



City of
Washington
NORTH CAROLINA
Council Agenda
AUGUST 8, 2016
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from July 25, 2016 (**page 3**)

Approval/Amendments to Agenda

Recognition: **Washington 8 U All – Stars*

 **Kimberly Grimes – Receipt of Emma W. Howard Children’s Service Award*

I. Consent Agenda:

 A. None –

II. Comments from the Public:

III. Public Hearing 6:00PM– Zoning: None

IV. Public Hearing 6:00PM - Other: None

V. Scheduled Public Appearances:

 A. Rev. David Moore – Metropolitan/Keysville Road

VI. Correspondence and Special Reports:

 A. Memo – Northgate Subdivision Tap and Impact Fees (**page 15**)

 B. Memo – Reporting of Bad Debt Write-Offs FY 2016 (**page 16**)

 C. Memo – Whitepost & Highland Drive Electric Projects (**page 17**)

 D. Discussion – Grant Updates (**page 18**)

 E. Discussion – Project Updates FY 2015/2016 (**page 19**)

 F. Discussion – Project Updates FY 2017 (**page 21**)

VII. Reports from Boards, Commissions and Committees:

 A. None –



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VIII. Appointments:

A. None –

IX. Old Business:

A. Authorize – Recreation Director to apply for the Public Beach & Coastal Waterfront Access Funds 2016-2017 Grant – Havens Gardens Fishing Pier **(page 23)**

B. Approve – Classification and Pay Study Comparable Agencies **(page 26)**

C. Approve - Waterfront Dock Agreements (Leases) **(page 27)**

D. Accept/Award – Bids and **Award** Contract – Wayfinding Signage **(page 50)**

E. Approve – Electric Bill Adjustment **(page 55)**

F. Approve – Load Management Switch PO **(page 56)**

G. Approve – Wire Puller & Wire Tensioner PO's **(page 58)**

X. New Business:

A. Amend – Chapter 18, Section 102 – Non-Highway Streets **(page 61)**

XI. Any other items from City Manager:

A. Discussion – PEG Channel – Cable Nine scheduling

B. Discussion – Bug House Park – Tennis Courts update

C. Discussion – 10 Houses Minimum Housing Ordinance

D. Discussion – Travel Policy update

E. Discussion – NCDOT Signage update

XII. Any other business from the Mayor or other Members of Council:

XIII. Closed Session: None

XIV. Adjourn – Until Monday, August 22, 2016 at 5:30 pm, in the Council Chambers

The Washington City Council met in a regular session on Monday, July 25, 2016 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Mac Hodges, Mayor; Virginia Finnerty, Mayor Pro tem; Doug Mercer, Councilmember; Richard Brooks, Councilmember; Larry Beeman; Councilmember and William Pitt, Councilmember. Also present: Bobby Roberson, City Manager; Franz Holscher, City Attorney and Cynthia S. Bennett, City Clerk. *Simon Harris - Troop 99 was also in attendance.

Mayor Hodges called the meeting to order and Councilmember Pitt delivered the invocation.

APPROVAL OF MINUTES:

By motion of Councilmember Mercer seconded by Councilmember Brooks, Council approved the minutes of June 27, 2016 as presented.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Hodges reviewed the requested amendments to the agenda:

- Add Under Consent Item F: Sewer Pump Purchase Order
- Remove Consent Item A & E for discussion
- Remove Under Scheduled Public Appearances: Milton Brooks – Internet Sweepstakes

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council approved the agenda as amended.

RECOGNITION

**LOIS BLACKSTOCK – NATIONAL CERTIFICATION FROM THE
NATIONAL ANIMAL CARE & CONTROL ASSOCIATION**

On May 6, 2016, Animal Control officer Lois Blackstock received her National Certification from the National Animal Care and Control Association by attending the National Animal Control and Humane Officer Training Academy. The NACA purpose is to assist members to perform their duties in a professional manner. The program is designed for animal care and control personnel at the federal, state, and local levels, and for police officers, and sheriff's deputies who are responsible for animal control duties. This program was a two year endeavor for officer Blackstock. The program consisted of some of the following courses: ethics, interviewing search and seizure, evidence case and trial preparation, and sworn testimony.



CONSENT AGENDA:

By motion of Councilmember Pitt, seconded by Councilmember Beeman, Council approved the consent agenda as amended.

- A. *Item removed from Consent for discussion: Authorize – Recreation Director to apply for the pre-application of the Marine Resources Fund – Havens Gardens Bulkhead Replacement*
- B. Adopt – Resolution directing City Clerk to investigate a petition for a contiguous annexation from State Employees Credit Union
*The property contains 5.46 acres and is located on Whispering Pines Road between W. 15th Street and West 5th Street.
- C. Approve – Generator Maintenance Purchase Order *\$35,291.99 to Atlantic Power Systems of NC for the annual maintenance of the City's peak shaving generators
- D. Approve – Circuit Breaker Purchase Order *\$42,760 to Westinghouse Electric Supply for the Wharton Station circuit breaker replacement
- E. *Item removed from Consent for discussion: Approve – Software Purchase order*
- F. Added: Approve – Sewer Pump PO *\$63,384.02 to Xylem Dewatering Solutions, Inc. for the purchase of a spare pump for the 5th & Respass pump station

Item A from Consent: AUTHORIZE – RECREATION DIRECTOR TO APPLY FOR THE PRE-APPLICATION OF THE MARINE RESOURCES FUND – HAVENS GARDENS BULKHEAD REPLACEMENT

BACKGROUND AND FINDINGS: The current bulkhead at Havens Gardens is deteriorating and needs to be repaired. The bulkhead is currently listed in the CIP. The Recreation Advisory Committee recommended to pursue the funding through the Marine Resources Fund during the June 2016 meeting. The total preliminary cost is \$430,000.00. It is recommended to complete this project in two phases, beginning on the bridge side and completing an estimated 700 feet of bulkhead. Phase I would cost an estimated \$215,000.00. The grant does not require a match, however would be a stronger application if the City provided a 10% match. All contracts for projects selected for funding will begin no sooner than July 1, 2017.

Councilmember Mercer noted he didn't have a problem with the pre-application, but wanted to know why we didn't apply for the entire project instead of two phases. Kristi Roberson said she was told we stood a better chance if we applied for the project in phases. Councilmember Mercer said we should apply for the whole project and Council, by consensus agreed to apply for the entire bulkhead repair and discussed the possibility of a match of up to 25%.

By motion of Councilmember Mercer, seconded by Councilmember Brooks, Council authorized the Recreation Director to apply for the pre-application of the Marine Resources Fund (with up to a 25% match for the entire project).

Item E from Consent: REMOVE FOR DISCUSSION FROM CONSENT: APPROVE – SOFTWARE PURCHASE ORDER

BACKGROUND AND FINDINGS: A capital project fund has been established for this project. Site visits, demonstrations, and reference checks have been conducted and staff recommends proceeding with these vendors. The maintenance service contract is included in the license fees for the first year resulting in \$42,000 savings in year one and \$13,000/year in subsequent years. \$250,000 is budgeted for this project.

Councilmember Mercer expressed concerns with the proposal not showing a work order module. Matt Rauschenbach confirmed there is a work order module in the utilities (mobile application) as well as the financial software package.

By motion of Councilmember Mercer, seconded by Councilmember Brooks, Council approved a PO for \$89,385 to Edmonds & Associates, Inc. and a PO for \$75,071 to Tyler Technologies for financial and utility billing software.

COMMENTS FROM THE PUBLIC:

Donna Lay came forward and discussed the increase in her utility bill from last month. She also inquired what the money is used for and what does her tax dollars pay for. Councilmember Mercer responded to her questions and offered to meet and talk with Ms. Lay about our budget/utilities.

PUBLIC HEARING 6:00PM– ZONING: NONE

PUBLIC HEARING 6:00PM - OTHER:

TAXI CAB – CERTIFICATE OF CONVENIENCE ISSUED TO MS. GERALDINE ROBERSON FOR HODGES & ROBERSON (H & R) CAB SERVICE

BACKGROUND AND FINDINGS: The purpose of this Council Action is to hold a public hearing, as advertised, to consider the application for a Certificate of Convenience and Necessity by John Norfleet to operate three cabs in the City of Washington as H&R Cab Service. Per the application, Ms. Roberson desires to operate three taxicabs in the City limits from her terminal located at 9349 Thoroughfare Rd, Washington, NC. The notice calling for the public hearing was published on July 9, 2016, and a copy of the notice was mailed to all holders of Certificates of Convenience and Necessity for the operation of vehicles in compliance with Washington City Code Section 36-56(b).

Mayor Hodges opened the public hearing. There being no comments from the public, the public hearing was closed. Ms. Geraldine Roberson stated she is different than Roberson Cab, she is operating as Hodges & Roberson (H&R) Cab Service. Hours of operation 7am-7pm. Terminal is located on Thoroughfare Road.

By motion of Councilmember Pitt, seconded by Councilmember Beeman, Council authorized a Certificate of Convenience and Necessity be issued to Ms. Geraldine Roberson with three taxicabs for Hodges & Roberson (H&R) Cab Service.

SCHEDULED PUBLIC APPEARANCES:

JEANNIE NEAL – WASHINGTON HOUSING AUTHORITY – (ABSENT)

**MILTON BROOKS – INTERNET CAFÉ SWEEPSTAKES
(REQUEST REMOVED FROM AGENDA)**

CORRESPONDENCE AND SPECIAL REPORTS:

MEMO – WATERFRONT DOCKING AGREEMENTS – LEASES

The proposed Waterfront Docking Agreements for the following entities were presented to Council:

- 1. Little Washington Sailing School, Inc.*
- 2. NC Estuarium - River Rover*

3. *Seatow IBX*4. *ECU – R/V Riggs*

These leases have been updated to reflect new information for each water craft and to reflect the same extension period of every one (1) year. The proposed changes are highlighted in yellow and the removal of information is shown by a strike-thru. The documents are for review only and we hope to have the new agreements approved during the August 8, 2016 Council Meeting.

John Rodman revised the agreements to a one year lease. Franz Holscher has advised Mr. Rodman of some clerical errors and insurance discrepancies. Bill Lurvey will look over those insurance issues.

Councilmember Beeman asked why LWSS was not charged a fee, being we charge a participation fee for softball, baseball, soccer, basketball. He feels we should charge their participants a fee of \$35 as well. Mayor Hodges disagrees and feels we should rescind the \$35 fee for all activities. Councilmember Mercer said every time fees come up it becomes a hot button issue – if we want to get out of the fee business then we should lease the fields to the leagues and let them take care of all of it. Councilmember Beeman disagrees as we should be stewards for the city. Councilmember Brooks stated we should sit down and talk about where we're going regarding fees. Mayor Pro tem Finnerty noted that people have money for what that want to have money for – if you give everything away for free people don't appreciate it – we may need to restructure the fees. Mr. Roberson suggested Council review our fees and explained the money from the fees are used for operation and maintenance.

Mr. Rodman asked if Council was ok with the one year renewal. By consensus, Council was in agreement with the one year renewal. Mr. Rodman will bring the agreements back for approval on August 8th and discussion of the fees will be at a later date.

