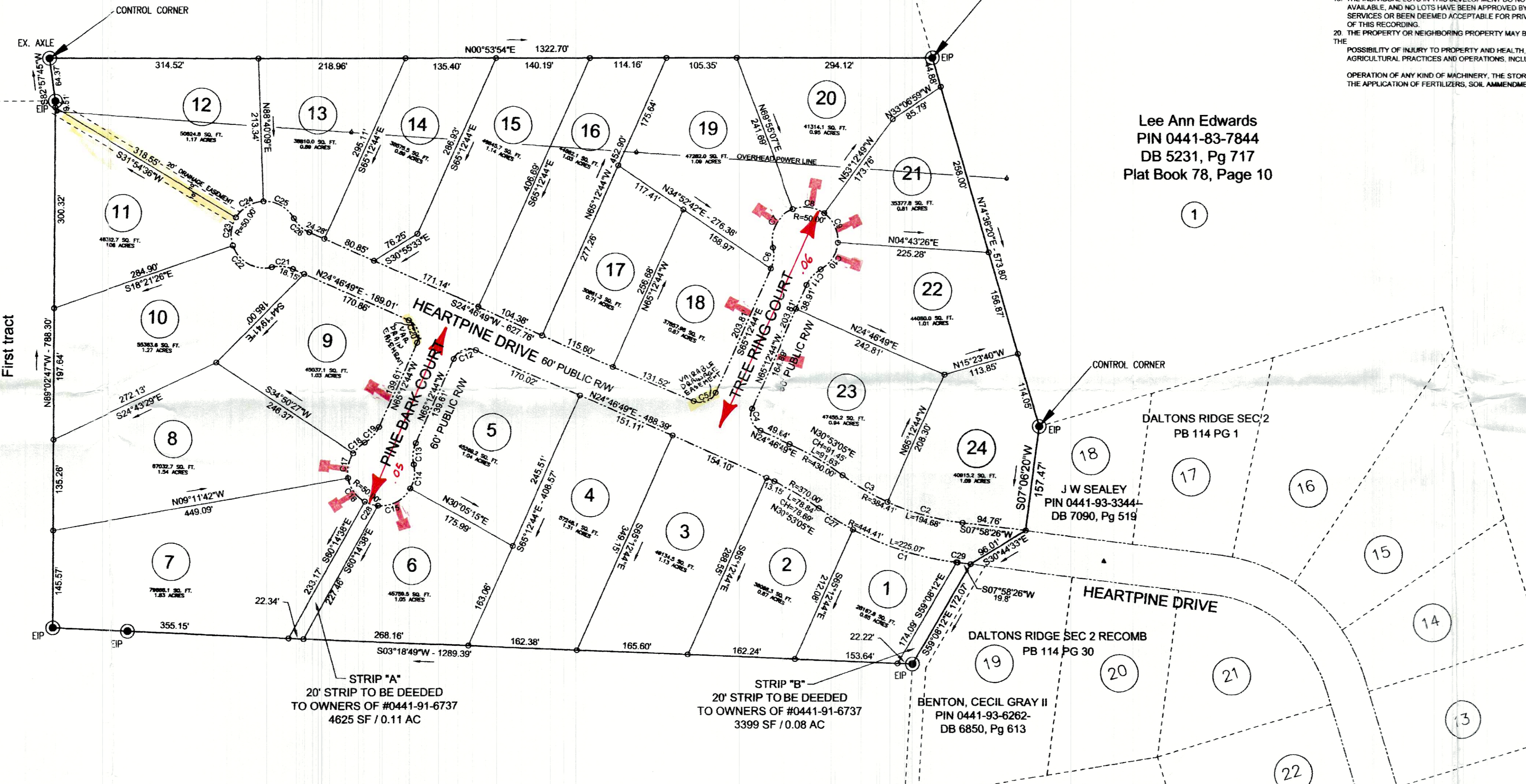
Approved by the Cumberland County Joint Planning Board on the 11th day of August, 2006.

Signed: [Signature] (Seal) [Signature]

STATE OF NORTH CAROLINA COUNTY OF CUMBERLAND I, Annie E. Fields, Review Officer of Cumberland County, certify that the map or plat to which this certificate is affixed meets all statutory requirements for recording.

Annie E. Fields
Date: 8-11-06

DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION APPROVED [Signature] DISTRICT ENGINEER DATE: 8-2-06



STRIP "A"
20' STRIP TO BE DEDICATED TO OWNERS OF #0441-91-6737
4625 SF / 0.11 AC

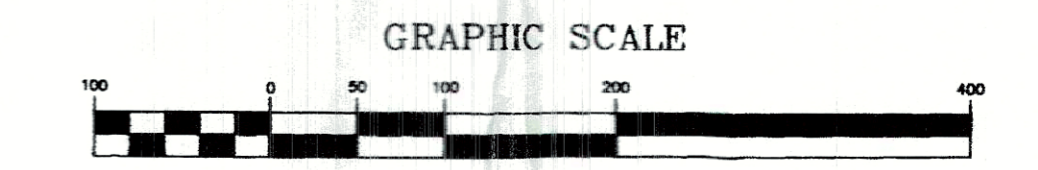
STRIP "B"
20' STRIP TO BE DEDICATED TO OWNERS OF #0441-91-6737
3399 SF / 0.08 AC

Evan Boyd Cain and wife, Corenna Cain
PIN 0441-91-6737
Deed Book 3939, Page 733
First tract

Lee Ann Edwards
PIN 0441-83-7844
DB 5231, Pg 717
Plat Book 78, Page 10

Anthony Raimondo
PIN 0451-03-3259
Deed Book 4451, Page 388

GRAYS CREEK TOWNSHIP CUMBERLAND COUNTY FAYETTEVILLE NORTH CAROLINA SCALE 1" = 100' AUGUST 2006



NOTES:
1. E.G.M. - EXISTING CONCRETE MONUMENT
2. E.I.S. - EXISTING IRON STAKE
3. C.L. - COMPUTED LINE
4. IRON STAKES AT ALL PROPERTY CORNERS
5. TOTAL AREA = 28.28 ACRES. RW AREA = 2.73 ACRES
6. REFERENCE PB 111 PG 70, DB 6887 PG 727
7. PROPERTY SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIVE COVENANTS OF RECORD
8. AREAS COMPUTED BY COORDINATE METHOD.
9. RATIO OF PRECISION = 1:10,000
10. DASHED LINES NOT SURVEYED.
11. TAX MAP - 041-92-254
12. EXCEPT AS SPECIFICALLY STATED OR SHOWN, THIS SURVEY DOES NOT REPORT ANY OF THE FOLLOWING: EASEMENTS, OTHER THAN THOSE VISIBLE DURING FIELD EXAMINATION OR AS IN DOCUMENTATION PROVIDED BY THE CLIENT OR ATTORNEY; BUILDING SETBACKS, RESTRICTIVE COVENANTS, ZONING OR LAND USE REGULATIONS AND ANY FACTS WHICH A TITLE SEARCH MAY DISCLOSE.
13. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
14. THIS SURVEY WAS DONE WITHOUT A TITLE SEARCH AND IS BASED ON REFERENCED INFORMATION. THERE MAY EXIST OTHER DOCUMENTS OF RECORD, WHICH COULD AFFECT THIS PROPERTY. ALL RESEARCH DATA CURRENT AS OF AUGUST 3, 2006.
15. BUILDING SETBACKS ARE AS SHOWN HEREON. IF NO SETBACKS ARE SPECIFIED, ANY STRUCTURES OR IMPROVEMENTS PLACED ON THIS SUBJECT PROPERTY MUST COMPLY WITH RESTRICTIVE COVENANTS, ZONING, DOCUMENTS OF RECORD GOVERNING SUCH IMPROVEMENTS AND ANY SPOUSAL AGREEMENT BETWEEN THE DEVELOPER AND THE BUILDER/OWNER.
16. NON-CONFORMING STRUCTURES HAVE NOT BEEN CREATED BY THIS SUBDIVISION.
17. UNLESS NOTED OTHERWISE, THERE WERE NO U.S.G.S., N.C.G.S. OR OTHER GOVERNMENTALLY RECOGNIZED HORIZONTAL CONTROL MONUMENTATION FOUND WITHIN 2,000 FEET OF THIS SUBJECT PROPERTY.
18. IF THIS PLAT IS LABELED "ZERO LOT LINE" THERE ARE, IN ADDITION TO OTHER EASEMENTS SHOWN, MAINTENANCE EASEMENTS ON ALL INTERIOR LOT LINES, SAID EASEMENTS BEING 10 FEET IN WIDTH AND UNLESS OTHERWISE NOTED, 5 FEET EACH SIDE OF SAID INTERIOR LOT LINE.
19. THE INDIVIDUAL LOTS IN THIS DEVELOPMENT DO NOT HAVE PUBLIC SEWER AND/OR WATER SERVICES AVAILABLE, AND NO LOTS HAVE BEEN APPROVED BY THE HEALTH DEPARTMENT FOR ON-SITE SEWER SERVICES OR BEEN DEEMED ACCEPTABLE FOR PRIVATE WATER WELLS AS OF THE DATE OF THIS RECORDING.
20. THE PROPERTY OR NEIGHBORING PROPERTY MAY BE SUBJECT TO INCONVENIENCE, DISCOMFORT, AND THE POSSIBILITY OF INJURY TO PROPERTY AND HEALTH, ARISING FROM NORMAL AND ACCEPTED FARMING AND AGRICULTURAL PRACTICES AND OPERATIONS, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, DUST, THE OPERATION OF ANY KIND OF MACHINERY, THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION OF FERTILIZERS, SOIL AMENDMENTS AND PESTICIDES.

039268
RECEIVED
8-11-2006 PM 4:19:36
J. LEE WARREN JR.
REGISTER OF DEEDS
CUMBERLAND COUNTY, N.C.

BOOK 117 PAGE 170

DRAWN BY: DAG
CHECKED BY: HFA
REVISED:
ALLEN-ALLEN & ASSOCIATES OF N.C., PA
North Carolina License # 08001
101-C Street, Raleigh, N.C. 27601
Phone: (919) 837-8600 Fax: (919) 837-8828
SCALE: 1" = 100'
DATE: AUG. 09, 2006
DALTON RIDGE, SECTION THREE
ZERO LOT LINE
FINAL PLAT
SHEET 1

BN17 19 170



OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COUNTY ATTORNEY

DATE: 10/30/2024

**SUBJECT: CORRECTION OF SECTION HEADING IN VAPING REGULATIONS
ORDINANCE**

BACKGROUND

The heading for Section 9.5-157 of the Vaping Regulations Ordinance adopted by the board October 21, 2024, contained a drafting error which was use of the word "Smoking" instead of "Vaping." It reads, "**Sec. 9.5-157. Smoking prohibited in public buildings and vehicles.**"

It was intended to read, "**Sec. 9.5-157. Vaping prohibited in public buildings and vehicles.**"

RECOMMENDATION / PROPOSED ACTION

The county attorney recommends the board approve correction of the heading of Section 9.5-157 of the Vaping Regulations Ordinance to read, "**Sec. 9.5-157. Vaping prohibited in public buildings and vehicles.**"



BUDGET AND PERFORMANCE DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEBORAH W. SHAW, BUDGET AND PERFORMANCE DIRECTOR

DATE: 10/29/2024

**SUBJECT: APPROVAL OF BUDGET ORDINANCE AMENDMENTS FOR THE
NOVEMBER 4, 2024 BOARD OF COMMISSIONERS' AGENDA**

BACKGROUND

General Fund

1) Justice Services – Budget Ordinance Amendment B250811 to recognize grant funds from the North Carolina Department of Adult Correction Intermediary Agency Services Re-entry Program in the amount of \$150,000 and to utilize lapsed salaries in the amount of \$14,540

The Board is requested to accept and approve Budget Ordinance Amendment B250811 to recognize grant funds from the North Carolina Department of Adult Correction Re-entry Program in the amount of \$150,000 and to utilize lapsed salaries in the amount of \$14,540. These funds will be utilized for personnel costs, which includes two new time-limited positions: Re-entry Program Manager and Re-entry Case Manager, case management, supplies and materials and other operating expenses. The grant period is for one year, with a start date of September 1, 2024 and end date of August 31, 2025.

Please note this amendment requires no additional county funds.

2) Health Department – Budget Ordinance Amendment B250479 to recognize funds from the North Carolina GlaxoSmithKline Foundation Child Health Recognition award in the amount of \$10,000

The Board is requested to accept and approve Budget Ordinance Amendment B250479 to recognize funds from the North Carolina GlaxoSmithKline Foundation Child Health Recognition award in the amount of \$10,000. These funds will be used to support the baby store. The funds will be used to purchase baby wipes, diapers, clothing, car seats, pack and plays and more items.

Please note that this amendment requires no additional county funds.

3) Health Department – Budget Ordinance Amendment B250497 to recognize funds from the North Carolina Division of Public Health in the amount of \$100,000

The Board is requested to accept and approve Budget Ordinance Amendment B250497 to recognize funds from the North Carolina Division of Public Health in the amount of \$100,000. These funds will be used to install a new LED sign by the roadway to provide citizens with health information. This will replace the old sign that is outdated and unrepairable.

Please note that this amendment requires no additional county funds.

4) Health Department – Budget Ordinance Amendment B250880 to recognize grant funds awarded through the North Carolina Department of Health & Human Services, Substance Abuse and Mental Health Services Administration in the amount of \$508,418

The Board is requested to accept and approve Budget Ordinance Amendment B250880 to recognize grant funds awarded through the North Carolina Department of Health & Human Services, Substance Abuse and Mental Health Services Administration in the amount of \$508,418. These funds will be used to employ five new full-time positions and one temporary staff. These positions will be advertised as grant funded and time limited. These positions and funding will be used to support first responders and members of other key community sectors on training, administering, and distributing naloxone and other federal drug administration approved overdose reversal medication or devices. The grant period is from September 30, 2024 until September 29, 2028.

Please note this amendment requires no additional county funds.

5) Soil Conservation District – Budget Ordinance Amendment B250925 to recognize grant funds from the Streamflow Rehabilitation Assistance Program Grant in the amount of \$101,020

The Board is requested to accept and approve Budget Ordinance Amendment B250925 to recognize grant funds from the Streamflow Rehabilitation Assistance Program Grant in the amount of \$101,020. This grant is from the North Carolina Department of Agriculture and Consumer Services, Division of Soil and Water and will be used to protect and restore the drainage infrastructure through routine maintenance to existing streams and drainage ways. The grant award is for the period of July 1, 2024 through December 31, 2026.

Please note this amendment requires no additional county funds.

Special Fire District Fund 220

6) Westarea Fire Department - Budget Ordinance Amendment 250808 to increase FY25 fire protection contract in the amount of \$242,118

The Board is requested to approve Budget Ordinance Amendment B250808 in the amount of \$242,118. These funds will be used for the fire protection and emergency medical and/or rescue services contract with the Westarea Volunteer Fire Department, Incorporated to provide services to the Manchester District citizens. The term of this contract is five years ending on June 30, 2029.

Please note that this amendment requires appropriation of the special fire district fund balance.

Community Development Fund 265

7) Community Development Administration, Housing Activities, Public Services - Budget Ordinance Amendment 250486 to recognize additional funding from the United States Department of Housing and Urban Development in the amount of \$20,695

The Board is requested to accept and approve Budget Ordinance Amendment B250486 to recognize additional funding from the United States Department of Housing and Urban Development in the amount of \$20,695. These funds will be used for Community Development Block Grant (CDBG) Entitlement in the amount of \$19,899 and Program Income Housing Rehabilitation in the amount of \$796.

Please note this amendment requires no additional county funds.

Community Development Home Fund 266

8) HOME Administration, HOME Housing Activity - Budget Ordinance Amendment 250501 to recognize the decrease in funding from the US Department of Housing and Urban Development In the amount of \$53,311

The Board is requested to accept and approve Budget Ordinance Amendment B250501 to recognize the decrease in funding from the US Department of Housing and Urban Development in the amount of \$53,311. This will decrease the HOME Investment Partnerships funding.

Please note this amendment requires no additional county funds.

Crown Complex Fund 600

9) Crown Complex – Budget Ordinance Amendment B251037 to transfer project funds in the amount of \$126,660

The Board is requested to approve Budget Ordinance Amendment B251037 to transfer project funds in the amount of \$126,660. These funds will be transferred from completed projects to the parking lot improvement project for the Crown Complex.

Please note that this amendment requires no additional county funds.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments



SHERIFF'S OFFICE

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ENNIS WRIGHT, SHERIFF

DATE: 10/24/2024

SUBJECT: PUBLIC HEARING FOR EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

BACKGROUND

The Sheriff's Office is fortunate to again be eligible to apply for funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) through the United States Department of Justice (USDOJ). The grant continues the USDOJ efforts to support local law enforcement at the local level.

RECOMMENDATION / PROPOSED ACTION

Conduct Public Hearing, approve the Memorandum of Understanding, complete the Certification and Assurances by the Chief Executive of the Applicant Government form, and authorize the County Manager to sign the application submittal.

ATTACHMENTS:

Description	Type
FY24 MOU Byrne Justice Assistance Grant	Backup Material
FY24 Certification and Assurances by Chief Executive	Backup Material
FY24 Byrne Grant Budget Narrative	Backup Material

GMS APPLICATION NUMBER

STATE OF NORTH CAROLINA

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF CUMBERLAND

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF FAYETTEVILLE, NC AND COUNTY OF CUMBERLAND,
NC

2024 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this ____ day of _____ 2024, by and through its governing body, the Cumberland County Board of Commissioners, hereinafter referred to as COUNTY, and the CITY of FAYETTEVILLE, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Cumberland County, State of North Carolina:

Witnesseth:

WHEREAS, this Agreement is made under the authority of Sections 153A-14 and 160A-17.1 of the North Carolina General Statutes; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interest of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

WHEREAS, the COUNTY agrees to serve as the fiscal agent and will file a single joint application for the FY 2024 JAG funds.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

The COUNTY agrees to provide the CITY its *pro tanto* allocation of the 2024 total funding of Two Hundred Four Thousand, Seven Hundred Seventy Four Dollars (\$204,774), such allocation being One Hundred Two Thousand, Three Hundred Eighty Seven Dollars (\$102,387) as computed by the US Department of Justice, with the allocated and the COUNTY shall retain and use the funding amount of One Hundred Two Thousand, Three Hundred Eighty Seven Dollars (\$102,387).

Section 2.

The COUNTY, acting as fiscal agent, will not request funding to cover administrative costs. The COUNTY, acting as fiscal agent, will submit quarterly programmatic and financial reports to the US Department of Justice. The CITY agrees to forward pertinent data regarding the CITY'S program initiatives related to the grant award to assist the COUNTY in completing the aforementioned reports.

Section 3.

The COUNTY intends to use its share for communications and the CITY intends to use its share for equipment and supplies.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims brought against the CITY or the COUNTY, respectively, jointly or severally.

Section 5.

Nothing in the performance of this Agreement shall impose any liability for claims brought against the COUNTY or the CITY, respectively, jointly or severally.

Section 6.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 7.

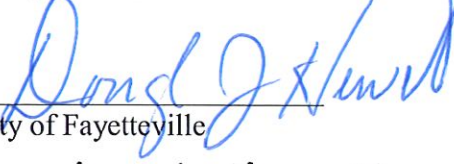
The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 8.

By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

GMS APPLICATION NUMBER

This Memorandum of Understanding is intended to give effect to the prior agreement of the parties and to make this further understanding effective October 1, 2024, and to expire upon the 30th day of September, 2029.



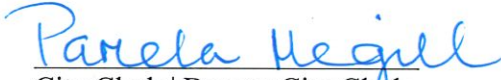
City of Fayetteville

Douglas J. Hewett
City Manager

County of Cumberland

County Manager

ATTEST:



City Clerk | Deputy City Clerk

ATTEST:

Clerk to the Board

This instrument has been pre-audited in the manner required by the local government budget and fiscal control act.

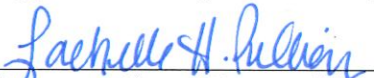


City Finance Director

This instrument has been pre-audited in the manner required by the local government budget and fiscal control act.

County Finance Director

Approved for Legal Sufficiency:



Attorney, City of Fayetteville

Approved for Legal Sufficiency:

Cumberland County Attorney

Contract # _____

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

Edward Byrne Memorial Justice Assistance Grant Program FY 2024 Local Solicitation

Certifications and Assurances by the Chief Executive of the Applicant Government

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2024 Edward Byrne Memorial Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (e.g., city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

Signature of Chief Executive of the Applicant Unit of
Local Government

Glenn B Adams

Printed Name of Chief Executive

County of Cumberland, NC

Name of Applicant Unit of Local Government

Date of Certification

Chairman, Board of Commissioners

Title of Chief Executive

BUDGET NARRATIVE

Edward Byrne Memorial Justice Assistance Grant (JAG) Program-FY 2024 Local Solicitation: Eligible Allocation Amounts \$25,000 or More

Cumberland County, NC

Opportunity ID O-BJA-2024-172239

Project Title: **Improving law enforcement services and operational efficiencies through communications with law enforcement databases, equipment upgrades, engaging citizens, and improving employee retention and recruitment efforts**

FY 2024 Edward Byrne Memorial Justice Assistance Grant funding will be used in various ways to continue to increase our operational efficiency, engage with our citizens in the community, improve our employee retention and recruitment efforts, and increase officer and public safety.

The Cumberland County Sheriff's Office intends to use \$18,072 of FY 24 Byrne Memorial Justice Assistance funds for DCI subscription connections. This State Bureau of Investigation system requires a subscriber fee to support the operation of the NC Criminal Justice Information Network (CJIN) network. This cost is based on current subscription fees. \$19,872 of funding will be used for air card technology to communicate to and from the NCSBI databases, the state-wide warrants systems, and the County Dispatch Center from the Deputy's Mobile Data Terminals in their vehicles. The total amount requested for DCI subscriptions and air cards is **\$37,944**.

The Cumberland County Sheriff's Office also intends to use \$52,443 for 90 Mobile Thermal printers/batteries/shipping for our Deputies Vehicles. This assists our deputies in being able to print warrants and other documents without having to return to the office to get a hard copy. This feature is crucial when trying to serve warrants when quick access is needed. These printers are convenient, fast, durable, compact and cost-effective. The total amount for Thermal Printers/batteries is **\$52,443**.

The Cumberland County Sheriff's Office intends to use \$5,000 for K9 fencing and heat monitors. Our K9 Division has currently lost a few K9's due to illness/retirement. We have also gained a new K9 Deputy Division and we have currently purchased 2 additional K9's. One to replace one of our retired K9's and one that will be specifically for Bomb Detecting. The total amount for fencing and heat monitor is **\$5,000**.

Our agency has become certified to conduct our own BLET (Basic Law Enforcement Training). Since we are new to conducting our own BLET, we had to install a shower trailer for the Cadets to utilize after 8-10 hours of training a day. Our agency is needing to purchase a carport type covering, with sides, to have shelter from the shower trailer to the main building. The amount for Carport covering with sides is **\$7,000**.

The LRAD 450XL provides the audio output of larger acoustic hailers almost twice its size and weight, while delivering the same outstanding vocal clarity inherent in all LRAD systems. The LRAD 450XL broadcasts powerful warning tones to command attention to the highly intelligible voice messages that follow, enabling operators to change behavior and enhance response capabilities with safe, scalable escalation of force. Lightweight and designed for use on tripods or mounted on vessels, vehicles, and Remote Weapon Stations (RWS), the LRAD 450XL is a highly effective, long range communication system in use around the world for public safety and law enforcement. The cost for LRAD 450SL is **\$31,695**.

FPD will also purchase lightweight and compact LRAD wireless kit enables wireless operation of LRAD systems at ranges up to 200 meters. The integrated push to talk button and large volume control knob allow simple one-handed operation. A 3.5 mm phone jack connects to a standard MP3 player or other audio device used in conjunction with the headset microphone. The cost is **\$12,400**.

Additionally, FPD would like to purchase 16 suppressors for .233 caliber rifles and 6 suppressors for .308 caliber rifles. Significantly reduces the noise level of gunshots, which can help protect hearing. Lower noise levels make it easier to communicate with other while shooting, whether on a range or in a critical incident. The total cost is **\$20,600**.

Additionally, FPD will purchase 5 Modlite rifle kits. The light systems currently attached to these 5 ERT's rifles illuminate 350 lumens and 12,000 candela. The Modlite systems we are asking for illuminate 680 lumens 69,000 candela. This rifle light system would upgrade our dated rifle lights allowing operators to positively identify a human at up to 600 yards. It would also allow operators to identify a person and determine if the person is armed or not. The total cost is **\$2,400**.

The Fayetteville Police Department (FPD) is requesting to purchase 4 PEQ-15 (Advanced Target Pointer/Illuminator Aiming Lasers) for a total of \$7,500. FPD officers working in low light conditions wearing Night Vision Goggles needed to positively identify a target. This device attaches to the officers' rifle and works as a visible aiming laser as well as an infrared illuminator. The FPD does not have enough PEQ-15s to outfit every ERT Officer. These funds would improve the equipment needs of the department. Total cost **\$7,500**.

FPD is requesting to purchase 2 Pennarms Launchers. Less Lethal munition launcher. The purchase of this item provided more less lethal coverage during critical incidents. The Penn Arms L640-3 is a 40mm multi-launcher with a spring-advance magazine drum, six-shot capacity, rifled barrel, and combo rail. It is designed for law enforcement and military use, and is perfect for a variety of tasks, including crowd control and riot response. Total cost **\$7,656**.

FPD is requesting to purchase 2 FE130-FS Breaching Frame. The FE130 series Breaching Frames are valuable training tools for the ERT's breaching program. The frames are constructed of heavy high strength structural steel and engineered specifically to meet the strenuous demands of all breaching methods. Suitable for the following methods of breaching: Manual, Mechanical, Explosive, Hydraulic, Thermal, Vehicle Assist. Total Cost **\$12,000**

Lastly, FPD is requesting to purchase 2 Cameras, 2 Concrete Saw, 1 Cordless 6 Tool Combo and Barricade bags. Useful during trainings and critical incidents. Total is **\$8,136**.

A summary of the proposed expenses is below.

	CCSO	CCSO		FPD	FPD		TOTAL	TOTAL
Budget Category	Federal Request	Non-Federal Request		Federal Request	Non-Federal Request		Federal Request	Non-Federal Request
Personnel								
Fringe Benefits								
Travel								
Equipment	\$102,387.00						\$102,387.00	
Supplies								
Construction								
Subawards				\$102,387.00			\$102,387.00	
Procurement Contracts								
Other								
Total Direct Costs	\$102,387.00			\$102,387.00			\$204,774.00	
Indirect Costs								
Total Project Costs	\$102,387.00			\$102,387.00			\$204,774.00	



ASSISTANT COUNTY MANAGER GENERAL GOVERNMENT AND STEWARDSHIP

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BRIAN HANEY, ASSISTANT COUNTY MANAGER FOR GENERAL GOVERNMENT & STEWARDSHIP

DATE: 10/29/2024

SUBJECT: CONSIDERATION OF REQUEST FOR PROPOSALS (RFP) FOR EMPLOYEE HEALTH CENTER PROVIDER

BACKGROUND

Cumberland County provides an onsite Employee Health Center, which offers a tremendous benefit to the County's employees and their families. There is no cost to use the clinic and employees do not have to use sick leave to visit the clinic. The clinic currently offers acute care and limited primary care services.

In FY 2022, the County entered into a three-year agreement with Proactive MD to operate the Employee Wellness Clinic from July 1, 2022 through June 30, 2025. As the agreement with Proactive MD is set to end on June 30, 2025, County staff have engaged the County's benefits broker, USI, which conducted the previous vendor RFP for the Employee Health Center, to solicit proposals for a provider to operate the Employee Health Center beginning July 1, 2025. USI's proposed RFI (Request for Information) is attached for the Board's consideration.

USI is seeking to issue the RFI upon Board approval in order to begin the solicitation process in order for the selected provider to be able to provide services beginning July 1, 2025. Following the solicitation process, a recommendation will be brought forward for the Board's consideration and approval.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the RFI to allow USI to begin the solicitation process for a provider to operate the County's Employee Health Center beginning July 1, 2025.

ATTACHMENTS:

Description

Type

County of Cumberland, NC Clinic

1 Introduction and Companion Guide County of Cumberland, NC

2 Experience and Qualifications of Existing Clinical Experience

State the experience your firm has had with Onsite Employee Health Clinic Administration to include all information required:

1. Company Name

2. Company Address

3. Company Phone Number

4. Contact Name

5. Contact Title

6. Contact Address

7. Contact Phone Number

8. Contact Email Address

9. Please describe any mergers or acquisitions your organization participated in during the past 3 years.

10. What is the total number of full-time employees in your organization dedicated to on-site clinics?

11. How long have you been in the on-site clinic business?

12. What is the total number of onsite and shared clinics?

13. What is the total number of occupational health only clinics?

14. How many clinics does your organization manage in the state of North Carolina?

15. What is your organization's five-year client retention rate?

16. Please describe your organization's insurance coverage(s) for the clinic operation.

3 IT and IT Security

Please provide the requested related to IT and IT security.

1. Does your company utilize an inter-operable electronic medical record? Please provide a brief overview of the system.

2. How often do you request updates to the eligibility files? How often do you feed claims?

3. Does your EMR provide a care gap analysis of claims, drug, and lab data to identify actionable care items for each clinic participant?

4. Does your EMR provide point-of-care access to evidence-based best practice guidelines?

5. Do you offer a mobile app (NOT a mobile website)? If so, please describe the capabilities. Who developed this app? How often is it updated?

6. Does your EMR provide identification of enrollees with chronic conditions (low back pain, arthritis, CHR, diabetes, asthma, hypertension, etc.)?

7. Does your EMR provide identification of enrollees who have gaps in care for age and gender specific screenings (mammography, colorectal screenings, PSA, Pap Smears)?

8. Please demonstrate your organization can (1) accept carrier utilization data, (2) merge clinical encounter data from the electronic medical record with carrier monthly claims and Rx data transfers, and (3) provide the client with detailed monthly utilization, quality, and cost dashboard reports to demonstrate the clinic's impact. Please describe any costs associated with the transfer of data between the reporting entities.

9. Do you offer a patient portal that allows members to be directed to resources for engagement and more personalized content?

10. What are the main functionalities and resources of your company's web portal? (Example: online coaching programs, health education/information, personal tracking capabilities, etc.)

11. How does your organization ensure I.T. Systems and Processes follow applicable standards?

12. Have you had an incident where there has been compromise, loss, or mishandling of confidential data or Protected Health Information? If yes, please describe.

13. If an incident occurs that affects client data, do you affirm to notify the client immediately upon discovery?

14. When working with third parties, do you provide a list of any third parties that you utilize that may have access to data or client data?

15. Do you ensure that third parties agree in writing to be bound by data security requirements no less stringent than these, prior to having access to data or client data?

16. Is an information security incident response plan documented and available for review?

17. Does your incident response plan require immediate notification to client of any information security event, whether data or client data was involved?

18. Does the incident response plan identify the incident response team? How long after an incident is discovered does the incident response team become notified?

19. Will any of the IT services associated with the EMR be performed outside of the continental U.S.?

20. Describe how your firm maintains client records in a HIPAA secure environment (encryption policy, data security).

21. What is your approach to ensure that clients follow all applicable regulations (ERISA, HIPAA, COBRA, ACA, etc.)?

22. Describe how your firm maintains client records in a HIPAA secure environment.

23. Does your firm use a secure network for exchanging confidential information?

24. How do you comply with HIPAA as it pertains to the use of PHI?

25. Provide certification of ISO accreditation. Do you have ISO accreditation?

26. Describe your Data Protection Architecture

27. How does your organization disburse protected health information (PHI)?

28. Does your organization sell any collected data to 3rd party sources? If so, explain.

4 Clinic Operations

1. Who is the Medical Director for your organization?

2. Who oversees the clinical care delivered in the clinics? Describe the line of reporting up through your organization.

3. What are the credentials of the clinic operational team?

4. How many staff does your organization currently have in the state of North Carolina? If a staff member is off work for vacation or a prolonged period, how does your organization plan to fill the position?

5. Do you offer primary care preventive visits for employees, spouses, and dependents? If so, what tests are covered as part of the preventive care visit?

6. Do your onsite clinics offer client employees/dependents annual physicals?
7. Please confirm your organization can assess and treat medical conditions that are episodic in nature and short in duration. Examples include, but are not limited to, upper respiratory infections, rashes, urinary tract infections, and first aid treatment of minor injuries to include on-site occupational health injuries.
8. Do your clinics routinely provide Referral Coordination Services? Are the above services included in the program costs?
9. What is the referral rate across your book of business?
10. Is your organization affiliated with any hospital system or are you independent?
11. Can your organization coordinate referrals for a specialist visit and/or additional diagnostics?
12. Can your organization provide a vaccination program for employees and dependents of all ages mutually agreed upon by the client and the onsite clinic vendor?
13. As part of your normal clinic operations, can your organization deliver on-site behavioral health services, including a behavioral health specialist with crisis management experience?
14. How many on-site clinics in your organization currently deliver behavioral health services?
15. Please provide examples of the behavioral health services delivered at these organizations.
16. Can your organization provide pre-employment and drug screens?
17. Can your organization provide Department of Transportation (DOT) testing?
18. As part of your overall Clinic Agreement, does our organization provide the option for virtual care/telemedicine availability 24/7?
19. Does your organization provide telemedicine during extreme situations when employees are not able to access the clinic? Examples of an extreme situation would include, but not limited to, COVID or an act of nature (hurricane, tornado, flooding).
20. How are telemedicine services provided for individuals who are in a "work from home" situation?
21. Does a member need to schedule an appointment to a) obtain a new prescription or b) refill a medication?
22. Do you collect laboratory specimens on-site at your clinics?
23. What relationships do you have with laboratory vendors to pick up and process the specimens?
24. Is this vendor able to report the results directly into your electronic health record system? Please describe the arrangement and process in detail.

25. What clinic quality assurance processes are in place?
26. Do you submit claims to the Health Plan as required?
27. How often does a physician audit the clinical staff notes and treatment plans?
28. What records would belong to the client upon contract termination?
29. Are your clinics led by physicians or nurse practitioners? Why? If you use both, how do you orchestrate the hours for each?
30. What are the key engagement metrics your company uses to evaluate the on-going staffing model? How does your organization alter staffing if the clinic is overstaffed? Similarly, how does the clinic alter the staffing if the clinic is understaffed? Please provide the metrics used to determine recommendations for altering the staffing pattern. Please be sure to address how modifications to the staffing pattern are reflected in the overall clinic fees.
31. Do your clinics use Medical Assistants or clerical staff to help run the clinic? If so, in what ratios and what is the rationale?
32. How do you identify and engage high-risk individuals in the population?
33. How is clinic appointment managed?
34. Can you provide online appointment schedulers? Can you provide an app for appointment scheduling? Telephone scheduling?
35. What is your typical wait time to make an appointment?
36. Are patients provided with reminders for appointments (Email? Call? Text?)
37. What are your clinic's procedures to accommodate walk-in patients?
38. What approach do you recommend for identifying whether a presenting patient is eligible to participate in the clinic?
39. How do you calculate how many lead clinician hours you need in your clinic?
40. How long are your typical initial and established office visits? Why?
41. Are there documented improvements in care and/or cost that result from your approach?
42. How are service problems managed and who is involved with resolving them?
43. What data do you gather and provide to your clinical teams to monitor performance and encourage continuous quality improvement?
44. In the event of a pandemic or natural disaster that results in the company closing the clinic for a prolonged period, if the clinic moves to telehealth services only, how does your organization adjust staffing and the budget?

45. Please provide your organization's ability to provide emergency medical care. Please describe how the providers would respond (1) inside the clinic and (2) outside the clinic.

5 Population Health Management

1. What is your organization's capacity to administer on-site biometric screenings at the clinic?
2. What are your organization's health coaching capabilities to assist employees in reducing risk and improving health?
3. Does your organization's EMR allow members to have access to their risk profile, wellness core, interactive nutrition and activity trackers, and medical content?
4. Is health coaching available on-site, telephonically, and/or online?
5. Do you provide lifestyle management/coaching through your clinics? Is it telephonic, face-to-face, or web-based? What are the results?
6. What are the credentials/levels of experience of your health coaches? (Note: If experience varies based on topic or on-site vs. telephonic, please differentiate)
7. Can your organization provide chronic disease management services including patient education and coaching regarding complications, medications, nutrition therapy, hypertension, and preventative care?
8. What are your organization's capabilities for proactive outreach of members with chronic conditions or flag issues related to medication utilization?
9. For many companies, 30% to 50% percent of catastrophic claims over \$50,000 are tied to cancer. Early detection and treatment of cancer leads to lower costs and better survival rates for patients. How does your organization promote age and gender specific screenings? Please provide an example from an existing clinic.

6 Experience taking over an existing clinic.

1. Describe your approach to taking over an existing clinic, including managing the hiring of staff and promoting employee engagement.
2. Please provide an optimal implementation timeline for implementing the clinic.
3. Please describe your process for transferring eligibility data from the previous vendor to your organization's EMR.
4. Please describe typical challenges associated with taking over an existing clinic.
5. What assumptions for percentage of total eligible patient member utilization have you included in your cost proposal for Years 1 – 3?

6. We expect our organization to have growth of up to 10% over the life of this contract. Would there be an extra cost or change of scope if we were to add up to 10% additional eligible members to the contract?