MEMO – BUG HOUSE PARK UPDATE

The Washington Area Historic Foundation (WAHF) has graciously agreed to participate in the up-grade and beautification of Bug House Park. WAHF will upgrade the center signage area by reconditioning the soil in the area and planting Liriope, Lantana and Knock out Roses. This will enhance the entrance into the Park. The Washington Area Historic Foundation will also contribute several benches to the Park area. One bench has been purchased and they are raising funds to provide a couple of more. These benches will match the ones in Harding Square. Thanks to WAHF for partnering with the City by providing an up-grade to Bug House Park for all to enjoy.

Mayor Hodges inquired about the status of the tennis courts. Mr. Roberson noted that Gerald Rawls from WIMCO is doing an analysis and we will hopefully have an answer on August 8th.

MEMO – SAVE THE POOL FUNDRAISER UPDATE

The Save the Pool Fundraiser campaign began in June. We have completed 4 fund raisers, including Summer Kickoff, Save the Pool Golf Tournament, Save the Pool Pizza Inn Fundraiser and the World's Largest Swim Lesson. We are continuing to sell T-shirt Sales and Tiles. We have currently raised \$18,856.24 and are waiting on our check from the Pizza Inn fundraiser. The next fundraiser will be a car wash scheduled for July 23 from 8 AM -1 PM and hosted by Special Olympics Beaufort/Hyde Athletes. The car wash will be held in the Verizon parking lot.

Kristi Roberson, Recreation Director noted that \$900+ was raised at the Pizza Inn event along with \$500+ from the car wash. Two or three fundraisers will be held every month until December. The Dectron unit is still working but it is wearing out. We had an increase of 50 new memberships in June along with increased swim lessons, adult lap swim and open pool.

MEMO – DISCUSS FINANCING RESIDENT’S SHARE OF MATERIAL COST FOR STORM DRAINAGE PIPE INSTALLATION

The Public Works Department currently participates with property owners in the installation of storm drains crossing private property. The City will furnish all labor and equipment and the property owner will pay for all materials for construction. The City will not participate in any storm drainage system which requires pipe sizes larger than 18" due to the increased labor cost, equipment and engineering required. All monies for materials must be paid by property owner before construction begins.

We have had a request from a City resident to consider financing the material costs for construction. I am requesting your consideration for the City to finance the storm drainage material construction cost for pipe installation 18" or smaller. I feel the City will need to set an interest rate with a term not to exceed three to five years. I would like to suggest that the A.P .R. and term be set by the Finance Director based on current market prices. By allowing City financing of these specific projects this may allow the homeowner affordability in improving their property.

Example: Cost Estimate to Pipe 140 Linear Feet of Ditch

<u>Unit</u>	<u>Description</u>	<u>Cost</u>	<u>Total</u>
140LF	15"HDPE Pipe	\$10/LF	\$1,400
1EA	Manhole Junction	\$500/EA	\$500
2EA	Catch Basins	\$500/EA	\$500
	Subtotal		\$2,900
	20%Admin.		\$580
	Total Due		\$3,480

Council discussed the administration charge of 20% and decided to only charge 10% instead of 20%. Future requests will be presented to Council for approval.

By motion of Councilmember Brooks, seconded by Councilmember Beeman, Council approved the financing of the resident’s share of material cost for storm drainage pipe installation with a 10% administration charge.

**MEMO – BUDGET TRANSFER – GENERAL FUND
(approved as presented)**

The Budget Officer transferred funds between the Miscellaneous, Economic Development, Debt Service, & Equipment Services departments of the General Fund appropriations budget to cover spending in the respective departments. NCGS 159-15 states that this shall be reported to the Council at its next regular meeting and be entered in the minutes.

<i>From: 10-00-4400-5701</i>	<i>Misc.</i>	<i>\$285.00</i>
<i>To: 10-50-4020-8100</i>	<i>Debt Service</i>	<i>\$285.00</i>

<p><i>From:</i> 10-00-4400-5701 10-00-4400-0200 10-00-4650-4500</p>	<p><i>Misc.</i> <i>Salary Adj.</i> <i>ED Projects</i></p>	<p>\$ 900 \$18,600 \$13,000</p>
<p><i>To:</i> 10-20-4250-1300 10-20-4250-3102</p>	<p><i>Utilities</i> <i>Parts</i></p>	<p>\$ 7,500 \$25,000</p>

REPORTS FROM BOARDS, COMMISSIONS AND COMMITTEES:
REPORT – HUMAN RELATIONS COUNCIL -approved as presented
 (copy attached)

APPOINTMENTS: NONE

OLD BUSINESS:

APPROVE – MEMORANDUM OF UNDERSTANDING – HANGING BASKETS

*(begin) Memorandum of Understanding
 July 25, 2016*

This is a Memorandum of Understanding between the City of Washington and Donor/The Washington Harbor District Alliance (WHDA) as requested by the City Council at the June 13, 2016 City of Washington Council meeting. The WHDA has given this project much thought and feels it to be a wonderful opportunity to help continue beautifying our Historic Port City. The WHDA has met with The Washington Historic Preservation Committee at the request of the City Manager and has received their support in this endeavor. Individual local merchants have also expressed their enthusiasm for this project and have given us their support.

The WHDA has strived in this Memorandum of Understanding to make this project as cost effective as possible for the City. There are, however, certain costs that cannot be avoided. None of the costs are intentional but the City will have to assume some costs as in many of the other projects they are involved in.

Listed below are the responsibilities of both Parties involved:

Donor/WHDA

- 1. Furnish 15-18 plants and the pots as well as brackets needed for light poles*
- 2. Furnish the grooming when needed on a monthly basis*
- 3. Replace pots and plants when damaged and need repair caused by the elements along with plants*

City of Washington

- 1. Will assume a watering program to help maintain the health of the plants*
- 2. The City will have them mounted to assure height requirements are met*
- 3. The City will assume all Liabilities of the plants and planters*
- 4. The City at the request of the City Manager will have them taken down when needed due to storms or inclement weather approaching*
- 5. Any damage done to the pots and/or plants caused by watering will be replaced by the City*

This agreement will be effective August 1, 2016 and run through August 1, 2018 at that time all parties will review the Memorandum of Understanding prior to the expiration date to determine if the renewal is in all parties' best interest.

Again we hope that this will clarify any involvement that the City and our Donor will have in this beautification process. We thank you for your support. (end)

Councilmember Mercer expressed concern about hanging baskets on poles and the liability for the City. He continued by saying there seems to be a lot of responsibility for not much benefit. Mayor Pro tem Finnerty stated she disagrees and noted that studies have shown that the beautification of a downtown (with plants) does increase visitors.

Harold Robinson, WHDA said this is a great opportunity for downtown and the Council shouldn't turn down the offer from the donor. Councilmember Beeman also expressed concern over the liability issue. Harold Robinson explained that WHDA would agree to replace the planters if the City employee breaks it during watering, etc. Councilmember Brooks noted that it appears that over time the City will become responsible for the entire project and will cause the City to invest more money for equipment and felt we shouldn't proceed. Mr. Robinson said the merchants he had spoken to were in support of this project. Discussion was held regarding the needed equipment for this project. The City Manager explained the cost of a new golf cart is \$6800 and the watering device is \$1900. Councilmember Pitt asked if the project was approved, how long it would take to be implemented. Mr. Robinson stated possibly 1-2 months, and suggested that the agreement could be revisited in one year to determine the feasibility. Councilmember Brooks voiced concern with additional cost of equipment for the plants as we didn't budget for this project. Mayor Pro tem Finnerty stated she didn't understand why Council would say no to this gift.

Bobby Roberson explained it would be much easier to purchase a new golf cart with the watering system. Mayor Pro tem Finnerty asked if we were going to purchase a golf cart for the new downtown maintenance worker anyway. Mr. Roberson said the golf cart was not appropriated in the budget, but it would be easier to purchase a new golf cart with the watering system. We could use the dock attendant's golf cart to do the maintenance early in the morning in order to save money, but it would need to be retrofitted to use the watering system.

Dot Moate came forward and stated it is commendable that WHDA & Council wants to improve the downtown area and she likes the idea of the flowers. She feels this project is moving too fast and we need to do it right if we're going to do it.

By motion of Councilmember Pitt, seconded by Mayor Pro tem Finnerty, Council agreed to enter into a MOU with WHDA for one year from date of installation of planters with the MOU being open for modification, noting termination can occur by either party with a 30 day notice. Motion carried 4-1 with Councilmember Brooks opposing.

NEW BUSINESS:

ADOPT – RESOLUTION OF INTENT TO CLOSE A PORTION OF WEST 2ND STREET
BACKGROUND AND FINDINGS: In May 2016 the Utilities Support Superintendent, Ed Pruden, requested West 2nd Street between Wilson Street and Plymouth Street should be closed due to construction upgrades to the City's main substation. We feel public access to the area should be restricted. Pursuant to General Statute's 160A-299, when a city proposes to permanently close a street, the City Council shall first adopt a resolution declaring its intent to close the street and call for a public hearing on the matter. A resolution of intent is attached calling for a Public Hearing to be held on Monday, September 12, 2016, should Council decide to close the street as requested.

Councilmember Mercer inquired about closing an additional portion of this street and Frankie Buck stated that remaining portion needed to remain open.

By motion of Councilmember Beeman, seconded by Councilmember Brooks, Council adopt a resolution stating that the City Council intends to close that portion of West 2nd Street running west from Wilson Street to Plymouth Street, and calling for a Public Hearing to be held at 6 pm in the Council Chambers, Room 214, of the Municipal Building on September 12, 2016.

**A RESOLUTION DECLARING
THE INTENT OF THE CITY OF WASHINGTON TO CONSIDER
CLOSING AND ABANDONING PORTIONS OF WEST 2nd STREET
(RESOLUTION OF INTENT)**

WHEREAS, the City Council (Council) for the City of Washington (City) exercises general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits pursuant to North Carolina General Statute§ 160A-296 *et seq.*

WHEREAS, North Carolina General Statute§ 160A-299 authorizes cities to close public streets and alleys and proscribes procedures for carrying out said authority.

WHEREAS, the City finds it to be advisable and in the public's best interest to conduct a public hearing for the purpose of giving consideration to the closing and abandoning of portions of West 2nd Street - that portion of said street running west from Wilson Street to Plymouth Street (S.R. 1401).

WHEREAS, the City intends to reserve its right, title and interest, if any, in and to any and all utility improvements or easements within those areas of West 2nd Street more particularly described herein.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Washington, North Carolina as follows.

1) Pursuant to North Carolina General Statute § 160A-299, a public hearing will be held at 6:00 p.m. on the 12th day of September, 2016 in the City Council Chambers, Room 214, of the Municipal Building to consider a resolution that would order the closing and abandoning of portions of West 2nd Street, said portions being more particularly described as follows:

ALL of the area on West 2nd Street -that portion of said street running west from Wilson Street to Plymouth Street (SR 1401).

2) The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the Washington Daily News, or other newspapers of general circulation in the area.

3) The City Clerk is further directed to transmit by registered or certified mail a copy of this Resolution of Intent to each property owner abutting upon those portions of said West 2nd Street under consideration to be closed and abandoned.

4) The City Clerk is further directed to prominently post this Resolution of Intent in at least two places along the portions of West 2nd Street that are under consideration to be closed and abandoned as notice of said public hearing and the consideration being given to close as well as abandon those portions of West 2nd Street.

This the 25th day of July, 2016.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

AUTHORIZE – CLASSIFICATION AND PAY STUDY

BACKGROUND AND FINDINGS: The City of Washington has not performed a comprehensive city-wide classification and pay study since 2004. Since that time there have been significant changes to the organization and the competitive market place. This has led to concerns within the organization regarding internal and external pay equity, salary range spread within grades and between grades is too narrow, which is causing salary compression, and the recruitment and retention of current and future employees. PTRC will confirm with the City Council, City Manager and HR Director the labor market comparisons that will be reflected in the study. PTRC will design and propose an implementation strategy based for the updated compensation system with lowest financial impact on city operating process, but also review and recommend the greatest gain to positions that are critical to the organization, positions that have a high turnover, and positions that are the most deficient within the pay structure. The implementation of such a plan will be over a specified period of time. PTRC will also update job classifications/job descriptions and assist with developing a new classification and pay structure to eliminate pay compression issues in the future. The study typically takes approximately 4 months to complete.

Councilmember Mercer expressed comments regarding the pay and classification study. Mr. Roberson discussed that Council will need to suggest municipalities that they would like included in the study. Mr. Roberson noted that we do not have the staff to perform this project in-house. If we were only looking at salaries and job titles then we could use the NCLM information as suggested by Councilmember Mercer. But, the study is much more involved. Stacey Christini explained that we need to have stable firm job descriptions that are in compliance with the actual jobs. We've had a tremendous amount of re-organizations within the last 5 years and the job titles/descriptions do not match the job duties. Councilmember Brooks stated that we need to have the study and do everything possible to keep our employees here.

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council authorized the City Manager to enter into a contract with Piedmont Triad Regional Council of Governments (PTRC) to perform a city-wide classification and pay study and implementation strategy for the City of Washington in an amount not to exceed \$35,000. Motion carried 4-1 with Councilmember Mercer opposing.

APPROVE – RECREATION CONCESSION BUDGET ORDINANCE AMENDMENT

BACKGROUND AND FINDINGS: Concession expense needs to be appropriated to correspond with revenue that was budgeted for concession sales in the Special Events, Waterfront Docks and Aquatic

Center departments of the General Fund. Concession revenue was budgeted and the corresponding expense was omitted for the adopted budget.

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council approved a Budget Ordinance Amendment to appropriate funds equivalent to the amount of concession revenue budgeted.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2016-2017**

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

Section 1. That the Estimated Revenues in the General Fund be increased in the following amounts and accounts:

10-00-3991-9910	Fund Balance Appropriated	\$ 2,050
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Section 2. That the following account numbers in the General Fund appropriations budget be increased in the amounts indicated:

10-40-6121-4800	Special Event Concessions	\$ 1,100
10-40-6124-4800	Docks Concessions	600
10-40-6126-4800	Aquatic Center Concessions	350

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 25th day of July, 2016.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Mac Hodges
Mayor

APPROVE – T-HANGER LEASE

BACKGROUND AND FINDINGS: *The T-hanger lease has been revised to include an automatic renewal and annual CPI adjustment to the rent.*

Councilmember Mercer suggested the following revisions for Sections 2 and 3.

2. TERM

The lease shall become effective on the date first shown herein above and shall remain in effect for twelve months ending _____ (FIRST TERM). The lease shall automatically renew for additional one year terms unless either party provides written notice of non-renewal at least 60 days prior to lease expiration. No holding over by the LESSEE after the expiration or earlier termination of this lease shall have the effect of extending or

renewing this lease for a further term. Upon termination of this lease for any reason, LESSEE shall vacate PREMISES without unreasonable delay.

3. AMOUNT OF RENT

LESSEE shall pay to OWNER an annual rent as established by the City Council of _____ per year which will be billed quarterly. The rent will be increased 2% at each term renewal with said revised rent becoming effective with the TERM on _____ each year.

By motion of Councilmember Pitt, seconded by Councilmember Beeman, Council approved the revised T-Hanger lease with revisions suggested by Councilmember Mercer.

ANY OTHER ITEMS FROM CITY MANAGER:

DISCUSSION – FIRE INSURANCE RATING

Bobby Roberson explained that our fire insurance rating was reviewed 10 years ago and needs to be revised. The City Manager and Fire Chief sent a letter to request the review be moved up. Mark Yates summarized that the review was supposed to be completed several years ago and never was. We are now being told the review will not take place until late 2017 or early 2018. Our current rating is a five.

By motion of Councilmember Mercer, seconded by Councilmember Beeman, Council authorized Mayor Hodges to send a letter requesting the review date to be moved up noting the request has received unanimous support from Council.

DISCUSSION – CRS PROGRAM FOR INSURANCE FLOOD

Bobby Roberson and John Rodman reviewed the Community Rating System that comes up in October for flood plain management. By participating in this we can get lower ratings on flood insurance. Washington has a class 7 rating which gives a 15% discount on premiums. We are reviewed every five years. We hope to move to a class 6 rating which gives a 20% reduction on insurance premiums. The area in the flood plain will be reduced along with the Base Flood Elevation being reduced from 10ft. to 6 ft.

DISCUSSION – ELECTRIC POLICY

The City Manager reviewed that a resident had a utility bill increase from \$87 to \$800 and then next month the bill was \$750 after a new HVAC system was installed. The contractor explained to Mr. Roberson that the system was defective. Discussion was held regarding our current water/sewer adjustment policy. Councilmember Brooks stated we should use the same policy we use for water/sewer adjustments and offer them an adjustment on their electric bill. Mr. Roberson explained staff will look at the last six months of usage and bring a recommendation back to Council for approval.

A motion was made by Councilmember Pitt to offer an adjustment to the electric bill based on the average electric usage of 1,000kw per month, average the bill and bring the information back to Council for approval on the final adjustment.

Councilmember Pitt revised his motion to reflect the average of the bill from the last three months without using an average of 1000kw.

Councilmember Pitt rescinded his motion and revision.

By motion of Councilmember Mercer, seconded by Councilmember Brooks, Council instructed the City Manager and staff to investigate this issue and make a recommendation for an adjustment as well as a recommendation for a policy for future situations, bringing the recommendations back to Council for final approval.

WHDA REQUEST - COFFEE WITH COUNCIL

Mr. Roberson noted this event may be held later in August. Councilmember Beeman suggested holding an “evening with Council” in order to alleviate work schedule conflicts.

ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL:

- Councilmember Pitt offered the following reminders:
 - NCLM conference Oct. 23-25 Raleigh (\$50 discount if registered before Friday)
 - HB 473 land use
 - Conversations being held regarding changing municipal elections from odd years to even years (study going on now)
- Councilmember Mercer asked staff to give an update on the PEG channel scheduling and noted we need to do a better job of presenting information to public.
- John Rodman has received seven request for bids for the Wayfinding signs and we are in the process of evaluating bids with a recommendation coming to Council on August 8th.

CLOSED SESSION: UNDER NCGS § 143-318.11(A)(3) ATTORNEY/CLIENT PRIVILEGE, (A)(5) POTENTIAL LAND ACQUISITION {BOUND BY 2ND, 3RD, VAN NORDEN AND HWY 17}, AND (A)(6) PERSONNEL (A)(4) ECONOMIC DEVELOPMENT

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council entered into closed session under NCGS § 143-318.11(A)(3) Attorney/Client Privilege, (A)(5) Potential Land Acquisition {bound by 2nd, 3rd, Van Norden and Hwy 17}, (A)(6) Personnel and (A)(4) Economic Development at 7:30pm.

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council agreed to come out of closed session at 8:45pm.

ADJOURN

By motion of Councilmember Pitt, seconded by Councilmember Brooks, Council adjourned the meeting at 8:45pm until Monday, August 8, 2016 at 5:30 pm in the Council Chambers.

(subject to approval of City Council)

s/Cynthia S. Bennett, MMC
City Clerk

Public Works Director
Frankie Buck

fbuckjr@washingtonnc.gov



PUBLIC WORKS DEPARTMENT

MEMORANDUM

To: Mayor and City Council

From: Frankie Buck, Public Works Director

Date: July 29, 2016

Subject: Northgate Subdivision Tap and Impact Fees

The City Manager, Bobby Roberson, requested the Public Works Department to review our rate schedule for water and sewer services, including taps, for subdivisions to see if the city was applying our charges uniformly in accordance with our adopted policies and standards. Therefore, according to our records, Northgate Subdivision differs from any other development the city has participated in. Therefore, I presented the Northgate Subdivision scenario to the City Manager for his advice and recommendation. Mr. Roberson recommended we inform City Council, that effective August 09, 2016, that Northgate Subdivision would be charged at the same rate as all other subdivision developments within our jurisdiction. According to city records, the closeout public hearing was held in November, 2015 for Northgate. Therefore, it is our opinion and recommendation the City of Washington should begin charging the same rate for water and sewer services, including taps, as any other development in our jurisdiction.

No action is required by City Council, at this time. The summary presented is for informational purposes in case City Council members receive questions as to why the increases to water and sewer services are occurring, at this time for Northgate Subdivision.

*OK
FB*



MEMORANDUM

To: Mayor Hodges & Members of the City Council
From: Matt Rauschenbach, Administrative Services Director/C.F.O.
Date: August 8, 2016
Subject: Reporting of Bad Debt Write-Offs FY 2016

The following accounts have been written off in accordance with the City of Washington's Policy for Write-off of Uncollectible Accounts Receivable.

Table with 2 columns: Category Description and Write-off. Rows include Electric utilities (144,452.96), Electric property damage (1,901.44), Water utilities (12,528.19), Sewer utilities (19,387.13), Sanitation utilities (6,665.87), Storm Water utilities (1,547.55), EMS Charges (226,517.09), and Total (\$ 413,000.23).

Debt set off and a collection agency are utilized for the collection of delinquent accounts. Accounts are written off after 5 years in accordance with the City's write-off policy.

The EMS write-offs are consistent with past performance. Our collections represent 78% and are consistent with the industry norm. Medicare and Medicaid pay 96% after contractual allowances, insurance 79%, and patients 11%. Our revenue has increased from \$350,000 to \$714 ,000/year since we began using EMS Management Consultants for our billing and collection in 2010. EMS write-offs will continue to be substantial in the future due to contractual allowances and expected collection rate.

Policy for Write-off of Uncollectible Accounts Receivable was adopted July 18, 2011.

Handwritten initials and date: MR 8/3



MEMORANDUM

To: Mayor Hodges & Members of the City Council
From: Jeff Clark, Electric Director
Date: August 8, 2016
Subject: Whitepost & Highland Dr. Electric Projects

\$100,000 is budgeted this fiscal year for the engineering of the Whitepost to Slatestone tie phase 1 and \$50,000 to engineer the Highland Dr. feeder rebuild.

Phase 1 construction of the Whitepost to Slatestone tie is in the CIP for \$1.3 million and phase 2 for \$900,000.

The construction cost of the Highland Dr. feeder rebuild is in the CIP for \$700,000.