7 Report/Data Samples

1. What reports can clients expect to receive? Attach samples of all reporting.

2. How often will your company provide such reporting and review it with the client?

3. Do you offer real-time, self-service reporting capabilities?

4. What entities can you integrate data with?

5. Can your organization file zero dollar claims with our TPA to provide the client with utilization metrics?

6. Please demonstrate that your organization can merge clinical encounter data from the electronic medical record with carrier monthly claims and Rx data transfers, and then provide the client with detailed monthly utilization, quality, and cost dashboard reports to demonstrate the clinic's impact. Please describe any costs associated with the transfer of data between entities.

7. What is your company's process to comply with HIPAA wellness nondiscrimination regulations?

8. What is your organization's cost avoidance or value proposition, including your methodology for calculating cost avoidance? Include case studies, if available.

9. How does your company demonstrate improvements in the health of participants in your program over time, both individually and population-wide? What metrics are tracked and how often are they presented to clients?

10. Are there extra costs for non-standard reporting? If so, what are they?

11. Can you provide samples of all program forms and communication materials?

8 Performance Matrices

Please provide your experience using Performance Metrics to demonstrate your organization's ability to continually take the clinic operations from good to great.

1. Are you willing to offer guarantees with regards to ROI and/or performance? If so, please describe.

2. Do you offer performance guarantees against the IHI's Triple Aim of patient satisfaction, improved health outcomes and redirected claims savings?

3. What health indicators or chronic condition measurements do you utilize to measure patient outcomes? Where data sources are these outcomes derived from?

4. How does your organization determine the Performance Guarantee and what percentage of your fees will be at risk? Please provide details on how this fee will be calculated.

5. How does your organization differentiate itself in the marketplace?

6. What added value does your organization offer?

9 Support Materials

10 Uploads

1. add attachments



ASSISTANT COUNTY MANAGER GENERAL GOVERNMENT AND STEWARDSHIP

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BRIAN HANEY, ASSISTANT COUNTY MANAGER FOR GENERAL GOVERNMENT & STEWARDSHIP

DATE: 10/29/2024

SUBJECT: CONSIDERATION OF CONSTRUCTION MANAGER-AT-RISK CONTRACT FOR HOMELESS SUPPORT CENTER

BACKGROUND

On August 5, 2024, the Board of Commissioners approved the selection of Barr & Barr as the Construction Manager-at-Risk (CMaR) for the Homeless Support Center project following an RFQ process, and directed staff to negotiate a contract for preconstruction services for the project.

Incorporating the CMaR into the project at this time will allow for more reliable cost estimating during the remainder of the programming and design process.

Included for the Board's consideration is the contract with Barr & Barr for preconstruction services totaling \$350,152. At the conclusion of the project's preconstruction phase, a contract amendment will be brought forward to incorporate the Guaranteed Maximum Price (GMP) and allow the project to move into the construction phase.

This contract has been reviewed for preaudit and legal sufficiency.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the contract with Barr & Barr for preconstruction services for the Homeless Support Center project.

ATTACHMENTS:

Description	Type
Homeless Support Center Contract for Preconstruction Services	Backup Material

 **AIA** Document A133[®] – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 4th day of November in the year 2024
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

Cumberland County , a body corporate and politic organized and existing under the law of the State of North Carolina
117 Dick Street
Fayetteville, NC 28301

and the Construction Manager:
(Name, legal status, address, and other information)

Barr & Barr, Inc., a New York corporation
555 Fayetteville Street, Suite 300
Raleigh, NC 27601
License No. 99324

for the following Project:
(Name, location, and detailed description)

Cumberland County Homeless Support Center
352 Hawley Lane
Fayetteville, NC 28301
See Section 1.1 for a detailed description.

The Architect:
(Name, legal status, address, and other information)

LS3P Architecture PLLC , a North Carolina professional limited liability company
101 N. Third Street, Suite 500
Wilmington, NC 28401

The Owner and Construction Manager 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.

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


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

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The Project to be constructed is intended to be designed by the Architect as a center that will be used to provide temporary shelter and supportive services to homeless individuals to include single adults and families with children. The facility will include separate spaces for men and women, along with both congregate and semi-private spaces. It is anticipated that the facility will consist of two floors and that additional amenities may include any of the following: community room / living area, commercial kitchen, several offices, reception / security area, conference room, bathrooms with showers, and laundry room. The design to be furnished by the Architect is expected to consider safety measures to separate family and female units from the male units and limit any visitors to only the reception area.

§ 1.1.2 The Project's physical characteristics:

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(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 Project to be constructed is intended to be designed by the Architect to consist of a 2-story building with up to 45,000 gross square feet, which may include both new construction and adaptive reuse of an existing facility. The Project will be located on approximately 2.13 acres of County property with the possibility of the property footprint growing.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

The Construction Budget is currently estimated at Fourteen Million Dollars (\$14,000,000) with a total authorized project budget currently at Eighteen Million Four Hundred Thousand Dollars (\$18,400,000).

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

.1 Design phase milestone dates, if any:

Approximate duration of seven (7) months starting October 21, 2024.

.2 Construction commencement date:

TBD in GMP Amendment.

.3 Substantial Completion date or dates:

TBD in GMP Amendment.

.4 Other milestone dates:

Based on the Initial Information, the estimated duration of the Construction Phase from the construction commencement date to the Substantial Completion date is approximately eighteen (18) months.

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD in GMP Amendment.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

TBD in GMP Amendment based on Construction Documents.

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)
N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)
Jermaine Walker

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Director, Engineering & Infrastructure
Cumberland County Engineering and Infrastructure Department
130 Gillespie Street, Suite 214
Fayetteville, NC 28301
jwalker@cumberlandcountync.gov
Office: 910-321-6602
Mobile: 910-322-0043

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

The Architect

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Froehling & Robertson, Inc.
327 E. Jenkins Street
Fayetteville, NC 28306
910-323-9832

.2 Civil Engineer:

Moorman, Kizer & Reitzel, Inc., a North Carolina corporation
PO Box 53774
Fayetteville, NC 28305
910-484-5191
Attn: James M. Kizer, Jr.

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

TBD

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Bob Pressley
Project Manager
bobpressley@ls3p.com
910-523-6205

§ 1.1.12 The Construction Manager identifies the following representatives in accordance with Article 3 and subject to the provisions below:
(List name, address, and other contact information.)

Fred Hames
EVP, Director of Operations
fhames@barrandbarr.com
813-591-4545

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Jonathan Best
Project Director/Diversity Manager
jbest@barrandbarr.com
919-664-3779

Maxwell Stanisce
Project Manager
mstanisce@barrandbarr.com
908-616-4151

Fred Hames shall be Construction Manager's designated representative authorized to bind Construction Manager with respect to all matters requiring Construction Manager's approval, authorization or signature. Jonathan Best and Maxwell Stanisce shall be authorized to act as Construction Manager's representatives authorized to make decisions on matters of Project management as required to perform the Work and fulfill the obligations pursuant to the terms of this Agreement.

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

Project Executive/Director/Diversity Manager – Jonathan Best
Project Manager – Maxwell Stanisce
Project Executive – Ed Green
Director of Preconstruction – Chris Dantz
Estimator – Travis Wilson
Director of Preconstruction – Nick Ray
MEP Preconstruction Manager/Lead Estimator – Eric Rennell
Mentor Protegee/Workforce Development Coordinator/Assistant Project Manager – George Gilmore
Project Coordinator/Document Control Specialist – Alexis Mitchell

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

Goal of 15% MWBE Participation

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or

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oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201–2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and 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 Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services (if any) to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 If applicable, the Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using 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.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

Owner acknowledges that Construction Manager is neither assuming responsibility for the design, nor performing or providing professional services that would constitute the practice of architecture, engineering or laboratory testing. Construction Manager's reviews, recommendations, comments and/or advice pertaining to engineering or architectural matters or design submittals: shall not be deemed to be warranties or guarantees or constitute the performance of professional services other than in its capacity as a construction manager and not as a licensed design professional; shall only be considered as a recommendation for the purpose of facilitating coordination and construction by the Construction Manager; are not for the purpose of discovering errors, omissions, or inconsistencies in the design documents or submittals or the Contract Documents; and are subject to the review and approval of the Owner and its professional consultants and design team.

Construction Manager shall review submittals in accordance with the AIA A201 Section 3.10 and Section 3.12.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The itemized breakdown of Construction Manager's Guaranteed Maximum Price (GMP) shall include a "Contingency" amount which shall be a mutually acceptable amount set aside for the exclusive use of the Construction Manager to apply to costs which may arise during construction but which were not specifically defined in the GMP or which exceed Construction Manager's original estimate for the work in question. Such costs may include, but are not limited to, excess general conditions costs, the costs of correcting non-conforming work that are not backchargeable to subcontractors (with the exercise of reasonable diligence), and cost overruns due to vendor or subcontractor defaults or business failures. Such costs must be allowable under the Cost of the Work, and must fall within the Scope of the Work. The contingency shall not be used to cover costs which qualify as the basis for a Change Order. The Construction Manager shall account to the Owner for the allocation of the Contingency on a monthly basis. Any Construction Manager's Contingency funds remaining upon Final Completion of the Project shall be returned to the Owner by final Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201-2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The

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written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing 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.

§ 4.1.4.3 The Owner, when such services are requested, 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.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. 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.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Preconstruction Phase services to be billed at the completion of the deliverables listed below, and VDC and HUB Outreach to be billed monthly throughout the Preconstruction Phase:

SD Estimate	\$50,000
DD Estimate	\$75,000
CD Estimate	\$88,246
Bid Phase	\$49,596
VDC – Precon BIM	\$25,000
Hub Outreach Coordination & Workforce Development Program	\$62,310
Preconstruction Compensation Total	\$350,152

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached Exhibit C.

(Table deleted)

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager'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 Construction Manager in accordance with N.C.G.S. Section 143-134.1(a).
(Paragraphs deleted)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Four and One Half Percent (4.5%) of the Cost of the Work (which shall include, but not be limited to, Contingency, General Conditions Costs, costs of insurance, payment and performance bonds and subcontractor default insurance).

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Four and One Half Percent (4.5%) of the total Cost of the Work for each change.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Fifteen Percent (15%) of labor and materials.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

§ 6.1.6

(Paragraphs deleted)

Intentionally omitted.

§ 6.1.7 Other:

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

None.

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§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.1.4 General Conditions costs described in the GMP Amendment shall be in a lump sum fixed amount as set forth in the GMP Amendment, and shall be billed with each month's Construction Manager's Application for Payment and paid based on the percentage of Work completed for that payment period.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Paragraphs deleted)

Included in lump sum General Conditions costs set forth in the GMP Amendment.

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Insurance and bond costs will be included in the GMP Amendment at the following approximate rates calculated on the total GMP and Project schedule duration as set forth in the GMP Amendment. The

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following rates are based on the information provided in Sections 1.1.3 and 1.1.4.4, which rates may be subject to adjustment if the information provided in Sections 1.1.3 and 1.1.4.4 changes in the GMP Amendment:

General Liability	2.25%
Payment and Performance Bonds	0.9%
Subcontractor Default Insurance	1.49%
Builders Risk Insurance	TBD in GMP Amendment

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

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§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager with the exercise of reasonable diligence from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Any such audit or review must be conducted within the time periods set forth in Article 11.2.2.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

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

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the fifth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

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

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

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

- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

For each individual subcontractor, retainage in the amount of 5% will be withheld from all progress payments up to the point where 50% of the subcontractor's work has been completed, at which point no additional retainage shall be withheld from any future progress payments to that subcontractor.

§ 11.1.8.1.1 The following items are not subject to retainage:

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

Construction Manager's Fee, General Conditions and General Requirements Costs, Bond and Insurance costs, direct material and equipment costs, and other direct costs.

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Reduction or limitation of retainage shall be in accordance with N.C.G.S. Section 143-134.1.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

At Substantial Completion, retainage shall be reduced to an amount equal to the estimated cost of completing all remaining punch list work, as reasonably determined by the Architect.

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

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

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

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§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is

(Paragraphs deleted)

located in accordance with N.C.G.S. Section 143-134.1(a).

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

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§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

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

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an

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- amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)

The Owner will pay to the Construction Manager the Construction Manager’s Fee applied to the Cost of the Work performed between the last approved Application for Payment and the date of the notice of termination for

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convenience. The Owner will also pay the Construction Manager's Fee applied to the costs incurred in carrying out the termination for convenience, including the cost of securing the project site, protecting the Work, and cancelling subcontracts and purchase orders.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than two million dollars (\$ 2,000,000.00) for each occurrence and four million dollars (\$ 4,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) 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.

§ 14.3.1.3 The Construction Manager 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 that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, 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.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than five million dollars (\$ 5,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage
Umbrella Liability

Limits
Twenty Five Million Dollars (\$25,000,000.00)

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager 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 Construction Manager'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.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

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

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

N/A

§ 14.5 Other provisions:

N/A

ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

- .6 Other Exhibits:
(Check all boxes that apply.)

AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as

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User Notes:

(1815309157)

Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[] Supplementary and other Conditions of the Contract:

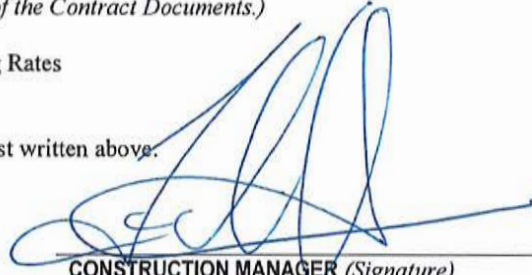
Document	Title	Date	Pages
.7	Other documents, if any, listed below: <i>(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)</i>		

Exhibit C, Preconstruction Hourly Billing Rates

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

OWNER (Signature)

(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Fred Hames, EVP, Director of Operations
(Printed name and title)

Init.

Additions and Deletions Report for

AIA® Document A133® – 2019

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 08:36:33 ET on 10/15/2024.

PAGE 1

AGREEMENT made as of the day of in the year 2024

...

Cumberland County , a body corporate and politic organized and existing under the law of the State of North Carolina
117 Dick Street
Fayetteville, NC 28301

...

Barr & Barr, Inc., a New York corporation
555 Fayetteville Street, Suite 300
Raleigh, NC 27601
License No. 99324

...

Cumberland County Homeless Support Center
352 Hawley Lane
Fayetteville, NC 28301
See Section 1.1 for a detailed description.

...

LS3P Architecture PLLC , a North Carolina professional limited liability company
101 N. Third Street, Suite 500
Wilmington, NC 28401

PAGE 2

The Project to be constructed is intended to be designed by the Architect as a center that will be used to provide temporary shelter and supportive services to homeless individuals to include single adults and families with children. The first floor of the Center is intended to consist of a congregate style floor plan for mostly single male adults. The first floor is intended to also have a community room / living area, commercial kitchen, several offices, reception / security area, conference room, and several bathrooms with showers, and laundry room. The second floor of the Center is intended to be non-congregate style with private rooms, each with a sleeping area for mostly females and families with children. The second floor is also intended to be designed to include a community room / living area to promote family interaction. The design to be furnished by the Architect is expected to consider safety measures to separate family and female units from the male units and limit any visitors to only the reception area.

PAGE 3

The Project to be constructed is intended to be designed by the Architect to consist of a 2-story building with roughly 40,000-60,000 gross square feet, located on approximately 7.18 acres.

...

Estimated and currently authorized at approximately Seventeen Million Five Hundred Thousand Dollars (\$17,500,000).

...

Approximate duration of seven (7) months starting October 21, 2024.

...

TBD in GMP Amendment.

...

TBD in GMP Amendment.

...

Based on the Initial Information, the estimated duration of the Construction Phase from the construction commencement date to the Substantial Completion date is approximately eighteen (18) months.

...

TBD in GMP Amendment.

...

TBD in GMP Amendment based on Construction Documents.

...

N/A

...

Jermaine Walker
Director, Engineering & Infrastructure
Cumberland County Engineering and Infrastructure Department
130 Gillespie Street, Suite 214
Fayetteville, NC 28301
jwalker@cumberlandcountync.gov

Office: 910-321-6602

Mobile: 910-322-0043

PAGE 4

The Architect

...

Froehling & Robertson, Inc.
327 E. Jenkins Street
Fayetteville, NC 28306
910-323-9832

...

Moorman, Kizer & Reitzel, Inc., a North Carolina corporation
PO Box 53774
Fayetteville, NC 28305
910-484-5191
Attn: James M. Kizer, Jr.

...

TBD

...

Bob Pressley
Project Manager
bobpressley@ls3p.com
910-523-6205

...

§ 1.1.12 The Construction Manager identifies the following ~~representative~~ representatives in accordance with Article 3.3 and subject to the provisions below:
(List name, address, and other contact information.)

Fred Hames
EVP, Director of Operations
fhames@barrandbarr.com
813-591-4545

Jonathan Best
Project Director/Diversity Manager
PAGE 5

919-664-3779

Maxwell Stanisce
Project Manager
mstanisce@barrandbarr.com
908-616-4151

...

Fred Hames shall be Construction Manager's designated representative authorized to bind Construction Manager with respect to all matters requiring Construction Manager's approval, authorization or signature. Jonathan Best and Maxwell Stanisce shall be authorized to act as Construction Manager's representatives authorized to make decisions on matters of Project management as required to perform the Work and fulfill the obligations pursuant to the terms of this Agreement.

...

Project Executive/Director/Diversity Manager – Jonathan Best
Project Manager – Maxwell Stanisce
Project Executive – Ed Green
Director of Preconstruction – Chris Dantz
Estimator – Travis Wilson
Director of Preconstruction – Nick Ray

MEP Preconstruction Manager/Lead Estimator – Eric Rennell
Mentor Protegee/Workforce Development Coordinator/Assistant Project Manager – George Gilmore
Project Coordinator/Document Control Specialist – Alexis Mitchell

...

Goal of 15% MWBE Participation

...

N/A
PAGE 6

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services (if any) to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 ~~The If applicable, the~~ Construction Manager shall assist the Owner and Architect in establishing ~~written building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project and exchange of digital data.~~

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Owner acknowledges that Construction Manager is neither assuming responsibility for the design, nor performing or providing professional services that would constitute the practice of architecture, engineering or laboratory testing. Construction Manager's reviews, recommendations, comments and/or advice pertaining to engineering or architectural matters or design submittals: shall not be deemed to be warranties or guarantees or constitute the performance of professional services other than in its capacity as a construction manager and not as a licensed design professional; shall only be considered as a recommendation for the purpose of facilitating coordination and construction by the Construction Manager; are not for the purpose of discovering errors, omissions, or inconsistencies in the design documents or submittals or the Contract Documents; and are subject to the review and approval of the Owner and its professional consultants and design team.

Construction Manager shall review submittals in accordance with the AIA A201 Section 3.10 and Section 3.12.