Staff requests Council's confirmation of support for the construction phases of these projects prior to expending funds on the engineering

JHC
8/3

Grant Executive Summary
as of 7/19/2016

Active		Dates		Financials				Notes
		Award	Expiration	Revenue		Expense		
Fund	Grant Description					Budget	Actual	Budget
51	Trillium Health Play Together	09/18/15	06/30/16	284,156	131,757	284,156	124,825	Complete
54	Hotel Project NAP, Rural EIP	08/20/15	08/20/17	206,400	214,450	206,400	550	Construction in progress
55	idX/Impressions NC One Grant	09/30/13	09/30/16	300,000	-	300,000	-	Jobs created but not since award date
58	RZEDB- Storm Water Project			5,012,039	5,012,099	5,012,039	4,851,815	Engineering complete, easements acquired, waiting on permits
59	idX Building Reuse	12/18/14	12/18/16	512,500	4,000	512,500	2,658	1 year construction extension granted
61	Pedestrian Plan Grant	05/20/13	09/30/13	10,000	10,000	10,000	-	Plan presented to RAC in May, Planning Board June, Council July
64	Police Station CPF			1,241,854	1,033,101	1,241,854	167,108	Negotiate property purchase
65	Software Capital Project Fund			250,000	150,000	250,000	-	Council approve PO's July 25th
67	Façade Grant Program			20,000	-	20,000	-	In progress
69	Way Finding			160,000	150,721	160,000	20,913	Signs bid July 25th
71	Airport Lighting Rehab			460,121	437,008	460,121	443,939	Close grant
74	Sewer I&I rehab/CWSRF	06/03/15		2,000,000	-	2,000,000	155,300	Preliminary engineering underway, Phase 1 complete
76	EDA Water Projects	09/11/13	03/11/17	1,428,262	1,057,084	1,428,262	1,121,899	Close grant
77	EDA Sewer Grants	09/11/13	03/11/17	1,423,894	1,208,477	1,423,894	1,012,449	Close grant
	CDBG Keysville Rd.	2005	6/4/2013	320,000	320,000	320,000	320,000	Lot 3 LMI qualified

Applications/Awards

	Pre-App	Selected	Grant	Match	Total	
Recreation Trails Program	7/14/15		19,500	6,500	26,000	Partnered with Sound Rivers
FEMA- Radios	1/12/16		52,381	2,619	55,000	
NC GCC- Communication System	1/12/16		25,000	0	25,000	Police internal communication system
Airport runway rehab design						

AKK
8/13

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
General Fund:								
Purchasing	10-00-4131-7400	Parking lot 1/3	30,084	30,084	0	0	Complete	
		Lighting	27,330	21,398	0	5,932	Complete	
IT	10-00-4132-7400	Network switches	12,306	11,833	0	473	Complete	
		SAN upgrade	37,000	30,792	0	6,208	Complete	
Police	86-60-4930-4310	Vehicles #136,142,160,&164	142,000	116,757	19,906	5,337	Received, equipment on order	
Fire	10-10-4341-7400	Defibrillator	30,000	28,911	0	1,089	Complete	
	86-60-4930-4340	Fire Engines	950,845	880,828	36,356	33,661	2nd engine on order	
	86-60-4930-4341	EMS truck 1	153,495	153,491	0	4	Complete	
Code Enforcement	86-60-4930-4350	Vehicle #121	23,190	23,189		1	Complete	
Street Maintenance	86-60-4930-4510	Dump truck #455	67,470	67,088	0	382	Complete	
Rec. Administration	10-40-6121-7400	Bobby Andrews Roof	64,465	64,464	0	1	Complete	
Senior Center	10-40-6123-7400	HVAC	5,900	5,894	0	6	Complete	
Rec. Maintenance	10-40-6130-7400	Grasshopper mower	11,000	11,000	0	0	Complete	
		Ballfield rake	13,000	12,983	0	17	Complete	
Total General Fund			1,568,085	1,458,712	56,262	53,111		
Water:								
Miscellaneous	30-90-6610-7400	Network switches	12,306	11,683	0	623	Complete	
	30-90-6610-7400	GIS 1/2	12,100	9,250	2,850	0	Completed June 30th	
Treatment	30-90-8100-7400	Vehicle #550	28,850	28,848	0	2	Complete	
Maintenance	30-90-8140-7400	Vehicle #416	24,650	24,649	0	1	Complete	
Total Water Fund			77,906	74,430	2,850	626		
Sewer:								
Miscellaneous	32-90-6610-7400	Network switches	12,306	11,683	113	510	Complete	
	32-90-6610-7400	GIS 1/2	12,100	9,250	2,850	0	Completed June 30th	
Treatment	32-90-8220-7400	Vehicle #551	27,000	26,249	0	751	Complete	
Lift Stations	32-90-8220-7400	Video surveillance system	25,000	14,179	0	10,821	Complete	
	32-90-8230-7400	Springs Rd panel A & B	40,000	39,986	0	14	Complete	
Total Sewer Fund			116,406	101,347	2,963	12,096		

Asak
8/13

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
Storm Water:								
	34-90-5710-7400	Drainage improvements	150,000	35,665	17,695	96,640	Easements & permits being acquired	
Electric:								
Electric Director	35-90-6610-7400	Network switches	12,306	11,683	0	623	Complete	
Electric Meter Service	35-90-7250-1500	Parking lot 1/3	30,084	30,084	0	0	Complete	
	35-90-7250-7400	Meters	50,000				Complete	
		2015 PO's	19,855				Complete	
		Vehicle #655	25,000				Complete	
		Total Electric Meter Svc.	124,939	91,116	0	3,739		
Substation Maint.	35-90-8370-7400	Distribution reclosers	20,000				Complete	
		Capacitors	8,000				Complete	
		Slatestone subst./recloser	20,000				Complete	
		Forest Hills substation	42,760				Complete	
		Main sub circuit exits	262,969				Complete	
		Main sub B3 breaker	50,000				Complete	
		Total Substation	403,729	403,729	0	0		
Power Line Maintenance	35-90-8380-1500	Parking lot 1/3	30,083	30,083	0	0	Complete	
Power Line Construction	35-90-8390-7400	Vehicle UTV	15,000				Complete	
		2015 PO's	260,045				Complete	
		NC 32 Reconductoring	330,000				3 miles complete, 4th mile Sept. 1st	
		Grimesland Rd. Feeder	310,000				Waiting on river crossing permit	
		Vehicle #614	35,000				Complete	
		Excavator #610	60,000				Complete	
		2nd/5th St. circuit rebuild	322,788				Completed July 22	
		Vehicle #608	72,500				On order	
		Total Power Line Construct	1,405,333	864,169	201,928	339,236		
		Total Electric Fund	1,976,390	1,400,780	201,928	343,598		
Cemetery Fund	39-90-4740-7400	Vehicle #510	20,000	18,762	0	1,238	Complete	
		Zero turn mower	6,800	6,500	0	300	Complete	
		Total Cemetery	26,800	25,262	0	1,538		
Grand Total		Grand Total	3,915,587	3,096,196	281,698	507,609		

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
General Fund:								
IT	10-00-4132-7400	Tropos Wifi Mesh Routers	10,000			10,000		
		Wireless access points	10,000			10,000		
		Upgrade to 10 Gb network	5,000			5,000		
Municipal Building	10-00-4260-7400	HVAC blower & filtration	55,000			55,000		
Police	10-10-4310-7400	Communication tower	20,000			20,000		
Fire	10-10-4340-7400	Extrication tool	8,800			8,800		
EMS	10-10-4341-7400	Cardiac defibrillator	30,000			30,000		
Water Front Docks	10-40-6124-7400	Promenade improvements	30,000			30,000	Bidding	
		Building	20,000			20,000	Design in progress	
Aquatic Center	10-40-6126-7400	Roof replacement	40,000			40,000		
Rec. Maintenance	10-40-6130-7400	Complex sidewalk	56,000			56,000		
		BB Memorial restrooms	50,000			50,000		
		Top dressing machine	15,000		15,000	0	On order	
		Maintenance shop	30,000			30,000		
Police	86-60-4930-4310	Vehicles #145, 147, 158	111,000			111,000		
Fire	86-60-4930-4340	Fire Engine 3	500,000	429,986	36,356	33,658	On order	
		Vehicle #238	35,000			35,000		
Total General Fund			1,025,800	429,986	51,356	544,458		
Water:								
Treatment	30-90-8100-7400	Vehicle #554	19,000			19,000		
		Amomoniators	15,000			15,000		
		Mower	9,500		8,999	501	On order	
Distribution Construction	30-90-8180-7400	Runyon Hills to U.S. 264 tie	50,000			50,000		
		Total Water Fund	93,500	0	8,999	84,501		
Sewer:								
Treatment	32-90-8220-7400	Spare mixer pump oxidation	20,000		17,671	2,329	On order	
		Spectrophotometer	5,600		5,594	6	On order	
		10 ton HVAC for MCC	15,000		11,700	3,300	On order	
Lift Stations	32-90-8230-7400	Spare pump 5th & Respass	85,000			85,000		
		Total Sewer Fund	125,600	0	34,965	90,635		

8/3

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
Storm Water:								
	34-90-5710-7400	Drainage Impr. Willow St.	167,500		15,537	151,963	In progress	
Electric:								
Electric Director	35-90-7220-7400	Map plotter	10,000			10,000		
Electric Meter Service	35-90-7250-7400	Meters	50,000			50,000		
Substation Maint.	35-90-8370-7400	Distribution reclosers	20,000					
		Capacitors	10,000					
		Forest Hills RTU	5,500					
		Main substation RTU	50,000					
		Tower US 264 & Hodges Rd.	20,000					
		Wharton sub breaker	50,000					
		Total Substation	155,500		27,292	128,208		
Load Management	35-90-8375-7400	LM switches	70,000			70,000		
Power Line Maintenance	35-90-8380-7400	Truck shelter & wire storage	10,000			10,000		
Power Line Construction	35-90-8390-7400	Grimesland Rd feeder	310,000					
		Cherry Rd feeder phase 1	65,000					
		Avenue Rd feeder phase 1	50,000					
		White Post-Slatestone tie	100,000					
		Highland Drive feeder engr	50,000					
		Festival park pedestal décor	20,000					
		Vehicle #601	55,000					
		Vehicle #682	260,000					
		Wire tensioner & puller	200,000					
		Total Power Line Constructi	1,110,000			1,110,000		
		Total Electric Fund	1,405,500	0	27,292	1,378,208		
Airport Fund	37-90-4530-7400	Anexx building steps	10,000			10,000		
Cemetery Fund	39-90-4740-7400	Shelter phase 2	16,500			16,500		
Grand Total		Grand Total	2,844,400	429,986	138,149	2,276,265		



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Kristi Roberson, Parks & Recreation Director
Date: August 8, 2016
Subject: Public Beach & Coastal Waterfront Access Funds 2016-2017 Grant – Havens Gardens Fishing Pier
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council authorize the Recreation Director to apply for the Public Beach & Coastal Waterfront Access Funds Grant in the amount of \$93,000.00 for the Havens Gardens Fishing Pier. The grant requires a 10% match, at least half of the location contribution must be a cash match.

BACKGROUND AND FINDINGS:

Feb 2016 - The Recreation Advisory Committee recommended to pursue the funding opportunity for the Havens Gardens Pier.

The new pier would include cut outs for handicap accessible fishing and would match the marine slats of the Municipal Pier. The Pier is in the Capital Improvement Plan, however the CIP price does not reflect handicap accessible fishing cut outs.

Funding decisions will be made in early September 2016 and anticipate contracts executed in November 2016.

PREVIOUS LEGISLATIVE ACTION

March 2016 – City Council authorized the Recreation Director to apply for the pre-application for the Public Beach and Coastal Waterfront Access Funds Grant.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

NC Public Beach and Coastal Waterfront Access Program Final Application

City Manager Review: 8/3 Concur _____ Recommend Denial _____ No Recommendation
REC Date



**PUBLIC BEACH AND
COASTAL WATERFRONT
ACCESS PROGRAM**

NC COASTAL MANAGEMENT PROGRAM

Application Deadline: August 15, 2016

FINAL APPLICATION 2016-2017 Cycle

North Carolina Public Beach and Coastal Waterfront Access Program

Please complete a separate application for each proposed project and submit two (2) printed copies and one (1) cd or USB Flash drive with digital files to your DCM District Planner.