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§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The itemized breakdown of Construction Manager's Guaranteed Maximum Price (GMP) shall include a "Contingency" amount which shall be a mutually acceptable amount set aside for the exclusive use of the Construction Manager to apply to costs which may arise during construction but which were not specifically defined in the GMP or which exceed Construction Manager's original estimate for the work in question. Such costs may include, but are not limited to, excess general conditions costs, the costs of correcting non-conforming work that are not backchargeable to subcontractors (with the exercise of reasonable diligence), and cost overruns due to vendor or subcontractor defaults or business failures. Such costs must be allowable under the Cost of the Work, and must fall within the Scope of the Work. The contingency shall not be used to cover costs which qualify as the basis for a Change Order. The Construction Manager shall account to the Owner for the allocation of the Contingency on a monthly basis. Any Construction Manager's Contingency funds remaining upon Final Completion of the Project shall be returned to the Owner by final Change Order.

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Preconstruction Phase services to be billed at the completion of the deliverables listed below, and VDC and HUB Outreach to be billed monthly throughout the Preconstruction Phase:

<u>SD Estimate</u>	<u>\$50,000</u>
<u>DD Estimate</u>	<u>\$75,000</u>
<u>CD Estimate</u>	<u>\$88,246</u>
<u>Bid Phase</u>	<u>\$49,596</u>
<u>VDC – Precon BIM</u>	<u>\$25,000</u>
<u>Hub Outreach Coordination & Workforce Development Program</u>	<u>\$62,310</u>
<u>Preconstruction Compensation Total</u>	<u>\$350,152</u>

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See attached Exhibit C.

Individual or Position

Rate

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager'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 Construction ~~Manager~~.
(Insert rate of monthly or annual interest agreed upon.)

~~—%—~~ Manager in accordance with N.C.G.S. Section 143-134.1(a).

...

Four and One Half Percent (4.5%) of the Cost of the Work (which shall include, but not be limited to, Contingency, General Conditions Costs, costs of insurance, payment and performance bonds and subcontractor default insurance).

...

Four and One Half Percent (4.5%) of the total Cost of the Work for each change.

...

Fifteen Percent (15%) of labor and materials.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ~~percent (—%)~~ of the standard rental rate paid at the place of the Project.

§ 6.1.6 ~~Liquidated damages, if any:~~
(Insert terms and conditions for liquidated damages, if any.)

Intentionally omitted.

...

None.

PAGE 13

§ 7.1.4 General Conditions costs described in the GMP Amendment shall be in a lump sum fixed amount as set forth in the GMP Amendment, and shall be billed with each month's Construction Manager's Application for Payment and paid based on the percentage of Work completed for that payment period.

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§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

Included in lump sum General Conditions costs set forth in the GMP Amendment.

...

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Insurance and bond costs will be included in the GMP Amendment at the following approximate rates calculated on the total GMP and Project schedule duration as set forth in the GMP Amendment. The following rates are based on the information provided in Sections 1.1.3 and 1.1.4.4, which rates may be subject to adjustment if the information provided in Sections 1.1.3 and 1.1.4.4 changes in the GMP Amendment:

General Liability	2.25%
Payment and Performance Bonds	0.9%
Subcontractor Default Insurance	1.49%
Builders Risk Insurance	TBD in GMP Amendment

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§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager with the exercise of reasonable diligence from insurance, sureties, Subcontractors, suppliers, or others.

PAGE 17

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Any such audit or review must be conducted within the time periods set forth in Article 11.2.2.

...

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

month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the fifth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

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For each individual subcontractor, retainage in the amount of 5% will be withheld from all progress payments up to the point where 50% of the subcontractor's work has been completed, at which point no additional retainage shall be withheld from any future progress payments to that subcontractor.

...

Construction Manger's Fee, General Conditions and General Requirements Costs, Bond and Insurance costs, direct material and equipment costs, and other direct costs.

...

Reduction or limitation of retainage shall be in accordance with N.C.G.S. Section 143-134.1.

...

At Substantial Completion, retainage shall be reduced to an amount equal to the estimated cost of completing all remaining punch list work, as reasonably determined by the Architect.

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§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. ~~Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager.~~ Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

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

Payment.

...

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

~~—%—~~ located in accordance with N.C.G.S. Section 143-134.1(a).

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[] Litigation in a court of competent jurisdiction

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The Owner will pay to the Construction Manager the Construction Manager's Fee applied to the Cost of the Work performed between the last approved Application for Payment and the date of the notice of termination for convenience. The Owner will also pay the Construction Manager's Fee applied to the costs incurred in carrying out the termination for convenience, including the cost of securing the project site, protecting the Work, and cancelling subcontracts and purchase orders.

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§ 14.3.1.1 Commercial General Liability with policy limits of not less than two million dollars (\$ 2,000,000.00) for each occurrence and four million dollars (\$ 4,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) 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.

...

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than five million dollars (\$ 5,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

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Umbrella Liability

Twenty Five Million Dollars (\$25,000,000.00)

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella ~~policies~~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 Construction Manager'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.

...

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

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

N/A

...

N/A

...

- 5 ~~Building Information Modeling Exhibit, if completed: AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
(Insert the date of the E203-2013 incorporated into this Agreement.)

PAGE 25

Exhibit C, Preconstruction Hourly Billing Rates

...

Fred Hames, EVP, Director of Operations

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:36:33 ET on 10/15/2024 under Order No. 4104248973 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

Sharmila Sawh

(Signed)

Contract & Marketing Administrator

(Title)

10/15/2024

(Dated)

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Cumberland County Homeless Support Center
352 Hawley Lane
Fayetteville, NC 28301

THE OWNER:

(Name, legal status and address)

Cumberland County, a body corporate and politic
organized and existing under the law of the State of
North Carolina
117 Dick Street
Fayetteville, NC 28301

THE ARCHITECT:

(Name, legal status and address)

LS3P Architecture PLLC, a North Carolina
professional limited liability company
101 N. Third Street, Suite 500
Wilmington, NC 28401

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
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- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
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- 9 PAYMENTS AND COMPLETION
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- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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 1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents 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 Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 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 retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission.

(Paragraph Deleted)

§ 1.7 Digital Data Use and Transmission

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.

§ 1.8 Building Information Models Use and Reliance

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 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 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Owner will act in good faith and shall not authorize Work to proceed for which funding is not secured. The Contractor shall have no obligation to commence the Work unless the Owner is acting according to this Section 2.2.1. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; or (2) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (2) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

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§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately

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suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 If requested in writing by the Owner, the Contractor shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

However, Owner agrees that such access will be limited to those employees and agents of Owner and Architect who need access to the job site for official construction-related business, and that general access to the public, or to those who are not visiting the site for construction-related business, shall not be allowed without Construction Manager's

consent. It is further agreed that all visitors who are allowed access to the site shall be required to comply with all applicable safety requirements, including but not limited to the federal OSHA standards and Construction Manager's project safety plan.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only if proximately caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. To the extent Contractor's Work concerns design professional services (as defined by N.C. Gen. Stat. § 22B-1), Contractor shall not be obligated to defend indemnitees against such claim, loss, cost, injury, damage or expense covered hereunder proximately caused or allegedly caused by the professional negligence, in whole or in part, of the indemnitee or the Contractor.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, 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 will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will 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. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications 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. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, 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.

§ 4.2.7 The Architect will 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. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect 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. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any 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.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will 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 will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract

Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

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. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date established in Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, acts of terrorism, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

For any delays which are beyond the control of Contractor and its subcontractors, Contractor shall be entitled to an equitable adjustment to the Contract Price equal to any actual additional costs directly caused by such delay, but Contractor shall not be entitled to any overhead or any indirect or consequential damages on account of any such delay.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

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§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect reasonably require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the 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 an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will 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) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

(Paragraph Deleted)

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of good funds from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an

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obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon twenty one (21) additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents. Notwithstanding anything in this Agreement to the contrary, in no event shall final payment to Construction Manager occur later than the time set forth in N.C. Gen. Stat. Ann. § 143-134.1(a).

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the

Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, or will be promptly paid upon receipt of final payment from Owner, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor’s Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect’s consultants shall be named as additional insureds under the Contractor’s commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor’s Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Property Insurance

§ 11.2.1 Intentionally omitted.

§ 11.2.2 Intentionally omitted.

§ 11.2.3 Intentionally Omitted.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect’s consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect’s consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring

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the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

(Paragraphs Deleted)

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work. The parties agree that this one-year period for correction of work does not affect any rights that either party may have with respect to statutes of limitations as set forth in Section 15.1.2.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract 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 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written

authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located in accordance with N.C.G.S. Section 143-134.1(a).

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- 1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- 2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- 3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents.

(Paragraph Deleted)

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and reasonable overhead and profit on the work not executed.

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

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- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings 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 is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 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.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim 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 the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 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 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.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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PAGE 1

Cumberland County Homeless Support Center
352 Hawley Lane
Fayetteville, NC 28301

...

Cumberland County , a body corporate and politic organized and existing under the law of the State of North Carolina
117 Dick Street
Fayetteville, NC 28301

...

LS3P Architecture PLLC , a North Carolina professional limited liability company
101 N. Third Street, Suite 500
Wilmington, NC 28401

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ARTICLE 1 GENERAL PROVISIONS

PAGE 10

~~§ 1.6.1 Except as otherwise provided in Section 1.6.2, where~~ Where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic ~~transmission if a method for electronic transmission is set forth in the Agreement-transmission.~~

...

~~§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.~~

...

The parties shall agree upon ~~written~~ protocols governing the transmission and use ~~of, and reliance on,~~ 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.

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

...

~~§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Owner will act in good faith and shall not authorize Work to proceed for which funding is not secured. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence, unless the Owner is acting according to this Section 2.2.1. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.~~

...

~~§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) or (2) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3)-(2) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.~~

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~~§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, If requested in writing by the Owner, the Contractor shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.~~

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The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

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However, Owner agrees that such access will be limited to those employees and agents of Owner and Architect who need access to the job site for official construction-related business, and that general access to the public, or to those who are not visiting the site for construction-related business, shall not be allowed without Construction Manager's consent. It is further agreed that all visitors who are allowed access to the site shall be required to comply with all

applicable safety requirements, including but not limited to the federal OSHA standards and Construction Manager's project safety plan.

...

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only ~~to the extent if proximately caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.~~ liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. To the extent Contractor's Work concerns design professional services (as defined by N.C. Gen. Stat. § 22B-1), Contractor shall not be obligated to defend indemnitees against such claim, loss, cost, injury, damage or expense covered hereunder proximately caused or allegedly caused by the professional negligence, in whole or in part, of the indemnitee or the Contractor.

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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. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. ~~If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.~~

...

§ 8.1.3 The date of Substantial Completion is the date ~~certified by the Architect in accordance with established~~ in Section 9.8.

...

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, acts of terrorism, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

...

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

...

For any delays which are beyond the control of Contractor and its subcontractors, Contractor shall be entitled to an equitable adjustment to the Contract Price equal to any actual additional costs directly caused by such delay, but Contractor shall not be entitled to any overhead or any indirect or consequential damages on account of any such delay.

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§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect reasonably require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

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~~§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.~~

...

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment-good funds from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

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If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven-twenty one (21) additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents. Notwithstanding anything in this Agreement to the contrary, in no event shall final payment to Construction Manager occur later than the time set forth in N.C. Gen. Stat. Ann. § 143-134.1(a).

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, or will be promptly paid upon receipt of final payment from Owner, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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~~§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.~~

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~~§ 11.2 Owner's Property Insurance~~

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~~§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. Intentionally omitted.~~

...

~~§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto. Intentionally omitted.~~

...

~~§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance. Intentionally Omitted.~~

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~~§11.5 Adjustment and Settlement of Insured Loss~~

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~~§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.~~

...

~~§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.~~

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~~§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work. The parties agree that this one-year period for correction of work does not affect any rights that either party may have with respect to statutes of limitations as set forth in Section 15.1.2.~~

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~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is ~~located~~ located in accordance with N.C.G.S. Section 143-134.1(a).~~

...

- ~~2~~ An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or

...

- ~~3~~ Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or Documents.

...

- ~~4~~ ~~The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.~~

PAGE 35

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement; reasonable overhead and profit on the work not executed.

PAGE 36

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. ~~This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.~~

...

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the 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 law.~~ The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:39:42 ET on 10/15/2024 under Order No. 4104248973 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

Sharmila Sawh
(Signed)

Contract & Marketing Administrator
(Title)

10/15/2024
(Dated)

EXHIBIT C - PRECONSTRUCTION HOURLY BILLING RATES

Barr & Barr

Billing rates are based on 2024 rates and will increase by 3.5% starting on 1/1/2024 and each year thereafter

	Billable Rates
Project Executive	190.00
Senior Super	175.00
Project Super II	155.00
Project Super I	105.00
Asst. Super	90.00
Senior Project Mgr	144.00
Asst. PM	95.00
Project Engineer	85.00
Project Accountant	110.00
Document control Specialist	75.00
Precon Director	145.00
Estimator 1	135.00
Estimator 2	153.00
Lead Estimator	200.00

**McFarland
Billing rates**

	Billable Rounded
Project Super II	115.00
Project Super I	98.00
Asst. Super	80.00
Project Mgr	107.00
Asst. PM	85.00
EHS Dir.	134.00
EHSSpecialist	80.00
Project Engineer	76.00
Project Accountant	72.00
Document control Specialist	90.00
Precon Director	134.00
Estimator 1	76.00
Estimator 2	98.00
Lead Estimator	116.00
Prec- Const coordinator	68.00
Project Lead / Project Exec	178.00

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



County Finance Office

Approved for Legal Sufficiency upon formal execution by all parties

COUNTY ATTORNEY'S OFFICE



Renewable Nonrenewable

Expiration Date: _____

*BOC approved contract 8/15/24
subject to survey requirements*



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 10/29/2024

**SUBJECT: FAYETTEVILLE AREA CONVENTION AND VISITOR'S BUREAU
BOARD OF DIRECTORS (1) VACANCY**

BACKGROUND

The Fayetteville Area Convention and Visitor's Bureau has the following one (1) vacancy:

-
At-Large:

Jimmy Keefe-Completed first term October 2024. The Fayetteville Area Convention and Visitor's Bureau recommends **Rashawn Moore** for appointment.

The membership roster, applicant list, and recommendation letter for the Fayetteville Area Convention and Visitors Bureau Board of Directors is attached.

RECOMMENDATION / PROPOSED ACTION

Please nominate an individual to fill the vacancy above.

ATTACHMENTS:

Description	Type
Fayetteville Area Convention and Visitor's Bureau Board of Director's Applicant List	Backup Material
Fayetteville Area Convention and Visitor's Bureau Board of Director's Membership Roster	Backup Material
Fayetteville Area Convention and Visitor's Bureau Board of Directors Letter of Recommendation	Backup Material

APPLICANTS FOR
FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS

<u>NAME/ADDRESS/TELEPHONE</u>	<u>OCCUPATION</u>	<u>EDUCATIONAL BACKGROUND</u>
ADAMS, JOYCE 812 BOBBY JONES DRIVE FAYETTEVILLE, NC 28312 910-987-8471 JAADAMS@AEVEX.COM Graduate-County Citizens' Academy: No Graduate-Institute for Community Leadership: Yes Graduate-Leadership Fayetteville: No Graduate-United Way's Multi-Cultural Leadership Program: No Graduate-other leadership academy: No CATEGORY: GENERAL PUBLIC APPLICATION RECEIVED: 10-25-2023.	VP STRATEGIC PLANS/PROGRAMS	BS
BOSTIC, MELISSA (H/F) 3931 BROOKGREEN DRIVE FAYETTEVILLE, NC 28304 364-2345 (H) MBOSTIC19@ICLOUD.COM Graduate-County Citizens' Academy: No Graduate-Institute for Community Leadership: Yes Graduate-Leadership Fayetteville: No Graduate-United Way's Multi-Cultural Leadership Program: No Graduate-other leadership academy: No CATEGORY: GENERAL PUBLIC	HR MANAGER, MOUTAIRE FARMS	MBA/PHD BUSINESS ADMINISTRATION
FISHER-ROBINSON, JANICE (B/F) 4405 RUBY ROAD FAYETTEVILLE, NC 28311 JROBINSON4405@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC	RETIRED	HS/SOME COLLEGE
HOGAN, CAROL (W/F) 544 ANDOVER ROAD FAYETTEVILLE, NC 28311 910-228-3295/910-868-9005 Carolh@LBAproperties.com Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: HOTELS/MOTELS UNDER 100 ROOMS REPRESENTATIVE	US ARMY VETERAN	HS/SOME COLLEGE

**APPLICANTS FOR
FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS Page 2**

NAME/ADDRESS/TELEPHONE	OCCUPATION	EDUCATIONAL BACKGROUND
<p>JONES, NICOLE DANIELLE (B/F) 112 WEATHERSTONE DR. APT. 102 FAYETTEVILLE, NC 28311 758-5945(H)/723-3685(M/W) LOVEJONESPROSERVICES@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: LOCAL BUSINESS</p>	<p>SOCIAL WORKER/SMALL BUSINESS OWNER</p>	<p>BS</p>
<p>MABE, S. AARON (-/M) 7018 BYERLY DRIVE HOPE MILLS NC 28348 910-670-3497 AMABE221@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: YES Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>CCP/DUAL ENROLLMENT PROGRAM COORDINATOR FTCC</p>	<p>MASTERS</p>
<p>MCKNIGHT, ANTHONY LEE II (B/M) 4200 DAVID STREET FAYETTEVILLE, NC 28304 910-391-4514 Tlmcknight1991@gmail.com Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>WALMART ASSOCIATE</p>	<p>SOME COLLEGE</p>
<p>MILLS, SUSAN (W/F) 4158 BENT GRASS DRIVE FAYETTEVILLE NC 28312 910-308-2409 VOTE4MILLS@AOL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>HIGH SCHOOL TEACHER SAMPSON COUNTY PUBLIC SCHOOLS</p>	<p>BS-COMMUNICATIONS</p>

**APPLICANTS FOR
FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS Page 3**

NAME/ADDRESS/TELEPHONE	OCCUPATION	EDUCATIONAL BACKGROUND
MOORE, BENJAMIN (B/M) 5419 CEDAR CREEK RD FAYETTEVILLE NC 28312 804-593-8237/433-1657 BMOORE@CI.FAY.NC.US Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: CITY OF FAYETTEVILLE LEADERSHIP ACADEMY CATEGORY: GENERAL PUBLIC	ENGINEERING SPECIALIST II CITY OF FAYETTEVILLE	COLLEGE LISTED
MOORE, RASHAWN (B/M) 5309 WOODPECKER DRIVE HOPE MILLS, NC 28348 910-973-4136 RASHAWNMOORE@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: LOCAL BUSINESS APPLICATION RECEIVED: 10-21-2024	RESTAURANT OWNER	HIGH SCHOOL
RENTERIA, ANTONIO (H/M) 506 LAW ROAD FAYETTEVILLE, NC 28311 910 583-4850 Graduate-County Citizens' Academy: No Graduate-Institute for Community Leadership: Graduate-Leadership Fayetteville: YES Graduate-United Way's Multi-Cultural Leadership Program: No Graduate-other leadership academy: FAYETTEVILLE CITIZENS ACADEMY CATEGORY: GENERAL PUBLIC	DIRECTOR OF OPERATIONS	BA LIBERAL ARTS\ GRADUATE STUDENT
SIMMS-THOMPCKINS, RACHEL (B/F) 490 CARLTON PLACE FAYETTEVILLE, NC 28311 646-234-9290 RSIMMSTHOMPCKINS@YAHOO.COM Graduate-County Citizens' Academy: YES Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC	CHARTER COMMUNICATIONS	SOME COLLEGE

**APPLICANTS FOR
FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS Page 4**

<u>NAME/ADDRESS/TELEPHONE</u>	<u>OCCUPATION</u>	<u>EDUCATIONAL BACKGROUND</u>
THOMPSON, LYNN DORA (B/F) 3402 RUDLAND COURT FAYETTEVILLE NC 28304 910-584-5324 LYNN DORATHOMPSON3@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC	UNEMPLOYED	BA, MA

FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS
3 Year Terms

Name/Address	<u>Date</u> Appointed	Term	Expires	<u>Eligible For</u> Reappointment
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Appointed by Board of County Commissioners:

Hotel/Motels under 100 rooms Representatives:

Lily Schmidt	8/22	1st	Aug/25	Yes
TownePlace Suites by Marriott-Skibo 5238 Foxfire Rd. Fayetteville, NC 28303			8/30/25	
<i>(County Commissioner Appointee)</i>				
910-764-1100 (W) 910-224-0306 (M)				
lilys@immhotels.com				

Hotel/Motel over 100 rooms Representatives:

Michelle Williams	8/23	1st	Aug/26	Yes
Fairfield Inn & Suites 4249 Ramsey Street Fayetteville, NC 28311			8/31/26	
<i>(County Commissioner Appointee)</i>				
910-987-4807				
michellew@nhghotels.com				

At Large

Sheba McNeill	10/21	1 st	Oct/24	Yes
542 Williwood Rd Fayetteville, NC 28311			10/31/24	
<i>(County Commissioner Appointee)</i>				
910-229-1111/910-568-5005				
Shemc20@gmail.com				

At Large

Jimmy Keefe	10/21	1 st	Oct/24	Yes
Trophy House 370 Echo Lane Fayetteville, NC 28303			10/31/24	
<i>(County Commissioner Appointee)</i>				
910-987-2255				
jkeefe@thetrophyhouseinc.com				

Local Business

Nathan Ernst	9/24	1 st	Oct/27	Yes
536 Levenhall Drive Fayetteville, NC 28314			10/31/27	
<i>(County Commissioner Appointee)</i>				
910-600-2159/910-864-1810				
nathankernst@gmail.com				

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
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Appointed by FACVB Board of Directors:

Hotel/Motel with 6000+ Meeting Space Representative

Manish Mehta Embassy Suites 229 Forest Creek Drive Fayetteville, NC 28303 910-494-1918 msmehta@5point SNC.com	10/21	1st	Oct/24 10/31/24	Yes
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(FACVB Board of Directors Appointee)

Hotel/Motel Representative

Byron McNeill Hampton Inn & Suites 2065 Cedar Creek Rd Fayetteville, NC 28312 313-779-1963 Byron.mcneill2@hilton.com	10/21	1st	Oct/24 10/31/24	Yes
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(FACVB Board of Directors Appointee)

Local Business

Michelle Skinner Fayetteville Woodpeckers 460 Hay Street Fayetteville, NC 28301 910-339-1989 m Skinner@astros.com	3/23	1 st	Mar/26 3/31/26	Yes
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(FACVB Board of Directors Appointee)

Cumberland County Manager or Designee (Voting Member):

Sally Shutt, Cumberland Assistant County Manager

General Manager of the Crown Complex or Designee (Voting Member):

Seth Benalt, General Manager Crown Complex

City of Fayetteville Manager or Designee (Voting Member):

Jodi Phelps, City of Fayetteville Manager

Ex-Officio Positions (Non-Voting) :

Airborne and Special Operations Museum
Tourism Development Authority
President of the Cool Springs Downtown District
President of the Fayetteville Cumberland County Economic Development Corporation
Past Chair of the Fayetteville Area Convention and Visitors Bureau
One (1) Position at Board Discretion

County Commissioner Liaison (Non-Voting):

Commissioner Veronica Jones

Meetings: Quarterly – Fourth Wednesday of the first month at 12 p.m.

Contact: Devin Heath (or Diana Potts), Fayetteville Area Convention & Visitors' Bureau – 483-5311

dheath@distinctlyfayettevillenc.com & dpotts@distinctlyfayettevillenc.com



Where history meets
history in the making.

MEMORANDUM

TO: Andrea Tebbe, County Clerk
Iva Clark, Deputy County Clerk

FROM: Devin Heath, President & CEO – Fayetteville Area Convention & Visitors Bureau

DATE: October 23, 2024

RE: Recommendation for Board of Directors Open Seat

Jimmy Keefe recently announced that he will not seek a second term on the Fayetteville Area Convention & Visitors Bureau Board of Directors as an At Large member representing Arts, Cultural, Business and Military. The Board of Directors support the recommendation of Rashawn Moore to fill the vacancy.

Mr. Moore is an incredibly involved member of our community. He is Co-Owner of Uptown Chicken & Waffles, works in various capacities at WIDU Radio, is a realtor in the community, podcast host and graphics designer. Mr. Moore was instrumental in the promotion and execution of this year's WIDU Anniversary celebration occurring at the Crown Center. Additionally, Mr. Moore attended Fayetteville State University and understands our community from different facets.

The Board of Directors request consideration of Mr. Moore to be appointed to the FACVB Board of Directors for an initial three-year term to commence upon approval.

If I can answer any questions, please let me know.



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 10/28/2024

SUBJECT: LIBRARY BOARD OF TRUSTEES (3) VACANCIES

BACKGROUND

The Cumberland County Library Board of Trustees has the following three (3) vacancies:

Daniel Montoya - Completes first term December 2024-Eligible for Reappointment. The Library Board of Trustees recommends **Daniel Montoya** for reappointment.

Joseph "Bart" Fiser - Completes first term December 2024-Eligible for reappointment. The Library Board of Trustees recommends **David Breece** for appointment.

Irene Grimes - Completes second term December 2024-Eligible for reappointment. The Library Board of Trustees recommends **Rebecca Pedigo** for appointment.

The membership roster, applicant list, and recommendation letter for the Library Board of Trustees has been attached.

RECOMMENDATION / PROPOSED ACTION

Please appoint individuals to fill the vacancies above.

ATTACHMENTS:

Description	Type
Library Board of Trustees Membership Roster	Backup Material
Library Board of Trustees Applicant List	Backup Material
Library Board of Trustees Recommendation Letter	Backup Material

LIBRARY BOARD OF TRUSTEES

3 Year Term

All terms expire in December and begin in January. Recommendations for nominations placed on first meeting in October agenda and appointments placed on second meeting in October agenda. Although terms will not begin until the following January, the Library takes their new appointees through an orientation process in December before they begin serving in January.

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
Joseph "Bart" Fiser 1010 Hay Street Fayetteville, NC 28305 513-885-4988/615-5572 BFIZE53@YAHOO.COM	10/21	1st	Dec/24 12/31/24	Yes
Irene Grimes 3918 Colorado Drive Hope Mills, NC 28348 910-987-5923 Irene-grimes@hotmail.com	10/21	2nd	Dec/24 12/31/24	No
Dennis Cedzo 2737 Colgate Drive Fayetteville, NC 28304 850-3520/229-8542/867-5309 dcedzo@aol.com	11/23	1 st full term	Dec/26 12/31/26	Yes
Daniel Montoya 3505 Cokefield Drive Fayetteville, NC 28306 910 487-0646 (H) 910-672-1560 (w) DMONTOYA@ME.COM	08/22	filling unexpired term	Dec/24 12/31/24.	Yes
Ann McRae 202 Stedman Street Fayetteville, NC 28305 336-253-7404 Arm_3@yahoo.com	11/22	2nd	Dec/25 12/31/25	No
Pamela Suggs Story 631 West Cochran Ave Fayetteville, NC 28301 339-8350/286-0783/678-2621 Venus_28301@yahoo.com	11/23	2nd	Dec/26 12/31/26	Yes
Gloria Nelson PO Box 9714 Fayetteville, NC 28311 910-488-8872 (H) 910-537-6143 C Maiden1832@gmail.com	11/22	1st	Dec/25 12/31/25	Yes

Contact: Marili Melchionne or Faith B. Phillips– 483-7727 x1304

Meeting Date: 3rd Thursday of each month at 9:05 AM; (except December)– Meeting locations are different libraries within the County.

**APPLICANTS FOR
LIBRARY BOARD OF TRUSTEES**

<u>NAME/ADDRESS/PHONE</u>	<u>OCCUPATION</u>	<u>EDUCATIONAL BACKGROUND</u>
<p>BREECE, DAVID (W/M) 500 RAMSEY STREET FAYETTEVILLE, NC 28301 910-635-7706 ROGERSANDBREECE.DAVID@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>GENERAL MANAGER- FUNERAL HOME</p>	<p>BA IN BUSINESS</p>
<p>CAMPBELL, MARY (W/F) 305 WEDGE COURT HOPE MILLS, NC 28348 910-494-7382 MERRYMARYNC@GMAIL.COM Graduate-County Citizens' Academy: YES Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NC Library Association Leadership Academy CATEGORY: GENERAL PUBLIC</p>	<p>RETIRED LIBRARIAN</p>	<p>BA IN JOURNALISM MA-LIBRARY SCIENCE</p>
<p>CARVER, PAMELA E. (W/F) PO BOX 42 LINDEN NC 28356 980-0933/818-8957 PCARVER57@AOL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>RETIRED TEACHER</p>	<p>BS</p>
<p>COX, STACY A. (ASIAN/F) 7528 WILKINS DRIVE FAYETTEVILLE NC 28311 910-476-7367 SAKUNI@AOL.COM *SERVES ON THE BOARD OF HEALTH* Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: YES Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>HOMEMAKER DISABLED</p>	<p>SOME COLLEGE</p>

LIBRARY BOARD OF TRUSTEES APPLICANTS, Page 2

NAME/ADDRESS/PHONE	OCCUPATION	EDUCATIONAL BACKGROUND
<p>MCNEILL, TREVONE (B/M) 8436 ENGLISH SADDLE DRIVE FAYETTEVILLE NC 28314 910-391-1726 FDECYP@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: YES Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: MEMBER OF FAITH COMMUNITY</p>	<p>CHILDCARE SELF EMPLOYED</p>	<p>AA/BA</p>
<p>PEDIGO, REBECCA (W/F) 1115 FAISON AVENUE FAYETTEVILLE, NC 28304 240-415-8303 MEMORY.BECCA@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: YES Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>YOUTH DEVELOPMENT</p>	<p>MA</p>
<p>SINCLAIR, TIMOTHY (B/M) 7834 ADRIAN DRIVE FAYETTEVILLE, NC 28314 910-864-7417 (H) 910-797-7693 (C) TIMSINCLAIR@YAHOO.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: YES Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: NO CATEGORY: GENERAL PUBLIC</p>	<p>ESL INSTRUCTOR</p>	<p>Ed. S. Education Spec.</p>
<p>STEIGELMAN, SABRINA (A/F) 2100 ROCK AVENUE FAYETTEVILLE, NC 28303 226-5059 (H/C)/6782797 (W) Graduate-County Citizens' Academy: No Graduate-Institute for Community Leadership: Graduate-Leadership Fayetteville: No Graduate-United Way's Multi-Cultural Leadership Program: No Graduate-other leadership academy: JACKSONVILLE ONSLOW LEADERSHIP ACADEMY CATEGORY: GENERAL PUBLIC</p>	<p>GRANTS AND PROJECT MANAGER CUMBERLAND COUNTY SCHOOLS</p>	<p>MA LIBRARY SCIENCE</p>

LIBRARY BOARD OF TRUSTEES APPLICANTS, Page 3

<u>NAME/ADDRESS/PHONE</u>	<u>OCCUPATION</u>	<u>EDUCATIONAL BACKGROUND</u>
TYLER, BRIAN J (W/M) 1414 RAEFORD ROAD FAYETTEVILLE, NC 28305 717-514-6889 BJTINNC@GMAIL.COM Graduate-County Citizens' Academy: NO Graduate-Institute for Community Leadership: NO Graduate-Leadership Fayetteville: NO Graduate-United Way's Multi-Cultural Leadership Program: NO Graduate-other leadership academy: Leadership Harrisburg <i>CATEGORY: CITY OF FAYETTEVILLE RESIDENT</i>	ARTIST/FLORIST HARRIS TETTER/SELF EMPLOYED	B.S. GETTYSBURG COLLEGE

FAITH B. PHILLIPS
DIRECTOR



HEATHER HALL
DEPUTY DIRECTOR

Public Library

MEMORANDUM

DATE: October 24, 2024
TO: Glenn Adams, Chairman, Board of County Commissioners
FROM: Dennis Cedzo, Library Board of Trustee Chair 
THRU: Faith B. Phillips, Library Director 
RE: Reappointment and Appointment Nominations for the Library Board of Trustees
(Items of Business)

At the October 24, 2024 Library Board of Trustee meeting, the Trustees approved the Nominating Committee's recommendation for the following actions:

1. The reappointment of Daniel Montoya to a second term (2025-2027) on the Library Board of Trustees, and
2. The appointment of David Breece to fill the first of two vacant seats on the Library Board of Trustees (2025-2027)
3. The appointment of Rebecca Pedigo to fill the second vacant seat on the Library Board of Trustees. (2025-2027)

The Board of Trustees respectfully request that the Commissioners consider the reappointment of Daniel Montoya and the appointments of David Breece and Rebecca Pedigo be placed on the Commissioners November 4, 2024 meeting agenda.

We appreciate you and your fellow Commissioners consideration.

cc: Deputy Clerk to the Board Iva Clark



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 10/29/2024

**SUBJECT: FAYETTEVILLE AREA CONVENTION AND VISITOR'S BUREAU
BOARD OF DIRECTORS (1) VACANCY**

BACKGROUND

At the October 21, 2024, regular meeting, the Board of Commissioners nominated the following individual to fill the one (1) vacancy on the Fayetteville Area Convention and Visitors Bureau Board of Directors:

NOMINEE:

At-Large:

Sheba McNeill (Reappointment)

The membership roster for the Fayetteville Area Convention Bureau Board of Directors is attached.

RECOMMENDATION / PROPOSED ACTION

Please appoint an individual to fill the vacancy above.

ATTACHMENTS:

Description

Fayetteville Area Convention and Visitor's Bureau Board of Directors Membership Roster

Type

Backup Material

FAYETTEVILLE AREA CONVENTION AND VISITORS' BUREAU
BOARD OF DIRECTORS
3 Year Terms

Name/Address	<u>Date</u> Appointed	Term	Expires	<u>Eligible For</u> Reappointment
--------------	--------------------------	------	---------	--------------------------------------

Appointed by Board of County Commissioners:

Hotel/Motels under 100 rooms Representatives:

Lily Schmidt	8/22	1st	Aug/25	Yes
TownePlace Suites by Marriott-Skibo 5238 Foxfire Rd. Fayetteville, NC 28303			8/30/25	
<i>(County Commissioner Appointee)</i>				
910-764-1100 (W) 910-224-0306 (M)				
lilys@immhotels.com				

Hotel/Motel over 100 rooms Representatives:

Michelle Williams	8/23	1st	Aug/26	Yes
Fairfield Inn & Suites 4249 Ramsey Street Fayetteville, NC 28311			8/31/26	
<i>(County Commissioner Appointee)</i>				
910-987-4807				
michellew@nhghotels.com				

At Large

Sheba McNeill	10/21	1 st	Oct/24	Yes
542 Williwood Rd Fayetteville, NC 28311			10/31/24	
<i>(County Commissioner Appointee)</i>				
910-229-1111/910-568-5005				
Shemc20@gmail.com				

At Large

Jimmy Keefe	10/21	1 st	Oct/24	Yes
Trophy House 370 Echo Lane Fayetteville, NC 28303			10/31/24	
<i>(County Commissioner Appointee)</i>				
910-987-2255				
jkeefe@thetrophyhouseinc.com				

Local Business

Nathan Ernst	9/24	1 st	Oct/27	Yes
536 Levenhall Drive Fayetteville, NC 28314			10/31/27	
<i>(County Commissioner Appointee)</i>				
910-600-2159/910-864-1810				
nathankernst@gmail.com				

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
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Appointed by FACVB Board of Directors:

Hotel/Motel with 6000+ Meeting Space Representative

Manish Mehta Embassy Suites 229 Forest Creek Drive Fayetteville, NC 28303 910-494-1918 msmehta@5point SNC.com	10/21	1st	Oct/24 10/31/24	Yes
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(FACVB Board of Directors Appointee)

Hotel/Motel Representative

Byron McNeill Hampton Inn & Suites 2065 Cedar Creek Rd Fayetteville, NC 28312 313-779-1963 Byron.mcneill2@hilton.com	10/21	1st	Oct/24 10/31/24	Yes
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(FACVB Board of Directors Appointee)

Local Business

Michelle Skinner Fayetteville Woodpeckers 460 Hay Street Fayetteville, NC 28301 910-339-1989 m Skinner@astros.com	3/23	1 st	Mar/26 3/31/26	Yes
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(FACVB Board of Directors Appointee)

Cumberland County Manager or Designee (Voting Member):

Sally Shutt, Cumberland Assistant County Manager

General Manager of the Crown Complex or Designee (Voting Member):

Seth Benalt, General Manager Crown Complex

City of Fayetteville Manager or Designee (Voting Member):

Jodi Phelps, City of Fayetteville Manager

Ex-Officio Positions (Non-Voting) :

Airborne and Special Operations Museum
Tourism Development Authority
President of the Cool Springs Downtown District
President of the Fayetteville Cumberland County Economic Development Corporation
Past Chair of the Fayetteville Area Convention and Visitors Bureau
One (1) Position at Board Discretion

County Commissioner Liaison (Non-Voting):

Commissioner Veronica Jones

Meetings: Quarterly – Fourth Wednesday of the first month at 12 p.m.

Contact: Devin Heath (or Diana Potts), Fayetteville Area Convention & Visitors' Bureau – 483-5311

dheath@distinctlyfayettevillenc.com & dpotts@distinctlyfayettevillenc.com



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 10/29/2024

SUBJECT: TRANSPORTATION ADVISORY BOARD (4 VACANCIES)

BACKGROUND

At the October 21, 2024, regular meeting, the Board of Commissioner nominated the following individuals to fill the four (4) vacancies on the Transportation Advisory Board:

NOMINEES:

Aging Programs Representative:

Norma Neal

-

Mid-Carolina Council of Governments Director or Designee:

Carla Smith

At-Large Representative:

Sheila O'Kelley

Dialysis Center Representative:

Antionette Wiggins

The membership roster for the Transportation Advisory Board is attached.

RECOMMENDATION / PROPOSED ACTION

Please appoint individuals to fill the vacancies above.