This application is also available online at: <http://www.nccoastalmanagement.net>. Click on the link to "Land Use Planning/Beach & Waterfront Access".

Local Government: City of Washington

Federal ID #: 56-600-1364

Lead Elected Official: Mac Hodges

Title: Mayor

Address: PO Box 1988
Washington, NC 27889

Project Name: Havens Gardens Park Pier

Is this an ongoing project (for example, Phase II of a previously funded project, or improvement to an existing project)?

Yes: _____ No:

If yes, please describe: _____

Project Type: Neighborhood
(Local, Neighborhood, Regional, Urban Waterfront Redevelopment)

Land Acquisition: Yes: _____ No:

Site Improvements: Yes: No: _____

Previous DCM Access Grant Recipient: Yes No: _____
If Yes, When: 2010 & 2014 How Many: 2

Additional Project Costs and Funding Sources NOT included in this proposal (if applicable):

Cost \$ _____ Source: _____

Cost \$ _____ Source: _____

Cost \$ _____ Source: _____

Local Administrator of this Project:

Kristi Roberson

Title: Director of Parks & Recreation

Address: PO Box 1988
Washington, NC 27889

Phone: 252-975-9636

Fax: 252-946-1964

Email Address: kroberson@washingtontnc.gov

Signature: _____

Name (print): Kristi Roberson

Date: 8/1/16

Budget Totals and Financial Assistance Requested: Provide information from Summary Budget.

Application Budget Total:

- | | | |
|----|--------------------------------|-------------|
| 1. | DCM Grant Assistance Requested | \$83,700.00 |
| 2. | Local Contribution | \$9,300.00 |

Local Cash: \$9,300.00

Local Cash (Grant Assistance): \$ _____ Funding Source: _____

Local Cash (Grant Assistance): \$ _____ Funding Source: _____

Local In-Kind \$ _____

TOTAL COST \$93,000.00

Public Beach and Coastal Waterfront Access Program – 2016-2017 Cycle





REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Stacey Christini, Human Resources Director
Date: August 1, 2016
Subject: Classification and Pay Study Comparable Agencies

RECOMMENDATION:

I move that the City Council approve the following list of comparable agencies to use for the Classification and Pay Study and authorize Piedmont Triad Regional Council of Governments (PTRC) to expand the comparable agencies, if necessary.

- Counties: Beaufort, Pamlico, Hyde, Washington, Martin, Pitt and Craven
- Municipalities: New Bern, Vanceboro, Kinston, Greenville, Williamston, Plymouth, Winterville, Tarboro and Greenville Utilities.
- Private Sector: Duke Energy and Tideland EMC for Transfer & Distribution classifications
Vidant Hospital for Police and Maintenance classifications

Others: Sometimes (PTRC) finds that the market study group does not have enough comparable classes to make valid comparisons for one or two classes and, if that happens, (PTRC) will need to expand the group to include enough comparative data.

BACKGROUND AND FINDINGS:

In order to determine appropriate salary levels of positions in the workforce and to address the issue of comparable compensation, Piedmont Triad Regional Council of Governments (PTRC) will conduct a comprehensive classification and pay study to compare city positions with similar positions in other comparable agencies in the area labor market with whom the city competes. External market comparisons for positions will be based on, geographic location, job responsibilities, scope of authority, level of difficulty and other relevant factors.

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT:

___ Currently Budgeted (Account _____) ___ Requires additional appropriation X No Fiscal Impact

SUPPORTING DOCUMENTS:

City Manager Review: MEC Concur _____ Recommend Denial _____ No Recommendation
8/3 Date August 8, 2016
Page 26 of 63



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: John Rodman, Community & Cultural Services
Date: August 1, 2016
Subject: Approve Waterfront Dock Agreements (Leases)
Applicant Presentation: N/A
Staff Presentation: John Rodman, Community and Cultural Services

RECOMMENDATION:

I move that the City Council adopt the updated Waterfront Dock Agreements for the following vessels; The River Rover, The ECU Research Vessel Riggs, and Seatow IBX and the agreement for the Little Washington Sailing School. These leases are for a one (1) year period.

BACKGROUND AND FINDINGS:

These leases have been updated to reflect new information for each water craft and to reflect the same extension period of every one (1) year. The proposed changes are highlighted in yellow and the removal of information is shown by a strike-thru. The documents were reviewed by the City Attorney and the Risk Manager.

PREVIOUS LEGISLATIVE ACTION

Recommended for approval by the Waterfront Docks Advisory Committee

FISCAL IMPACT

___ Currently Budgeted (Account _____) ___ Requires additional appropriation
 X No Fiscal Impact

SUPPORTING DOCUMENTS

Waterfront Docking Agreements

City Manager Review: 8/3 Date Concur AR Recommend Denial ___
No Recommendation ___

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCKING AGREEMENT

THIS AGREEMENT, is made and entered as of the 1st day of January, 2016, by and between the City of Washington, North Carolina (hereinafter referred to as "Waterfront Docks") and Inland Enterprises LLC DBA Seatow IBX (hereinafter referred to as "Boat Owner"). For and in consideration of \$1.00 and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein as well as valuable consideration paid and to be paid, Waterfront Docks and School agree as follows.

1. **GRANT OF LICENSE.** Waterfront Docks hereby grants to Boat Owner and Boat Owner hereby accepts from Waterfront Docks a license to use a certain portion of Waterfront Docks' piers known to Waterfront Docks as Dock B and Slip No. 2 Dock F, Slip No. 1 (hereinafter referred to as "Slip") subject to the terms and conditions set forth herein. It is agreed between the parties that this license is personal to Boat Owner and shall not inure to the successors or assigns of Boat Owner. Boat Owner agrees that it does not possess and shall not claim at any time an interest or estate of any kind or extent whatsoever by virtue of this license or Boat Owner's exercise or use hereunder of the same and Waterfront Docks conveys no interest in property, including but not limited to Slip, dock, or pier, to Boat Owner by this Agreement.

2. **BOAT AND OWNER IDENTIFICATION AND CONTACT INFORMATION.** The boat (hereinafter referred to as "Boat") to be berthed in the Slip is described as follows.

Name of Boat: <u>Seatow Pamlice IBX</u>		Make: Triumph		Model: Chaos		
Year: 2006	Registration/Documentation #: # NC 6084DF			Length: 21'5"	Beam: 8'	Draft: 12"
Owner's Address: <u>4066 Hubs Rec Rd. Belhaven, NC 27810</u> <u>3383 Possum Hill Road, Bath, NC 27808</u>				Social Security No.: xxx-xx-2783		
Work Phone: 252-964-3171	Home Phone: 252-940-9965	Emergency Phone: 252-940-9965		Email: <u>lwilliams@seatow.com</u>		
Insurer: Copper Insurance Co.			Policy #: HGL 00164201		Insurer's Phone: 252-794-4036	

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

3. **RENTAL/TERMINATION/LATE CHARGES.** The term of this Agreement shall be for one (1) year, beginning on the 1st day of January, 2016, and ending on the 31st day of December, 2016. Boat Owner shall provide Waterfront Docks the services listed in paragraph 3b hereof in lieu of paying Waterfront Docks for the use of the Slip, as provided herein, \$275 \$182 per month, payable in advance, beginning the 1st day of April, 2014, January, 2016 and ending on the 31st day of March, 2015 December, 2016. This Agreement may be terminated by Waterfront Docks, with or without cause, upon thirty (30) days notice to Boat Owner. This Agreement may be terminated by Boat Owner, with or without cause, as long as: a) Boat Owner has complied with and is current on all obligations required of Boat Owner in this Agreement and b) Boat Owner provides thirty (30) days written notice to Waterfront Docks. Payments made by Boat Owner must be received by Waterfront Docks as stated herein at the following address: P.O. Box 1988, Washington, N.C. 27889 or such other place as Waterfront Docks may designate. Should Boat Owner leave or abandon the Slip during the term of this Agreement, Boat Owner shall forfeit any monies paid and not be entitled to any refund from Waterfront Docks. If any rent is not paid within fifteen (15) days of when due, Waterfront Docks shall a) be entitled to assess a late fee of 1.5% of the amount then due and, in addition to the late fee, the amount then due shall bear interest at the rate of 18% per annum or the maximum legal rate, whichever is less, from the date due until the same shall be paid and/or b). Should Seatow IBX fail to provide the services listed in 3b within the time allowed, Upon expiration or earlier termination of this Agreement, Boat Owner shall remove the boat from the slip within ten (10) days. Should Boat Owner fail to remove the Boat within time allowed, Waterfront Docks shall have the right to relocate the Boat from the Slip, including but not limited to placing it at anchorage, and receive reimbursement and indemnification from Boat Owner for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (hereinafter referred to as "Rules").

a. **EXTENSION.** Should Boat Owner desire to extend this Agreement beyond the initial one (1) period; then, in that event, Boat Owner shall notify Waterfront Docks ninety (90) days prior to the end of the initial term. The parties hereby agree that, upon such notice, the parties will enter into good faith negotiations to extend this Agreement.

However, Waterfront Docks is under no obligation whatsoever to extend this Agreement beyond the initial one (1) period.

b. Boat Owner shall properly remove debris from the waterfront docks area within a reasonable period of time after receiving such a request from Waterfront Docks or after Boat Owner becomes aware of the necessity for such removal. Upon request of Waterfront Docks, Boat Owner may, in Boat Owner's discretion, provide reasonable assistance to Waterfront Docks concerning boats with which Waterfront Docks has an existing Waterfront Docking Agreement.

4. **CONDITION OF SLIP.** Boat Owner hereby accepts the condition of the Slip and common areas of Waterfront Docks "AS IS" and Boat Owner acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of the waterfront docks. Boat Owner covenants to satisfy himself that the Slip and berthing space are adequate for the safe berthing of his Boat. Boat Owner shall exercise due caution in occupation of the Slip, shall take good care of the Slip and, at the expiration or earlier termination of this Agreement, shall surrender and deliver the Slip to Waterfront Docks in as good condition as when received by Boat Owner from Waterfront Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of, in any manner, Boat Owner's personal property that is not removed from the Slip or waterfront docks by Boat Owner at the expiration or earlier termination of this Agreement. Boat Owner waives all claims against Waterfront Docks for any damage to Boat Owner resulting from Waterfront Docks' removal of Boat Owner's personal property at the expiration or earlier termination of this Agreement. Boat Owner shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Boat Owner's personal property at prevailing rates.

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

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

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

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

a. Notwithstanding any provision in the Rules to the contrary, Boat Owner shall not be required to move his Boat after the Pamlico Sound area is given a NOAA Weather Warning Condition.