ATTACHMENTS:

Description

Transportation Advisory Board Membership Roster

Type

Backup Material

TRANSPORTATION ADVISORY BOARD

2 Year Term

(All terms expire November 30th and begin December 1st according to the TAB bylaws.)

****Board was created by the Commissioners on 11/6/00****

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
<u>City of Fayetteville Representative</u> VACANT (Vacated by A. Thomas)	3/19	2nd	Nov/20 11/30/20	No
<u>Urban Transit Provider Representative</u> Tyffany Neal 505 Franklin Street Fayetteville, NC 2830 922-6800/433-1011 Rhume@ci.fay.nc.us	11/23	1st	Nov/25 11/30/25	Yes
<u>Mid-Carolina Council of Governments Director or Designee</u> Carla Smith Mid-Carolina Council of Governments 6205 Raeford Rd Fayetteville, NC 28304 910-323-4191 CSMITH@MCCOG.ORG	8/22	1st	Nov/24 11/30/24	Yes
<u>County DSS Director or Designee</u> Ashley Patterson Cumberland County DSS 5121 Tern Place Fayetteville, NC 28311 677-2527/797-6657 ashleypatterson@ccdssnc.com	11/23	2nd	Nov/25 11/30/25	Yes
<u>DSS Work First Representative</u> Dana Davis Cumberland County DSS 7702 Buttonwood Ave Fayetteville, North Carolina 28314 973-9197/677-2339 Danadavis@ccdssnc.com	2/20	2nd	Nov/21 11/30/21	No
<u>Workforce Development Center Director or Designee</u> Matthew Fowler NC Department of Commerce – Workforce Solutions 289 Corporate Drive Lumberton, NC 28358 matthew.fowler@nccommerce.com	11/22	1 st	Nov/24 11/30/24	Yes

<u>Name/Address</u>	<u>Date Appointed</u>	<u>Term</u>	<u>Expires</u>	<u>Eligible For Reappointment</u>
<u>Vocational Rehab Representative</u>				
VACANT (Vacated by E. Morales)	6/18	1st	Nov/20 11/30/20	Yes
<u>Sheltered Workshop Director or Designee</u>				
Kristina Clifton 4214 Donegal Drive Hope Mills, NC 28348 527-7403/605-4319 Nicolew45@gmail.com	11/23	1st	Nov/25 11/30/25	Yes
<u>Aging Programs Representative</u>				
Amber Gulch 6218 Bristol Drive Fayetteville, NC 28314 864-4311/322-5582/484-0111 agulch@cccocoa.org	2/20 8/22	2nd	Nov/24 11/30/24	No
<u>Mental Health Representative</u>				
Terrasine Gardner 1187 Helmsley Drive Fayetteville, NC 28314 491-4816/536-3886	11/20	2nd	Nov/22 11/30/22	No
<u>Emergency Medical Services Representative</u>				
Alinda Bailey 4565 Greenwood Rd Fayetteville, NC 28306 910-584-7898	11/23	2nd	Nov/25 11/30/25	No
<u>County Planning Department Director or Designee</u>				
Rawls Howard 130 Gillespie Street Fayetteville, NC 28301 910-678-7618 rhoward@co.cumberland.nc.us	11/23	2nd	Nov/25 11/30/25	No
<u>County Health Director or Designee</u>				
Sharon Batten 2260 Dockvale Drive Fayetteville, NC 28306 424-6559/797-8773/433-3741 sharonebatten@hotmail.com	2/20	2nd	Nov/21 11/30/21.	No

(All terms expire November 30th and begin December 1st according to the TAB bylaws.)

<u>Name/Address</u>	<u>Date Appointed</u>	<u>Term</u>	<u>Expires</u>	<u>Eligible For Reappointment</u>
<u>At-Large Representatives</u>				
Sheila O’Kelley 130 Gillespie Street Fayetteville, NC 28301 910-323-4191 Ext 34	11/22	1st	Nov/24 11/30/24	No
Dorothy Harris 270 Lick Creek Drive Linden, NC 28356 910-502-2130 damazcykharris@twc.com	11/20	2nd	Nov/22 11/30/22	No
Veronica Pierce 703 Connaly Drive Hope Mills, NC 28348 910-678-2691 veronicapierce@ccs.k12.nc.us	11/20	2nd	Nov/22 11/30/22.	No
Debra Kinney 1506 Camelot Drive Fayetteville, NC 28304 491-4793/853-1510 dkinney@alliancehealthplan.org	8/24	2nd	Aug/26 08/30/26	No
<u>MPO Representative</u>				
Taccarra Manuel 1939 Harrington Road Fayetteville, NC 28306 910-416-9568/910-678-7616 tmanuel@cumberlandcountync.gov	8/24	1st	Aug/26 08/30/26	Yes
<i>(serving unexpired term; eligible for one additional term)</i>				
<u>Dialysis Center Representative</u>				
Antionette Wiggins 6210 Pinto Court Fayetteville, NC 28303 Melvinjoyn@gmail.com 910-867-3273	11/22	1st	Nov/24 11/30/24	Yes

*Chairman Glenn Adams-Commissioner Representative (Voting Member)

Meetings: Second Tuesday in the first month of each quarter (Jan., Apr., July, Oct.) at 10:00 AM – Special meeting held in June when necessary.

Location: Historic Courthouse, Courtroom 3; 130 Gillespie St., Fayetteville, NC

Contact: Lashonda Cherry-Crawford (Community Transportation Program) 910-678-7624



SOLID WASTE MANAGEMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF NOVEMBER 4, 2024

TO: BOARD OF COUNTY COMMISSIONERS

FROM: AMANDA LEE, P.E., GENERAL MANAGER FOR NATURAL RESOURCES

DATE: 10/18/2024

SUBJECT: APPROVAL OF CONNECTION OF THE GODWIN SUBDIVISION PROJECT TO THE NORCRESS SEWER SYSTEM

BACKGROUND

The Public Utilities Department received a request from Susan Tart Property, LLC to connect a 116-lot single family home subdivision on Washburn Road in Godwin to the NORCRESS sewer system. The project will consist of installation of approximately 4,854 feet of 8-inch sewer mains, 1,687 feet of 4-inch sewer force mains and 1 lift station, with all costs being paid by Susan Tart Property, LLC. The Utility Service Agreement is needed to set the guidelines between Susan Tart Property, LLC and the NORCRESS Water and Sewer District to ensure proper installation and connection to the system. Upon completion of construction of the sewer lines and lift station and written acceptance of the as-builts and certifications, the said utility mains shall be the property of NORCRESS Water and Sewer District and will be operated and maintained as part of the existing NORCRESS sewer system. The NORCRESS sewer system and the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility have the capacity to accept the 26,100 gallons per day projected flow.

RECOMMENDATION / PROPOSED ACTION

The Public Utilities Division, General Manager for Natural Resources and County Management recommend the following proposed actions for the Board of Commissioners and the NORCRESS Water and Sewer District Governing Board:

Approve the request from Susan Tart Property, LLC to connect the 116-lot Godwin Subdivision to the existing NORCRESS sewer system and the Agreement for Utility Services.

ATTACHMENTS:

Description

Agreement for Utility Services

Type

Backup Material

**NORTH CAROLINA
CUMBERLAND COUNTY**

AGREEMENT FOR UTILITY SERVICE(S)

THIS AGREEMENT, made this _____ day of _____, 2024 by and between the NORCRESS Water and Sewer District (hereinafter called "DISTRICT") and Susan Tart Property, LLC (hereinafter called "APPLICANT")

WITNESSETH

WHEREAS, APPLICANT desires public utility services from DISTRICT as selected below. (check all that apply)

- Water and/or Sewer Utility Extension
- Water Service
- Sewer Service

NOW THEREFORE, in consideration of the premises and of the mutual agreements hereinafter set forth, the parties hereby agree and contract as follows:

DEFINITION OF DISTRICT'S AGENTS. Throughout this Agreement, any reference to "Agent" or "DISTRICT'S Agent" shall mean any worker, employee, official, contractor, consultant or operator of DISTRICT'S water and sewer services or systems whether employed, hired, or contracted by DISTRICT or Cumberland County on behalf of DISTRICT.

Article 1: Water and/or Sewer Utility Extension

As selected above, APPLICANT hereby requests installation of water and/or sanitary sewer utility services as described in Exhibit "I", Project Summary, and is subject to the following terms and conditions:

- A. APPLICANT shall perform all work necessary to accomplish the proposed utility extension including, but not limited to, design, specifications, permitting and construction. Applicant will furnish all material, perform all labor, and pay all costs to construct, by a contractor licensed to perform utilities construction in North Carolina, to DISTRICT'S rules currently in effect and approved by the DISTRICT'S governing board, all applicable local codes and ordinances, the current service provider, and State regulations and laws for those utilities. The work shall be completed in accordance with this Agreement. The DISTRICT or its Agent will review and inspect work performed by APPLICANT to assure that the work meets the purpose for which it is intended and is in compliance with all requirements and conditions contained herein. Such review and approval will not relieve APPLICANT from complying with all said conditions and requirements.
- B. Such construction shall be undertaken and completed as soon as practicable, and not later than one year from date of this agreement, unless delayed or prevented by acts of God, or other things beyond APPLICANT's control. In the event that construction is not completed one year from date of this agreement, then DISTRICT, through the Director of the Cumberland County Public Utilities Department may extend the agreement upon such terms and conditions as the Director deems necessary.
- C. Fees shall be paid by APPLICANT for services provided by DISTRICT, the service provider, or its Agent for the following:
 - (1) review and approval of plans, specifications, and necessary documents, to include final review of the required documents to assure that DISTRICT has legal title to necessary rights-of-way and easements;
 - (2) review and approval of the Bill of Sale provided by APPLICANT, and acceptance of the utility extensions by DISTRICT;

- (3) and daily inspection of the construction in progress, as needed to ensure that construction of the utility extensions are in accordance with this Agreement, the Plans and Specifications, and any other DISTRICT requirements;
 - (4) conduction of pre-flush required pressure tests, any retesting which may be necessary, and sampling of the completed extension after flushing for submittal to the State, or a certified testing laboratory, for bacteriological examination;
 - (5) conduction of required pressure tests, after flushing, and any retesting of sewer system improvement which may be necessary;
 - (6) approval of the sewer video taping schedule, supervision of video taping and revisions/approval of the completed tape and log sheets;
 - (7) final inspection of the completed extension and preparation of the inspection report, which shall set forth any deficiencies that may exist;
 - (8) reinspection of any deficient work;
 - (9) review of the water and/or sewer as-built construction drawings; and
 - (10) reinspection at the end of the one-year warranty period.
- D. Materials and equipment shall be new and shall be as specified in this Agreement, the plans and specifications, the service providers standards, or if not specified, of a quality approved by DISTRICT. All materials and equipment furnished are warranted by APPLICANT as new and in accordance with this Agreement and the approved plans and specifications, and suitable for the intended purpose. In addition, APPLICANT, shall furnish DISTRICT copies of the supplier's warranty and shall adopt the same as the warranty of APPLICANT, and shall also be liable thereon to DISTRICT.
- E. Connection to DISTRICT's water and/or sanitary sewer system of buildings constructed after the date of this agreement on parcels of land that are subject to the Cumberland County's Subdivision Ordinance shall be governed by the requirements of Cumberland County's Subdivision Ordinance.
- F. Upon satisfactory completion of construction of said water and/or sanitary sewer mains and written acceptance of such construction by DISTRICT, said utility mains shall be the property solely of DISTRICT and DISTRICT will maintain same after the one (1) year warranty set forth below has expired. To accurately value the assets being transferred, APPLICANT shall complete and submit a preliminary Statement of Project Cost Form attached as Exhibit "II" to DISTRICT at time of submittal and a final certified form at project completion.
- G. Warranty: APPLICANT shall warrant that the water and/or sanitary sewer utilities to be owned by DISTRICT shall be free from any defects in materials and workmanship. APPLICANT also warrants that it shall be solely responsible for the repair of any damage caused by its agents or employees. Said warranties shall remain in full force and effect for a period of one (1) year from the date of final acceptance of the facilities by DISTRICT. In the event it becomes necessary to repair and/or replace any of the facilities during the initial one (1) year period, such repair and/or replacement shall be at APPLICANT's sole expense and the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one (1) year from the date of final acceptance by DISTRICT of those repairs and/or replacements. If DISTRICT must repair and/or replace said utilities during the warranty period due to response time requirements, DISTRICT shall bill APPLICANT for work completed and APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- H. Water and/or sanitary sewer connections to structures along said utility mains from service laterals installed by APPLICANT will not be made nor will such service be activated until all work to be performed by APPLICANT has been satisfactorily completed and written acceptance of such work is given by DISTRICT. Also, if a water main is extended pursuant to this agreement, it must be tested and sterilized by APPLICANT'S contractor before activation of any water service from said water main.

- I. Water and/or sanitary sewer service will be supplied to structures now or hereafter located along said utility mains in accordance with DISTRICT's rules, regulations, and rate schedules applicable to such structures and currently in effect at the time of application for service. If all normal DISTRICT fees and charges for installation and activation of such services have been paid by applicants for said services, DISTRICT will thereafter use its best efforts to supply water to said structures at good operating pressure, but in no event shall DISTRICT be liable for failure to do so, it being understood that all such original operating fees, charges, rates, etc., are, solely at DISTRICT's discretion, subject to change by DISTRICT.
- I. Any replacements or adjustments in elevations and grades of those water and/or sanitary sewer service laterals, including water meters and boxes and sanitary sewer cleanout stacks, which were originally installed by APPLICANT'S contractor in accordance with approved plans by APPLICANT's engineer, shall be at APPLICANT's expense; and the determination of DISTRICT that such replacements or adjustments are required shall be final and binding on APPLICANT.
- J. During construction of project, APPLICANT will be responsible and pay DISTRICT as invoiced for any and all damages to DISTRICT utilities and materials except when such damages are caused by DISTRICTS forces. APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- K. APPLICANT'S contractor shall be responsible for complying with any and all statutes, rules, regulations or ordinances, which may be imposed by other governmental agencies (local, state and federal), which have jurisdiction. APPLICANT shall hold harmless DISTRICT against any claims, fines or civil penalties resulting from APPLICANT'S contractor's failure to comply with said regulations.
- L. The Water and Sewer Utility Extension is further illustrated in Exhibit "III", Water and Sewer Utility Extension Map. APPLICANT shall be responsible for costs (engineering, materials, design, etc.) associated with major design changes that deviate from Exhibit "II" and the attached map as identified in Exhibit "III".

Article 2: General Terms and Conditions

AUTHORITY:

DISTRICT shall have general authority over the work to be accomplished under this Agreement, provided nothing contained in this Agreement shall be construed to require DISTRICT to direct the method or manner of performing any work by APPLICANT. Incident to this general authority, DISTRICT may engage engineers and contractors to observe construction, inspect, test, and evaluate any construction performed by APPLICANT's contractors and assist APPLICANT'S contractors with correcting or completing any construction if DISTRICT determines the construction by APPLICANT'S contractors creates a risk of harm to DISTRICT'S water or sewer system for which APPLICANT'S extension is permitted. APPLICANT shall be responsible for the costs incurred by DISTRICT for this purpose.

DISTRICT shall decide all questions pertaining to the interpretation of this Agreement and the approved plans and specifications prepared thereto, the quality or acceptability of materials furnished, and work performed under this Agreement on the part of APPLICANT. The decision of DISTRICT on such matters shall be final.

All work under this Agreement shall be performed to the satisfaction of DISTRICT, and the decision by DISTRICT as to whether the work has been performed in a satisfactory manner shall be final.

DISTRICT may stop work under this Agreement whenever, in its opinion, such stoppage is necessary to ensure proper performance of this Agreement. DISTRICT may also reject all work and materials which, in its opinion, do not conform to this Agreement.

DETERMINATION OF "OR EQUAL"

DISTRICT or its Agent shall be the sole judge of the questions of "or equal" of any supplies, materials or equipment proposed by APPLICANT. APPLICANT shall pay to DISTRICT the costs of test and evaluations needed to determine the acceptability of alternates proposed by APPLICANT.

STOPPAGE OF WORK

If APPLICANT performs any work contrary to this Agreement, laws, ordinances, rules, or regulations; or, prior to obtaining any necessary permits or other required permission, DISTRICT may order the work stopped.

INSPECTIONS AND TESTS

Inspection by DISTRICT or its Agent is required for various aspects of the utility system. Such aspects include, but are not limited to: water and/or sewer main pipe laying operations, installation of sleeves, couplers and adapters on pipe, pipe bedding and backfilling, casings, concrete encasement or other special installations, repairs to water and/or sewer utilities, all water main fittings with concrete blocking, pressure testing water mains, water main purity samples after flushing, main wet taps, any cut-in's on existing water mains, hydrant installations, water service installations, vault installations and appurtenances, hole cuts on sanitary sewer pipe, manhole installations and pipe connections, manhole vacuum testing, manhole core drilling, air testing sewer main and side sewer stubs, flushing/cleaning sewer mains and CCTV inspection, grease/oil-water separators, vehicle wash and dumpster area drains, tee locations and stub markers, sewer depth at right-of-way/easement line, sewer slope, fittings and clean-outs.

Inspection of the work by DISTRICT or its Agent shall be strictly for the benefit of DISTRICT or its Agent and no other person or agency.

DISTRICT staff or its Agent, at all times, will have access to the work area for the purpose of inspecting and testing. APPLICANT shall provide facilities for safe access, inspection, and testing.

If any work is covered without the approval or consent of DISTRICT or its Agent it shall be uncovered for inspection at APPLICANT'S expense, if required by DISTRICT or its Agent.

APPLICANT shall make reasonable tests of the work at APPLICANT'S expense upon DISTRICT'S or its Agent's request and shall maintain a record of such tests.

Before a performance test is to be observed by DISTRICT or its Agent, APPLICANT shall make such preliminary tests as are necessary to assure that the material and/or equipment are in accordance with the approved plans and specifications provided. If, for any reason, the test observed is unsatisfactory, APPLICANT shall pay all costs incurred for the inspection of further testing.

Should APPLICANT elect to work more than eight hours per weekday, all costs of inspection thus entailed may be charged to APPLICANT at the overtime billing rate.

Approval is required from DISTRICT or its Agent to work nights, weekends, and holidays. After-hours inspections may not be possible due to the lack of staff availability. APPLICANT shall submit its proposed schedule to work nights, weekends, or holidays at least five days in advance (not including weekends and holidays) for review. If APPLICANT elects to work on weekends, nights or holidays, and such work schedule is approved by DISTRICT or its Agent, all costs of inspection may be charged to the APPLICANT at the overtime billing rate.

Where this Agreement, approved plans and specifications, or laws, ordinances, rules, or regulations of any governmental authority require that any work be specially tested or inspected, APPLICANT shall give DISTRICT notice that such tests or completed work is ready for inspection. APPLICANT shall notify DISTRICT of the date, time, and location of the inspection. Required certificates of inspection shall be secured by APPLICANT.

Notice of deficiencies shall be given to APPLICANT upon completion of each inspection. APPLICANT shall correct such deficiencies within seven days of the notice and before final inspection is made by DISTRICT.