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

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

a. Notwithstanding the foregoing or anything contained in the attached Rules to the contrary, Waterfront Docks

hereby authorizes Boat Owner to utilize said Slip to berth and operate one Seatow boat and provide Seatow's customary marine services to the public. Boat Owner shall perform all activities associated with its services in such a manner that such activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of other slips by other boat owners. Boat Owner agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

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

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

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

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

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

~~a. b. Commercial general liability insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1 million per occurrence and \$1 million aggregate, general marine liability, products and completed operations liability; personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.~~

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

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

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

~~f. At the option of Boat Owner, the above limits may be less than stipulated herein so long as Boat Owner obtains and maintains an excess policy providing the additional limits needed. This form of coverage must be approved by Waterfront Docks and will only be acceptable when both the primary and excess policies include the coverage and endorsements required herein.~~

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

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

13. **UTILITIES.** Waterfront Docks shall furnish electric power and freshwater to certain piers but shall not be under any obligation to furnish the same to the Boat. Waterfront Docks reserves the right to individually meter electricity consumed by the Boat Owner and to charge Boat Owner for such metered electricity. All amounts due for electricity, whether metered or not, shall be deemed additional rent due under this agreement.

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

15. **REFUSE.** Boat Owner shall be solely responsible for the proper and prompt disposal of any and all garbage or trash that may be produced by Boat, Boat Owner, and/or as a result of its utilization of the Slip as contemplated by paragraph number 8 hereof.

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

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

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

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

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

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

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

22. **INDEMNIFICATION.** Boat Owner does for itself, its agents, successors, assigns, customers, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Boat Owner's operation of the Boat, Boat Owner's dinner cruise operation and/or Boat Owner's use of the Slip and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to 1) any injury, including death, to any person, 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence, and 3) any claim of Boat Owner's customers, invitees, guests, and/or boarders of the Boat caused by, related to, or arising from Boat Owner's use of the Slip, Boat Owner's contemplated dinner cruise operations or this Agreement.

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

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

25. **REPORTING REQUIREMENTS.** Boat Owner shall keep or cause to be kept complete records of the business it conducts or transacts arising from this Agreement as well as any additional records reasonably requested and, upon request, provide any such records or reports that may be required by the City Council or City Manager.

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

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

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

BOAT OWNER

CITY OF WASHINGTON

By: _____ (SEAL)

By _____ (SEAL)

Larry Williams, Member/Manager
Inland Enterprises, LLC *DBA Seatow IBX*

Name: _____

Title: _____

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCKING AGREEMENT

THIS AGREEMENT, is made and entered as of the **1st day of April January, 2016**, by and between the City of Washington, North Carolina (hereinafter referred to as "Waterfront Docks") and Little Washington Sailing School, Inc. (hereinafter referred to as "School"). For and in consideration of \$1.00 and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein as well as valuable consideration paid and to be paid, Waterfront Docks and School agree as follows.

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

a. School shall obtain whatever permission is legally required, including but not limited to a CAMA permit or a modification to the current CAMA permit, from the appropriate agency(ies) or entity(ies) that will give School the legal right and authority (hereinafter referred to as "Permit") to exercise the rights and authority granted and contemplated by this Agreement. School shall not exercise any of the rights and authority granted and contemplated by this Agreement until School has received said Permit, provided said Permit to Waterfront Docks, and received approval of the Permit from Waterfront Docks. Upon receipt of approval from Waterfront Docks of said Permit, School shall exercise its rights and authority hereunder consistent with the terms and conditions of said Permit, as may be amended.

2. **BOAT AND OWNER IDENTIFICATION AND CONTACT INFORMATION.** The boat (hereinafter referred to as "Boat") to be berthed in the Slip is described as follows.

Name of Boat: No Name Primary Vessel		Make: Avon	Model: Center Console		
Year:	Registration/Documentation #: NC 8960DH		Length: 14'	Beam:	Draft: 18"
Owner's Address: 124 S. Market Street, PO Box 1865, Washington, NC			Social Security No.: N/A		
Work Phone: 252-402-7878	Home Phone: 252-945-4030	Emergency Phone: Anne Kumins David Norwood 252-833-4333 252-341-7836		Email: kevinsclancey@gmail.com david@carolinawind.com	
Insurer: CHUBB Group Insurance Co.		Policy #: 3601-5619 EUC		Insurer's Phone: 401-336-2180	

Contemporaneously with the execution hereof, School shall provide Waterfront Docks with the above information concerning any and all dinghies, vessels, boats, etc. that School will utilize in its program and/or locate or berth at the Fixed Dock or Floating Dock. The information provided above is true and accurate. School agrees that, if any of the above information subsequently changes, School will provide updated information to Waterfront Docks within fourteen (14) days of such change.

3. **USE OF DOCK.** Notwithstanding anything herein or anything contained in the Rules to the contrary, Waterfront Docks authorizes School to utilize Fixed Dock in conjunction with its sailing instruction program (herein referred to as "Program"). School will attach **a two (2)** 20 foot by 40 foot Floating Dock(s) (herein referred to as "Floating Dock(s) ") to **one-half** all of Fixed Dock using mooring lines & pilings. School will attach fixed fenders to the Fixed Dock pilings between said pilings and the Floating Dock(s) to prevent damage to said pilings and Fixed Dock from the Floating Dock(s). School will provide access from Fixed Dock to Floating Dock(s) by installing a ladder (boarding steps) to the Floating Dock that will lead to the Fixed Dock(s). School will utilize said Floating Dock(s) for stowage of and access to sailing dinghies (hereinafter referred to as "Vessels") utilized in the Program. Subject to advance permission from and any related requirements of Waterfront Docks, School may dock two chase boats at the Floating Dock(s) to be used solely in conjunction with said Program. Said chase boats shall be subject to the same relocation and removal terms and are

applicable to the Floating Dock(s) and Vessels. School shall not be entitled to berth any other boat at the Fixed Dock or Floating Dock(s) or attach other appurtenances to Fixed Dock, other than as identified above, without the express written consent of Waterfront Docks. School shall not use the Fixed Dock as rental property, a dwelling, or for any purpose other than the purposes stated herein without prior written consent of Waterfront Docks. School shall have no interest in the Fixed Dock other than the right to use said space in accordance with the terms and conditions of this Agreement and any rules and regulations as Waterfront Docks may make respecting the use thereof. School shall coordinate all activities with Waterfront Docks. School shall perform all activities associated with its Program in such a manner that such activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of slips by boat owners. School agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

a. School shall require all students in its Program to execute and return a release and indemnification in a form satisfactory to Waterfront Docks prior to commencement of any activity related to the Program.

4. **TERM.** School may utilize Fixed Dock for a twelve (12) month period, beginning on the ~~8th~~ 1st day of April January, 2016 and ending on the ~~7th~~ 31st day of March December, 2016. Either party may terminate this Agreement, with or without cause, upon thirty (30) days notice. Upon expiration or termination of this Agreement, School shall remove said Floating Dock(s) and Vessels from Fixed Dock within ten (10) days. Should School fail to relocate Floating Dock(s) and Vessels within the time allowed, Waterfront Docks shall have the right to relocate the Floating Dock(s) and Vessels from the Fixed Dock, including but not limited to placing them at anchorage or storing them on land, and receive reimbursement and indemnification from School for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules")_____

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

a. b. Waterfront Docks waives the two-day maximum stay for use of Dock J in the area known as the free docks by the School for its Program during the term of this Agreement.

5. **CONDITION OF FIXED DOCK.** School hereby accepts the condition of the Fixed Dock and common areas of Waterfront Docks "AS IS" and School acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Fixed Dock, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of the waterfront docks. School covenants to satisfy itself that the Fixed Dock and berthing space are adequate for the safe berthing of its Floating Dock(s) and Vessels. School shall exercise due caution in occupation of the Fixed Dock, shall take good care of the Fixed Dock and, at the expiration or earlier termination of this Agreement, shall surrender and deliver the Fixed Dock to Washington Docks in as good condition as when received by School from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of, in any manner, School's personal property that is not removed from the Fixed Dock or the waterfront docks by School at the expiration or earlier termination of this Agreement. School waives all claims against Waterfront Docks for any damage to School resulting from Waterfront Docks' removal of School's personal property at the expiration or earlier termination of this Agreement. School shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of School's personal property at prevailing rates.

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

b. School shall keep the waterfront area around the Fixed Dock clean as well as litter free and in a presentable, acceptable and satisfactory condition to the City.

6. **BAILMENT.** It is understood and agreed that this Agreement does not constitute a bailment. Except as otherwise provided herein, School retains and has exclusive care, custody, control, and access to the Floating Dock(s), Vessels, chase boats and their respective contents at all times.

7. **GENERAL RESPONSIBILITIES AND OBLIGATIONS.** Waterfront Docks' employees, in their sole discretion, may make reasonable efforts to inform School of dangerous conditions requiring School's attention, but Waterfront Docks assumes no responsibility or liability for the same, including but not limited to tending mooring lines, moving the Floating

Dock(s) or Vessels, or moving boats from berths to which they are or were assigned. School further agrees to provide Waterfront Docks a key or combination to locks securing the Vessels, if any. It is expressly agreed that Waterfront Docks shall not be liable to School if for any reason Waterfront Docks fails to move the Floating Dock(s) or Vessels at any time for any reason.

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

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

10. **NO ASSIGNMENT OR SUBLICENSING.** This Agreement is not transferable or assignable and runs to School only. School may not assign this Agreement or sublicense the Fixed Dock. In the event School suspends its Program, Waterfront Docks shall have the right to cancel this Agreement.

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

a. Commercial General Liability Insurance, including general marine liability, products and completed operations liability; personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000 per occurrence and ~~\$2,000,000.00~~ \$1,000,000 aggregate.

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

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

13. **UTILITIES.** Water, sewer, and electric utilities are not available at Fixed Dock.

14. **CHANGES TO COMMON AREA/DOCK ASSIGNMENT.** Waterfront Docks reserves the right, without recourse to School, to relocate and/or change any access ways, parking and similar areas, as may be necessary in Waterfront Docks' sole discretion for the efficient operation of the waterfront docks or for any other purpose. Waterfront Docks may permanently reassign the School to another dock only upon written request to and written acceptance from School. In which case, said written request and acceptance shall serve as an amendment hereto, but only as to the dock to be licensed and shall not affect any other provision hereof unless such further revision is reduced to writing and signed by the parties hereto. Waterfront Docks reserves the right, without recourse to School, to temporarily relocate the School to another location on the waterfront, including another dock, in Waterfront Docks' sole discretion. School shall temporarily relocate their Floating Dock(s) and Vessels as and when directed by Waterfront Docks if practical and reasonable. If School's assistance in such temporary relocation is not practical and reasonable, Waterfront Docks is authorized to

perform such temporary relocation of the Floating Dock(s) and Vessels. The term "Fixed Dock" as used herein shall also apply to the location or dock to which the Floating Dock(s) and Vessels are permanently reassigned or temporarily relocated as provided for hereinabove.

15. **SECURING THE FLOATING DOCK(S), GANGWAY AND VESSELS.** The Floating Dock(s) and gangway shall be secured to the Fixed Dock in a manner acceptable to Waterfront Docks. School Vessels will be secured when stowed or docked. If Waterfront Docks secures the Floating Dock(s), gangway or Vessels, Waterfront Docks is entitled to reimbursement and indemnity as more specifically provided for in the attached Rules.

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

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

- a. Notwithstanding anything herein or anything contained in the Rules to the contrary, Floating Dock(s), gangway and Vessels must be removed when the Pamlico area is placed under a NOAA weather warning in accordance with Rule 21 of the Rules.
- b. Notwithstanding anything herein or anything contained in the Rules to the contrary, with the exception of School Vessels, there shall be no storage of any items of any kind upon the Fixed Dock or Floating Dock(s) without advance permission from Waterfront Docks.

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

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

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

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

21. **INDEMNIFICATION.** School does for itself, its agents, successors, assigns, customers, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on

account of, or in any way related to or growing out of this Agreement, including but not limited to School's operation of the Program, School's sailing instruction operation and/or School's use of the Fixed Dock and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to:

1) any injury, including death, to any person, 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence, and 3) any claim of School's participants, customers, invitees, guests, and/or boarders of the Vessels caused by, related to, or arising from School's use of the Fixed Dock, School's Program or the contemplated sailing instruction operations or this Agreement.

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

23. **REPORTING REQUIREMENTS.** School shall keep or cause to be kept complete records of the business it conducts or transacts arising from this Agreement as well as any additional records reasonably requested and, upon request, provide any such records or reports that may be required by the City Council or City Manager.

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

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

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

LITTLE WASHINGTON SAILING SCHOOL, INC.

CITY OF WASHINGTON

By: _____ (SEAL)

By _____ (SEAL)

Name: _____

Name: _____

Title: _____

Title: _____

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCKING AGREEMENT

THIS AGREEMENT, is made and entered into as of the ~~20th day of December, 2013~~ **1st day of January, 2016** by and between the City of Washington, North Carolina (hereinafter may be referred to as "Waterfront Docks") and the Partnership for the Sounds, Inc. d/b/a the North Carolina Estuarium (hereinafter may be referred to as "Boat Owner"). For and in consideration of \$1.00, the mutual covenants contained herein as well as valuable consideration paid and to be paid, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Waterfront Docks and Boat Owner agree as follows.

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

2. **BOAT AND OWNER IDENTIFICATION.** The boat (hereinafter referred to as "River Rover or Boat") to be berthed in the Slip is described as follows.

Name of Boat: River Rover		Make: Godfrey		Model: 2586RE SW		
Year: 2006	Registration/Documentation #: NC-7322 DD Hull ID – GDY5177WD606			Length: 25'	Beam: 8'	Draft: 1'
Owner's Address: 223 E. Water Street, Washington, NC				Social Security No.: N/A		
Work Phone: 252-948-0000	Home Phone: 252-947-2526	Emergency Phone: 252-946-8610		Email: tmstroud@embarqmail.com		
Insurer: NC Association of County Commissions Liability and Property Pool			Policy #: LP-PA-467-10	Insurer's Phone: 919-719-1170		

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

3. **RENTAL/TERMINATION/LATE CHARGES.** In recognition of the obvious and immeasurable benefits to the City of Washington, its citizens, and the public at large that will result from the location and operation of the River Rover on the City of Washington waterfront, including but not limited to the opportunity to give tours of the Pamlico and Tar Rivers to patrons of the North Carolina Estuarium, rental in the amount of ~~\$260.00~~ **\$182.00** per month shall be waived and Boat Owner shall be entitled to utilize the license granted ~~herein beginning on the 20th day of December, 2013 and ending on the 19th day of December, 2014~~ **for a one (1) year term, beginning on the 1st day of January, 2016 and ending on the 31st day of December, 2016.** This Agreement may be terminated by either party, with or without cause, upon thirty (30) days notice to the other party. Upon expiration or earlier termination of this Agreement, Boat Owner shall remove the Boat from the Slip within ten (10) days. Should Boat Owner fail to remove the Boat within the time allowed, Waterfront Docks shall have the right to relocate the Boat from the Slip, including but not limited to placing it at anchorage or storing it on land, and receive reimbursement and indemnification from Boat Owner for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules") _____.

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

4. **CONDITION OF SLIP.** Boat Owner hereby accepts the condition of the Slip and common areas of Waterfront

Docks "AS IS" and Boat Owner acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of the waterfront docks. Boat Owner covenants to satisfy himself that the Slip and berthing space are adequate for the safe berthing of his Boat. Boat Owner shall exercise due caution in occupation of the Slip, shall take good care of the Slip and, at the expiration or earlier termination of this Agreement, shall surrender and deliver the Slip to Washington Docks in as good condition as when received by Boat Owner from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of, in any manner, Boat Owner's personal property that is not removed from the Slip or waterfront docks by Boat Owner at the expiration or earlier termination of this Agreement. Boat Owner waives all claims against Waterfront Docks for any damage to Boat Owner resulting from Waterfront Docks' removal of Boat Owner's personal property at the expiration or earlier termination of this Agreement. Boat Owner shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Boat Owner's personal property at prevailing rates.

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

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

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

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

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

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

a. Notwithstanding anything contained herein or in the attached Rules to the contrary, Waterfront Docks hereby authorizes Boat Owner to utilize said Slip to berth and operate the River Rover on the City of Washington waterfront to give tours of the Pamlico and Tar Rivers to patrons of the North Carolina Estuarium. Boat Owner shall perform all such operations and activities associated with its River Rover operations in such a manner that such operations and activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of other slips by other boat owners. Boat Owner agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

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

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

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

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

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

a b. Commercial general liability insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1 million per occurrence and \$1 million aggregate. *general marine liability, products and completed operations liability; personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.*

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

~~d. At the option of Boat Owner, the above limits may be less than stipulated herein so long as Boat Owner obtains and maintains an excess policy providing the additional limits needed. This form of coverage must be approved by Waterfront Docks and will only be acceptable when both the primary and excess policies include the coverage and endorsements required herein.~~

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

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

13. **UTILITIES.** The provision of utilities, including water, sewer, and electricity, and associated on-site services, shall be covered under Boat Owner's current arrangement with the City, as the same may be amended or revised by the City.

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

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

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

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

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

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

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

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

21. **INDEMNIFICATION**. Boat Owner does for itself, its officials, agents, successors, representatives, assigns, customers, students, clients, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Boat Owner's operation of the Boat, Boat Owner's operations as well as activities and/or Boat Owner's use of the Slip and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to 1) any injury, including death, to any person; 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence; and 3) any claim of Boat Owner's customers, students, clients, invitees, guests, and/or boarders of the Boat caused by, related to, or arising from Boat Owner's use of the Slip, Boat Owner's contemplated operations as well as activities or this Agreement.

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

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

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

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

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

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

BOAT OWNER

CITY OF WASHINGTON

By: _____ (SEAL)

By: _____ (SEAL)

Thomas M. Stroud, III, Deputy Director
Partnership for the Sounds, Inc.

Name: _____

Title: _____

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCKING AGREEMENT

THIS AGREEMENT, is made and entered into as of the ~~15th day of August, 2014,~~ 1st day of January, 2016, by and between the City of Washington, North Carolina (hereinafter may be referred to as "Waterfront Docks") and East Carolina University (hereinafter may be referred to as "Boat Owner"). For and in consideration of \$1.00, the mutual covenants contained herein as well as valuable consideration paid and to be paid, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Waterfront Docks and Boat Owner agree as follows.

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

2. **BOAT AND OWNER IDENTIFICATION.** The boat (hereinafter referred to as "Boat") to be berthed in the Slip is described as follows.

Name of Boat: R/V Stanley R. Riggs		Make: Munson		Model: Research Vessel		
Year: 2010	Registration/Documentation #: #1229695			Length: 34'10"	Beam: 13'	Draft: 3'
Owner's Address: East Carolina University, Diving and Water Safety, Building 43, Room 131, Greenville, NC 27858				Social Security No.: N/A		
Work Phone: 252-328-4041 <u>Eric Diardrio, 252-531-2936</u>		Emergency Phone: 252-916-9899, 916-5709, 916-5578, 328-6787 <u>252-916-9340, 252-327-4439, 252-328-6787</u>				
Insurer: State of North Carolina		Policy #: N/A – Self Insured			Email:	

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

3. **RENTAL/TERMINATION/LATE CHARGES.** In recognition of the obvious and immeasurable benefits to the City of Washington, its citizens, and the public at large that will result from the location of a water-related research vessel on the City of Washington waterfront by an institution of higher learning, rental in the amount of ~~\$260.00~~ \$238.00 per month shall be waived and East Carolina University shall be entitled to utilize the license granted ~~herein beginning the 15th day of August, 2014 and ending on the 14th day of August, 2015 for a one (1) year term, beginning on the 15th day of August, 2014 and ending on the 14th day of August, 2015~~ for a one (1) year term, beginning on the 1st day of January, 2016 and ending on the 31st day of December, 2016. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days notice to the other party. Upon expiration or earlier termination of this Agreement, Boat Owner shall remove the Boat from the Slip within ten (10) days. Should boat Owner fail to remove the Boat within the time allowed, Waterfront Docks shall have the right to relocate the Boat from the Slip, including but not limited to placing it at anchorage or storing it on land and receive reimbursement and indemnification from Boat Owner for such relocation .as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules") _____,

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

4. **CONDITION OF SLIP.** Boat Owner hereby accepts the condition of the Slip and common areas of Waterfront Docks "AS IS" and Boat Owner acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, Jocks, or any other aspect of the waterfront docks. Boat Owner covenants to satisfy himself that the Slip and berthing space are adequate for the safe berthing of his Boat. Boat Owner shall exercise due caution in occupation of the Slip, shall take good care of the Slip and, at the expiration or earlier termination of this Agreement, shall surrender and deliver the Slip to Waterfront Docks in as good condition as when received by Boat Owner from Waterfront Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of, in any manner, Boat Owner's personal property that is not removed from the Slip or waterfront docks by Boat Owner at the expiration or earlier termination of this Agreement. Boat Owner waives all claims against Waterfront Docks for any damage to Boat Owner resulting from Waterfront Docks' removal of Boat Owner's personal property at the expiration or earlier termination of this Agreement. Boat Owner shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Boat Owner's personal property at prevailing rates.

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

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

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

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

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

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

a. Notwithstanding the foregoing or anything contained in the attached Rules to the contrary, Waterfront Docks hereby authorizes Boat Owner to utilize said Slip to berth and operate the Boat as a water-related research vessel and perform such activities as are customary therewith. Waterfront Docks hereby authorizes Boat Owner to utilize the adjacent common areas or other waterfront docking facilities, in conjunction with said research vessel boat operation, for loading and unloading, but only after specific permission for all such utilization from Waterfront Docks. Boat Owner shall coordinate all boat operations with Waterfront Docks. Boat Owner is prohibited from engaging in, allowing, or authorizing any type of motor vehicle access beyond Water Street except as may be necessary for loading, unloading, fueling, repair and maintenance purposes and only after receiving prior permission from Waterfront Docks. In no event shall Boat Owner allow or authorize more than two (2) motor vehicles access beyond Water Street at the same time. In no event shall Boat Owner allow or authorize a motor vehicle to be left unattended beyond Water Street. Boat Owner shall

August 8, 2016

perform all such operations and activities associated with its research operations in such a manner that such operations and activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of other slips by other boat owners. Boat Owner agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

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

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

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

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

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

~~a b. Commercial general liability insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1 million per occurrence and \$1 million aggregate. general marine liability, products and completed operations liability; personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.~~

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

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

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

~~f. At the option of Boat Owner, the above limits may be less than stipulated herein so long as Boat Owner obtains and maintains an excess policy providing the additional limits needed. This form of coverage must be approved by Waterfront Docks and will only be acceptable when both the primary and excess policies include the coverage and endorsements required herein.~~

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

certificates of insurance evidencing renewal thereof. Waterfront Docks may, in its sole discretion, require Boat Owner to expand the form and/or increase the amounts of all such insurance.

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

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

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

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

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

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

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

damages and any financial obligation of Boat Owner to Waterfront Docks.