A representative of APPLICANT'S contractor shall arrange a time to accompany DISTRICT or its Agent on the final inspection and subsequent reinspection, if required. DISTRICT or its Agent will not make the final inspection until the physical work, including final clean-up and all extra work ordered by the Inspector has been completed.

Deficiencies discovered during the final inspection shall be corrected within seven days of notice thereof and, in no instance, shall service be provided until the deficiencies are corrected and the utility extensions pass reinspection.

AVAILABILITY OF PROJECT DOCUMENTS

APPLICANT shall keep at least one copy of the following project documents constantly available at the construction site: (1) approved construction plans and shop drawings, and (2) construction specifications.

MATERIALS AND EQUIPMENT LIST

APPLICANT shall file three copies of a materials and equipment list with DISTRICT prior to commencing construction. This list shall designate the quantity, manufacturer and model number of materials and equipment to be installed under this Agreement.

The materials and equipment list will be checked by DISTRICT or its Agent for conformity with this Agreement and the approved plans and specifications provided. DISTRICT will determine the conformity of the list with reasonable promptness. APPLICANT shall make any required corrections and file two correct copies with DISTRICT within one week after receipt of the required corrections. DISTRICT'S review of the list shall not relieve APPLICANT from the responsibility of providing materials and equipment suitable for their intended purpose nor for deviations from this Agreement or the plans and specifications without written approval from DISTRICT.

WATER METERS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the installation of water meters. APPLICANT shall not purchase and install water meters from a private supplier.

Single family meter applications shall not be submitted until after acceptance of the utility extensions.

SEWER TAPS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the connection of sewer taps to the mains. Elder valve installations may be required in addition to sewer taps.

Single family sewer connections shall not be submitted until after acceptance of the utility extensions.

SAFETY:

Safety in, on, or about the construction site is the sole and exclusive responsibility of APPLICANT. APPLICANT'S means and method of work performance, superintendent of APPLICANT'S employees and sequencing of construction are also sole and exclusive responsibilities of APPLICANT.

APPLICANT shall be responsible for the safety of any person, including but not limited to, any worker, DISTRICT'S Agent, Owner and/or Owner's representative, visitor or invitee on the site of the work at all times during the prosecution of the work, regardless of whether the individual is an employee of APPLICANT or APPLICANT'S Contractor or Sub-Contractor. APPLICANT is responsible for compliance with the rules, regulations and interpretations of the North Carolina Department of Labor relating to "North Carolina Occupational Safety and Health Standards (OSHA) for the Construction Industry" (Title 29 CFR Part 1926 and 29 CFR Part 1919 as adopted by 13 NCAC 7C.0101) and revisions as adopted by N.C.G.S. § 95-126 through 155 and additionally with normal industry safety practices or standards.

DISTRICT shall have the right to inspect the work for pay application compliance and compliance with DISTRICT'S standards and specifications but is not required to do so. DISTRICT shall further have the right to monitor the progress of the work, but no such inspection shall relieve APPLICANT of any duty or obligation it might have under the terms of this Agreement. Nothing in this Agreement shall relieve APPLICANT of any duty or obligation to direct the means and methods of the work.

INDEMNIFICATION:

APPLICANT shall indemnify and hold DISTRICT and DISTRICT'S Agents harmless from and against all liabilities, claims, demands, suits, losses, damages, costs, and expenses (including attorney's fees) for bodily injury to or death of any person, or damage to or destruction of any property proximately caused by the negligence of APPLICANT or any person for whom APPLICANT is legally responsible during the performance of services relative to this Agreement.

INDEPENDENT CONTRACTOR:

APPLICANT is an independent contractor and shall undertake performance of the services relative to this Agreement as an independent contractor. APPLICANT shall be wholly responsible for the methods, means, and techniques of performance. DISTRICT shall have no rights to supervise methods and techniques of performance employed by APPLICANT, but DISTRICT shall have the right to observe such performance.

COMPLIANCE WITH LAWS:

In performing services relative to this Agreement, APPLICANT shall comply with all applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards. APPLICANT shall be responsible for procuring all permits, certificates, and licenses necessary to allow APPLICANT to undertake activities and construction relative to this Agreement.

FINAL SEQUENCE FOR ACCEPTANCE OF PROJECTS

In order for DISTRICT to accept the utility extension as part of DISTRICT'S assets, APPLICANT must complete the following:

- (1) APPLICANT'S Contractor completes all utility work and makes an appointment for final inspection.
- (2) DISTRICT'S Inspector inspects, re-inspects "punch list" items, and signs off as "complete", provided there are no deficiencies.
- (3) All applicable requirements of this Agreement have been satisfied, including but not limited to, the Operation and Maintenance Manual approved and recordable, outstanding fees paid, easements verified & recordable, Bills of Sale for transfer of facilities to be owned by DISTRICT, Maintenance Bonds, if greater than original Performance Bonds, Certification of Construction Cost, and final as-builts hard copies, CAD and shapefiles received.

NOTICE:

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

APPLICANT: Name: Susan Tart Property, LLC
 Attention: Zachary Angle, Manager
 Address: 126 N. Ennis Street
 City, State, Zip: Fuquay-Varina, NC 27526

DISTRICT: Name: County of Cumberland
 Attention: NORCRESS Water and Sewer District
 Address: P.O. Box 1829
 Fayetteville, NC 28302

Nothing contained in this Article shall be construed to restrict the transmission of routine communication between representatives of APPLICANT and DISTRICT.

GOVERNING LAW:

This Agreement shall be governed by the laws of the State of North Carolina.

BREACH:

APPLICANT'S failure to observe or perform any of the terms, warranties, conditions, requirements, or provisions of this Agreement shall constitute a breach of this Agreement by APPLICANT. In the event of a breach of this Agreement by APPLICANT, DISTRICT, due to such breach, shall have the right to terminate this Agreement upon which DISTRICT shall have no further obligation to perform under this Agreement and APPLICANT shall have no right to perform any further work under this Agreement.

In the event of breach of this Agreement by APPLICANT and termination of this Agreement by DISTRICT, APPLICANT hereby shall reimburse DISTRICT for all expenditures made in relation to, and in furtherance of, this Agreement.

NONWAIVER OF BREACH:

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and, for any such breach or non-performance, each party shall be relegated to such remedies as provided by law.

SEVERABILITY:

The invalidity, illegality, or unenforceability of any portion or provision of this Agreement shall in no way affect the validity, legality, and/or enforceability of any other portion or provision of this Agreement. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of law with jurisdiction, then such provision shall be modified to the mutual satisfaction and agreement of the parties to reflect the parties' intent. In the event the parties cannot reach an agreement as to a modification of said provision, any invalid, illegal, or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal, or unenforceable.

ASSIGNMENT:

APPLICANT shall not assign, sublet, subcontract or transfer any rights under or interest in this Agreement without the written consent of DISTRICT.

BENEFITS LIMITED TO PARTIES:

Nothing herein shall be construed to give any right or benefits hereunder to any third parties other than DISTRICT and APPLICANT.

IN WITNESS WHEREOF, the parties hereto through their duly authorized officers has executed this instrument as to the date and year first above written.

Susan Tart Property, LLC

BY: 
Zachary Angle, Manager

WITNESS:


Name, Title

NORCRESS Water & Sewer District

BY: _____
Glenn Adams, Chairman

WITNESS:

Andrea Tebbe, Clerk to the Board

Approved for Legal Sufficiency
NORCRESS Water & Sewer District

Rickey L. Moorefield, County Attorney
Attorney for NORCRESS Water and Sewer District

EXHIBIT "I"
PROJECT SUMMARY

Project Name: Godwin Subdivision

Engineer: Donald Curry, PE

Project Location: 0 Washburn Rd., Godwin, NC

Developer: Susan Tart Property, LLC

Parcel Number: 0593-65-7760

Asset Summary

31.69 acres, see subdivision plan on Exhibit III.

Project Highlights

Project description/location goes here.

116-lot single family home subdivision in Godwin, NC; bounded by McLean Street, Julian Street and Dunn Road.

EXHIBIT "II"

STATEMENT OF TOTAL PROJECT COST

Developer/Applicant Susan Tart Property, LLC Contractor TBD
 Project Name/Loc Godwin Subdivision/Godwin, NC Pipe Supplier TBD
 Completion Date July 2027 Engineer Don Curry, PE

WATER

_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
_____	-	inch domestic water lateral(s)	
		Total water distribution*	\$ _____
Mains greater than 12"			
_____	feet of _____	inch water main	
_____	feet of _____	inch water main	
		Total water transmission *	\$ _____

SEWER

_____	feet of _____	inch sewer mains	
4854	feet of 8"	inch sewer mains	
_____	-	inch sewer laterals	
		Total sanitary sewer collection*	\$ 174,744.00
Mains greater than 12"			
_____	feet of _____	inch sewer main	
_____	feet of _____	inch sewer main	
		Total sanitary sewer outfalls & interceptors*	\$ _____
1687	feet of 4"	inch sewer force mains	\$ 42,175.00
	-	1 lift station (s)	\$ 600,000.00

OFF-Site

_____	feet of _____	inch water mains*	\$ _____
_____	feet of _____	inch sewer mains*	\$ _____

*Value to include equipment, labor & materials (valves, fittings, fire mains & hydrants, manholes, etc.)

<u>Other Project Costs:</u>		
Engineering		\$ 5,000.00
<input type="checkbox"/> * Percentage of Project Cost		
Other (list detail)		
Total project cost		\$ 821,919.00

Comments: Supplied project costs are for installation of gravity feed and force main sewer lines.

I certify to my actual knowledge that the information provided herein is true and accurate cost for the project named above.

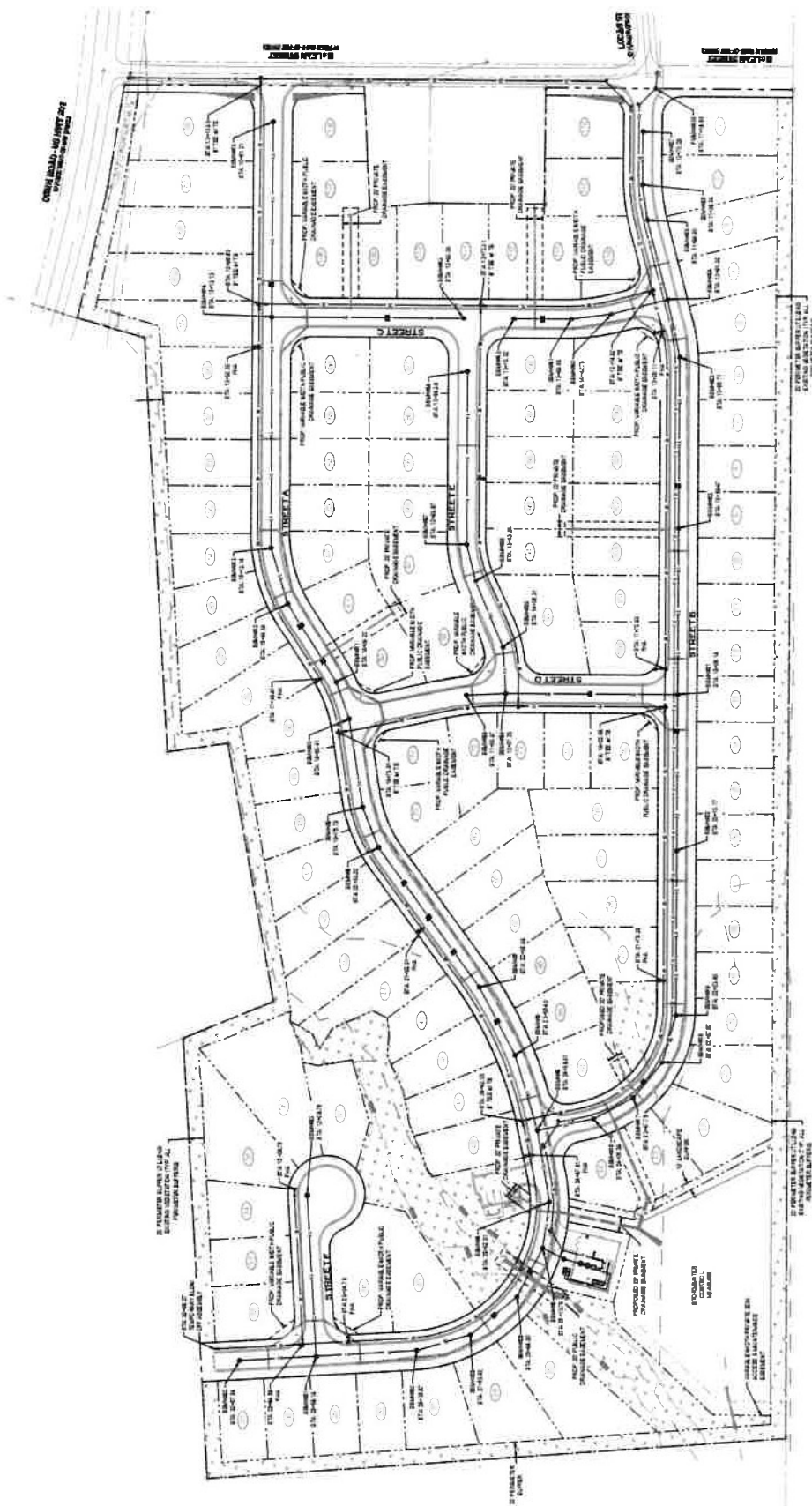
Signature:  Date: 4/15/2024

* Signature of Legal Authorized Representative of the "Applicant" as identified in the Agreement with District

Attach all supporting documents such as final contractor's invoice, material invoices/receipts, engineer's invoice(s), if available.

EXHIBIT "III"

WATER AND SEWER UTILITY EXTENSION MAP



FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
INSTRUCTIONS FOR FORM: FTA 10-23 & SUPPORTING DOCUMENTATION

This application is for sewer extensions involving gravity sewers, pump stations and force mains, or any combination that has been certified by a professional engineer and the applicant that the project meets the requirements of [15A NCAC 02T](#) and the Division's Minimum Design Criteria ([Gravity Sewer](#) & [Pump Stations/Force Mains](#)) and that **plans, specifications and supporting documents have been prepared in accordance with [15A NCAC 02T](#), [15A NCAC 02T .0300](#), Division policies, and [good engineering practices](#).**

While no upfront engineering design documents are required for submittal, in accordance with 15A NCAC 02T .0305(b), design documents must be prepared prior to submittal of a fast track permit application to the Division. This would include plans, design calculations, and project specifications referenced in [15A NCAC 02T .0305](#) and the applicable minimum design criteria. **These documents shall be immediately available upon request by the Division.**

Projects that are deemed permitted (do not require a permit from the Division) are explained in [15A NCAC 02T.0303](#).

Projects not eligible for review via the fast track process (must be submitted for full technical review):

- Projects that do not meet any part of the minimum design criteria (MDC) documents;
 - Projects that involve more than one variance from the requirements of 15A NCAC 02T;
 - Pressure sewer systems utilizing simplex septic tank-effluent pumps (STEPs) or simplex grinder pumps;
 - Simplex STEP or simplex grinder pumps connecting to pressurized systems (e.g. force mains);
 - Vacuum sewer systems.
-

General – When submitting an application, please use the following instructions as a checklist in order to ensure all required items are submitted. Adherence to these instructions and checking the provided boxes will help produce a quicker review time and reduce the amount of requested additional information. **Failure to submit all required items will necessitate additional processing and review time, and may result in return of the application.** Unless otherwise noted, the Applicant shall submit one original and one copy of the application and supporting documentation.

A. One Original and One Copy (second copy may be digital) of Application and Supporting Documents

- Required unless otherwise noted. Signatures on original must be “wet ink” or secure digital signatures. Please do not submit engineering design plans with the application unless specifically requested.

B. Cover Letter/Narrative Description (Required for All Application Packages):

- List all items included in the application package, as well as a brief description of the requested permitting action.
 - Be specific as to the system type, number of homes served, flow allocation required, etc.
 - Include the permit number/status of any other required sewer permits (downstream/upstream)
 - If necessary for clarity, include attachments to the application form.

C. Application Fee (All New and Modification Application Packages):

- Submit a check or money order in the amount of **\$600.00**, dated no more than 90 days prior to application submittal.
- Payable to North Carolina Department of Environmental Quality (NCDEQ)

D. Fast Track Application (Required for All Application Packages, Form FTA 10-23):

- Submit the completed and appropriately executed application.
 - If necessary for clarity or due to space restrictions, attachments to the application may be made.
- If the Applicant Type in Item I.2 is a corporation or company, provide documentation it is registered for business with the [North Carolina Secretary of State](#).
- If the Applicant Type in Item I.2 is a partnership or d/b/a, enclose a copy of the certificate filed with the Register of Deeds in the county of business.
- The Project Name in Item II.1 shall be consistent with the project name on the flow acceptance letters, agreements, etc.
- The Professional Engineer's Certification on Page 5 of the application shall be signed, sealed and dated by a [North Carolina licensed Professional Engineer](#).
- The Applicant's Certification on Page 5 of the application shall be signed in accordance with [15A NCAC 02T .0106\(b\)](#). Per 15A NCAC 02T .0106(c), an alternate person may be designated as the signing official if a delegation letter is provided from a person who meets the criteria in 15A NCAC 02T .0106(b).

E. Flow Tracking/Acceptance Form (Form: FTSE 10-23) (If Applicable):

- Submit the completed and executed FTSE form from the owners of the downstream sewers and treatment facility.
- Multiple forms maybe required where the downstream sewer owner and wastewater treatment facility are different.
- The flow acceptance indicated in form FTSE must not expire prior to permit issuance and must be dated less than one year prior to the application date.
- Submittal of this application and form FTSE indicates that owner has adequate capacity and will not violate [G.S. 143-215.67\(a\)](#).
- Intergovernmental agreements or other contracts will not be accepted in lieu of a project-specific FTSE.

F. Site Maps (All Application Packages):

- Submit an 8.5-inch x 11-inch color copy of a USGS Topographic Map of sufficient scale to identify the entire project area, including the closest surface waters.
- General location of the project components (gravity sewer, pump stations, & force main)
- Downstream connection points and permit number (if known) for the receiving sewer
- Include an aerial location map showing general project area (such as street names or latitude/longitude) so that Division staff can easily locate it in the field.

G. Existing Permit (Application Packages for Modifications to an Existing Permit):

- Submit a copy of the most recently issued existing permit.
- Include a descriptive and clear narrative identifying the previously permitted items to remain in the permit, items to be added, and/or items to be modified** (the application form itself should include only include items to be added/modified). The narrative should also include whether any previously permitted items have been certified.
- The narrative should clearly identify the requested permitting action and accurately describe the sewers to be listed in the final permit.**

H. Power Reliability Plan (Required if portable reliability option utilized for Pump Station):

- Per [15A NCAC 02T .0305\(h\)\(1\)](#), submit documentation of power reliability for pumping stations.
- This alternative is only available for average daily flows less than 15,000 gallons per day
- It shall be demonstrated to the Division that the portable source is owned or contracted by the applicant and is compatible with the station. The Division will accept a letter signed by the applicant (see 15A NCAC 02T .0106(b)) or proposed contractor, stating that “the portable power generation unit or portable, independently-powered pumping units, associated appurtenances and personnel are available for distribution and operation of this pump station.”
- **If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided in the case of a multiple station power outage. (Required at time of certification)**

I. Certificate of Public Convenience and Necessity (All Application Packages for Privately-Owned Public Utilities):

- Per [15A NCAC 02T .0115\(a\)\(1\)](#) provide the Certificate of Public Convenience and Necessity from the [North Carolina Utilities Commission](#) demonstrating the Applicant is authorized to hold the utility franchise for the area to be served by the sewer extension, or
- Provide a letter from the [North Carolina Utilities Commission's Water and Sewer Division Public Staff](#) stating an application for a franchise has been received and that the service area is contiguous to an existing franchised area or that franchise approval is expected.

J. Operational Agreements (Applications from HOA/POA and Developers for lots to be sold):

- Home/Property Owners' Associations
 - Per [15A NCAC 02T .0115\(c\)](#), submit the properly executed [Operational Agreement \(FORM: HOA\)](#).
 - Per 15A NCAC 02T .0115(c), submit a copy of the Articles of Incorporation, Declarations and By-laws.
- Developers of lots to be sold
 - Per [15A NCAC 02T .0115\(b\)](#), submit the properly executed [Operational Agreement \(FORM: DEV\)](#).

For more information, visit the Division's collection systems [website](#)

THE COMPLETED APPLICATION PACKAGE INCLUDING ALL SUPPORTING INFORMATION AND MATERIALS, SHOULD BE SENT TO THE [APPROPRIATE REGIONAL OFFICE](#):

REGIONAL OFFICE	ADDRESS	COUNTIES SERVED
Asheville Regional Office Water Quality Section	2090 US Highway 70 Swannanoa, North Carolina 28778-8211 (828) 296-4500 (828) 299-7043 Fax	Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey
Fayetteville Regional Office Water Quality Section	225 Green Street Suite 714 Fayetteville, North Carolina 28301-5095 (910) 433-3300 (910) 486-0707 Fax	Anson, Bladen, Cumberland, Harnett, Hoke, Montgomery, Moore, Robeson, Richmond, Sampson, Scotland
Mooresville Regional Office Water Quality Section	610 E. Center Avenue Mooresville, North Carolina 28115 (704) 663-1699 (704) 663-6040 Fax	Alexander, Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, Union
Raleigh Regional Office Water Quality Section	3800 Barrett Drive Raleigh, North Carolina 27609 (919) 791-4200 (919) 571-4718 Fax	Chatham, Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Lee, Nash, Northampton, Orange, Person, Vance, Wake, Warren, Wilson
Washington Regional Office Water Quality Section	943 Washington Square Mall Washington, North Carolina 27889 (252) 946-6481 (252) 975-3716 Fax	Beaufort, Bertie, Camden, Chowan, Craven, Currituck, Dare, Gates, Greene, Hertford, Hyde, Jones, Lenoir, Martin, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wayne
Wilmington Regional Office Water Quality Section	127 Cardinal Drive Extension Wilmington, North Carolina 28405 (910) 796-7215 (910) 350-2004 Fax	Brunswick, Carteret, Columbus, Duplin, New Hanover, Onslow, Pender
Winston-Salem Regional Office Water Quality Section	450 W. Hanes Mill Road Suite 300 Winston-Salem, North Carolina 27105 (336) 776-9800 (336) 776-9797 Fax	Alamance, Alleghany, Ashe, Caswell, Davidson, Davie, Forsyth, Guilford, Rockingham, Randolph, Stokes, Surry, Watauga, Wilkes, Yadkin



Application Number: _____ (to be completed by DWR)

All items must be completed or the application will be returned

I. APPLICANT INFORMATION:

- 1. Applicant's name: Norcross Water and Sewer District
2. Applicant type: Individual, Corporation, General Partnership, Privately-Owned Public Utility, Federal, State/County, Municipal, Other
3. Signature authority's name: Glenn Adams per 15A NCAC 02T .0106(b)
4. Applicant's mailing address: 130 Gillespie Street, Suite 214
5. Applicant's contact information: Phone number: (910) 678-7637 Email Address: ahall@cumberlandcountync.gov

II. PROJECT INFORMATION:

- 1. Project name: Godwin Subdivision
2. Application/Project status: Proposed (New Permit)
3. County where project is located: Cumberland
4. Approximate Coordinates (Decimal Degrees): Latitude: 35.219073 Longitude: -78.677011
5. Parcel ID (if applicable): 0593-65-7760

III. CONSULTANT INFORMATION:

- 1. Professional Engineer: Donald L. Curry, PE License Number: 026970
Firm: The Curry Engineering Group, PLLC
Mailing address: 205 S. Fuquay Ave.
City: Fuquay-Varina State: NC Zip: 27526-
Phone number: (919) 552-0849 Email Address: don@curryeng.com

IV. WASTEWATER TREATMENT FACILITY (WWTF) INFORMATION:

- 1. Facility Name: Cross Creek WWTF Permit Number: Permit NC 0023957
Owner Name: Fayetteville PWC

V. RECEIVING DOWNSTREAM SEWER INFORMATION:

- 1. Permit Number(s): WQ_____
2. Downstream (Receiving) Sewer Information: 10 inch Gravity Force Main
3. System Wide Collection System Permit Number(s) (if applicable): WQCS00353
Owner Name(s): NORCRESS Water and Sewer District

VI. GENERAL REQUIREMENTS

1. If the Applicant is a Privately-Owned Public Utility, has a Certificate of Public Convenience and Necessity been attached?
 Yes No N/A
2. If the Applicant is a Developer of lots to be sold, has a [Developer's Operational Agreement \(FORM: DEV\)](#) been attached?
 Yes No N/A
3. If the Applicant is a Home/Property Owners' Association, has an [HOA/POA Operational Agreement \(FORM: HOA\)](#) and supplementary documentation as required by 15A NCAC 02T.0115(c) been attached?
 Yes No N/A
4. Origin of wastewater: (check all that apply):

<input checked="" type="checkbox"/> Residential (Individually Owned)	<input type="checkbox"/> Retail (stores, centers, malls)	<input type="checkbox"/> Car Wash
<input type="checkbox"/> Residential (Leased)	<input type="checkbox"/> Retail with food preparation/service	<input type="checkbox"/> Hotel and/or Motels
<input type="checkbox"/> School / preschool / day care	<input type="checkbox"/> Medical / dental / veterinary facilities	<input type="checkbox"/> Swimming Pool/Clubhouse
<input type="checkbox"/> Food and drink facilities	<input type="checkbox"/> Church	<input type="checkbox"/> Swimming Pool/Filter Backwash
<input type="checkbox"/> Businesses / offices / factories	<input type="checkbox"/> Nursing Home	<input type="checkbox"/> Other (Explain in Attachment)
5. Nature of wastewater : 100 % Domestic _____ % Commercial _____ % Industrial ([See 15A NCAC 02T .0103\(20\)](#))
 If Industrial, is there a Pretreatment Program in effect? Yes No
6. Has a flow reduction been approved under [15A NCAC 02T .0114\(f\)](#)? Yes No
 ➤ **If yes, provide a copy of flow reduction approval letter with this application**
7. Summarize wastewater generated by project:

Establishment Type (see 02T.0114(f))	Daily Design Flow ^{a,b}	No. of Units	Flow
Single Family Residential Dwelling Units	225 gal/3 bedroom home	116	26,100 GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
		<i>Total</i>	26,100 GPD

- a See [15A NCAC 02T .0114\(b\), \(d\), \(e\)\(1\) and \(e\)\(2\)](#) for caveats to wastewater design flow rates (i.e. proposed unknown non-residential development uses; public access facilities located near high public use areas; and residential property located south or east of the Atlantic Intracoastal Waterway to be used as vacation rentals as defined in [G.S. 42A-4](#)).
 - b Per 15A NCAC 02T .0114(c), design flow rates for establishments not identified [in table [15A NCAC 02T.0114](#)] shall be determined using available flow data, water using fixtures, occupancy or operation patterns, and other measured data.
8. Wastewater generated by project: 26,100 GPD (per [15A NCAC 02T .0114 and G.S. 143-215.1](#))
 ➤ Do not include future flows or previously permitted allocations

If permitted flow is zero, please indicate why:

- Pump Station/Force Main or Gravity Sewer where flow will be permitted in subsequent permits that connect to this line. Please provide supplementary information indicating the approximate timeframe for permitting upstream sewers with flow.
- Flow has already been allocated in Permit Number: _____ Issuance Date: _____
- Rehabilitation or replacement of existing sewers with no new flow expected
- Other (Explain): _____

VII. GRAVITY SEWER DESIGN CRITERIA (If Applicable) - [02T .0305](#) & [MDC \(Gravity Sewers\)](#):

1. Summarize gravity sewer to be permitted:

Size (inches)	Length (feet)	Material
8"	4854	PVC

- Section II & III of the MDC for Permitting of Gravity Sewers contains information related to design criteria
- Section III contains information related to minimum slopes for gravity sewer(s)
- **Oversizing lines to meet minimum slope requirements is not allowed and a violation of the MDC**

VIII. PUMP STATION DESIGN CRITERIA (If Applicable) - [02T .0305](#) & [MDC \(Pump Stations/Force Mains\)](#):

PROVIDE A SEPARATE COPY OF THIS PAGE FOR EACH PUMP STATION INCLUDED IN THIS PROJECT

1. Pump station number or name: 1
2. Approximate Coordinates (Decimal Degrees): Latitude: 35.223454° Longitude: -78.675302°
3. Total number of pumps at the pump station: 2
3. Design flow of the pump station: .1044 millions gallons per day (firm capacity)
 - This should reflect the total GPM for the pump station with the largest pump out of service.
4. Operational point(s) per pump(s): 100 gallons per minute (GPM) at 38 feet total dynamic head (TDH)
5. Summarize the force main to be permitted (for this Pump Station):

Size (inches)	Length (feet)	Material
4"	1687	C900 PVC

If any portion of the force main is less than 4-inches in diameter, please identify the method of solids reduction per MDCPSFM Section 2.01C.1.b. Grinder Pump Mechanical Bar Screen Other (please specify) _____

6. Power reliability in accordance with [15A NCAC 02T .0305\(h\)\(1\)](#):

Standby power source or Standby pump

- Must have automatic activation and telemetry - [15A NCAC 02T.0305\(h\)\(1\)\(B\)](#);
- Required for all pump stations with an average daily flow greater than or equal to 15,000 gallons per day
- **Must be permanent to facility** and may not be portable

Or if the pump station has an average daily flow less than 15,000 gallons per day [15A NCAC02T.0305\(h\)\(1\)\(C\)](#):

Portable power source with manual activation, quick-connection receptacle and telemetry -

or

Portable pumping unit with plugged emergency pump connection and telemetry:

- Include documentation that the portable source is owned or contracted by the applicant and is compatible with the station.
- If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided as part of this permit application in the case of a multiple station power outage.

IX. SETBACKS & SEPARATIONS – (02B .0200 & 15A NCAC 02T .0305(f)):

1. Does the project comply with all separations/alternatives found in [15A NCAC 02T .0305\(f\) & \(g\)](#)? Yes No

15A NCAC 02T.0305(f) contains minimum separations that shall be provided for sewer systems:

Setback Parameter*	Separation Required
Storm sewers and other utilities not listed below (vertical)	18 inches
² Water mains (vertical - water over sewer preferred, including in benched trenches)	18 inches
² Water mains (horizontal)	10 feet
Reclaimed water lines (vertical - reclaimed over sewer)	18 inches
Reclaimed water lines (horizontal - reclaimed over sewer)	2 feet
**Any private or public water supply source, including any wells, WS-I waters of Class I or Class II impounded reservoirs used as a source of drinking water, and associated wetlands.	100 feet
**Waters classified WS (except WS-I or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands associated with these waters (see item IX.2)	50 feet
**Any other stream, lake, impoundment, or ground water lowering and surface drainage ditches, as well as wetlands associated with these waters or classified as WL.	10 feet
Any building foundation (horizontal)	5 feet
Any basement (horizontal)	10 feet
Top slope of embankment or cuts of 2 feet or more vertical height	10 feet
Drainage systems and interceptor drains	5 feet
Any swimming pools	10 feet
Final earth grade (vertical)	36 inches

- If noncompliance with [02T.0305\(f\) or \(g\)](#), see Section X.1 of this application
- *[15A NCAC 02T.0305\(g\)](#) contains alternatives where separations in [02T.0305\(f\)](#) cannot be achieved. Please check “yes” above if these alternatives are used and provide narrative information to explain.
- **Stream classifications can be identified using the Division’s [NC Surface Water Classifications webpage](#)

2. Does this project comply with the minimum separation requirements for water mains? Yes No N/A
- If no, please refer to 15A NCAC 18C.0906(f) for documentation requirements and submit a separate document, signed/sealed by an NC licensed PE, verifying the criteria outlined in that Rule.
3. Does the project comply with separation requirements for wetlands? Yes No N/A
- Please provide supplementary information identifying the areas of non-conformance.
 - See the Division’s [draft separation requirements](#) for situations where separation cannot be met.
 - No variance is required if the alternative design criteria specified is utilized in design and construction.
4. Is the project located in a river basin subject to any State buffer rules? Yes Basin name: _____ No
- If yes, does the project comply with setbacks found in the river basin rules per [15A NCAC 02B .0200](#)? Yes No
- This includes Trout Buffered Streams per [15A NCAC 2B.0202](#)
5. Does the project require coverage/authorization under a 404 Nationwide/individual permits or 401 Water Quality Certifications? Yes No
- Please provide the permit number/permitting status in the cover letter if coverage/authorization is required.
6. Does project comply with [15A NCAC 02T.0105\(c\)\(6\)](#) (additional permits/certifications)? Yes No
- Per [15A NCAC 02T.0105\(c\)\(6\)](#), directly related environmental permits or certification applications must be being prepared, have been applied for, or have been obtained. Issuance of this permit is contingent on issuance of dependent permits (erosion and sedimentation control plans, stormwater management plans, etc.).
7. Does this project include any sewer collection lines that are deemed “high-priority?” Yes No
- Per [15A NCAC 02T.0402](#), “high-priority sewer” means any aerial sewer, sewer contacting surface waters, siphon, or sewers positioned parallel to streambanks that are subject to erosion that undermines or deteriorates the sewer.
- Siphons and sewers suspended through interference/conflict boxes require a variance approval.**
- If yes, include an attachment with details for each line, including type (aerial line, size, material, and location).

High priority lines shall be inspected by the permittee or its representative at least once every six-months and inspections documented per 15A NCAC 02T.0403(a)(5) or the permittee’s individual System-Wide Collection permit.

X. CERTIFICATIONS:

- 1. Does the submitted system comply with 15A NCAC 02T, the Minimum Design Criteria for the Permitting of Pump Stations and Force Mains (latest version), and the Gravity Sewer Minimum Design Criteria (latest version) as applicable?

[X] Yes [] No

If no, for projects requiring a single variance, complete and submit the Variance/Alternative Design Request application (VADC 10-14) and supporting documents for review to the Central Office. Approval of the request will be issued concurrently with the approval of the permit, and projects requiring a variance approval may be subject to longer review times. For projects requiring two or more variances or where the variance is determined by the Division to be a significant portion of the project, the full technical review is required.

- 2. Professional Engineer's Certification:

I, DONALD L. CURRY, PE, attest that this application for GODWIN SUBDIVISION (Professional Engineer's name from Application Item III.1.) (Project Name from Application Item II.1.)

has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the proposed design has been prepared in accordance with the applicable regulations, Minimum Design Criteria for Gravity Sewers (latest version), and the Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains (latest version). Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

NOTE - In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000, as well as civil penalties up to \$25,000 per violation. Misrepresentation of the application information, including failure to disclose any design non-compliance with the applicable Rules and design criteria, may subject the North Carolina-licensed Professional Engineer to referral to the licensing board. (21 NCAC 56.0701)

North Carolina Professional Engineer's seal, signature, and date:



- 3. Applicant's Certification per 15A NCAC 02T .0106(b):

I, _____, attest that this application for _____ (Signature Authority Name from Application Item I.3.) (Project Name from Application Item II.1.)

attest that this application has been reviewed by me and is accurate and complete to the best of my knowledge. I understand that if all required parts of this application are not completed and that if all required supporting documentation and attachments are not included, this application package is subject to being returned as incomplete. I understand that any discharge of wastewater from this non-discharge system to surface waters or the land will result in an immediate enforcement action that may include civil penalties, injunctive relief, and/or criminal prosecution. I will make no claim against the Division of Water Resources should a condition of this permit be violated. I also understand that if all required parts of this application package are not completed and that if all required supporting information and attachments are not included, this application package will be returned to me as incomplete.

NOTE - In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000 as well as civil penalties up to \$25,000 per violation.

Signature: _____

Date: _____

RONNA ROWE GARRETT, COMMISSIONER
DONALD L. PORTER, COMMISSIONER
CHRISTOPHER G. DAVIS, COMMISSIONER
RICHARD W. KING, COMMISSIONER
TIMOTHY L. BRYANT, CEO/GENERAL MANAGER



FAYETTEVILLE PUBLIC WORKS COMMISSION
955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302-1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

September 13, 2024

TO WHOM IT MAY CONCERN:

SUBJECT: Flow Acceptance – Godwin Subdivision

This letter is in response to the inquiry regarding the availability of sanitary sewer to serve the proposed Godwin Subdivision project located on the parcel with PIN 0593-65-7760 bordered by Julian Road, McLean Street, and Dunn Road in the Town of Godwin, Cumberland County NC.

NORCRESS Water and Sewer District will be submitting a permit application for a public sewer main extension on this project. The Public Works Commission does have an operation and maintenance (O&M) agreement with NORCRESS Water and Sewer District. Per the conditions of the O&M agreement, the downstream capacity analysis and FTSE form will be completed, as part of the design review, by the PWC Water Resources Engineering department once authorized by NORCRESS.

The sewage and wastewater collected by this system shall be treated in the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility (NPDES Permit No. NC0023957) prior to being discharged into the receiving stream. The projected flow for this development is 26,100 gallons per day. The Cross Creek Wastewater Treatment Facility has the capacity to accept the flow generated by this project. Reservation of the capacity for this project will be made upon execution of the FTSE form by PWC as required by NCDEQ for permitting of this sewer main extension.

If you have any questions concerning this letter, please call me at (910) 223-4736.

Very truly yours,

FAYETTEVILLE PUBLIC WORKS COMMISSION

A handwritten signature in blue ink that reads 'Misty Manning'.

Misty M. Manning, P.E.
Deputy Water Resources Officer

cc: Project File
Amy Hall, Cumberland County

BUILDING COMMUNITY CONNECTIONS SINCE 1905

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