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

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

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

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

21. **INDEMNIFICATION.** Boat Owner does for itself, its officials, agents, successors, representatives, assigns, customers, students, clients, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successots, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Boat Owner's operation of the Boat, Boat Owner's operations as well as activities and/or Boat Owner's use of the Slip and waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to: 1) any injury, including death, to any person; 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence; and 3) any claim of Boat Owner's customers, students, clients, invitees, guests, and/or boarders of the Boat caused by, related to, or arising from Boat Owner's use of the Slip, Boat Owner's contemplated operations as well as activities or this Agreement.

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

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

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

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

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

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

BOAT OWNER

CITY OF WASHINGTON

By: _____ (seal)

Mark Keusenkothen
East Carolina University
Director of Diving and Water Safety

By: _____ (seal)

Name: _____

Title: _____

By: _____ (seal)

~~Stacy Schley~~
East Carolina University
~~Purchasing Specialist~~

Sherry Franks
East Carolina University
Administrative Support Specialist



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: John Rodman, Community & Cultural Services
Date: August 1, 2016
Subject: Accept Bids & award contract – Wayfinding Signage
Applicant Presentation: N/A
Staff Presentation: John Rodman, Community & Cultural Services

RECOMMENDATION:

I move that the City Council accept the bids as presented and award the Wayfinding Signage project to the lowest responsible bidder, **ACSM, Inc.**, in the amount of **\$93,001.00 for Phase 1A.**

BACKGROUND AND FINDINGS:

The Wayfinding Signage sub-committee completed work on final specifications and materials for the project. Bid documents were completed and a "Request for Bids" was extended. Sealed bids for the fabrication and installation of the wayfinding signage were received by July 22, 2016 at 4:00 pm. Bids were opened at that time. Bids for Phase 1A are the primary bids.

PREVIOUS LEGISLATIVE ACTION

Appropriation approved as part of 2015-16 budget in the amount of \$150,000

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Bids Submitted
 Bid Tabulation

City Manager Review: 8/3 Date Concur *PRC* Recommend Denial _____
 No Recommendation _____

<u>Bids Submitted:</u>	<u>Price</u>
Canam Signs & Imaging	Phase 1A \$ 82,055.63*
	Phase 1B <u>37,116.75</u>
	Total \$119,172.38
ACSM, Inc.	Phase 1A \$ 93,001.00
	Phase 1B <u>45,125.00</u>
	Total \$138,126.00
Mammoth Signs & Printing	Phase 1A \$146,062.45
	Phase 1B <u>51,855.70</u>
	Total \$197,918.15
Image Manufacturing Group	Phase 1A \$157,702.35
	Phase 1B <u>78,640.54</u>
	Total \$236,342.89
Architectural Graphics	Phase 1A \$173,681.00
	Phase 1B <u>81,429.00</u>
	Total \$255,110.00
Rite Lite Signs	Phase 1A \$186,892.72
	Phase 1B <u>95,274.45</u>
	Total \$282,167.17
Deep Fried Creative	No Bid

*Bid calculations were incorrect.



REQUEST FOR PROPOSALS

City of Washington

WAYFINDING SIGNAGE PROGRAM Fabrication and Installation

Deadline for Response

July 22, 2016 4:00 p.m.

Respond To:

City of Washington
Dept. of Community and Cultural Services
102 East 2nd Street
Washington, NC 27889

John Rodman, Director
Community and Cultural Services
252-975-9384
jrodman@washingtonnc.gov
www.washington-nc.com

Wayfinding Signage Program

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Appendix – Base Bid – Phase 1A

Appendix A: Proposed Sign Index and Map
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Appendix C: Proposed Sign Index and Map
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Appendix E: Final Concepts
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Appendix – Forms

Letter of Transmittal
 Bid Form
 Warranty/Guarantee

Wayfinding Signage Program
Bid Tabulation

COMPANIES →	Canam Signs & Imaging	ACSM	Mammoth Signs & Printing	Image Man. Group	Architectural Graphics	Rite Lite Signs	Deep Fried Creative
Received by 4:00 pm	X	X	X	X	X	X	X
Proposed Signature	X	X	X	X	X	X	
Address of Co.	X	X		X	X	X	
Tax Info	X	X					
Breakdown of Bid	*	X	X	X	X	X	
Overall Schedule	X	X		X	X		
Info on Company	X	X		X			
Three References	X	X		X	X	X	
Details about Signs		X		X	X	X	
Letter of Transmittal	X	X	X	X	X	X	
Bid Form Executed	X	X	X	X	X	X	
Warrenty/Guarantee	X	X	X	X		X	
Insurance?	X			X			
Bid Phase 1A	\$82,055.63	\$93,001.00	\$146,062.45	\$157,702.35	\$173,681.00	\$186,892.72	No Bid
Alternate Bid Phase 1B	\$37,116.75	\$45,125.00	\$51,855.70	\$78,640.54	\$81,429.00	\$95,274.45	No Bid
Total	\$119,172.38	\$138,126.00	\$197,918.15	\$236,342.89	\$255,110.00	\$282,167.17	No Bid

* Bid Calculations were incorrect.



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Bobby E. Roberson, City Manager
Date: August 8, 2016
Subject: Electric Bill Adjustment
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council authorize an adjustment of \$1,073.22 to the electric bill of Ms. Raven Wilkin.

BACKGROUND AND FINDINGS:

During the July 25th Council Meeting Mr. & Ms. Wilkin requested an adjustment related to a malfunction of a newly installed HVAC system at their home. The bill for the two months in question was \$1,515.06 and normal usage for this time of year is \$441.84.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

___ Currently Budgeted ___ Requires additional appropriation ___ No Fiscal Impact

SUPPORTING DOCUMENTS

City Manager Review: 1500 Concur ___ Recommend Denial ___ No Recommendation
8/3 Date

**Requisition Form
City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889**

Requisition #: 2292
PO #: Not Assigned
User Name: epruden

Date: 7/28/2016
Approved By:
Approved Code:
Total Amount: \$68,100.00
Ship To: CITY OF WASHINGTON
WAREHOUSE (ELEC)

COMVERGE TECHNOLOGIES INC
5390 TRINAGLE PKWY, SUITE 300
NOCROSS, GA 30092

Electric Dept. Ed Pruden 252-975-9365

Quantity	Item Description	Project Number	Unit Price	Extended
1000	P/N - 740100-001-205NB, DCU-82053-22-04-JB 173.20375, DIGITAL, CONTROL UNIT, SA-205 FORMAT, 120/240 VAC INPUT, INTERNAL, ANTENNA, (2) TWO 5A RELAYS, (1) ONE 30A RELAY, FREQUENCY 173.20375, NARROWBANDED, JUNCTION BOX ENCLOSURE		\$67.50	\$67,500.00

Sub Total	\$67,500.00
Shipping	\$600.00
Tax	\$0.00
Total	\$68,100.00

Account Number	Account Description	Amount
35-90-8375-7400	CAPITAL OUTLAY	\$68,100.00
Total		\$68,100.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
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REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Matt Rauschenbach, Administrative Services Director
Date: August 8, 2016
Subject: Approve Wire Puller & Wire Tensioner PO's
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council approve a \$118,450 PO for a wire puller and a \$81,500 PO for a tensioner/reel carrier to TSE International Inc..

BACKGROUND AND FINDINGS:

Budgeted purchase from sole source vendor.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Requisition

City Manager Review: Concur Recommend Denial No Recommendation
 Date

**Requisition Form
City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889**

Requisition #: 2321
PO #: Not Assigned
User Name: jclark

Date: 8/2/2016
Approved By:
Approved Code:
Total Amount: \$118,450.00
Ship To: CITY OF WASHINGTON
WAREHOUSE (ELEC)

TSE INTERNATIONAL INC

confirming
Electric
Jeff Clark
975-9313

Quantity	Item Description	Project Number	Unit Price	Extended
1	TSE Model DPT 40E Trailer Mounted Electric Puller		\$118,450.00	\$118,450.00

Sub Total	\$118,450.00
Shipping	\$0.00
Tax	\$0.00
Total	\$118,450.00

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
35-90-8390-7400	EQUIPMENT PURCHASES	\$118,450.00
Total		\$118,450.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
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**Requisition Form
City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889**

Requisition #: 2324

Date: 8/2/2016

PO #: Not Assigned

Approved By:

User Name: jclark

Approved Code:

TSE INTERNATIONAL INC
5301 SHREVEPORT-BLANCHARD HWY
SHREVEPORT, LA 71107

Total Amount: \$81,500.00

Ship To: CITY OF WASHINGTON
WAREHOUSE (ELEC)

confirming
Electric
Jeff Clark
975-9313

Quantity	Item Description	Project Number	Unit Price	Extended
1	TSE MODEL T30H/36 COMBO TENSIONER / REEL CARRIER		\$81,500.00	\$81,500.00

Sub Total	\$81,500.00
Shipping	\$0.00
Tax	\$0.00
Total	\$81,500.00

Account Number	Account Description	Amount
35-90-8390-7400	EQUIPMENT PURCHASES	\$81,500.00
Total		\$81,500.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
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REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Frankie Buck, Public Works Director
Date: July 27, 2016
Subject: Amend Chapter 18, Section 102 – Non-Highway Streets
Applicant Presentation: N/A
Staff Presentation: Frankie Buck

RECOMMENDATION:

I move that Council adopt an ordinance to amend Chapter 18, Section 102 – Non-Highway Streets, subsection (c) to include West 11th Street from Market Street to Summit Avenue, as outlined in the attached ordinance, with an effective date of August 10, 2016.

BACKGROUND AND FINDINGS:

As a result of a request from a citizen on the corner of Respass and West 11th Street the attached amendment will reduce the speed limit along West 11th Street from Market Street to Summit Avenue to twenty-five (25) miles per hour.

Attached is the amended portion of the ordinance for your consideration.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Account 10-20-4511-5600) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached ordinance amendment
See attached citizen's request

**AN ORDINANCE TO AMEND CHAPTER 18,
SECTION 102: NON-HIGHWAY STREETS
OF THE WASHINGTON CITY CODE**

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

Section 1. That Chapter 18, Section 18-102, Non-highway Streets (c), be amended to add the following:

Sec. 18-102. Non-highway Streets (c).

West 11th Street from Market Street to Summit Avenue.

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective August 10, 2016.

This the 8th day of August 2016.

Mayor

ATTEST:

City Clerk

Frankie Buck

From: Brent Phipps <brent.phipps4@gmail.com>
Sent: Thursday, July 21, 2016 11:34 AM
To: Frankie Buck
Subject: 11 th St.

Dear Mr. Buck:

Thank you for taking the time to research the speed limit on 11th St. from Market to Summit.

I would like to request the city consider lowering the speed limit to 25 mph on this street. Some of the reasons for this request is there are no sidewalks on this street from Respass to Summit and many people walk the neighborhood, often at sunrise and dusk, and many people walk their dogs in the neighborhood as well, many elderly. There are small children living now on this street and many of our driveways exit on this street which we back from into 11th St. I have noticed many of the cross streets south of us are posted 25 mph but not any of the streets from 11th north to 15th. As traffic does not have to stop at Respass traveling west from Market or vice versa they are able to gain speed on this section of roadway.

Again, thank you for time and willingness to see if the City of Washington would consider a speed reduction to 25mph at least on 11th St. from Market to Summit.

Sincerely,

Brent Phipps

1048 N Respass St. (Corner of Respass and 11th)